

**RETURN**  
**COUNSELLING**  
OF CHILDREN  
AND THEIR  
FAMILIES

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# RETURN COUNSELLING OF CHILDREN AND THEIR FAMILIES

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## INTRODUCTION

In 2020, 36 million of the 281 million migrants and half of the 34 million refugees and asylum seekers around the world were under the age of 18.<sup>1</sup> Migrants under 18 years of age, whether accompanied, separated or unaccompanied, are individual rights holders, just like adults. As children though, they have additional rights, different needs and different capacities.

According to the United Nations Convention on the Rights of the Child (CRC), the best interests of a child should be a primary consideration in all decision-making concerning a child. In the context of migration, the best interest means also finding a sustainable solution that secures children's long-term protection, survival and development needs, which may include return to the country of origin, local integration and options in third countries, such as family reunification or resettlement. Children who are unable or unwilling to stay in the country of destination or transit are faced with the possibility of return. At all stages of the return and reintegration process, actors involved need to adhere to the primacy of the best interest of the child. States are also bound to this principle and they are the primary duty bearers to uphold the rights of all children without discrimination. Therefore, children should never return to a country where they would be at risk of harm, or their life would be in danger, in contravention of the principle of non-refoulement.

Although children make up a minority of returns caseload,<sup>2</sup> facilitating returns for children and their families takes more time, competencies and skills, and can be harrowing. The complexity of the return and reintegration of children and their families requires a holistic approach to address specific needs and vulnerabilities, and to uphold the child's rights and safeguards. The establishment of rights-based and child-sensitive return counselling services tailored to the needs of children and sensitive to their special requirements further support States to fulfil their duty to protect.

The provision of return counselling to children and families facing the possibility of return ensures the primacy of the best interests of the child and promotes the participation of children according to their view, age and evolving capacities. To guarantee safe and dignified return and sustainable reintegration, the return process needs to be accompanied by the provision of rights-based and child-sensitive return counselling assistance as well as sustainable reintegration in line with the CRC and the 10 guiding principles of IOM's Policy on the Full Spectrum of Return, Readmission and Reintegration.

<sup>1</sup> UNICEF, Child migration (April 2021). Available at <https://data.unicef.org/topic/child-migration-and-displacement/migration/>.

<sup>2</sup> In 2021, IOM assisted 7,993 children were assisted to return, which is represented 17 per cent of the entire return caseload. Among them, 925 returnees were unaccompanied and separated children (UASC).

## Scope of the module

While Modules 1–5 of the *Return Counselling Toolkit*<sup>3</sup> are geared towards counselling adult migrants returning alone, this additional module focuses on the provision of return counselling to children returning alone or with their families. The module is conceived as an integral part of the *Return Counselling Toolkit*, but it can also be used as a **stand-alone tool**. It also represents a collaborative effort between IOM, UNICEF and Save the Children to promote rights-based and child-sensitive return counselling for children and families based on literature review, consultations, and focus group discussions with return counsellors, child protection experts and practitioners working across different countries and operational contexts.


The module targets a range of stakeholders involved in the provision of return counselling assistance at various levels and stages, including return counselling service providers and coordinators and return and migration management actors and stakeholders. Furthermore, the module provides insights and useful guidelines to professionals supporting children and their families during the return process in the countries of destination, such as social workers, cultural mediators, psychologists and legal counsellors. It caters to a range of migrant children including unaccompanied and separated children (UASC) and their legal guardians, as well as children returning with their family members.

The module provides guidance and useful tips on how to tailor return counselling assistance in the case of UASC and children returning with their families, including single parents. In particular, in the process of counselling families whose members may have diverse and sometimes competing needs, as well as complex and often unequal relationship dynamics, there is a risk that the view of the child is overshadowed by those of adult members. To overcome this challenge, the module also offers recommendations on how to better involve accompanied children during return counselling session(s) while encouraging parents to hear their children's views.

Staff who provide return counselling to children and their families should be familiar with the first five modules and the distinct approach to working with children, including adolescents, outlined here. Module 6 also complements existing resources on how to support UASC with guidance on conducting return counselling of children and fills a gap in resources for supporting families with children and adolescents who are seeking sustainable solutions.<sup>4</sup>

<sup>3</sup> See <https://publications.iom.int/books/return-counselling-toolkit>.

<sup>4</sup> For additional reference on how to prevent and respond to abuse, neglect, exploitation and violence against children, please refer to *Minimum Standards for Child Protection in Humanitarian Action*, available at [https://alliancecpha.org/en/CPMS\\_home](https://alliancecpha.org/en/CPMS_home).



Return  
counselling  
of children and  
their families

6



## Module 6: Return counselling of children and their families

### Contents

Module 6 provides specialized and tailored information on how to provide return counselling to migrant children and families with children. It contains guidance on how to uphold child rights during the return counselling process and how return counsellors can fulfil their duty to safeguard and promote the well-being of children. The first part of the module outlines the broad differences in objectives, competencies and safeguarding procedure for return counsellors working with children and families with children, and an overview of the legal and policy framework. This is followed by an explanation of differences in providing return counselling assistance to families with children and to unaccompanied and separated children. In the end, rights-based good practices when working with children and their families are provided.

### Learning objectives

- Apply **rights-based principles** of child development, non-discrimination, best interests and child participation to return counselling;
- Employ strategies for **supporting and empowering parents and legal guardians** to make decisions in the best interests of the child with consideration of their children's views according to age and evolving capacity;
- **Promote the agency** of children and adolescents during the return counselling process;
- Understand how to ensure **cultural safety and equity** for children and families throughout the return process;
- Identify **child protection concerns** facing migrant children and adolescents **and apply safeguarding principles and procedures**;
- Ensure that the well-being and healthy development of children and adolescents is promoted at all stages of the return process by **mitigating risk and promoting protective factors**;
- Identify **key stakeholders** to involve in return counselling of children and families to ensure appropriate referrals and technical support.

## Key messages

- Help parents, legal guardians, caregivers<sup>5</sup> and children **cope with the stress** of the return process.
- **Mitigate risk and promote protective factors** for children during the return and reintegration process.
- Solicit the **necessary information** about children including their **views** to plan for a safe and dignified return and sustainable reintegration.
- Support parents and legal guardians to **make decisions in best interests of their children**.
- Consult and coordinate with key stakeholders, such as case managers, child protection actors, social workers and service providers in countries of origin and destination.

## Target groups

- Return counsellors
- Return counselling services coordinators
- Return and migration management actors and stakeholders, including policymakers and practitioners
- Professionals supporting children and their families during the return counselling process, including social workers, cultural mediators, psychologists and lawyers

<sup>5</sup> It is important to note that caregivers have a parental role and responsibilities for the well-being and daily care of the child. However, they may or may not be the child's legal guardian (see "caregiver" definition provided in Tool 6.1). Since in the context of return, for a child accompanied by an alternative caregiver, legal guardianship needs to be verified before providing return assistance, in Module 6 "parents and/or legal guardians" is used when legal responsibilities towards the child are involved and "caregiver" is used in relation to the child's well-being and development.

## 6.1. Adapting return counselling for children and their families

Useful resources for this section:

- ▶ IOM, *Reintegration Handbook* (Module 6: A Child Rights Approach to the Sustainable Reintegration of Migrant Children and Families)
- ▶ *IOM Handbook on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse* (Part 6: Guidance for the Protection, Care and Assistance of Vulnerable Child Migrants)
- ▶ University of Strathclyde, Centre for Excellence for Children's Care and Protection (CELCIS), *Caring for Children Moving Alone* (MOOC)
- ▶ Save the Children Fund, *Protecting Children on the Move: A Guide to Programming for Children Affected by Migration and Displacement*
- ▶ Keeping Children Safe, *Developing Child Safeguarding Policies and Procedures: A Facilitator's Guide*
- ▶ International Federation of Red Cross and Red Crescent Societies (IFRC) Reference Centre for Psychosocial Support, *The Well-being Guide: Reduce Stress, Recharge and Build Inner Resilience*
- ▶ Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action*
- ▶ World Health Organization, *Guidelines on Mental Health at Work*

### 6.1.1. Objectives for return counselling of children and their families

While the objectives for return counselling described in section 2.2 of the *Return Counselling Toolkit* remain the same whether working with adults or children, they should be interpreted differently when working with children, including adolescents, and their families.

**Objective 1:** Migrants are supported to make informed decisions and take ownership of their migration paths, including during the return process.

When counselling children and their families:

- Support parents and legal guardians (for UASC) to make decisions in the best interests of children with consideration of the children's views according to their evolving capacity.
- Understand that while the best interests of the child (see [section 6.4.3](#)) should be a primary consideration in decision-making concerning children and that this guiding principle remains core, regardless of culture, best interests may be understood differently in different cultures and family members may have competing wishes and rights. Return should not be pursued when it is contrary to the best interests of the child.

- Encourage forms of child participation that are developmentally appropriate, facilitate the participation of children with disabilities, and promote the well-being of children and adolescents. This includes providing explanations to children and adolescents and listening to their concerns even after decisions are made.

**Objective 2:** Migrants' vulnerabilities are identified and addressed in a gender-sensitive manner.

When counselling children and their families:

- Recognize that risk and protective factors for children are different than for adults, and different among children depending upon their age, ability or disability, sex, gender, race, cultural background, sexual orientation, gender identity and other identities.
- Acknowledge that parents have the primary responsibility for protecting their children and that children have the right to be protected from violence by parents, legal guardians and other caregivers.
- Consider how return can create new risk or protective factors for children.
- Provide information on and referrals to services and resources that build protection and mitigate risk factors for children and their families, liaising with child protection staff when vulnerabilities and protection concerns are identified.

**Objective 3:** Migrants are assisted to reach their countries of origin in a safe and dignified manner and are ready and prepared to reintegrate in their countries of origin in a sustainable manner.

When counselling children and their families:

- Empower parents, legal guardians and other caregivers to support the children during the return process.
- Consider that children may have grown up in a different culture from their parents.
- Acknowledge that children have different needs from adults and facilitate the inclusion of their specific needs when it comes to travel arrangements and reintegration assistance.
- Ensure that UASC are provided with legal guardians in the country of destination and, if necessary, the country of origin, are cared for in a family environment and are provided with escorts when travelling.

### 6.1.2. Competencies for counselling returning children and their families

Return counsellors who support UASC and families with children need specialized knowledge and skills to effectively carry out their work (see [Tool 6.2](#) for the full list of competencies). They also need to be committed to protecting the rights of migrant families and have empathy for the situation of migrant children and their parents, legal guardians or caregivers. Return counsellors without child services qualifications and experience should undertake significant training to acquire the necessary skills and knowledge to carry out this work. While return counselling is not child protection work, it has to uphold child rights and fulfil everyone's duty to assure the protection and well-being of children. Child protection should be mainstreamed into the return and reintegration process. Based on the discussion during the return counselling session(s) and on the outcome of the vulnerability assessment, the counsellor might identify the need to refer the child to specialized instances, including the child protection system. For this to happen, return counsellors must know enough about child protection to flag concerns to child protection staff and partners and to work effectively with them (see [section 6.4.5](#)).

Ideally, return counsellors assisting children should undertake significant and appropriate child protection training to understand child protection principles and the best interests of the child. Return counsellors should regularly involve child protection caseworkers or those with child protection technical expertise when working with children, in particular children who are survivors of or are at risk of child protection abuse, violence or exploitation (see [Tool 6.1](#) for full details). This could include coordination between return counsellors and child protection staff through joint case conferences, referrals or other forms of specific assistance.



**Definition of **child protection worker**:** In this toolkit, a child protection worker is one who has specific and appropriate training and expertise to work directly with children and their families to promote, protect and fulfil children's right to protection from abuse, neglect, exploitation and violence as expressed in the United Nations CRC. Child protection workers promote the dignity, development and well-being of children and their families through direct programming and also through the promotion of child safeguarding and mainstreaming (see also *Minimum Standards for Child Protection in Humanitarian Action*<sup>6</sup>).

**Definition of **child case manager** or **caseworker**:** This is an adult who is allocated by a designated body or an agency to a registered child in order to carry out assessment, care planning and case management responsibilities. This may be a government social worker, a non-governmental organization (NGO) worker or an adult member of a child protection committee. Caseworkers should receive training in their responsibilities, be under

<sup>6</sup> See [https://alliancecpha.org/en/CPMS\\_home](https://alliancecpha.org/en/CPMS_home).



professional supervision and not have a conflict of interest in working with the child (see the Inter-agency Working Group on Unaccompanied and Separated Children's 2013 *Alternative Care in Emergencies Toolkit*<sup>7</sup>).

Sometimes these roles are undertaken by the same individual, meaning that a child protection worker is also a trained case manager and a caseworker and undertakes a combination of the tasks of the two roles in parallel. A caseworker/case manager maintains responsibility for a child's case management from identification to case closure, in line with the Inter-agency Guidelines for Child Protection and Case Management and other global minimum standards.

Return counselling for UASC differs in significant ways from return counselling for families with children. They both are challenging but in different ways: while return counsellors working with UASC need advanced skills and significant experience in engaging directly with vulnerable children, supporting children's participation and navigating child protection systems, those working with families should be able to facilitate meetings with family members of different ages and understand the basics of parent support. They should also have enough understanding of child protection to be able to collaborate with child protection stakeholders and make referrals. Both specializations require knowledge of children's rights and child development, as well as the ability to effectively communicate with children and adults. A return counsellor may possess the competencies to perform either or both roles. Hiring managers need to decide, depending on the size and composition of their teams, whether to hire different staff for these different roles or hire staff who can perform both roles.

It is essential that child protection professionals who are new to working on return or have never supported migrant children before acquire knowledge of migration policies and procedure as well as the international migrant rights framework.

### **6.1.3. Stakeholders in return assistance for children and their families**

Tool 5.1 of the *Return Counselling Toolkit*<sup>8</sup> provides an overview of relevant actors that shall be engaged through partnership in the context of return counselling assistance. It also provides guidance to determine what level of engagement is more appropriate for each of them, according to the specific context. As children are highly vulnerable, mapping and establishing solid referral mechanisms with local stakeholders when working with children is especially important. Further, different stakeholders and different forms of partnership are necessary to support return counselling for children and their families. In humanitarian contexts, this should be

<sup>7</sup> See <https://resourcecentre.savethechildren.net/document/interagency-working-group-unaccompanied-and-separated-children-2013-alternative-care/>.

<sup>8</sup> See <https://publications.iom.int/books/return-counselling-toolkit>.

coordinated through a refugee protection coordination mechanism or the Child Protection Area of Responsibility and the UASC Task Force under the work of the Protection Cluster. It is important that children, especially UASC, are provided with wrap-around services, which means that partners work as a team to seamlessly provide child- and family-centred support. The following is an overview of significant partners that shall be engaged when working with children in the context of return counselling:

**Government:** Governments are the main duty bearers for the rights of children. Tool 5.1 includes a detailed description of the ways in which governments are involved in return counselling and [section 6.2.4](#) of this module provides further elaboration on return counselling of children and their families.

**IOM:** IOM upholds the rights of children in all aspects of its work to promote humane and orderly migration. This includes family tracing, family assessments, conducting or participating in best interests assessments (BIAs) and best interests determinations (BIDs), and return and reintegration assistance; international humanitarian evacuations and emergency transfers in cases of children stranded in armed conflict and disasters; preventing and responding to child trafficking cases and the detention of child migrants; and integrating child protection when acting as a global cluster lead on camp management and camp coordination in natural disasters. IOM is the leading organization under the United Nations system delivering return counselling programming and reintegration assistance. In 2021, IOM launched the Policy on the Full Spectrum of Return, Readmission and Reintegration to guide its work through a holistic, rights-based and sustainable development-oriented approach to return and reintegration. IOM advocates a rights-based and migrant-centred approach to return counselling and applies strict safeguards when providing return counselling (and reintegration assistance) to vulnerable migrants, such as children.

**UNICEF:** The role of UNICEF is to protect the rights of children at all stages of the migration journey, including during return and reintegration, and provide expert assistance and advice to governments and other partners. This includes capacity-building to facilitate child-sensitive return and reintegration, including applying best interests procedure and ensuring children's agency; strengthening coordination and referrals and engaging child protection authorities, including on cross-border case management; facilitating access of returning children to education, skills training, health care (both physical and mental health and psychosocial support (MHPSS) support) and social protection; and case management and direct service provision. UNICEF advocates child-sensitive return counselling and for the child to be heard throughout the whole return and reintegration process whether the child is accompanied or not.

Return counsellors should coordinate with UNICEF in cases of children associated with armed forces and groups, child recruitment and children in detention. They should also approach UNICEF when there is a need to reform child protection systems or set up referral mechanisms and standard operating procedures to ensure the rights of migrant children are realized. In partnership with governments, UNICEF is often the sector lead for child protection and education and thus can assist return counsellors in coordinating with other child-focused organizations for referrals.

**(Office of the) United Nations High Commissioner for Refugees (UNHCR):**

UNHCR is committed to ensuring that everyone has the right to seek asylum and find safe refuge in another State. It supports children and adolescents through the provision of psychosocial services and targeted programmes to meet their specific protection and developmental needs. In cases when the government is not able to, UNHCR can support with BIAs and BIDs for migrant children. In the case of UASC or children whose families have refugee status or are in the asylum process, return counsellors should coordinate with UNHCR to ensure that the return would not put the children's/families' safety at risk and to receive information about the country of origin. In certain contexts, UNHCR can prioritize and provide special assistance during voluntary repatriation, such as individual counselling and referral to services in the area of return.

**Red Cross:** International Committee of the Red Cross (ICRC)/IFRC cooperates with IOM and UNHCR on cross-border tracing, restoring family links. Local Red Cross offices are also often involved in return counselling assistance.

**NGOs:** NGOs deliver a wide range of essential services for children and families and fill gaps in government services. In many contexts, NGOs possess significant child protection capacity in case management, child participation, counselling, alternative care, parenting support and legal services. They run programming that prevents and responds to a range of child protection threats. NGOs also deliver educational, recreational, cultural and health programming that ensures children's well-being and advocate child rights. Close collaboration and sometimes institutional partnerships with NGOs can greatly enhance the quality of return counselling services. While in some cases NGOs employ professionals with high levels of expertise and can contribute resources to return programming, in other cases they require investments in training and resources to deliver quality services.

#### **6.1.4. Child safeguarding**

While return counselling is intended to improve the safety and well-being of participants, interactions with children, especially vulnerable children, may cause intended or unintended harm. This includes sexual exploitation and abuse (SEA).


Child safeguarding is about **ensuring that children are protected from any direct or indirect harm** as a result of any actions of a staff member or person associated with the organization or project implementation, or as a result of any organizational policy or practice. Child safeguarding is a cornerstone and increasingly a requirement of rights-based programming with children. Child safeguarding also actualizes the humanitarian principle of do no harm (also included in the IOM return, readmission and reintegration policy – see section 1.2 of the *Return Counselling Toolkit*) and the Inter-Agency Standing Committee Six Core Principles Relating to Sexual Exploitation and Abuse.

**Safeguarding is sometimes confused with child protection. Though related, they are distinct.** Safeguarding policies govern the behaviour of all staff, associates and partners, ensuring the risks to children and adolescents are minimized and concerns about a child's or an adolescent's welfare are appropriately reported. Child protection, on the other hand, is programming designed to ensure the well-being of children by preventing and responding to violence, abuse, exploitation and neglect against children.

Organizations providing return counselling assistance need to develop and adopt specific safeguarding policy and procedure as well as an effective reporting mechanism, or refer to the United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners for guidance. For safeguarding policies to be effective, all staff, associates, partners and crucially programme participants must be aware of and practise safeguarding and know how to act on their responsibilities or make complaints. Furthermore, the organization's programming and operations must reflect the policy. [Tool 6.3](#) includes child safeguarding principles and procedure that return counsellors should be familiar with and aware of.

*Developing Child Safeguarding Policies and Procedures: A Facilitator's Guide* and [UNICEF PSEA Assessment and PSEA Toolkit: For CSO Partners](#) are useful resources for organizations that would like to develop or revise their safeguarding policies.

### Preventing sexual exploitation and abuse at IOM

 IOM has a policy of zero tolerance of sexual exploitation and abuse (SEA) of people of any age. Zero tolerance means that active measures are being introduced to prevent SEA (see [Tool 6.1](#) for definition) and appropriate disciplinary action will be taken against all persons who are found to have violated the relevant IOM policies. Disciplinary actions, including summary dismissal, will be taken irrespective of grade, contract type or seniority.

All IOM staff members are required to:

- Fully understand what types of behaviour may be considered SEA;
- Adopt behaviour that respects and favours the rights of the beneficiaries;
- Report any allegation or suspicion of SEA or any retaliatory action related to SEA.

See the [We Are All In](#) platform for more information.

#### 6.1.5. Staff well-being and self-care when working with children and their families

Section 5.5 of the *Return Counselling Toolkit* emphasizes the importance of ensuring staff well-being and practising self-care of staff providing return counselling. This section presents useful tips and recommendations on how to practise self-care and highlights the responsibility of organizations to provide structural support to ensure staff well-being. However, while return counselling of adults can be emotionally difficult, the weight of responsibility when working with children may be heavier and developing plans that meet the needs of children and their families may be more difficult.

Return counsellors may report strong emotional drives to care for and protect the children they work with. Working with a child or a parent can also trigger reactions, sometimes subconscious reactions, that are rooted in a staff's own childhood or parenting experiences, including traumatic experiences. In these cases, return counsellors may react based on their own psychological needs, not based on the needs of the children and families they are working with. It is important that those designing and managing return counselling programming plan for the additional time and resources needed to carry out work with children and their families, as well as the additional professional and emotional support staff may need.<sup>9</sup>

<sup>9</sup> See World Health Organization (WHO), *Guidelines on Mental Health at Work* (Geneva, 2022). Available [www.who.int/publications/item/9789240053052](http://www.who.int/publications/item/9789240053052).

## 6.2. Legal and policy framework

Useful resources for this section:

- ▶ United Nations, [CRC](#)
- ▶ United Nations, Committee on the Rights of the Child, [Days of general discussion](#)
- ▶ Inter-agency Working Group on Unaccompanied and Separated Children (IAWG-UASC), [Field Handbook on Unaccompanied and Separated Children](#) (Chapter 1)
- ▶ IOM, [Reintegration Handbook](#) (section 6.1: Key principles for a child rights and integrated approach to reintegration)
- ▶ UNICEF, United Nations Office of the High Commissioner for Human Rights, IOM, Save the Children, Platform for International Cooperation on Undocumented Migrants, European Council on Refugees and Exiles, and Child Circle, [Guidance to Respect Children's Rights in Return Policies and Practices: Focus on the EU Legal Framework](#)
- ▶ Terry Smith and Laura Brownlees, [Age assessment: A technical note](#)
- ▶ Smith and Brownlees, [Age assessment practices: A literature review and annotated bibliography](#)
- ▶ Kevin Byrne, [Towards a child rights-based assessment tool to evaluate national responses to migrant and refugee children](#) (Annexes 2.1–2.5)

A rights-based approach to return counselling (see section 2.1 of the *Return Counselling Toolkit*) of children and their families is governed by a framework that is related to, though different from, a framework for return counselling of adults. As with adults, the framework for counselling returning children is constituted by international human rights, labour and refugee laws, and the policies that flow from it. A rights-based approach applies cross-cutting principles to facilitate the realization of all the rights afforded to migrant children. Return counsellors also need to be familiar with the domestic legal and policy framework through which these rights are administered and enforced.

### 6.2.1. Rights of migrant children in international law

In international law, a child is defined as a person under the age of 18. Fifteen international agreements make up the legal framework of the human rights of children in the context of international migration (see [Tool 6.4](#)). Of these, the 1989 **CRC** is a comprehensive instrument that sets out the rights of all children, including migrant children, in almost all aspects of their lives.

In all matters concerning the migrant child, child rights are paramount. Children may be entitled to a wider range of rights than adults, for example when a government declares a state of emergency. **The rights enshrined in the CRC are in addition to the rights that migrant children are provided through international agreements that address specific forms of discrimination** (e.g. gender, disability,

race) **or circumstances** (e.g. trafficking, torture, harmful work, lack of parental care, criminal juvenile detention, migration). Regional instruments that protect the rights of children may apply.<sup>10</sup>

The **United Nations Committee on the Rights of the Child** and the **Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families** meet regularly and generate general comments that interpret and elaborate the international legal framework for migrant children. The following United Nations comments, reports and resolutions are particularly relevant to counselling returning children and their families:

- United Nations, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, [Joint general comment no. 3 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and no. 22 \(2017\) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration](#)
- United Nations, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, [Joint general comment no. 4 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and no. 23 \(2017\) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return](#)
- United Nations, Committee on the Rights of the Child, [Committee on the Rights of the Child Report of the 2012 Day of General Discussion on the Rights of All Children in the Context of International Migration](#)
- United Nations, Committee on the Rights of the Child, [General comment no. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)](#)
- United Nations, Committee on the Rights of the Child, [General comment no. 6 \(2005\): Treatment of unaccompanied and separated children outside their country of origin](#)
- United Nations, [United Nations General Assembly resolution 64/142 on the guidelines for the alternative care of children](#)
- United Nations, [United Nations General Assembly resolution 74/133 on the rights of the child](#)

<sup>10</sup> See the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, the American Convention on Human Rights, the Arab Charter on Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter and Revised Social Charter and the Cairo Declaration on the Convention on the Rights of the Child and Islamic Jurisprudence.

In addition, rights-based guidelines on working with migrant children have been developed by United Nations agencies in consultation with governments and agencies serving children and are referenced throughout this module.

### 6.2.2. Child rights principles

The CRC enshrines principles to be used in decision-making that concerns the realization of the rights of the child. These are **non-discrimination** (Article 2), **survival and development** (Article 6), **best interests of the child** (Article 3) and the **views of the child** (Article 12). All four of the child rights principles apply throughout the whole return process, including before a return decision is issued and during the reintegration period in the country of origin. All actions taken by return counsellors concerning children, whether formal or informal, should consider these principles. How the principles of the CRC are realized in return counselling is described in [section 6.4](#).

#### Age assessment



Migrants under the age of 18 years are entitled to special protection and assistance, have additional rights (e.g. special protection and education) and realize their participation rights differently. Children arriving in a territory often have no valid documentation providing definitive proof of age. In the case of very young children, this usually presents no difficulties in terms of identifying them as a child and, as such, they are subject to special protection and assistance measures arising from that status. In the case of older adolescents, however, it may prove difficult to ascertain who is or is not a child as legally defined in the Convention. Often older adolescents will claim to be adults, in the belief that being identified as a child will impede their ability to move towards their intended destinations.

**Age assessment should be initiated only if it is in the child's best interest** and as a measure of last resort when there is **reasonable doubt** about whether the individual is a child, especially when it comes to UASC. It is the **responsibility of the State to conduct age assessments** and the procedure should be led by child protection authorities according to international standards and considering both the physical appearance and the psychological maturity of the individual. They should be conducted in a **holistic, safe, child- and gender-sensitive, and fair manner, with due respect for human dignity**. Age assessment procedure should be **consensual** and **non-invasive**, giving the **benefit of the doubt** in favour of the child in the event of uncertainty. Children should have the right to appeal, and the cost of the procedure should be borne by the State, never by the child.

Return counsellors may encounter migrant children in an irregular situation who have not been identified by the local authorities. In those cases, the quickest referral to child protection services or a court, as applicable under the national system, should be made. In cases where government authorities request an age assessment (this often happens with older adolescents), **return counselling should be provided only after the age has been assessed** and, in cases assessed under 18, return counselling should be provided **after a legal guardian has been appointed and consent has been provided**.



### 6.2.3. The principle of family unity

Under international law, the family is considered the “fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children”.<sup>11</sup> According to Articles 5 and 18 of the CRC, **parents and, in certain cases, other family members and legal guardians have the primary responsibility for the realization of all the rights children have.** Children and adult family members are generally better cared for, protected and able to achieve their potential when permitted to live together.

There is a strong recognition under international law that the child should grow up in a family environment, recognizing the **child’s right to family life** and, as far as possible, the right to know and be cared for by their parents or, where applicable, members of the extended family or community as provided by local custom.<sup>12</sup> In the context of migration, this means maintaining family unity: allowing families to move together; not separating children from their families (unless separation is in the best interest of the child) and **preventing separation during the migration and stay;** family tracing and reunifying separated family members; and taking into account family unity and the best interest of the child as a primary consideration when considering returns. In addition, this should include keeping vital records and ensuring that the child’s identity is preserved so that the child can trace family members in the future and, to the extent possible, know his or her identity. Further, the **right of the child to maintain contact with both parents** should be respected, unless there is an immediate risk to the child that cannot be mitigated, irrespective of whether the parents are (still) married. This includes cases where one parent has sole custody of the child concerned.

Some countries may not detain children on the basis of their immigration status and/or the mode of entry; however, they may separate children from their parents in order to detain the parents and not the children. The Committee on the Rights of the Child has made clear that **alternatives to detention must be implemented for the whole family. Separating families by detaining a parent is not in compliance with upholding children’s rights,** including their right not to be separated from their parents against their will, right to family life and right to have their best interests given primary consideration.

<sup>11</sup> United Nations, Convention on the Rights of the Child (CRC) (1989).

<sup>12</sup> See Ziba Vaghri, Jean Zermatten, Gerison Lansdown and Roberta Ruggiero, eds., *Monitoring State Compliance with the UN Convention on the Rights of the Child: An Analysis of Attributes*, Children’s Well-Being: Indicators and Research Volume 25 (Cham, Switzerland, Springer, 2022), available at <https://link.springer.com/book/10.1007/978-3-030-84647-3>; and Frances Nicholson, *The Right to Family Life and Family Unity of Refugees and Others in Need of International Protection and the Family Definition Applied* (Geneva, (Office of the) United Nations High Commissioner for Refugees (UNHCR), 2018), available at [www.unhcr.org/protection/globalconsult/5a8c40ba1/35-right-family-life-family-unity-refugees-others-need-international-protection.html](http://www.unhcr.org/protection/globalconsult/5a8c40ba1/35-right-family-life-family-unity-refugees-others-need-international-protection.html).

Tracing and assessment of a child's family is essential in order to identify any issues of concern in terms of safeguarding. However, family tracing should be undertaken only if the BIA ensures that restoring contact would not be contrary to the child's best interests and with the view of the child duly taken into consideration and with the informed consent of the legal guardian or adult with parental authority. For example, if there is evidence that a child has been subjected to domestic violence or has been trafficked with the knowledge and cooperation of the parents, then this information needs to be verified and considered during the family assessment so that this can be taken into account by the BID panel. In such cases, **alternative care arrangements** might need to be identified.<sup>13</sup> More commonly, though, problems identified through the assessment can be addressed or mitigated by counselling or practical assistance. It is essential to address the drivers of migration if reintegration is to be sustainable whether in the form of counselling or assistance.

For migrant children who are unaccompanied or separated, the tracing information is then shared with authorities in the relevant country. Once the family has been found, a **family assessment** is conducted to identify any child protection concerns, including the family's willingness to reintegrate the child into the household and to consider potential assistance needs. The report of the family assessment, including recommendations, is then returned to the country where the child is currently living. In cases where a child's family is dispersed over different countries, including the country of origin, multiple family assessments should be conducted to provide the basis for considering the available options. Of particular importance is **verifying the child's relationship with each relative** as well as their capacity – and above all – willingness – to care for the child.

The **socioeconomic status of the household**, as well as any assistance that might be needed to address the drivers of the child's migration and to enhance the sustainability of reintegration, is also assessed and recommendations are included in the family tracing assessment (FTA) report. Recommendations on assistance should address the needs at the levels of the community, the family and the child. Of particular importance for the child is access/return to school or to vocational training, and such arrangements should be explored during the FTA. **Where child protection concerns are identified that might put the child at risk if returned to the family, alternative care arrangements need to be identified, preferably with extended family members.**

<sup>13</sup> See United Nations, United Nations General Assembly resolution 64/142 on the guidelines for the alternative care of children (2010). Available at <https://digitallibrary.un.org/record/673583/?ln=en>.

### Definition of family



International law does not define “family”. However, the Committee on the Rights of the Child recognizes that what constitutes a family varies depending upon cultural patterns and individual circumstances. It calls for the principle of non-discrimination to be applied when recognizing the various forms that families can take.<sup>14</sup> Examples may include biological, nuclear, reconstructed, joint, extended, same-sex parent, single-parent, common-law and adoptive families. It is important to note that how “parent”, “family”, and “legal guardian” are defined in domestic laws may or may not reflect how families define themselves. See also “members of the family” in [Tool 6.1](#).

#### 6.2.4. Rights of migrant children in domestic law

Understanding the international legal framework is a starting point for understanding the rights of migrant children, but it is an insufficient basis for the delivery of return counselling services. The **State is a primary duty bearer for children’s rights**, and it fulfils its obligations by developing laws and policies and setting up institutions to protect children in line with international standards. States are obliged to respect and **ensure the rights of all children** without discrimination or prejudice on the basis of nationality, age, sexual orientation, gender identity, disability, race, ethnicity, religion, language, social or any other migration status.<sup>15</sup>

The institutions and authorities involved in return counselling processes are governed by domestic laws and policies. The 1989 CRC has become the most widely ratified human rights treaty in history and has helped transform children’s lives around the world.<sup>16</sup> However, depending on the domestic legal system, its legal weight and how it is used as a tool in decision-making may vary significantly. Further, domestic laws and policies should comply with international human rights law or meet international standards.

Even while operating in a context that strives to comply with international standards, it is necessary that actors providing return counselling services support States and national authorities to fulfil their duties towards children. This requires engaging with key stakeholders in strengthening national child protection systems and developing adequate referral mechanisms. Actors that provide return counselling should undergo a stakeholder-mapping exercise and return counsellors should be familiar with available child protection services in the local contexts as well as in the country of origin. The information gathered during stakeholder-mapping could be used to work

<sup>14</sup> United Nations, Committee on the Rights of the Child, Report on the seventh session (CRC/C/34 of 8 November 1994).

<sup>15</sup> United Nations, CRC, Article 2; United Nations, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Joint general comment no. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and no. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration (CMW/C/GC/3-CRC/C/GC/22 of 16 November 2017), para. 9.

<sup>16</sup> United Nations, CRC.

and advocate with national authorities to strengthen the national child protection systems, policies and programmes, to ensure that they give adequate consideration to the rights and needs of migrant children. Promoting cross-border cooperation between child protection, social welfare, immigration and other authorities is also key to ensuring safe, dignified and rights-based return and sustainable reintegration of children and families.

### Working with government duty bearers in return counselling of children and their families



Those providing return counselling assistance need to work and liaise with duty bearers at all levels – family; community; and local, national and international – to mitigate and respond to the protection risks that children in the context of migration may face. States are primarily responsible for the protection of children: they need to establish and implement child protection systems in accordance with their international obligations, ensuring non-discriminatory access to all children under their jurisdiction.

Government authorities (e.g. police or government social workers) or organizations that have been delegated statutory powers are the only actors with the authority to intervene to protect children in the case of child maltreatment. Further legal and administrative bodies issue a range of **decisions about guardianship** (all powers of decision-making concerning a child), **custody** (day-to-day care of a child) and **residency status**, as well as **issue legal documentation**. Regarding border and immigration authorities, particular challenges may arise in cases where they are unfamiliar with child rights, or when their procedures, tools or facilities are not child-friendly. On the other hand, child protection authorities may be unfamiliar with the situation and rights of migrant children and adolescents, or even take the position that they are not responsible for providing services to them. However, child protection authorities, as opposed to migration or law enforcement authorities, should be interfacing with migrant children regardless of their status and providing services.

In this regard, return counselling programmes could also envisage to carry out activities and establish partnership to strengthen and develop capacities of national child protection authorities and stakeholders concerning children on the move. Additionally, border and immigration authorities might also benefit from the presence, in certain contexts, of return counsellors at arrival/entry points to gain a clearer understanding of specific situations and risks faced by migrant children. Border procedures should always be compliant with human rights and include the individualized assessment of migrants' protection needs and vulnerabilities.

It is important to note that sometimes child protection, education and health-care services are the responsibility of regional or local levels of government, not the national government. This usually necessitates brokering additional partnerships and sometimes facilitating coordination between levels of government that do not have effective mechanisms for working together: for example, immigration officials at the national level and child protection officials at the regional or local level.

It is necessary for return counsellors to understand the legislation and policies in relation to migration and the child services systems in the countries where they work. Familiarity with relevant domestic laws as they apply to migrant children can be achieved in a number of different ways. In some cases, it makes sense to include professionals with legal background or training on an interdisciplinary return counselling team. In other cases, external support should be sought, such as forming a partnership with a legal aid clinic, retaining a lawyer, or commissioning a lawyer to write a review that summarizes relevant legal information or to provide training on relevant laws. Engaging a legal expert when drafting standard operating procedure for return counselling may be a particularly effective way to ensure that domestic legislation, policies and procedure are considered.

One challenge is that laws and policies that pertain to return counselling of children and their families are often scattered across multiple pieces of legislation – for example, immigration and refugee law, criminal law, child welfare law and family law – and are the responsibility of different ministries – such as immigration, child welfare, education and health – or even levels of government. Though meant as an assessment and evaluation tool, and broader in scope than just return counselling, the indicator checklist included in “Towards a Child Rights-based Assessment Tool to Evaluate National Responses to Migrant and Refugee Children”<sup>17</sup> (see Annexes 2.1–2.5) provides a comprehensive guide to create an inventory of the domestic laws, policies and procedure that return counsellors should be aware of. It is also a good starting point for commissioning a legal review or training in the topic or assessing staff’s knowledge of the domestic framework.

It should be noted that domestic laws and policies and international obligations as regards the rights of migrant children do not always align. Depending upon the constitution of the country in question, there may be domestic legal remedies in these cases. Alternatively, political advocacy can be pursued to bring about change. If both these routes fail, the Committee on the Rights of the Child receives comments (complaints) on the progress of States Parties towards implementing the Convention, either through UNICEF, civil society organizations or directly from individuals, and every five years uses these to formulate recommendations on steps States should take to uphold children’s rights.

<sup>17</sup> Kevin Byrne, Towards a child rights-based assessment tool to evaluate national responses to migrant and refugee children, UNICEF Office of Research – Innocenti Discussion Paper 2018-04 (Florence, UNICEF, 2018). Available at [www.unicef-irc.org/publications/1012-towards-a-child-rights-based-assessment-tool-to-evaluate-national-responses-to-migrant.html](http://www.unicef-irc.org/publications/1012-towards-a-child-rights-based-assessment-tool-to-evaluate-national-responses-to-migrant.html).

### 6.3. How return counselling for accompanied, unaccompanied and separated children is different

Useful resources for this section:

- ▶ *IOM Handbook on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse* (Part 1: The Determinants of Migrant Vulnerability)
- ▶ IOM, *Reintegration Handbook* (Module 6: A Child Rights Approach to the Sustainable Reintegration of Migrant Children and Families; section 6.2.1: Introduction to case management)
- ▶ Child Protection Working Group, *Inter Agency Guidelines for Case Management and Child Protection*
- ▶ UNICEF, *Family unity in the context of migration*
- ▶ IOM, *Case Management Guidelines* (Part IV: Child Protection Case Management) (forthcoming)

Working with accompanied children:

- ▶ IOM, *Family Matters: A Study into the Factors Hampering Voluntary Return of Migrants Residing at Family Locations*
- ▶ UNICEF, *Mental Health and Psychosocial Support (MHPSS) for Families at the US–Mexico Border: A Field Guide*
- ▶ IOM in the Netherlands, *Toolkit: Voluntary Return with Children – Guide for Parents*
- ▶ Gerison Lansdown, Chapter 13 – Article 5: The right to parental guidance consistent with the evolving capacity of the child
- ▶ Jelena Besedic and Tatjana Ristić, *Parenting on the Move: Testimonies of Refugee Parents in Serbia*

Working with UASC:

- ▶ IAWG-UASC, *Field Handbook on Unaccompanied and Separated Children*
- ▶ IOM, Addressing the needs of unaccompanied minors (UAMs) in Greece
- ▶ IAWG-UASC, *Toolkit on Unaccompanied and Separated Children*
- ▶ IAWG-UASC, *Alternative Care in Emergencies Toolkit*
- ▶ Alliance for Child Protection in Humanitarian Action, *UASC training of trainers*
- ▶ Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action* (Standard 13: Unaccompanied and separated children)
- ▶ University of Strathclyde, CELCIS, *Caring for Children Moving Alone* (MOOC)
- ▶ ICRC, *Inter-agency Guiding Principles on Unaccompanied and Separated Children*
- ▶ United Nations, *United Nations General Assembly resolution 64/142 on the guidelines for the alternative care of children*

Return counselling of accompanied, unaccompanied and separated children is challenging. Cases can be complex, there are additional steps to be completed, there are safeguarding and rights concerns to be addressed, there are more stakeholders involved, the stakes are higher because a child is involved. From a child's perspective, the return process may appear either very long or too quick, without leaving enough time to take the child's needs and wishes into consideration.

Return counsellors need to adapt their approach according to the situation. This section is split into two parts to cover the differences in the processes and approaches taken when counselling returning children accompanied by their family members (section 6.3.1) or returning unaccompanied and separated children (section 6.3.2).

### 6.3.1. Return counselling of families with children

#### Responsibilities of parents

Parents are primarily responsible for caring for their children, taking into account the best interests of children (see section 6.4.3). The State, whether in the country of transit, destination or origin, has a duty to assist parents in carrying out this responsibility. However, the State and, by extension, services like return counselling should not arbitrarily interfere.

Nevertheless, **there are limits to parental authority.**<sup>18</sup> The State has an obligation to implement laws and policies that protect children from violations of their rights, including rights abuses perpetrated by their parents, legal guardians or caregivers. Parents, legal guardians and caregivers should also respect children's evolving capacities and promote their agency to claim their own rights.<sup>19</sup>

#### Evolving capacity



**A rights-based and child-sensitive approach** to return counselling recognizes that as children mature, they become more competent, acquire greater understanding and are increasingly able to exercise their own rights. The CRC does not set age milestones for decision-making but rather looks to the State and adults in a child's life to determine when children are ready to take on increasing responsibilities and make decisions for themselves. In other words, as children grow older, there is a transfer in the exercising of rights from parents to children. Also, as children become more able to protect themselves, they are permitted to take greater risks, for example employment outside of the home.

<sup>18</sup> Gerison Lansdown, Chapter 13 – Article 5: The right to parental guidance consistent with the evolving capacity of the child, in: Vaghri et al., eds., *Monitoring State Compliance with the UN Convention on the Rights of the Child* (Cham, Switzerland, 2022).

<sup>19</sup> In countries where there are no national laws or policies related to this, refer to the CRC, relevant refugee conventions and *Minimum Standards for Child Protection in Humanitarian Action*.

### Parenting in the context of migration

Parenting is challenging. Parenting in the context of migration is often much more so. Parenting norms have also changed dramatically in the past generation. Even within a single culture there can be very different ideas about how to parent well. This means that today's parents may lack role models and people who they can go to for advice about how to raise their children. Not only do they struggle to live up to ideals of what a good parent should be, they may be unsure of what these are. Traditionally, parenting was a responsibility shared among extended family members and neighbours. With migration, parents may lack this support.

As with childhood, parenthood is shaped immutably by culture. What might seem like poor parenting in one context is acceptable in another. While sometimes this is because of practices that are culturally sanctioned, but harmful, like corporal punishment, in general there is little to no evidence that the way that one culture raises children is better or worse for children than how another does.

**Many parents migrate out of a desire to do what's best for their children**, yet the migration journey as well as the situation in the country of destination may not have been what parents hoped. Migrant parents sometimes report intense **feelings of guilt** for the danger they have subjected their children to and their **failure** to be able to meet their children's basic needs.<sup>20</sup> The identity of parents, like the identity of their children, is developing. Failure to fulfil the basic tasks they see as being part of the role of a parent – providing their children with sufficient food, clean clothing and a home, or keeping them safe – can be a harsh blow to the identity of migrant parents. Living in limbo, as many migrants are, they cannot oftentimes answer the basic questions their children ask about what the future holds. They may be exasperated that their care does not ensure their children's well-being and good behaviour, and help their children adapt to a new context.

### Supporting parents during return counselling

Providing return counselling to families with children mostly means being supportive of parents and empowering them and their children's agency as well as supporting the children in their care. Supporting migrants' agency is a cornerstone of a rights-based and migrant-centred approach to return counselling.

**Show empathy.** Return counsellors who would like to support migrant children should begin by showing empathy for migrant parents, who, by and large, want to take an active role and feel confident in their parenting.<sup>21</sup> However, they may be subjected

<sup>20</sup> Jelena Besedic and Tatjana Ristić, *Parenting on the Move: Testimonies of Refugee Parents in Serbia* (Sarajevo, Save the Children North West Balkans, 2018). Available at <https://resourcecentre.savethechildren.net/document/parenting-move-testimonies-refugee-parents-serbia/>.

<sup>21</sup> Ibid.



to harsh judgements and held to unattainable standards. Return counsellors should never be judgemental neither communicate their disapproval of a migrant's parenting choices. Rather, they should offer support.

**Provide emotional support.** Though not all migrant parents will want to share their feelings about parenting, validating parents' emotional experiences and needs can be important. Their emotional well-being has an impact on their children. While parents might try and shield their children from the stress of the return process, children, even infants, are intuitive and sense when their primary caregivers are under pressure and big changes in their lives are imminent. Return counsellors should offer support in figuring out what parents can do on a day-to-day basis to relax (see *Return Counselling Toolkit*, Tool 2.1.1: Practical exercises and relaxation techniques) and recharge and deal with challenging emotions like frustration and anger and build this into their reintegration plans. Just like with children, small, simple things can be important to parents' and caregivers' well-being like texting a friend, sitting down for a cup of tea or praying. Some parents may experience returning to their countries of origin as failing their children. In these cases, helping parents reframe this transition can increase the chances of their children successfully reintegrating.

**Provide support to make decisions and meet priority needs.** It is migrant parents themselves who are the experts on their own situations and needs. They also know much more about the situations and needs of their children than professionals who may be trying to help. Return counsellors should work with parents and legal guardians to help them make the best decision for their children, including advising them on risks and protection concerns related to migration as well as opportunities and available services in their communities before return. It is the return counsellor's duty to provide information on available options but not to decide what is best for a family.

For example, it may be easy to conclude that parents and legal guardians are not considering the well-being of their children when they prioritize employment, housing and proximity to extended family in their reintegration plan over needs like education and access to other opportunities for their children. However, it is important to remember that a parent's employment may be what pays for school fees, children need a home to be and feel safe, and extended family may be feeding and caring for children until parents become self-sufficient. Parents whose priority needs are met have greater capacity to meet the needs of their children.

**Beware of gender bias when engaging parents.** The majority of parenting support work focuses on mothers and struggles to engage fathers, thus reinscribing gendered roles. The benefit of return counselling is that parents of both genders are often

present. Counsellors should guard against assuming gendered divisions of roles in families, look to all family members for information regardless of gender and involve both parents (if present) to make decisions.

**Arrange some meetings without children present.** While sometimes it is preferable that children attend return counselling sessions (to verify their identities, hear from them, learn about and participate in planning for their return), for other sessions it can be easier to support parents, legal guardians or caregivers without their children present. There are topics that may be inappropriate or scary for children or embarrassing for parents or legal guardians to speak about in front of their children. They may feel more comfortable raising challenges related to parenting and their children without their children being there. Without the child present, parents or legal guardians can also be more attentive and focused on the session, assimilating more information about the return and exchanging more actively with the counsellor. If necessary, childcare should be arranged and provided for children while their parents attend return counselling sessions. It is a good practice to conduct meetings with all family members present, but this does not mean that this is always the best solution. Holding parent-only and child-focused meetings where both children and parents are present can be a good alternative.

**Be mindful of power differences.** Organizations providing return counselling can wield considerable power regarding migration options for families and resources that make a return home possible; they may have the power to decide whether families without the financial means can return home. For that reason, it is important that the power is not used to compel parents or legal guardians to make certain choices, including consenting to their children's participation. However, it is crucial that return counsellors encourage parents to value their children's participation whenever appropriate and according to children's age and capacity.

**Involve child protection authorities when there may be child protection concerns (when in doubt, always seek assistance; see [section 6.4.5](#)).** It is not the job of return counsellors to investigate possible child protection concerns, but they need to be familiar with child protection and being able to flag any concerns that may arise during the counselling session and from the information gathered. When return counsellors have a reason to suspect that a child is at risk, it is their duty to refer the case to child protection colleagues and supervisors who are in charge of making referrals to appropriate authorities. Parents, legal guardians and caregivers, and children should be informed of the duty of return counsellors to report child protection concerns before consenting to participate in return counselling.

### Special cases in returns of families with children



#### 1. When family members cannot agree on a solution

Return counsellors should be mindful that parents make decisions every day about what is best for their children, including about whether to migrate. In some cases, the child has not been consulted or may not wish to go, or the decision is not in the child's best interests. While a return counsellor cannot dictate what parents do with regard to their children, they can and should sensitize parents about their children's rights and the benefits of considering the views of their children and making decisions in their child's best interests, especially (but not exclusively) in the case of older adolescents. Return counsellors may also encounter situations where adult family members cannot agree on a solution.

Family mediation in case of a disagreement among family members is beyond the scope of return counselling. If needed, return counsellors should engage child protection actors (e.g. social workers and case managers) experienced in family mediation to facilitate family decision-making processes that involve the children's future. In some cases, it may be necessary to seek a resolution through legal/judicial processes.

#### 2. When the child is returning with only one parent, or a parent and a child are being separated by return

Cases where children are returning with only one parent, or a parent and a child are being separated by the return, require special consideration. If both parents have guardianship of the child, then in general the written consent of both parents should be sought unless there is a compelling reason why the other parent should not or cannot be traced. This is not required if the parent returning has sole guardianship of the child or the other parent is dead. However, in these cases, return counsellors need to verify that the parent indeed has sole guardianship, and the parent must provide proof such as birth certificate, death certificate of the other parent, divorce certificate and/or judicial order. In the case in which one of the parents will not consent, the other parent may wish to try and obtain sole custody of the child. Unless there is an exceptional reason why it is not possible, a parent's claims should be proven with legal documentation.

If the BID process determines that it is in the best interest of the child to return without his or her parents, it is imperative that an alternative care arrangement is made including securing a legal guardian and appropriate care upon return, which means not placing the child in institutional care. In all these cases, the views of the child should be considered and decisions should be made in the best interests of the child.

### Vulnerability screenings of families with children

As with return counselling for adult migrants without children, families and family members should also be assessed for vulnerabilities. IOM's [Determinants of Migrant Vulnerability Model](#) outlines risk and protective factors at the levels of the individual, family/household, community and society that impact on the well-being of migrants.

The individual (section 2.4) and family (section 3.4) factors assessment toolkits for vulnerability screening were designed to be administered with individual adults, so they need to be adapted for use with families. Programmes should adapt the tool to collect information efficiently with families. Some questions apply to the family as a whole and can be asked once, probably parents can be asked these questions. For the remainder, it may be most efficient to collect answers to one question from all family members, before proceeding to the next question, rather than interviewing each family member one after the other. Ask adults privately if questions may cause embarrassment or distress when asked in front of their family members. Some questions may not apply to younger children, for example their employment skills or access to financial services. Other questions should not be asked in front of younger children, for example, “Do you anticipate being subjected to any violence, exploitation or abuse on your journey to the country/region you are moving to?” as the answers could be scary for them, and adults may be unlikely to answer such questions truthfully or fully in front of children. While family members should be individually assessed, parents or legal guardians can, and usually should, be present while their children’s needs are being assessed. Adaptations to the tool should be undertaken through properly resourced processes on a programme level, rather than by an individual return counsellor, or worse while the return counsellor is trying to conduct the interview.

Screening for intrafamily/domestic abuse should be considered with training and support to ensure it is done in a way that is survivor centred and does no harm. Results from the vulnerability screening may also trigger further screenings for trafficking, violence and health-related issues (see Module 3 of the *Return Counselling Toolkit*). Section 6.4.5 includes a detailed discussion of the range of child protection concerns that could potentially affect migrant children and guidelines for how return counsellors should respond.

### Referring families and family members to services

Section 3.3 of the *Return Counselling Toolkit* provides information on addressing migrants’ vulnerabilities through referrals to services. Children and families require services in addition to those described in section 3.3 including educational, recreational, sports, cultural, religious, civic engagement, childcare and parent support services. Return counsellors should ensure that all assistance provided is child and family centred. Attention should be paid to child safeguarding, cultural safety, programme quality and accountability to affected populations.<sup>22</sup> It may or may not be considered appropriate or safe by the family, or by the service provider, for older adolescents to access services by themselves.

<sup>22</sup> Accountability to affected populations is an active commitment to use power responsibly by taking account of, giving account to and being held to account by the people humanitarian organizations seek to assist. See Inter-Agency Standing Committee (IASC), IASC Revised Commitments on Accountability to Affected Populations and Protection from Sexual Exploitation and Abuse, 2017 (including Guidance Note and Resource List) (1 November 2017). Available at <https://interagencystandingcommittee.org/iasc-revised-aap-commitments-2017-including-guidance-note-and-resource-list>.

Return counsellors should be mindful that organizations that serve migrants in general may not be equipped to serve children. Furthermore, organizations that serve children, adolescents and families may not be accommodating to migrants. Given this, it may be necessary for a return counselling programme to provide additional support and capacity-building for partners they refer children and families to, to ensure that the rights of migrant children and their families are respected. Housing, clothing, food, health, mental health and psychosocial support services should consider the particular needs of families with children, including pregnant and breastfeeding parents.

### 6.3.2. Return counselling of unaccompanied and separated children

UASC have the right to be reunified with their parents or other members of the family. That being said, the return of UASC “shall in principle only be arranged if such return is in the best interests of the child”<sup>23</sup> and through a formal process – BID (see [section 6.4.3](#)) – taking into account, inter alia, factors such as “the safety, security and other conditions, including socio-economic conditions, awaiting the child upon return...; the availability of care arrangements...; the views of the child...; the child’s level of integration in the host country and the duration of absence from the home country...”.<sup>24</sup> There is extensive guidance on responding to the needs of UASC included at the beginning of section 6.3 that return counsellors working with UASC should be familiar with. Rather than repeating those, this section identifies the guidance most relevant to return counselling of UASC and details specific challenges. These include ensuring a legal guardian has been identified and a BID has been made, family tracing and family assessments have been carried out, and sustainable reintegration assistance will be provided. The IAWG-UASC *Field Handbook on Unaccompanied and Separated Children* provides an overview of the causes of family separation and the challenges UASC face. Based on this, return counsellors should make themselves familiar with the situation of UASC who access their services.

#### Legal guardians

UASC must be assigned a legal guardian. A legal guardian assumes **legal responsibility** for the child and has the right and the responsibility “to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child”<sup>25</sup> of their rights. Ideally, a legal guardian should also advise and act as a support to the child. In the absence of the child’s parents, a legal guardian assumes responsibility for the well-being and protection of the child and makes decisions that are in the child’s best interests with consideration of the child’s wishes.

<sup>23</sup> United Nations, Committee on the Rights of the Child, General comment no. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6 of 1 September 2005).

<sup>24</sup> Ibid.

<sup>25</sup> United Nations, CRC.

Domestic law specifies who can be legal guardians and how they are assigned. While, in some cases, legal guardians are those who care for the child on a day-to-day basis, in other cases they are not, especially in the case of unaccompanied children.

While, in theory, legal guardians, like parents, should be involved in every aspect of return counselling, in some contexts they only get involved in formal decision-making processes. A legal guardian's knowledge of child development, migration processes and indeed of the child themselves may be limited. Legal guardians may or may not have training, be supported by professionals or be child protection authorities. This can pose a challenge when deciding what is in the best interests of the child. Strategies for mitigating deficits in the capacity and commitment of legal guardians include maximizing child participation in a child-friendly return process and involving children's natural advocates in supporting the child in decision-making. Natural advocates can include social workers (in some cases, they may act as legal guardians), formal and informal caregivers including foster parents, extended family members and family friends, residential care staff if the child is staying in a residential care facility, teachers or anyone else that the child identifies as important to him or her. There is also the possibility of involving children's parents, or other important people in the child's life, remotely through videoconference. More information about legal guardians and child migrants can be found in Part 6 of *IOM Handbook on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse*.

### Case management approach

Depending on the context, return counsellors can act as case managers and be in charge of coordinating the work of other actors and service providers towards the safe and dignified return and sustainable reintegration of migrants assisted (see section 2.4 of the *Return Counselling Toolkit*). However, when it comes to providing return assistance to UASC (or victims of trafficking), a case manager outside the return procedure should be assigned. It is not appropriate for return counsellors to act as case managers for UASC. Nevertheless, return counsellors working with UASC should familiarize themselves with the extensive guidance and tools on case management included at the beginning of [section 6.3](#). Return counsellors should work closely with the case management team, in addition to working directly with the legal guardian and the children themselves. If a UASC has not been assigned a case manager, which, in certain contexts, may be the case especially with older adolescents, all effort should be made in order to assign one.

[Tool 6.5](#) outlines the type of information that needs to be requested and the issues return counsellors should discuss with case managers. In general, it would be ideal for the case manager to be involved in all return counselling sessions; however, this is especially important when the child has more limited decision-making capacities,

when the legal guardian is less engaged or informed, and when the decisions to be made could have negative consequences. If return counsellors are confident that case managers have a strong relationship of trust with the child and, crucially, that the case manager engages the child in decision-making, then it may be acceptable to work through the case manager instead of directly with the child for some (but not all) parts of the return counselling process.

Most decisions can be made in the context of case management by the legal guardian in consultation with the case manager and other people important to the child, and with consideration of the views of the child according to his or her evolving capacities. However, administrative or judicial decisions concerning the entry, residence or return of a child; placement or care of a child; or the detention or expulsion of a parent associated with his or her own migration status should be determined through BIDs (see [section 6.4.3](#)). A case management plan includes referrals of UASC to services that promote their well-being. While UASC may benefit from specialized services for children in alternative care, including psychosocial and peer support, in general it is important that they are mainstreamed into services for children, in particular that they attend regular schools.

### Vulnerability screening of unaccompanied and separated children

UASC should have gone through a case management intake process that included vulnerability screenings like those used for the return counselling process (see [Tool 6.5](#)). In general, vulnerable children should not be asked repeatedly for the same information, especially on distressing topics. However, information needed for return counselling may not have been collected, a case manager may be unwilling to share the information, or the information may be incorrect or out of date. Rather than take them through the entire vulnerability screening, it may be better to briefly verify previously collected information with the child or adolescent and the legal guardian and then fill in any missing information. When collecting information from children and adolescents, it is important to do it in ways that are child-friendly and to apply a child-sensitive perspective with tools that have been adapted for their age and capacity. For further guidance, see the Save the Children publication *Participatory Action Research: How-to Guide*.<sup>26</sup>

### Alternative care

Under the CRC, States are obligated to provide special protection and assistance to UASC and migrant children who are not being adequately cared for by their families. This includes **alternative care arrangements**. The government must ensure that the protection, standard of living, health services, recreational activities and educational opportunities it provides to UASC are comparable to those provided to

<sup>26</sup> The publication can be accessed at [https://resourcecentre.savethechildren.net/pdf/how\\_to\\_guide\\_par\\_-\\_pdf.pdf/](https://resourcecentre.savethechildren.net/pdf/how_to_guide_par_-_pdf.pdf/).

all children deprived of family care on its territory. In cases where child protection and welfare systems are not strong enough, civil society, NGOs or international organizations may support the State in fulfilling this obligation. In doing so, they should adhere to international standards and national laws. Children and adolescents without a recognized care arrangement can be vulnerable to detention. The State must not detain UASC merely because they have entered or are living in the country irregularly. As per international laws and norms, migrant children cannot be detained for reasons linked to their migration status or that of their parents, as it is never in their best interests. Noncustodial alternative care or reception arrangements must be made.

In cases where returning UASC cannot be reunited with their families, a BID should determine an alternative care arrangement that is in the children's best interests. According to the United Nations General Assembly Resolution 64/142 on the Guidelines for the Alternative Care of Children, **family-based alternative care options should be considered before residential care options**. Institutional care is a form of residential care that lacks individual support or privacy for children, separates or isolates children from the wider community, follows regimented routines for children, discourages contact with the birth or extended family, and lacks an opportunity to form attachment to one or two primary caregivers.<sup>27</sup> As such, institutional care should not be used as an alternative care option. The Committee on the Rights of the Child states that where institutional care exists, alternatives should be developed, leading to its progressive elimination.<sup>28</sup>

Alternative care arrangements for older adolescents frequently go unfilled. Sometimes this is due to lack of services, other times because older adolescents are not legally entitled to these services and sometimes because older adolescents do not wish to live in alternative care, where they may be subject to restrictions or conditions they find intolerable. These issues should be addressed through advocacy or programming.

### Family tracing

Family tracing should be conducted by qualified actors, following a BIA to ensure that restoring contact would not be contrary to the child's best interests. However, return counsellors may be approached by UASC wishing to return who have not undergone a BID yet and who are not in contact with their families. Return counsellors should make the appropriate referrals to help children realize this right. Even if children are not reunited with their families, restoring contact between them and their families may be important. Though unusual, children or adolescents may be

<sup>27</sup> European Commission, Report of the Ad Hoc Expert Group on the transition from institutional to community-based care (2009). Available at <http://ec.europa.eu/social/BlobServlet?docId=3992&langId=en>.

<sup>28</sup> See paragraph 23, United Nations General Assembly resolution 64/142 on the guidelines for the alternative care of children).



reluctant to reestablish contact with their families or family members may not wish to reestablish contact with the children/adolescents. In these cases, efforts should be made by child protection authorities to understand why and establish what is in the best interests of the children.

### Family assessment

A family assessment must be conducted to understand whether return is in the best interests of the child (in the context of BIDs, see [section 6.4.3](#)) and also to support planning for reintegration. In the case of UASC, return counsellors should have access to a family assessment and should follow up with colleagues in the country of origin if further information is needed. Merely establishing that the family is willing to take the child back does not constitute a family assessment. At a minimum, a family assessment should include an assessment of the size, composition and dynamics of the receiving family, as well as factual information regarding the socioeconomic and health conditions in countries of origin (means of subsistence, housing conditions, access to and quality of health services and education, access to other relevant services, including social workers who may support the reintegration of a child in the family and community). This information can be useful in developing a reintegration plan, which responds to the needs of the child and the family in the country of origin, addressing potential reemigration drivers to achieve sustainable reintegration. In case there is an indication of possible abuse or neglect, or that the children may face other risks if they return, this should also be reflected in the report and return should not be carried out.

### Travel arrangements

Safeguarding is especially important when arranging return of UASC. In addition to obtaining consent from legal guardians and the BID result, return counsellors should arrange escort assistance for children under the age of 15, with special consideration of safe and trustworthy companionship for children. In cases involving children over the age of 15 years, adequate arrangements should be agreed with legal guardians (in both the host country and the country of origin) and with the relevant carrier in case of air transportation. In the case of UASC with health-related conditions, return counsellors, in cooperation with relevant partners and stakeholders, need to ensure that a pre-departure medical check is performed to ensure fitness to travel and that a medical escort is provided in the final destination (see [section 3.3.2](#) of the *Return Counselling Toolkit*).

Arrangements to transfer care and custodial responsibilities need to be made. Detailed arrangements should be made to receive the child at the airport or at the final destination, including by the parent(s) or legal guardian(s) where possible and in the best interests of the child.

## 6.4. Rights-based approach to return counselling of children and their families

Useful resources for this section:

- ▶ IOM, *Reintegration Handbook* (section 2.1: Case management counselling; section 6.2.1.2: Facilitating meaningful child participation during case planning)
- ▶ IOM *Handbook on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse* (Part 6: Guidance for the Protection, Care and Assistance of Vulnerable Child Migrants)
- ▶ IOM, *Reintegration Counselling: A Psychosocial Approach*
- ▶ IOM and Samuel Hall, *Child Reintegration Monitoring Toolkit*
- ▶ IOM, Case Management Guidelines (Part IV: Child Protection Case Management) (forthcoming)
- ▶ IOM, International Migration Law Information Note on the protection of unaccompanied migrant children
- ▶ Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action*
- ▶ IAWG-UASC, *Field Handbook on Unaccompanied and Separated Children* (Chapter 12)
- ▶ Save the Children, *Best Interests Determination for Children on the Move: A Toolkit for Decision-Making*
- ▶ UNHCR, *2021 Best Interests Procedure Guidelines: Assessing and Determining the Best Interests of the Child*
- ▶ IOM, *A quick guide on alternatives to detention (ATD)*
- ▶ Barbara Kolucki and Dafna Lemish, *Communicating with Children: Principles and Practices to Nurture, Inspire, Excite, Educate and Heal*
- ▶ Council of Europe, *How to Convey Child-friendly Information to Children in Migration: A Handbook for Frontline Professionals*
- ▶ UNICEF, *How to recognize signs of distress*
- ▶ UNICEF, *Four things you can do to support your teen's mental health*
- ▶ Save the Children, *The Nine Basic Requirements for Meaningful and Ethical Children's Participation*

### 6.4.1. Developmental approach<sup>29</sup>

#### The right to survival and development

At all stages of the migration journey, the survival and development of children should be assured. Measures should be taken to protect children from risks and to ensure they are provided with what they need, not just to survive but also to

<sup>29</sup> Note that in this section when using the term "caregiver" or "primary caregiver" we want to indicate the person with whom the child lives, who provides care to the child on a daily basis, and is responsible for and have an impact on the well-being of the child.

develop “to the maximum extent possible”<sup>30</sup>. This includes support to families, legal guardians and caregivers so that they can provide for children, as well as policies and programmes that ensure that migrant children can access education, recreation, health and other services.

In the CRC, development is understood holistically, embracing the physical, mental, spiritual, moral, psychological and social development of the child. Return counsellors should consider the principle of survival and development when making sense of a child’s migration story, when providing support and referrals during the return counselling process, when helping make decisions about whether returning is in the best interests of the child and when developing a reintegration plan.

### Understanding child development

Return counsellors support migrants with diverse needs and experiences. This includes **differences in age, maturity and capacity**. To provide effective support and to ensure that children of any age can realize their rights, return counsellors should have basic awareness that people’s bodies and minds work differently at different developmental stages: prenatal, early childhood, middle childhood, adolescence, young adulthood, parenthood and beyond. However, return counsellors should guard against making generalizations about children based on their age. While there are similarities in how all humans develop, individuals develop along their own pathways, shaped by the capacities they were born with and by the opportunities and challenges they encounter in their environments, especially during childhood and due to their migration experience. Children have the right to protection, care and opportunities that promote their development, not only for their well-being in the present but also because neglect of developmental needs can disadvantage children for the rest of their lives.

Many children who participate in return counselling have encountered challenges. It is often believed that adverse experiences compromise children’s development, but it is more accurate to say that these harms cause them to develop differently from their peers. If the well-being of migrant children has been compromised, their development may be delayed in some areas and accelerated in others. These adaptive ways of developing help children survive in difficult environments and can also have long-term consequences for their overall well-being. For example, the intellectual and social skills that children develop while migrating and surviving on their own can make it difficult for them to adapt to living under the authority of an alternative caregiver and attending school.

<sup>30</sup> United Nations, CRC.

### Developmental needs of migrant children

The 1989 CRC articulates in rights language much of what children need for healthy development. However, since its adoption, more has been learned about children's development and how migrant children cope with adversity. While child protection experts can help return counsellors ensure that the developmental needs of migrant children are being met, return counsellors should be able to recognize the importance of child development and understand in a general way the steps taken to ensure that children's rights in this domain are met.

### Importance of maintaining primary caregiver–child relationship

Separation from a primary caregiver has a significant impact on the development of children. While there is growing appreciation that even short separations of young children from their parents can lead to attachment disorders and other long-term problems, the development of older children and adolescents is also compromised:

*Disrupting the parent/caregiver relationship with the child can be highly stressful and damaging to children, with negative long-term consequences, including substance abuse, school failures, financial hardship and poor health. Adolescent refugees and migrants who are separated from their parents are at higher risk of experiencing multiple traumas, which can lead to severe mental health problems.<sup>31</sup>*

For this reason, preventing separation and quickly reuniting children with their parents must be a priority in return processes. If this is not possible or not in the best interests of the child, and interim care is needed, then this should be in a family environment. Institutional care compromises children's development and should be avoided.<sup>32</sup> Placement in an institutional care facility is almost never in the best interests of a child, especially upon returning to their home countries.

### Primary caregiver well-being

For similar reasons, caregiver well-being has developmental consequences. When caregivers are psychologically unavailable to children because they are overwhelmed by stress or suffering from mental health conditions, this can negatively impact children's development, due to the damaging effect of an excessive production of stress hormones and the lack of positive mirroring of the dedicated neurons. Without a predictable, nurturing caregiver, the brains of infants and young children become flooded with stress hormones, altering their development patterns in all domains. For adolescents, absence of a supportive caregiver can negatively impact their transition to adulthood. Conversely, parenting that is supportive and responsive

<sup>31</sup> UNICEF, Family unity in the context of migration (n.d.), p. 2.

<sup>32</sup> United Nations Office of the High Commissioner for Human Rights, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), adopted by General Assembly resolution 40/33 of 29 November 1985.

promotes children's well-being, even in the midst of adverse experiences. Return counsellors can promote the well-being of caregivers by facilitating a migrant-centred return process, referring caregivers to services that meet their needs and providing psychological first aid to caregivers and children using the respective tools (see section 2.5.1 of the *Return Counselling Toolkit*).

### A safe environment

Migrant children may have had distressing experiences before migration, during their migration journey or upon arrival in the host country. Violence, exploitation and neglect affect children's developmental trajectories. Ensuring children are safe and have access to basic services during the return counselling process and upon return is vital to giving them the best chance to develop to their full capacity. Some children may also benefit from specialized psychosocial or mental health-care services upon their return.

### Developmental opportunities

Access to the following opportunities while the return process is unfolding and during the reintegration period and beyond may help ensure that the developmental needs of migrant children and adolescents are met:

- Educational opportunities from early childhood to post-secondary levels, including specialized language and cultural instruction for foreign-language learners, inclusion and services for children with disabilities, assistance registering for school, assistance with the cost of education, inclusion of migrant students in the school community, and potentially interventions to address xenophobia among students and teachers in the schools that migrant and returning children attend;
- Recreational, sports, cultural, religious and civic engagement opportunities, including access to recreational spaces, inclusion in organized activities, support for cultural activities, especially those that allow migrant children and adolescents to learn the home country's and the host country's cultures, safety in public spaces and opportunities to participate in community and political lives.

While some migrant children and adolescents are denied developmental opportunities due to discrimination, many countries lack the capacity to provide adequate services and protection for their own citizens, let alone migrants. Further, families may be returning to countries that lack the services and socioeconomic opportunities necessary to meet children's developmental needs.

Children develop fast, and the return process takes time. Return counsellors, in partnership with relevant actors and stakeholders, should ensure that children's developmental rights are being met while waiting to return.

#### 6.4.2. Non-discrimination and cultural rights

##### The right to non-discrimination

States are obliged to respect and ensure the rights of all children whether they or their parents are migrants in a regular or an irregular situation, asylum seekers, victims of trafficking, stateless or returnees. Assistance should be provided to migrant or returnee children without discrimination or prejudice due to nationality, age, sexual orientation, gender identity, sex, disability, race, ethnicity, religion, language, social or any other status. Yet many migrant children and their families face discrimination in their day-to-day lives. Xenophobia may be compounded by other forms of discrimination. Migrants may endure discrimination not only during the migration journey and in the host country but also upon return to their home countries.

In the context of vulnerability assessments, service referrals and reintegration planning, return counsellors should consider how discrimination threatens children's developing identity, mental health, peer relationships, social inclusion, and access to services and opportunities. Due to discrimination, migrant children and their families may be denied access to services and opportunities that promote their full development. Even if allowed to attend school, children experience exclusion from friendship groups and may be harassed verbally, physically and sexually. Lack of safety and discrimination at school can turn an opportunity that promotes a child's development into one that compromises it.

##### Culturally safe and adapted services

It is important not merely to acknowledge how discrimination affects the lives of child migrants and their families but also create an environment surrounding the return counselling process that is free of racism and discrimination. This requires return counsellors to unlearn the discriminatory attitudes and beliefs of their societies, as well as recognize and address power imbalances inherent in the return counselling process. This should be a core topic in capacity-building sessions for return counsellors. It also requires a commitment from organizational and programme leaders to work proactively against discrimination and change practices and processes to reduce the power differences between return counsellors and migrants. One way to do this is to establish strong [accountability to affected population](#) measures.

Practising cultural humility is an important step towards achieving a culturally safe environment during return counselling. Cultural humility involves self-reflection to uncover and overcome personal and systemic biases that judge the dominant culture

as superior and migrants' cultures as inferior.<sup>33</sup> This is a prerequisite for building relationships of respect and trust. It also means realizing that cultural expertise is vitally important for arriving at sustainable solutions – expertise that resides with the migrant, not the return counsellor. Return counsellors need to recognize migrants as the expert on their own culture, experiences and needs, and seek to learn from rather than judge them. Acquiring basic knowledge of the societies that migrants originate from is not only essential to delivering effective return counselling services but also a sign of respect.

The use of cultural mediators, anti-oppression and cultural competency training, complaints mechanisms and culture safety messaging can help address discrimination. The principle of non-discrimination and cultural safety should be included in service providers' child safeguarding policies and other service delivery agreements.

#### **Importance of cultural mediators in return counselling of children and their families**



As discussed in section 2.6 of the *Return Counselling Toolkit*, cultural mediators are among the most important professionals that return counsellors collaborate with.

They may be able to recognize behaviours that are expected of children of different ages within their culture, interpret interactions between family members, and establish rapport and build trust with parents and children. While child rights principles are universal, they need to be translated into practice with consideration of the cultural context. Therefore, it is particularly important that cultural mediators are trained in children's rights and that return counselling teams, together with their cultural mediators, figure out together how these universal principles apply to the culture of the children and families they are counselling. Similarly, they should understand the developmental norms for children of different cultures. When working with children and families, it can be especially effective to recruit parents, and especially mothers as cultural mediators, both because it may be more culturally acceptable for women to interact with children and because it may empower girls and women in the family to participate actively in the return counselling process.

#### **Gender inequality**

The roles and opportunities made available to children in the return counselling process often reinscribe gender inequality. Return counsellors should be aware of how their own ideas about the different needs of girls and boys determine what information they share, how they interact and the opportunities they afford children and adolescents.

<sup>33</sup> First Nations Health Authority, Cultural safety and humility (n.d.).

### Homophobia and transphobia

The Committee on the Rights of the Child has stated that “children involved in or affected by international migration are entitled to the enjoyment of their rights, regardless of the children’s or their parents’, legal guardians’ or family members’ ... gender identity or sexual orientation”.<sup>34</sup> Discrimination based on sexual orientation and gender identity increases the vulnerability of children, adolescents and parents with diverse sexual orientations, gender identities, gender expressions and sexual characteristics (SOGIESC) to other rights abuses, especially violence (see [section 6.4.5](#)). The fact that homophobia and transphobia can drive migration means that it needs to be a major consideration in BIAs.<sup>35</sup>

### Disability

The disability-responsive pointers covered in section 5.2 of the *Return Counselling Toolkit* also apply to migrant children with disabilities. Return counsellors should ensure the best interests of children with disabilities are considered alongside the best interests of other children in the family and that children with disabilities are afforded equity in services and opportunities, such as education and inclusion in community life. Children with disabilities have the right to express their views in the return process. Judgements about their capacity to participate should not be based on the failure of the process to accommodate their disability. This is especially the case with communication impairments, which are often incorrectly interpreted as cognitive impairments.

### Cultural identity

Cultural knowledge, including knowledge of their native language, not only helps children develop a sense of who they are, it is a right according to the 1989 CRC. This knowledge is also a necessity if children are to successfully reintegrate upon returning home. While families are primarily responsible for acculturating (teaching culture to) their children, this responsibility is much easier to fulfil with community support. Helping families, and especially UASC, connect with other migrants of the same nationality or culture in the host country should be a priority alongside other referrals to basic services. As with adults, navigating the switch from children’s home culture to the culture of the host country, and then back to the home culture, can

<sup>34</sup> United Nations, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Joint general comment no. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and no. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration (CMW/C/GC/3-CRC/C/GC/22 of 16 November 2017).

<sup>35</sup> See IOM, International standards on the protection of people with diverse sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) in the context of migration, International Migration Law Information Note (Geneva, May 2012). Available at [www.iom.int/sites/g/files/tmzbd1486/files/documents/InfoNote-International-Standards-Protection-of-People-with-Diverse-SOGIESC.pdf](http://www.iom.int/sites/g/files/tmzbd1486/files/documents/InfoNote-International-Standards-Protection-of-People-with-Diverse-SOGIESC.pdf).



impact children's developing identities. Parents may have little guidance to offer their children on how to function successfully in the host and the return countries, leaving children to navigate this challenging and sometimes perilous experience alone.

As children grow, there may be painful conflicts between what is expected of them in the home culture as opposed to the host culture. Gender roles and the acceptance of people with diverse SOGIESC may vary. Children and their parents may wish to select from both cultures which roles, behaviours and values they want to adopt. Children may not want to readapt to the culture of a country that they hardly even remember, or they may be excited to return only to find the reality is not what they expected.

#### **6.4.3. The principle of best interests of the child**

According to the CRC, **the best interests of the child should drive all decision-making concerning a child.** A significant relationship between the best interests of the child and the right to be heard requires respect for the child's right to express his or her views freely and for those views to be taken into account in all decisions according to the child's evolving capacities (see [section 6.4.4](#)).

In the context of migration, where children may face multiple risks and challenges, whether they are travelling with their families or alone, the best interest means also finding a **sustainable solution that secures their long-term protection, survival and development needs.** The identification of a sustainable solution should be based on a comprehensive approach, having reviewed the different possible options as well as the positive and negative impact to identify which would best safeguard the best interests of the child, and should ensure the child's development into adulthood in a safe and supporting environment. Sustainable solutions may involve settling and integrating in the country of current residence, returning to and reintegrating in the country of origin, or resettling to a third country as a family unit or to facilitate family reunification.<sup>36</sup>

<sup>36</sup> Natalia Alonso Cano and Irina Todorova, Towards child-rights compliance in return and reintegration, *Migration Policy Practice*, 9(1):15–21 (January–March 2019). Available at <https://publications.iom.int/books/migration-policy-practice-vol-ix-number-1-january-2019-march-2019>.

## Steps in the best interests procedure and the role of return counsellors

Age assessment can happen at this stage (if necessary) and legal guardian is assigned.

A **BID** can be initiated at any step of the best interests procedure (BIP).

### Identification and registration

- Identification of an unaccompanied child or a child not accompanied by a primary caregiver in an irregular situation
- Issue of a negative decision on, or withdrawn or refused renewal of, a residence permit (on any grounds)
- Identification of accompanied children with safeguarding concerns

### BIA

- Identification of a child's immediate needs
- Family tracing (for UASC)
- Family assessment

### Possible outcomes of the BID

- Local integration
- Family reunification/resettlement to a third country
- Return and reintegration to the country of origin
- Other long-term solutions

### If the BID informs that return is in the best interests of the child:

- Return should be implemented through the assisted voluntary return and reintegration programme
- Removal of a child should be the last resort as it will hardly ever be in his or her best interests (and only with necessary safeguards in place)

The **BIA**, which intends to also inform the **BID**, can take place at various points throughout the BIP. The best interests of the child should also guide less formal decision-making concerning the child.

### Role of return counsellors

#### A. Identification and registration

1. They may enter in contact with non-identified UASC in an irregular situation. In those cases, referral to child protection services and authorities should be made.
2. They do not take part in age assessment, but they need to verify that the identity and age of the child has been assessed and a legal guardian has been assigned before providing return counselling assistance.

#### B. Family tracing and assessment

1. They can provide support and cooperate with relevant actors as well as colleagues in the country of origin during the whole procedure, sharing information collected during the counselling sessions.

#### C. BIA

1. As part of the case management approach, return counsellors may identify and assess the child's needs and vulnerabilities that have been overlooked while providing return counselling.

#### D. BID

1. They should not take part in the BID process. It is the State's responsibility to carry out BID through a multidisciplinary and participatory procedure that aims to identify sustainable solutions that protect the long-term best interests and welfare of the child by considering all options.
2. They can implement the BID decision in case the return has been found to be in the best interest of the child. Nevertheless, the information gathered during the counselling sessions may be used to reassess the BID.
3. They should always verify that the return is safe and not detrimental to the child's survival and development and that a legal guardian in the country of origin has been assigned. This should be done in close collaboration with colleagues in the country of return and/or other relevant child protection actors/authorities.
4. They should provide individualized return and reintegration counselling to each child who is returning\*.
5. They can suspend or withdraw the provision of return assistance if the child is uncooperative or unwilling to return. In those cases, immediate referrals to child protection authorities should be made for further assessment and other possible sustainable solutions should be explored.

Note: See the definition of BIP in Tool 6.1.

\* See also Tool 6.5 for more guidance on how to provide return counselling and assistance to children.

**BIAs** and **BIDs** should be led or guided by trained child protection actors and constitute the foundation for sustainable solutions for migrant children while addressing their most urgent needs. BIAs should be conducted for all migrant children as a means to identify their assistance needs, whether accompanied or not, and to identify any medical, mental health or legal issues requiring immediate intervention, while BIDs are always needed to find sustainable solutions for unaccompanied or separated migrant children. Return counsellors should also be aware that a BIA can happen at any stage of the return process and the information gathered during the return counselling sessions could be used to reassess the BID.

When the State is making decisions that concern, for example, whether migrant children with their families have the right to remain on the territory or can be removed or returned to the country of origin or any other asylum or migration status procedure, **children must be treated as an individual rights holders**, not merely dependants of their parents, and the decision must be made according to the children's best interests. Further, the rights of children to parental care and protection, as well as family unity, must also be considered when removal of parents from the territory would separate them from their children. In both these cases, the State must make the best interests of children as a primary consideration in deciding the outcome.

#### Best interests as a “primary consideration”



The Committee on the Rights of the Child states that best interests should be a “primary consideration” in decision-making concerning migrant children. This means that when there is a conflict between the best interests of the child and the interests of other children, family members, the public or the State, the rights of all those concerned should be considered, but greater weight should be given to what serves children in the situation best. The Committee also states that the child's best interests takes priority over migration and policy or other administrative considerations.<sup>37</sup>

#### The best interests of children being cared for by their parents

Parents are responsible for protecting their children's best interests and should be deferred to and supported with decision-making that affects children in the return counselling process. It is the responsibility of parents to provide “in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention”.<sup>38</sup> Return

<sup>37</sup> United Nations, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Joint general comment no. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and no. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration (CMW/C/GC/3-CRC/C/GC/22 of 16 November 2017).

<sup>38</sup> United Nations, CRC.

counsellors should not override the authority of parents (unless safeguarding issues and rights violations are identified – see [Tool 6.3](#)) and support rather than compel them to realize their responsibilities. This can be accomplished by sensitizing parents and children about what the principle of best interests does and does not mean and about the benefits of allowing children to participate in the return counselling whenever appropriate.

#### Applying the principle of the best interests of the child cross-culturally



Parents have implicit cultural beliefs and childrearing goals and practices, just as service providers and policymakers do. These deeply held, unspoken ideas about what is “best” for children may differ. As with all other child rights principles, it is important to consider what a child’s best interests means in the family’s cultural context, as well as in the legal context of the country of destination. It should also be noted that in many cultures it is expected that individuals subsume their interests to the interests of the community and family. In these cases, rather than exacerbate the conflict, it can be more effective to address best interests in the context of the family’s values and to shift the discussion to how assuring the child’s rights is in the interests of the family or the community. For example, chances to achieve sustainable reintegration increase if children are provided opportunities that allow them to realize their full potential. Further, children’s development should be supported so that they can grow to assume their responsibilities in the community.

#### The best interests of unaccompanied and separated children

For UASC, the absence of their parents means that the **additional safeguards** of the BID are needed before a decision related to the return is taken. A BID needs to be carried out to establish which among return to the country of origin, local integration, resettlement to a third country and some other option is in the best interests of the child. The State is responsible for carrying out BIDs with the support of a **multidisciplinary panel** and implementing a solution that gives primary consideration to the child’s best interests. If the return has been identified as a sustainable solution, a referral to return counselling should be made to prepare the UASC adequately for the return and reintegration process.

To ensure continuity of care and assistance, return counsellors should make themselves familiar with the BIA files, if accessible, or if they are not, interview the caseworkers who supported the children through the procedure to collect relevant information before setting up a counselling session with the children. Return counsellors should **ensure that the results of the BID have been explained to the children and support them to access this information**. A guide on how to gather information about a child from partners for return counselling is contained in [Tool 6.5](#).

### Strengthening the link between return counselling and sustainable reintegration



If return has been identified and agreed upon as a sustainable solution, to ensure the best interests and welfare of children, including their development into adulthood within an environment that promotes their rights, the return process should be accompanied by **sustainable reintegration assistance**<sup>39</sup>. A sufficient level of reintegration assistance should be provided until the child reach the age of 18.

A number of conditions should be put in place to achieve sustainable reintegration. An integrated approach<sup>40</sup> to reintegration should be promoted through a **child-sensitive approach** that focuses on the economic, social and psychosocial dimensions while responding to the needs of children returning alone or with their families, the communities they return to and the structural factors at play, which requires to examine the impact on children of the role of families, communities, child protection authorities and schools, as well as policies and legislation.

The role of the return counsellor is to adequately prepare children and their families for the return while at the same time coordinating with relevant actors both in the country of destination and the country of origin. **A reintegration plan should be developed before the departure to address the needs and vulnerabilities identified and build upon the resilience factors that can facilitate children's reintegration.** This will increase their preparedness to start a new life in the country of origin. Planning for reintegration implies providing accurate information about available services based on current service and stakeholder mapping.<sup>41</sup> **Liaising with reintegration partners in countries of origin before departure,** via remote counselling, is considered best practice and strongly recommended when counselling children and their families. The sustainability of the reintegration process depends on a close cooperation between various stakeholders through **cross-border cooperation.** It is therefore highly recommended that return counsellors establish dialogue and close cooperation with actors involved to guarantee a swift, effective and sustainable solution for the child at all stages of the return and reintegration process.<sup>42</sup>

#### 6.4.4. The agency of children and adolescents

##### The right to participation

As mentioned in section 6.4.3, under Article 12 of the CRC, **children have the right to express their views freely and those views should be taken into account in all decisions made according to children's capacity, which increases as they age and mature.** In the context of return, this also reflected in the principle of supporting migrant agency, which is incorporated in IOM's Policy on the Full Spectrum of Return, Readmission and Reintegration. Additionally, the Committee on

<sup>39</sup> Objective 21, Global Compact for Migration (2018).

<sup>40</sup> See IOM, *Reintegration Handbook*, Module 6: A child rights approach to the sustainable reintegration of migrant children and families (2019). Available at <https://publications.iom.int/books/reintegration-handbook-practical-guidance-design-implementation-and-monitoring-reintegration>.

<sup>41</sup> Ibid., section 6.2.2.3: Reintegration planning.

<sup>42</sup> Cano and Todorova, Towards child-rights compliance in return and reintegration.

the Rights of the Child reaffirms that migrant children, including those accompanied by parents or other legal guardians, must be treated as individual rights-holders<sup>43</sup> and that they are **guaranteed due process** in all migration procedures and judicial proceedings as well as access to administrative and judicial remedies that guarantee decisions are taken in their best interests.

Children and adolescents should be involved in exploring available options and arriving at sustainable solutions according to their age and capacity, return counsellors should provide **age-appropriate information** and children should be kept informed (directly and indirectly through their parents and legal guardians) about their case at every stage of the return and reintegration process. It is strongly recommended that **child-friendly information materials and tools**, such as leaflets, booklets and videos, are developed and used during the counselling session. Return counsellors can also provide these materials to parents, legal guardians or caregivers so that they can use them to speak about the return with their children.

**Parents and legal guardians should consent to their children's participation in return counselling and children, including adolescents, should assent when they have the capacity to do so.** Professionals who know how to facilitate child participation should conduct all steps of the return process in a **child-sensitive way** that respects children's rights.

#### Consent and assent



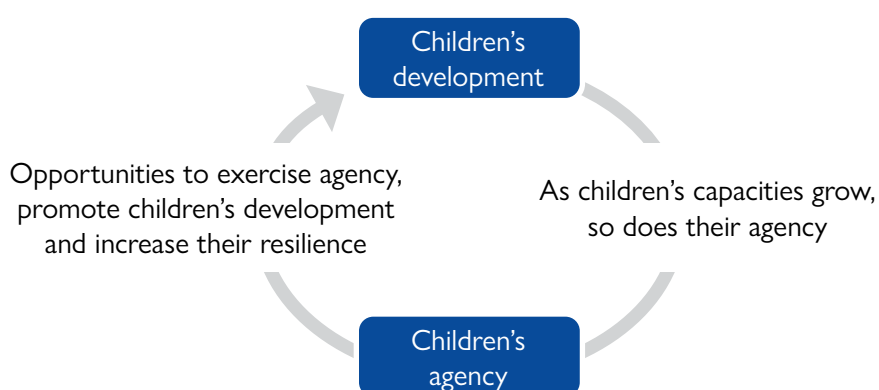
Unless there is a protection concern, permission must be granted by parents or legal guardians for their children to participate in the return counselling process and to implement many of the decisions that come out of that process, for example for their child to travel internationally. This is called **consent**. **A parent's or a legal guardian's consent is intended to ensure that decisions are made in the best interests of the child.** **Assent**, though related, serves a different purpose. It **demonstrates respect for children's autonomy and is necessary to ensure that their participation is meaningful and effective.** To give assent, children must understand what they are agreeing to, voluntarily make the decision and communicate their wishes. Assent should only be sought when both the return counsellor and the parent are prepared to respect the child's choice and when the child has the capacity to understand the consequences of the decision he or she is being asked to make. It should not be sought when a decision is being made on behalf of the child with which the child must comply no matter what his or her wishes or when the child is under undue influence. Guidelines and tools for gaining assent for children can be found in **Appendix 13** of *Inter Agency Guidelines for Case Management and Child Protection*.

<sup>43</sup> United Nations, Committee on the Rights of the Child, The rights of all children in the context of migration: outline for participants, 2012 Day of General Discussion (2012).

### Child participation

The concept of child participation covers many different ideas. Fundamentally, **child participation means treating children and adolescents as rights holders, not extensions or property of their parents.** Article 12 of the CRC applies to legal and administrative procedures as well as the decisions made within the family, community and wider society. There are 10 additional articles of the Convention that refer to ways children can exercise their agency. **There is no lower age limit for children's participation.** Indeed, even infants communicate their needs and make their distress known through their behaviour and delays in their growth and development.

**The participation of children and adolescents is cyclically linked to their development.** As children and adolescents become more competent, the ways in which they exercise agency should grow. This refers both to the domains in which they participate (from within the family for young children, growing to the community, the school and even political forums for older children and adolescents) and how much weight should be given to their views. In turn, **exercising agency is a developmental opportunity** that enables children and adolescents to develop new skills, gain knowledge and form relationships. It even builds resilience in the face of stresses that would otherwise compromise children's development.



While decisions made in the **best interests of children may go against children's wishes, best interests can only be determined by listening to and giving due weight to children's views.** However, return counsellors have to be mindful that there is a risk of interpreting participation rights as promoting individualism or specific cultural values. Further, some oppose child participation, arguing that it inspires children and adolescents to defy parental authority and neglect their communal responsibilities. Indeed, in collectivist societies, value is placed on subsuming one's individual needs in favour of the goals of the family or community. Nevertheless, it should be kept in mind that children's and adolescents' opinions are devalued or even seen as disruptive in many societies whether individualist

or collectivist. Moreover, collectivist societies often place great value on children exercising responsibilities and actively contributing to their families and communities. Also, **in all cultures, children and adolescents communicate their feelings and opinions in nonverbal ways that their parents, legal guardians or caregivers are likely aware of and consider.** Efforts to **promote child participation can and often should reflect cultural values** while at the same time promoting a less paternalistic view of children.

### Correcting misconceptions about child participation

There are three common misconceptions about child participation that have an impact on how it is implemented (or not) within return counselling.

The **first misconception** is that this right only applies to formal decision-making, like the BID that identifies sustainable solutions, such as return for UASC. This is incorrect. While the decision about whether to return has wide ranging implications, there are many more decisions to make in the return process, most of them informal. While children and adolescents have the right to participation, it may not be in their best interests to participate actively in all aspects of a decision-making process for reasons such as the following:

- They do not want to.
- Their parents or legal guardians do not want them to (unless there is a legal requirement that they must).
- Their participation is not effective or meaningful – for example, the child's or adolescent's views will not be given any consideration or the child will be subject to manipulation.
- The risks to the child or adolescent of participating outstrip the potential benefits, and those risks cannot be mitigated – for example, the process is likely to cause them undue distress, or the child or adolescent is likely to be blamed by others, or blame themselves, for the outcome of the decision.

The **second misconception** is that child participation is merely about decision-making. In fact, participation is much wider in scope. It is about **learning, contributing, asking questions, practising, playing, teaching, praying, listening, following and giving directions, creating, obeying, disobeying, pretending, experimenting, making mistakes and much more.** Many of children's other rights are forms of participation: accessing education or practising a religion as examples. To focus only on children's or adolescents' participation in formal decision-making processes and to neglect the full range of ways in which they participate and are agents in their own lives can be detrimental to their well-being. In return counselling, this means balancing a focus on child decision-making with a focus on child participation in their day-to-day life at the present and in planning for reintegration.



The **third misconception** is that children and adolescents have the right to make decisions for themselves. While this may be what is most appropriate in many cases with children or adolescents who have sufficient capacity, this is not a correct interpretation of their right. Children and adolescents have the right to express themselves on decisions that affect them and for those views to be taken seriously. The final decision is made by their parents, legal guardians or the court in their best interests.

### Supporting the agency of children and adolescents

Supporting the agency of children and adolescents, especially within families, can be challenging. It is not without risks and the Committee on the Rights of the Child calls on those who facilitate child participation to ensure it is meaningful and effective. In general, it should be facilitated by staff who have substantial experience working with children and adolescents and have undergone specialized training. While facilitating full-fledged child participation may be beyond the capacity of return counselling programmes, the following are **recommended practices** for supporting the agency of all migrant children and adolescents:

**Support parents and legal guardians to realize child participation.** It is parents' and legal guardians' responsibility to realize the child's or adolescent's right to participation in the return counselling process. However, it is also the responsibility of the return counsellor to ensure that parents and legal guardians are taking into consideration the view and the best interests of the child during the return counselling process and also through referrals to specialized services whenever requested. Given this, it is important for them to work with, not in opposition to, parents and legal guardians. **Often, the most appropriate way to engage children and adolescents is through their parents.** In some cases, the same applies to legal guardians, though children under the care of the State are often afforded more formal opportunities to directly participate in decision-making than children in the care of their families. The exception to this would be with **older adolescents with whom it may be easy and appropriate for return counsellors to interact directly.**

Return counsellors can encourage and support parents and legal guardians to facilitate children's participation by sharing information about the benefits of listening to children's views and resources about ways to solicit their views. If trained and experienced, return counsellors can coach parents and legal guardians through this process. Return counsellors should work through parents even if they have the skills to facilitate the participation of children and adolescents themselves, as this approach is more likely to ensure that children's rights within the family are realized in the long term. Again, older adolescents may be an exception, and they should possibly participate in ways similar to how their parents participate. Return

counsellors who lack skills and experience in child participation should seek support and guidance from actors who do.

**Gain consent from parents or legal guardians and assent from children and adolescents.** Return counsellors should always gain consent from parents or legal guardians before interacting in any substantial way with children, even if the parents or legal guardians are present. Return counsellors should **explain in detail how children or adolescents will participate and any risks or benefits of participating or not participating.** They should explain to parents or legal guardians that **children also need to agree to participate** and then gain children's or adolescents' assent (see the [text box on consent and assent](#)). Return counsellors should confirm with children or adolescents at regular intervals that they want to continue participating and **should pay attention to nonverbal signs** (e.g. squirming, looking away, not responding) that they want to stop.

**Safeguard children and adolescents while promoting child participation.** Return counsellors should adhere to all safeguarding protocols and procedures (see [Tool 6.3](#)). Staff (including cultural interpreters, drivers and administrative staff) should **never spend time alone with a child** or an adolescent, as this elevates the risk for SEA.

Children, especially when young, should not be burdened with decision-making that causes them distress or that could result in intended or unintended negative consequence for themselves or others. **While their views may carry considerable weight, children or adolescents should understand that responsibility rests with the adults who make the final decision in their best interests.** Nevertheless, the return counsellor can decline or suspend the provision of assistance in case the child is **uncooperative, hesitant or express unwillingness to return.** In those cases, the child should be referred back to child protection services and competent authorities for further assessment and other possible sustainable solutions should be explored.

Return counsellors should make the emotional and physical comfort of children and adolescents their priority. They should check in regularly with children, adolescents, parents and legal guardians about this and look for **nonverbal signs of discomfort.** Children and adolescents cannot effectively participate if they are tired, hungry, thirsty, distracted or emotionally stressed.

Topics that are likely to be distressing to or boring for children and adolescents or embarrassing or stressful for parents, legal guardians, or caregivers should, for the most part, be discussed when the children/adolescents are not present. Return counsellors should not communicate sensitive information and important decisions

to parents, legal guardians or caregivers in front of their children. Whenever possible, return programmes should provide childcare, or funds for the parents, legal guardians or caregivers, to arrange for childcare if that is the best option. Schooling schedules should be considered when booking appointments that involve children or adolescents.

While it is **recommended to assess family members individually** to identify needs and vulnerabilities considering their age and capacity, return counsellors should not request to speak with the child or adolescent alone without the parent or legal guardian present as part of a routine return counselling process. However, the counsellor should flag any signs of discomfort from the child's side to share his or her view or participate during the return counselling session. Those concerns should be raised and discussed with the supervisor and child protection staff to ensure that the child's view is heard, and he or she can participate in an appropriate and meaningful way according to age and capacity. In case of a child protection concern or if this is to offer psychosocial support or an educational programme, then this should be done by a qualified professional, with all safeguarding procedures observed and with consent and assent.

Return counsellors should not use children or adolescents to verify information provided by parents or legal guardians or to provide information that could jeopardize the family's chance of accessing services or support. Return counsellors should not put children or adolescents in danger by asking them to share information that their parents or someone else with power over them does not want shared.

**Communicate in child-friendly ways.** Access to information is a pre-condition for the effectiveness of all the rights of the child, and the provision of child-friendly information is key to unlocking access to rights and procedures. **Communicating in a child-friendly way implies that information is adapted to the child's age, maturity, language, gender and culture;** so, return counsellors need to adjust the information and complexity of their communication according to each individual child's situation.

Return counsellors should also understand that **children communicate differently than adults.** They also show their feelings, such as boredom, frustration or anxiety in different ways, or they may be afraid to speak with people they are not familiar with. Depending on their age and capacity, they may get easily distracted and have short concentration spans. **Return counsellors should be able to read verbal and non-verbal signs and take breaks or postpone the session when needed or use creative tools to help the child to focus, express feelings and provide information.**

Return counsellors should use child-friendly language, child-friendly ways of providing and gathering information, and child-friendly ways of reflecting on the past and present and planning for the future whenever children and adolescents are present, even if the children are not directly participating in the discussions.<sup>44</sup> Return counsellors should provide parents, legal guardians and caregivers with child-friendly materials about the return process for them to share with children. With support from their supervisors, return counsellors should build skills in communicating with children of different ages and cultural backgrounds.

Return counsellors should endeavour to build a relationship of trust with all members of the family, including children and adolescents. When meeting with family members, return counsellors should engage appropriately with everyone present unless parents would prefer them not to interact with their children. Return counsellors should learn which ways of interacting with children and adolescents are appropriate in the family's cultural context. They should also learn what is considered appropriate in terms of communication between people of different genders. Within these confines, return counsellors should find acceptable ways to:

- Greet everyone present;
- Refer to everyone by name;
- Address family members directly when requesting information about them according to their capacity to provide the information: for example, children can tell how old they are or where they go to school;
- Build rapport with different family members in ways that are developmentally appropriate: remember that an effective way to build rapport with parents, legal guardians and caregivers is by interacting with their children in a way that they approve of.

At all stages, return counsellors should jointly plan their child participation strategies together with cultural mediators and staff with expertise in children's protection and check in with them frequently about what they have observed and learned. With support from their supervisors, return counsellors should reflect on and develop the skills necessary to communicate in child-friendly ways.<sup>45</sup>

<sup>44</sup> See Council of Europe, *How to Convey Child-friendly Information to Children in Migration: A Handbook for Frontline Professionals* (2018). Available at <https://rm.coe.int/how-to-convey-child-friendly-information-to-children-in-migration-a-ha/1680902f91>.

<sup>45</sup> See Child Protection Working Group, *Inter Agency Guidelines for Case Management and Child Protection*, Appendix 1: Caseworker Competency and Skill Framework. Available at <https://resourcecentre.savethechildren.net/document/inter-agency-guidelines-case-management-and-child-protection/>.

### Special considerations for supporting the agency of unaccompanied and separated children

UASC should have a say in planning for their return through a BID and a case management process that ensures their immediate needs are met and return and reintegration plans are created, implemented and monitored. Return counsellors should work as part of a team of professionals and people important in the child's life to accomplish this. When possible, legal guardians should be present at the meetings and return counsellors should engage with them as they would with parents with the understanding that the legal guardians may lack the knowledge and bond with children or adolescents in a way that parents typically have. Return counsellors should identify and build relationships with the natural advocates of the UASC. This might include caregivers, older siblings, social workers, residential care staff, youth workers and teachers. When possible and appropriate, and if the child or adolescent wishes, natural advocates should attend case management meetings to act as a support and to share their perspectives.

Return counsellors should improve their skills not only to share information but to help UASC reflect upon and make use of the internal and external resources at their disposal to overcome adversity. The end goal should be to help UASC believe in their own skills and capacities. To accomplish this staff undertaking, this work should be equipped with more expertise in child participation.

### Emotional support for children and adolescents returning<sup>46</sup>

While substantial decisions about returning may be the purview of adults, children of all ages must live with the results of these decisions. Along with the practical ways in which return decision-making changes the courses of children's and adolescents' lives, they are emotionally impacted before, during and after return. When children and adolescents are supported through stressful periods by compassionate adults, stress can be an opportunity for learning and development. However, when they are not, it can develop into distress and have negative effects. The following steps can be taken to **help children cope emotionally throughout the return process**. Remember, in general, it is far better for these actions to be taken by a child's parents, legal guardians or caregivers. However, in the absence of an involved caregiver, or to model what emotional support for children and adolescents looks like, return counsellors may employ some of these strategies.<sup>47</sup>

<sup>46</sup> See Ryan Ehmke and Rachel Ehmke, *Advice for moving with children*. 14 September 2021. Available at <https://childmind.org/article/advice-for-moving-with-children/>.

<sup>47</sup> See also IOM in the Netherlands, *Toolkit: Voluntary Return with Children – Guide for Parents* (The Hague, n.d.). Available at <https://returnandreintegration.iom.int/en/resources/leafletbooklet/toolkit-voluntary-return-children>.

## Providing emotional support to children in the context of return

**1**

Develop a strategy for sharing information with children and adolescents about the return. Plan **when and how much information to share** with them and at what time. While it is recommended to **be honest** with children and adolescents, it may be appropriate to limit the information communicated to what is needed by the child or adolescent at the time to make sense of what is happening. Children and adolescents need information enough in advance of a change to prepare for it (e.g. to say goodbye to friends, plan for what they want to bring with them) but not so much in advance that it generates unnecessary worry and distracts them from living their life in the present. Parents know best how their children will react to such news. Be sure to explain things in child-friendly terms.

**2**

Talk with children and adolescents about what they can expect when they move to their country of origin – the positives and also what challenges they might encounter and how they might navigate these challenges. This makes it easier for them to prepare and make plans for the future.

**3**

Encourage parents, legal guardians and caregivers to **involve children and adolescents in preparations for returning**; for example, by asking children to help with packing or to pick out an outfit to wear for the trip. Involving children helps them to feel more in control.

**4**

Encourage parents, legal guardians and caregivers to let their children know they are available to talk with them about the transition and to provide support. Remind them that in order to help their children emotionally, they first need to cope with their own stress or anxiety. Encourage parents, legal guardians and caregivers to **work through their feelings** so they can present a positive but realistic perspective on returning for their children.

**5**

Encourage parents, legal guardians and caregivers to **try and maintain routines** before travelling and reestablish them as soon as possible after their return. Younger children especially do best with a predictable routine. This means unpacking and setting up house as quickly as possible. Similarly, children and adolescents may be comforted by things that remind them of their life in the host country. They may appreciate being able to choose something to take back with them. Photographs of their things and places may suffice if the objects cannot be transported.

6

For many children, the most difficult part of returning is leaving close friends. This is especially the case for adolescents. It may take time for new friendships to form. Encourage parents, legal guardians and caregivers to help children **figure out ways to stay connected with old friends**, for example through social media, as they can provide children and adolescents with emotional support through this transition.

7

Encourage parents, legal guardians and caregivers to tell what other adults in the children's or adolescents' lives, teachers especially, should know about this transition, both in the country of destination and the country of origin. That way they can support the child or adolescent at school and understand what might be behind changes in the child's or adolescent's mood and behaviour.

8

Warn parents, legal guardians and caregivers that they may see changes in children's behaviour during the return process. **One of the ways children cope with stressful experiences is by appearing to regress in their development.** In other words, they exhibit behaviour more typical of a younger child. For example, they may demand more attention, physical contact, have less control over their emotions, want carers to do things for them that they can do for themselves, be more fearful, wake up throughout the night or have toileting accidents. **Adolescents may show signs of culture shock like depression, extreme irritability, difficulties concentrating, sleep disturbances, resorting to drugs or alcohol, hypochondria and eating disorders.** These reactions, and others, are normal, though worrying and sometimes frustrating. It is important that parents, legal guardians and caregivers exercise more patience than usual, and try and respond with love and compassion, not with anger and punishment.

### Making meaning of the return experience



The meaning that children make of their move can determine whether they experience the change as distressing or empowering. Return counselling programmes should consider partnering with child-serving agencies and developing resources that help children emotionally prepare and cope. An example of a programme that helps children reframe a fearful journey into an adventure is the [Hero Book](#), an autobiographical storytelling and art exercise that aims to help, in this case, children, cope with their psychosocial problems. In 20 or so sessions, groups of children aged 5 years and older create "hero books" from their personal experiences, but the activity could be adapted to be facilitated with members of a family. Participants narrate stories, through words or illustrations, that show how they become heroes by overcoming obstacles to reach their chosen goals.

### Creating a child- and family-friendly environment

Because of the sensitivity of the information that might be shared during the counselling session, and in order to enhance trust and facilitate disclosure, first of all, it is important to ensure confidentiality of the physical and virtual spaces where the counselling takes place. Return counsellors should also consider **accessibility** of the selected venue and how families will reach it: for example, a long walk from a bus stop is more challenging for families with young children or with family members with disability.

Whether children participate on their own or with their families, it is important that return counselling is conducted in a **child- and family-friendly environment**. This could be accomplished within the facilities of the return counselling programme or by holding interviews off site, for example in the facilities of partners, including child protection partners that serve migrant children and families. **The facility should include furniture that is comfortable for people of different sizes and a small play area with toys and activities for younger children.** Consider the environment of the waiting area as well as the interviews room where return counsellors can meet privately with families. Ensure that refreshments and snacks are available and is culturally appropriate, provide a private space for breastfeeding or let parents know they are welcome to breastfeed publicly. **Decorate the environment with art and symbols that make people of different ages (not only young children) feel welcome and that reflect the cultures and communities of migrants.** Display messaging that communicates a **commitment to combat discrimination and cultural safety and that refers migrants to complaints mechanisms** that can be accessed in a confidential manner.

#### 6.4.5. Child protection

Under international law, children are afforded the same protection as adults, as well as additional protections to safeguard their developmental needs and reduce their vulnerability. According to their professional skills and specializations, return counsellors might also have additional responsibilities within case management, which might include identifying specific protection needs and preparing and implementing an assistance plan or doing referrals. It is important that return counsellors are aware of the specific threats facing children and adolescents so they recognize when it is necessary to contact child protection colleagues, partners and authorities for support and so they can anticipate and try and prevent them being exposed to new risks during the return and reintegration process. To function effectively as part of a team of professionals implementing a case management approach, return counsellors should have some familiarity with child protection.



### Responding to child protection concerns

Return counsellors should know the **domestic framework for child protection and reporting mechanisms if a child's rights have been or are at risk of being violated**. They should also be aware of any referral networks or inter-agency standard operating procedure for child protection. The return counselling programme should also have **clear guidelines** in place for what staff should and should not do if they suspect a child's rights are being violated irrespective of whether those violations are prohibited by law. **Concerns should be adequately and timely reported** to the supervisor and child protection authorities. The development of these guidelines should consider international and national laws and norms, the power differences between organizational staff and migrant families, the principle of "do no harm" and safeguarding, the accessibility and quality of local child protection services, partnerships and referral mechanisms in place, and the skills and experiences of the staff meant to follow these guidelines. The guidelines should also differentiate between return counselling and protection services provided by the organization while at the same time ensuring wrap-around services for migrants. The absence of appropriate guidelines puts both migrants and staff at risk.

The programme should make sure **prevention of sexual exploitation and abuse (PSEA) reporting channels and follow-up mechanisms** are in place to enable children and their families to report SEA and provide victim assistance. Efforts should be made to **raise awareness** among the affected population of PSEA and how to report incidents and access assistance.

Return counsellors need to familiarize themselves with child protection risks and, to an extent, with the legal framework in the country the child is returning to. If there is a significant risk to a child's protection upon return, and this risk cannot be mitigated, then it likely is not in their best interests to return and another sustainable solution should be sought.

### Violence in the family

Like adults, **children have the right to be protected from all forms of violence** (Article 19, CRC). Crucially this includes violence at the hands of their caregivers. Violence in the family includes physical, sexual and psychological/emotional violence. Domestic laws should protect children from violence, abuse, neglect and exploitation, and there should be child protection authorities who can intervene in these cases and guidelines for professionals to follow in case they suspect a child is being abused. Return counsellors should report suspected child abuse, rather than investigate or respond to it themselves.

Under the Convention, protection from violence by caregivers includes violence used as a form of correction or punishment, referred to as corporal punishment. While there is a growing movement to ban corporal punishment around the world, it is still practised in many countries.

**Good practice is to use education before criminalization to discourage the use of corporal punishment.** Referring parents, legal guardians and caregivers to culturally safe parenting programming that has been specifically designed for immigrant parents may be a good option, if available. Resources on parenting during the return process can communicate that **corporal punishment endangers children and adolescents and risks their development.** The resources should also discourage its use, particularly in the period leading up to and after the family's return, when children and adolescents often act out as a stress response and when they are most in need of unconditional love and understanding from their caregivers.

### Child neglect

Child neglect is an underacknowledged form of child maltreatment.<sup>48</sup> It is the “the intentional or unintentional failure of a caregiver—any person, community, or institution (including the State) with clear responsibility for the wellbeing of the child—to protect a child from actual or potential harm or to fulfil that child’s rights to wellbeing”.<sup>49</sup> Neglect can be manifested in:

- Failing to protect children from harm or meet their basic needs, including for medical care;
- Emotional neglect;
- Exposure to intimate partner violence (IPV);
- Failure to send a child to school;
- Abandoning a child.

Some migrant parents unintentionally neglect their children or adolescents because necessary services and assistance have not been available to families. When these are available but parents are not aware of them, **return counsellors can remedy child neglect by referring parents to the necessary services.** When the necessary services and assistance are available but parents, legal guardians or caregivers intentionally choose not to access them, then return counsellors should make a referral to child protection authorities after coordinating with their supervisors and/or child protection staff. Return counsellors should be aware that parents, legal guardians or caregivers may neglect some of their children but not others, sometimes

<sup>48</sup> Alliance for Child Protection in Humanitarian Action, *Child Neglect in Humanitarian Settings: Literature Review and Recommendations for Strengthening Prevention and Response* (n.p., 2018). Available at [https://alliancecpha.org/en/system/tdf/library/attachments/child\\_neglect\\_in\\_humanitarian\\_settings\\_lowres.pdf?file=1&type=node&id=31570](https://alliancecpha.org/en/system/tdf/library/attachments/child_neglect_in_humanitarian_settings_lowres.pdf?file=1&type=node&id=31570). (Note: The hyperlink was active at the time of writing this document.)

<sup>49</sup> Ibid.

due to the child's gender or disability status. It is particularly important for return counsellors to **pay attention to potential disparities in how different children in the family are treated when helping develop the reintegration plan.**

### **Sexual and gender-based violence and harmful practices**

Sexual and gender-based violence (GBV) affects children and adolescents. **Girls, and also boys, are at risk of sexual abuse by family members and family friends.** Family members, especially brothers, may exert inappropriate levels of control over the behaviour and movements of adolescent girls to defend the family's honour. To complicate matters, return or the threat of return may be used as way to control girls. As with corporal punishment, GBV persists due to cultural norms and there may be differences between the cultural norms of the family and that of the host country. Additionally, the cultural norms in a migrant's home country may be more supportive of GBV – meaning that girls and women, and, in the case of sexual abuse, sometimes boys, are at increasing risk upon return.

Migrant children and adolescents are also disproportionately affected by GBV at school and in the community. This includes sexual exploitation and abuse by aid workers. While migrant adolescent girls are especially vulnerable to sexual harassment and sexual assault, migrant adolescent boys are especially vulnerable to physical violence.

**Children are also negatively impacted by witnessing violence at home, including IPV and family violence.** Family members should be screened for IPV and confidential referrals should be made to specialized GBV services.

In communities where **female genital mutilation/cutting (FGM/C)** and child, early and forced marriage (CEFM) are practised, return counsellors should consider these risks and make referrals to child protection staff. Programmes with caseloads from migrant communities who practice FGM/C and CEFM should ensure their staff have the knowledge and training to manage these protection concerns in culturally safe ways and develop policies on how to approach these issues. With CEFM, it is important to be alert to the possibility that girls are migrating to marry, or marriage is being used to facilitate migration or regularize status.

In addition to being vulnerable to all kinds of assault, **children and adolescents with diverse SOGIESC are at high risk of self-harm and suicide**, especially when their parents do not accept their sexual orientation or gender identity. Children and adolescents with diverse SOGIESC as well as the children of parents with diverse SOGIESC can be vulnerable to violence at school and in the community.

There may be conflict between the wishes of children and adolescents with diverse SOGIESC and those of their parents or legal guardians about whether returning to the home country is in their best interests. Parents may even believe that returning home will make their children heterosexual or cisgendered.

Return counsellors should be aware that children and adolescents with diverse SOGIESC may not be out to family members. It is important that their privacy is protected in the context of referring them to support services. It is also important that return counsellors screen the services they refer children, adolescents and parents with diverse SOGIESC to, to ensure they will not be revictimized when seeking support.

### Disability

Children with disabilities may experience discrimination within their own family as well as in society. Their capacity to participate in decision-making is often underestimated and their best interests are ignored. Solutions may be biased in favour of segregating them at home or in programmes and institutions exclusively for people with disability rather than including them in programming with other children and adolescents their age. There may be stark differences in inclusion and disability services in different countries. Return counsellors may want to consult with disability rights organizations during the return process.

### Child labour

While it may be legal and in the best interests of older adolescents to be working, there are international and domestic laws on the number of hours, working during school hours, working conditions and the type of work that children and adolescents of different ages are allowed to be engaged in. In situations where children or adolescents are being cared for by extended family members or other substitute caregivers, particular attention should be paid to ensuring these are not domestic work arrangements, considered one of the worst forms of child labour. Even more so than with migrant adults, migrant children and adolescents, especially UASC are vulnerable to exploitative work and trafficking. This risk should also be considered in reintegration planning and referrals made to child protection actors.

### Trafficking

Return counsellors working with children victims of trafficking should collaborate closely with child protection and counter-trafficking colleagues to ensure adequate protection and referrals. Return counsellors should be alert to the fact that **family members can be involved in trafficking children from their own families**. This should be considered when developing a reintegration plan for children and adolescents who were trafficked and to ascertain if they are still at risk from their

traffickers. Return counsellors should consider the possibility that the return is being used to traffic children and adolescents to their countries of origin where they may be subjected to labour or sexual exploitation. If trafficking or the risk of trafficking is suspected, referrals should be made to child protection actors with expertise in anti-trafficking.

### Legal identity and citizenship

Return counsellors may encounter children without civil and identity documentation (see also the text box on age assessment) or children who are stateless. Counsellors should work with parents, legal guardians, partners and authorities to secure necessary documentation for the children's return travel, and also so that children can access their rights in the destination country as well as the country of origin.

### Detention

**Children and adolescents must never be detained because of their migration status or that of their parents as this is never in their best interests and is a child rights violation.** This includes holding children in any fully closed facilities to prevent them from running away, to provide them with shelter or as a form of protection. The immediate release of the child from detention and their placement in a **non-custodial care arrangement** should be sought. **Alternatives to detention should be arranged for families as well rather than detaining children and adolescents with their parents or separating family members.**<sup>50</sup> Return counselling services should not be provided to children and adolescents in detention; rather, referrals should be made to child protection actors who can arrange for their release. Children and adolescents should never be detained with adults, even when the child is involved with the justice system. If return counsellors learn of this happening, they should report to the appropriate authorities and partners, including UNICEF, which support governments in adhering to child rights guidelines, standards and procedures. Return counsellors should be alert that in certain contexts the possibility of return could lead to a child or an adolescent being detained until the return date.

### Association with armed forces and groups

Migrant children and adolescents, especially UASC, may be particularly vulnerable to recruitment into armed forces and groups whether in the context of armed conflict or criminal organizations. This risk may exist in the host country as well as upon return. If the State has not ratified the Optional Protocol to the Convention on the

<sup>50</sup> See also IOM, International Migration Law informational note on international standards on immigration detention and non-custodial measures (2016); IOM, *IOM Road Map on Alternatives to Migration Detention: Tools Series N°1* (Geneva, 2020), available at <https://publications.iom.int/books/iom-road-map-alternatives-migration-detention-tools-series-ndeg1>; and IOM, *Advocating for Alternatives to Migration Detention: Tools Series N°2* (Geneva, 2021), available at <https://publications.iom.int/books/advocating-alternatives-migration-detention-tools-series-ndeg2>.

Rights of the Child on the Involvement of Children in Armed Conflict, there may be an additional risk of older adolescents being conscripted into the military. If return counsellors learn that a child has been a member of an armed force or group or is at risk of being recruited, then a referral to competent authorities or to UNICEF or the ICRC (in case there is a concern that competent authorities are complicit or antagonistic) should be made.

## Tool 6.1. Useful definitions for return counselling of children and their families

**Abuse:** A deliberate act with actual or potential negative effects upon a child's safety, well-being, dignity, and development. It is an act that takes place in the context of a relationship of responsibility, trust, or power.<sup>51</sup>

**Adolescents:** Defined generally as a person 9–19 years. In the CPMS, the term refers specifically to persons aged 9–17 years old, given the focus on children as defined in the Convention on the Rights of the Child.<sup>52</sup>

**Alternative care:** May take the form of informal or formal care, may be kinship care, foster care, other forms of family-based or family-like care placements, residential care or supervised independent living arrangements for children.<sup>53</sup>

**Best interests of the child:** It refers to the well-being of a child and is determined by a variety of individual circumstances (age, level of maturity, the presence or absence of parents, the child's environment and experiences).<sup>54</sup>

**Threefold concept:** (a) **A substantive right:** The right of the child to have his or her best interests assessed and taken as a primary consideration ... and the guarantee that this right will be implemented whenever a decision is to be made concerning a child... (b) A fundamental, interpretative **legal principle:** If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen. ... (c) **A rule of procedure:** Whenever a decision is to be made that will affect a ... child, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned.<sup>55</sup>

**Best interests procedure (BIP):** BIP, also referred to as child protection case management, "ensures that decisions and actions aimed at addressing protection risks and needs for children are in their best interests"<sup>56</sup> (as stated in Article 3 of the Convention on the Rights of the Child). "It is a multi-step process that goes through identification, assessment, case action planning, implementation, follow-up and case closure. It includes two important procedural elements: the Best Interests Assessment (BIA) and the Best Interests Determination (BID),"<sup>57</sup> which constitute the foundation for sustainable solutions for vulnerable children while addressing their most urgent needs. BIA aims to assess any issues requiring immediate intervention and any actions taken that may have a direct impact on the child's best interests. BID is a formal procedure for making decisions that will have a significant impact on the child's life. While all migrant children require a BIA, the BID is required specifically for unaccompanied and separated children, and for accompanied children with safeguarding concerns.<sup>58</sup> BIP should be part of a comprehensive child protection system with support from international and civil society partners where national capacity to conduct BIP is not yet fully operational.

<sup>51</sup> Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action* (2019). Available at [https://alliancecpha.org/en/CPMS\\_home](https://alliancecpha.org/en/CPMS_home).

<sup>52</sup> Ibid.

<sup>53</sup> IOM, *Glossary on Migration*, International Migration Law No. 34 (Geneva, 2019). Available at <https://publications.iom.int/books/international-migration-law-ndeg34-glossary-migration>.

<sup>54</sup> Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action*.

<sup>55</sup> IOM, *Glossary on Migration*.

<sup>56</sup> UNHCR, *2021 UNHCR Best Interests Procedure Guidelines*, p. 9.

<sup>57</sup> Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action*, p. 300.

<sup>58</sup> See IOM Case Management Guidelines (forthcoming).

**Caregiver:** A person with whom the child lives who provides daily care to the child, without necessarily implying legal responsibility. The child's customary caregiver is the child's usual caregiver. This person has a parental role but may or may not be related to the child, and may not be the child's legal guardian. In an emergency context, this would typically mean the child's caregiver prior to the emergency.<sup>59</sup>

**Child case manager:** This is the key worker in a case who maintains responsibility for the child's care from case identification to case closure, in a case management approach. Other social service practitioners (such as social workers) or even other professionals (such as health workers) may take on a case manager role as well.<sup>60</sup>

**Child:** Person below the age of 18 years.<sup>61</sup>

**Child abduction:** The removal or retention of a child in breach of custody rights attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child is habitually resident or was habitually resident immediately before the removal or retention.<sup>62</sup>

**Child-friendly:** Working methods that do not discriminate against children and that take into account their age, evolving capacities, diversity and capabilities. These methods promote children's confidence and ability to learn, speak out, share and express their views. Sufficient time and appropriate information and materials are provided and communicated effectively to children. Staff and adults are approachable, respectful and responsive.<sup>63</sup>

**Child labour:** Any work performed by a child which deprives him or her of his or her childhood, potential, and dignity, and is detrimental to his or her health, education, physical, mental, spiritual, moral or social development.<sup>64</sup> Many child labourers are engaged in the worst forms of child labour (WFCL), including forced labour, recruitment into armed groups, trafficking for exploitation, sexual exploitation, illicit work or hazardous work.<sup>65</sup>

**Child participation:** The manifestation of the right of every child to express his or her view, to have that view given all due consideration, to influence decision-making and to achieve change. It is the informed and willing involvement of all children, including the most marginalised and those of different ages, genders and disabilities, in any matter concerning them. Participation more generally is the processes and activities that allow crisis-affected people to play an active role in all decision-making processes that affect them. Real participation includes all groups, including the most vulnerable and marginalized. It enables people and communities to take part in decision-making processes and to be involved in actions on issues that are of concern to them. It is a way of recognising dignity, identifying and mobilizing community resources, and building consensus and support. Participation is a right and is voluntary.<sup>66</sup>

**Child protection:** The prevention of and response to abuse, neglect, exploitation and violence against children.<sup>67</sup>

**Child safeguarding:** The responsibility that organisations have to make sure their staff, operations, and programmes do no harm to children. It includes policy, procedures and practices to prevent children from being harmed by humanitarian organisations as well as steps to respond and investigate when harm occurs.<sup>68</sup>

<sup>59</sup> IOM, *Glossary on Migration*.

<sup>60</sup> Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action*.

<sup>61</sup> Ibid.

<sup>62</sup> IOM, *Glossary on Migration*.

<sup>63</sup> Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action*.

<sup>64</sup> IOM, *Glossary on Migration*.

<sup>65</sup> Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action*.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.



**Child well-being:** Child well-being is a dynamic, subjective and objective state of physical, cognitive, emotional, spiritual and social health in which children:

- Are safe from abuse, neglect, exploitation and violence;
- Have their basic needs, including survival and development, met;
- Are connected to and cared for by primary caregivers;
- Have the opportunity for supportive relationships with relatives, peers, teachers, community members and society at large; and
- Have the opportunities and elements required to exercise their agency based on their evolving capacities.<sup>69</sup>

**Child marriage:** Child marriage is a formal or informal union where one or both parties are under the age of 18. All child marriage is considered forced, as children are not able to give full consent to marriage.<sup>70</sup>

**Legal guardian:** Someone who has the legal authority and duty to care for another person or another person's property, especially because of the other's infancy, incapacity, or disability. A guardian may be appointed either for all purposes or for a specific purpose.<sup>71</sup>

**Maltreatment:** Any action, including the failure to act, that results in harm, potential for harm, or threat of harm to a child. Maltreatment is commonly used as an umbrella term for abuse and neglect.<sup>72</sup>

The World Health Organization defines child maltreatment as “the abuse and neglect that occurs to children under 18 years of age. It includes all types of physical and/or emotional ill-treatment, sexual abuse, neglect, negligence and commercial or other exploitation, which results 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”.<sup>73</sup> In the context of the CPMS, it is expanded to cover harm inflicted by those unknown to the child.

**Members of the family:** Persons married to a migrant or a national, or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children or other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned, including when they are not nationals of the State.<sup>74, 75</sup>

**Neglect:** The intentional or unintentional failure of a caregiver – individual, community, or institution (including the State) with clear responsibility by custom or law for the well-being of the child – to: (a) protect a child from actual or potential harm to the child's safety, well-being, dignity, and development or (b) to fulfil that child's rights to survival, development, and well-being when they have the capacity, ability and resources to do so. Harm may be visible or invisible. An act may be categorised as neglectful whether or not the caregiver intends to harm the child.<sup>76</sup>

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> World Health Organization, Child maltreatment (8 June 2020). Available at [www.who.int/news-room/fact-sheets/detail/child-maltreatment#:~:text=Child%20maltreatment%20is%20the%20abuse,under%2018%20years%20of%20age](http://www.who.int/news-room/fact-sheets/detail/child-maltreatment#:~:text=Child%20maltreatment%20is%20the%20abuse,under%2018%20years%20of%20age).

<sup>74</sup> IOM, *Glossary on Migration*.

<sup>75</sup> The Committee on the Rights of the Child recognizes that what constitutes a family varies depending upon cultural patterns and individual circumstances. It calls for the principle of non-discrimination to be applied when recognizing the various forms that families can take (United Nations, Committee on the Rights of the Child, Report on the seventh session). Examples may include biological family, nuclear family, re-constructed family, joint family, extended family, same-sex parent families, single-parent family, common-law family and adoptive family. It is important to note that how parent, family, and legal guardian are defined in domestic laws may or may not reflect how families define themselves. In the work of UN organizations, members of family also include partners in same-sex relationships, with or without children.

<sup>76</sup> Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action*.

**Non-discrimination:** The principle that unfair distinctions should not be made between children, people or communities on any grounds, including age, sex, gender, race, colour, ethnicity, national or social origin, sexual orientation, HIV status, language, civil documentation, religion, disability, health status, political or other opinion, or other status. It does not mean that everyone should be treated in the same way, but is about equality of access and outcomes, requiring different types of assistance and support based on actual needs and capacities.<sup>77</sup>

**Sexual abuse:** Actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.<sup>78</sup>

**Gender-based violence:** Any act that is perpetrated against a person's will that are based on gender norms and unequal power relationships. It encompasses threats of violence and coercion. It can be physical, emotional, psychological, or sexual in nature, and can take the form of a denial of resources or access to services. It inflicts harm on women, girls, men and boys.<sup>79</sup>

**Sexual exploitation:** Any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.<sup>80</sup>

**Residential care:** This is an umbrella term to describe any group-living arrangement where salaried staff or volunteers ensure care on a shift basis. It includes short- and long-term placements in institutions, small-group homes, boarding schools, interim-care centres, places of safety for emergency care, and transit centres.<sup>81</sup>

**Unaccompanied and separated children:** "Unaccompanied children" is the term to define children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. The term "separated children" refers instead to children separated from both parents or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.<sup>82</sup>

**Violence against children:** All acts that involve the intentional use of power or verbal or physical force, threatened or actual, against a child or against a group of children that either results in or has a high likelihood of resulting in actual or potential harm to the child or children's safety, well-being, dignity, and development. Possible forms of harm include injury; death; disability; decreased psychological, psychosocial, or mental health; or maldevelopment.<sup>83</sup>

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

## Tool 6.2. Competencies for return counselling of children and their families

### Support

- Show respect, empathy and cultural sensitivity.
- Establish and maintain a relationship of trust.
- Provide space for parents, caregivers, legal guardians, adolescents and children to share their opinions and feelings.
- Provide psychological first aid.
- Be aware of other support services available, understand when to draw on the support of specialized service providers and how to make referrals.

### Safeguarding and accountability

- Follow all child safeguarding procedures, including those for PSEA.
- Obtain consent from parents and legal guardians and assent from adolescents and children.
- Ensure that data protection policies are followed in the collection, sharing and storage of all information.
- Refrain from providing assistance with return if criteria for a safe and dignified return cannot be met.
- Provide information of how children and their families can access complaints and feedback mechanisms in a safe manner and ensure these complaints and feedback mechanisms are available and accessible.

### Information provision and collection

- Provide child-friendly information about what to expect – inform children and parents about what is likely to happen and let parents know how their children may be affected.
- Prepare and adapt tools for information collection.
- Collect information in child-friendly ways that consider the evolving capacity of the child.
- Collect information from authorities, social workers and residential care staff.
- Identify risk and protective factors for children and their families based on their history (including migration story), current situation and the situation they will return to.
- Ensure that all necessary information and documentation is collected.

### Coordination

- Make necessary referrals to services and protection colleagues.
- Coordinate (as appropriate) with authorities, social workers and residential care staff.
- Work with colleagues in the country of origin to ensure family assessments are conducted for unaccompanied children.
- Meet multiple times with the child and the family to provide and obtain all necessary information, develop a plan and provide support.
- Introduce the principle of best interests in ways that are culturally understood.

### Planning

- Use a planning process for return and reintegration that considers children's needs.
- Make way for parents/guardians to hear from their children.
- Help parents/guardians develop a workable plan that considers the views of their children according to the children's capacity.
- Ensure that the reintegration plan addresses risk and protective factors.
- Effectively manage the logistics and timeline of the return process.

## Tool 6.3. Child safeguarding

Child safeguarding ensures that all children who come into contact with the staff of organizations providing return counselling are protected from any direct or indirect harm as a result of any actions of a staff member, project implementation or as a result of any organizational policy or practice. This includes SEA.

Safeguarding aims to:

- Protect all migrant children who come into contact with organizational staff and services, including separated and unaccompanied children and children in families;
- Provide all staff with guidance on their interactions with migrant children;
- Ensure adequate oversight of implementing partners that deliver services to migrant children;
- Protect the organization and its credibility.

Safeguarding applies to all staff. This includes but is not limited to:

- Staff who are directly involved in delivering services to migrant children (e.g. return counsellors and other staff involved in return processes; cultural mediators; health-care professionals; protection, reintegration and resettlement staff; and case managers);
- Staff who have direct interaction with migrant children in the course of their duties (e.g. drivers and security staff);
- Managerial, technical and administrative staff (e.g. Chiefs of Mission, project managers, project assistants, specialists and administrative assistants);
- Other persons contracted by or working with the organization, including consultants, interns, gratis personnel, service providers and associate experts.

### Safeguarding principles

**Universality:** All children are entitled to protection, and all child safeguarding measures are to be equally applied to all children who come into contact with the organization, regardless of race, sex, gender, sexual orientation, gender identity, nationality, religion, ethnicity, immigration status or any other status.

**Personal responsibility:** All staff are personally responsible for upholding the highest standards of behaviour towards children in both their professional and private lives. They are equally personally responsible for contributing to child safeguarding within the organization, including by upholding and promoting safeguarding, reporting violations and contributing to remediation in line with their own individual roles and responsibilities.

**Transparency:** Children coming into contact with the organization are to be informed of their rights in an age-appropriate manner.

**Accountability:** Safeguarding procedures should be created and then upheld by all staff and respected in the implementation of all organizational policies and projects. Complaints and feedback mechanisms should be put in place and potential rights violations shall be reported through appropriate channels.

**Confidentiality:** Organizations should have a data protection policy and staff should adhere to it. All records pertaining to child safeguarding concerns, reports, and investigations are to be held securely and confidentially and the records themselves or the information contained within them are to be transmitted only to those with direct roles and responsibilities for responding to and remediating the concern, report or investigation.

**Best interests of the child:** All actions taken by an organization in its programming and in the course of investigation of a safeguarding violation are to be undertaken in a manner that upholds the best interests of the child.

### Safeguarding measures

Staff who work directly with children (e.g. return counsellors and cultural mediators) are to have the necessary qualifications and are to be subjected to appropriate background checks, in line with the national regulations and best practices of the country in which they are recruited.

Staff whose work can reasonably be expected to include direct contact with children (e.g. drivers and transit centre staff) are to be subjected to appropriate background checks, in line with the national regulations and best practices of the country in which they are recruited.

All staff members are to be aware of their responsibilities to act appropriately towards children, in line with staff codes of conduct and the Inter-Agency Standing Committee Six Core Principles Relating to Sexual Exploitation and Abuse, and to uphold child rights, in line with the 1989 CRC.

Appropriate behavior includes but is not limited to the following:

- Providing information to children in an age-appropriate way;
- Ensuring the physical safety and well-being of children and minimizing any risk to that safety and well-being;
- Ensuring the right of the child to participate in any actions, measures and decisions taken that affect the child's immediate-, short-, medium- and long-term situation and development;

- Treating all children fairly and equally and in a manner free from prejudice or discrimination on any basis;
- Refraining from sharing of personal contact details for purposes other than programmatic actions and delivery of protection, assistance or other services;
- Contributing to protection of the child from violence, exploitation, abuse and neglect, including SEA, and taking immediate action if such harmful behaviour is witnessed;
- Refraining from any physical contact that is inappropriate and/or unlawful (e.g. hitting and slapping) or that could be considered as inappropriate;
- Refraining from any action or behaviour that purposively or could inadvertently shame, humiliate or degrade children;
- Not engaging in any sexual or intimate physical contact or emotional interactions with any person under the age of 18, regardless of local age of consent, local consent, status as beneficiary and other factors; mistaken belief regarding the age of a child is not a defence.

Sexual exploitation and abuse by staff constitutes acts of gross misconduct and is therefore ground for termination of employment.

All staff members are to contribute towards creating a safe environment for children who come into contact with the organization or its implementing partners and to create and maintain an environment that prevents harm to children including sexual exploitation and abuse. This includes appropriate vetting of implementing partners and their staff. Managers at all levels have particular responsibilities to support and develop systems that maintain this environment.

All staff have the obligation to report child protection incidents or concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same agency or not, as per the organization's policies.

All staff involved in the development, implementation, management, oversight, and monitoring and evaluation of the organization's projects are to receive training in child safeguarding and integrating child safeguarding into the project cycle management.

All organizations engaging with children need to put in place reporting mechanisms to ensure all staff members and non-staff personnel are clear on what steps to take when suspicions or concerns arise regarding allegations of child abuse or exploitation. Every organization should develop and adopt specific policy and procedures in this regard or refer to the United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners for guidance.

## Tool 6.4. International agreements pertaining to child migrants<sup>84</sup>

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child
- Convention on the Rights of Persons with Disabilities
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination against Women
- 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- Global Compact for Safe, Orderly and Regular Migration
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
- International Labour Organization Convention 182 on the Worst Forms of Child Labour
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)
- United Nations General Assembly resolution 64/142 on the guidelines for the alternative care of children
- United Nations General Assembly resolution on children without parental care

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<sup>84</sup> These international agreements are widely available online.



## Tool 6.5. How to adapt the return counselling cycle for children and their families

In line with a migrant-centred approach to return counselling and the three objectives of return counselling, this tool aims to explain the actions that need to be taken when assisting children and their families, complementing the information provided in section 2.5.1: The first return counselling session(s).

BEFORE THE FIRST COUNSELLING SESSION(S)
Step 1. Prepare for the return counselling session
<ul style="list-style-type: none"> <li>● <b>Coordination and partnership</b> <ul style="list-style-type: none"> <li>– Specific <b>procedures and data sharing agreement</b> regarding the collection, use and retention of, and access to, personal data should be established among stakeholders involved in the return procedure of children in compliance with data protection legislations and standards as well as the principles of legitimate purpose, necessity and proportionality.</li> <li>– Disclose identities and information on a <b>need-to-know basis</b>. Records and report should be anonymous and be secured and accessible only to authorized personnel.</li> </ul> </li> <li>● <b>Gathering information</b> <ul style="list-style-type: none"> <li>– Become familiar with the case to be counselled:               <ol style="list-style-type: none"> <li>(a) For accompanied children, contact and gather information via their parent(s) or caregivers with legal guardianship.</li> <li>(b) For UASC, contact the caseworker and the legal guardian assigned requesting a <b>detailed report</b> in which the following should be addressed:                   <ul style="list-style-type: none"> <li>○ <b>Age</b> of the child according to identification;</li> <li>○ Documents or age assessment, if carried out;</li> <li>○ <b>Current legal status</b> and duration of the residence permit;</li> <li>○ Country of return and nationality;</li> <li>○ <b>Language/s</b> spoken and preferred language of communication for the child;</li> <li>○ <b>Social history</b> to better understand child current situation and vulnerabilities, if any;</li> <li>○ <b>Relationship of the child with the family</b> to identify any safeguarding concerns: Does the child have <b>family</b> in the country of return and is s/he in contact with them? Are they sporadically or regularly in contact? Has the family in the country of origin been involved in the process? Are they aware about the possibility of return?</li> <li>○ Ask if a <b>care plan</b><sup>85</sup> has been developed and to share it;</li> <li>○ Ask if a <b>BIP</b> has been carried out and, if so, ask to share the outcomes and relevant documentation produced and the sustainable solution identified;</li> <li>○ Ask about the identity of the legal guardian in the country of destination or origin as well as relevant contact details.</li> </ul> </li> </ol> </li> </ul> </li> <li>● <b>Plan the setting of the counselling session:</b> <ul style="list-style-type: none"> <li>– Identify a <b>child-friendly space</b> to conduct the session taking into consideration the accessibility of the venue for the child and family members.</li> <li>– Locate in the space <b>child-friendly materials and data collection tools</b> in the appropriate language.</li> <li>– Ensure the assistance of an interpreter and/or cultural mediator (especially for UASC).</li> </ul> </li> </ul>

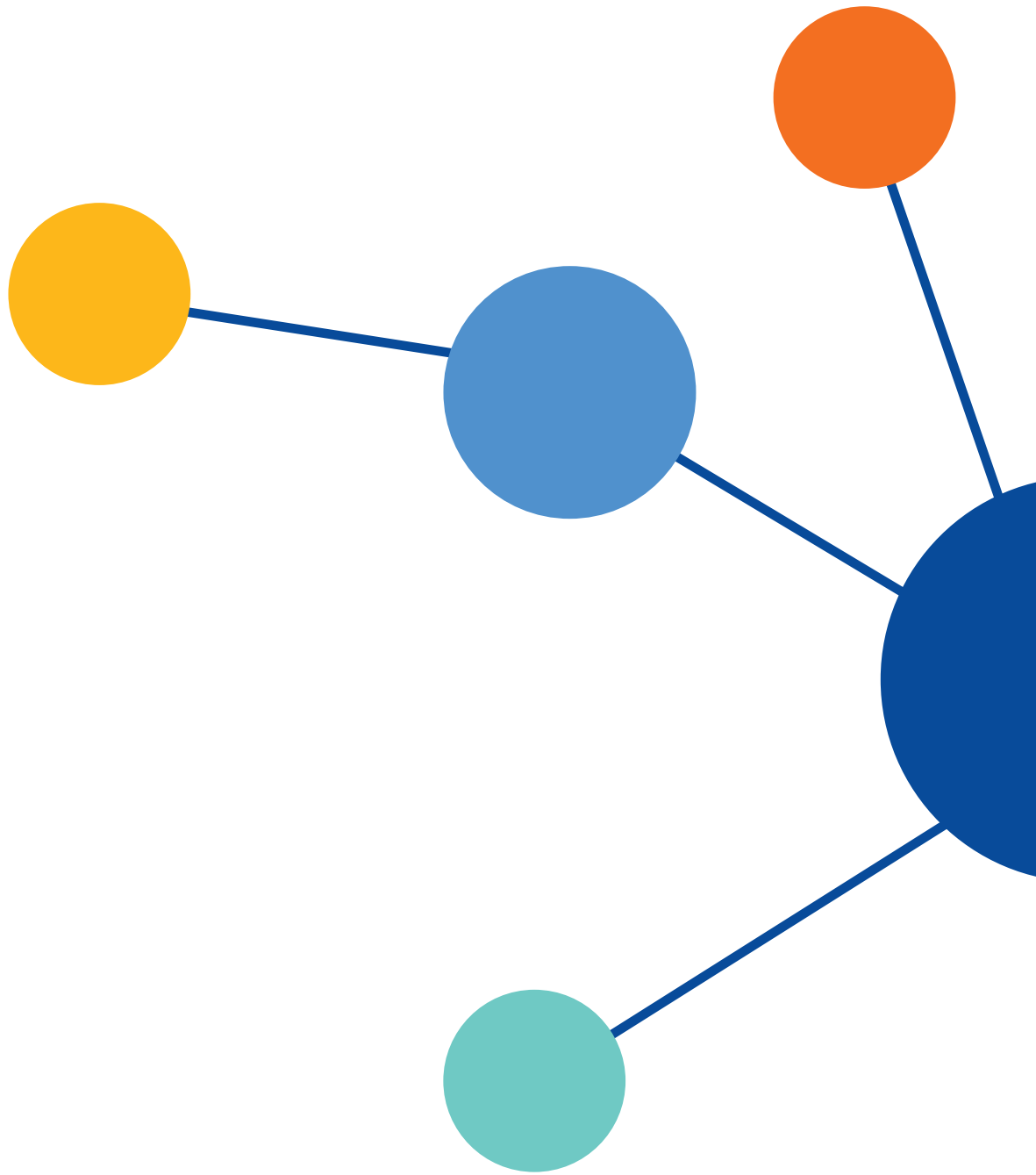
<sup>85</sup> The development of a **care plan** should be conducted through a consultative approach and involve the child and their parents or legal guardian, as appropriate. Based on the assessment and analysis of the case the care plan should outline the intended interventions, such as family tracing and reunification (in the specific case UASC), family mediation, protecting the child from further harm, enhancing the protective environment of the child within the child's home and community, actions to be undertaken by the child and their caregivers themselves and support and referral to appropriate services (see UNHCR, 2021 *UNHCR Best Interests Procedure Guidelines: Assessing and Determining the Best Interests of the Child* (Geneva, 2021), section 3.2.4: Case plan).

<p><b>Step 2. Consider migrants' capacity to make an informed decision</b></p> <ul style="list-style-type: none"> <li>– Discuss with the case manager, parent, or legal guardian the capacity of the child to participate in different stages of the return counselling process.</li> <li>– Knowing the age of the child would help the counsellor understanding the capacity of the child and adapt approach, content and language to use during the session.</li> </ul>
<p><b>Step 3. Get prepared to provide psychological first aid and relaxation to people in evident state of distress</b></p> <ul style="list-style-type: none"> <li>– Consider whether <b>meeting alone with the parent</b> and arranging for childcare (if necessary) for the child will alleviate or increase stress for either.</li> <li>– Be prepared with resources and advice for parents on how they can emotionally support their children and demonstrate how they can be used during the session.</li> <li>– Ensure that the setting for the counselling session is child-friendly, and that the needs of the child (e.g. nutrition, breaks, a relaxed environment, etc.) are accommodated. A child-friendly environment will also enhance the capacity of parents, legal guardians and caregivers to support their children and better understand how to talk to them about the return, their current fears and emotions, and their hopes for the future.</li> <li>– Pay attention to the psychosocial needs of the child: take time to <b>observe, listen to and speak</b> with them about their feelings and emotions, providing opportunities for them to express themselves in a range of ways (e.g. through pointing and gesturing, drawing, role playing). Keep in mind that children may express their feelings differently depending on their age, culture and gender.</li> <li>– Remain calm and non-judgemental, even if the situation is emotional. Be mindful of how a return counsellor's words or actions that can trigger more emotional stress or cause harm to the child.</li> <li>– Be alert to signs and disclosures of distress that may require urgent referral to child protection as well as mental health and psychosocial support services.</li> </ul>
<p><i>Tips/Remarks to keep in mind while planning a counselling session(s) involving children:</i></p> <ul style="list-style-type: none"> <li>– All stakeholders involved should undertake all necessary precautions to <b>preserve the confidentiality</b> of personal data and sensitive information ensuring that the rights and interests of the child are adequately protected.</li> <li>– The more return counsellors succeed in establishing a <b>good relationship</b> with relevant stakeholders and keep the communication channel open, the better it is to get to know the child and the scenario and adapt counselling techniques and questions.</li> <li>– Cooperation among all stakeholders involved should be sought on issues such as restoring family contacts, transferring custodial responsibility and exploring reintegration opportunities.</li> <li>– UASC's case manager and legal guardian should be fully involved during the return process. Return counsellors should support case managers and legal guardians in getting familiar with the return process and procedures and take this opportunity to further explain the return counsellor's role and mandate. Always plan to meet with the case manager for a brief update before the session.</li> <li>– <b>Remember:</b> Whenever decisions would significantly impact on a child's life, a formal process is required. BID is always needed to identify a sustainable solution for UASC.</li> </ul>

DURING THE FIRST COUNSELLING SESSION(S)	
<b>Step 4. Introduce the return counselling session and establish a relation of trust</b>	<ul style="list-style-type: none"> <li>– Seek <b>consent</b> from the parents or legal guardians, and <b>assent</b> from the child and adolescent to participate in return counselling.</li> <li>– In case of accompanied children, it may be a good idea to set up the first meeting with the parent(s) only (without the children present) especially if particularly sensitive issues will be discussed or with a child who is younger, has less capacity to participate.</li> <li>– When the children do attend be sure to <b>introduce yourself to them directly and spend time building rapport with the children</b> and explaining the return counselling process to them in language they can understand.</li> <li>– For UASC, it is important to <b>involve the case managers</b> during the counselling session because they know the child better and have already established a trusting relationship with the child. Ask their support to:               <ul style="list-style-type: none"> <li>○ Introduce you to the child in a friendly way.</li> <li>○ Ensure that the child understands the information provided during the session as well as their rights and options available for their protection while in the country of destination.</li> </ul> </li> </ul>
<b>Step 5. Understand migrants' story</b>	<ul style="list-style-type: none"> <li>– Determine whether a family story is sufficient and how different family members can contribute towards telling this, or whether each family member should have the opportunity to tell their own story.</li> <li>– Use <b>child-friendly tools and materials</b> giving children the opportunity to tell their story and express themselves in a way they are most comfortable with, e.g. relating what was most important to them rather than a full narrative, using drawings, role playing, etc. Let the child decide what parts of the story to tell and what parts to leave out.</li> <li>– Do not ask children to recount potential painful episodes or episodes of abuse, and do not probe if children bring these up. If the child discloses abuse that has not been reported before then politely interrupt the child before they go into the details, continue with the rest of the meeting and report the disclosure to your supervisor and child protection staff immediately after the session.</li> <li>– Consult with parents about whether younger children should be present for some, or all of, their parents' story. In some cases, this could be upsetting while in other cases listening to the parent's telling of the story could be helpful to the child.</li> </ul>
<b>Step 6. Assess vulnerability and resilience factors</b>	<ul style="list-style-type: none"> <li>– Use tools, forms and procedures for the assessment that are <b>age-sensitive</b>, consider the rights of the child and respect safeguarding principles.</li> <li>– Collect information directly from children according to their age and capacity.</li> <li>– After consulting the BIA documentation and/or the BID (when applicable), check with the child that the information reported is accurate and flag when it is not, when there have been further developments, especially if this might necessitate a reassessment of the BID.</li> <li>– With support from colleagues in the country of origin, arrange for a <b>family assessment</b> to be conducted for the UASC if it has not been done and to be verified in case it has been carried out.</li> <li>– In case of a child with <b>health-related issues</b>, written advice from the treating doctor besides medical reports would be necessary. On a need-to-know basis, relevant stakeholders should be promptly informed about any changes regarding child health conditions and upcoming medical examinations while still maintaining confidentiality.</li> </ul>

<p><b>Step 7. Explore and discuss migration options (not for forced returnees)</b></p> <ul style="list-style-type: none"> <li>– Provide information about options available in a child-friendly way in the language that the child understands best.</li> <li>– Facilitate opportunities for children to express their views about available return options and reintegration opportunities with the support of colleagues in the country of origin.</li> <li>– In case return has been determined through a BID, the return counsellor should still seek the child's view on returning and <b>if the child is uncooperative or unwilling to return, the process should be put on hold and/or suspended.</b></li> </ul>
<p><b>Step 8. Jointly decide with the migrant on next steps and close the session</b></p> <ul style="list-style-type: none"> <li>– Encourage parents and legal guardians to consider the views of the child and provide child-friendly materials they can use outside the counselling sessions to support children in understanding the return process and sharing their view and feelings.</li> <li>– Ensure children are informed about decisions made and have the chance to ask further questions.</li> <li>– For UASC, discuss jointly with the case manager and the legal guardian any important issues that may have arisen during the counselling session and agree on the actions/steps to be carried out next (i.e. further documentation needed, information to be verified in the country of origin in case the child may need specific support for health or mental health reasons, family tracing and assessment, and other reasons).</li> </ul>
<p><i>Tips/Remarks to keep in mind during the first counselling and follow-up session:</i></p> <ul style="list-style-type: none"> <li>– <b>Keep in contact</b> with the parent(s), the caseworker and the legal guardian on a regular basis and update each other about any relevant development.</li> <li>– Liaise with relevant national authorities, making sure that appropriate care and accommodation and access to public services, including health care, mental health and psychosocial care, and education among others, are accessible at all times during the return process.</li> <li>– <b>If the child turns 18 during the course of the procedure</b>, the return would be completed with the same safeguards, and the sustainable solution found to be in the best interests of the child would be implemented according to the procedure set out.</li> <li>– If return is identified as a sustainable solution and in the best interest of the child the end of the school cycle should be taken into consideration in departure arrangements and it should be ensured that the child can finish the school year.</li> <li>– Liaise with relevant stakeholders in both countries of destination and origin to gather information to <b>ensure safe and dignified return and sustainable reintegration</b> including evaluating the safety, security and other conditions of the area of return, including socioeconomic conditions, such as effective access to basic social rights like education, training and health, awaiting the child upon return, longer-term MHPSS and others.</li> <li>– For UASC, ensure that the legal guardians or other actors chosen by the children accompany them until arrival at the final destination and <b>ensure adequate handover/transfer of custodial responsibility</b>. Detailed arrangements should be made to receive the child at the airport or at the final destination, including by the parent(s) or legal guardian(s) in the country of origin where possible and in the best interests of the child.</li> <li>– When discussing the provision of <b>reintegration assistance</b> with children, it is always better to refer to the <b>goods and services</b> available rather than the amount. Provision and coordination of reintegration assistance always starts at the pre-departure stage by promoting cross-border cooperation between child protection, social welfare, immigration and other authorities and by integrating support to return into national child protection and welfare systems.</li> </ul>





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