



NORWEGIAN
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Save the Children

LEGAL PROTECTION OF CHILDREN TOOLKIT



Information, Counseling and Legal Assistance (ICLA) Programme, Middle East



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Save the Children

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NRC Education Centre, Lebanon (Photo: Zaynab Mayladan/NRC)



1. INTRODUCTION: PURPOSE AND USAGE OF TOOLKIT

Objective of the Toolkit

To provide a package of information on dealing with the legal protection of children within ICLA programmes by:

- giving an overview of the international child rights framework
- highlighting common protection risks faced by children
- helping ICLA staff deal with issues involving the legal protection of children during ICLA casework

1.1 Purpose of Toolkit

The toolkit is intended as a practical resource for ICLA staff when dealing with issues involving the legal protection of children. It contains guidance, practical tips and examples of different types of child rights issues handled by ICLA programmes. The annexes to the toolkit contain checklists for use in daily work including lists of child rights standards and checklists for identifying protection risks, working with children and developing advocacy and policy change approaches. The ultimate goal is to help staff better protect children and reduce the protection risks they face.

Not only does the toolkit provide a resource pack for existing programming, but it can be used to identify new opportunities for collaboration with child protection and education actors around the better legal protection of children. Whilst many cases handled by ICLA programmes, such as birth registration, are relatively straightforward involving minimal protection issues, others are more complex. The toolkit equips staff to deal with more complex cases involving the legal protection of children within ICLA's thematic areas. These often involve interlinked legal and non-legal protection issues and require follow-up with child protection and education actors.

1.2 NRC and Save the Children

The toolkit draws on the programming guides developed by Save the Children, 'Protecting Children on the Move'¹ and 'Durable Solutions for Children Toolkit'² as well as from the field work conducted by NRC ICLA programmes and Save the Children in different contexts.

1 Save the Children 2018, [Protecting Children on the Move: A Guide to Children Affected by Migration and Displacement](#)

2 Save the Children 2019, [Durable Solutions for Children Toolkit](#)



NRC's Information, Counseling and Legal Assistance (ICLA) programmes provide legal services to persons displaced by conflict, including children, in key thematic areas such as identity and civil documentation, legal residency, Housing, Land and Property (HLP) rights and employment rights. NRC's Education programmes aim to ensure that all displaced children and youth enjoy quality education that is relevant to their psychosocial, emotional and cognitive development from the start of emergencies. In addition NRC's youth programmes conduct activities to promote the empowerment of young persons through livelihoods opportunities as well as opportunities for personal development.

Save the Children is a specialised child protection actor and provides a range of services and programmes to protect the rights and promote the well-being and development of children worldwide including those affected by migration, conflict and displacement.

1.3 Content of Toolkit

The **first** part of the toolkit sets out the human rights and humanitarian law framework governing child rights whilst the **second** part focuses on protection. It sets out common protection risks and the role of ICLA programmes as a legal protection actor. The **third** part of the toolkit provides guidance for staff working with children and on children's cases (child safeguarding/safe programming), including identifying protection concerns, conducting legal casework, working with child protection and education actors and making referrals. The **final** part of the toolkit sets out due diligence and programme design considerations such as key elements of safe and child sensitive programming, coordination with other stakeholders and development of advocacy/policy change approaches.

Protection: within the toolkit refers to the need to ensure the safety, dignity, and rights of people affected by disaster or armed conflict.³ **Child protection** refers to the prevention and response to abuse, neglect, exploitation and violence against children.⁴ Protection risks can include risks of violence or threats of violence, denial or lack of access to services, discriminatory treatment or any other forms of abuse, mistreatment, neglect or harm that affect the ability of persons, including children, to protect their basic rights. **Child safeguarding** is not the same as child protection. It refers to the actions taken by all NRC programs to ensure that children they come into contact with are safe. This includes all the proactive measures put in place to ensure children are not subjected to further harm as a result of NRC interventions.⁵

Legal protection: within the toolkit refers to legal or administrative actions by which ICLA programmes and other legal aid providers protect the rights of child beneficiaries. Legal actions taken to guarantee the right to identity, nationality, family unity and legal status can be critical in preventing abuse, neglect, exploitation and violence. Legal action may also be taken to protect children from abuse within the home or to seek justice for children who have experienced such forms or abuse. Children in conflict with the law may also require legal support.

Non-legal assistance: Whilst legal protection covers the legal or administrative actions taken to protect children's rights, '**non-legal assistance**' refers to other types of social and welfare support, access to government services, humanitarian assistance, healthcare, psychosocial, educational or community support that can help protect children from the risk of abuse, neglect, exploitation and violence or respond to those who have experienced such violations. Within this broad categorisation, protection activities should distinguished from more general social assistance or financial support services such as access to health, education or social support payments. Protection actions are designed to address specific protection risks, such as risks of violence, abuse or exploitation. This could include family tracing services, psycho-social counselling or temporary care arrangements.

3 NRC Protection Policy p 3, [NRC Protection Policy](#).

4 Child Protection Minimum Standards 2019, [CPMS 2019](#).

5 NRC Safe Programming definitions 2020, [Safe Programming](#).



1.4 ICLA programmatic work on legal protection of children

Children comprise more than half of the estimated 68 million persons displaced worldwide.⁶ A further 149 million children live in high intensity conflict zones.⁷ They are particularly vulnerable and susceptible to rights violations on account of their age and reliance upon others to protect them. States have special obligations in relation to the protection, education, health, welfare and development of children.

ICLA programmes play an important role in the legal protection of children. They can help children obtain birth certificates, gain residency status in host countries and avoid becoming stateless. Access to documentation can facilitate access to basic entitlements such as education, health or social support. Proper documentation can also protect children from being detained on account of a lack of identification papers. ICLA programmes may also come across legal issues related to protection of family unity, child marriage, child labour or guardianship in the course of their work. These may not be at the core of ICLA thematic areas but it may be necessary to address them to achieve ICLA's objectives or to ensure we meet our due diligence/duty of care obligations vis-a-vis children.

1.5 Duty of care to children

Whilst ICLA programmes handle cases involving children on a regular basis, staff are not always aware of their legal obligations and duty of care in dealing with cases of children and the protection risks that children might face. Nor are ICLA staff always aware of all the laws and policies relevant to children as well as the consequences for our legal work if protection issues are not addressed properly. This is an essential part of safe programming within NRC.

Agencies working with children have special obligations to **act in the best interests of the child in all actions concerning children**⁸. This obligation applies not only to government authorities (courts, administrative authorities, legislative bodies and public social welfare institutions) but also to **private social welfare institutions** and thus implicitly covers humanitarian agencies dealing with children. Specific child rights are set out in the Convention on the Rights of the Child (CRC) as well as in other human rights instruments⁹. ICLA staff must understand the key human rights and protection principles relevant to children in order to act in the best interests of children and to be able to respect the principle of Do No Harm in the course of ICLA work.

Staff should also be aware of the other NRC and ICLA resources relevant to the protection of children including the NRC Protection Policy, Protection against Sexual Exploitation and Abuse (PSEA) Guidelines, Child Safeguarding Standards, ICLA and Protection Guidance Note and ICLA Safe Programming Standards.

1.6 Overview and Usage of Toolkit

The toolkit will:

- provide ICLA staff with **practical guidance and support** on dealing with legal and protection issues affecting children
- highlight the **main legal, human rights and protection principles** relevant to children as well as the obligations on duty bearers
- provide guidance on how to **map the legal and policy framework** for children at the country level
- highlight some of the **main protection issues impacting children affected by displacement** and how they should be dealt with, including through referrals to specialized child protection actors
- show the **connections between legal and non-legal protection issues**

⁶ Save the Children [Durable Solutions for Children Toolkit](#), p 3.

⁷ Save the Children 2020, 'Stop the War on Children: Gender Matters', [Stop the War on Children](#).

⁸ Article 3 of the Convention on the Rights of the Child (CRC)

⁹ See section 2 of Toolkit as well as Annex 1



- clarify the role and limitations of **ICLA programmes as specialised legal actors**
- provide **guidance for staff on dealing with children** including those with particular vulnerabilities or protection issues
- highlight **best practice on working with other stakeholders, such as NRC Core Competencies**, including Education, as well as other coordination mechanisms and forums
- set out the **programmatic considerations** that should be taken into account when developing or assessing projects involving the legal protection of children
- provide tips on developing joint **ICLA/Advocacy approaches** for the legal protection of children

The toolkit is designed for use by all ICLA staff including Specialists/Programme Development Managers, Project Managers, Coordinators and legal and non-legal staff. Different sections may be relevant to staff with different roles but the key protection principles are common. The toolkit may also be relevant to NRC staff such as Education/Youth teams, Heads of Programme, Advocacy Advisers or Protection Managers.

How to use the toolkit in practice – Sample Child Marriage Project involving ICLA, Education and Advocacy

ICLA develops a special project to address the prevalence of child marriage and its legal consequences together with Education and Advocacy. It partners with a specialized child protection actor to provide information about the negative consequences of child marriage and the laws and processes for registration of births and marriages in the country. ICLA will also provide counselling and legal assistance to persons seeking help to register babies born of child marriages which have already taken place. A campaign against child marriage is developed jointly with other child protection actors as well as Education and Advocacy.

The Legal Protection of Children toolkit is used in the following way:

1. ICLA Managers use the **programme design checklist** to look at the issues that should be taken into account in planning the project, including any risks associated with this type of programming;
2. Research on the **legal and policy framework** is conducted in order to properly understand the law and the role of government agencies;
3. **Mapping of legal, child protection and education actors** is conducted and **referral pathways developed**;
4. **Staff receive training from child protection and education actors** on protection risks and issues for children within the context;
5. **Procedures are developed** for dealing with children's cases internally, for referrals and for liaison with the relevant child protection and education actor.
6. **ICLA and Education clarify their roles and responsibilities** under the joint project as well as **outcome indicators** and the results they hope to achieve; and
7. ICLA, Education and Advocacy jointly develop a **policy change strategy** to promote changes to the law to ensure a minimum marriage age of 18 and registration of all children regardless of the marital status of the parents. This will be part of a wider campaign **coordinated by the Child Protection Sub-Working Group** under the Protection Cluster. Information on child marriages cases within the ICLA database is collated to provide an **evidence-base for advocacy**.



Humsa, Jordan Valley, Palestine (Photo: Ahmed Al-Bazz/NRC)

A: CHILDREN'S RIGHTS IN INTERNATIONAL LAW



Programmes protecting the legal rights of children must have a solid understanding of the international child rights legal framework. The following section sets out key child rights and the human rights and humanitarian law treaties and conventions that establish and protect those rights.

2. INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW FRAMEWORK



Section Objective

To set out key child rights under international human rights, refugee and humanitarian law

Children benefit from some of the strongest protective frameworks under international human rights and humanitarian law. Not only are they covered by general human rights treaties, conventions and instruments but they are the subject of a specific human rights convention clarifying their special rights and protections, namely the **United Nations Convention on the Rights of the Child (CRC)**. This is a legally-binding international agreement setting out the civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities. **Under the terms of the CRC, governments are required to ensure that children's basic needs are met and help them reach their full potential.**

2.1. International Human Rights Law

2.1.1 Convention on the Rights of the Child (CRC)

The guiding principles under CRC are that children are the subject of a **special protective regime** on account of their age and vulnerability and that **the best interests of the child shall be a primary consideration in all actions concerning children**. Not only must the basic rights and needs of children be respected but children should **receive information and be consulted about decisions affecting them** in accordance with their capacity to understand.



Annex 1 contains a detailed list of child rights provisions under the CRC for reference by ICLA staff. Key principles include the following:

- ▶ Responsibility of States to ensure the welfare and protection of children
- ▶ Parents and legal guardians to provide appropriate direction and guidance for children
- ▶ Right of children to birth registration, nationality, name and legal identity
- ▶ Right to family relations and family unity
- ▶ Right to freedom of thought, expression and association
- ▶ Right to protection from violence, abuse, neglect, mistreatment or exploitation, including sexual abuse, trafficking or abduction
- ▶ Right to health care
- ▶ Right to education
- ▶ Right to social welfare
- ▶ Right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development
- ▶ Right to liberty, with arrest and detention to be used in accordance with the law and only as a matter of last resort
- ▶ Right to access to justice and fair trial standards for children

2.1.2 Refugee Convention

The Refugee Convention forms part of international human rights law. Whilst the Convention does not contain many provisions specific to children, it does protect the right of family unity¹⁰, public and religious education¹¹, welfare services¹², housing rights¹³ and the right to identity papers,¹⁴ all of which are important for children.

10 Refugee Convention, Final Act, para IV recommendation B

11 Refugee Convention, Arts. 4, 22

12 Refugee Convention Arts. 23, 24 and Final Act, para. IV recommendation C

13 Refugee Convention Art. 21

14 Refugee Convention Art. 27



2.2 International Humanitarian Law (IHL)

As ICLA programmes very often work in situations of war and armed conflict the provisions of International Humanitarian Law (IHL) are highly relevant.¹⁵ In addition to the general protections owed to all civilians, IHL includes a number of special protections for children.¹⁶ Obligations are owed by parties to the conflict for the areas under their effective control.

In relation to situations of both international and non-international armed conflict, the Fourth Geneva Convention requires parties to the conflict to provide children with the care and aid they require.¹⁷ Specific requirements include:

- the obligation to facilitate the proper working of institutions devoted to the care of children, such as schools, hospitals for children, child care centres or other places dealing with children's needs¹⁸
- the obligation to facilitate the identification, registration and establishment of parentage of children¹⁹
- the duty to facilitate the reunification of families dispersed during the conflict²⁰
- the right for family members to give news or information to other family members²¹
- the prohibition on recruitment of children under 15 into the armed forces²²
- the prohibition on forcing children under 18 to work²³
- the obligation to evacuate children from besieged areas²⁴ and to provide for the maintenance, education and welfare of orphans or children separated from their families²⁵
- protections for children detained or interred by parties to the conflict²⁶

Children taking part in hostilities, such as child combatants or child soldiers are still entitled to the special protections provided for children under the Fourth Geneva Convention protocols.²⁷

3. Other resources

In addition to these main human rights/humanitarian law instruments, other treaties deal with specific issues relevant to children such as child labour, child marriage and the abuse and exploitation of children. The UN Committee on the Convention on the Rights of Children issues General Comments providing guidance on human rights issues relevant to children's issues as well as decisions on complaints against State Parties under the Optional Protocols to the CRC. The UN Guiding Principles on Internal Displacement also note the need for protection and assistance for children based on their special needs.²⁸ A large range of jurisprudence and academic commentary is also available on child rights.

15 International Humanitarian Law (IHL) consists of the laws of war and armed conflict. It comprises The Hague Regulations and the Geneva Conventions of 1949 and its Additional Protocols as well as the body of customary international law relevant to IHL and other case law, international agreements and commentary by the International Committee of the Red Cross (ICRC). The provisions of IHL most relevant to ICLA programming are contained in the Fourth Geneva Convention Relative to the Protection of the Civilian Population as well as the Additional Protocols to the Convention.

16 See for example D. Plattner. 'Protection of Children in International Humanitarian Law', International Review of the Red Cross, No. 240, 1984, <https://www.icrc.org/en/doc/resources/documents/article/other/57jmat.htm>

17 Fourth Geneva Convention, Protocol 1 Art. 77 and Protocol II Art. 4(3)

18 Fourth Geneva Convention, Art. 50

19 Fourth Geneva Convention, Art. 24, 50

20 Fourth Geneva Convention, Protocol 1, Art. 74

21 Fourth Geneva Convention, Art. 25 Fourth Geneva Convention, Art. 25

22 Fourth Geneva Convention, Protocol 1, Art. 77

23 Fourth Geneva Convention, Art. 51

24 Fourth Geneva Convention, Art. 17 Fourth Geneva Convention, Art. 25

25 Fourth Geneva Convention, Art. 24

26 Fourth Geneva Convention, Art. 77, 94

27 Plattner, *ibid*

28 [UN Guiding Principles on Internal Displacement](#), Principle 2(4)



Annex 1 of the Toolkit sets out key ‘International Human Rights and Humanitarian Law Principles for the Protection of Children’.

Annex 8 contains a list of ‘Selected Resources on the Legal Protection of Children’.

Examples of violations of the CRC in the Middle East

Right to birth registration and nationality – Iraq

All Iraqi children have the right to birth registration, a legal identity, nationality and social security protection under Iraqi domestic law. However, children whose families have perceived affiliations to ISIS are routinely denied birth registration or any form of proof of legal identity. Without such civil documentation these children are unable to move freely, attend school, receive government health services or access social security under the Public Distribution Scheme. They are discriminated against in violation of Article 2 of CRC on the basis of an imputed political opinion. Their rights to birth registration (Art. 7), to a nationality (Arts. 7 and 8), to health (Art. 24), to social security (Art. 25) and to education (Art. 28) are violated. Further, they are more vulnerable to child labour (Art. 32), child marriage (Arts. 19, 36, 37), trafficking (Arts. 19, 34, 35) and detention (Art. 37) in possible breach of articles of the CRC.

Right to family unity – Palestine

Under international law the West Bank (including East Jerusalem) and the Gaza Strip are considered occupied Palestinian territory. However, children from mixed West Bank/East Jerusalem families are typically denied the right of family unity if they want to live in East Jerusalem with both parents which Israel considers to be part of the State of Israel. The child registration and family re-unification permit regime imposed by Israel over East Jerusalem makes it extremely difficult for West Bank spouses to live in East Jerusalem, thus breaching the right to family unity and freedom of movement under CRC. Children living in the Gaza Strip with one parent in the West Bank are typically denied permission to travel to the West Bank to visit that parent. This breaches the principle of family unity in Article 9 of the CRC.

Arrest and detention – Lebanon

When Syrian refugees turn 15 years old in Lebanon, they can no longer be covered under their parents’ residency permits. In order to acquire legal residency, they are required to present valid Syrian identification, namely a Syrian national ID card. However such ID cards can only be obtained in Syria. Without this document many Syrian youth are unable to obtain legal residency in Lebanon exposing them to the risk of arrest and detention for a lack of legal status. Their arrest and detention for administrative reasons based on their lack of possession of a document they cannot be expected to obtain is arguably a breach of Article 37 of the CRC which states that no child should be deprived of their liberty arbitrarily and that children should only be detained as a measure of last resort.

Child Labour – Jordan

Many young Syrian refugee children in Jordan work at a young age in dangerous occupations, including selling goods in the middle of busy streets or working on construction sites. As a signatory to CRC Jordan has an obligation to ensure that children are protected from work that is dangerous or may jeopardise their right to health or education. This may constitute a breach of Jordan’s obligations to protect children from work which is dangerous and can harm their health or education under Article 32.



Gaza, Palestine (Photo: Emad Badwan/NRC)

B: PROTECTION RISKS AND RESPONSES



Children face particular protection risks on account of their age and vulnerability. The following section sets out some of the common protection risks faced by children. It also highlights the linkages between legal and non-legal protection issues and the mutually supportive role that legal aid providers and other child protection actors can play in best protecting children's rights.



3. COMMON PROTECTION RISKS AFFECTING CHILDREN



Section Objective

To highlight common protection risks affecting children

Children suffer from a wide range of protection risks in situations of conflict and displacement. Such risks may impact on the type of advice provided by ICLA staff or the decision that a parent or child takes not to pursue a legal option on account of protection risks. The ultimate aim is to reduce the protection risks faced by children through the legal work conducted by ICLA programmes.

Example: Protection Risks related to Death or Missing Persons Certificates – Iraq

Women in Iraq often face protection risks in applying for birth certificates for children whose fathers are alleged to have been involved in ISIS and who are presently missing, presumed dead. In order to obtain a birth certificate, a marriage certificate must be obtained and the whereabouts of the father confirmed. However marriages often took place informally under ISIS control without written certification. Further, in order to obtain a missing persons certificate wives must place a newspaper advertisement declaring their husband missing and file a report with the police. The missing persons certificate can only be issued three years from the date the person is reported missing. In practice many women are reluctant to declare their husbands missing as it can cause family tensions and attract suspicion from authorities about the whereabouts and activities of the husband. Conversely some women chose to undergo judicial or tribal procedures to formally 'renounce' their husband in order to obtain documents and facilitate return home and re-integration into their community. This can result in serious legal as well as protection consequences including the risk of violence or reprisals from family or community members.



3.1. Types of Protection Risks

The following protection risks can be encountered by all children, but are particularly high for children affected by humanitarian crises, conflict and displacement.²⁹

- ▶ **Family separation**
- ▶ **Lack of appropriate care and risks of being placed in harmful institutions**
- ▶ **Harassment, violence and abuse** (physical, emotional, sexual) by family members, officials, armed forces, civil groups, humanitarian workers or members of the general public
- ▶ **Security issues or ongoing conflict**, including armed conflict or criminality
- ▶ **Trafficking**
- ▶ **Sexual and Gender Based Violence**, including sexual abuse and sexual exploitation of girls and boys, prostitution, and risks of transactional sex and forced marriage
- ▶ **Exploitation and increased vulnerability to the worst forms of child labour**, such as working in dangerous or hazardous conditions
- ▶ **Detention** because of migration status or for security reasons (with increased risk of physical, sexual and emotional abuse)
- ▶ **Refoulement, deportation and forced returns**
- ▶ **Psychological stress**, emotional and physical suffering or exacerbation of pre-existing mental health conditions
- ▶ **Neglect by parents or the State**
- ▶ **Social exclusion, including discrimination and lack of access to basic services and social care**
- ▶ **Recruitment by armed forces and groups**³⁰

Children on the move (including IDPs, refugees, returnees, migrants) face increased risks of violence, abuse, and various forms of exploitation both during their journey and upon reaching their destination. Unaccompanied and separated children face even greater risks of abuse and exploitation. Risks are also magnified when children do not have identity papers or other related documentation (such as a residence permit).

²⁹ Save the Children, [Protecting Children on the Move](#), p 8

³⁰ Save the Children, [Achieving Durable Solutions for Returnee Children: What Do We Know?](#) p 49.



ICLA Clinic, Lebanon (Photo: Zaynab Mayladan/NRC)

4. ICLA AND THE LEGAL PROTECTION OF CHILDREN



Section Objective

To highlight the obligations on ICLA staff to act in the best interest of children in all actions concerning children

To demonstrate how non-legal protection issues are relevant to ICLA's legal work

4.1 Role of ICLA as a legal protection actor

ICLA programmes can play a niche role on child protection issues as a **specialist legal service provider in relation to key thematic areas**. This includes, for example, assisting children to obtain proof of legal identity, residency or access to essential services such as health or education. ICLA staff may also come across other legal issues in the course of casework such as legal aspects of guardianship, child marriage, family separation, access to education, child labour, detention of children on account of a lack of legal resident status or other issues. Very often such issues are connected with the ICLA case, such as in situations in which ICLA programmes are helping a legal guardian obtain a birth certificate for a child or helping with a residency application in a case in which the parents are separated. In these instances, ICLA staff need to have a proper understanding of the relevant legal frameworks in the country to be able to assess the issues from a legal perspective and to make appropriate referrals and follow-up. Whilst ICLA staff will need to refer protection issues such as guardianship to government social services, child protection or other specialist actors, ICLA teams may be able to support on relevant legal aspects.

ICLA programmes can also **conduct legal research and advocate for legal and policy change** to address the legal rights of children under international law in relation to ICLA's thematic areas. This can include legal research and analysis on child statelessness, legal protections against child labour, discrimination in access to basic rights, the prohibition against child marriage and other relevant legal issues.



NRC Education, Aqraba, Syria (Photo: Tarek Mnadili/NRC)

4.2 Do No Harm and Acting in the Best Interest of the Child

Questions of legal protection, broader protection principles and Do No Harm considerations are interlinked. In the case of children, the guiding principle as set out in the CRC is the duty to **act in the best interests of the child in all actions concerning children**. In order to meet this standard in the provision of legal services a range of factors must be taken into account including consideration of the capacity of the child, the views of the child, parental guidance, obligations of the State, the well-being of the child and other social and cultural factors.³¹

The CRC recognises families to be the fundamental unit of society for promotion of the well-being of children. Parents typically have legal guardianship over their children and the right to provide appropriate guidance and direction in the upbringing of children. ICLA programmes should recognise parents and caregivers as key decision makers for children. However, children should be informed and consulted on decisions that impact their lives, in accordance with their capacity and ability to understand. Where child protection issues are involved, acting in the best interests of the child will sometimes involve referral and close cooperation with other specialist child protection actors.

There is a **strong gender dimension** to the protection of children. Girls and boys have different protection needs and require gender-sensitive responses. Further, the lack of legal protection of children is often caused by the lack of legal protection of their mothers through discriminatory laws. Age discrimination can be another relevant issue, particularly if adults impose fixed views of what a child of a certain age is capable of without taking account of the capacity or maturity of the child. ICLA programming needs to be mindful of those differential needs, seek advice as necessary and tailor interventions according to relevant gender considerations.

4.3 Complementarity between legal and non-legal protection work

Non-legal protection support provided by child protection actors can be critical to the legal work provided by ICLA in maximising the best protection outcome for the child. For example, an unaccompanied youth without identity documents might need access to temporary care to reduce the chances of detention whilst the identity documents are being organised. In addition to direct protection services, social assistance services, such as financial support, access to health care, education or humanitarian assistance, may also be important to address basic needs. ICLA teams may provide information about employment rights and the minimum ages of employment for refugee youth, whilst other actors, including NRC's Youth/Education team, may be working on incentives for parents to keep their children at school in order to minimise the risks of child labour.

³¹ John Tobin, 'The UN Convention on the Rights of the Child: A Commentary', Chapter 3, 2019, Oxford University Press

The following table provides examples of the complementarity of work between legal actors and (non-legal) protection and social assistance actors in obtaining better overall protection and welfare outcomes for children. Protection services are those which directly address a protection issue, whilst social assistance services are those which provide more general access to services or entitlements. The table highlights legal issues for ICLA programmes and child protection risks if those rights are not protected as well as different types of legal and non-legal protection approaches and social assistance services that can help protect rights or mitigate protection risks for children. Whilst protection and social assistance services are quite distinct they are combined here to show the different types of support that are available to complement legal services.

Complementary Legal Protection and Non-Legal Protection/Social Assistance approaches

ICLA Legal Issue	Fundamental Child Right	Child protection risk if right is not protected	Legal protection approaches	Non-legal protection and social assistance services
No birth certificate or national identity card	Right to a Legal identity, Right to a nationality	Statelessness, denial of access to basic services on account of lack of proof of identity, heightened risk of child labour, child marriage, trafficking, and detention	Helping obtain proof of legal identity, including birth certificate	Case management to address specific child protection risks pending issuance of the proof of identity; providing interim access to social and health services and
Lack of access to school on account of lack of birth certificate	Right to education	Denial of educational and life opportunities, increased risk of marginalisation, discrimination and exploitative practices such as child labour, child marriage and sexual exploitation	Helping obtain birth certificate and/or any other necessary documents for school enrolment	Case management to address child protection risks including risk of child labour, working with education providers for access to non-formal education programmes pending formal school enrolment
Detention of child for lack of legal residency status	Right to liberty, restrictions on administrative detention, right to seek asylum and live lawfully within the community	Detention, encampment, lack of freedom of movement, risk of deportation	Helping obtain release from detention, legal residency or permit to exit camps	Protection support to children whilst in detention, social support to family, including access to services, whilst residency application is being processed



ICLA Legal Issue	Fundamental Child Right	Child protection risk if right is not protected	Legal protection approaches	Non-legal protection and social assistance services
<p>Girl wants to formalise existing child marriage to obtain birth certificate for child of marriage</p>	<p>Prohibition against child marriage, right to legal identity for child</p>	<p>Protection risks to mother include violation of rights as a result of child marriage, physical and sexual abuse during marriage; protection risks for child without legal identity include lack of status, nationality, access to services</p>	<p>Helping obtain birth certificate for child which may require obtaining a certificate of marriage</p>	<p>Conducting child protection assessment, social support to mother including physical and psychological health support, parenting support</p>
<p>Child working under age</p>	<p>Prohibition against child labour</p>	<p>Exploitation, health consequences of dangerous/hazardous work, lack of education</p>	<p>Information to family about minimum working age and legal protections against child labour</p>	<p>Provision of support to family including on alternative sources of income, cash assistance, support with re-integration of children in education</p>
<p>Orphan child living with relatives without birth certificate, proof of identity or proof of legal guardian-ship</p>	<p>Right to legal identity, protection of the family unit</p>	<p>Lack of access to services without proof of identity, risk of abuse/ exploitation without legal confirmation of identity, family and nationality; fragility of care arrangements</p>	<p>Helping obtain birth certificate for child, advising family on legal requirements for confirmation of legal guardianship</p>	<p>Ensuring support and monitoring or care arrangements are in place for child and that family receives proper social support</p>



Children on the way to school, Silwan, East Jerusalem, Palestine (Photo: Ahmad Al-Bazz/NRC)

5. IDENTIFYING AND ASSESSING PROTECTION ISSUES



5.1 Identifying protection risks relevant to the legal case

In order to respect Do No Harm principles, ICLA staff must understand and be able to identify the protection risks that children and their families may face **which are relevant to the ICLA case**. Staff will then be in a better position to give advice on available legal options and make appropriate referrals to child protection specialists. Protection issues unrelated to the legal case should be referred to protection actors through the usual referral pathways.

In some situations, protection risks may prevent a person from taking legal action. For example, ongoing conflict or security risks may prevent a person from travelling to apply for documents. Many beneficiaries are reluctant to approach authorities for fear of attracting attention or having to pay bribes. A family without lawful status in the community may have limited options to protect their rights, including access to services for children. Refugee children may face discrimination within the host community resulting in denial of education, bullying or harassment at school or on the way to and from school.

Whilst some protection risks are the result of generalised violence or insecurity within the country, others relate to the individual situation of the family, including domestic violence or child abuse at home. Beneficiaries will often disclose their protection concerns and fears to ICLA staff during counselling. However in other cases, ICLA staff may need to proactively ask beneficiaries about any possible risks in taking a particular action. For example, a mother may need to obtain an identity document for child in a case in which mother and father have not formally married, are now separated and do not have good relations. The ICLA case worker understands that the only way forward is to confirm paternity, such as through administrative or legal proceedings. However, this could put the mother at risk if the father is opposed and there is a history of domestic violence. ICLA staff will need to discuss the risks with the mother so that she can take an informed decision weighing the risks versus the benefits of the action. This requires discussion of how to mitigate risks and identify actors that can assist in the areas outside ICLA's thematic mandate, such as in obtaining protective orders from a court for the mother. A further example is the case where a mother without lawful residency needs a birth certificate for her child. If she approaches the authorities she may be detained as an illegal resident. ICLA staff will need to consider whether anything can be done to reduce risks in either case.



5.2 Dealing with other child protection issues

Sometimes ICLA staff may see children who show signs of distress, abuse or neglect. Staff may be able to use their Psychological First Aid (PFA) training for some situations but will need to refer to child protection experts in other cases, depending upon the complexity and sensitivity of the case. ICLA staff should follow the NRC Child Safeguarding Guidelines in such situations.

Other assistance needs may also arise during ICLA consultations. These can include requests for support with:

- physical health needs
- psychosocial support or mental health needs
- educational support
- shelter needs
- family welfare support including cash payments for families.

Referrals should be made by ICLA staff in such cases in accordance with the relevant country office referral procedures.

In summary, in the course of an initial consultation with beneficiaries, ICLA staff should be able to identify:

- any protection risks connected with the **legal aspects of the case**, including child protection risks
- any **mitigating measures** that can be taken to minimise the protection risks
- the need for referrals for assistance or basic needs **not related to the legal case** (such as health issues)
- any obvious **signs of abuse** that may suggest a possible child protection issue.

Annex 2, 'Assessing and Mitigating Protection Risks' sets out a list of considerations to be taken into account in identifying and dealing with protection issues in ICLA cases. The Protection Assessment checklist contained in the NRC Protection Resource Pack is a useful resource for a broader assessment of protection risks for ICLA programmes.



NRC Safe Programming Standard 1.6: Ensure proper child safeguarding standards are in place

Child protection risks are part of the risk assessment



Bekaa Valley, Lebanon (Photo: Zaynab Mayladan/NRC)

C: WORKING WITH CASES INVOLVING CHILDREN



To ensure ICLA programmes are following protection principles and meeting professional obligations, safe programming and casework standards must be met. The following section sets out some of the key casework considerations for ICLA staff in working with children, making referrals, cooperating with specialised child protection actors and dealing with special issues such as family separation.

6. CASEWORK CONSIDERATIONS



Section Objective

To provide practical guidance on casework considerations when dealing with cases involving the legal protection of children.

6.1 ICLA as a legal protection but not a child protection actor.

ICLA is a legal protection but not a child protection actor and staff must be clear on the limits of their expertise when dealing with children's cases. In general ICLA staff should limit themselves to dealing with the legal or administrative issues within ICLA's thematic area and refer other legal or protection issues through the relevant channels. This includes referrals to Protection Focal Points or Protection Advisors within ICLA or NRC or to external protection/child protection actors through referral pathways.



6.2 Achieving the most protective result in the circumstances

When operating in a complex legal and political environment in which child rights are not respected and violations routinely occur ICLA programmes cannot always ensure that international human rights standards for children are met. Instead programmes must act in the most protective capacity possible in the circumstances. This may sometimes involve difficult compromises, conflicts between competing human rights or discussions with beneficiaries, including children, parents and other caregivers, about the risks of pursuing legal options if that would create protection concerns.



As an example, a girl will inherit only half of her brother's share under Shari'a law inheritance practices in most Muslim countries. Whilst this may be inconsistent with principles of non-discrimination in international human rights law, it may be the only available option under domestic law. Furthermore, under local customary practices sisters may be expected to relinquish their share of inheritance to their brothers. There may be protection risks in challenging local norms and customs and going to court for the half share under Shari'a law. Beneficiaries should be counselled on the available options and the type of support ICLA can offer and must make their own decision about what action to take, bearing in mind protection risks.

As another example of competing interests ICLA programmes should not assist a beneficiary in cases that would involve breaking the law or which may breach a fundamental human rights principle. This could be the case where a parent wants to register a child of an underage marriage in the name of another person, use the identity card of another person to obtain health care for a child or send their child to work in breach of national child labour protections. Particular protection concerns may exist in cases of the birth registration of children outside of marriage, especially in cultures with high rates of honor killings.

In situations of conflicts between international human rights standards and domestic laws, ICLA staff should be mindful of the obligation to act in the best interests of the child under CRC. This may be subjective and a matter of interpretation. In such situations ICLA should be guided by advice from child protection actors as well as information on the best available legal options and mitigation strategies to ensure the most protective outcome.³²

6.3 Guidelines in dealing with cases involving children as primary beneficiary

The following section sets out procedural standards and principles to follow when dealing with cases involving children in which the child is the primary beneficiary of ICLA case management.

A checklist for dealing with children's issues is contained at Annex 3.

A further useful resource is the ICLA Data and Case Management Toolkit.



6.3.1 Interacting with children

Dealing with children is different to dealing with adults and different casework approaches are necessary. Much depends on the age, capacity and maturity of the child and whether they are accompanied by their parents or other persons or are alone. Children often need information in a more straightforward and interactive way than adults. It may be necessary to check that child beneficiaries have understood the information provided, such as by asking them to confirm or repeat the information. It is also important to check that you have correctly understood the information that the child has given you, for example by repeating your understanding back to the child for confirmation. Children are extremely perceptive and absorb a lot more information than they are often given credit for. NRC Education colleagues or colleagues from other specialized agencies can provide guidance on how to communicate with children in a way adapted to the context.



6.3.2 Creating a child-friendly space

Programmes dealing with children should create a safe and child-friendly space. This should be a space that is safe and secure, fenced if necessary, free from hazards such as water or electrical appliances, engaging and suitable for children. When parents and guardians are not worried about the whereabouts or safety of children or are not continuously distracted by them, they can concentrate and give better information. However children with appropriate capacity and maturity should also be included in discussions about decisions affecting them.



³² See for example John Tobin, Expert Legal Opinion for NRC on International Law and Child Marriage, 12 November 2019,

6.3.3 Identification of legal protection and assistance needs

At the beginning of counselling or legal assistance services ICLA staff will need to identify whether there are any protection issues involving the child relevant to the ICLA issue. This can include protection risks for children without legal stay in the country or health needs for children without any form of legal documentation. Beneficiaries should be reminded that everything that is disclosed to ICLA is treated confidentially and that the role of ICLA staff is to provide advice to beneficiaries on the best available options. Please note however that confidential information may need to be disclosed to authorities in accordance with national laws including mandatory reporting obligations for issues of child abuse.



6.3.4 Checking authorisation when children are accompanied by adults that are not their parents

In most cases children will be accompanied by their parent. In cases in which children are accompanied by a family member or other adult (family friend, teacher, community worker) who is NOT the parent, ICLA staff should clarify who the legal guardian is and why the parent is not present. This may require understanding of the requirements for legal guardianship in the country and some basic due diligence, such as closer checking of the family situation and whereabouts of the parents.



Guardianship should be checked in cases of unaccompanied minors and referrals made to appropriate social services or child protection agencies. ICLA staff may need to follow up with the guardianship actor to see if ICLA services are needed. When there is a dispute between the parents, staff should make sure that the party they are assisting (father or mother) has the guardianship or authorisation to act for the child. Particularly complex cases can include those in which one parent wants to travel overseas with a child without the consent of the other. National authorities sometimes have safeguards built into their passport issuance or border control systems to ensure that children cannot be removed without the knowledge and consent of both parents. However, in some countries laws discriminate in favour of the father and consent of the mother is not always necessary. In such cases ICLA staff will need to take account of the best interests of the children and avoid implementing laws or practices which discriminate on the basis of gender.

6.3.5 Taking account of the views of children

Children should be treated with respect at all times and included in any discussions concerning them subject to their capacity to understand and the sensitivity of the issues involved. Whilst this may not always be relevant in situations of very young children, from the age of 12 onwards,³³ children should be included in discussions where appropriate to ensure they understand decisions that are being made which may affect them.



6.3.6 Handling sensitive issues

Sometimes ICLA programmes will deal with sensitive or difficult issues affecting children. This can involve issues of child abuse or other protection issues. A decision made by a parent may potentially involve a conflict with the best interest of the child, such as in the cases of child marriage or where parents are separated. It is important to ensure that children are not present in the room when their parents are talking about difficult situations or traumatic experiences that the children may not know about. In such cases staff should check with the parents and see if the children can be looked after separately whilst the parent discusses their situation.



³³ Save the Children, *Protecting Children on the Move: A Guide to Children Affected by Migration and Displacement*, p 18; see also Inter-Agency Guidelines for Case Management and Protection, 2014, [Inter-Agency Guidelines](#), 117

Whilst children will generally be seen together with their parent or guardian by ICLA staff, there are cases in which they should be seen alone. If the legal case involves action that will have a profound impact on the child, they should have an opportunity to express their views separately from parents / caregivers, provided they have the relevant capacity to understand. This will also depend on the cultural context, the appropriateness of the situation and considerations of staff safety. Often it may be better to contact a child protection actor, or if no-one is available, have an experienced NRC Protection or Education Officer speak with the child. In such cases it is very important that Do No Harm principles are respected.³⁴

ICLA programmes must have in place appropriate procedures to detect and respond to situations of child abuse in line with NRC's safe programming principles and Child Safeguarding Policy.

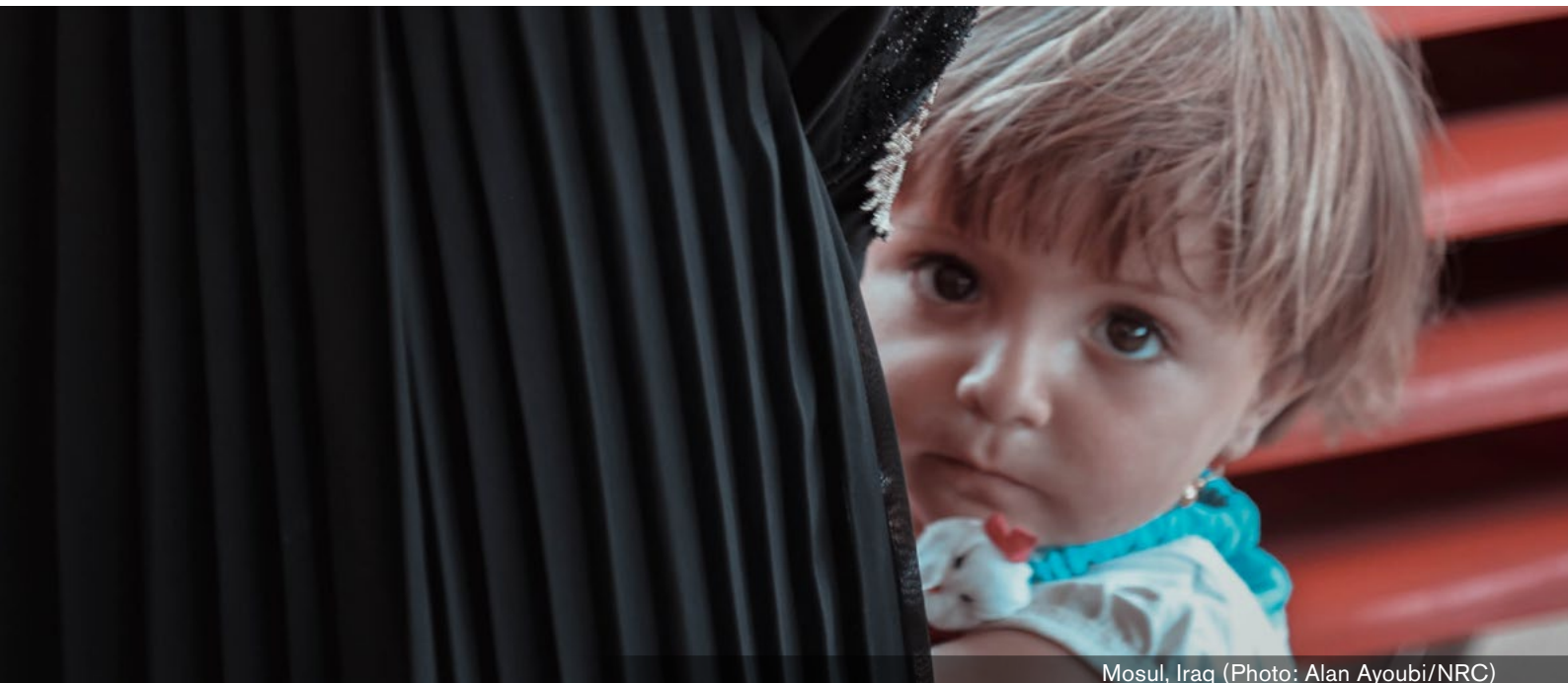
6.3.7 Dealing with children experiencing distress

Children affected by conflict or in situations of displacement will sometimes be socially marginalised or experiencing moderate or severe distress. Ideally all ICLA staff should be trained in Psychological First Aid (PFA) including PFA for Children. This gives staff the skills to deal sympathetically with beneficiaries who are upset or distressed whilst referring more serious cases to internal Protection Focal Points, specialised child protection agencies or Mental Health and Psychosocial Services (MHPSS). The ICLA Data and Case Management Toolkit provides further information about dealing with vulnerable beneficiaries.³⁵



Example: High levels of feelings of grief and sadness amongst children – Syria

As noted in Save the Children's *Invisible Wounds*³⁶ report on Syria, one in four children said they rarely or never have a place to go or someone to talk to when they are scared, sad or upset. Save the Children found that close to 50% of all respondents said that children regularly or always have feelings of grief or extreme sadness.



Mosul, Iraq (Photo: Alan Ayoubi/NRC)

³⁴ See [NRC Protection Resource Pack](#).

³⁵ ICLA Data and Case Management Toolkit.

³⁶ Save the Children 2017, '[Invisible Wounds: The impact of six years of war on the mental health of Syria's children](#)'.



6.4 Case management procedures for dealing with legal/protection cases of children

Given the sensitivity of child protection, ICLA staff will need to take particular care during the intake interview and other steps during case management to ensure that children are not put at further risk. If through case management staff see signs that there is a protection risk within the family unit, they should refrain from asking further questions and seek advice from a supervisor and eventually a child protection actor. This is to avoid the potential adverse consequences to a child if the staff member's questions cause a negative response from the adult. This may not occur immediately but could happen afterwards, such as if the adult is angry with the child when they get home.



General principles for ICLA staff when dealing with cases involving children or where the main beneficiary is a child, are as follows:

1. During intake or first consultation, ICLA staff will **identify whether there is any relevant ICLA issue involving the child or children** in accordance with the ICLA thematic mandate. If there is **no ICLA issue, but a protection risk is identified** through safe programming/child safeguarding procedures staff should follow the relevant country procedures and NRC child safeguarding policies, including referral to the relevant Protection Focal Point or through the external referral pathways.
2. **If there is an ICLA issue, staff will clarify whether there are any protection risks.** In straightforward cases, such as routine birth registration cases, there may be no protection risks. If there is no protection risk, the case is dealt with through the usual procedures.
3. **If there is a protection risk related to the ICLA case, ICLA staff should assess the risks and discuss it with the beneficiary and/or their parent/guardian.** This could be the case for children without legal residency in the country, child marriage, detention of children for lack of legal status, custody and guardianship issues involving children, child labour or other issues. In many cases there will be a need to refer such issues to specialised child protection actors.
4. ICLA will then **seek advice about how to deal with the protection issues relevant to the legal issues from the specialised child protection actor. It may sometimes be important to** hold a case conference with the child protection actor to decide the best way forward. This will include a Do No Harm assessment of risks and consequences.³⁷ The agreed approach should take account of the best interests of the child and minimise any protection risk.
5. **ICLA and the protection actor should then agree on a course of action to deal with the case.** This should involve close coordination, delineation of roles and responsibilities and follow up. Consent should be obtained from the parent or guardian. If there is some issue with the parent or guardian, such as a conflict of interest or potential abuse, advice should be sought from within NRC and from the protection actor. The beneficiaries should be kept closely informed about the options and next steps. To the degree possible, considering the age and the maturity of the child, the child should also be consulted and involved.

Annex 3 contains a list of ‘Casework Guidelines on issues affecting Children’



ICLA Safe Programming Standard: 1.6 Ensure proper child safeguarding procedures are in place

All staff in contact with children are trained in child safeguarding

³⁷ For example the NRC Protection Resource Pack [Protection Risk Matrix](#).



7. DEALING WITH ISSUES OF FAMILY SEPARATION

Section Objective

To highlight the importance of protecting the family unity during ICLA programming, including situations where family members are separated across borders.

The right to family unity is a fundamental children's right but is often compromised during displacement when parents and children are separated. Bringing families together is one of the most important services that protection actors provide and the UN Guiding Principles on Internal Displacement stress the need to expedite the reunion of families, particularly when children are involved.³⁸ Agencies such as the International Committee of the Red Cross (ICRC) have an international family tracing service that helps to trace families within countries and across international borders.

ICLA programmes can help protect family unity by assisting families to obtain all the necessary documents for children and families, including residency permits for all family members. Obtaining legal and identity documents can be important in proving family relationships, such as for the issuance of family books. Mothers may sometimes wish to initiate administrative or court proceedings to prove the paternity of children or obtain proof of lineage, especially in cases where nationality is derived from the father or in cases of inheritance rights. In situations of cross-border return it is especially important that children have the necessary civil documents and travel documents to confirm legal identity, nationality, kinship and legal residence and thus avoid delays in reunification and the risk of trafficking.

Where a person requests ICLA services on behalf of a child who is not their ICLA programmes should confirm that the person representing the child is in fact their legal guardian. Even if the person attending is the uncle or grandfather of the child, it is important to clarify the relationship and remind them that instructions need to be taken from the parents of the child if possible. ICLA programmes should not act without confirmation of legal guardianship. If parents are separated or divorced it may be important for ICLA staff to be aware of this and ensure they are acting in accordance with the law, in the best interest of the ICLA beneficiary (the parent whom ICLA represents) and the best interest of the child.

On occasions ICLA may be asked to clarify legal procedures for guardianship for the purpose of legal research or for a particular case. However, ICLA programmes will never be involved in making any guardianship arrangements on behalf of a child. Such matters will be referred to child protection actors or relevant government agencies who will need to take account of the best interests of the child in any such assessment.

Example: Unaccompanied children during mass displacement from Mosul – Iraq

ICLA worked in various camps in the Kurdistan Region of Iraq during the mass displacement of IDPs from ISIS controlled areas between 2015–2017. Many children were separated from their families. ICLA referred cases of unaccompanied minors to camp management authorities and child protection actors who attempted to trace the family members and/or identify guardians or appropriate care and custody arrangements for the children. The agencies asked for ICLA's support in helping obtain civil documentation and residency for the children.

38 UN Guiding Principles on Internal Displacement, Principle 17(3)



Syrian refugee family, Mafraq, Jordan (Photo: Leen Qashu/NRC)

8. REFERRALS AND WORKING WITH SPECIALISED CHILD PROTECTION ACTORS



Section Objective

To better understand how to make and follow up on referrals and work together with specialised child protection actors.

In dealing with protection concerns arising for children, ICLA programmes typically make referrals to specialised child protection actors. ICLA programmes can support on the legal issues relevant to the ICLA case whilst child protection actors support on the child protection issues. It is the combination of these types of expertise that can achieve the best protection outcome.

Child protection actors often adopt a case management approach through which they coordinate with all agencies supporting the beneficiary in order to provide an integrated package of support. For example, in a case involving allegations of child abuse the case manager may work with separate health and psychological support agencies, humanitarian or social assistance agencies, education providers and schools, government agencies involved in children's welfare issues, UN agencies and legal actors such as ICLA to ensure the overall protection of the child. The case manager may request help from ICLA in order to clarify the child's residency status or for issuance of civil documentation for the child.

In order to maximise effective referrals and follow up, ICLA teams should ensure they:

1. have identified specialized child protection actors with suitable expertise and capacity
2. have established referral pathways
3. understand the types of issues child protection actors can deal with and what services they offer
4. are able to identify protection issues for children and make appropriate referrals
5. understand how to follow up with child protection actors, especially on ongoing ICLA cases



8.1 Mapping of service providers

Mapping of service providers is essential for all ICLA programmes. Inter-agency services mapping is often coordinated by UNHCR or UNOCHA, typically through the Protection Cluster. However, NRC or ICLA programmes may need to compile their own mapping of services by:

- Identifying relevant service providers within health, humanitarian, education, legal, mental health, psychosocial support, social protection and other sectors. The mapping should indicate what types of services they are able to offer in which locations and any relevant criteria.
- Highlighting any gaps, raising these issues with national and international actors, including the Protection Cluster, and monitoring efforts to address those gaps.³⁹

8.2 Referral pathways

Referral pathways are integral to good case management and referral focal points should be established within ICLA programmes.

Common referrals by ICLA programmes relevant to children include:

- Health issues for children and support to children with disabilities
- Educational referrals such as for out of school children
- Child marriage referrals
- Cases of child abuse or SGBV
- Cases of child trafficking
- Family tracing and reunification services
- Family law issues
- Care arrangements for unaccompanied minor children
- Mental health and psychosocial support (MHPSS)
- Child labour

8.3. Identification of referral needs

During the course of counselling or provision of legal assistance, ICLA staff will identify any needs for referrals, including for referral to child protection actors. This will often be done during the initial assessment of protection risks. The parent or child might highlight certain needs or ICLA staff may discuss with them certain needs or referral services based on the information they provide.

8.4 Consent for referrals⁴⁰

Referrals on children's issues are normally only done with the consent of the child's parent or legal guardian, and/or the consent or assent of the child subject to their age and capacity.

The age at which parental consent is needed for referral depends upon the laws of the country. In the absence of any clear laws, children under 15 generally require caregiver consent. Between the ages of 12–14 children's consent should ideally be obtained but is not mandatory. However, 15–18 year-olds are often legally allowed to make decisions about their own care and treatment, especially for social and reproductive health care services.⁴¹ Again, this depends upon the laws in the country. Supportive caregivers should ideally also be included in decision-making and provide their informed consent as well.

³⁹ [Protection Cluster-Child Protection Working Group Inter-Agency Guidelines for Case Management and Child Protection](#), p 33

⁴⁰ [Inter-Agency Guidelines](#), p 116-117.

⁴¹ Subject to the laws in the country. See also [Inter-Agency Guidelines](#), p 117.

Referral needs for children

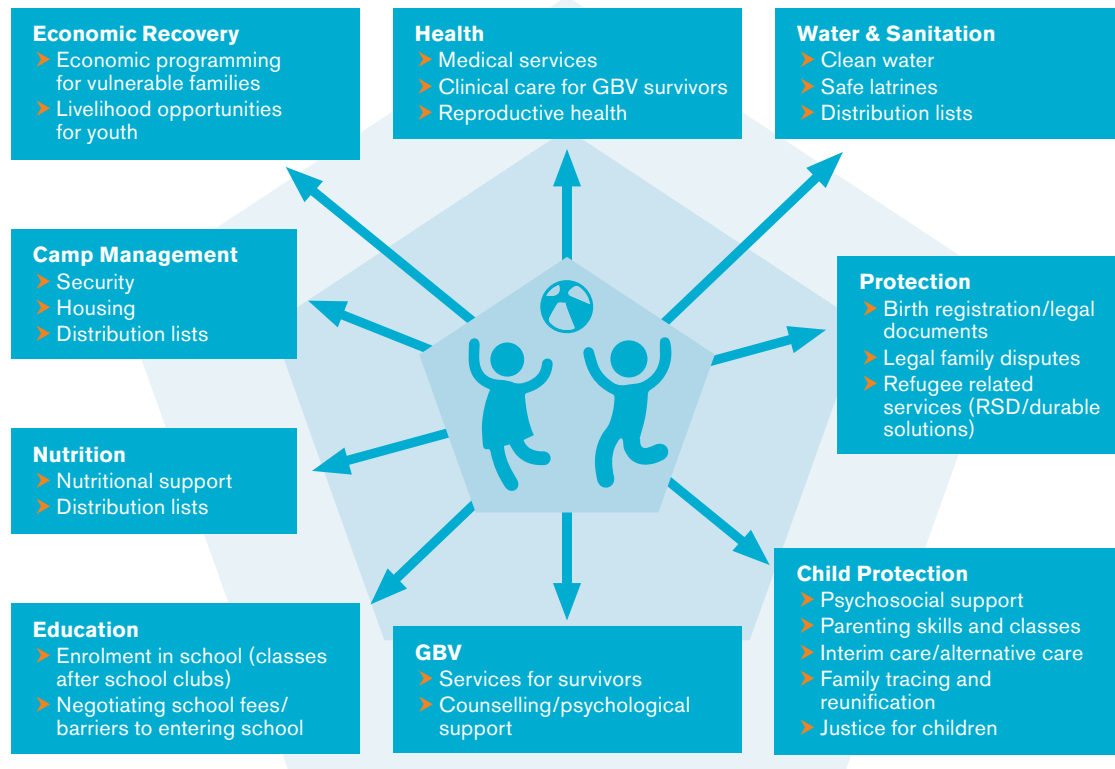


Image source: Child Protection Working Group Inter-Agency Guidelines, p 62.

8.5 Following up referrals⁴²

Following up referrals is important to establish if the referral agency has accepted the referral and taken action on the case. The need to follow up also depends on whether any further action is required from ICLA. In a direct referral in which no further action is necessary from ICLA it may be sufficient to check that the referral agency has accepted the case but without any need for follow-up. In cases in which further action is necessary from ICLA both agencies should coordinate any follow-up measures to be taken by either party.

8.6 Best Interest of the Child Determinations

In certain cases, such as for unaccompanied minors, situations of child abuse or for certain other issues of neglect or protection risks, a formal assessment or Best Interest Determination (BID) is conducted by appropriate experts such as a specialist child protection actor.⁴³ ICLA will not be involved in the BID process but may refer children to child protection actors who may conduct BIDs.

BIDs are used by child welfare experts to take into account all relevant information before making a decision about what is in the best interests of the child.⁴⁴ The BID should be carried out by trained child protection actors, ideally alongside other state authorities.⁴⁵ If the child is unaccompanied, a guardian must be involved in the assessment.⁴⁶ UN agencies, government departments responsible for child welfare or specialised child protection actors such as Save the Children often conduct such assessments.

⁴² Inter-Agency Guidelines, p 64.

⁴³ See for example, UNHCR Guidelines on Assessing and Determining the Best Interest of the Child (forthcoming)

⁴⁴ Save the Children, Protecting Children on the Move, p 50.

⁴⁵ Save the Children, Durable Solutions for Children Toolkit, p 29.

⁴⁶ Save the Children, Durable Solutions for Children Toolkit, p 52.

Example of Legal/Protection Approach on Child Marriage – Lebanon

The 2016 UN Inter-Agency Guidance Note on 'Providing Legal Assistance for Marriage Registration in Cases of Early Marriage' in Lebanon highlights close cooperation between legal and child protection actors on issues of child marriage in Lebanon.

In situations in which marriage has not yet taken place, child protection actors and ICLA provide information about the adverse impact of child marriage on health, education, life opportunities and the legal risks in order to discourage child marriages.

However, child marriage is common amongst Syrian refugees, and beneficiaries typically attend the ICLA offices once they have already been married informally within the community or where there is tension in the relationship. Often they already have a child of the marriage and want assistance to obtain a birth certificate for their child in order to access services.

In such cases legal aid providers such as ICLA refer the beneficiary to a specialised child protection actor who conducts an assessment of the best interests of the child spouse. This takes into account a range of factors including the child's capacity to understand their situation, their physical and psychological health, any issues of violence, their family situation, cultural and social issues, the impact on their education and their capacity to care for their child. A recommendation is then made to the legal aid provider as to whether it is in the best interests of the child that the marriage be formally registered in accordance with Lebanese law.



ICLA Clinic, Lebanon (Photo: Zaynab Mayladan/NRC)



Adolescent Boys Club, Libya (Photo: Waed Altireeki/NRC)

9: WORKING WITH OTHER NRC CORE COMPETENCIES



Section Objective

To share experiences of joint programming between ICLA and other Core Competencies on issues relevant to the legal protection of children

There are many synergies between the work of ICLA and other NRC Core Competencies (CCs) on children's issues, particularly with Education/Youth. Other CCs that may do relevant work depending upon the context include Camp Management, Urban Displacement Outside Camps (UDOC), Livelihoods and Shelter.

Examples of relevant joint projects include the following:

NRC Palestine runs an Education in Emergencies project jointly with Education and ICLA. Education provide teacher training and support to children facing difficulties at school through the Better Learning Programme (BLP). ICLA provide legal awareness sessions for children on their legal rights when questioned, stopped and searched by soldiers or harassed by settlers on the way to school. ICLA also take legal action on education-related violations such as demolition orders over schools and freedom of movement issues for children on the way to school, such as unreasonable or unnecessary searches, delays and harassment at checkpoints.

ICLA and Education in Syria have jointly developed a Guidance Note on Documents Requested for School Enrolment and National Exams in the Syrian Arab Republic.

ICLA Jordan has conducted Back to School campaigns jointly with Education aiming at assisting out-of-school children to obtain the relevant civil documentation and residency permits for them to be able to enroll in school.

ICLA Iraq works with Livelihoods on a joint project in northern Iraq whereby ICLA will provide information on work permits and employment rights to Syrian refugees, including Syrian youth.



When designing an intervention involving children or youth, ICLA should consider the advantages of joint work with other CCs. This could include the following considerations:

- 1. **Does the other CC work with children or youth?** How? Do they require ICLA support?
- 2. **Do the parents, children or youth have needs for ICLA information services, counselling or legal assistance?** On what topics?
- 3. **Can ICLA offer services to CC beneficiaries?**
- 4. **Do the CC beneficiaries need help with obtaining civil documentation or residency?**
- 5. **Can ICLA operate from the same premises?** (camp, community centre)
- 6. **What results could be expected from the joint cooperation?**
For example, a joint ICLA/Education programme may have as its target 'improved rates of school enrolment for out of school children'. A Livelihood programme targeting youth may aim for 'improved understanding by beneficiaries of their work rights and entitlements'.
- 7. **Is there any advantage in compiling or sharing joint data on issues faced by children?**
- 8. **Will ICLA and the CC work together on any joint campaigns with Advocacy designed to affect policy change?**



Mosul Old City, Iraq (Photo: Tom Peyre-Costa/NRC)

D: KEY PROGRAMME ELEMENTS



Good programming should be relevant, responsive, needs-based and effective in contributing to the protection of child beneficiaries. Programmes should have systems in place to deal properly and professionally with legal cases involving children whilst at the same time coordinating with other stakeholders and advocacy to identify and address legal protection issues affecting child beneficiaries. The following section provides key due diligence and programme design considerations including mapping legal and policy frameworks affecting children, coordinating with other stakeholders and working on advocacy or policy change issues.

10. MAPPING OF SELECTED LAWS AND POLICIES RELEVANT TO CHILDREN



Section Objective

To understand the relevance of mapping the legal and policy framework affecting children

In order to provide proper legal analysis and advice on ICLA thematic areas relevant to child rights, ICLA programmes conduct legal research on laws, policies, practices and legal developments.

Such research allows programmes to:

- properly advise beneficiaries about their legal options
- meet professional and ethical obligations to act in the best interests of the child in all actions affecting them
- make informed recommendations on policy change issues
- support other CCs with relevant information on child rights such as educational requirements for Education or work rights restrictions for youth under Youth and Livelihoods programming
- partner or work with other I/NGOs using ICLA's legal expertise on child rights.



Much of this research will concern traditional areas of ICLA research such as rights to legal identity, nationality and residency documents. However, programmes may sometimes need to understand other legal issues that can affect the case. For example, a programme helping a child obtain a birth certificate whose parents are involved in a divorce or custody battle may need to understand how those family law issues may affect ICLA's work. A child charged with a juvenile justice offense may face extra obstacles in obtaining legal residency.

Although programmes should not act in areas outside of ICLA's thematic mandates, they may need to understand the impact of other legal issues on those mandated areas in order to provide complete and accurate advice. The following table provides examples of different types of research that may be relevant when working on cases involving the legal protection of children.

Legal Research on Children's Rights Relevant to ICLA Work

Legal Research	Relevance to Thematic Area or CC synergy
Laws relevant to the issuance of identity and civil documentation for children, such as birth certificates, ID cards, travel documents or other relevant documents	Legal and Civil Documentation work
Residency, refugee status or migration requirements particular to children or dependants	Residency, Refugee Registration
Age of marriage and procedures for registration of marriages under the age of 18	Marriage Registration
Guardianship laws, requirements and procedures	Work on Residency, Family Unity
Work rights protections for children, including the age of working legally	Employment Law
Any family law or custody laws, rules or requirements that could be relevant, including protections on taking children across borders without the consent of both parents	Relevant to Legal Status, Civil Documentation, Family Unity
Educational requirements including documents necessary for enrolment at school, recognition of education certificates	Working with Education
Protections against abuse, exploitation or harassment of children	Child safeguarding
Mandatory reporting requirements ⁴⁷ , such as in cases of child abuse	Child safeguarding

⁴⁷ Mandatory reporting refers to issues that government authorities require persons or agencies working with children to report to police or welfare departments, such as instances of child sexual abuse, trafficking or other serious criminal offences against children.



In addition to domestic law research, programmes should conduct research on:

- international conventions or treaties on child rights which the country has signed;
- government agencies who provide child welfare or protective services, such as agencies dealing with child abuse, guardianship over children or children's welfare issues; and
- any government policies on issues relevant to the legal protection of children

Such legal and policy mapping should set out the main laws, policies and practices and can be adapted to the types of issues the ICLA programme is dealing with and be updated on a regular basis. This can also build upon existing legal research and expertise available in the country. Such a mapping may also provide valuable information for other specialised child protection actors with whom ICLA programmes are working.



NRC Safe Programming Standard 1.1 Contextualised and conflict-sensitive response

Ensure that national legal frameworks (statutory, customary, and administrative and institutional frameworks) are understood and observed without compromising NRC's commitment to respect rights protected by international law.

Annex 4 addresses 'Legal and Policy Framework Mapping' with a list of issues that can be taken into account by ICLA programmes when assessing the applicable domestic child rights framework.

Legal Research into Guardianship Laws – Syria

As refugee families begin to return to Syria from host countries, guardianship issues have become important as some children are returning with extended relatives, not with their father or mother. Concerns are sometimes raised in relation to trafficking. In other cases, the mother has already returned and the father is staying in the host country for a longer period, raising issues of family separation and questions over the legal guardianship of children. ICLA programmes can conduct legal research on the laws, documentary requirements, procedures, practice and international standards for guardianship of children when relevant to thematic work on residency, nationality or issuance of identity documentation.



Iraqi IDP, Qadiya Camp (Photo: Alan Ayoubi/NRC)



11. DUE DILIGENCE AND PROGRAMME DESIGN CONSIDERATIONS

Section Objective

To ensure that programmes meet basic due diligence standards

11.1 Child Rights Programming Considerations

The following section can be used to assess the compliance by ICLA programmes with basic due diligence/ safe programming standards when working on issues related to the legal protection of children. They can be used as a guide for existing programmes, for new projects focusing on specific legal issues in relation to children or when planning joint campaigns with advocacy.⁴⁸

11.1.1 Base the programme on child rights principles

ICLA programmes should always incorporate fundamental child rights principles to ensure they promote the legal protection throughout their activities. ICLA programmes should:

- contribute to the **protection of children**
- take account of the **best interests of the child** as a primary consideration in all actions affecting children
- promote the principle of **non-discrimination** by ensuring that programming is accessible to all children and overcoming barriers to access for the most marginalised
- promote some of the **basic child rights contained in the CRC**, such as the right to an identity, nationality, the right to education and health
- take account of the **views of children**, subject to age and capacity, and give children a voice in any actions or programme responses affecting them⁴⁹

Legal issues should not be considered in isolation but together with relevant protection factors.

48 Save the Children, Protecting Children on the Move, p 10-19

49 Save the Children 2007, [Getting it Right for Children: A Practitioner's Guide to Child Rights Programming](#), p 9



11.1.2 Ensure any needs and risk assessment covers any issues relevant to children

ICLA needs and risk assessments should enquire into the specific legal protection needs that children may face in the context. In certain situations, a general ICLA assessment may indicate that children face specific protection risks and a specialized assessment should be conducted. These type of assessments may also be conducted or coordinated by the UN, such as through the Protection Cluster or Child Protection Working Group or specialist agencies such as Save the Children. Internal assessments can be done by NRC either as a multi-sector assessment involving all CCs or by ICLA as a stand-alone assessment. Ideally an internal assessment would involve ICLA, Education and Protection teams. The assessment should look at the particular needs of children, different needs for children of different ages, gender considerations between boys and girls, cultural context, differences for children in different parts of the country, and protection risks. Where possible children's views should be taken into account during the assessment, such as through Focus Group Discussions with children. These could be conducted jointly with Education colleagues who have good experience in engaging with children.

11.1.3 Take account of gender, diversity and age issues

Programmes must clarify which groups of children they intend to work with, on which issues and how they will take account of gender considerations. Different legal and protection issues affect boys and girls and different interventions may be necessary for different age groups. Programmes should also consider types of discrimination affecting both groups. Boys may be more susceptible to child labour whilst girls might be more at risk of child marriage. Certain groups might be at increased risk of discrimination, abuse and exploitation such as children with disabilities or those from minority backgrounds.

11.1.4 Ensure interventions are tailored to the context

Interventions should be relevant, targeted and appropriate for children. For example, advising parents about the importance of birth certificates in a community with restricted access to the closest Civil Registry may be of limited use. It may be more useful to cover the costs of transport or talk to authorities about mobile outreach to remote communities. Warning of the legal prohibition on child labour in a community where many children are forced to work on account of widespread poverty may be less effective than joining forces with another agency on a joint livelihoods or poverty alleviation programme which also includes information on work rights and protections for children in that country.

11.1.5 Plan the intervention

In order to increase the legal protection of children projects should be relevant, responsive, child-focused and coordinated with other actors. The following questions should be asked during planning or implementation:

- What types of activities will ICLA conduct, on what topics and in which locations? Which groups of children will the project work with? How will these activities lead to the better protection of children?
- What approaches have Education and Youth teams developed in the design of suitable activities and strategies?
- How will information about other NRC services relevant for children, such as NRC's Education and Youth services, be provided?
- Have children been consulted about the project? Is it possible within the context?
- Has services mapping been conducted of relevant child protection actors to whom referrals can be made?
- Has the legal and policy framework for children's rights within domestic law been mapped out?
- Which government authorities, UN agencies or other I/NGOs will the project work with?
- How will protection risks affecting children be handled? How will the programme deal with issues of discrimination against children, marginalized or vulnerable groups such as children with disabilities?



- Are ICLA staff sufficiently trained on how to communicate and engage with children?
- How will ICLA work with other child protection actors on individual cases?
- Are the data protection procedures in place sufficient to safeguard children's data and facilitate safe referrals?
- Is a policy change or an advocacy component built into the project? See section below for further details on planning policy change work.
- How will the impact of the project be measured? Are there any child specific indicators to measure levels of increased protection for children from the project? **Annex 7 contains some child-specific indicators that can be used.**

11.1.6 Train staff in working with children

Staff working with children must be properly trained on how to identify protection issues, how to deal with child beneficiaries and how to properly manage cases and referrals. It is valuable if this training is multi sector (Protection, ICLA and Education) to ensure that all actors who work with children use the same language and approaches. Direct interaction with children is often limited as ICLA staff typically deal with parents or guardians, particularly in birth registration cases. However, there are situations in which ICLA programmes deal directly with some child beneficiaries including older teenage children in cases of youth programming, girls subject to child marriage or children referred for protection services. Children who are separated from their parents or who live in dangerous or unsafe environments with protection concerns can require special care.

Ideally all staff coming into contact with children should be trained in Psychological First Aid (PFA) for children.⁵⁰ PFA is a technique for providing emotional and physical support to persons suffering from trauma. It involves calming people down, acting as a supportive presence and providing them with practical help, such as referrals. It can be given by anyone who supports children in distress and in any safe location. PFA helps prevent children from developing short- and long-term psychological problems as a consequence of distressing incidents. See the ICLA Data and Case Management Toolkit for further information on PFA.⁵¹

11.1.7 ICLA activities around the legal protection of children

ICLA programmes work on a variety of issues related to the legal protection of children. Such activities can include:

- information sessions for parents and children on procedures for obtaining civil documentation
- counseling and legal assistance on children's rights issues such as procedures for issuance of documentation, obtaining residency for children, dealing with legal aspects of child marriage or clarifying legal issues related to guardianship
- legal research into child rights' issues such as child statelessness, cross border family separation, denial of access to education, undocumented children
- targeted legal interventions focusing on child right issues such as birth registration campaigns, access to education projects or Back to School initiatives to ensure children have all necessary educational documentation for school enrolment
- providing legal analysis and recommendations for advocacy campaigns led by other agencies against child labour or child marriage

⁵⁰ Save the Children, Protecting Children On the Move, p 18

⁵¹ ICLA Data and Case Management Toolkit.

11.2 Durable Solutions for Children

All NRC programming is conducted with the aim of finding a durable solution for beneficiaries and this applies equally to children. NRC adopts the IASC⁵² Framework which considers that a ‘durable’ solution is achieved when IDPs “no longer have specific assistance or protection needs or vulnerabilities directly linked to the displacement; and can exercise their human rights without discrimination related to it.”⁵³ Save the Children considers that a durable solution for children has been achieved when “any (refugee, migrant or IDP) **child’s rights are fully reinstated during and/or after migration or displacement**, and when **specific vulnerabilities and risks for the child** arising from migration or displacement, including discrimination, are **meaningfully minimized**.”⁵⁴

The four components of durable solutions or ‘domains’ identified by Save the Children for children’s rights programming are (1) physical safety, (2) material safety, (3) psychological safety and (4) legal safety. ICLA programmes can play an important role in contributing to each of these components. This could include, for example:

Physical Safety. Protecting children from abuse and exploitation by providing information about the minimum working ages within the country and prohibition against child labour

Material Safety. Helping children access education through obtaining civil documentation necessary for school enrolment

Psychological safety. Alleviating legal protection concerns affecting a family, such as by obtaining lawful residence for all family members

Legal Safety. Ensuring that children have proof of identity and nationality.

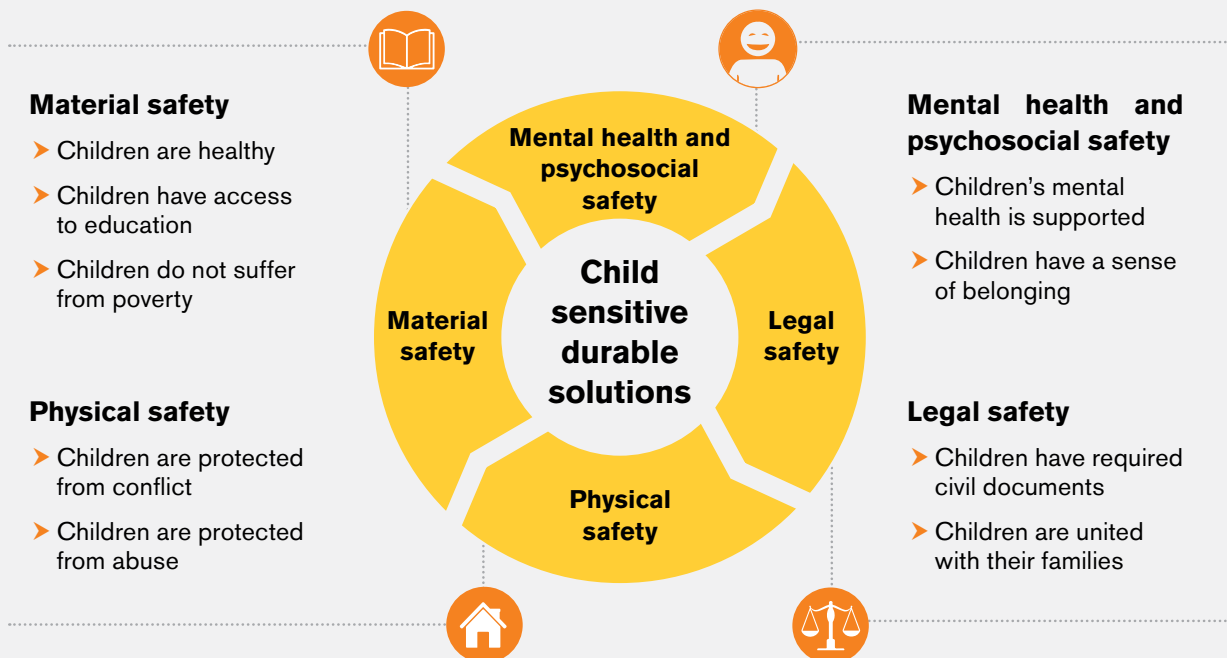


Image source: Save the Children Durable Solutions for Children Toolkit, p 21.

52 [Inter-Agency Standing Committee \(IASC\), https://interagencystandingcommittee.org/](https://interagencystandingcommittee.org/)

53 [IASC Framework on Durable Solutions for Internally Displaced Persons, p.5, IASC Framework Durable Solutions.](#)

54 [Save the Children, Durable Solutions for Children Toolkit, p 20.](#)

Whilst durable solutions may not always be possible, particularly in the short-term, ICLA programmes working with children can ask what contribution the ICLA intervention will make towards a longer term durable solution. For further information consult the 'Durable Solutions for Children Toolkit' by Save the Children, [Durable Solutions for Children Toolkit](#)



NRC Safe Programming Standard: 2.2 Do No Harm

Ensure that all possible (protection) risks or negative consequences to which ICLA services could expose beneficiaries and community members are assessed at the start of the project

Ensure that interventions or approaches in order to mitigate and/or address the known risks or negative consequences are identified

Consider particularly measures that reduce potential risks of sexual exploitation and abuse to women and girls

Project plans include activities on PSEA awareness and sensitivity

Annex 5 contains a checklist of 'Due Diligence and Programme Design Considerations' for ICLA programmes. Annex 6 contains guidance on 'Measuring Impact and Theory of Change' with suggested indicators for measuring the increased legal protection of children.



Feeding pigeons, Lebanon (Photo: Zaynab Mayladan/NRC)



Syrian refugee children, Nahle, Lebanon (Photo: Zaynab Mayladan/NRC)

12. COORDINATION MECHANISMS AND COALITIONS



Section Objective

To understand key coordination mechanisms working on child rights issues and the benefits of coordinating with such forums

NRC participates in various coordination forums on issues relevant to the rights of children at the local, national, regional and global level. These include the Protection Cluster, often led by UNHCR, the Education Cluster, Child Protection Coordination Groups and many others.

The Child Protection Area of Responsibility (CPAoR) is the global level forum for coordination on child protection in humanitarian settings and Save the Children is a CPAoR member.⁵⁵

Other coordination mechanisms working on children's rights include:

- I/NGO forums
- Coalitions around specific children's rights issues
- Durable solutions and recovery forums
- Government-led bodies such as inter-ministerial bodies
- Juvenile justice/access to justice working groups outside of the humanitarian coordination mechanisms

Knowing which coordination mechanism are working on child rights issues is an important part of stakeholder mapping and programme design and helps in understanding to whom ICLA programmes can refer child protection cases. They are an important source of information on legal and policy developments and often drive and coordinate policy reform. One practical way of identifying NGOs active on such issues is by checking authors/agencies/coalitions who submit shadow reports to the CRC via the OHCHR website. As child rights issues are very rarely strictly legal and typically involve a range of protection and social considerations, it is useful to work with other agencies on an integrated approach. ICLA programmes can provide legal analysis and recommendations to such forums as part of a broader strategy.



NRC Safe Programming Standard: 1.2 Do No Harm

Ensure relation building and coordination with key humanitarian and legal service actors and stakeholders (including national and international NGOs, national legal agencies, government ministries, UN agencies)

55 Global Protection Cluster, Child Protection Working Group, December 2012. [Child Protection Rapid Assessment Toolkit](#).



Liquaa and daughters, Mosul, Iraq (Photo: Tom Peyre-Costa/NRC)

13. LEGAL ADVOCACY AND POLICY CHANGE APPROACHES



Section Objective

To understand how to plan and develop suitable legal advocacy and policy change approaches

Where beneficiaries face obstacles in protecting their rights but legal options are limited or unavailable ICLA programmes often propose recommendations for changes to laws, policy or practice. Analysis of data on key child protection issues identified through the ICLA programme may be used for advocacy purposes to change some of the laws or policies that generate protection risks. This can result in changed procedures or practices at the local or national level which better protect children's rights. Evidence of 'failed' or unresolved referrals can also be absolutely essential for advocacy within the cluster system.

In order to effectively engage in policy change work ICLA programmes need to have:

- **access to credible data and information** to show the size and nature of the problem
- **familiarity with the problems faced by beneficiaries** so that programmes can speak from direct experience
- good understanding of the **legal situation**
- **practical recommendations** for changes in laws, policies or practice

As a general rule ICLA programmes use international human rights standards as a point of reference. Compliance with international standards is the best and most sustainable form of legal protection of children. However, as full compliance with international standards is not easily achieved in countries in which ICLA programmes work, incremental steps are normally necessary. ICLA programmes often try and persuade duty bearers to take a series of actions to improve the protection of children.

Some child rights violations require long-term engagement with a coalition of stakeholders. For example, nationality of children in many countries, particularly in the Middle East, is primarily paternal, deriving from the nationality of the father. Not only does this breach principles of non-discrimination but it can result in a range of problems in practice, especially where the identity or whereabouts of the father is not known or cannot be proven. In such situations children are often rendered stateless.



Legal actors can advocate for nationality laws that are non-discriminatory and consistent with international human rights standards. However, such laws are not easy to change and are often grounded in cultural, religious or social norms. In such cases it might be more effective for ICLA programmes to join a campaign with stakeholders from different backgrounds aimed at challenging discriminatory nationality laws to which ICLA can contribute specialist legal expertise. In parallel, ICLA programmes can work with authorities at the local level to raise problematic issues and practices in order to try and identify solutions.

Whenever ICLA programmes *respond reactively* to challenges faced by beneficiaries, such as working on late birth registration or legal aspects of child marriage cases, they should ideally also take a *preventative and proactive* approach to minimise the occurrence of future cases. This involves raising awareness amongst beneficiaries but also working with authorities or relevant stakeholders, including parents, teachers and other community members, to identify problems and propose solutions to avoid future harm. Relevant approaches can include reducing bureaucratic obstacles, minimising costs, making procedures more accessible or developing public awareness campaigns.

Annex 7 contains guidance for ‘Working with Advocacy on Policy Change Approaches’.

Advocacy on Undocumented Children – Iraq

In 2019 ICLA and Advocacy worked together to publish two reports on the prevalence of **undocumented children in Iraq with perceived familial linkages to ISIS**. The *Barriers from Birth*⁵⁶ and *Paperless People of Post-Conflict Iraq*⁵⁷ reports made a number of specific legal and protection recommendations for helping to regularise the status of these children in accordance with Iraqi law. These reports and the accompanying advocacy efforts resulted in widespread attention amongst donors and engagement with government authorities on the issue.

Policy Change Approaches on Birth Registration – Lebanon

Removal of the residency requirement for **Syrian refugees in Lebanon** seeking birth certificates for their children resulted in improved levels of birth registration.⁵⁸ Whilst many other obstacles remain, this change in policy increased access to legal identity documentation and access to basic services such as health and education for children.

Reporting on Attacks on Education – Palestine

The report, *Raided and Razed: Attacks on West Bank Education* issued by **NRC Palestine** in 2020 highlights the high number of attacks on schools and harassment, intimidation and mistreatment of children on the way to schools at the hands of Israeli authorities, settlers or private security guards. The role of ICLA programmes in informing children of their rights and taking legal actions to prevent demolition of schools and challenge movement restrictions is highlighted.⁵⁹

56 NRC Iraq 2019, [Barriers from Birth](#)

57 NRC, DRC, IRC, 2019, [Paperless People of Post-Conflict Iraq](#)

58 See ICLA Lebanon Briefing Note on ‘Persisting challenges on legal residency of refugees in Lebanon’, Feb 2019

59 NRC Palestine 2020, [Raided and Razed: Attacks on West Bank Education](#)



Jibbet Ad Dibh, Palestine (Photo: Ahmad Al Bazz/NRC)

ANNEXES: LEGAL PROTECTION OF CHILDREN TOOLKIT

ANNEX 1: INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW PRINCIPLES FOR THE PROTECTION OF CHILDREN



References to child rights principles are useful in framing human rights arguments for legal assistance and advocacy work. This Annex contains a non-exhaustive list of rights and protections in key international human rights treaties relevant to the legal protection of children. They can be used in oral discussions with officials or other stakeholders as well as in written communications, court applications, requests to authorities or in legal advocacy work.

1. Relevant provisions under the Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC) is the primary human rights treaty setting out the rights of children. It sets out the obligations of States to protect children and to promote their well-being and development as well as the obligations of other persons or agencies with responsibilities over children, including parents, guardians and other public or private social welfare institutions. The CRC entered into force in 1990 and has been ratified by 196 states, including all members of the UN with the exception of the US.

Key provisions of the CRC include the following:

- ▶ Every person **below the age of 18 years shall be considered a child** unless the age of majority is attained earlier under the applicable domestic law (Art.1).
- ▶ States shall **not discriminate against children** on the basis of their parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. (Art. 2)
- ▶ **In all actions concerning children**, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration.** (Art. 3.1)
- ▶ **States are responsible to ensure the protection and care of the child** as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians or other persons legally responsible for the child (Art 3.2)



- ▶ States shall take **all appropriate legislative, administrative and other measures for the implementation of the rights** under CRC (Art. 4)
- ▶ **Parents have the primary responsibility** to provide appropriate direction and guidance on the exercise of the rights of the child in accordance with the evolving capacity of the child. The role of members of the extended family, community as provided by custom or other legal guardians shall also be recognized. (Art. 5)
- ▶ Children have the **right to birth registration, a name, a nationality** and to be cared for by their parents (Art. 7)
- ▶ Children have the right to an **identity, including name, nationality and family relations**, in law (Art. 8)
- ▶ Children have the **right to family unity** and to live with their parents, unless this is not in the best interests of the child, as decided by a competent authority. (Art. 9)
- ▶ Children whose parents live in different States shall have the **right to family relations**, including the right to leave any country and re-enter their own country (Art. 10)
- ▶ Children have the **right to express their views** and have their opinions taken into account (Art. 12).
- ▶ Children **have the right to receive and to share information**, as long as the information is not damaging to them or to others (Art. 13).
- ▶ Children have the right to **freedom of thought and association** (Arts 14 and 15)
- ▶ Children should be protected against **interference with their privacy, family, home and honor** (Art. 16)
- ▶ Parents or, legal guardians, have the **primary responsibility for the upbringing and development of the child** in accordance with the best interests of the child. (Art. 17)
- ▶ States shall **protect children from violence, abuse, neglect, mistreatment or exploitation** (Art. 19)
- ▶ Children who come into a country as **refugees should have appropriate protection and humanitarian assistance** (Art. 22).
- ▶ The right to proper treatment and care of **children with disabilities** (Art. 23)
- ▶ The right to **health, including health care, clean water, nutritious food and a clean environment** (Art. 24).
- ▶ The right for children to **social security** (Art. 25)
- ▶ The right to a standard of living **adequate for the child's physical, mental, spiritual, moral and social development**. (Art. 26)
- ▶ **Children have the right to an education**. Primary education should be free (Art. 28).
- ▶ The right of **children from minorities** to their own culture, religion and language (Art. 30).
- ▶ Children have the **right to relax and play** (Art. 31).
- ▶ The right to be **protected from work that is dangerous** or that might harm their health or education (Art. 32).
- ▶ The obligation on States to **protect children from sexual abuse, trafficking, abduction or other forms of exploitation** (Arts. 33-35)



- ▶ The **prohibition of torture, cruel, inhuman or degrading treatment**. (Art. 37)
- ▶ **The right to liberty**. Children should only be arrested and detained in accordance with the law and as a matter of last resort. (Art. 38).
- ▶ Governments should not allow children under 15 to join the army. **Children in armed conflict should receive special protection** (Art. 38).
- ▶ The right to **recovery and social integration of child victims** (Art. 39)
- ▶ The right to **access to justice and fair trial standards for children** including special protections for children and juveniles, including the obligation for the State to set a minimum age of criminal responsibility (Art. 40)

2. Relevant provisions under International Humanitarian Law

The four Geneva Conventions consist of a package of protections for combatants and civilians in times of armed conflict. Whilst the first three Geneva Conventions deal with the situation of combatants, the **Fourth Geneva Convention provides protection for the civilian population**. Additional Protocol 1 to the Fourth Geneva Convention deals with the situation of civilians, including children, in situations of **international armed conflict** whilst Additional Protocol II deals with civilians in situation of **non-international armed conflict**.

Key protections for children in situations of international armed conflict include the following under Additional Protocol 1 to the Fourth Geneva Convention:

- ▶ Children shall be the **object of special respect** and shall be protected against any form of indecent assault. The parties to the conflict shall provide them with the **care and aid they require**, whether because of their age or for any other reason. (Art. 77)
- ▶ **Free passage of relief (humanitarian aid)** intended for children under fifteen and maternity cases (Art. 23)
- ▶ **Prioritization for children and maternity cases in the distribution of relief consignments** (Art. 70(1))
- ▶ Obligation on Occupying Power to facilitate the **proper working of institutions devoted to the care of children in occupied territory** (Art. 50)
- ▶ Obligation on **temporary evacuation of children where the health or medical treatment of the child require it**, but under strict conditions requiring consent of parents and guardians (Art. 78(1)).
- ▶ General duty of the parties to the conflict **to facilitate the reunification of families dispersed through the conflict** (Art. 74)
- ▶ **Special protection for interned families, including children**, including the right to **family unity** (Arts. 75, 76, 82)
- ▶ Prohibition on Occupying Powers changing the **familial or personal status of children** (Art. 50)
- ▶ Prohibition on Occupying Powers **forcing children under 18 to work** (Art. 51)
- ▶ Obligation on parties to the conflict to allow all children under 12 to be identified, **to facilitate the registration and establishment of parentage of all children** and to set up a special office for the purpose of identifying children whose parentage is in doubt (Arts. 24, 50)
- ▶ Right of all persons in the territory of a party to the conflict to be **able to give news or information to members of the family**, wherever they may be (Art. 25)



- ▶ Right of parents to **receive information on their children who are in the power of a party to a conflict** (Art. 136)
- ▶ Obligation on parties to a conflict to ensure in all circumstances that **children under fifteen who are orphaned or separated from their families may continue the exercise of their religion and their education** and that as far as possible, their education shall be entrusted to persons of a similar cultural tradition (Art. 24).
- ▶ Obligation on detaining power to ensure the **education of interned children and young people**, who shall be allowed to attend schools (Art. 94).
- ▶ Children who are arrested, detained or interned, **must be held in quarters separate from the quarters of adults**, except where families are accommodated as family units (Art. 77(4)).
- ▶ **Education of children and young people who have been interned** must be provided, as well as special playgrounds for sports and outdoor games (Art. 94).
- ▶ **The recruitment of young people under fifteen into armed services** is prohibited (Art. 77).

The protections for children in non-international armed conflict under Additional Protocol II are similar to those for children in international armed conflict in Additional Protocol I.

3. Other Human Rights Treaties specifically relevant to Children

Other child specific human rights treaties and instruments with relevance to ICLA's thematic areas of work include the following:

- ▶ [Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages](#), 7 December 1962
- ▶ [ILO Minimum Age Convention](#), ILO 1973, (C138)
- ▶ [ILO Worst Forms of Child Labour Convention](#), ILO 1999 (C182)
- ▶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
- ▶ [Optional Protocol on the Involvement of Children in Armed Conflict](#)
- ▶ [Optional Protocol on the Sale of Children, Child Prostitution and Pornography](#), 18 January 2002
- ▶ [Hague Convention on the Civil Aspects of International Child Abduction](#), 25 October 1980

4. Human Rights Bodies relevant to Children

The Committee on the Rights of the Child is the body responsible for reporting on the implementation of the CRC and for ruling on complaints against State Parties made under the Optional Protocol to the CRC. It produces important jurisprudence on the rights of the child as well as commentary on specific topics (General Comments and other materials). General Comments of specific relevance include the following:

- ▶ [General Comment No. 5 \(2003\) on general measure of implementation of the Convention on the Rights of the Child](#)
- ▶ [General Comment No. 6 \(2005\) on the treatment of unaccompanied and separated children outside their country of origin](#)
- ▶ [General Comment No. 9 \(2006\) on the rights of children with disabilities](#)
- ▶ [General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken into account as a primary consideration](#)
- ▶ [General Comment No. 15 \(2013\) on the right of the child to the attainment of the highest standard of health](#)

- [Joint General Comment No. 3 \(2017\) on the general principles regarding the human rights of children in the context of international migration](#)

The [OHCHR Committee on the Convention of the Rights of the Child](#) website contains further useful resources

5. Other Human Rights Guidance Documents relevant to children

Many other international human rights guidance documents, frameworks or protocols refer to the need for special protections for children.

These include:

- [UN Guiding Principles on Internal Displacement](#)

6. Regional or cultural-specific treaties

- [Arab Charter of Human Rights](#)
- [Cairo Declaration of Human Rights in Islam](#)



Gaza, Palestine (Photo: NRC)



Refugee siblings, Jordan (Photo: Oriane van den Broek/NRC)



ANNEX 2: ASSESSING AND MITIGATING PROTECTION RISKS

A range of considerations should be taken into account by ICLA staff in assessing protection risks and identifying options to mitigate those risks.

1. Legal Protection issues

When advising beneficiaries about their legal options, such as approaching authorities, travelling to obtain documents, going to court or other legal or administrative actions, staff should be mindful of the following issues:

- ✓ Are the child and parents (the beneficiaries) **lawfully resident in the country**? If not, will they face any problems trying to obtain a civil document from local authorities? What risks do they face? (e.g. *challenges for obtaining legal residency in Lebanon or Libya*)
- ✓ Will the beneficiaries face any **protection or security issues travelling around**, especially if they do not have lawful residency? Are they at risk of arrest or detention at checkpoints? Are they at risk of harassment, confiscation of documents or internment in camps? (e.g. *challenges for obtaining legal residency in Lebanon, Jordan and Libya, harassment for children by soldiers and settlers on the way to school in Palestine*)
- ✓ Are the beneficiaries at **risk of arrest or detention**, such as on account of lack of lawful residency or lack of documents? What will happen to the children if the parents are at risk of arrest and detention, or for parents detained with children still at home? How are families detained and processed during detention? Are they separated from children? (e.g. *challenges for Syrian refugee youth in Lebanon without Syrian ID; refugees/migrants in Libya*)
- ✓ What protection risks do beneficiaries face in **trying to obtain documents**, such as in cases in which they are denied documents for discriminatory reasons? Are they at risk of drawing attention to themselves, harassment from authorities, other consequences? Are there additional risks or barriers for unaccompanied asylum seeking children (UASC)? (e.g. *undocumented children in Iraq with alleged family political affiliation to ISIS*)
- ✓ What current risks do beneficiaries face **for NOT having documents**? (e.g. *no legal identity, problems with freedom of movement, no access to health, education*)



- ✓ In cases **in which the parents are separated** and ICLA is helping one parent with a legal issue, such as obtaining documents for the child, is there likely to be any problem with the other, non-custodial parent? Is there any history of conflict, GBV or other issues that ICLA staff should know about?
- ✓ If ICLA is helping clarify **any legal aspects of guardianship**, are there any protection issues that ICLA should be aware of?
- ✓ In situations of **child marriage** what are the protection risks for registering the marriage? These could include formalizing an exploitative, abusive under age relationship, inability of child to continue at school if she is married and this contravenes school policy. What are the **risks of not registering the child marriage**, especially if a child of the relationship exists? These could include lack of birth certificate for the child, inability of the spouse to seek a divorce to leave an abusive relationship, lack of formal protection for the wife.
- ✓ In situations of **child labour**, what risks exist for ICLA involvement, such as trying to persuade the parent to allow the child to attend school or raising the issue with authorities or an employer? Consequences could include fear of violence or attack on the child for raising the issue, hostility from parents, harassment, intimidation or threats of violence by authorities or employer.
- ✓ If ICLA recommends taking any form of legal or court action, **what adverse consequences** could the child or family suffer? (*e.g could taking legal action against the occupying forces in Palestine result in a backlash against the family or increased attention?*)
- ✓ What consequences could there be for ICLA, the child or any other parties if ICLA are forced to disclose information of abuse under mandatory reporting obligations, or other provisions of national law?

2 Mitigating issues

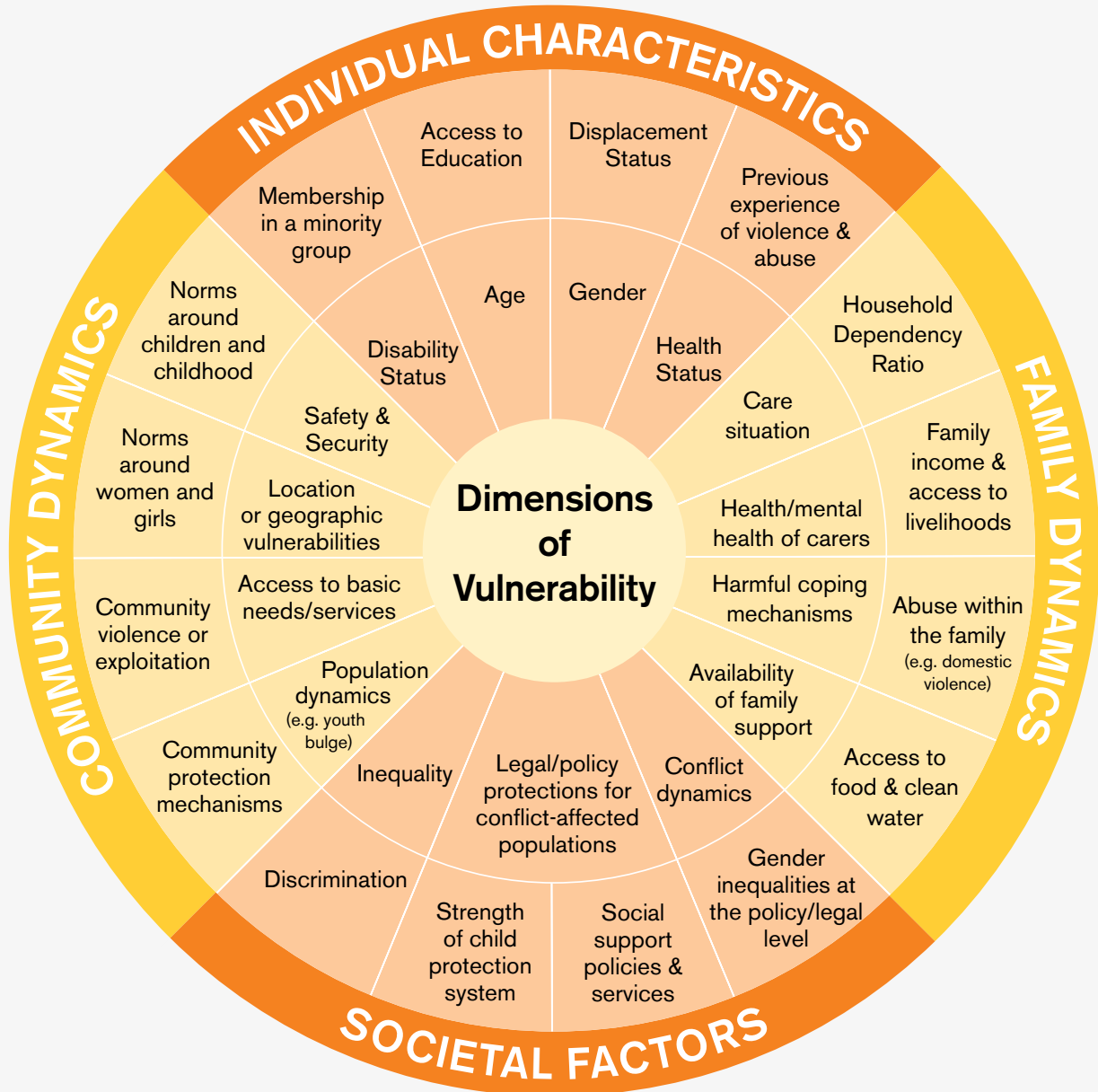
If protection risks exist ICLA staff assess what mitigating measures can be taken to reduce the risks. Whilst the decision on what action to take must be made by the beneficiary, ICLA staff can explore ways of reducing the protection risks.

Issues to consider include the following:

- ✓ Can ICLA help the beneficiary obtain legal residency, help with cash for transportation, accompany the beneficiary to court or government offices or otherwise **reduce any risks to the beneficiary in freedom of movement or accessing documents**?
- ✓ For children without proof of legal identity or civil documentation, **are there agencies that can provide undocumented children with basic services including health, education or social or humanitarian assistance**?
- ✓ Can anything be done **to minimise the risk of harassment or discrimination** against children, such as raising the issue with authorities or other agencies working on such issues?
- ✓ Are there available services **to assist girls in child marriages**, such as through providing counseling, social welfare, health care, educational support?
- ✓ Can any services **accompany children on the way to school or organize school transportation** to avoid harassment?
- ✓ To whom can **unaccompanied minors** be referred, such as child protection actors, government child welfare agencies?
- ✓ To whom can ICLA refer **family law or family welfare issues**, such as those involving GBV, divorce, child custody issues?
- ✓ Can **out of school children** access remedial education services?
- ✓ Can ICLA refer **cases of child labour** to agencies with social welfare or livelihoods programmes for families?

Dimensions of Vulnerability

When assessing vulnerability and protection risks the following issues should be taken into account:



Source: Save the Children vulnerability criteria.



Medical clinic, Tripoli, Libya (Photo: Nada Fituri/NRC)



ANNEX 3: CASEWORK GUIDELINES ON ISSUES INVOLVING CHILDREN

The following checklist provides practical guidance to ICLA staff on dealing with cases involving children during counseling and legal assistance services.

Relevant considerations include the following:

- ✔ Is a child-friendly space available? Can parents concentrate when discussing their situation with ICLA staff or are they distracted by their children?
- ✔ What type of legal issues are involved? Does the case fall within ICLA's thematic areas or does it need to be referred to another legal aid provider?
- ✔ Is ICLA dealing with the parents? If the parents are not involved, who is assisting the child and are they the legal guardian? Do they have proper authorization to act?
- ✔ If the parents are separated or divorced are there any conflicts between the parents, or custody or guardianship issues that ICLA should be aware of?
- ✔ Are the children old enough to be included in the discussions about their situation? Typically programmes should start to involve children, subject to their capacity, the issues involved and the agreement of the parents from about age 12.
- ✔ If dealing with a delicate or complex issue, should the children be in the room or can they wait outside with appropriate supervisions?
- ✔ Are children showing any signs of distress, trauma or any other protection indicators? If yes, should the case be discussed with the line manager or protection focal point?
- ✔ Are any non-legal protection issues involved? Are any referrals to protection actors necessary?
- ✔ Can ICLA help address any of the protection issues? Can we work with other protection actors to mitigate the protection risks?
- ✔ Does the case require further follow up with protection actors? If so, on what issues? Has a follow-up plan been put in place?



Hebron, Palestine (Photo: Karl Schembri/NRC)



ANNEX 4: LEGAL AND POLICY FRAMEWORK MAPPING

ICLA programmes may wish to conduct a mapping of the laws, policies and practices relevant to the legal protection of children in the country. Whilst some issues may fall directly within the ICLA thematic mandates (legal identity, residency), other issues may have a direct bearing on the ICLA legal case (legal guardianship, laws relevant to abuse or exploitation of children).

Relevant issues in a mapping exercise across different topics include the following:-

Child Protection Policy and Frameworks

1. What is the relevant child protection framework in the country? Is there an official government policy or position? Which government Ministry or agency is responsible?
2. What are the most relevant laws for the legal protection of children in the country? Is there a Bill of Rights? Are children's rights mentioned in the Constitution?
3. Has the government taken any steps to incorporate human rights protections or international standards in the general child protection framework? Is there a national human rights body? Do they have a focal point for children's rights?
4. What is the age of majority in the country? Is there a statutory definition of a child? Are there any restrictions or limitations after the age of majority? Is the age the same for males and females?

Documentation for Children

5. What legal identity documents are children required to possess in the country (e.g. birth certificate, inclusion in Family Book, National ID card). Can passports be issued to children? Is the consent of both parents required for a passport?
6. What residency documents are children required to possess, including IDP, refugee or migrant children? Which authority is responsible for issuing these documents? How are children treated if they are caught without these documents? Are they detained, subject to fees, fines, penalties or prosecution?
7. Are there are protections in case of stateless children? Are there any laws governing this situation?
8. What documents do children require to access education? What documents are children issued with upon completion of education at different levels; primary, intermediate, secondary?
9. What documents do children require to be able to access health, government or humanitarian services? Who is responsible for issuing such documents?



Guardianship and Custody

10. What are the guardianship laws for children whose parents are not the legal guardians, such as for unaccompanied minors, orphans, children living with relatives or children who have been removed from their parent's care? What documents are necessary to obtain and prove guardianship? What is the process? Which agency or court is responsible for confirming guardianship? Which government agency is responsible for unaccompanied minors or orphans? What procedures must be followed for the government to become the lawful guardian?
11. What are the guardianship laws or procedures when parents separate or divorce? How is custody determined? Under what laws? What are the usual processes or outcomes? Does one parent (father or mother) have special rights or responsibilities for the child under the law? Does it depend on whether the child is a boy or girl? Is there joint guardianship or sole guardianship by one of the parents? Can one parent take the child out of the country without the permission of the other parent?
12. Outside of the law, what happens informally within the community in relation to custody issues affecting children? Who are the decision makers or mediators? What is the typical process? How are the parents involved? What types of decisions are made? Is there a written record of the decision? Are such informal decisions implemented in practice? Is there a difference between the treatment of boys and girls? Can the parent still take the case to court if they are not happy with the decision of local actors?

Child Abuse

13. How are cases of child abuse dealt with in the country (i.e. such as threats or violence, sexual violence, neglect)? Are there mandatory reporting requirements? Under which laws? What are the procedures and who is obliged to report? Who are the responsible authorities? How are care arrangements dealt with in cases of child abuse?
14. What procedures are in place to prevent the trafficking of children, either internally or across borders? Is there a body responsible for case of child trafficking?
15. What procedures are in place to deal with the exploitation of children? Is there a responsible authority?
16. Is marriage of children under the age of 18 legal in the country? What are the relevant laws and procedures? What is the minimum age of marriage? What information are judges or decision makers required to take into account when authorizing an underage marriage?
17. If there is a child of an underage marriage, are the parents required to be married to obtain a birth certificate for the child? Can the child be registered if they are not married? What happens to children of the marriage in these cases?

Juvenile Justice and Detention of Children

18. What is the age of criminal responsibility? Under which laws? Does it depend upon the type of offence? What are the criminal procedures for dealing with juvenile offenders? Do the police have special procedures for dealing with children? Are parents or guardians required to be present during interviews? What special rights do children have and under which laws?
19. Can children be detained? For how long? What is the process for release?
20. Can children be detained in refugee camps in the country or other places of detention, such as migrant detention centres? What is the process for release from refugee camps or places of detention?

Working Age for Children and Child Labour

21. What is the working age for children in the country? Are there restrictions on the type of employment children may have before they turn 18? Under which laws? What protections are in place? What procedures are in place to deal with child labour? What penalties exist for persons using, facilitating or engaging in child labour such as employed children, parents and employers? Which government agencies are responsible for these issues?



Damascus, Syria (Photo: Tarek Mnadili/NRC)



ANNEX 5: DUE DILIGENCE AND PROGRAMME DESIGN CONSIDERATIONS

The following considerations should be taken into account when conducting due diligence assessments of ICLA programmes or developing new projects so that legal protection of children is properly addressed.

1. Context Analysis

- ✓ How will the project promote some of the **basic child rights contained in the CRC**, such as the right to an identity, nationality, the right to education and health

2. Needs, Risks and Protection Assessments

- ✓ Does a gender sensitive needs assessment exist or has a needs assessment been conducted which includes **legal protection issues relevant to children**, the numbers of children likely affected, the scope of the work and the possible areas of intervention?
- ✓ Is there a documented decision by the programme on **how will it address such issues** i.e. by ensuring that all due diligence considerations in dealing with children are incorporated in regular programming or by designing specific interventions to address them?
- ✓ Which **age group of children** will the project deal with and what particular issues do they face?
- ✓ Has a **programmatic risk assessment been undertaken** highlighting the risks, protection issues and mitigating factors that should be considered in any intervention?
- ✓ Has consideration been given to **dealing with the most marginalized boys and girls**, groups of children facing discrimination or those in hard to reach areas?

3. Mapping of relevant services and agencies

- ✓ Has **referral mapping been conducted** of agencies providing relevant services for children such as specialized child protection actors, government agencies, health, education, humanitarian services, GBV? Was the referral mapping qualitative and participatory? When was it last updated?
- ✓ Have **relationships been established with specialized child protection actors** or government agencies providing services for children?



- ✓ Which **additional actors are involved** in the situation of a child in the country; where necessary, specifying whether this depends on the category a child falls into (e.g. trafficked, asylum-seeking)?
- ✓ Which **UN actors are involved**, which donors are involved (development or humanitarian, development banks etc.) and which nongovernmental actors are involved?
- ✓ Which **local actors are involved** (community-based organisation, self-organised refugees, NGOs, faith-based organisations, trade unions, youth associations, etc.)?

4. Working with authorities

- ✓ Who are the **key government institutions** at regional, national and local level with responsibility in relation to children's issues?
- ✓ Are there reports of **state authorities or others discriminating against certain groups of children**; if so, what is the situation they face?
- ✓ Is there an **independent national human rights institution** such as an ombudsman, including a body specifically for children?
- ✓ What are the **government's incentives** for, and commitment to, implementation of all of the above?

5. Planning types of interventions

- ✓ Has a **mapping been conducted of the relevant legal and policy framework in the country** relevant to the legal protection of children?
- ✓ Has **durable solutions thinking been built into the intervention**? What are the possible durable solutions for children and how will this intervention contribute to those solutions?
- ✓ Has **ICLA been in contact with other NRC CCs working with children** on possible synergies or to learn from their experience, specifically Education/Youth?
- ✓ Will **ICLA participate in any forums or working groups** dealing with legal protection of children issues, such as through the Protection Cluster, Child Protection Working Groups, etc.?

6. Child specific Training and staff preparedness

- ✓ Have **ICLA staff received basic training on protection principles** and working with children, including NRC's child safeguarding policy?
- ✓ Have staff providing information sessions to children, such as in schools, been trained on **child-friendly communication skills**?
- ✓ **How will the intervention integrate cross-cutting issues** (gender, disability, resilience, child safeguarding)? Is the intervention designed to contribute to gender equality?
- ✓ What is **NRC's in-house protection capacity** to deal with child rights issues? Does NRC or ICLA, have a nominated protection focal point or persons with expertise on child's rights?
- ✓ Has **ICLA developed relevant SOPs** and guidance material for the intervention, such as how to deal with protection issues?

7. Working with children

- ✓ Is **information for children designed in a child-friendly way**?
- ✓ Subject to the age or capacity of the child, are **procedures in place to allow for consultation** with children on issues affecting them?



- ✔ What systems are in place to ensure the **best interests of the child** are taken into account?
- ✔ Are suitable **data protection procedures in place** to safeguard data collected on children?

8. Advocating for policy change

- ✔ Do data collection systems exist to collect **generalized data on legal protection issues facing children as an evidence-base for policy change and advocacy**? Have discussions taken place with Advocacy and M and E?
- ✔ Will the **intervention include any policy change interventions** dealing with child rights violations, such as child statelessness, child marriage, child labour? Can we work with other actors on such issues utilizing our specific legal expertise?

9. Measuring impact

- ✔ **What standards are in place to show a measurable impact** of the intervention on the legal protection of children?

10. Cross border work

- ✔ If the intervention involves refugee children **crossing borders to return to their own countries**, what is the role of ICLA? Are systems in place to coordinate with ICLA programmes on the other side of the border? How will we ensure that children have access to all necessary legal identity documents, including birth certificates, before crossing the border? Have we developed a returns preparedness checklist focusing on key issues for children? Are we able to deal with any legal protection concerns that may be faced by children in transit?
- ✔ In the event of large-scale returns, do we have systems in place to deal with issues of **unaccompanied minors, family separation issues or legal guardianship issues**?
- ✔ Is there any **cross-border cooperation between agencies**?



Dara, Syria (Photo: Tarek Mnadili/NRC)



ANNEX 6: MEASURING IMPACT AND THEORY OF CHANGE

This annex provides examples of ways of measuring overall impact as well as specific legal indicators which may be suitable for ICLA projects relevant to the legal protection of children. An example of an ICLA Theory of Change using a legal protection of children example is also provided.

1. Measuring impact of programme activities

Measurement of impact involves a higher degree of change than the measurement of outcomes. In order to assess the impact of ICLA interventions, the following questions can be considered.

- **Direct benefits:** Has the programme brought about any major changes in the lives of children and young people, or other stakeholders such as community members, as indicated by the beneficiaries? How?
- **Wider impact:** Has there been changes in legislation, structures, mechanisms, policies, practices or beliefs in relation to children's rights? How?
- **Reduced discrimination:** Has there been a reduction in the discrimination faced by marginalized groups of children and young people (with specific reference to gender, disability and ethnicity) on account of the programmatic work? How?
- **Collaborative working:** Has there been improved partnership and collaboration through the project? How?

2. Legal safety indicators¹

Improved legal protection outcomes can be measured in different ways by ICLA programmes depending upon the type of issues programmes are working on. Good examples of legal protection indicators can include the following:

- % of children who have complete legal identity documentation, including proof of legal identity and nationality
- % of children who have increased freedom of movement on account of residency documentation or other legal interventions
- % of out of school children without adequate civil documentation now able to access education on account of ICLA interventions
- % of children aware of the legal age of marriage and the risks of underage marriage
- % of children aged 15-17 who are aware of their rights to civil documentation, to education, and to legal protection

¹ Durable Solutions for Children Toolkit, p 73.



3. Theories of Change

A Theory of Change is a tool or flowchart which sets out the overall goal (such as ‘increased protection of children through issuance of legal identity documentation’) and all the steps and activities necessary to reach that goal. ICLA Theories of Changes on Legal and Civil Documentation, Housing, Land and Property and other areas are contained in the ICLA Global Library.

The following case from ICLA Jordan highlights the Theory of Change in practice. It provides an example of positive change to procedures governing lawful residency for refugees within the community resulting in a reduction in protection risks and improved protection outcomes for children.

Theory of Change Case Study – Increased access to education and reduced child labour through advocacy around lawful residency and work rights in Jordan

Problem issue – Syrian refugees who had left refugee camps without permission were unable to obtain legal residency or work rights in the community. They were at high risk of being detained at checkpoints if they did not have legal residency. Many parents, typically males, remained at home and some sent children to work as they were less likely to be detained by authorities.

Overall objective – Improved access to residency for family, improved access to education for children, reduced child labour, increased protection.

Advocacy was conducted around the need to provide legal pathways for adults living without residence permits in the community. As a result of combined advocacy by the UN, donors and INGOs such as NRC, the Government of Jordan issued an amnesty in 2018 allowing Syrian refugees who had left refugee camps to legalise their residency and apply for work permits in the open sector.

The ICLA programme assisted Syrian refugees to regularize their legal status and obtain work permits. Adults who obtained residency and work permits were allowed to work, thus enabling them to earn an income to support the family without fear of adverse consequences such as detention. This reduced the pressure on sending children to work.

Reduced pressure on children to work, combined with lawful residency for children, resulted in higher rates of school enrolment. As adults, typically fathers, were allowed to work, this reduced tensions and frustrations in family life.

Overall result was increased lawful residence, reduced stress and protection issues at home, increased access to education by children, higher family income.



NRC Education, Benghazi, Libya (Photo: NRC)

ANNEX 7: WORKING WITH ADVOCACY ON POLICY CHANGE APPROACHES



The following checklist sets out key issues to be considered by ICLA programmes when developing advocacy or policy change approaches.

- ✔ **Identify the issue that requires policy change.** How does it affect beneficiaries? Is there anything that can be done programmatically? Have all legal or programmatic options been exhausted? Has the issue been raised with authorities?
- ✔ **Clarify what needs to change for children to be better protected.** Does the issue require a change in law or policy or a change of cultural or community practice? Is there a specific policy or legal recommendation? Who should it be addressed to?
- ✔ **Justify what is being requested.** What is the specific goal? Which international child rights is it linked to? Is it within the ICLA mandate?
- ✔ **Establish what information is available about the issue.** Has a legal analysis been conducted? Are there specific recommendations? Is detailed and credible data available from ICLA's fieldwork or database about the number of persons affected by the issue?
- ✔ **Consider the best way to change policies or practices.** Sometime it is most effective to approach authorities privately. On other occasions public advocacy is more effective. Who is the advocacy target? Government, donors, communities, international community? What approaches are most likely to work?
- ✔ **Meet with Advocacy to discuss the issue.** Is the issue one of their priorities? How would they campaign around the issue? Do they consider the ICLA request to be realistic?
- ✔ **Develop a policy change approach.** What information, evidence or research does Advocacy need from ICLA? What is the role of ICLA? What is the role of Advocacy? What's the timeline? Are other stakeholders or forums involved? Put together an action plan with specific targets and timelines.
- ✔ **Implement the action plan.** Action the policy change approach in line with the plan. This may involve meeting with authorities to raise the issue, issuing a report, speaking at a conference, submitting a donor proposal, developing a social media campaign with Advocacy and Comms. Or all of the above.
- ✔ **Measure the results.** Was the approach a success? Was any policy change achieved? What policies or practices were achieved? How can success be measured? Did it raise stakeholder awareness? What lessons were learnt? Were there any negative or unintended consequences?



Rehabilitated School, Syria (Photo: Tarek Mnadili/NRC)



ANNEX 8: SELECTED RESOURCES ON THE LEGAL PROTECTION OF CHILDREN

The following list provides a selective and non-exhaustive list of resources on the legal protection of children relevant to humanitarian contexts.

1. Protection Policies and Guidelines

- [Global Protection Cluster Protection Mainstreaming Toolkit](#)
- [NRC Protection Policy](#)
- [Protection Resource Pack](#)
- [NRC Child Safeguarding Policy](#)
- NRC ICLA Safe Programming Standards,
- NRC ICLA and Protection: Guidance Note, Jan 2019, NRC ICLA and Protection Guidance Note
- [DG ECHO «Humanitarian Protection: Improving protection outcomes to reduce risks to people in humanitarian crisis»](#)

2. Resources on the Legal Protection of Children in International Law

- United Nations, [Secretary General guidance note on the UN approach to justice for children](#), 2008
- Van Bueren, Geraldine, 'The International Law on the Rights of the Child' Martinus Nijhoff, 1998
- Tobin, John 'The UN Convention on the Rights of the Child: A Commentary', Oxford University Press, 2019
- Kilkelly, Ursuala, Liefwaard, Ton (eds) 'International Human Rights of Children' Springer, 2018
- Buck, Trevor, 'International Child Law', Routledge 2014
- Liefwaard, Ton, and Jaap E. Doek, eds. 'Litigating the Rights of the Child: The UN Convention on the Rights of the Child in Domestic and International Jurisprudence' Springer, 2014

3. General Child Protection Resources

- Child Protection Working Group, 'Minimum Standards for Child Protection in Humanitarian Action 2019'. [CMPS Standards 2019](#)
- Save the Children, [Setting the Standard: A common approach to child protection for INGOs](#)
- Save the Children, [Protecting Children on the Move: A Guide to Children Affected by Migration and Displacement](#)
- Save the Children: [Durable Solutions for Children Toolkit](#)



- Save the Children, [Achieving Durable Solutions for Returnee Children: What Do We Know?](#)
- Save the Children, [Getting it Right for Children: A Practitioner's Guide to Child Rights Programming](#),
- UNHCR, [A Framework for Protecting the Rights of Children](#)
- UNICEF, [Child Protection Resource Pack](#)
- ICRC, World Vision, [Operational Guidance on Child Friendly Spaces in Humanitarian Settings](#)
- ICRC, UNHCR, UNICEF, Save the Children UK, and International Rescue Committee, [Inter-Agency Guiding Principles on Unaccompanied and Separated Children](#)
- Global Protection Cluster, [Inter Agency Guidelines for Case Management and Child Protection](#)
- Global Protection Cluster, Child Protection Working Group, [Child Protection Rapid Assessment Toolkit](#),

4. Best Interests of the Child

- [UNHCR Guidelines on Determining the Best Interests of the Child](#)

5. Child Statelessness

- UNHCR, [I am here, I belong: the urgent need to end Childhood Statelessness](#)
- NRC/ISI, [Understanding Statelessness in the Syria Refugee Context](#)

6. Birth registration and legal identity

- NRC ICLA 'Guide on Legal Identity: Civil Registration, Documentation and Identity', December 2015,
- UNICEF, [A Passport to Protection: A Guide to Birth Registration Programming](#)
- UNICEF, [Birth Registration and Armed Conflict](#)

7. Child Labour

- UNICEF, [Child Labour, Education and the Principle of Non-Discrimination](#)

8. Child Marriage

- UNICEF, [Child Marriage: Latest Trends and Future Prospects](#)
- Save the Children, Married by Exception: [Child Marriage Policies in the Middle East and North Africa](#)

9. Principle of Family Unity

- UNHCR, F. Nicholson, [The Right to Family Life and Family Unity of Refugees and Others in Need of Family Protection and the Family Definition Applied](#)
- [Inter-Agency Guiding Principles on Unaccompanied and Separated Children](#),

10. Right to Education

- Committee on Economic, Social and Cultural Rights, [General Comment No. 13 \(1999\) The Right to Education](#)
- Klaus Dieter Beiter, 'The Protection of the Right to Education by International Law' Marinus Nijhoff Publishers, 2006

11. Legal Status

- Jason Pobjoy, "A Child Rights Framework for Assessing the Status of Refugee Children", in Juss S. and Harvey C. (eds.), *Contemporary Issues in Refugee Law* (Edward Elgar, 2013)



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