Determining Acceptable Customary Caregiving Arrangements with Congolese Refugees in Rwanda

Findings from Rapid Studies in Two Camps and A Toolkit for Moving Forward

Final report

10 April 2015

Submitted to UNHCR by: Lili Birnbaum, Liberata Muhorakeye, Nancy Gatete, and Mark Canavera
# Contents

INTRODUCTION .................................................................................................................. 4

KEY RESEARCH QUESTIONS ................................................................................................. 5

METHODOLOGY ....................................................................................................................... 6

FINDINGS .................................................................................................................................. 8

1. Community Views ........................................................................................................... 8
   Grandmothers ..................................................................................................................... 14
   Aunts & Uncles .................................................................................................................... 15
   Other Relationships ........................................................................................................... 16

2. Contextual Differences: Emergency versus Protracted Camps ..................................... 18
   Commonalities .................................................................................................................... 18
   Differences ........................................................................................................................ 19

3. UNHCR & Partners’ Understanding of UASC & the Best Interest Determination Process ......................................................................................................................................................... 20
   Capacity ............................................................................................................................... 21
   Consistency: Distinct Protection & Resettlement Impetuses for BIDs ............................ 22
   Clarity on Who UASC Are and Which Children Require BIAs or BIDs ....................... 23
   Clarity on How to Respond to Identified UASC Cases ..................................................... 25
   Clarity on When BIA or BID Processes Are Required ..................................................... 26
   Concern regarding Do No Harm ....................................................................................... 27

4. The National Context: Lack of Domestic Legal Clarity .................................................... 28

RECOMMENDATIONS .............................................................................................................. 30
   Short-Term Recommendations ........................................................................................ 30
   Long-Term Recommendations ........................................................................................ 33

ANNEXES ................................................................................................................................. 33

Annex 1: Terms of Reference—Embracing the Correct Definitions of Unaccompanied and Separated Children by UNHCR .................................................................................................................. 35

Annex 2: Literature Review .................................................................................................. 38

Annex 3: Draft Guide: 3 Tiers of BIA / BID by Category of Child ...................................... 57

Annex 4: Toolkit ...................................................................................................................... 58
   Customary Caregiving Assessment Toolkit – User Guide ................................................ 58
   Introduction and informed consent – English version ...................................................... 60
   Group discussion guide – English version ....................................................................... 62
   Note-taking template for group discussions .................................................................... 66
List of Tables

Table 1  Study participants
Table 2  Acceptability rankings of various caregiving arrangements for children not living with their biological parents
INTRODUCTION

This report presents both the process and the findings from a recent attempt to better understand customary caregiving arrangements for refugee children living in two camp-based populations in Rwanda. The study emerged from UNHCR’s recognition that although the globally accepted definitions of unaccompanied and separated children (UASC) do include provisions about customary caregivers, this concept has only rarely been operationalized in field settings. In Rwanda, UNHCR noted that the inclusion of children who are living with customary caregivers—in some cases the same customary caregivers with whom they were living before fleeing their homes while, in other cases, new customary care arrangements in which they have come to live in the camp settings in subsequent years—within their definitions of UASC had created a tremendous administrative burden on UNHCR staff and processes, taking precious time away from the agency’s ability to focus on urgent child protection needs and vulnerabilities. This study, then, sought to explore if a more grounded definition of customary caregiving might, in fact, determine that many children classified as UASC are in fact living in customary caregiving arrangements that are socially and customarily acceptable for the populations living in these camps, care arrangements that do not inherently or implicitly create more vulnerability for the children living in them.

The current global conception of UASC—as delineated in both the Inter-Agency Guidelines on Unaccompanied and Separated Children and UNHCR’s Best Interest Determination Guidelines—defines UASC in the following ways:

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

Separated children are those separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. [emphasis added]¹

The Inter-Agency Working Group on UASC’s Alternative Care in Emergencies Toolkit defines a customary caregiver as, “someone that the community has accepted, either by tradition or common practice, to provide the daily care, protection and supervision of a child.” Despite this definition, the notion of customary caregiving as defined by communities themselves remains elusive, particularly when it comes to acceptance or use in operations by international organizations. Annex 2 presents a literature review of the definitions of UASC, tailored to the Rwandan context and examining specifically the extent to which the existing literature addresses questions of customary caregiving.

UNHCR practice in Rwanda, while nominally incorporating the global definition of UASC, has categorized all children living without their biological parents as UASC, regardless of whether or not the child may be living in a customary caregiving arrangement that is

considered acceptable by the community. Further complicating the interpretation and application of the UASC category for operational agencies is the notion of a “previous” customary caregiver, which begs the question: “Previous to what?” While some child protection actors interpret this to mean “previous to the emergency,” this interpretation has little application in protracted contexts years after the precipitating emergency. In the Rwandan context, many refugees have lived in camps for over 17 years, and any given child’s care arrangements may have changed many times.

The UASC categorization has important implications for UNHCR Rwanda’s child protection work, notably the Best Interest Determination (BID) process, which is currently undertaken for all children living without their biological parents on the understanding that this is required for both protection and resettlement purposes. UNHCR Rwanda devotes 75% of its child protection staff time to addressing UASC BID processes; as currently defined, these UASC cases constitute only 10% of all children of concern among the Congolese refugees that UNHCR serves. The numbers are daunting: using the current estimated staff time allocations, it would require UNHCR Rwanda approximately 80 months – over 6 years – to complete the 2,000+ outstanding BIDs in just two emergency camps. On top of this, over 3,000 BIDs remain for resettlement cases. It seems that despite the disproportionate allocation of resources to this small group of children, the BID backlog continues to multiply.

UNHCR believes that by exploring and embracing the true definition of UASC—which allows that children living in acceptable customary caregiving arrangements are not actually “separated”—UNHCR Rwanda can potentially realign its child protection efforts. Intended outcomes from this research include the potential to reduce the number of identified UASC, to revisit the backlog of BIDs, to streamline the BIA/BID processes, and to allow UNHCR child protection staff to have additional time to focus their attention on children who face urgent protection concerns in any care arrangement—whether they are unaccompanied, separated, in customary care, or with their biological parents.

**KEY RESEARCH QUESTIONS**

The research focuses on several key research questions. First, it aims to clarify the concept of customary caregiving by asking the following questions:

- **How do different Congolese refugee groups in Rwanda define acceptable customary care arrangements for children who are not living with their biological parents?**

- **To what extent are extended family members considered acceptable “customary primary care-givers,” and does acceptability change depending on which extended family members are acting as primary caregivers?**

---

3 For further analysis of the legal and policy framework surrounding UASC and customary caregiving, see the Literature Review in the Annex.
In parallel, the research seeks to illuminate the ways in which UNHCR and its partners understand and evaluate the care arrangements of UASC by asking the following:

- Are the definitions of UASC and customary care being correctly applied by UNHCR and its partners in Rwanda?
- What implications does this have for the BID process?

Ultimately, the core question of the study is:

- How can these conclusions be translated into operational improvements for UNHCR?

**METHODOLOGY**

This study used a rapid mixed-methods methodology that aimed to provide a grounded picture of the customary beliefs, values, practices, and attitudes of Congolese refugees living in Rwanda about acceptable customary care arrangements for children not living with their biological parents. It also aimed to assess UNHCR’s internal understanding of and processes regarding children living in customary care arrangements, including how UNHCR Rwanda’s application of the definition of UASC interacts with BIA and BID processes. The two primary research tools were key informant interviews and group discussions. Although the methodology is largely qualitative in nature, it also allows for basic quantitative analysis regarding participants’ rankings of the acceptability of various customary care arrangements according to a three-point Likert scale.

This study’s terms of reference were conceived by UNHCR Rwanda in collaboration with UNHCR headquarters (see Annex 1); UNHCR approached the CPC Learning Network to design a methodology that could not only be tested quickly in two camps before the end of 2014 but that could also be rolled out by UNHCR staff to determine acceptable customary caregiving arrangements in other refugee settings. The research team included: Mark Canavera and Lili Birnbaum of the CPC Learning Network; Liberata Muhorakeye, who was seconded by Plan International to support the study; and Nancy Gatete, who served as an English-French-Kinyarwanda interpreter. The researchers conducted interviews with national actors in Kigali and with refugees, community leaders and field staff in two refugee camps, Gihembe and Kigeme; they also interviewed international experts on international experts on UASC, including individuals at UNHCR and UNICEF headquarters.

The research tools used were:

1. **Group discussions** regarding customary care arrangements for children who do not live with their biological parents and the levels of acceptability of various arrangements. These group discussions were conducted with men, women, adolescent boys (13 to 18 years old), and adolescent girls (13 to 18 years old) in each camp;
2. **Key informant interviews with relevant stakeholders at the camp level**, including refugee community leaders (camp authorities, teachers, women’s group leaders and religious leaders), UNHCR field staff involved in the BID processes, representatives of NGOs working with the refugee populations, and local government representatives; and

3. **Key informant interviews with relevant stakeholders at national and international level**, including UNHCR staff, representatives of other UN agencies and international and national NGOs, actors knowledgeable about the larger Rwandan context of child protection and alternative care in Rwanda, and international experts in child protection and UASC in particular.

Gihembe and Kigeme refugee camps were selected as the research sites because they represent both the protracted and emergency camp settings present in Rwanda, thus providing representation of two different kinds of camp-based refugee populations in Rwanda. In total, 109 people participated in the research through 8 group discussions (GD), 13 key informant interviews (KII) with community leaders, and 14 KII with national, NGO, and UNHCR stakeholders. Additionally, a half-day workshop was conducted with 10 participants drawn from UNHCR staff, Government representatives and key national stakeholders involved in child protection and BID panels; the workshop focused on the typical profiles of refugee children living without their biological parents and the strengths and weaknesses of the BID system.

The research tools developed and used to assess refugee communities’ views on acceptable customary care arrangements are designed to be adaptable to multiple contexts; although they have not yet been tested by UNHCR staff, the methodology was designed to be simple enough to be used by staff or partners with basic research training to evaluate refugee communities’ views in approximately two days. The tools and instructions for their use can be found in Annex 4.

---

4 These numbers are not an exact match with the chart below because some of the workshop participants were also interviewed as national stakeholders in KII.
Table 1: Study participants

<table>
<thead>
<tr>
<th>Level</th>
<th>Category</th>
<th>Women</th>
<th>Men</th>
<th>Girls</th>
<th>Boys</th>
</tr>
</thead>
<tbody>
<tr>
<td>International</td>
<td>UASC Experts</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>UNHCR Staff</td>
<td>6</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National</td>
<td>Government Representatives$^5$</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Key National Stakeholders$^6$</td>
<td>4</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Camp</td>
<td>Protracted Site Group Discussion</td>
<td>10</td>
<td>8</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Protracted Site Key Informant Interviews</td>
<td>1</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Emergency Site Group Discussion</td>
<td>8</td>
<td>10</td>
<td>10</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Protracted Site Key Informant Interviews</td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Combined</td>
<td>Subtotal</td>
<td>35</td>
<td>35</td>
<td>20</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>109</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

FINDINGS

1. Community Views

Refugee participants in both Gihembe and Kigeme sent a clear message that specific members of the famille élargie (extended family)—notably aunts, uncles, and grandmothers—are viewed as customarily acceptable caregivers for children who are not living with their biological parents. The overwhelming majority of group discussion participants and key informants in the camps stated that primary caring for children by the following family members was easily acceptable or acceptable within their custom:

- Maternal and paternal grandmothers
- Maternal and paternal aunts
- Maternal and paternal uncles

Table 2 presents the voting of each group discussion’s members by “easily acceptable,” “acceptable,” or “not acceptable” care arrangements. It is important to note here that since

$^5$ Includes one government representative at camp level.
$^6$ Includes one NGO representative at camp level.
the care arrangements upon which the group discussion participants voted emerged from the discussions themselves, not all groups voted on all care arrangements.

“What [our] culture says is that they are all one family: paternal aunts and uncles, maternal uncles and aunts, and grandparents.”

These care arrangements were acceptable to all participants regardless of the length of the caregiving relationship or of the reason that the child entered into the family member’s care. The closeness of a “blood” or kinship connection between child and caregiver was considered an important factor in determining whether or not a care arrangement was customarily acceptable. As one Kigeme resident put it, “The blood attracts.” Indeed, one boy in Gihembe camp said, “You would not accept to stay somewhere that isn’t a blood relation when you have family around.”

When discussing the acceptability of various care arrangements, community members often discussed quality of care as well: “The way they care for [children] matters more than how long they care for them,” said one participant. This finding supports UNHCR Rwanda’s assertion that quality of the caregiving arrangement needs to be monitored for protection concerns separately from a judgment on what is or is not customary caregiving in a given community. As one teacher in Kigeme emphasized, “Even the blood relative can mistreat a child. The first thing to judge is how they are treated above blood, [on the] maternal or paternal [side of the family].”
Table 2: Acceptability votes by community members of various caregiving arrangements for children not living with their biological parents

<table>
<thead>
<tr>
<th>Customary Caregiving Arrangement</th>
<th>Location</th>
<th>Men</th>
<th>Women</th>
<th>Boys</th>
<th>Girls</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>EA</td>
<td>A</td>
<td>NA</td>
<td>EA</td>
<td>A</td>
</tr>
<tr>
<td>Alone</td>
<td>Gihembe</td>
<td>0</td>
<td>0</td>
<td>8</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>0</td>
<td>0</td>
<td>10</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>0</td>
<td>0</td>
<td>18</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Gihembe</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>0</td>
<td>3</td>
<td>7</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>3</td>
<td>7</td>
<td>8</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maternal Uncle</td>
<td>Gihembe</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>0</td>
<td>10</td>
<td>0</td>
<td>7</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>3</td>
<td>14</td>
<td>1</td>
<td>15</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maternal Aunt</td>
<td>Gihembe</td>
<td>5</td>
<td>1</td>
<td>0</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>0</td>
<td>3</td>
<td>7</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>5</td>
<td>4</td>
<td>7</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paternal Uncle</td>
<td>Gihembe</td>
<td>5</td>
<td>1</td>
<td>0</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>0</td>
<td>10</td>
<td>0</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>5</td>
<td>11</td>
<td>0</td>
<td>17</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Customary Caregiving Arrangement</td>
<td>Location</td>
<td>Men</td>
<td>Women</td>
<td>Boys</td>
<td>Girls</td>
<td>Total</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>----------</td>
<td>-----</td>
<td>-------</td>
<td>------</td>
<td>-------</td>
<td>-------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>EA</td>
<td>Acceptable</td>
<td>Not Acceptable</td>
<td>EA</td>
<td>Acceptable</td>
</tr>
<tr>
<td>Maternal Grandmother</td>
<td>Gihembe</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>7</td>
<td>3</td>
<td>0</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>10</td>
<td>4</td>
<td>1</td>
<td>18</td>
<td>0</td>
</tr>
<tr>
<td>Paternal Grandmother</td>
<td>Gihembe</td>
<td>5</td>
<td>1</td>
<td>0</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>7</td>
<td>3</td>
<td>0</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>12</td>
<td>4</td>
<td>0</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Neighbors (post-flight, close proximity in camp)</td>
<td>Gihembe</td>
<td>0</td>
<td>4</td>
<td>2</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>0</td>
<td>4</td>
<td>2</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>Neighbors (pre-flight close proximity in DRC, fled with child)</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>0</td>
<td>0</td>
<td>9</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Cousins (adult)</td>
<td>Gihembe</td>
<td>0</td>
<td>6</td>
<td>0</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>0</td>
<td>0</td>
<td>10</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>0</td>
<td>6</td>
<td>10</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Customary Caregiving Arrangement</td>
<td>Location</td>
<td>Men</td>
<td>Women</td>
<td>Boys</td>
<td>Girls</td>
<td>Total</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>------------------</td>
<td>--------------------------</td>
<td>-------------------------</td>
<td>---------------------------</td>
<td>-------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Easily Acceptable (EA)</td>
<td>Acceptable (A)</td>
<td>Not Acceptable (NA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>EA</td>
<td>A</td>
<td>NA</td>
<td>EA</td>
<td>A</td>
</tr>
<tr>
<td>Siblings (Older, Married, Gender Unspecified)</td>
<td>Gihembe</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Older Sister (unmarried)</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Older Sister (married)</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Older Brother (unmarried)</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Older Brother (married)</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Child's Friend's</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Customary Caregiving Arrangement</td>
<td>Location</td>
<td>Men</td>
<td></td>
<td></td>
<td></td>
<td>Women</td>
</tr>
<tr>
<td>Parents</td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Strangers (in camp)</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Strangers (from flight from DRC - &quot;Guardian Angels&quot;)</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Tribe members (no blood relation)</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Removing child from family to go to neighbors</td>
<td>Gihembe</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Kigeme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
The views of refugee community members and their leaders in both Gihembe and Kigeme camps emphasized that it is intolerable for children to live alone, without caregivers, with 83% of group discussion participants deeming it unacceptable. As one women’s association leader in Gihembe stated, “Our culture requires us to take care of children who are alone.” Community members expressed considerable concern about children living without their parents and expressed pride in their ability to care for their children despite the difficult circumstances. A man in Kigeme told researchers, “In our culture, you don’t give thank you gifts. There is nothing that could thank you more than the pride you feel when you raise a good child.”

Such strong communal endorsement of customary caregiving relationships between children and their maternal and paternal grandmothers, aunts and uncles suggests that children living within these customary care arrangements are indeed living with primary customary caregivers.

Putting aside for the moment the problematic notion of “previous,” the Congolese refugee children of Gihembe and Kigeme who are living with aunts, uncles, and grandmothers are, in fact, not unaccompanied or separated children, according to the global definition. As one UNHCR staff member put it, “Our preconceived notions [of who is unaccompanied or separated] could be completely different in the community.” It appears that this is in fact the case for children living in customary care arrangements in Gihembe and Kigeme.

Grandmothers

Grandmothers (or grandparents when the grandfather was also present) were the most easily acceptable caregivers according to the two refugee communities surveyed, with 90% of participants deeming both maternal and paternal grandmothers “easily acceptable” and the remaining 10% deeming them “acceptable” as customary caregivers.

The refrain was nearly unanimous that “she [the grandmother] is a second mother”; women expressed this by saying that “the child of my child is my child.” The understanding of a grandmother as a second mother by these Congolese populations was a concept that extended back into customs that long pre-dated the refugees’ flight from Congo; as one Gihembe teacher said, “It’s the culture – when I say it’s the culture, what I mean is that even before—in the old times—you would be taken care of by your grandparents.” This sentiment was echoed in Kigeme, where participants referenced caregiving practices prior to their more recent flight to Rwanda: “What our culture used to accept in Congo is that when parents die, children should always go to their grandparents.”

“A mother can’t find another person who will love the child as much as she does except for the grandparents.”

---

7 This assumes that “previous” customary caregiver is broadly interpreted.
The generational gap between a child's parents and grandparent was considered marginal, with one man in Gihembe stating that, becoming a grandfather is “like I become a new parent again.” Adult participants asserted that “we raise [grandchildren] even when their parents are around, so you can imagine that we would when the parents are not there.” Indeed, in Kigeme, it was even suggested that grandmothers raise children better than parents do. A leader in Kigeme’s women’s association explained, “It’s easily acceptable because if I’m her [the grandmother’s] child and I have my own child, she has to love that child [e.g., my own child] like she loved me. If my child gives birth to another child, I will love that child as much as I loved my child.”

Grandmothers are accorded specific authority, which other caregivers may not possess: a women’s leader in Gihembe asserted that grandmothers have “not only affection but parental authority,” and boys in the same camp went as far as to characterize grandmothers as having legal rights regarding their grandchildren, stating that “she has the obligation of raising you. She has all the legal rights to take you in because she is basically your mother.” Additionally, key informants and group discussion participants asserted that grandparents are more likely to treat all children under their care equally. There was, however, some concern, particularly among community leaders, that feeble grandmothers who were unable to provide or care for children were not ideal caregivers, as the child would end up taking care of the grandmother instead of the reverse. Nonetheless, as a group, grandmothers are clearly considered as caregivers who are customarily equal to—or, according to some, preferable to—biological parents.

Aunts & Uncles

Community members surveyed in the group discussions overwhelmingly endorsed both maternal and paternal aunts and uncles as either easily acceptable or acceptable customary caregivers.

Combined votes from both camps found that participants voted maternal uncles, maternal aunts, paternal uncles and paternal aunts to be, respectively, 86%, 83%, 84% and 100% easily acceptable or acceptable caregivers for children without parents. This quick study revealed, then, that aunts and uncles on both sides of a family can easily assume caregiving responsibility for children who are not living with their biological parents in such a way that the child is essentially not “separated.” This unanimity, however, was interrupted by one outlier group, namely boys in Kigeme camp, which deemed maternal aunts “unacceptable”; notably, they found paternal aunts to be acceptable. Such a finding requires further exploration (see recommendations).

The community members again endorsed the notion of blood ties (“He is my blood. I cannot lose my sister and also lose my nephew or niece. She/he is her memory.”), and preexisting culture from the DRC (“Because of our culture, it is acceptable that the maternal aunt or uncle raise the child. It has always been like that, even when we were still living there [DRC], it happened. So when we came here, it was still acceptable.”). Moreover, the group discussion
voting reinforced the interchangeability of nuclear family with the famille élargie. As one boy said, “When you live with your paternal uncle, it’s like you are in your own family.” Another girl from Gihembe asserted that, “someone who is the sibling of your dad is just like your dad,” while women said that, “A maternal aunt can love a child as much as the child’s mother… A maternal aunt is like a second mother.”

Regarding child protection issues, there was, however, some concern among a minority of the children about mistreatment at the hands of aunts and uncles or “parents who are not your parents.” As one boy from Kigeme estimated, “Kids who live with paternal aunts and are living a good life are only 20% of kids living with paternal aunts. They get beaten so badly if they do anything wrong.” While girls from the same camp widely approved of such caregiving arrangements, one said that, “it is neither a happy nor sad situation. It is just living.”

Other Relationships

Group discussion participants listed 20 different possible caregiving arrangements for children living without their parents. Aside from the three relationships above, the 17 other relationships listed by group discussion participants received mixed reactions and were for the most part not considered acceptable customary caregiving relationships; children in these communities who live in such caregiving arrangements would therefore still rightly fall within the definition of UASC.

- **Cousins:** Cousins received a 40% acceptability rating, while 60% found them unacceptable. One man in Gihembe explained that, “If [a child] has to go to a cousin, it means he has no other family. It’s the last option.” Men in Kigeme were more categorical, with one man saying that, “If a child goes to that family [of a cousin], it is like they are going to someone unrelated. They can even get married to their kids! We don’t even have a name for the relationship.” There was also concern about children being taken in by remote cousins in order to take advantage of the child’s dowry or use as a maid.

- **Older Siblings:** There was also a difference of opinion regarding older siblings. While the overall rates of acceptability of siblings as caregivers were quite high, ranging from 100% easily acceptable or acceptable (older sisters) to 89% (older brothers), there was tremendous variety in the kinds of situations described (see Table 2). It was therefore not possible to draw general conclusions about children living with older siblings. Children voiced numerous concerns about mistreatment, particularly surrounding older sibling’s wives and husbands. These worries included:
  - “Your unmarried sister treats you like a sibling with whom you share the exact same blood. She treats you like your mom and you feel the same connection and share the same problems. Your sister treats you like her real family… But when she gets married, it changes because her sympathy is shared with her children now.”
• **Tribe members, strangers and neighbors**: The acceptability of caregiving by tribe members, strangers and neighbors, both pre- and post-flight, elicited mixed responses from study participants. For example, in Kigeme, caring for a child of another tribe was viewed negatively: “You fled together but maybe you’re from different tribes and [the child] will eventually realize that you don’t share the same tribe, so it’s really only because there was no other choice.” Additional attitudes toward strangers and neighbors are explored in the following section.

• **Paternal versus Maternal Relatives**: While a preference for paternal relatives was voiced in both camps, particularly by men and boys, voting patterns essentially treated the two sides of the family as equally acceptable caregivers if the caregivers were grandmothers, aunts or uncles. On the maternal side, there was clear “ownership” of the child, whereas paternity could be disputed by the paternal side if the father had not explicitly recognized the child as his own; occasionally the paternal side of the family would recognize the child ceremoniously by bringing a cow (or, more recently, money) to the maternal family. While female relatives were preferred over male as caregivers, in Kigeme it was emphasized that the refugee communities’ “culture gives power to the paternal” side of the family in terms of children, heritage, land, property and inheritance. There was, however, some discussion of children being left with their maternal relatives when their mothers remarried as children from a previous relationship were often not allowed to enter the “new” family. Some UNHCR resettlement partners reported this phenomenon to be quite frequent.

• **Additional Factors – Length of Caregiving Arrangement, Quality of Care & Gender**: Instead of the length of time that a caregiving arrangement extended, participants focused on emotional attachment, family integration and quality of care, which deepened over time but did not determine acceptability. Concern about equal treatment relative to other children in the household was expressed by all groups; such treatment appeared dependent upon the ‘closeness’ of the connection to the caregiver, and in particular if the woman of the household was a blood relative or not. Spouses of aunts or uncles, for example, were viewed suspiciously. As a man from Kigeme explained, “The child has a relationship with the man [e.g., the child’s uncle], but what if the uncle has to leave, and the wife has to care for the child? You are the uncle. You love him [the child], but you cannot be sure that your wife will take good care of him. It is as if they go to live with someone strange.” Children in Kigeme said that such situations led children not to report mistreatment for fear of bringing trouble into the family. Indeed, awareness of such a possibility led some community members to assert that at 7 or 10 years old, a child can choose to leave one household for another one (i.e. switch between maternal or paternal sides of the extended family).
All groups expressed particular concerns about the risks inherent in children leaving the camp and highlighted the impact this had on girls. For girls, such risk-taking was compelled by desire for material goods or to escape mistreatment, and often resulted in prostitution, unwanted pregnancies and cyclical abandonment of the girls’ children in the camp; in Kigeme camp, there was a reported failed attempt to traffic a group of girls, an attempt that had already been addressed by UNHCR and partners. For boys, similar push factors resulted in begging or seeking jobs outside of the camps, as well as drug use. Customary care and other stable caregiving arrangements appeared to protect against such risks where the quality of care was high and children remained in the home. Some indicated that girls would be preferred by caregivers, for example because of potential gains from dowries, while others said that they caused “trouble”; religious leaders in Gihembe did not mince words, saying, “boys are better than girls.”

2. Contextual Differences: Emergency versus Protracted Camps

While the overall acceptability of the three customary care arrangements was consistent across both Gihembe and Kigeme camps, there were some important and nuanced differences between Gihembe, a protracted camp established in 1997, and Kigeme, an emergency camp whose residents arrived less than three years ago.

Commonalities

- Three Universally Acceptable Customary Care Relationships: Across the board, community members in both Gihembe and Kigeme camps found caregiving by children’s grandmothers, aunts and uncles of both maternal and paternal sides to be easily acceptable or acceptable by their custom.

- Limited Material Capacity: A common concern in both Gihembe and Kigeme was caregivers’ capacity to provide material care with one Gihembe teacher saying that, “We are losing our culture because we do not have enough to give. My grandmother, before, I believe that if I went to [live with] her, I would feel secure and at ease. But today, because there is nothing, it is difficult to go there.” Likewise, religious leaders in Gihembe said, “According to our culture, when you see an orphan, you help. But now, as refugees, we don’t have the means to do so… We adults are like orphans. We can’t satisfy our own needs.”

- Length of Caregiving Relationship Does Not Affect Acceptability of Care Arrangement: Overall, Kigeme participants, like those in Gihembe, emphasized that acceptability of customary care did not depend on the length of time that a child had lived in a caregiving arrangement. However, there was more sensitivity to the anticipated permanence of a caregiving arrangement, a concern that was not voiced in Gihembe: “We have been here about two years. If you brought the child and you
took good care of him, it will be looked at as a good thing and you will be respected… The [child] who spent only a little time [with a caregiver] or is new, the neighbors will say ‘oh it is just temporary,’ but after a long time it is seen as more concrete.”

- **Reason for or Method of Joining a Caregiving Arrangement Does Not Affect Acceptability of Care Arrangement:** Group discussion participants and key informants reported that the circumstances that caused a child to enter into a customary care arrangement did not determine its acceptability. In a stark example, religious leaders from Gihembe said that the social acceptability of taking care of orphans was equal to that of taking in children of “irresponsible parents.”

**Differences**

- **Distance from the Conflict, Reasons for Separation, and Flexibility of “Acceptable” Care:** In Gihembe, where many children living without their parents were born in the camp, there are more complete family networks, greater temporal distance from the conflict in the DRC, and different reasons for separation from parents, such as abandonment or death from illness. In Gihembe, key informants indicated that there are fewer children living without their parents than before as many have grown into adults. Most of the BIDs in Gihembe are the result of resettlement of Mudende survivors.

In Kigeme, by contrast, the conflict is very much alive and present for all refugees interviewed with children speaking of “bullets chasing us.” While Kigeme residents are closer to their culture as it existed in the DRC, families are often severely fractured and made up of those who survived and fled in the same direction. Such proximity to the conflict and flight impacted attitudes toward acceptable customary caregivers with children in particular having a wider acceptance of certain relationships. For example, girls in Kigeme spoke admiringly of “guardian angels,” strangers from the DRC who saved children just prior to or during their flight from the DRC: “If she takes you while fleeing such strong danger, she will be your mom. If you take a child as you run down the path, of course she will be your child forever… There were many who you fled with who just left you – not everyone takes you in.” Women in Kigeme, on the other hand, were mixed on such situations and underscored that they were caused solely by the conflict. One stated that, “It’s only acceptable because I have no other option but to adapt to the situation. It’s not acceptable but you cannot refuse it. There is no other way.”

- **Views of Neighbors:** Neighbors as “customary caregivers,” both those from the DRC and those living in close proximity within the camps, were viewed with mixed reactions, depending upon the camp. While 70% of Kigeme participants found pre-flight neighbors unacceptable customarily, 69% of Gihembe participants found camp neighbors acceptable caregivers for children living without their parents. As one teacher from Kigeme explained, understandings of acceptable

> “If I live with a stranger, it is because I have no relatives and have no other choice.”
caregiving are impacted by the sheer urgency of the emergency: “Now that we have fled, no one has normal families, so whoever is willing to take you in is the one you go with. It’s acceptable in the culture but only when there were no blood relatives around.”

3. UNHCR & Partners’ Understanding of UASC & the Best Interest Determination Process

The research revealed a hunger among UNHCR staff and partner organizations for clarity and guidance around classification and processes for children living in customary care arrangements. As the above findings reveal, UNHCR could justifiably categorize children in these communities who live with their grandmothers, aunts, and uncles as neither unaccompanied nor separated as such community-accepted customary care arrangements would place them outside the global definition of UASC. In this way, the global definition remains intact but can be tailored to the local context so that it reflects the realities of the population of concern; such local adaptation of the definition of UASC, based on community-defined customary care, could be utilized more broadly in a variety of contexts. Additionally, a reduction in numbers of identified UASC—and therefore BID caseloads—would free staff to pay greater attention to a more appropriately defined group of UASC and related child protection concerns and to allocate time to deal with root causes of those very protection risks.

There was recognition in the workshop conducted with UNHCR and partners that “UASC may not be considered as such by the community” and that UNHCR needed to “put on the lens of the family.” Similar concerns regarding the adaptability of the UASC definition were expressed by international experts, one of whom told researchers that “there is no global definition [of customary care]. This is not only a problem in Rwanda; it is everywhere. It has been really difficult to implement… I am not surprised this is something that UNHCR Rwanda is struggling with. Those are the broad definitions; they have to be contextualized.”

According to one national expert, reunifications between children with members of their extended family instead of their biological parents has increased recently due to the conflict in Congo; such “extended family arrangements are easily accepted. Easily.” It was estimated that roughly half of these children lived with aunts, uncles or grandparents and that, “the large majority – 95% – are well cared for.” Aligning UNHCR’s definition of customary care and UASC to such levels of acceptance among the community would have important implications for BIA’s, BID, and related resettlement processes in Rwanda. Such a reclassification of children in customary care would, as one UNHCR workshop participant

---

8 However, this is complicated by the fact that resettlement countries’ requirements place restrictions on freely re-categorizing such children who are being considered for resettlement; these restrictions primarily result from resettlement countries’ view of the BID process as safeguarding against the risk of abduction or the manipulation of the refugee resettlement processes. Additionally, the issue of “previous caregiving” (previous to what?) and changing family compositions as time passes after flight would also need to be considered if UNHCR is to follow the UASC guidelines. To take one example, would a child born in Gihembe camp but living with an aunt, uncle, or grandmother be considered an UASC? There is no “previous” to refer to since the child was born in displacement; customary arrangements would suggest that the child is simply within an acceptable customary care arrangement.
put it, strive to make BID assessments and panels “a fraction of the work because we need to focus on follow up and the actual child protection work.”

The research found that the BID process, as it currently stands in Rwanda, presents several challenges regarding capacity, consistency, and clarity on for whom, how and when BIAs and BIDs should be conducted. Concern about the BID system’s alignment with the Do No Harm principle was also voiced regarding children in customary care.

Capacity

While UNHCR field offices are working to boost the capacity of their own staff and partners to undertake not only BID reports but BID panels, workshop participants and key informants voiced a need not only for greater human resources but increased training and subsequent refresher courses on BID reporting and panel best practices.

As one Government representative explained, trainings are needed to “take it to another level.” The deployment of a consultant who focused on BID training and one-on-one mentoring of UNHCR and partner staff appeared instructive in developing long-term BID capacity in country as opposed to the rotating deployment scheme, which leaves UNHCR dependent on those particular staff. One short-term deployee said, “If we leave, UNHCR does not have capacity to process BIDs, and this [reality] applies across sections.” Indeed, extended gaps between deployments have exacerbated the backlog of BIDs in offices handling resettlement cases, where UASC cases languished until a deployee was allocated to conduct BIDs. Thus there is a need to build not only UNHCR’s but also the implementing partner’s capacity in the long-term.

Beyond training, however, there was a fundamental issue of human resources. It is only partly a problem of training; as one Government employee who had participated in a BID training and panel explained, despite her enthusiasm for child protection issues, her primary job was administrative and completely separated from other child protection—or even socially focused—work. Thus, in addition to trainings, workshop participants and key informants requested budgetary commitments to dedicate staff to conducting BIDs and participating in panels as well as enlisting government social workers not only in transit centers but in camps.

Meanwhile, UNHCR and partner staff struggle to balance competing demands on their time, particularly when BIA and BID reporting requires time consuming, long-form writing in second languages. Workshop participants vividly described how staff is overwhelmed by the backlog of BIDs; one participant described the 80 months that it would take staff to complete the 2,000 BIDs required for UASC in the two emergency camps as “not even in the realm of reality.” As a result, quality and consistency of BIDs suffer as staff “feel the pressure of ‘we know how were supposed to do [BIDs], but we just don’t have the time to do it that way,’ so they feel

“When you have 10-15 BIDs per week, you have to sacrifice quality. When it comes to child protection, some children will fall [through the cracks]; not possibly — some children will fall.”
that stress to do [BID cases] justice.” Child protection professionals expressed a sincere desire to meet the standards of the BID Guidelines but called the overarching system “impossible” in reality. To supplement capacity, UNHCR reported relying on registration clerks to undertake assessments in emergency camps; “The one requirement of the BIDs is that the assessor is qualified, and [we] cannot guarantee that.” This issue is even more problematic in the protracted camps, where resettlement colleagues noted that “BIAs should be conducted before the cases come to resettlement, but that doesn’t happen because of capacity issues. It should usually happen with identification [at registration], but that doesn’t happen in our operation.”

**Consistency: Distinct Protection & Resettlement Impetuses for BIDs**

**One weakness of the current BID process in Rwanda is the disjuncture between BIAs and BIDs conducted for protection purposes and those for durable solutions.**

The referral system in which a protection-driven BIA should feed into a BID process is not functioning; as one workshop participant estimated, 99.5% of BIA and BID cases are resettlement cases, not protection. As one UNHCR child protection worker said, “75% of our time is being taken by resettlement processes as opposed to real child protection work, which I think should be given more time because that is where we do interventions and ensure that the safety of the children is given attention. But now we are really focused on resettlement procedures, [work] which does not translate to protecting children on the ground.” Resettlement colleagues agreed, noting that despite the fact that 60-70% of all resettlement cases include children (whether with their parents or without), “We aren’t looking at the child protection concerns primarily when it comes to these cases.” These same colleagues recommended that BIAs in particular should be done outside the context of resettlement because “resettlement orients the [refugees’] answers.”

Anonymized BID panel data made available to researchers showed a remarkable consistency in recommending to “maintain current care arrangements,” implying that panels are not utilized for decision-making as they are intended to; for example, 45 of the 47 BID cases brought before Gihembe’s BID panel in 2014 resulted in the recommendation to maintain current care arrangements including in resettlement. Workshop participants agreed that “sometimes BID panels are just acknowledging what has already happened… It is really just something we need to do within our system.” Workshop participants undertaking resettlement-driven BIDs requested a checklist that could be used as an alternative to taking such cases through the whole BID process, stating that when they do take cases to the BID Panel, “members say, ‘Straight forward. Next one: straightforward.’ Because there is no [protection] reasoning that is provoking us to do the BID except resettlement.”

Some resettlement officers had particularly rigid understandings of acceptable family relationships, including customary care. Establishing family composition is an important component of resettlement processing; a reported change in relationship verification to ensure that verification was conducted prior to referring UASC cases to protection officers resulted in decreased numbers of UASC case referrals. However, strict or faulty interpretations of acceptable family structures and customary care have resulted in the
designation of “fraud” to customary care relationships. Though resettlement officers in capital stated that there were few cases of intentional fraud, some staff in the field characterized all customary care relationships in which children were living with extended family rather than with their biological parents as fraud.

Nearly all customary care cases, however, often resulted in delays to resettlement processing, including due to sporadic BID panels. Resettlement officers were also concerned about whether customary care relationships would be accepted as such by resettlement countries and whether those relationships would be honored and accorded legal rights upon arrival. This issue was also a concern with regard to the Rwandan government, which is also involved in the exit procedures for refugees in resettlement processing; in some cases solely nuclear families have been accepted for visa, forcing UNHCR to “split” cases of customary care to obtain exit visas, despite the resettlement country accepting the family as one.

Finally, in resettlement cases of children in customary care arrangements, workshop participants voiced concern about the criteria on which they should base their recommendations, mentioning length of time and method of joining a caregiving arrangement as potential criteria of acceptability. As the community members expressed in the research, neither of these criteria influence their own conception of acceptable customary care although the former may impact attachment. To be clear, the designation of a care arrangement as “customary” does not preclude the need to assess the quality of care as a protection concern.

Clarity on Who UASC Are and Which Children Require BIAs or BIDs

UNHCR and its partners were eager to set clearer parameters around defining exactly what is customary care and how that definition changed which children would be considered UASC but lacked the time or guidance to do so themselves. Understandings of whether or not a child in customary care was considered UASC varied.

UNHCR Rwanda is not alone in struggling to adapt the global definition of UASC to its day-to-day operations; one international child protection expert recounted an experience in another country in which “we discovered – and this is no one’s fault – that the definition is so hard and so technical that on the ground when it came to registering those children at the UNHCR registration desk, it was not done correctly. It was a mess.”

“It feels like we are not taking good consideration of the culture and background of the child we are dealing with… Sometimes [refugees] look at you and say, ‘What are you talking about?’ Like when you ask, ‘Is there a child here who is not part of the family?’ and they will look at us blank. Or they will say, ‘Can we have that discussion just the two of us?’ and we have to send the entire family out because they do not want [the child and the rest of the family] to know that this is not their biological child.”

---

9 For example, one UNHCR staff member stated that such fraud might include an aunt registering a child living with her whose biological parents were formerly registered in the camp but had subsequently left the camp.
The words of one child protection professional interviewed in-country reveal the confusion surrounding UASC and customary care; she stated that a child living with a paternal aunt would be classified as “separated but accompanied.” While child protection colleagues were open to more flexible conceptions of customary care, resettlement colleagues were more rigid in their definitions and stated that—while acknowledging that the international definition of an UASC would exclude children living with previous customary caregivers—a BID would be required for a child living in such arrangements. “We don’t use the customary part in this operation,” one resettlement officer said succinctly; such a distinction likely reflects the reality of procedural requirements established by resettlement countries. While these children would still be screened for protection concerns, such a re-categorization of children in customary care from UASC and into either their own mitigated risk category or the general child population, would necessitate that UNHCR and partners make a distinction between the caregiving arrangement and the quality of care provided in that arrangement, which should still be a priority concern for all children.

Some UNHCR staff were deeply concerned by the disjuncture between UNHCR definitions of family and those of the community. At times, UNHCR staff appeared to understand on a personal level the dichotomy of the community’s definition of family from that of UNHCR: “Where I come from, I don’t have nieces and nephews. I only have brothers and sisters… In my village, female cousins are my sisters. Male cousins are my brothers. Culturally, this is how people refer to each other. The answer we get [from refugees] depends on how we ask the question. If I want to know which children are biologically from a woman, I ask, ‘Which children came from your stomach?’” Yet others, more notably those operating on a national level and not participating in BIDs themselves, emphasized the need for BID processes for all children without parents “because though placed in an extended family or customary care relationship, these children still need particular attention through BIA and BID because that is how you keep children safe even within a customary relationship.” This statement reflects the conflation of BIDs and BIAs, which are the correct tool for such monitoring.

International experts underlined that “the issue of distinction [between different kinds of UASC] is important. But the most important issue is to really look at the caregiver’s capacity, willingness and resources… These should be the three things that you look at in addition to what's culturally acceptable in all settings.” These experts also recounted the international community’s efforts to develop a vulnerability index to help prioritize UASC cases based on a holistic understanding of the child’s risks and protective factors. “In an ideal world, how would you do it? You must prioritize. But you can only prioritize if you have the technical capacity to do so, which needs a huge investment. The most important thing is that situations are not static; things evolve. The situation and conditions of the family may change.” Indeed, the experts cautioned that “it’s dangerous [to create static categories]. You don’t want to miss a category. You don’t want to say a category is safe or ok when it’s not…. Two years down the line, it still isn’t fine not to monitor because you don’t know what has changed in the situation.”

Factors mentioned by UNHCR and partners in evaluating the appropriateness of caregiving arrangements focused on the relationship between child and caregiver, the length of time in the current caregiving arrangement, and the quality of care. For example, one UNHCR staff member stated that two years in a caregiving arrangement was acceptable to him but that this was a personal judgment. This interpretation stands at odds with the community’s
understanding of what is customarily acceptable, an understanding that is based on blood connection between the child and caregiver with quality of care as a related but not determinative factor; the length of the relationship was not a factor considered by the community in determining acceptability. As one workshop participant asked, “Can you have good customary and bad customary care arrangement? [Customary care] could be separated the question of quality of care… [We] need an almost scientific definition [of customary care].”

Ultimately, the workshop and national-level interviews elicited rhetorical questions about customary care and acceptability that might well have been answered by asking the communities themselves. These included:

- **The meaning of “previous” customary caregiver**: Previous to what? If it’s previous to flight or displacement, this definition implies the need to look at length of time of caregiving relationship and whether it is temporary or not. The word is also, as noted above, problematic in protracted refugee settings. As demonstrated in the “community views” section of this report, community members did not make a distinction between various ways in which children came into new caregiving arrangements—e.g., through flight, divorce, death of parents, etc.—but rather looked at the kin relation to determine acceptability.

- **Measuring the quality of the customary caregiving relationship**: UNHCR staff and partners mentioned neglect, inequality in the family, and overall quality of care issues as potentially problematic. Refugee study participants also highlighted these issues but noted that quality of care can also be problematic with biological parents. For the three easily accepted customary care arrangements (aunts, uncles, and grandmothers), study respondents indicated that there were not reasons to believe that these customary care arrangements were inherently more risk-prone for children than living with their biological parents.

How UASC are identified is closely related to the definition of UASC. In emergency camps, registration clerks—whose work is followed by that of a BIA desk clerk—identify UASC while resettlement-related UASC cases were reportedly identified through inconsistent Progres database scans that initially did not result in clear caseloads. Protection partners and community reporting were also sources of identified UASC cases although less common. The role of registration’s BIA desk in categorizing UASC was seen to be critical, as it sets off an entire BIA and BID reporting process for the child. The registration desk also notes the relationship type between child and caregiver and reports to the litigation desk, which makes the UASC determination; essentially, registration uses relationship mapping, including whether or not a child is with his/her biological parents, in lieu of another mechanism to check for child protection red flags.

**Clarity on How to Respond to Identified UASC Cases**

The depth required of BIDs, especially as compared to BIAs, was a source of confusion. One resettlement colleague said, “There is not a consistency to how people

---

10 UNHCR’s protection partner is planning to undertake a “UASC verification exercise” in the near future.
understand [BIDs/BIAs]. It is not streamlined into one set of guidelines where one caseworker can understand everything at a glance quickly. [A child protection colleague] said that complex BIAs needed BID. Another person from Kigali said that, ‘A complex BIA needs another BIA.’ We need guidelines so that we have same understanding.” Another key informant requested a rapid assessment tool that would be less onerous than a BIA.

UNHCR and partner staff reported each BID taking an average of several days to a week to complete, with complicated cases taking up to 29 distinct interviews. While at times such depth is necessary and indeed can be vital, there appeared to be concern about backlogs of BIAs accruing because of lack of capacity, particularly on the part of partners, to conduct both BIDs and BIAs. Staff reported that the process for BIAs was similar to BIDs though without the panel decision process and that BIAs took them approximately the same amount of time to conduct as a BID, even when conducted for the second or third time.

In addition to the difference between BIAs and BIDs, there was a singular understanding of the depth of BIDs with little use of the simplified procedures proposed in the BID Guidelines in cases where “there are clear indications as to what constitutes the best interests for an individual child or group of children sharing the same characteristics.” Additionally, the disconnect between BIAs and BIDs belies a recognition that child protection approaches need to shift toward case management, including follow up; in one child protection professional’s words, “It seems like it stops with the BID and then we can start breathing again, but I have tried to convey the message that now the work starts.” Case management meetings were reported to be helpful in this regard and should be consistently applied to ensure systematic monitoring.

Clarity on When BIA or BID Processes Are Required

Ideally, all UASC undergo BIDs within two years of identification and as a part of the resettlement process. Due to backlogs and capacity issues, however, the timing of BIDs has been delayed and often forms bottlenecks, particularly where resettlement case officers outnumber and outpace the capacity of a single protection officer tasked with ensuring the completion of BIDs. One UNHCR staff member estimated that half to three quarters of all resettlement BIDs are conducted retrospectively upon resettlement processing, not upon identification of the child. As a resettlement colleague noted, “The challenge for BIDs also is that it wasn’t done at the point where the child was

---

11 UNHCR. Guidelines on Determining the Best Interests of the Child, May 2008, p 55. One UNHCR headquarters advisor notes that it may be useful to look at the processes of “submission for a child with a single parent” and suggests a review of the material available ( a simple BIA form and a form to indicate consent for child to be resettled) on the UNHCR intranet at this site: https://intranet.unhcr.org/intranet/unhcr/en/home/protection_and_operational/international-protection/Durable_Solutions/resettlement/key_policy_documents/operational-guidance-note--bia.html
identified. Ideally, they should have been done earlier and only updated for durable solutions.”

Workshop participants reported that resettlement guidance sets a 6-month to 1-year expiration of BIDs, meaning that in addition to fresh cases, protection officers are referred large numbers of “redos,” which are often completed in their entirety.12 Researchers’ analysis of relevant documents does not provide a clear explanation for a pre-designated term of expiration for BIDs; there is a lack of clarity around the source of such “expiration dates” and the reasoning behind their terms. Additionally, resettlement colleagues reported putting cases on hold for an undetermined amount of time or re-referring them to protection to locate missing parents as a way of meeting their case targets; “We are driven by targets. So we usually look at clean cases to process and meet our targets. We do not have a time during which we say that [a case on hold] will start being processed again.” The need to meet numbers creates a perverse incentive to process “clean” cases when, in fact, resettlement officers indicated that in theory they were supposed to focus on the most vulnerable populations.

There was also concern about the distinction between BIAs and BIDs and when which or the other was needed. The BID Guidelines outline situations in which BIDs are required, namely: 1) temporary care arrangements for unaccompanied or separated children in exceptional situations; 2) the identification of durable solutions, including resettlement, for UASC; 3) the possible separation of a child from his/her parents against their will; 4) the identification of durable solutions or decisions on care arrangements in situations where custody remains unresolved; and 5) in complex cases, prior to reunification. Despite this guidance, some participants reported anecdotal receipt of “unnecessary BIDs… when we only needed BIAs.” These cases included: cases processed by partners who did not understand the BIA/BID distinction and “expiration” of BIDs after 6 months that required repeated reporting and full recompletion of BIAs as opposed to brief updates on changes since the original full report. Moreover, in one workshop participant’s words, “this line between BIA and BID is a judgment call” that relies on whether or not “you are not changing much in a child’s life” or the complexity of the case and severity of protection concerns. Examples of such overreliance on BIDs included GBV cases that did not require removal of a child or neglect cases that were not severe. Participants underlined that BID coordinators’ technical advice was important in preventing such confusion.

Concern regarding Do No Harm

UNHCR and partners expressed serious concern that classification of children in customary care as UASC has the potential to do real harm to the child by labeling him/her “bad” and immediately putting a child into a risk category that may not be appropriate. One key informant worried that in such cases, and others, the BID process may be doing more harm than good.

One participant underlined that, “Care needs to be taken not to label children in certain ways. We can do harm by introducing terminology that may not be applied by the

---

12 Many UNHCR advisors noted that these cases did not, in fact, require an entirely new BID to be completed in these cases and suggested a streamlining process.
community.” Indeed, participants recounted families asking assessors at the end of interviews if “something was wrong,” indicating that in the caregiver’s mind there was nothing problematic about the caregiving arrangement. Child protection actors recounted anecdotes of assessors’ questions about “someone here who isn’t your child” resulting in children being blamed for delayed resettlement, of revealing or forcing caregivers to inform children that the adults they thought to be their parents were in fact not their biological parents, of creating isolation or exclusion of the child in the family, and of the family feeling controlled by the child because of specific attention he/she receives from organizations. Repeated visits to conduct a BID or to follow up on cases in which there were no protection risks outside of being classified as UASC were also identified as causing harm; one key informant suggested that regular BIAs and BIDs should only be conducted for children at risk. Moreover, there were reports of a disturbing phenomenon of families incorporating UNHCR terms into their understanding of child care by calling those children who were once a part of their family but are no longer considered family by UNHCR by the name “fraud.” One participant suggested that do no harm was perhaps impossible and an attitude of “do as little harm as you can” should be adopted instead.

The staff members concerns were borne out in the research, with a woman in Gihembe explaining that she would not take in an unrelated child because, “In this camp, the authorities would ask you why you have that child. [Which authorities?] UNHCR. During verification, it becomes a judgment. I would rather avoid this trouble. I have enough trouble already.” Additionally, women in Kigeme complained of differences in aid provided by UNHCR to different groups of children, depending upon their care arrangement.

4. The National Context: Lack of Domestic Legal Clarity

While Rwandan culture, post-genocide experience and recent policy changes have overwhelmingly endorsed support for extended family and kinship care for children without parents, the law itself maintains the nuclear family as the legally accepted care arrangement. Despite the Government’s progressive movement, this dichotomy between Rwandan custom and law, as well as the limited application of new policies to refugee children, complicates the context in which UNHCR navigates the issue of customary care for refugee children. It appears that the law and the cultural values, as well as the Government’s policies, are not only out of sync but at odds with each other.

Workshop participants expressed concern about the lack of legal clarity in Rwandan law regarding customary care, asking, “Are we conflating customary and legal..."
definitions” of acceptable caregiving arrangements? On a cultural level, there appears to be openness in Rwandan culture that parallels that in the refugee communities; one national child rights actor told researchers that “we also see [Rwandan] children with their extended families, like paternal aunt, maternal uncle, cousins, grandparents, anyone with whom the child shares a link—it depends. You find that the cultures of neighboring African countries are almost identical. You find that when the child has a problem and when the other family members have the means, they take that child in. Also paternal uncles. Everyone with whom you share a connection, even if it is not a close relative.” This is not merely Rwandan culture but also is interrelated with the aftermath of the genocide: “It is very frequent for Rwandan families to have children are not theirs just because of the genocide. It is very clear that, in most families, almost everyone has grown up with a child or two or three or six children who were not their [biological] siblings.”

In the words of one national child protection actor, “There is a kind of paradigm shift in the whole country in saying ‘ok, let us try to actually promote those care arrangements, let us try to have children in families, whether it’s their biological family or their relatives.’” This key informant saw the Government’s alternative care strategy as an effort to formalize an ongoing process of the development of kinship care that had already been underway for decades. Another key informant familiar with the national context agreed that kinship care was “spontaneous” but noted that—despite potentially being required by “moral obligations”—it accorded no legal rights: “Kinship care here is not regulated. Even if a child has just lost his/her parents, another relative just comes and takes care of it. It was spontaneous, and there were no institutions at that time.”

Rwandan law places the family at the center of society and accords legal rights only to the nuclear family; such a notion is enshrined even in the country’s Constitution. This legal framework stands in contrast to the more recent and broader direction of the Government’s Integrated Child Rights Policy and Strategy for National Child Care Reform, both of which embrace family-based care arrangements. Such a dichotomy presents a complex national context in which to consider the customary care arrangements of refugee children. It is important to note, however, that—from a legal vantage—the Constitution trumps policies and strategies. The rapid deinstitutionalization process underway in Rwanda presents an additional challenge that is taking place in a separate sphere than the circumstances of refugee children, who are rarely if ever institutionalized. Ideally the forthcoming reforms to the Family Law and Policy and the Guidelines on Alternative Care will clarify the national context, including definitions of types of care and the legal rights and processes associated with them. However, the concept of conseil de tutelle may provide an avenue for interim legal recognition of customary care relationships amongst refugees.13

While the domestic and international normative frameworks are further explored in Annex 2, staff voiced concern about how the Rwandan context impacts the way BIDs are undertaken. A common concern arose in resettlement cases in which biological parents are present in Rwanda but are not caring for the child, prompting UNHCR to insist on a release of custody without assumption of legal responsibility by the caregiver with whom the child

---

13 For further details on the legal and policy framework in Rwanda, please refer to the Annex: Literature Review.
Moreover, there was some concern that the forward movement in Rwandan child protection and alternative care policy was being undertaken separately from the development of policy and practice regarding refugee children. As one national child protection expert put it, “Rwanda has moved one step forward in making sure that [it is acknowledged that], ‘Ok, we also have refugee children, and we also have other children.’ I mean it is not exclusive. The national child protection system that is being built needs to be inclusive. It is not easy to say, but I think it is something that has been repeated.”

RECOMMENDATIONS

Short-Term Recommendations

- UNHCR should utilize the Customary Care Assessment Tool in remaining refugee camps and, where possible, in urban refugee communities in Rwanda (Nyabiheke, Kiziba, Mugombwa, Kigali) to assess communities’ views on acceptable customary care arrangements and re-categorize children in customary care accordingly.

- Given that boys in Kigeme determined that caregiving by maternal aunts was “unacceptable,” UNHCR should hold a second focus group discussion with more adolescent boys in Kigeme to see if they agree with the first group regarding the acceptability of that relationship; if the second group of boys agrees with the first group of boys, then maternal aunts in Kigeme should likely not be considered customarily acceptable.

- UNHCR should establish criteria to define acceptable customary care arrangements based on the results of the community-based assessment toolkit found in the Annex 4. UNHCR should—in analyzing the resulting data—determine instances in which customary acceptability seems quite straightforward and there is a clear, positive consensus amongst refugee participants. Options for determining acceptability could range from a majority (i.e., above 50%) to full unanimity (i.e., at or close to 100%). In making such determinations, UNHCR should bear in mind that this methodology is not statistically representative but rather seeks to create a process by which clear consensus on the acceptability of certain forms of customary caregiving emerges.

- UNHCR should issue guidance that re-categorizes children in Kigeme and Gihembe who are living without their parents but in the customary care of grandmothers (or grandparents), paternal aunts, and uncles into the general category of children, not UASC. At present, these children are consistently being classified as separated children although their caregiving situations are clearly acceptable by customary standards. Lists could be altered on Progres by registration

---

14 One UNHCR staff member at headquarters suggests that “there is varying practice on this. In some operations parents are just asked to sign a ‘consent’ that the child [be resettled], not a release of custody. In cases where a child is resettled with a customary caregiver, we should use the same format rather than release of custody.” Further guidance on this issue is available on the UNHCR intranet: https://intranet.unhcr.org/intranet/unhcr/en/home/protection_and_operational/international-protection/Durable_Solutions/resettlement/key_policy_documents/operational-guidance-note–bia.html
colleagues and any continuous registration efforts should be made clearly aware of the new categorization with a country-wide directive and updated registration SOPs. These children would, however, still be considered UASC for resettlement purposes.

- **UNHCR should update its database of UASC to reflect the findings of the extended definition of customary care found in the assessment so that it can redirect child protection interventions.** The two most common points of identification – registration and resettlement – are ideal points of intervention for reclassification of existing cases of children in customary care out of the UASC category and for refraining from the inclusion of new cases of customary care in the UASC category. Though it will require initial effort to identify and confirm such children, it should ultimately reduce the numbers of total UASC in Rwanda to more accurately bring the country office in line with the global definition of UASC. In this way, the global definition can be adapted for local context and respect the conception of ‘family’ according to Congolese refugee families. This process will require a separation of the care arrangement from the quality of care, which should still be monitored through standard protection procedures.

- **UNHCR should review its registration form to allow for more explicit recording of care arrangements, especially customary care.** It is recommended that a checkbox entitled “Under Customary Care” be added to the “relationship to [head of household]” section of its registration form and Progres database. This will facilitate quick and clear identification of such children as distinct from UASC. Additional possibilities include listing all acceptable customary caregiving relationships or issuing a directive to registration clerks on approved customary caregiving relationships, based on the results of the toolkit assessment.

- **Regarding BIDs and BIAs, UNHCR should:**
  o Issue guidance on BIAs and BIDs with distinct processes that flow from a combination of the category of child and “transversal” vulnerabilities and protection concerns. Categories might include: 1) Unaccompanied; 2) Separated; 3) In Customary Care; 4) General Child Population with Protection Concerns. BIDs should be limited to “significant decisions that will have a fundamental impact on a child's future development.” The attached draft guide on Three Tiers of BIA/BIDs by Category of Child in Annex 3 could be a starting point for discussion and adaptation by UNHCR; it must be noted that the draft guide is simply a suggested springboard for discussion, not a “product” of this research process.
  o When BIDs are needed, and in particular for resettlement cases, consider creating an expedited group approval process within BID panels for children in customary care unless specific protection concerns exist. UNHCR can implement the simplified procedures identified in the BID Guidelines for children in customary care, which meet

15 Note that these categories do not necessarily reflect levels of inherent vulnerability, which will depend on each child’s circumstances.
17 A UNHCR representative noted that an expedited process within a BID panel would still need to be a formal BID process.
the criteria of situations where, “there are clear indications as to what constitutes the best interests for an individual child or group of children sharing the same characteristics... where practical constraints limit the capacity of UNHCR and of partners to undertake a full BID.” Arguably, these children share the characteristics of being Congolese children living in the customarily acceptable care of their grandmothers, aunts or uncles.

- UNHCR should replicate the BID capacity building model from Kigeme camp and continue to recruit deployees who are focused on training and building the capacity of UNHCR and partner staff to conduct BIDs and Panels, including through one-on-one mentoring and bi-annual refresher courses on both the principles and operations of BID assessments and panels.

- UNHCR should authorize BIAs and BIDs written in both French and English. Though it would be most efficient to authorize Kinyarwanda BIDs, that may create further delays for in the review process; the partial measure of authorizing French reporting will help alleviate the burden of time-consuming report drafting process for staff whose native or primary language is not English.

- UNHCR should authorize that BIAs and BIDs for siblings may be combined in single reports. In this way, attention can be paid within the report to individual children within their collective context. This process can be implemented for protection cases and can be advocated for with resettlement countries.

- UNHCR should issue a directive authorizing that BIAs and BIDs that have “expired” should be briefly updated based upon the original assessment. Such updates could be dated updates of several paragraphs in the relevant section of the form that detail only the changes in the child’s circumstances since the date of the original BIA or BID. This would replace the time-consuming process of redoing an entire BIA or BID.

- UNHCR should clarify that BIAs and BIDs do not “expire.” If there is no change in a child’s circumstances, an update should be acceptable in lieu of a full repeat of a BIA or BID. Such an addendum or a “note for file” could simply note that, based upon a caseworker’s visit, the original recommendations still stand. Such a process could be outlined in an updated BID SOP or in a “protocol” document. Proposed period of expirations are included in the 3 Tiered BIA/BID Guide in annex 3, but it should be remembered that the proposed guide is simply a starting point for UNHCR discussions. UNHCR should advocate with resettlement countries to accept such updates in the context of resettlement cases.

- Plan should, resources pending, devote dedicated staff resources in camps to conducting BIAs and BIDs.

- The Government of Rwanda should better incorporate refugee-specific concerns to their alternative care policies and forthcoming update to the Family Code.

- The Government of Rwanda should, in approving exit visas for resettlement cases, accept customary care arrangements as legitimate and acceptable family structures and not delay or deny exit visas on such grounds, as they are a critical part of resettlement processing. It might be helpful for UNHCR to

---

raise this issue with the Government and then develop a written document that clarifies the process to ensure clarity and common understanding.

- **MIDIMAR** should build on its active participation in the BID Panels by designating qualified professionals and increasingly hiring social workers to serve in such roles not only in transit stations but in protracted camps as well.

**Long-Term Recommendations**

- **UNHCR** should advocate with resettlement countries to amend their resettlement policies to include:
  - Exclusion of children in validated customary care arrangements (e.g., aunt, uncle, grandmother in these cases) from UASC categorization and thus the BID requirement;
  - Pursuit of streamlined resettlement procedures for children in customary care arrangements;
  - Acceptance of single combined BIDs for siblings with the same recommended durable solution; and
  - Clarification of the legal status of children and accordance of legal rights to their customary caregivers upon arrival in the resettlement country.

- **UNHCR** should further explore Rwanda’s *conseil de tutelle*. This may be a possible method of transferring legal rights to customary caregivers for refugees—in lieu of the current practice of custody releases that do not include the assumption of responsibility for the child by his or her caregiver. However, this should only be pursued if the process does not create additional backlogs in an already arduous process. UNHCR should also seek to better understand why refugees do not currently make use of the *conseil de tutelle* and how the *conseil de tutelle* function in practice; they should also inquire with resettlement countries if *conseil de tutelle* agreements would be legally recognized.

- **UNHCR** should advocate with the Rwandan government for the equal application of its alternative and family care policies to refugee communities.

- *Where possible, UNHCR and those partners who provide deployees should prioritize consistent deployment schedules that eliminate gaps in child protection staffing.* Priority should go to locations that have not had capacity building training undertaken with field office staff and partners.

- **UNHCR** should work with partners in Kigeme camp to better understand and address the phenomenon of drug and alcohol abuse, as well as sexual abuse.

**ANNEXES**

Annex 1: Terms of Reference—Embracing the Correct Definition of UASC Study
Annex 2: Literature Review
Annex 3: Draft Guide: 3 Tiers of BIA/BIDs by Category of Child
Annex 4: Toolkit
  - Toolkit User Guide
  - Informed Consent
- Group Discussion Guide
- Key Informant Interview – Community Leader Guide
- Note Template
- Group Discussion Data Template
Annex 1: Terms of Reference—Embracing the Correct Definitions of Unaccompanied and Separated Children by UNHCR

**Introduction**

According to the Convention on the Rights of the Children (CRC), and the Inter-agency Guiding Principles on Unaccompanied and Separated Children, unaccompanied and separated children are defined accordingly:

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

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

In fact this is the same set of definitions used in the BID Guidelines. However within UNHCR, the practice is to define unaccompanied children as children without their biological parents or relatives and separated children as children without their biological parents, but with their relatives. Adults who, by law or custom, are responsible for caring for these children are not acknowledged according to our practice. This is done with the assumption that resettlement processes requires best interest determinations (BIDs) for all unaccompanied and separated children, without investigating how we are defining who are unaccompanied and separated children. Instead, BIDs are conducted for all children not living with their parents, sometimes repeatedly due to expiring BIDs every 6-12 months. In reality, resettlement countries have varying definitions of how they define unaccompanied children, if at all. Advocacy would be needed to ensure that receiving countries would accept the definitions of unaccompanied and separated children as used in the BID Guidelines.

Although unaccompanied and separated children represent roughly 10% of all children of concern, they take the full-time engagement of six out of eight people who are working in child protection with UNHCR Rwanda. The assumption is that these children are more at risk of child protection harms than other children. The reality perceived by UNHCR staff is that only a small minority of these cases warrants a child protection response as most are cared for and protected by their relatives. Instead of vulnerabilities driving our priorities, we are allowing a faulty application of the definitions of unaccompanied and separated children to drive our work. With a small, limited child protection budget, this translates to fewer resources to strengthen the child protection system and in particular, to prevent and respond to critical child protection cases of abuse, neglect, violence and exploitation.

If the full definitions of unaccompanied and separated children were applied, where adults who, by law or custom, are responsible for taking care of children are acknowledged, this

---

19 See Annex A for a list of how different resettlement countries have defined unaccompanied children.
20 List of UNHCR Rwanda child protection affiliate staff: 2 BID Coordinators, 1 BID Consultant, 3 BID Clerks, 1 Child Protection and SGBV Officer and 1 Child Protection Intern.
would potentially reduce the number of children identified as unaccompanied and separated children and thereby reduce the burden to conduct 3,157 BIDs for durable solutions on a continuous process for children who are largely in stable family-based care arrangements. Instead best interest assessments (BIAs) could be used to monitor these children’s protection without applying the full formal procedures of the BID. BIAs require less resources to conduct than BIDs, thus freeing UNHCR Rwanda’s child protection staff to focus on urgent child protection cases.

However applying the full definition of unaccompanied and separated children also raises its own challenges. In some emergencies, children who arrive with their neighbors are being classified as separated children even if the neighbors were not their previous caregivers in their country of origin. This raises troubling questions regarding who can be classified as a customary caregiver. And is there a difference between ‘customary caregivers’ and ‘adults who by custom’ are responsible for caring for children without their parents? Additionally, whose custom are we referring to and when does the custom apply – was this the custom before flight or after? There is a lack of a tested methodology for identifying these individuals. Moreover, there is a lack of tools to be able to assist Registration and Resettlement colleagues within UNHCR to be able to better protect these groups of children.

Proposed Response

Therefore, UNHCR Rwanda is seeking a consultant to conduct a key informant study to answer the questions raised above for Congolese refugees in Rwanda. We are seeking answers that can be translated into operational improvements within UNHCR Rwanda.

Expected outcomes of the project:

- Reduced numbers of unaccompanied and separated children as defined by the CRC;
- Increased number of best interest assessments required;
- Reduced numbers of best interest determinations required;
- Increased UNHCR staff capacity for urgent child protection cases;
- UNHCR staff provided with clear criteria and screening questions to better identify customary caregivers;
- Improved advocacy with resettlement countries with researched reasoning on why we will be applying the CRC/BID guidelines’ definitions of unaccompanied and separated children.

Expected outputs from the consultancy:

- Clear criteria for defining who qualifies as ‘an adult who, by custom, is responsible’ for the care of children who are not with their biological parents according to relevant Congolese ethnic groups present within refugee camps in Rwanda;
- Screening questions to determine who qualifies as customary caregivers for registration and resettlement purposes;
- A set of the tested research tools and an user guide on administering the research tools; and
- A report of the study with clear, feasible operational recommendations.

**Methodology & Timeframe**

The study will be completed within 7 weeks.

The study will aim to be rigorous yet practical; though academic thinking and methodology will inform the study, the emphasis will be on seeking useable, results-oriented tools and guidance. In addition to a final report, it will include a desk review of relevant literature, documents, and case studies; key informant interviews with UASC, caregivers of UASC, UNHCR staff and possibly with refugee community leaders conducted in Rwanda; development of specific, clear and functional tools, screening questions and criteria for regular use by UNHCR staff, as well as guidance on their use in the Rwandan context. The study will be a consultative process that utilizes key informant interviews to best understand the underlying attitudes toward and definitions of customary caregiving such that UASC defined by UNHCR Rwanda are truly UASC, and thus the children in most need of BIDs and urgent attention by UNHCR staff.

<table>
<thead>
<tr>
<th>No.</th>
<th>Tasks</th>
<th>Timeframe</th>
<th>Percentage of Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Conduct desk review</td>
<td>1 week</td>
<td>30%</td>
</tr>
<tr>
<td>2</td>
<td>Develop research tools</td>
<td>2 days</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Conduct key informant interviews in Rwanda</td>
<td>2 weeks</td>
<td>30%</td>
</tr>
<tr>
<td>4</td>
<td>Develop criteria and screening questions</td>
<td>3 days</td>
<td>40%</td>
</tr>
<tr>
<td>5</td>
<td>Write-up report with recommendations</td>
<td>1 week</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Develop user guide and final versions of the research tools</td>
<td>1 week</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Send final products with consideration with feedback from UNHCR</td>
<td>1 week</td>
<td></td>
</tr>
</tbody>
</table>
Annex 2: Literature Review

To best understand the source of confusion about and therefore misapplication of child protection (CP) and best interest determination (BID) resources toward unaccompanied and separated children (UASC) in Rwanda, four basic research questions are examined through this literature review. First, how are UASC defined in the literature? Second, what does international guidance say about customary caregiving for unaccompanied and separated children? Third, are these documents internally consistent and if not, where do discrepancies and areas for potential confusion arise? Fourth, how is customary caregiving conceived of within the Congolese/Banyarwanda refugee communities? And fifth, how does customary care amongst Congolese refugees situate itself in the Rwandan context? This basic overview of the current literature, including the opinions of several international and national experts, on the above questions serves as the basis for the “Embracing the Correct Definitions of UASC” Research Project.

1) Defining and Identifying UASC

Definitions of UASC

The right to family and protection of children is enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child, which was ratified by Rwanda in 1991.\textsuperscript{21} However, for some refugee children, various circumstances arise which render children “unaccompanied or separated.” As detailed in this study’s Terms of Reference (Annex 1), unaccompanied and separated children (UASC) are commonly defined as:

\textbf{Unaccompanied children (also called unaccompanied minors):} 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.

\textbf{Separated children:} Children who are 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.

Such definitions are identical according to the UNHCR BID Guidelines,\textsuperscript{22} the UN Committee on the Rights of the Child,\textsuperscript{23} the Inter-Agency Guiding Principles on Unaccompanied and Separated Children,\textsuperscript{24} the UNHCR Handbook on Resettlement,\textsuperscript{25} the

\begin{flushleft}
\textsuperscript{22} UNHCR Guidelines on Determining the Best Interests of the Child, May 2008, p 8.
\textsuperscript{23} UN Committee on the Rights of the Child, General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, 1 September 2005, UN Doc. CRC/GC/2005/6, ¶7-8.
\textsuperscript{24} Inter-Agency, Inter-Agency Guiding Principles on Unaccompanied and Separated Children, January 2004, p 13.
\textsuperscript{25} UN High Commissioner for Refugees (UNHCR), UNHCR Handbook for Resettlement 2011, July 2011, p 186, 284.
\end{flushleft}
UN Guidelines on Alternative Care for Children,\textsuperscript{26} and the UNHCR Rwanda BID Training.\textsuperscript{27} Accurately defining UASC – a group at elevated risk of exploitation and abuse – should be viewed within the framework of UNHCR’s move toward a child protection systems approach: “This approach represents a shift away from categories of children (victims of abuse, girl mothers, street children, child soldiers and so on) to a more holistic view of the situation of the child, and the components of such a child protection system.”\textsuperscript{28} The systems that UNHCR is attempting to strengthen must support all children, not only those who are unaccompanied and separated, but specialized services may be—and in fact, are likely to be—required to protect and to care for UASC.

The significance of this definition is reflected in the fact that the Convention on the Rights of the Child devotes Article 20 to stipulating UASC’s rights. More specifically for the purposes of this study, the definition is significant due to the fact that once a child is categorized as UASC, the formal Best Interest Determination procedures are triggered in the context of either durable solutions or exceptional temporary care arrangements, according to the \textit{UNHCR BID Guidelines} and the \textit{Field Handbook}.\textsuperscript{29} Best Interest Assessments (BIAs) offer a less formal and seemingly less onerous mechanism for monitoring the well-being of children who may not be UASC but may face other protection concerns or for UASC who are not in need of a durable solution or an exceptional temporary care BID. The \textit{UNHCR Handbook on Resettlement} and the \textit{UNHCR Rwanda BID Training} state that BIDs are required for “all unaccompanied and separated children to whom UNHCR provides direct or indirect care,” and “all unaccompanied and separated children whom UNHCR assists in finding durable solutions.”\textsuperscript{30} “Children At Risk” constitute a primary resettlement category that sometimes drives BID processes.\textsuperscript{31} Once a child is categorized as UASC, UNHCR’s resources become heavily engaged; to better understand if this is necessary and appropriate, the actual definition of UASC – which excludes children under the care of adults who by law or by custom are responsible for doing so – must be carefully defined and then applied in emergency and protracted situations. Indeed, one of the very purposes of a BID is to “support appropriate and safe care arrangements.”\textsuperscript{32}

**Mechanisms to Identify UASC**

As the Inter-Agency Guiding Principles underline, identifying UASC “must be approached very carefully to ensure that all genuine cases are found, while not attracting false cases. This should be verified through interviews with the child and members of the community.”\textsuperscript{33}

Though sometimes identified by resettlement or protection colleagues, the \textit{UNHCR ExCom}
Conclusion 107 on Children at Risk, the UNHCR Handbook on Resettlement and the BID Guidelines make clear that initial screening and registration procedures are the ideal mechanisms for identifying UASC as these processes provide essential identifying information and direct subsequent protection efforts, including, inter alia, placement in temporary care arrangements, health and other services as well as the initiation of BIDs. The UNHCR Handbook on Resettlement states that while data on individual needs and vulnerabilities should be collected at all three levels of registration, “early and accurate registration at Level 2 can itself be of considerable use in profiling for resettlement purposes, as it provides for identification of specific protection and assistance needs,” including the needs of UASC. Additionally, the BID Guidelines cite the Committee on the Rights of the Child in encouraging BID initiation “without undue delay and, wherever possible, immediately upon the assessment of a child being unaccompanied or separated.” The UN Committee on the Rights of the Child states that UASC should be identified upon arrival or as soon as a child’s presence becomes known to the authorities, including via a registration process.

One possible way to augment early and accurate UASC identification by applying the correct definition of UASC could be through the Heightened Risk Identification Tool (HRIT), which identifies “refugees at risk by linking community-based and participatory assessments with individual assessment methods.” This idea would require further research to see if this tool is in fact an appropriate tool for identifying UASC with protection concerns.

2) What does international guidance say about customary caregiving for unaccompanied and separated children?

Defining customary caregiving

Customary caregiving is not well defined or explored as such in refugee literature; related concepts are engaged but the notion of “by law or by custom” or “customary caregiving” lack consensus. As some have noted, this lack of clarity is problematic in practice: “For example, in some African cultures, a child living with a grandmother may not be considered to be deprived of her family environment [under the CRC], while she may be considered to be under alternative care under the Guidelines [on Alternative Care of Children].”

A caregiver is defined by UNHCR as a “person with whom the child lives and who provides daily care to the child, without necessarily implying legal responsibility. Where possible, the child should have continuity in who provides their day-to-day care. This person has a

---

34 UN High Commissioner for Refugees (UNHCR), Conclusion on Children at Risk, 5 October 2007, No. 107 (LVIII) - 2007, para E; UN High Commissioner for Refugees (UNHCR), UNHCR Handbook for Resettlement 2011, July 2011, p 187, 220; UNHCR Guidelines on Determining the Best Interests of the Child, May 2008, p 19 (Figure 2), 58.
39 Roby, Jini. “Children in Informal Alternative Care,” UNICEF Discussion Paper, June 2011, Footnote 7. NB: This study includes a significant amount of data on community-based care in countries in Africa and Southeast Asia, however there is no data from Rwanda or the DRC.
parental role, but may or may not be related to the child and may not be the child’s legal guardian.”

Similarly, the Inter-Agency Working Group on UASC’s *Alternative Care in Emergencies Toolkit* does not consider “customary care” specifically but it does define “customary caregivers” in the literature:

> A customary caregiver is someone that the community has accepted, either by tradition or common practice, to provide the daily care, protection and supervision of a child. [emphasis added]

While lacking an agreed definition, the notion of customary caregiving is recognized by the fundamental legal source protecting children’s rights: the Convention on the Rights of the Child (CRC). Article 5 states:

> States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, 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. [Emphasis added]

Conversely, in Article 18, the CRC references only parents or legal guardians as being responsible for the upbringing and development of the child. Article 20, however, stipulates that alternative care for children deprived of their family environments may take a variety of forms and stipulates that “due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.” The UN Committee on the Rights of the Child, in expanding upon Articles 20 and 22, notes that changes in a child's residence should be limited and children should be allowed to stay with adults arriving with them or living with them, where it is in their best interests.

The African Charter on the Rights and Welfare of the Child, while often referencing only “parents, legal guardians, or close relatives” (as, for example, in Article 23 on refugee children), does contain a similar formulation to the CRC on alternative care arrangements in Article 25, which is dedicated to separated children. This article implies that a customary care arrangement that meets certain ethnic, religious, cultural and linguistic requirements may not only be an acceptable but preferable alternative care arrangement.

---

43 Ibid, Article 20.
44 UN Committee on the Rights of the Child, *General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside Their Country of Origin*, 1 September 2005, UN Doc. CRC/GC/2005/6, ¶40. See also para 55, on care arrangements that should protect children from recruitment, re-recruitment or use by parties to conflict, including by barring caregivers directly or indirectly involved in conflict.
UNHCR materials recognize the diversity of caregiving worldwide, noting that “concepts of family and childhood depend on cultural and sociopolitical norms and practices. The role of the (extended) family, the perception of childhood and child-rearing activities vary around the world.” While the BID Guidelines include “the presence or absence of parents” as a factor in the individual circumstances that help to determine the wellbeing of a child, they do not preclude customary caregiving relationships. Indeed, traditional care of separated children has been pointed to as a protective factor by UNHCR.

UNHCR’s ExCom Conclusion 107 on Children at Risk simply emphasizes that authorities and UNHCR should “promote the provision of alternative care and accommodation arrangements for unaccompanied and separated children, and facilitate the appointment of a guardian or adviser.” There are indications, however, that customary caregiving is given, at least nominally, comparative weight with legal guardianship as secondary only to biological parents as ideal caregivers. The very same ExCom Conclusion, for example, encourages interested parties involved in resettlement efforts to “take a flexible approach to family unity… as well as to the definition of family members.” The UNHCR Resettlement Handbook acknowledges that there is no single agreed definition of the family and “recognizes the different cultural dimensions and societal norms that result in the variety of definitions of the family unit. It therefore promotes a path of cultural sensitivity combined with a pragmatic approach as the best course of action in the process of determining the parameters of a given refugee family.”

Several themes—including dependence, family unity, continuity, suitability, and cultural appropriateness—that recur in the alternative care literature and may be helpful in defining customary care are explored below.

**Dependency**

The UNHCR Resettlement Handbook explores such flexibility in the notion of dependence, noting that:

> The relationship or bond between the persons in question will normally be one which is strong, continuous and of reasonable duration… Other members of the household may also be dependents, such as grandparents, single/lone brothers, sisters, aunts, uncles, cousins, nieces, nephews, grandchildren; as well as individuals who are not biologically related but are cared for within the family unit.

In the context of resettlement, such dependence closely relates to family reunification:

---

46 UNHCR, “Best Interests Determination as part of Broader Child Protection Programming,” PowerPoint Presentation, Slide 5 Notes.
49 UN High Commissioner for Refugees (UNHCR), Conclusion on Children at Risk, 5 October 2007, No. 107 (LVIII) - 2007, ¶H.
50 Ibid, ¶H.
51 UN High Commissioner for Refugees (UNHCR), UNHCR Handbook for Resettlement 2011, July 2011, p 178.
52 Ibid, p 179.
children in customary care arrangements are conceivably included in the categories of “other dependent relatives” and “other dependent members of the family unit.” For example, the UNHCR Handbook on Resettlement states that the use of the categorization of “other dependent relatives” applies:

Where persons such as single/lone brothers, sisters, aunts, uncles, cousins, etc., were living with the family unit as dependents in the country of origin, or where their situation has subsequently changed in such a way that they have become dependent upon refugee family members in the country of asylum (e.g., by the death of a spouse, parent or wage earner/breadwinner), they should also be considered eligible for family reunification. Unaccompanied children may be considered for family reunification with relatives who are not part of the nuclear family when this is in the child’s best interests, and when it will not interfere with family tracing.53 [emphasis added]

Family Unity and Community-Based Care

The Inter-Agency Guiding Principles include customary caregivers in the notion of family unity and state that where evacuation without a child’s family members is necessary, “caregiving adults known to the children” should accompany them.54 The Guiding Principles emphasize that in emergencies, care should be provided by families from a child’s community and that any arrangements “should build on and strengthen the systems that currently function in a community.”55 Additionally the ACE Toolkit addresses informal kinship care relationships, which it characterizes as “spontaneous foster care” by extended family or other households.56

The Guiding Principles also introduce the concept of “community-based care” as preferable to institutionalization and providing continuity for a child’s development without further defining or examining what such community-based care might be.57 The Guiding Principles do, however, elaborate on the notion of “traditional or informal fostering” in which “the child is taken into the care of a family or other household that may or may not be related to the child’s family – no third party is involved in these arrangements, though they may be endorsed or supported by the local community and may involve well-understood obligations and entitlements.”58 Such fostering is distinguished from spontaneous fostering (e.g., emergency fostering, often without prearrangements) and arranged fostering (i.e., organized by government of third party authorities). Such informal fostering, the guidelines say, should be based on traditional custom and practice and linked to developing “community-welfare structures.”

The UNHCR Handbook on Resettlement does not utilize the term “customary caregiving” but does advocate for “alternative long-term care arrangements” when family tracing for UASC

55 Ibid, p 42.
56 Save the Children on behalf of the Interagency Working Group on Unaccompanied and Separated Children, Alternative Care in Emergencies Toolkit, 2013, p 130.
57 Ibid.
58 Inter-Agency, Inter-Agency Guiding Principles on Unaccompanied and Separated Children, January 2004, p 44.
is unsuccessful.\textsuperscript{59} This guidance, however, presumes that the child is already identified as unaccompanied and separated and therefore \textit{not} currently in the care of an adult who by law or custom is responsible for doing so. The UNHCR “Issue Brief on Alternative Care” similarly presents related concepts of alternative care that presume the child has already been defined as UASC and therefore is not in the care of an adult who by law or by custom would be responsible for doing so; rather, it offers “kinship care” as “family-based care within the child’s extended family or with close friends of the family known to the child,” and “informal fostering” as situations in which “the child is taken into the care of a family or other household that may or may not be related to the child’s family.”\textsuperscript{60}

The \textit{ACE Toolkit} also underlines the key role that communities themselves can play in caring for UASC by identifying appropriate caregivers from within a child’s community and monitoring that care. The \textit{ACE Toolkit} offers sample criteria for assessment of potential caregivers that may be instructive to note for the purposes of this study; however the questions notably focus on future care, not past relationships. Selected criteria include:

- Wherever possible, refugee children should be fostered by families from their own community and of their own ethnicity. Foster care of refugee children within the host community is not normally advisable.
- Matching culture, language and religion of the child (this will help facilitate the placement and maintain the child’s sense of identity, but it may not be the key criterion in every case).
- An understanding of the differences between foster, kinship care, and adoption, and a willingness to return the child to his or her original family if found.
- Culturally acceptable status and gender as a caregiver. In some contexts it may be common for widows to care for children, while in other contexts it may be more appropriate for married couples to provide care. It would normally be considered inappropriate for a single man to be the caregiver for a female young person.\textsuperscript{61}
- Ability to provide adequate care to the child, given the number and ages of children already in the adult’s care and any other responsibilities the caregiver has. No families with more than three children under the age of five should be accepted. There should be a maximum of eight children in the household (including birth and fostered children).
- Ability to foster sibling groups, where the child also has siblings who require alternative care.
- Ability to provide equal provision of healthcare and education for foster children as for other children in the household.
- Willingness to make a long-term commitment to the child, where this may be required. The minimum foster care commitment would normally be six months.
- Willingness to be monitored by social workers and local authorities.
- Appropriate age gap between the caregiver and the child. This will depend on cultural norms; however, the United Nations defines an adult as a person over the

\textsuperscript{59} UN High Commissioner for Refugees (UNHCR), UNHCR Handbook for Resettlement 2011, July 2011, p 192.
\textsuperscript{60} UNHCR, Child Protection Briefing Note: Alternative Care, January 2014, p 2.
\textsuperscript{61} Save the Children on behalf of the Interagency Working Group on Unaccompanied and Separated Children, Alternative Care in Emergencies Toolkit, 2013, 139.
age of 24. If the caregiver is an older sibling, it may be acceptable for him/her to be younger than this. If the child has special needs, or there are multiple children to be cared for, the minimum age is likely to be older (i.e., over the age of 24).  

Like other sources, the ACE Toolkit cautions against assuming that family-based care offers sufficient protection comparable to birth families and warns that “children living with adults who are not well known to the child are more at risk of abuse and exploitation… In many parts of the world, foster or kinship care is not traditionally used as a way of protecting and caring for a child who is without his or her family, but is a means of exchange for the benefit of the birth family, caregiver or the child.”  63 Thus, verification of customary care relationships, including how well the child knows the caregiver, is of the utmost importance to ensure that children are not incorrectly excluded from the UASC category; this dilemma demonstrates the careful balance that the present study must preserve. The ACE Toolkit continues on to warn of the risk of permanent separation of a child from his/her parents or customary caregivers, highlighting the fact that the customary caregivers are not truly considered to be a form of alternative care in emergencies but predate such emergencies and may not be alternative at all. 64

*Continuity of Care and Past History of Care*

UNHCR BID and CP training materials emphasize past history of caregiving as crucial to defining UASC in need of alternative interim care, stating for example, “Unaccompanied and separated children need to be provided with alternative care until they are reunited with their family or previous caregiver.” 65 Such alternative care can include “traditional/informal foster care,” which the training materials imply is different from customary care by virtue of its timing and relationship, not necessarily type of care or existence within accepted social structures.

Though not specifically addressing customary caregiving, the BID Guidelines do highlight “continuity in the child’s upbringing and maintaining links with his or her own ethnic, religious, cultural and linguistic background” as a factor in determining a child’s best interest. 66 They state that information impacting a BID should include consideration of customary attitudes and support of the community for children in general, and for unaccompanied and separated children in particular, both before flight as well as in exile, and resources available for such support, including opportunities for social integration into the community, and its capacity to care for and protect children, particularly those with specific needs. 67

Likewise, the Inter-Agency Guiding Principles underscore the importance of preserving

---

63 Ibid, 130.
64 Ibid, 131.
language, culture and religion during alternative care placement.\textsuperscript{68}

The \textit{BID Guidelines} continue on to state that “BID decisions should build on the existence of any arrangements for child protection and care within communities, provided they are in conformity with international standards.”\textsuperscript{69} Regardless of the particular family or caregiving situation of a child, the \textit{BID Guidelines} emphasize the importance of continuity of care and bonding between the child and his/her caregivers.\textsuperscript{70} Moreover, a child’s developmental needs are “generally best met when the child remains within or in close contact with the family and his or her social and cultural network.”\textsuperscript{71} The UN Committee on the Rights of the Child concurs with the notion that BIDs must take into account, inter alia, “continuity/discontinuity of care in the host country; the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background.”\textsuperscript{72} This notion of “continuity” is reiterated in the UN Guidelines on Alternative Care for Children, which state, “care within a child’s own community, including fostering, should be encouraged, as it provides continuity in socialization and development.”\textsuperscript{73}

\textit{Suitability}

The UN Guidelines on Alternative Care for Children lay out the elements of acceptable alternative care scenarios, including the elements of “necessity” and “suitability” of alternative care\textsuperscript{74}. For the purposes of this study, “suitability” is the relevant element, as refugee children who are outside their country of origin without parental care are implicitly beyond the point at which preventing the need for alternative care would be feasible. This element in the guidelines includes the stipulation that such care should be “provided under conditions that promote the child’s full and harmonious development” and that efforts should enable children to remain in or return to parental care “or when appropriate, other close family members.”\textsuperscript{75} These Guidelines underscore the desirability of keeping children nearby to their habitual place of residence “in order to facilitate contact and potential reintegration with his/her family and to minimize disruption of his/her educational, cultural and social life.”\textsuperscript{76} Though refugee children are by definition far removed from their place of habitual residence, the same notions of minimal disruption to their full lives can be applied to customary care relationships. Moreover, the Guidelines emphasize that any decision regarding alternative care, which includes informal care, should meet the criteria of “ensuring children a stable home and of meeting their basic need for safe and continuous attachment to their

\begin{itemize}
\item \textsuperscript{69} UNHCR Guidelines on Determining the Best Interests of the Child, May 2008, p 67.
\item \textsuperscript{70} Ibid, p 71-72.
\item \textsuperscript{71} Ibid, p 75. See also Annex 9, which includes a checklist of factors that determine a child’s best interest. Regarding family and close relationships, these include: Quality and duration of the relationship and degree of attachment of the child to: siblings, other family members, other adults or children in the cultural community, any potential care-giver; Potential effect of separation from family or change in care-givers on the child; Capacity of current and potential future care-givers to care for the child; Views of persons close to the child, where relevant.
\item \textsuperscript{72} UN Committee on the Rights of the Child, General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, 1 September 2005, UN Doc. CRC/GC/2005/6, ¶93.
\item \textsuperscript{73} UN General Assembly, Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly, 24 February 2010, A/RES/64/142, Annex, ¶158.
\item \textsuperscript{74} CELCIS, Moving Forward: Implementing the Guidelines on Alternative Care of Children, 31 October 2012, p 23.
\item \textsuperscript{75} UN General Assembly, Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly, 24 February 2010, A/RES/64/142, Annex, ¶2(b), 3.
\item \textsuperscript{76} Ibid, ¶11.
\end{itemize}
caregivers, with permanency generally being a key goal” [emphasis added].

While the Guidelines on Alternative Care do not reference customary care as such, they do reference customary caregivers themselves. The Guidelines rely on several alternative terms that contain similar elements to customary care, including:

- Informal care, which is defined as “any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body.”

- Kinship care, which is defined as “family-based care within the child’s extended family or with close friends of the family known to the child, whether formal or informal in nature.”

- Other forms of family-based or family-like care placements.

Such care arrangements are described in Moving Forward: Implementing the Guidelines on Alternative Care of Children as “informal kinship care.” The Guidelines were groundbreaking insofar as they recognized “the important role played by the extended family and the community and the obligations of States for all children not in the care of their parents or legal and customary caregivers.” Nonetheless, gray areas of overlap continue to confound: are children living with extended family members living with customary caregivers, or are they not?

Recognizing that, in most countries, the majority of children without parental care are looked after informally by relatives or others, States should seek to devise appropriate means, consistent with the present Guidelines, to ensure their welfare and protection while in such informal care arrangements, with due respect for cultural, economic, gender and religious differences and practices that do not conflict with the rights and best interests of the child.

Of particular note, is the Guidelines’ demand that traditional cultural and religious practices regarding alternative care “should be respected and promoted to the extent that they can be shown to be consistent with the rights and best interests of the children.” These “appropriate traditional care responses” both mitigate against the imposition of Western value systems on indigenous and endogenous systems but also protect against what may be

---

77 Ibid, ¶12.
78 Ibid, ¶29(b)(i).
79 Ibid, ¶29(c)(i).
82 Ibid, ¶118.
traditional practices that are not in the best interests of the child. Indeed, Moving Forward states that to ignore traditional care responses, “is somewhat dismissive of (and underrates) the benefits of care arrangements that are based more on custom and oral commitments.”

In detailing informal care, the Guidelines stipulate that states should recognize and support such care arrangements and recognize the “de facto responsibility of informal carers”; it also imposes two conditions on such traditional care arrangements: 1) they must be in line with children’s rights; and 2) States retain responsibility for children in such care and therefore careful monitoring should be undertaken of non-relatives, relatives not previously known to the child or living far from the child’s habitual residence. Unfortunately, Moving Forward does not further elucidate the Guidelines’ provisions on alternative care for children already abroad, such as refugee children; rather it simply references the BID Guidelines and notes that alternative care in such situations should generally not be envisaged until all tracing efforts are exhausted.

As the BID Guidelines note, the views of the children concerned must be considered. Indeed, “the child’s assistance can help map the network of persons who are close to him or her, as well as their relationship.”

Examples of customary care

Few studies exist on customary care relationships for refugee and emergency-affected children as such. One study cited by Moving Forward did find that traditional alternative care of orphans in Iraqi Kurdistan (in the form of care by relatives or non-relatives in the same region that allows for integration of the child into the new family and has a religious basis) produced better outcomes for the children’s development than formal alternative care in the form of orphanages. UNHCR cites one study of UASC in India in which 48% of the 200 children interviewed found their current caregiving arrangement through refugee community leaders but did not establish whether these were customary care relationships per se. Moving Forward also references Rwanda, discussing emergency programs instituted by the International Rescue Committee to reintegrate and reunify separated children with their families following the conflict; it unfortunately does not reference customary relationships.

Determining customary care relationships

The information sought during UNHCR BID interviews may in fact include relevant factors for determining customary care relationships. These include, among other things, the

---

84 CELCIS, Moving Forward: Implementing the Guidelines on Alternative Care of Children, 31 October 2012, p 82.
89 UNHCR, Child Protection Briefing Note: Alternative Care, January 2014, p 4.
“duration and quality of the relationship with the child, including, where relevant, the potential effects on the child of separation; location and care arrangements of siblings”\textsuperscript{91} as well as knowledge of flights and awareness of the child’s views, habits, health and education.

The Inter-Agency Guiding Principles emphasize the prior nature of a relationship, stating that any assessment of the extent of family separation should include “the community’s customary attitudes towards ‘orphaned’ or otherwise separated children and the care it provided, including orphanages, prior to the emergency.”\textsuperscript{92}

Current UNHCR registration practices appear to address alternative caregiving but not as fully as would be necessary to determine whether or not a child is in a customary care relationship that would exclude him/her from UASC status. For example, the IASC UASC Registration Form includes prior caregiver in the Family section of the form and does address Current Care Arrangements (including staying with related or unrelated caregiver), but does not connect the two, making it unclear whether or not the prior caregiver is in fact the same person as the current caregiver. Nor does the form allow for a history or context of the current care arrangement relationship to indicate whether it may in fact be a customary caregiving arrangement.\textsuperscript{93}

Similarly, the UNHCR Rwanda BID Review Checklist’s Brief Summary of the Case and Current Care Arrangement sections asks the CP worker to, “Verify information on duration of stay with current caregiver. When did they become the primary care giver?”\textsuperscript{94} This type of question, which focuses on past history of care and not the relationship with the child could conceivably be amended to identify customary care relationships and utilized earlier the process (e.g., before BID resources have been allocated) to identify a child living in a customary care arrangement. UNHCR Rwanda’s Training BID Sample, for example, instructs CP professionals to include the “circumstances and causes of the separation from the regular caregiver in cases of unaccompanied and separated children” under Part II History of Flight/Separation\textsuperscript{95}; again this is important information to include in a BID, but including it earlier on in the UASC identification process (e.g., at registration) could prevent unnecessary BIDs altogether. Additionally, the meaning of “regular caregiver” term, which implies a temporal consistency prior to flight, should be examined. The following Training BID Sample section, Current Care Arrangements, covers “current care arrangement, living conditions, safety, relationships with foster parents/siblings/care-givers/other family members,” implying but not explicitly stating that such relationships may be customary.\textsuperscript{96}

The Sample BID continues on to require detailed information on family and close relationships, including, the “quality and duration of the relationship and degree of attachment of the child to siblings, other family members, other adults or children in the community, Any other potential caregivers, Potential effects of separation from the family or change in caregivers on the child,” as well as “the child’s cultural and community networks [and] continuity in the child’s ethnic, religious and cultural background” under Development

\textsuperscript{91} UNHCR Guidelines on Determining the Best Interests of the Child, May 2008, p 64.
\textsuperscript{92} Inter-Agency, Inter-Agency Guiding Principles on Unaccompanied and Separated Children, January 2004, p 30.
\textsuperscript{93} Inter-Agency Working Group on Unaccompanied and Separated Children, UASC Registration Form.
\textsuperscript{94} UNHCR Rwanda, BID Review Checklist.
\textsuperscript{95} UNHCR Rwanda Training BID Sample.
\textsuperscript{96} Ibid.
and Identity Needs.\footnote{Ibid.}

UNHCR Rwanda’s Sub-Office Byumba’s BID SOPs are useful for considering where UASC can be correctly identified through referrals, whether external or internal. For example, internal “identification of children at risk takes place during Registration, counseling or other Field, Community Services, Protection and Durable Solutions activities. UNHCR staff members in these units will communicate their identified cases to the BID Coordinator, with copy to the BID Supervisor, utilizing the referral form.”\footnote{UNHCR Rwanda Sub-Office Byumba, Guidelines and Standard Operating Procedures for the Best Interests Assessment (BIA) and Determination (BID) for Refugee Children in Gihembe and Nyabiheke Camps, August 2013, p 8.}

**Temporary Care: A Related Concept**

While temporary care is distinct from customary care, it is instructive to note the parallels between the guidance on customary care and temporary care. For example, the *BID Guidelines* indicate that, “Temporary care decisions can normally build on existing arrangements and systems already functioning within the community.”\footnote{UNHCR Guidelines on Determining the Best Interests of the Child, May 2008, p 34.} These existing care systems are the preferred mode of care as long as they can function reasonably well and do not expose the child to further risk; if possible, priority should be given to care within the “extended family” and maintain sibling unity.\footnote{Ibid, p 73.} Critically, the *BID Guidelines* look to demonstrated facts as indicative of an acceptable temporary care relationship, stating that “decisions should not build on hypothetical prospects of a better relationship in the future, but rely more on the proven history of the relationship in the past.”\footnote{Ibid, p 73. See also, Annex 9, which includes a Checklist of factors that determine a child’s best interest. Regarding temporary care, these include: Retention of family and sibling relationships; Prospects for care in a family setting; Prospects of using community care systems (provided they are safe and effective).}

3) Are these documents internally consistent? If not, where do discrepancies and areas for potential confusion arise?

The documents appear internally consistent in defining UASC but vary widely regarding customary care. Areas of lack of clarity remain what defines a customary care arrangement and criteria for establishing whether or not a child is in the care of someone who by custom is responsible for doing so.

4) Congolese/Banyarwanda-specific conceptions of customary caregiving

Ethnic and other groups have their own conceptions of acceptable customary care and how their culture practically arranges alternative care in the absence of biological parents. Little literature is available specifically on Banyarwandan or Congolese conceptions of customary caregiving or parenting. The Committee on the Rights of the Child noted the lack of information on children without parents when reviewing the Democratic Republic of the Congo.\footnote{UN Committee on the Rights of the Child, Concluding Observations on the Democratic Republic of the Congo, 10 February 2009, UN Doc. CRC/C/COD/CO/2, ¶ 45-46. See also ¶74-75 on refugee and displaced children.} The Committee also expressed concern at the lack of progress and information on children deprived of a family environment – though not specifically refugee children - in

---

\textsuperscript{97} Ibid.
\textsuperscript{98} Ibid.
\textsuperscript{99} Ibid.
\textsuperscript{100} Ibid, p 73. See also, Annex 9, which includes a Checklist of factors that determine a child’s best interest. Regarding temporary care, these include: Retention of family and sibling relationships; Prospects for care in a family setting; Prospects of using community care systems (provided they are safe and effective).
\textsuperscript{101} UN Committee on the Rights of the Child, Concluding Observations on the Democratic Republic of the Congo, 10 February 2009, UN Doc. CRC/C/COD/CO/2, ¶ 45-46. See also ¶74-75 on refugee and displaced children.
This same report expresses concern at legal barriers to family reunification amongst refugee children and their families outside of Rwanda, but does not, however, discuss the situation of UASC or customary care specifically.

Some data exists about customary care of vulnerable children in other African settings, indicate an understanding of caregiving that is far more flexible than one focusing on the nuclear family. One Save the Children study of informal kinship care practices in West Central Africa (including the DRC, Niger, Nigeria and Sierra Leone) is a promising source of information. It indicated that nearly 16% of children in West Central Africa do not live with their biological parents and that the vast majority of these children live in informal care alternatives, including with extended families in kinship care. “Kinship care practices have been identified as a traditional coping mechanism, which if effectively supported can contribute to resilient communities who are more able to care for and protect children in the face of adversity.” This study found that nearly 8% of Congolese children under 15 live separately from their parents, even when their parents are alive.

Key factors influencing positive or negative experiences of children living with relative caregivers have been identified including: socio-cultural traditions concerning closer ties with maternal or paternal relatives which influence the likelihood of a child being welcomed into the family; female and male caregiver active participation in decision making to care for a child, and in particular whether the primary caregiver chooses to care for or feels “forced” to care for a child; and the lack of or existence of shared responsibilities by parents and caregivers for children’s well-being and needs.

Save the Children concludes that “in many societies child fosterage is described as an accepted means of raising children. Kinship care is a mechanism to maintain social stability, creating and helping to sustain bonds of mutual cooperation and interdependence… Local tradition plays a significant role in care arrangements for children. In Sierra Leone, Nigeria and DRC it is culturally accepted for a family member or close relative who is in a good financial position to support the child of another family member with fewer resources. Kinship care is viewed and accepted as a family obligation.” Moreover, the study found that community members felt that kinship care practices had increased over the past 20-30 years. “The DRC research found children seemed more likely to be sent to live with the grandparents if they were orphaned, but to aunts or uncles if they had living parents.”

103 UN Committee on the Rights of the Child, Concluding Observations on Rwanda, UN Doc. CRC/C/RWA/CO/3-4, 14 June 2013, ¶35-40.
107 Ibid, 8.
108 Ibid, 33-34.
5) The Rwandan Framework: Placing Customary Care in the National Context

UNHCR’s consideration of the issue of customary care for refugee children in Rwanda must be placed in the larger context of the Rwandan legal framework and the recent policy push toward deinstitutionalization and family-based alternative care as well as the country’s cultural and historical perspective. While the Government has charted a progressive course in its alternative care policy and Rwandan cultural and post-genocide historical particularities certainly endorse customary care, the national legal framework is at odds with such expansive understandings of the family. This juxtaposition between Rwandan law on the one hand and its culture, history and policy on the other complicates the situation in which UNHCR must navigate refugee children’s customary care arrangements.

National Legal Framework

The Rwandan Constitution places the family at the core of Rwandan society as its “natural foundation,” pledging to protect the child and the family through legislation and institutions. The question, however, remains of how precisely the concept of “family” is defined under Rwandan law. Though reportedly under revision, Rwanda’s Civil Code clarifies that the family is defined as the nuclear family—namely, husband, wife, and their children. Moreover, it specifies that “parental authority is exercised by the father and mother” and includes custody, legal administration and financial custodianship. Rwanda’s Law No. 27/2001 Relating to Rights and Protection of the Child Against Violence accords children the right to know their parents. However, it also specifies protections for orphans that, while not referencing “customary care” as such, opens the door to alternative care arrangements by stating that “every orphan must have a guardian, an adoptive parent or be under the care of a specialized institution.”

Law 54/2011 relating to the Rights and Protection of the Child, while maintaining the rights of the nuclear family, adjusts for circumstances of separation. It recognizes a child’s “right to know his/her parents, to stay with them and to be protected by them when they are alive.” Article 24 then provides children with the right to family, specifying that, “A child who is temporarily or definitively deprived of his or her birth family shall be entitled, through the relevant authority, to a replacement protection which could consist of his or her placement in a foster family, an adoptive family or a placement in a relevant social welfare institution.” The Law recognizes that parents, guardians, and other persons legally responsible for children have duties and legal responsibilities regarding the child “according to the national culture,” and that the child who is separated from his or her parents for any reason has a right to maintain contact with family members. Though key informants

---

113 Ibid, Art. 343, 349.
117 Ibid, Art 25, 36.
reported that refugee children were not taken to orphanages and that such instances would run contrary to the deinstitutionalization process detailed below, the Law provides for the institutionalized of refugee children who have “not yet found [their] parents.”\textsuperscript{118}

Though the Civil Code is reportedly under revision and may be softened by a cultural, historical and policy environment that is conducive to a broader definition of extended family, the current rigid definition of the family means that customary care of refugee children without assumption of legal responsibility for a child stands outside the national legal framework. There is a lack of harmonization of the term “customary care” by UNHCR and others with the legal framework and the Government’s policy on alternative care. As one national child protection actor told researchers, “For the government, extended family care is not 'customary.' For the government, a child who does not have a nuclear family or extended relatives becomes responsibility of the community.”

Conseil de tutelle

One concept provided for in the Civil Code does bridges this divide between the legally recognized nuclear family and the famille élargie: the conseil de tutelle, which applies to children whose parents have died, are unknown, or have not recognized the child.\textsuperscript{119} Made up of a tribunal, the child’s adult siblings (where relevant) and six of the child’s relatives taken equally from the maternal and paternal sides of the family, the conseil de tutelle accords guardianship to the surviving relatives of the child’s parents by “ascendancy of the nearest degree” or, barring such options, an appointee of the tribunal.\textsuperscript{120} Such tutelles exercise custody rights over the child and are required to provide for his/her maintenance and education until the child reaches majority, dies, is adopted or his parents reappear or recognize him.\textsuperscript{121}

National actors described the conseil de tutelle as legal guardianship proceedings for children within a single family—e.g., if parents die and the extended family needs to decide who will care for the child, or in disputes between maternal and paternal sides of a family. One key informant told researchers that “Rwandan law accepts the nuclear family but it also accepts the extended family. There is a difference between the two. The nuclear family is the one that has the immediate responsibilities to raise the children and take care of the children. The extended family can do it if they want to, if they are good people, but they are not obligated to. The law in Rwanda says that if one member of the extended family wants to take care of the child, they have to go to the conseil de tutelle.” Despite this, conseil de tutelle are considered to be “very different” from adoption, which is a permanent undertaking. This distinction appears to be similar to the distinction between customary care by extended family and adoption, according to another national actor familiar with the deinstitutionalization process, who said of customary care: “It [the use of the conseil de tutelle] is legally recognized, but it is not adoption, but it is just a recognition of we now have a new member in our community, in our family.”

However, according to one national actor familiar with the proceedings, conseils de tutelle are generally not used by refugees because the tribunal monitors the relationship between child

\begin{footnotes}
\item[118] Ibid, Art. 40(4).
\item[119] Civil Code, Art. 361-363.
\item[120] Ibid, Art. 364-366, 368-369.
\item[121] Ibid, Art. 385, 407.
\end{footnotes}
and caregiver until the child reaches majority, which arrangement becomes problematic if the 
refugee becomes eligible for resettlement. There are also likely other barriers, such as access to the courts, a preference not to complicate resettlement prospects, lack of awareness of the process, or reticence for contact with authorities. It is worth exploring further why refugees do not participate, whether this mechanism could function as a Government-recognized interim measure to accord guardianship rights to customary caregivers, and whether resettlement countries would honor *conseil de tutelle* as according guardianship to caregiving relationships.

**Culture and post-genocide history**

This legal framework at times stands at odds with Rwandan culture and post-genocide history that have led to wider definitions of the family. Indeed, one of the strategic long-term goals of the Rwandan Strategy for National Child Care Reform (detailed below) is to “promote positive Rwandan social values that encourage all Rwandans and their communities to take responsibility for vulnerable children.” This notion of communal responsibility for vulnerable children is deeply embedded in Rwandan culture; as one national child protection actor told researchers, “There is a [Rwandan] saying that ‘a child is a community’s child.’ Coming back to the traditional values, a child who doesn’t have a family, a father, mother or other relatives, definitely the community, the village, should take care of that child. So if you ask me this customary arrangement is a positive care arrangement.”

This ethos was reinforced following the genocide. A 2001 study commissioned by the Government found that post-genocide many children were, “spontaneously taken in by unrelated families (referred to as “spontaneous” or “informal” fostering).” Between 1994 and 1998, the Government actively promoted such family based care with its “One Child, One family” Campaign and has more recently renewed a similar public *Tumerere Mu Muryango* Campaign, which means “let’s raise a child in the family” in Kinyarwanda. One national child care actor said the following of the cultural aspect of deinstitutionalization: “Rwandan culture says that a child is never an orphan when he has a community, when he has a family, so even if they are not a family member, but every Rwandan has that heart, which respects that culture and their values to make sure they are able to provide care for those children.”

As one legal scholar writes, Rwandan connections to their lineage or blood family are “often as powerful” as those of the nuclear family; in one example, Ntampaka states that, “Although the genetic parents have primary responsibility for his education, paternal uncles, referred to as "the other fathers," also have a responsibility for his acts.” Ntampaka writes that, “People continue to follow some of the now abrogated customary rules, so creating a division between codified law and what happens in practice. Written law does not cover the whole field.” Indeed, there appears to be a gap between the Western individual rights

---

126 Ibid, 415.
espoused in the Constitution and the traditional collective rights embedded in Rwandan customary practice.

Child Protection Policy, Deinstitutionalization and Forward Movement

Despite the above, the Government, particularly MIGEPROF and the recently established National Commission on Children, has moved aggressively toward deinstitutionalization and family-based care with its Integrated Child Rights Policy (ICRP) in Rwanda. National experts stated that this deinstitutionalization is being used as an “entry point to larger child protection issues.” The ICRP appears to broaden the Constitution’s right to family protection, stating:

Every child has the right to a family, to be cared for by parents and extended family members... Where children are temporarily or permanently deprived of parents and family environment, the Government will be responsible for ensuring alternative care for such children.

[Footnote to above] Alternative care is defined as care for orphans and other vulnerable children who are not under the custody or care of their biological parents, for a variety of reasons including... children who... have lost contact with their parents due to conflicts/ wars and children separated from parents by natural disasters or in refugee camps. Alternate care includes adoption, foster families, guardianship, kinship care, residential care and other community-based arrangements to care for children in need of special protection... [emphasis added]

The policy commits the Government to providing alternative care for children without parents, stating that, “The Government will invoke upon and encourage traditional Rwandan culture to care for one another’s children.” The policy further specifies that the extended family care is the “first option for children without parents,” followed by formal adoption and foster care within their community. This prioritization of child placement with birth family and extended family is echoed in the Rwandan Strategy on National Child Care Reform. The Strategy further emphasizes that its strategic long-term goal is to, “transform Rwanda’s current child care and protection system into a family-based, family strengthening system.”

The ambitious deinstitutionalization process of closing the country’s orphanages outlined in the strategy’s aims is reportedly being implemented quickly with high levels of political will. One key informant interviewed reported that approximately 70% of children leaving institutions were placed with family members, which were distinguished from foster families who were unrelated to the child. The Government’s forthcoming Guidelines on Alternative Care are expected to elaborate on such alternative arrangements, further establishing them as acceptable within the policy context although these developments will also need to be recognized in law if they are to adhere long-term.

128 Ibid, p 12, Section 2.6.
129 Ibid p 12, Section 2.6.1.
131 Ibid, p 1.
National actors note that MIDIMAR’s role in contributing to the Government and MIGEPROF’s child protection strategy has been limited. One national child protection actor told researchers that “the government’s message is [in the camps], but they are not actively pursuing the policy there – MIGEPROF and NCC see it [e.g., camps] as a different context.” While the ICRP states that “every child matters” and that “all refugee children in Rwanda, accompanied or unaccompanied by adult family members will have all the rights stipulated in this policy,” the Strategy on National Child Care Reform does not reference refugee children or MIDIMAR.\textsuperscript{132} Given this gap, it is imperative that the customary care arrangements utilized by refugee children and families, as well as their unique circumstances, be accounted for in future policy and legal discussions. Indeed, the ICRP itself recognizes that “the policy requires harmonization of all relevant laws so that they conform to these policy provisions. New laws and frameworks may be developed in pursuance of the provisions of this policy.”\textsuperscript{133}

\textsuperscript{132} MIGEPROF, Government of Rwanda. Integrated Child Rights Policy, August 2011, p 8 and 21, Section 5.7.

\textsuperscript{133} Ibid p 24.
Annex 3: Draft Guide: 3 Tiers of BIA / BID by Category of Child

<table>
<thead>
<tr>
<th>Unaccompanied</th>
<th>Separated</th>
<th>In Customary Care</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Primary Caregiver:</strong></td>
<td><strong>Registration:</strong></td>
<td><strong>Protection concern suspected:</strong></td>
</tr>
<tr>
<td>• No caregiver or caregiver is customary</td>
<td>• Identified by clerk</td>
<td>• Full BID</td>
</tr>
<tr>
<td></td>
<td>• Sent to BIA Desk</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Flagged for full BID</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Protection concern suspected:</strong></td>
<td><strong>Protection concern suspected:</strong></td>
</tr>
<tr>
<td></td>
<td>• Full BID</td>
<td>• Automatic BIA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Elevate to BID if red flags emerge</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>If BIA or BID processes have not happened when</strong></td>
<td><strong>If BIA or BID processes have not happened when</strong></td>
<td><strong>If BIA or BID processes have not happened when</strong></td>
</tr>
<tr>
<td><strong>resettlement begins:</strong></td>
<td><strong>resettlement begins:</strong></td>
<td><strong>resettlement begins:</strong></td>
</tr>
<tr>
<td>• Full BID</td>
<td>• Full BID</td>
<td>• Simplified BID Light</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Group approval process before BID panel, unless there are additional,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>individual protection concerns</td>
</tr>
<tr>
<td><strong>Timeline:</strong></td>
<td><strong>Timeline:</strong></td>
<td><strong>Timeline:</strong></td>
</tr>
<tr>
<td>• Initial BID within 1 year of identification³⁷</td>
<td>• Initial BID within 2 years of identification</td>
<td>• Simplified BIA Light within 2 years of identification</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Simplified BID-Light initiated upon eligibility for resettlement</td>
</tr>
<tr>
<td><strong>Mandatory Updates:</strong></td>
<td><strong>Mandatory Updates:</strong></td>
<td><strong>Mandatory Updates:</strong></td>
</tr>
<tr>
<td>• 6 monthly updates to BIDs</td>
<td>• Annual update to BIDs</td>
<td>• Updates only when required by resettlement or protection red flags</td>
</tr>
<tr>
<td>• No “expiration”</td>
<td>• No “expiration”</td>
<td>• No “expiration”</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Red flags indicating vulnerability that trigger a BID Light:</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Child’s safety at imminent risk</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• SGBV, abuse or severe neglect</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Not enrolled or attending school</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Denial of material support or health care</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Forced begging, prostitution, or early marriage</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Additional protection concerns</td>
</tr>
</tbody>
</table>

³⁴ Note that the relationships identified here apply to Kigeme and Gihembe camps. This can be amended to reflect the findings of the Customary Caregiving Assessment in other locations.

³⁵ Refer to UNHCR BID Guidelines, Section 1.7 “Simplified Procedures for Certain Situations.”

³⁶ Ibid.

³⁷ This is an aspirational goal that reflects the prioritization of the 3 tier system within the UASC category. While 1 year is more conservative than the 2 year requirement of the BID Guidelines, the vulnerability of truly unaccompanied children demands more urgent attention.
Annex 4: Toolkit

Customary Caregiving Assessment Toolkit – User Guide

The Customary Caregiving Assessment Toolkit is designed to rapidly assess refugee communities’ views on customarily acceptable child caregiving arrangement in a variety of settings, including both protracted and emergency camps. The entire Assessment can be undertaken in one setting in fewer than 1.5 days. The Toolkit is made up of:

1. Introduction and informed consent
2. Group discussions with community members
3. Note-taking template for group discussions
4. Key informant interviews with community leaders
5. Analysis template

Group discussions and key informant interviews are independent of each other and there is no set order in which they must be undertaken; each location will be slightly different. While the Assessment Toolkit is designed to be implemented once per location, where multiple ethnicities reside in the same location, it is possible that the assessment will need to be undertaken with each community separately to ensure that each ethnicity’s customs are taken into account.

Introduction and Informed Consent

Informed consent is an essential part of the Assessment Toolkit because it affirms that participants understand the purpose, risks and benefits of their participation in the assessment. Both group discussions and key informant interviews must first begin with the reading and agreement to the informed consent. If a participant does not agree to or is not present for the informed consent, he or she may not participate on ethical grounds. The Informed Consent Tool as it currently is presented includes information about audio-recording, which was relevant for the purposes of this study but may not be relevant for a more rapid assessment of acceptable customary caregiving arrangements undertaken by UNHCR or partners. Those sections should be revisited and deleted if UNHCR deems audio-recording to be irrelevant.

Group Discussions

The group discussion tool provides a basic sense of consensus or non-consensus among participants on acceptable customary caregiving arrangements. Given that this tool is primarily trying to capture whether or not consensus exists concerning customary care arrangements, it should be sufficient to organize four group discussions in each location for the following groups:

1. Adult men
2. Adult women
3. Boys ages 13-18
4. Girls ages 13-18
Group size should ideally be between 8-10 participants, with no fewer than 6 and no more than 12; participants should ideally be diverse in age and other status. Group discussions should be held in a comfortable, quiet and private location. All group discussions should begin with informed consent procedures and should take between 1-2 hours to conduct. Ideally there will be one facilitator, who utilizes the Informed Consent Form and the Group Discussion Guide, and one note-taker, who should document the discussion on the attached Notes Template.

**Key Informant Interviews**

Key informant interviews with refugee community leaders give a pinpoint picture of community views through respected individuals whose opinions carry weight with and well-represent the community. Such community leaders can include:

- Camp management (coming from within the refugee community)
- Religious leaders
- Women's leaders
- Tribal leaders
- Teachers
- Other significant community leaders

Key informant interviews should be conducted one-on-one with the community leader in a comfortable, quiet and private location. Ideally, at least 4 key informant interviews should be conducted in each location. Interviewers should first undertake informed consent and then follow the Key Informant Interview Guide for Community Leaders, taking careful notes. Key informant interviews are expected to take between 30-45 minutes and can be interspersed between group discussions.

**Analysis & Implementation: Establishing Criteria for Customary Care Relationships**

Once all group discussions and key informant interviews are completed, notes should be carefully reviewed and votes from all group discussions tallied. Voting data, which can be entered into the attached, adaptable Data Template.

Combined with the qualitative interviews, both qualitative and quantitative data will show patterns of “easily acceptable” or “acceptable” customary caregiving arrangements. Acceptable customary care arrangements will be those for which a clear consensus is demonstrated across all four group discussions and all four key informant interviews. UNHCR should determine a threshold or percentage of participants deeming a given arrangement either “acceptable” or “very acceptable” that would be used to determine acceptability.

Once analysis is complete, the caregiving arrangements deemed customarily acceptable by the community should be widely disseminated within UNHCR and partners. The recommendations of the Embracing the Correct Definition of UASC Study should be applied to these specific customary caregiving arrangements in relevant communities and offices.
Introduction and informed consent – English version

**NAME:** I am [name] from [town]. I’m working on behalf of UNHCR to learn about refugee children and their living situations.

**STUDY PURPOSE:** We are here today to learn about the lives of children in this community. We want to know more about whom children who are not with their biological parents or legal guardians are living. This study is not concerned with political issues.

**NO MATERIAL BENEFITS:** The study findings will inform UNHCR on the living arrangements for children who are not living with their biological parents. There are no direct material benefits to individuals participating in this research.

**NOT LINKED TO RESETTLEMENT:** This group discussion is not linked to resettlement processes.

**WHAT WE MEAN BY CHILDREN:** When we talk about children, we are talking about boys and girls between 0 and 18 years old. This means that in addition to babies and little children, we are also asking about the lives of teenagers up to 18 years old.

**TYPES OF QUESTIONS:** I will ask you some questions about life in this community, and especially the lives of children. I will ask about the different kinds of homes where children who are not with their biological parents are living.

**TIME:** We expect this [interview/discussion] to take about one to two hours.

**CAN SKIP QUESTIONS OR STOP ANYTIME:** You can decide not to participate in the [interview/discussion], or you can tell us when a question makes you uncomfortable and we will skip that question. There is no need to answer any question that makes you uncomfortable. If you like, you can end the [interview/discussion] at any time and this will not affect any assistance you get from any organisation.

**CONFIDENTIAL:** All your answers will be kept private and confidential, and the only people that will have access to this information are the researchers for this study. We will not write your names anywhere. When we finish this research, we will write a report which will be given to UNHCR and others concerned with the well-being of children, but no names will be included.

Also, please do not give the names of any other children when you talk to us. We want to be confidential for everybody.

[For adolescents] Your names will not be linked with this research unless you tell me information during this session that indicates you are in a bad situation. If this is the case, we will talk to you individually after the interview.

**RECORDING:** We are voice-recording this conversation so that we do not forget everything that you tell us. We will not share this voice-recording with anybody outside of the research team.
CONTACT: If you have any questions, or if problems arise, you may contact [insert name and phone number of designated contact person].

May we have your permission to ask these questions, and are you willing to participate?
Yes/ No

If respondent DECLINES TO PARTICIPATE: Why?

________________________

If respondent agrees to participate in the [interview/discussion], the facilitator should sign below and continue.

I confirm I have given all the information above to the respondent, and she/he has agreed to participate.

Signature of interviewer:
This group discussion guide can be used with adults or adolescents.
Before conducting the group discussion, the facilitator should review the standard introduction and informed consent form that has been developed for this study.
In the below text, the words in bold are the actual words that the facilitator should use with the participants. Words that not in bold are instructions for the facilitators.

1) Introductions

(~15 minutes)

Ask the participants in the group discussion to introduce themselves to the broader group while reminding them that their names will not be recorded. If appropriate, use some locally acceptable practice (such as a prayer or a song) to open the discussion.

Start the recorder.

2) Opening the conversation

Tell us about the lives of children in this community.
Potential probing questions:
• What do children do for fun?
• What are children’s activities at church?
• What do children do at school?
• [for adolescents] What do you like to do for fun?

(~15 minutes)

3) Learning more about UASC

Tell me about the children in your community who are living without their biological parents.

Alternative ways of asking this question:
• Are there specific groups of children in your community who are living without their biological parents?
• Are there children in your community who are living without their biological parents?

Potential probing questions:
• How do you know these children are living without their parents?
• Are the situations the same for boys and girls?
4) Understanding Common Scenarios Within A Given Community

(~20 minutes)

- You have just described a number of reasons that children might not be living with their biological parents. Who is taking care of these children?

Alternative questions:
- Is anyone taking care of these children without parents?
- What situations are these children who are not with their biological parents living in?

Probing question:
- Are there other living situations / care arrangements that these children are living in?

From these answers, create a list of care scenarios that you will revisit in the next question.

Possible responses to be prepared for (gleaned from literature review):
- Maternal/Paternal Aunt
- Maternal/Paternal Uncle
- Maternal/Paternal grandmother
- Maternal/Paternal grandfather
- Elder sibling (male/female)
- Cousin (maternal/paternal)
- Godmother/godfather
- Distant Relative
- Neighbor
- Friends
- No one - Alone

Note patterns in gender (male/female of both adults and children), which side of the child’s family the caregiver is from, if family member (maternal/paternal), generational gaps (ie grandmother/father), or distance from nuclear family (ie 1st, 2nd cousins, etc).

5) Measuring Customary Acceptability of Caregiving Scenarios

(~45 - 60 minutes)
You have just given us a number of situations. We are going to talk about each one individually. Remember the situation [X] that you described. Thinking about only this situation, according to your custom or culture, do you think that it is easily acceptable (appropriate), acceptable (appropriate), or not acceptable (appropriate)?

Please stand in front of [or put your stone on] the paper with the matching happy or sad face to vote.

- Ask one or two people per group: Why did you vote this way?
- Alternative way of asking: What makes X scenario easily acceptable / acceptable / not acceptable?

### 2-Step Questioning Process

- Essentially we are asking the group to vote for each scenario that they described in question 4 and then asking why they labeled the scenario that way.
- Ask the group to vote easily acceptable / acceptable / not acceptable.
- Once the group has voted, ask them why.
- Repeat the process for each scenario until you have voted on all of them.

### Notes for the facilitator on the voting process

- Prior to the group discussion, draw three different faces on three pieces of paper: a happy face, a neutral face and a sad face (one for each adjective on the voting scale – easily acceptable / acceptable / not acceptable).
- Voting can happen in a variety of ways. Two suggested methods are: 1) give each group member a small stone and ask them to vote by placing their stone on their chosen answer, or 2) ask group members to stand next to their chosen answer. NOTE: pebble-voting is recommended for adults, and lining up is recommended for adolescents.
- Quickly count and record the votes for each scenario on the Notes Template to keep a record of the votes for each scenario.
- If asked for clarity about what constitutes “easily acceptable,” “acceptable,” or “not acceptable,” use the below broad, non-leading definitions:
  
  - Easily acceptable: We think this child-care arrangement is a very good situation for the child. This situation is normal and easily accepted in our culture.
  - Acceptable: We think this child-care arrangement is acceptable for the child. It might not be ideal for the child, but it is not inherently problematic.
  - Not acceptable: This child-care arrangement is an unacceptable situation and something needs to change.

6) Gathering more detail / getting more thoughts

(30 minutes)
This section will seek to gather additional qualitative information about participants’ perceptions about children’s care situations. Depending on the time remaining and the interest of the group, the facilitator might prioritize one or two of the below questions.

Think about all of the situations that we have just discussed.

- Does the length of time in which a child has been taken care of in these situations change your community’s acceptance of the children’s new care arrangement?
  - Probing question: Why or why not?
- You have described a number of ways in which children join homes that are not those of their biological parents. [Repeat examples from the above discussion: e.g., some are orphans, some have parents who have divorced, some of parents who can no longer take care of them.] Does the reason for which children join these homes change your community’s acceptance of the children’s new care arrangement?
  - Probing question: Why or why not?

7) Closure

Do you have anything else to add?

Are there any other issues affecting children living without their biological parents and their caregivers that you want to mention?

Do you have any remaining questions for us?
Note-taking template for group discussions

Date:
Location:
Group:
# of Participants:

2) Lives of children in the community

3) Lives of children living without their biological parents

4) Who is taking care of these children?
   • __________________________
   • __________________________
   • __________________________
   • __________________________
   • __________________________
   • __________________________
   • __________________________
   • __________________________
   • __________________________
   • __________________________
   • __________________________
5) Acceptability

Scenario #1: __________________________________________________________________________

<table>
<thead>
<tr>
<th>Acceptability</th>
<th>Vote</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easily Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Not Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
</tbody>
</table>

Scenario #2: __________________________________________________________________________

<table>
<thead>
<tr>
<th>Acceptability</th>
<th>Vote</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easily Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
</tbody>
</table>
Scenario #3:

<table>
<thead>
<tr>
<th>Acceptability</th>
<th>Vote</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easily Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Not Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Acceptability</th>
<th>Vote</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Acceptability</td>
<td>Vote</td>
<td>Reasons</td>
</tr>
<tr>
<td>---------------</td>
<td>------</td>
<td>---------</td>
</tr>
<tr>
<td>Easily Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
</tbody>
</table>
### Scenario #5

<table>
<thead>
<tr>
<th>Acceptability</th>
<th>Vote</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easily Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Not Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
</tbody>
</table>
## Scenario #6

<table>
<thead>
<tr>
<th>Acceptability</th>
<th>Vote</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easily Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>Not Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
</tbody>
</table>

## Scenario #7

<table>
<thead>
<tr>
<th>Acceptability</th>
<th>Vote</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easily Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
</tbody>
</table>
Scenario #8:

<table>
<thead>
<tr>
<th>Acceptability</th>
<th>Vote</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easily Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
<tr>
<td>Not Acceptable</td>
<td>/</td>
<td>-</td>
</tr>
</tbody>
</table>

- Acceptable
- Not Acceptable
6) More details about factors / scenario above.
   Length of Time:

   Method of joining the new home:

   Additional factors raised:

7) Closing thoughts
Key informant interview guide for community leaders – English version

(including teachers, religious leaders, traditional leaders, leaders of women’s groups, etc.)

- This interview guide is intended to be conducted as a semi-structured interview with leaders at the camp level who have been identified as having specialized knowledge about traditional customs amongst the Congolese refugee communities living in Rwanda.
- Before conducting the interview, the interviewer should review the standard informed consent form that has been developed for this study with the interviewee.
- Those questions marked “probe” should definitely be asked. Those questions marked “potential probe” might be asked in some interviews but not in others.

1. Please tell me your role in the community and how long you have been serving the community in this role.

2. What does it mean in your culture to care for a child?
   Potential probe: Are there specific actions that should be taken to care for a child?

3. Our study is looking specifically at the situation of children living without their biological parents. Without identifying specific children, can you tell me about which situations can cause children to live outside of the home of the biological parents?

4. Still thinking about these children who are outside of the homes of their biological parents, please tell us who they are living with.

5. You have just described some of the care arrangements in which children find themselves. Are these care arrangements acceptable according to your custom?
   Probe: Why or why not?
   Potential probe: What are some of the differences between the care arrangements that are acceptable and those that are not acceptable?

   Alternative way of asking: You have just described some of the care arrangements in which children find themselves. How are these care arrangements viewed by you and by other members of the community?

6. What factors do you consider important in judging whether a care arrangement is appropriate for a child?
   a. Potential probes: Do the following factors make a difference:
      i. The length of time that a child has lived in a given care arrangement?
      ii. Whether the child is a boy or a girl?
      iii. Whether the caregiver is a blood relative?
      iv. Other factors?

7. Is there anything else you would like to add?
Analysis Template

Microsoft Excel
97-2003 Worksheet