

**Linking invisibility and vulnerability**

**Strengthening refugee child protection capacity: The case of unaccompanied and separated refugee children from Bhutan living in Nepal**

Tara L. Kinch

Submitted to Saint Mary's University,  
Halifax, Nova Scotia, Canada  
in Partial Fulfillment of the Requirements for  
the Master of Arts Degree in  
International Development Studies

February, 2008, Halifax, Nova Scotia

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Approved: Dr. Suzanne Dansereau  
Supervisor

Approved: Dr. A.K.M. Ahsan Ullah  
Reader

Date: 03 March 2008



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*ISBN: 978-0-494-41698-3*

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*ISBN: 978-0-494-41698-3*

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*I would like to dedicate this thesis to the millions of refugee children who are forced to flee their homes, become separated from their families and endure the consequences of being displaced growing up parentless in refugee camps around the world.*

## **Acknowledgments**

UNHCR Nepal deserves special thanks. I would like to extend my appreciation to Mr. Abraham Abraham, former UNHCR Representative in Nepal, for providing me the means to carry out an internship with their Sub-Office in Damak and to the staff, both in Damak and Kathmandu, for all their support and guidance during my time in the field. In particular, I would like to thank Ms. Alexandra Kiil-Nielsen, Ms. Bhagi Dhungel, Ms. Kaoru Nemoto, Ms. Rianawati and Ms. Susanne Kindler-Adam for sharing their knowledge and experience with me. This opportunity has proven to be an incredible learning experience, one that reaffirms my interest for working with refugees and strengthens my commitment to advocate and work towards finding durable and comprehensive solutions on their behalf.

I would also like to express my admiration to the refugees from Bhutan. The humanity that was shown to me by the refugee community is beyond description. From the onset, they welcomed me into their hearts and into their huts. I will always cherish the kindest, and generosity they bestowed to me during the time I was fortunate to work in their community and learn so much from them. Above all, the courage, strength and resilience that these men, women and children possess will continue to inspire me to work towards finding dignified, durable and comprehensive solutions to their plight.

I would like to extend my appreciation to my supervisor, Dr. Suzanne Dansereau, whose knowledge, understanding and patience has helped me to put my experience and research into the pages that follow and to my reader, Dr. Ahsan Ullah. Additionally, I would like to express my gratitude to Saint Mary's University Faculty of Graduate Studies & Research, the International Development Studies (IDS) programme and International Activities Office. I would also like to thank Students for Development (SFD) for awarding me with a scholarship funded by the Government of Canada through CIDA. This scholarship was the reason I was able to carry out this field research and internship with UNHCR.

I am indebted to Sitara and Deepak Khatiwoda, my ama and baba, for taking me into their family and teaching me so much about a world I was unknown about before coming to Nepal. Special appreciation has to go to Purna Budathoki, my sathi and daju as well as to Father Amal Raj and Father Varkey, for their friendship, guidance and encouragement. Their tireless commitment to improving the situation of vulnerable children in the camps is inspiring.

Special thanks and appreciation is extended to my amazing friends who have supported me throughout this entire process, providing endless encouragement and motivation, especially, Ms. Allyson Chisholm, Ms. Cecelia Unite, Ms. Jennifer Hutchinson and, Ms. Katherine Orr, along with my sister, Tracy and her beautiful family and my brother's Jay Brian and Kevin.

Most of all I would like to thank my mother and father, without whom I would have never had the confidence to follow my dreams and pursue a profession in humanitarian work. They have instilled in me the ideals necessary to take this path in life. They both mean the world to me and I hope that one day they will get the opportunity to meet some of the children who inspired me to carry out this research.

***“We have no parents, we have no one to take  
care and protect us.”***

**~ Refugee children<sup>1</sup>**



Young refugee children from Bhutan, Child Play Centre (CPC) Khudunabari Refugee Camp, Jhapa, Nepal.  
2007/Kinch.

***“If we are the future and we are suffering,  
there is no future”***

**~ Refugee children<sup>2</sup>**

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<sup>1</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

<sup>2</sup> Ibid.

## **Linking invisibility and vulnerability**

### **Strengthening refugee child protection capacity: The case of unaccompanied and separated refugee children from Bhutan living in Nepal**

Tara L. Kinch

#### ***Abstract***

The issues of invisibility and vulnerability are troubling phenomenon, particularly when children grow up parentless in protracted refugee camps. More disturbing is that many of these situations go largely unnoticed by the international community. The purpose of this thesis is threefold: i) to discuss and review the policy protecting refugee children; ii) to gain an understanding of the overall situation of unaccompanied and separated children (UASC) from Bhutan living in camps in Nepal and, iii) to initiate discussion around developing strategies to improve the protection and overall services available to children who are separated from their parents or primary caregivers and residing in protracted refugee situations. Thus, the objective of this paper is to highlight the lack of policy concerning UASC residing in a protracted refugee context and, to demonstrate that policy alternatives must be developed to adequately care and protect these children. The data collected from this study will be able to influence policy as well as inform future research and protection strategies in the area of child refugee protection. Additionally, this information is critical to UASC residing in protracted refugee situations, as they remain invisible to policy makers which are why there are inadequacies in the policy addressing this vulnerable group of refugee children. This thesis further discusses whether policy alternatives can be devised to better protect this group of children who are at a heightened risk for abuse and exploitation because of the absence of their first line of protection, their parents or primary caregivers but more importantly, because many of these children continue to be invisible to the people who are responsible for them and in a position to protect them, ultimately, increasing their vulnerability. Therefore, there is a pressing need for more research on this issue, particularly to expose conditions that surround refugee children and other children in comparable situations.

01 February 2008

**This Masters Dissertation does not represent the official views of UNHCR but is the product of my personal research.**

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## ***List of Acronyms***

AMDA	Asia Medical Doctors Association
BID	Best Interest Determination
BRCF	Bhutanese Refugee Children's Forum
BRWF	Bhutanese Refugee Women's Forum
CBO	Community Based-Organization
CHV	Community Health Volunteer
CMC	Camp Management Committee
CPC	Child Protection Committee
CRC	Convention on the Rights of the Child
CSU	Community Services Unit
CSW	Community Social Worker
EVI	Extremely Vulnerable Individual
FA	Field Assistant
GoN	Government of Nepal
ICRC	International Committee of the Red Cross
IOM	International Organization for Migration
LWF	Lutheran World Federation
MoHA	Ministry of Home Affairs
NBA	Nepal Bar Association
NFI	Non-food Item
NGO	Non-Governmental Organization
NOC	Not of Concern
NUCRA	National Unit for the Co-ordination of Refugee Affairs
PRRO	Protracted Relief and Recovery Operation
RCU	Refugee Coordination Unit
RGB	Royal Government of Bhutan
RSD	Refugee Status Determination
SGBV	Sex and Gender-Based Violence
SOPs	Standard Operating Procedures
UASC	Unaccompanied and Separated Children
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
WFP	World Food Programme



## Chapter 1: Introduction

The inspiration behind this research comes from my experience working with refugee children from Bhutan, who have been residing in temporary camps in eastern Nepal for the past seventeen years. It is their courage, resilience and relentless determination that initially sparked my curiosity of issues concerning refugee child protection; more importantly, it forms the basis of this thesis.

There is no denying that refugee children<sup>1</sup> are one of the most vulnerable populations in the world as a result of their heightened insecurity and future uncertainty, whose forced displacement is engendered by underdevelopment, environmental devastation and political, ethnic and religious conflict. Refugee<sup>2</sup> children are especially vulnerable and, require special safeguards to protect them from abuse, neglect and exploitation. The United Nations High Commissioner for Refugees (UNHCR, 2008),<sup>3</sup> estimates that half of the population of concern<sup>4</sup> are comprised of children, approximately 15 million.

Moreover, some of the most vulnerable displaced children are growing up parentless, unaccompanied or separated,<sup>5</sup> in refugee camps<sup>6</sup> around the world.

---

<sup>1</sup> *Child* is defined in the thesis according to the Article 1 of the Convention on the Rights of a Child (CRC) which states, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier (CRC, 1989).

<sup>2</sup> Any person who is outside his/her country of national habitual residence; has a well-founded fear of persecution because of his/her race, religion, nationality, membership in a particular social group or political opinion; and is unable or unwilling to avail himself/herself of the protection of that country, or to return for fear of persecution (Refugee Convention, 1951).

<sup>3</sup> UNHCR is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well-being of refugees (UNHCR, 2008).

<sup>4</sup> People of concern to UNHCR include refugees, internally displaced people (IDPs), returnees and stateless persons.

<sup>5</sup> Unaccompanied children are those who have been separated from both parents and relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. And Separated children are those who separated from both parents, or from their previous legal or customary or primary care-givers,

Unaccompanied and separated children (UASC hereafter) are at an increased risk to vulnerability because they lack first line of defense, i.e. parental care and protection. It is critical that a child has an adult caregiver who is both willing and has the capacity to meet the child's basic needs while providing them with a stable, safe and loving environment.<sup>7</sup>

There is a lack of policy addressing the concerns of UASC in protracted refugee situations as much of the policy on UASC has focused on children who become separated from their parents, prior to, during or soon after flight, the emergency relief phase of a refugee operation. Yet, separated children who were born into a protracted refugee situation or during the care and maintenance phase of a refugee operation have remained largely unattended<sup>8</sup> by both the policy and the practical levels and, as a consequence, the most vulnerable children remain invisible.

The issue of UASC from Bhutan has received minimal attention during their prolonged stay in the camps and as a result of no concrete efforts being made to examine the situation of these vulnerable children, there are significant gaps in the knowledge and understanding of the magnitude, nature and underlying causes of the problem as well as the impact separation has on these children. It is apparent that a baseline study, capturing the extent of the issue, along with comprehensive data on the reality in the camps, would certainly provide the much-needed information required to strengthen refugee child protection capacity.

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but not necessarily from their relatives. These may therefore include children accompanied by adult family members other than their parents" (UNHCR, 2006a).

<sup>6</sup> An encampment built by governments, UNHCR and NGOs to temporary shelter persons of concern while providing them with international protection and meeting their most essential basic needs until a durable solution is reached.

<sup>7</sup> Having healthy peer and family relationships.

<sup>8</sup> Commonly referred to as a Protracted Relief and Recovery Operation (PRRO).

This study presents some key findings relevant to informing policy as well as to make the link between the invisibility and vulnerability of UASC. Further, it captures the actual reality of UASC in the camps in Nepal. Specifically, the preliminary information will be used to assess the general condition of UASC in Nepal and, to mobilize efforts, at all levels, to address the needs of these children<sup>9</sup>

### ***The Global Refugee Perspective***

This section briefly describes the nature and scope of the global refugee problem and the role of UNHCR which is important information as it situates the rationale within research and gives an understanding as to why it is critical to have appropriate policy protecting this vulnerable population, specifically UASC. Also, it is imperative to recognize the distinction between the vulnerabilities of refugees in general and UASC in particular which will be explored in more detail in subsequent chapters.

The twentieth century became the century of refugees, not because it was extraordinary in forcing people to flee, but because of the division of the globe into nation-states in which states were assigned the role of protectors of their own citizens. When the globe was totally divided into states, those fleeing persecution in one state had nowhere to go but to another state, and required the permission of the other state to enter it (Adelman, 1999; cited in Robinson, 2002:25).

The global refugee crisis is one of the most pressing problems of our time. As a consequence of armed conflict, internal strife, serious violations of human rights, and natural disasters, UNHCR estimates worldwide that there are approximately 50 million uprooted people comprised of refugees, internally displaced peoples (IDPs), asylum-seekers, stateless, and returnees (repatriated refugees). Yet, less than 50% of these

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<sup>9</sup> Group resettlement is included as a durable solution option available to UASC in the camps in Nepal.

displaced people are receiving assistance and protection from host governments and the international community (UNHCR, 2007).

The global refugee problem is not a humanitarian problem requiring charity but is a political problem requiring political solutions and...cannot be separated from...migration, human rights, international security and development assistance (Loescher, 1994).

In recent years, the refugee issue has become more of a 'third world problem,' with the majority of refugees produced and sheltered in poor countries, consequently, having multiple implications for much of the developing world. For poor countries to host, shelter, feed, secure and protect the majority of the world's refugees has become an increasing "burden," which, arguably, has contributed to the bulk of refugee situations being ignored and forgotten. Forbes Martin suggests that refugees and displaced persons should not only be of concern to international organizations but also need to be and should be of concern to all of us (Forbes Martin, 2004:5). She goes on to point out that, if refugee situations remain unresolved they can have serious consequences for host countries, regions in conflict and the global community (Forbes Martin, 2004:5).

It is a difficult task for poor countries to provide the assistance and protection required for refugee populations, particularly if the problem is protracted and comprises a large number of people. Most often, countries hosting refugee populations are plagued with corruption, internal conflict, and poverty as well as their own internally displaced populations. Thus, it is a challenge for countries housing large refugee populations to meet international protection and assistance guidelines, which present a number of implications that are emerging in refugee settlements throughout the world. Frequently the protection provided by host countries is minimal or nonexistent and this lack of

security contributes to the vulnerability of displaced populations, most notably refugee children.

## **UNHCR**

On December 14, 1950, the United Nations General Assembly established the UNHCR in Resolution 428. The General Assembly's intention was to build a framework to provide protection and assistance to those displaced and fleeing persecution in the aftermath of World War II. The Refugee Convention was adopted on 28 July 1951 and the preamble to the convention states, "The United Nations wants to ensure refugees the widest possible exercise of...fundamental rights and freedoms" (UNHCR, 2001). Outlined in the convention is a comprehensible definition of who qualifies as a refugee, the legal protection and humanitarian assistance they should receive outside their country of origin, as well as the obligation refugees have to host countries in which they seek temporary refuge and protection. UNHCR's mandate is comprised of two key components: i) the provision of international protection and material assistance to refugees, as defined in the Refugee Convention and, ii) the identification and implementation of permanent solutions to refugee issues.

Since its establishment, UNHCR has been the primary office of legal protection and assistance to refugees in Europe, Africa, Asia and the Americas. Its main function is to safeguard the rights and security of refugees under its immediate care. Moreover, the refugee agency attempts to "ensure that everyone can exercise the right to seek asylum and find safe refuge in another state, with the option to return home voluntarily, integrate locally or to resettle in a third country (UNHCR, 2005). Maghiga asserts, "from historical times, the definition of a refugee has not changed; what has been varying from one

situation to another are the factors which cause refugee situations and the manner in which refugees are received and treated” (Samaddar, 2003:9). As stated in Article 1 of the 1951 Refugee Convention, a refugee has been defined:

- As a person who is outside his/her country of national habitual residence; has a well-founded fear of persecution because of his/her race, religion, nationality, membership in a particular social group or political opinion; and is unable or unwilling to avail himself/herself of the protection of that country, or to return for fear of persecution (UNHCR, 2001:6).

In 1967 a Protocol was introduced to expand the scope of the Convention to include people that were being forced to flee their homes for a variety of reasons. Notably, these displaced people were not solely from Europe and fleeing persecution as the direct aftermath of World War II. It is interesting to note that, prior to the Protocol, UNHCR and the international community preferred third country resettlement as the most durable solution to the refugee crisis. However, as the number of people being displaced shifted from European countries to non-European countries, mostly countries from Africa, Asia and the Americas, so did the position towards third country resettlement. Today, UNHCR and the international community prefer voluntary repatriation, which exercises the refugees’ “right to return” home as their ideal solution to refugee conditions.

Consequently, this change in attitude could arguably be attributed to xenophobia as well as to the fact that predominantly white, industrialized countries no longer produce the majority of refugees and do not want the “burden” of the world’s refugee crisis inside their borders. It is ironic however that arguably the majority of refugees produced are the direct result of actions and decisions made by industrialized countries. This is evident in the past few years, as the world has observed the United States’ attacks on Afghanistan

and Iraq which forcibly uprooted thousands of people from their homes and contributed to the increasing number of people of concern under UNHCR's protection and care.

UNHCR currently provides assistance and protection to over 19 million asylum seekers, refugees and internally displaced peoples. It is one of the world's major humanitarian agencies, which advocates for international refugee rights and monitors governments compliance and implementation of international refugee law (UNHCR, 2001). Furthermore, UNHCR seeks long-term durable solutions to refugee crises. Generally, their responses include one of the following three alternatives: i) assisting refugees to repatriate to their homeland if the conditions for fleeing persecution have improved; ii) helping refugees integrate into the local community in which they are seeking temporary shelter and asylum and, iii) to resettle refugees to a third country.

Although five decades have passed since the creation of the Convention on Refugees, the state of the world's refugees has continued to increase with each passing decade. The number of people seeking refuge from conflict, persecution, and disaster or large-scale development projects (such as dams) has contributed to a global crisis that few actors outside of the UN system seem to want to take responsibility or accountability for, and this neglect is having a number of consequences, especially among the most vulnerable refugees, women, children and the elderly. More importantly, as the number of refugees produced increases, the issue of protecting refugees becomes a growing concern. As host governments attempt to uphold their primary responsibility (protecting refugees within their borders), UNHCR has stated that the impediments faced by these countries (most of which are impoverished) must be supported (monetarily as well as in

the form of in-kind contributions) by the international community and, not be solely the responsibility of host countries.

As a UN agency, UNHCR's mandate is to uphold international humanitarian, human rights and refugee law, by providing assistance and protection to the people of concern to it and working to find durable solutions to its protracted situations. The foundation of the refugee agency is to ensure international protection. In theory, this means upholding the 1951 Convention and its 1967 Protocol, respecting all refugees human rights, ensuring all refugees are protected under UNHCR's care and providing assurance that no refugee is forcibly sent back to the country where they fear persecution *refoulement* (UNHCR 2005). Non-*refoulement* is the most critical component of the Refugee Convention and is defined in Article (33)1:

No contracting state shall expel or return *refouler* a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion (UNHCR, 2005).

UNHCR defines protection as, "all actions aimed at ensuring the equal access to and enjoyment of the rights of women, men, girls and boys of concern to UNHCR, in accordance with the relevant bodies of law (international humanitarian, human rights and refugee law)" (UNHCR, 2003:9). UNHCR and host countries share the responsibility of providing humanitarian assistance and protection for refugees and IDPs. One of their most important responsibilities is to ensure that refugees, mainly women and children are protected against violence and exploitation. This thesis will investigate the policies, practices and programs of UNHCR as well as host governments and uncover if in fact they are providing adequate protection for refugees under their care, specifically protecting refugee children.



## ***Refugees from Bhutan in Nepal: Role of UNHCR***

UNHCR has made significant improvements and contributions to our global understanding of what determines adequate protection for refugee children, with the 1994 guidelines on refugee child protection and care the most notable contribution. Further, with its global commitment to protect refugee children, including UASC, in collaboration with its partner non-governmental organizations (NGOs), has made significant contributions to protecting refugee children by means of developing guidelines, standards and policy that highlight the unique needs of displaced children. Yet, globally, inadequacies in child refugee protection, particularly the protection of UASC, however, continue to persist within and between refugee operations despite the knowledge and understanding of protection. The issues concerning UASC have been relatively under-addressed and the case of the UASC from Bhutan in the protracted refugee situation<sup>10</sup> in Nepal is no exception.

UASC from Bhutan has received minimal attention during their prolonged stay in the camps and as a result of no concrete efforts being made to examine their situation. Therefore significant gaps remain in the knowledge and understanding of the magnitude, nature and underlying causes of the problem as well as the impact separation has had on these children. A baseline study, capturing the extent of the issue, along with comprehensive data on the reality in the camps, would certainly provide the much-needed information for strengthening child protection capacity, both in the camps in Nepal and globally.

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<sup>10</sup> An extended length of stay in camps.

This would include developing mechanisms for prevention, monitoring, responding and reporting of UASC - all areas that would considerably improve the care and protection available to these children. Further, the issue of invisibility and the case of UASC residing in the refugee camps in Nepal have been left unattended and one could argue how were these children largely neglected when UNHCR has been assisting the population over the past sixteen years. This invisibility subsequently heightens the level of vulnerability these parentless children are exposed to on a daily basis.

To date, there have been no mechanisms put in place to identify and monitor these children's living arrangements, protection and well-being and as this thesis will reveal, this lack of concern on the part of the operation here has had grave consequences for those children who have grown up in the camps and who continue to live without adult caregivers who are generally concerned about their overall well-being.

The underlying assumption by UHNCR is that extended family members and the refugee community are caring for UASC. However, this assumption has masked the issue of UASC in many refugee operations, including the case being discussed and, has prolonged development and implementation of proper mechanisms to protect and care for these children. If the refugee community is not addressing the issue of UASC appropriately, UNHCR has the obligation to address the concerns and put mechanisms in place which will assist in monitoring the situation of these children as well as to minimize the number of children who are being abandoned and left with no proper support structures and a healthy environment to grow up in.

## ***Thesis Structure***

The second chapter will discuss and review the current policy protecting refugee children. Chapter 3 will briefly outline and justify the methods employed to gather data for the purpose of this study. Chapter 4 describes the refugee from Bhutan caseload in Nepal and presents the actual situation of UASC in the camps, explaining the issue in general, the magnitude of the problem and then goes into a detailed analysis as to the cause of separation and the impact that separation has had on refugee children. Chapter 5 draws upon the case study findings to highlight the protection concerns of UASC in the Nepal's context and uses these concerns to offer recommendations on how the data collected can inform policy that will ultimately strengthen refugee child protection capacity - at both the level of policy as well as practice.

## **Chapter 2: Policy Discussion and Review**

The following chapter presents and analyzes the knowledge that presently exists concerning policy protecting refugee children. The chapter begins with a brief introduction to the issue of child protection and goes on to address the link between providing adequate protection to children and the overall development of nations. Further, it highlights that refugee children, in particular UASC, are at a heightened disadvantage when it comes to rights, particularly rights concerning nationality, economics, education, politics and social issues compared to non-refugee children. Thus, this chapter highlights the lack of policy concerning UASC and demonstrates that policy alternatives must be developed to adequately care for and protect these children. Eventually, enhancing the protection available to these children will contribute to the overall development of nations. The chapter ends with discussing specific issues that UASC are vulnerable to, including, child labour, soldiering, trafficking and prostitution. These are all issues that appear to be absent from policy presently existing protecting UASC in protracted refugee situations and, based on my research findings, is the primary reason why this specific group of refugee children remain invisible and, ultimately more vulnerable, because of the hidden nature of their situation.

The epistemological foundation of this research study is based on three broad camps: refugees, children and protection. The subsequent policy discussion will focus on child protection, providing a comprehensive account of the multiple layers of refugee and child protection. The relationship between children and development will also be explored. This thesis will adopt the definition of protection highlighted below,

“The term Child Protection, as used by The United Nations Children’s Fund (UNICEF), refers to the protection of children against violence, exploitation, and abuse. It includes the situation of children in conflict with the law, and children without their customary/primary caregivers (such as orphans, children in institutions, and those separated from families in the time of conflict and disaster) – conditions that render children particularly vulnerable to violence, abuse, and exploitation” (Landgren, 2005:215).

It is important to point out that protection is an all encompassing term, which includes the legal (laws and conventions), physical (safety and security) and social (family as well as community networks, i.e., love, sense of belonging and overall care) aspects of protection.

“You have no protection if you are invisible.”<sup>11</sup>

The magnitude of the gaps in child protection in recent years underlines the visible disconnect between the policy and practice of providing adequate protection to children living in unsafe environments. Despite the tremendous improvement in international standards, statistics highlight children globally are no better off today than they were twenty years ago. They are today, living in deplorable conditions with heightened vulnerability which makes them easy targets for abuse and exploitation.<sup>12</sup> Failing to provide adequate protection for children will affect the child’s development into a healthy and productive citizen and moreover, their capacity to contribute to their families, their communities and the overall development of their nations.

## ***Children and Development***

Why invest in children? Children are a nation’s most valuable asset. We must do more to protect and contribute to their overall well-being and development so that then can

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<sup>11</sup> Deputy High Commission Wendy Chamberlin See, UNHCR, <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=443a6c644>.

<sup>12</sup> For more information see, UNICEF 2008.

prosper into healthy productive adults and contribute positively to the development of their families, communities and their countries. Furthermore, as UNICEF confirms,

Investments in children are the best guarantee for achieving equitable and sustainable human development (UNICEF, 2005).

At a global level, millions of children are being born into acute poverty, growing up in horrendous conditions, deprived of their right to a childhood. The stark reality for these children is that they face a bleak future, exposed to conditions that heighten their vulnerability, placing them at an increased risk for abuse and exploitation. Yet, somehow, many manage to survive despite these circumstances. Regrettably, few of these children will ever reach their human potential and become healthy, productive adults. Most will remain trapped in the unrelenting cycle of poverty. Ironically, while most of these children are perceived as a burden for their families, and sometimes governments, obligated to protect them, deny their very existence, they are the future of development in much of the “so-called” developing world (Myers, 1992).

Further, economic and social inequities are contributing to impoverishment and instability in poor countries throughout the world. Subsequently, this is having devastating consequences on the world’s most vulnerable population, children. Children living in impoverished conditions are deprived of survival (most essential basic needs) and protection. Unfortunately, meeting the most essential basic needs of children is becoming more and more challenging in most of the world and, is even more pronounced, however, in the “so-called” developing world.

In much of the discourse surrounding international development there is rarely mention of children and their link to the overall development process. Moreover, it is not often that investments in children are seen as contributing directly to the overall

development process and further, when children are exploited it can be detrimental to national development (Landgren, 2005:218). Thus, child protection remains largely on the periphery of national development strategies as the link between a country's development and protecting children from exploitation has yet to be fully explored and understood (Landgren, 2005:218).

Internal conflicts, mass migration to urban slums, rising social tensions, poverty, forced displacement and HIV/Aids are some of the complex conditions that effectively deny children a childhood and impede the development of nations. According to UNICEF's report, *The State of the World's Children 1995*, "The world will not solve its major problems until it learns to do a better job of protecting and investing in the physical, mental and emotional development of its children" (UNICEF, 1995:4). Additionally, in a more recent report by UNICEF, *The State of the World's Children 2005: Childhood Under Threat*, they highlight that "more than 1 billion children are denied a healthy and protected upbringing" (UNICEF, 2005:3). The report goes on to underline the failure of governments as well as the international community to uphold the world's most universally accepted human rights instrument, the 1989 United Nations Convention on the Rights of a Child (CRC),<sup>13</sup> which all but two countries, the United States and Somalia, have ratified.

Globally, children fall victim to poverty, armed conflict, natural disasters, persecution and exploitation. Moreover, children are commodified, forced into child soldiering and prostitution, displaced and orphaned as well as compelled to work in sweatshops as domestic servants. Consequently, when governments neglect to protect children, by ensuring their safety and dignity, they are jeopardizing future generations

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<sup>13</sup> The 1989 CRC will be elaborated on further down in the chapter.

from reaching their full potential and hindering their future participation in the development process. Children are therefore being abused, neglected and exploited. This is not acceptable. Furthermore, as Kofi Annan posits, “young people should be at the forefront of global change and innovation. They can be key agents for development and peace. If they are left at the margins of society, all of us will be impoverished.”

Among refugee children, the most vulnerable and most often invisible are those who are not accompanied by an adult recognized by law as being responsible for their care and protection. In the absence of parents, special efforts to monitor and protect a child’s well-being along with meeting their basic needs often go unmet and their rights are frequently violated. Typically, the responsibility of care and protection is bestowed on parents, families, and community members. Once born, children are under the guardianship of their parents until unforeseen circumstances, such as becoming a refugee, change the dimensions of this guardianship (Brysk and Shafir, 2004:155). In the refugee context, addressing the protection needs of refugee children becomes a priority as the initial line of protection can be weakened or shattered resulting in the construction of a new line of protection for refugee children. Most often, this protection is transferred from parents to host governments and the international community, *loco parentis*.

Parent-child separation can be divided into two distinct actions, involuntary, or voluntary. Involuntary parent/child separation can include: i) *Abduction* – when a child is involuntarily taken from his/her parents; ii) *Lost* – when a child is accidentally separated from his/her parents; iii) *Orphaned* – when a child’s parents are deceased; iv) *Runaway* – when a child intentionally leaves his/her parents without consent and, v) *Removed* – when a child is removed by the state or another actor and parental rights are lost.



Whereas, voluntary parent/child separation may include: i) *Abandonment* – a child whose parents have abandoned him/her and has no intention of family reunification; ii) *Entrusted* – a child is voluntarily placed in the care of another adult (or institution) and the parents have intentions of family reunification; iii) *Surrendered* – a child whose parents have permanently given up their parental rights and, iv) *Independent* – a child is living apart from his/her parents with parental consent.<sup>14</sup>

A parent-child separation can be temporary or permanent. Some UASC require temporary care arrangements, which are generally provided by extended family members, keeping the child in an environment in which they are familiar and comfortable. Temporary separation tends to occur as a result of death or illness of a parent/s as well as when parents are compelled to work outside the camp and/or some sort of combination of these factors.

The 1989 United Nations Convention on the Rights of a Child (CRC), ascertains, that all children should, at a minimum, have their basic rights met (CRC, 1989). By ratifying this particular convention, governments have committed themselves to protecting and guaranteeing the rights of children within their borders as well as being accountable to the international community for any violation of these rights. Article 2 of CRC underlines that, “A state must ensure the rights of each child within its jurisdiction without discrimination of any kind” (UNHCR, 1994:17). Conversely, it is apparent that governments are failing to comply with the obligations under the Convention’s standards, and this failure is having overwhelming consequences for children worldwide.

Historically, children have always been a vulnerable group in society, primarily because they rely heavily on the physical, emotional and mental support for protection.

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<sup>14</sup> The 1989 CRC will be elaborated on further down in the chapter.

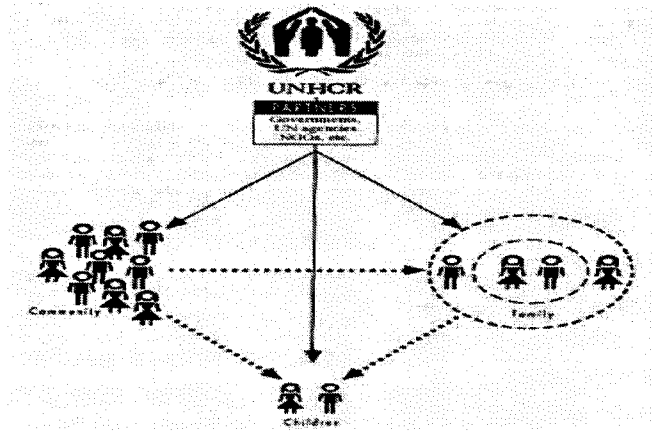
Generally, this support and protection is provided by a child's parents. Children's vulnerability results in part from dependence on adults for their own needs and protection. Refugee children are more vulnerable as many no longer have the protection of their households, communities and State than children under first line of protection.

Today, refugee issues have become too complex for an individual country to handle. UNHCR has made significant efforts in the past decade in improving the care and protection available to refugee children. Yet, threats to the physical security of refugee children have continued to be aggravated by lack of protection by their own governments, their lack of personal identity documentation and the disruption of traditional family, clan and community structures.

Providing adequate protection for UASC would include, i) guaranteeing that a child is in a safe environment, out of immediate harm; ii) that there is permanency (stability) in the care arrangement and, iii) that the wellbeing of the child is enhanced. (UNICEF, 2008). Furthermore, "all children need adult protection and assistance, particularly, children who have been temporally or permanently separated from their families and it is the duty of the State *vis a vie* the community to ensure that adequate care and protection is provided to all children" (Ressler et al., 1988:223).

Further, UNHCR insists that the best way to protect and assist refugee children is to help their families, and underlines that one of the most effective ways to assist families is to help the communities in which they live. The model below illustrates how UNHCR, along with their partner NGOs, operates, in some contexts, to protect and care for refugee children.

**Figure I: UNHCR's Approach to Protect and Assist Refugee Children**



Source: UNHCR, 1994, © 1994 by UNHCR

Programmes are commonly designed to help the family assist and protect their children and to assist the community in supporting the family and thereby protecting the child” (UNHCR, 1994:9). As noted above, States also play a key role in providing protection to refugee children. Furthermore, according to my analysis of the policies and mechanisms that have been discovered thus far in the literature, there are three camps (levels) involved in the assistance and protection of refugee children. At the international level, where much of the literature has focused, is the global refugee regime, managed by the UNHCR. The international level is followed by the national or central level,<sup>15</sup> the host governments, implementing partners (IPs) and the various NGOs working, directly with refugee populations. At this level, actors attempt to work with the macro level policies and apply them to the specific context. However, working in collaboration has not received much importance.

<sup>15</sup> Ideally, these two levels would work in close collaboration.

The third level of protection is at the local or ground level, which include the actors that are most often left out of the child refugee protection equation - the refugee community. However, this is the group that certainly would provide the greatest insight into issues surrounding refugee protection and also, provide a critical line of protection for refugee children, particularly for UASC. Some of the other potential players at this level are families, camp-based organizations and most importantly, the refugee children themselves.

As UNICEF underlines, “children may be able to reduce their own risk of exploitation when they know that they have rights and about the options they have to protect themselves against violations” (UNICEF, 2005:54). Thus, an integrative and collaborative refugee specific approach could potentially enhance child refugee protection and minimize the risk of refugee children becoming vulnerable to parent-child separation, child labour, child soldiering and sex trafficking. As UNICEF posits,

All children have the right to grow up in a protective environment<sup>16</sup> in which all elements work, individually and collectively, to secure them from violence, abuse and neglect, as well as from exploitation and discrimination (UNICEF, 2005:51).

With that being said, States must take on a more active role in ensuring the rights of children, the rights of all children within their borders are respected, including refugee children, in particular UASC. This includes providing an environment where children feel safe and secure as well as able to live healthy and dignified lives. This encompasses much more than just ratifying conventions and attending conferences on child rights. It

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<sup>16</sup> “The protective Environment Framework sets out eight broad, pivotal elements that determine children’s protection from violence, exploitation, and abuse. This approach does not detract from the responsibility of the state for child protection, but identifies the systems and capacities needed to support child protection at all levels – national, societal, and familial” (Landgren, 2005:226).

means implementing various policies on issues concerning children's survival, well-being and protection, ranging from programmes to improving access to primary education and monitoring the progress and/or setbacks. Furthermore, as Myers confirms,

“The first responsibility for care and development remains in the home, with reinforcement from the local community. For that reason, empowering caregivers and communities with the knowledge, self-confidence, and organization to provide for survival and development needs of their children receives priority among a group of complementary approaches” (Myers, 1992:xxii).

Far too frequently, the monitoring and reporting systems in place for children living in refugee camps is inadequate; this includes UASC but also, refugee children with disabilities, school drop-outs, children in early or forced marriages, low caste children as well as children residing in camps with non-registered status. As Landgren underlines, “... the very children who tend to be invisible in general demographic or household surveys are those who are particularly vulnerable to exploitation and abuse, commonly referred to as a culture of silence and remain largely hidden because of a source of shame in the community” (Landgren, 2005:243).

Child protection issues such as UASC, sexual exploitation, access to basic education and the prevention and monitoring of military recruitment have all been identified by the UNHCR as “policy priorities.” To address such issues, UNHCR has established special units, hired experts both at Headquarters and in the field, yet significant gaps remain at the policy and praxis levels. The international community, specifically UNHCR, is unquestionably better equipped today to address protection needs of refugees. However, as Maley asserts, “...at the moment, the challenges of protection and relief are not being met” (Maley; cited in Newman et al., 2003:307). Moreover, children, who comprise half of UNHCR's population of concern, “are [still] often

overlooked and considered ‘on-the-sidelines’ of core protection and assistance work” (UNHCR, 2002:3).

Refugee children, especially adolescents, are acutely at risk of being influenced by violence due to the role of conflict in their lives and dearth of positive development opportunities. This underscores the importance - to all host countries and the international community - of ensuring the protection needs of refugee children (UNHCR, 2002:3).

As mentioned above, UNHCR and the international community derive its legal force and legitimacy from the 1951 Convention and its 1967 Protocol Relating to the Status of Refugees. Thus, as an initial point for all refugees seeking asylum, the 1951 Convention is translated into domestic law and Bhabha argues that although this treaty is “age neutral on its face, some would argue there is a normative assumption that all refugees are adults” (Bhabha, 2004:143). She goes on to insist that child refugees are “ignored or trivialized” and points out,

Child-specific forms of persecution – such as child abuse, child selling, or child trafficking – are not considered to fall within the ambit of the five ‘grounds’ for protection: race, religion, nationality, membership of a particular social group, and political opinion. (Bhabha, 2004:143).

Yet, when officials consider whether a child has grounds for fleeing their country of origin and should be granted asylum, insufficient attention is often given to their unique situation. Furthermore, “there are virtually no examples...of cases where child-specific forms of human rights violations are taken into consideration in the refugee determination process” (Ruxton, 2002; cited in Bhabha, 2004:143). Some argue that a new definition of refugee should be constructed to incorporate a gender and age dimension, taking into account the diverse experiences of refugee women and children, as “children have tended to be invisible [and] their issues minimized by an adult centered focus” (Sadoway, 1997; cited in Bhabha, 2004:144).

Most often, protracted refugee issues are seen as less of a priority on national and international agendas. Coupled with donor fatigue, this contributes to budgets being cut and, the assistance and protection that was once a priority begins to deteriorate, eventually effecting child protection capacity within refugee operations. An independent evaluation on UNHCR activities suggests “budget cuts were reported to disproportionately impact children” and goes on to highlight “budget reductions are seriously threatening the few programs targeting refugee children” (UNHCR, 2002b:4).

Generally, refugee children are protected under refugee law. However, Brysk claims that “children displaced as refugees have gained rights more slowly than their adult counterparts” (Brysk and Shafir, 2004:155). As Mooney asserts, “protection is based in law, it also requires institutional mechanisms and actors to give it a practical effect” and if these instruments are ineffective and the actors are unwilling or unable to provide assistance and protection it can have numerous consequences (Erin Mooney; cited in Newman and van Selm, 2003:166).

Although the international refugee regime, comprising of host governments, UNHCR, UNICEF, the World Food Program (WFP), the United Nations Development Program (UNDP), Save the Children and the International Organization for Migration, to mention a few, are devoted to guaranteeing the assistance and protection of refugees under their care, it is apparent that refugee children do not receive the sufficient assistance and protection they require. Many children lack adequate food, safe drinking water, shelter and access to health services and basic education. Host governments are often unable to meet the obligations of refugees temporarily residing within their borders, given that they are often impoverished themselves and cannot meet the basic needs of

their own citizens. Additionally, donor countries are becoming fatigued with protracted refugee situations and the influx of refugees in the last decade. It is difficult to meet the basic needs of the refugees while they struggle to meet the needs of their own citizens.

Brysk suggests, "...since children lack full membership and participation rights, they have diminished access to resources – across generations, among nations and even within families" and this "access to resources" is arguably heightened when children are displaced. Accordingly, being drawn into and/or forced into military recruitment or armed groups, or working in sweatshops may appear to be the only viable alternative for refugee children. Attempting to escape the harsh realities they face everyday, refugee children are using these "survival strategies" as a vehicle to meet their basic needs and to provide a false sense of protection. Thus, as an independent UNHCR evaluation points out, "[refugee children's] full protection needs require specific tailoring or supplements to their programs" to ensure their needs and protection are being met (UNHCR, 2002b: 4).

Although, States play a key role in providing protection to refugee children and however in most cases according to Brysk that often refugee children go unregistered at birth or after their arrival in a host country. As a result serious implications can arise. The magnitude of unregistered children could be found in the UNICEF study that as many as 50 million babies born in 2000 were never registered and, explains the risks to these children of loss of nationality and vulnerability to exploitation and trafficking (Brysk and Shafir, 2004:157). The International Convention on Civil and Political Rights also underlines the important provision to child registration as well as protection and nationality. Nationality provides individuals with protection and benefits of their state,



and refugees are denied of their nationality and children born in camps sometimes and not being registered at birth, may render these children stateless.<sup>17</sup>

### ***The Principle of Best Interests: Putting the Child First***

The feeling of “belonging,” being “wanted” and “valued” provide a solid foundation for a child to have a healthy emotional life and to grow up in an environment that will foster the development of a productive adult. While families, especially parents, play a large part in this, as well, peers, communities and society each have a special part to carry out in this process (UNHCR, 2006a). Furthermore, the main aspects that one has to consider when determining the developmental needs of any child include, but are not limited to:

- The “right to preserve his or her identity, including nationality, name and family relations” (Article 8 CRC);
- The “desirability of continuity in the child's upbringing and to the child's ethnic, religious, cultural and linguistic background” (Article 20 CRC);
- The right of the child to the enjoyment of the highest attainable standard of health (Article 24CRC);
- The right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral, and social development (Article 27 CRC);
- Access to education (Articles 28 and 29 CRC); and,
- The right of the child to rest and leisure, to engage in play and recreational activities appropriate to his or her age (Article 31 CRC).

The needs of a child are generally best met by remaining in or maintaining close contacts with family members (UNHCR, 2006a) in absence of which UNHCR, its partner NGOs and the government have an obligation to step in, keeping the *best interests* of the child at the forefront. Accordingly, refugee children in vulnerable situations and UASC in

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<sup>17</sup> Statelessness is defined as a person not having citizenship or nationality.

particular, should have a formal Best Interests Determination (BID)<sup>18</sup> carried out to determine if the child's *best interests* are being respected and protected. Furthermore, all activities relating to UASC should be guided by these principles. Addressing the protection needs of UASC should be seen as a process, not as a one-time activity, mainstreamed into regular programme and protection work. Moreover, the intention is not to point out these children and their potential vulnerabilities to the community but to implement a systematic process to protect their well-being and *best interests*.

It is critical during the initial phase of a refugee operation to complete assessments of children who have been identified as unaccompanied or separated from both parents. These assessments should include properly registering the child and compiling any relevant documentation to determine the situation and, the number of UASC. Specifically, an extensive history must be completed which comprises crucial information for the family tracing<sup>19</sup> process and possible reunification process as well as exploring durable solution options. The assessment should include the following components: i) locating and identifying all UASC in the refugee operation as well as carrying out individual assessments for each child, clearly detailing the conditions in which they are residing; ii) assessing the child's living conditions, caregiver and care arrangements; iii) establishing a comprehensive documentation system; iv) identifying and interviewing the UASC and their relatives, caregivers, siblings, peers, neighbours, teachers and community members; v) identifying, prioritising and addressing special

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<sup>18</sup> A formal process with specific procedural safeguards and documentation requirements that is conducted for certain children of concern to UNHCR. A full BID is required for all unaccompanied minors and separated children being resettled to a third country, see UNHCR (2006a).

<sup>19</sup> Family tracing services must be set up as soon as possible so that children can be reunited with their parents or extended family wherever and whenever possible.

needs of each UASC; vi) suggesting improvements in the living conditions and care arrangements, keeping in mind the *best interests* of the child in all decisions/determinations; vii) initiating the tracing process and family reunification of each UASC and, viii) assisting in durable solution options available to the child, including resettlement.

When the persecution that caused refugees to flee their country of origin is no longer make headlines in the media, their situation is soon forgotten. The same holds true to the children who comprise almost fifty percent of the global refugee population. The UASC appears to be expendable and their plight invisible to most. It is not until beginning this research, exploring the issue more intimately, that I began to uncover that growing up in refugee camps, children are exposed to acute protection risks and many refugee children including UASC are vulnerable to various forms of abuse. With this being the reality for so many children, more needs to be done to ensure they are being adequately protected.

### ***Refugee Children and Labour***

Child labour is a trend that has become rampant throughout the developing world. In many countries, in Asia, Africa and Latin America, abject poverty is the root cause of internal conflicts, which most often are the guiding forces behind the production of refugees. The global system reinforces as well as intensifies the unequal patterns between the more rich, affluent countries and the poor, less developed countries, leading to political instability, internal conflict, displacement and poverty amongst the poorest nations. The social majority (marginalized) have been 'excluded' from equitable power and wealth distribution, which in turn, has created a foundation for instability and poverty

in the developing world. This poverty has forced millions of children to work under horrible conditions for a meager wage in order to survive. The ILO acknowledges that unacceptable forms of exploitation of children at work exist and persist, however they go on further to point out that they are particularly difficult to research due to their hidden and illegal nature. They go on to indicate that the use of children in armed conflict, slavery, debt bondage, trafficking, sexual exploitation and in the drug trade are all considered to be the worst forms of child labour. It should be noted that the ILO Worst Forms of Child Labour Convention No. 182, does not use the term “child soldier” and defines the worst form of child labour as including forced or voluntary recruitment of children for the use of armed conflict.

### ***Refugee Children and Soldiering***

Every country in the world has been affected by armed conflict and in the last few decades the world has witnessed conflicts that have resulted in millions of children being exposed to war and its repercussions. Children exposed to war torn areas and caught in the midst of conflict risk being drawn into the fighting and forced to witness or perpetrate atrocities. Further, children living in war zones are often the most vulnerable group of people. Graça Machel states that, “wars have always victimized children and other non-combatants, but modern wars are exploiting, maiming and killing children more callously and more systematically than ever” (UNICEF, 2001:1). Moreover, millions of children have become innocent victims in armed conflicts, increasing their vulnerability and becoming easy targets for malnutrition, disease, sexual violence and, displacement. Furthermore, thousands of children have been abducted and forced to become soldiers, messengers, spies, domestic servants, and sexual slaves in these conflicts. Kofi Annan,

the former United Nations Secretary-General, has condemned the use of child soldiers and describes the act as a, “damaging and despicable practice” (Coalition to Stop the Use of Child Soldiers, 2004, 2). United Nations Children’s Fund (UNICEF) states that,

Much of the tragedy befalling children is preventable...Brutality, violence, rape and torture - all would stop tomorrow if the will to stop them existed, or if the rest of us devised means to compel them to be stopped. The world must foster a culture that dissuades combatants from directing violence against those who least deserve it and are least able to defend themselves (Nordstrom, 1995:75).

The majority of these conflicts are rooted in poverty, economic and social inequality, which in turn, generally has more repercussions for marginalized groups. Child soldiers are most often from the poorest and most vulnerable communities, the majority being refugee children or orphans. Refugee children and orphans are particularly vulnerable because they no longer have the protection of their household and communities. Furthermore, the social support systems they heavily depended on prior to the conflict and turmoil, which forced them to flee, and be left alone, have been weakened and are now nonexistent. Human Rights Watch points out that, “children are most likely to become child soldiers if they are poor, separated from their families, displaced from their homes, living in a combat zone, or have limited access to education” (Human Rights Watch, 2004).

Universally, the involvement of children in armed conflict has been condemned as abhorrent and unacceptable. Moreover, the use of child soldiers is a violation against international human rights laws; however, the number of children participating in armed conflict is escalating globally. It appears as though, states (governments, opposition and armed rebel groups) are legitimizing the human rights violations of children, which in turn demonstrates the ineffectiveness of human rights laws and, in particular, the rights

that have been established to protect children. Furthermore, child soldiers embody the realization of the neglect and failures of the international community. In particular, UNHCR and UNICEF, whose main responsibilities are to protect children living in situations of disadvantage and, in particular, armed conflicts, refugee settlements, and under extreme social and economic conditions.

The majority of child soldiers are forcibly recruited by conscription or abduction (press-ganged or kidnapped). Some children have indicated that they have 'voluntarily' provided their services to government, opposition and armed rebel groups. Children are forced to take up arms to escape the harsh realities of living in a combat zone, motivated by political, social and economic conditions that they have no control over. Thus, a weapon provides children with the opportunity to access food, water, shelter and a sense of family, which is possibly much better than the alternative. The use of child soldiers has become a widespread global crisis that few governments, UN agencies and international organizations, want to take responsibility or accountability for, and this neglect is having a number of consequences, especially among the most vulnerable, refugee children.

Despite that conflicts involving children as combatants have been occurring for centuries, it has only been in the past two decades that the issue of child soldiers has attracted international attention and advocacy. The Coalition to Stop the Use of Child Soldiers suggests that in more than 36 countries around the world, it is estimated that there are over 300,000 children (under the age of 18 years) participating in armed conflict (The Coalition to Stop the Use of Child Soldiers, 2004). These recent conflicts have 'highlighted' the use of children as cheap, obedient, and easily manipulated combatants. Brett et al., posits that children involved in armed conflict are commonly identified as the

“invisible soldiers” (Rachel and McCallin, 1998:20). Although the numbers of children taking up arms is significant, it is impossible to get accurate information and exact figures pertaining to the number of children directly involved in armed conflict. It is also difficult obtaining accurate information and figures concerning those responsible for forcibly recruiting children, as governments, opposition and armed rebel groups deny their existence and participation. Moreover, Brett et al. goes on to indicate that child soldiers spend the majority of their time in conflict zones, “away from public view and the prying lenses of the media” (Rachel and McCallin, 1998:20). Furthermore, as the conflict endures, sometimes lasting more than a decade, child soldiers are killed, wounded, detained, and eventually become adult soldiers. UNICEF defines a child soldier as:

Any child – boy or girl – under 18 years of age, who is part of any kind of regular or irregular armed force or armed group in any capacity, including, but not limited to: cooks, porters, messengers, and anyone accompanying such groups other than family members. It includes girls and boys recruited for forced sexual purposes and/or forced marriage. It does not, therefore, only refer to a child who is carrying or has carried arms (UNICEF, 1997).

Boys and girls are recruited as child soldiers by armed forces and groups, either forcibly or voluntarily. The issue of forced recruitment or abduction has been widely debated among the literature on child soldiers. Brett argues that the majority of attention focuses on “abducted children or those forced or coerced into fighting,” and neglects to take into consideration those children who have volunteered to participate in armed forces or armed groups (Rachel, 2003:859). The Coalition to Stop the Use of Child Soldiers Global Report 2004, clearly illustrates, that in all conflicts children are forcibly recruited, and goes on further to note that some children have volunteered as a survival strategy. Yet, Machel would argue that it is misleading to consider a child’s participation

in combat as voluntary and although it may appear that they choose to engage in military activities, the choice is not exercised freely. She goes on further to suggest that several forces may drive children, including cultural, social, economic and political pressures (UNICEF, 2006a). Amnesty International points out that, “children are susceptible to recruitment by manipulation or may be driven to join armed forces and groups because of poverty or discrimination” (Amnesty International, 2005).

Further, in conflict zones, poverty is exacerbated and children have few alternatives to survive, especially when international organizations and NGOs are unable to reach the children living in these war zones. The collapse of family, social and economic structures have left children with minimal opportunities, and ‘volunteering’ for armed forces or armed groups appears to be the only alternative. Amnesty International points out that,

In countries that are already poor, war tends to deteriorate economic and social conditions, thereby forcing families into further economic hardship. As a result, children may join armed forces or groups to secure daily food and survival. Conflict is also likely to disrupt children’s education. When schools are closed, children are left with few alternatives and may be more easily swayed to join armed groups or forces (Amnesty International, 2005).

The five “major” factors identified as propelling children to take up arms, without being abducted or coerced are - war, poverty, education, employment and family. It is important to note that ideology, ethnicity, and the struggle for liberation (or against oppression), friends and many other factors can play apart in the decision-making process. Further, a child who is most at risk is one who is “...in a war zone, without access to school or employment and whose family has been destroyed or torn apart (Brett, 2003:859).

Brett argues that most children get involved in armed conflict because the war comes into their communities and directly affects their lives. She implies that children see



war as a chance to escape the hardship they face in their daily lives, and that many children perceive combat as an economic opportunity. Moreover, she points out that war increases the availability of weapons and that children need to protect themselves and their families from the escalating violence. As a means of protection, children are likely to turn to armed forces and groups, as they see no other alternative. It could be argued that not having any other alternatives is not voluntary at all, and that children are forced to participate in combat, as child soldiers, as a means of survival.

Poverty is the most identifiable and widespread characteristic of child soldiers, which is prevalent throughout all of the world's refugee camps, making them the ideal breeding ground for recruitment. It is uncommon for children not living in poverty to become engaged in child soldiering. Brett notes that the same is true for child labour, and that child soldiering is one of the worst forms of child labour. Children are recruited because they are perceived as cheap and expendable labour, easily brutalized and obedient. Child soldiers are often chosen for the most dangerous assignments or forced to participate in appalling human rights abuses, sometimes against their own families or neighbors, which makes it difficult to reintegrate former child soldiers back into their communities. Moreover, children living in poverty, or in conflict zones, can be linked with low literacy rates, which in turn indicate children are not being provided with the opportunity to attend school. Education, or lack thereof, can 'push' children to participate in armed conflict because they have nothing else to do. Alternately, a negative impact of schools, is that they have also been used as recruitment sites. Furthermore, many adolescents are aware that the lack of education leaves them with minimal economic possibilities. Not having an education, and needing some means of survival, they

perceive joining the armed forces or groups as the only alternative. In addition, the consequent lack of education arising from engaging in conflict, traps children in a cycle of poverty.

In relation to child soldiers, Brett states that the family is considered the most neglected factor in protecting children from being recruited. She makes a valid point when suggesting that, “both the push and pull influence of the family are perhaps the single most crucial factors in determining whether or not a child ultimately decides to join the armed forces or armed group” (Brett, 2003:863). It is also important to note, a child alone, without any family or support structures, is particularly vulnerable to recruitment, whether forced or voluntary. Furthermore, running away from abuse and violence within a household as well as the exploitation of domestic labour, especially among girls, has also been identified as reasons for joining armed conflicts. The Coalition to Stop the Use of Child Soldiers Global Report 2004 supports Brett’s argument and, outlines the main ‘push’ factors that propel children to take up arms:

Many child soldiers are between 14 and 18 years old and enlist voluntarily. However, research shows that such adolescents see few alternatives to involvement in armed conflict. War itself, lack of education, and a desire to escape domestic servitude, violence or sexual exploitation are among the factors involved. Many also join to avenge violence inflicted on family members during armed conflict (Coalition to Stop the Use of Child Soldiers, 2004:5).

Although most associate war and soldiers with men, girls comprise an overwhelming number of child soldiers. Furthermore, throughout armed conflict women and girls are continually vulnerable to rape, domestic violence, sexual exploitation, trafficking, sexual humiliation and mutilation (UNICEF, 2001, 7). To escape this vulnerability at home, while fleeing, or in refugee settlements, young girls are turning to

armed groups as a means of protection. However, they are quick to realize that carrying a weapon does little to protect them from these human rights violations. Repeatedly, girl soldiers are subjected to rape and other forms of sexual violence. However, it is important to point out that boys are also subjected to sexual assault. In some cases, girls are forced to become the wives of many adult soldiers and forced to have their children, who will eventually be trained and replenish these armed groups. As well, it has also been reported that girls have been forced to use contraceptives, (in extreme cases subjected to gender mutilation), and have abortions, as carrying a child will hinder their ability to be efficient and effective combatants. Human Rights Watch points out,

Although, not as numerous as boys, girls are abducted in large numbers. Some are given military training, and are forced to fight, carry out raids on villages, and help abduct other children. Most are virtual slaves, forced to work long hours carrying heavy loads, walking long distances to fetch water and firewood, and performing other tasks, including cooking and fieldwork. At age fourteen or fifteen, many are sexually enslaved as “wives” of commanders and subjected to rape, unwanted pregnancies, and the risk of sexually transmitted diseases, including HIV/AIDS (Human Rights Watch, 2003:13).

### ***Refugee Children and Trafficking***

Living in a refugee camp places a great deal of stress on the family unit, social structures begin to break down when resources such as food, shelter, clean water and clothes are not available. Many women and young girls are compelled into “survival sex,” sex in exchange for food, water or non-essential food items (NFIs).

Globally, sex trafficking is a growing phenomenon wherein children constitute the overwhelming majority and poverty is most often affirmed as its underpinning. The number of children involved in and/or at risk for sex trafficking has steadily increased in recent years and now is a billion dollar industry.

Involuntary trafficking of children is estimated to affect 1.2 million children worldwide, with most girls forced into prostitution and boys exploited in agriculture and crime (ILO 2002; cited in Brysk and Shafir 2004:159).

Trafficking of children is universally repudiated and stands on par with other forms of international smuggling and slavery (Brysk and Shafir 2004:166).

Troubnikoff addresses the scope of the problem worldwide and confirms that “trafficking in people, especially women and children, for prostitution and forced labor is one of the fastest growing areas of international criminal activity” and goes on to indicate that trafficking is a problem that affects virtually every country in the world” (Troubnikoff, 2003:3). While the problem of sex trafficking has been highlighted, the lack of an effective monitoring and evaluation system has not been implemented, resulting in little to no data on this issue.

Although poverty undoubtedly is a considerable factor, it is worth mentioning that many of the countries from which trafficked children originate are experiencing conflict, rebuilding after conflict or are known to have deplorable human rights records - all of which are linked to the production of refugees (Women’s Commission for Refugee Women and Children, 2005:2). The Women’s Commission for Refugee Women and Children indicate that many of these countries “are characterized by inadequate recognition of the rights of women and children, and some are known for violations of such rights in a manner that rises to the level of persecution” (Women’s Commission for Refugee Women and Children 2005:2). Furthermore, UNICEF’s *Profiting from Abuse* identifies a number of factors that fuel the supply and demand of this industry such as, (a) poverty, (b) gender discrimination, (c) war, natural disasters and political instability, (d) culture, (e) HIV/AIDS, (f) weak laws and corrupt law enforcement, (g) globalization, (h)

new communication technology, and (i) family dysfunction and breakdown – all of which are generally linked to the refugee context (UNICEF, 2001:17).

The first internationally accepted definition for trafficking as outlined in the Trafficking Protocol states:

Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs (United Nations, 2000: 2).

Typically, children between the ages of 10 and 18 years are initiated into the sex industry through the persuasion of peers, through deception or force, or for others, through being sold by their parents and the people that are charged to protect them.

This becomes problematic as family, government officials, police and humanitarian staff may in fact become a source of both protection and exploitation. “Exploitation and abuse occurs when this disparity of power is misused to the detriment of those persons who cannot negotiate or make decisions on an equal basis.” (UNHCR, 2003:15).

Refugee children are dependent on most of their perpetrators to assist and protect them. For the most part, exploiters realize the vulnerabilities of refugee children and play off these weaknesses. All too often, “the very personnel responsible for assisting and protecting women and children instead exploit them, often requiring sex in exchange for aid” (Forbes Martin, 2004:14). The sexual exploitation of children can have numerous consequences as the Women’s Commission for Refugee Women and Children points out,

The effects of sexual exploitation on children can be irreparable. Their traumatic experiences give them a distorted sense of values and a negative outlook towards people and life in general. They may have low self-esteem, feel inadequate and mistrust others. Their families and communities may ostracize them. These children are also highly vulnerable to substance abuse, physical violence, sexually transmitted infections, HIV/AIDS and early pregnancy (Women's Commission for Refugee Women and Children, 2005:3).

In addition to the vulnerabilities highlighted throughout this paper, refugee children easily fall victim to traffickers because most refugee camps are located close to borders - the same borders crossed while fleeing persecution. This, however, puts refugees at risk for a number of reasons. In the context of refugees from Bhutan living in Nepal, camps are located in close proximity to the Indian border, which is the ideal condition for traffickers, particularly because the India-Nepal borders are open allowing for the movement of refugee children out of Nepal relatively easy as well as because there are few mechanisms in place to control who goes in and out of the country. The NGO, Asia Watch, has reported that "as many as 50,000 Nepalese girls have been sold and trafficked to India" (UNICEF, 2001:24). While the trafficking of refugee children in Nepal is an emerging issue, minimal attention or research has investigated the link between the phenomena of refugees and the vulnerability of refugee children and sex trafficking; this research will begin to investigate this connection.

The inability to implement and provide effective protective mechanisms, instruments as well as actors which allow all children to grow and develop in a safe, dignified and secure environment, demonstrates that governments as well as the international community have been unsuccessful in protecting children, particularly refugee children who are becoming more vulnerable to sex trafficking.

### **Chapter 3: Methodology**

This research is based on both primary and secondary information. The nature of the study is qualitative because of its inherent strength, depth and complexity used to explain phenomena. For the most part, this research was based on my internship with UNHCR in its Sub-Office in Damak, (SOD) Jhapa, Nepal. The internship commenced in September 2006 and ended in July 2007. Further, the research was designed keeping in mind the objectives of the study. As secondary information, published and unpublished documents and reports of the UNHCR have been reviewed.

Clearly, there is a lack of policy addressing the concerns of UASC in protracted refugee situations. Both at the policy level and at the practical level, problems and gaps are apparent and, as a consequence, the most vulnerable children remain invisible. Therefore, it was required that I go into a protracted refugee operation to examine the condition of UASC in the camps and investigate how the policy was being implemented. This study is based on the actual situation in the camps in Nepal.

The findings of the study are expected to influence the policy and inform future research and protection strategies in this area and ultimately, strengthening refugee child protection capacity and, in particular, the services available to UASC. This research is critical to UASC residing in protracted refugee situations, as they remain invisible to policy makers.

Further, the information and findings, discussed in depth in Chapter 4, capture the camp situation as well as a camp-by-camp breakdown of all the UASC that were identified and included in the rapid assessment. Information on demographic variables were obtained which include age, gender, religion and ethnicity of UASC as well as the

level of education of the child (refugee, asylum seeker, non-registered),<sup>20</sup> and the whereabouts and status of their biological parents. The research also captures how and why these children were separated from their parents or primary caregivers; what kind of problems they are having in the camps/households/schools; whether they have access to and if their most essential basic needs are being met as well as how the caregiver families are coping with these children and their problems.

It is important to highlight that, in this context, the actual concept of UASC makes it difficult to categorize children into such a defined group, particularly those who may be identified as separated but only on a temporary basis. For instance, many parents leave the camp(s) for an extended period to earn an income, enabling them to support their families. For example, so that they can supplement food rations, purchase non-essential food items (NFIs) such as kerosene and clothing as well as pay for the post camp education (high school) of their children.

The issue of UASC from Bhutan has received minimal attention in the past seventeen years of this protracted refugee operation. As a result of no concrete efforts being made to examine the situation of these vulnerable children, there are significant gaps in the knowledge and understanding of the magnitude, nature and underlying causes of the problem and the impact separation has had on these children. It is apparent that a baseline study, capturing the extent of the issue, along with comprehensive data on the reality in the camps, would certainly provide the much-needed information required to develop mechanisms for prevention, monitoring, responding and reporting of UASC - all areas that would considerably improve the care and protection available to these children.

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<sup>20</sup> Non-registered refugee children (or unregistered refugee children) are children who have yet to acquire any legal refugee status, which may include asylum seekers. These children could potentially fall within the category of statelessness (UNHCR, 2007).



Further, the invisibility of UASC is responsible for the issue remaining inadequately addressed. To date, there have been no mechanisms put in place to identify and monitor these children's living arrangements, protection and well-being and as this thesis will reveal, this lack of concern on the part of the operation here has had grave consequences for those children who have grown up in the camps and who continue to live without adult caregivers.

### ***Locations of Research Site***

Drawing on an eleven month internship with UNHCR SOD, this research study examines the issue of unaccompanied minors and separated children from Bhutan residing in one of seven refugee camps in eastern Nepal. The majority of the research was conducted in the seven camps that combined house more than 108,000 and include, Beldangi I, Beldangi II, Beldangi II Extension, Goldhap, Khudunabari and Timai camps which are located in the Jhapa District and Sanischare camp which is located in the Morang District of eastern Nepal. However, some of the interviews (informal as well as formal), mostly with UNHCR and NGO staff, along with personal observations, have been gathered primarily from attending meetings, occurred outside of the camps, at agency offices.

The unfortunate reality is that until concrete information surfaces highlighting the situation of these children (heightened vulnerability), interest, both donor and UNHCR, along with resources they bring, will not be mobilized or prioritized to investigate this issue in more depth. Furthermore, with the existing constraints faced by the Office, mostly staffing and resource constraints and ongoing budget cuts, it would be difficult to find time and money required to undertake such an initiative.

It is relevant to explore the issue of refugee children that have been separated from their customary/primary caregivers, usually their parents, because the situation of these children continues to be hidden from the people who are in a position and responsible to protect them and, as a result, are vulnerable to abuse and exploitation. The rapid assessment materialized<sup>21</sup> because of the need to develop an understanding of a problem that was yet to be explored, essentially, becoming the first step in grasping the extent of UASC in the camps, while using limited resources.

For the most part, the issue of UASC has gone unnoticed by UNHCR Nepal until the Census activities began in November 2006, which indicated that a number of refugees have been caring for children who are not their own.

This context was of particular interest to me as an intern because of the protracted nature of the refugee operation and my previous experience working with this caseload. From the beginning of the research, I took on an active role within their Community Services Unit (CSU) which is responsible for dealing with social issues that arise in the camps as well as vulnerable refugees which includes UASC. My post with the refugee agency ranged from investigating and reporting on protection cases to managing a number of programmes for refugee children and youth, including establishing and coordinating Youth Friendly Centres (YFC) in all seven of the camps. These centres provided a space for young people to voice their concerns and become active members in their community. On behalf of UNHCR Nepal, I was also successful in writing a proposal

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<sup>21</sup> There are two main reasons why and how UNHCR Nepal was able to carry out the UASC Rapid Assessment project in the camps in Nepal: i) With the resettlement offer made by the United States, the Office needs to know the relevant information required to appropriately plan for the resettlement of unaccompanied minors and separated children in the camps and, ii) The intern/researcher working in the sub-office was able to coordinate the project and had a personal interest - she was conducting her own research on the same issue for the purpose this Masters Dissertation.

and being awarded funding from the International Olympic Committee (IOC), which enabled the refugee operation in Nepal to implement sport and play activities in the camps for the refugee children. This also reinforces the level of engagement in the refugee issues at the field level in Nepal.

## ***Study Population***

As this study examined a specific issue, UASC from Bhutan residing in one of the seven refugee camps, the target population was children who had been identified as not living with at least one of their biological parents and currently residing in one of the seven camps. The following strategies were applied to identify the children, including:

- i) During the recent Census (registration activities);
- ii) Through one of UNHCR's partner NGOs (for the most part, Caritas and LWF);
- iii) By different refugee community based organizations (CBOs), such as the Bhutanese Refugee Children's Forum (BRCF) and Bhutanese Refugee Women's Forum (BRCF) or the Camp Management Committees (CMC) and,
- iv) Through the refugees themselves.<sup>22</sup>

All of the children, who were identified as being unaccompanied or separated, were included in the UASC Rapid Assessment project. Approximately five hundred and thirty-six (536) children were involved in this project.<sup>23</sup> Children ranged from infants to 18 years old. It is important to note that "aged-out"<sup>24</sup> children were also included in this

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<sup>22</sup> During the rollout of the UASC project in the camps many refugees approached the team to have children not previously identified included in the assessment process.

<sup>23</sup> This number was based on the number of UASC that was generated from proGres on 28 July 2007. However, the researcher's/interns field notes suggest that the actual number of participants in the rapid assessment project was well over 650.

<sup>24</sup> An aged-out unaccompanied minor or separated child many live together with other UASC, share the same protection risks and/or may have arrived at the same time and share a similar flight history. Generally, aged-out children do not exceed 21 years of age (UNHCR, 2006a).

assessment and ranged from 19 to 26 years of age. This cohort was included in the project to both better understand the conditions that they encountered growing up in the camps parentless as well as because many of these individuals are caring for younger siblings who are currently UASC.

## ***Data Collection Techniques***

Primarily Case study and Rapid Assessment (RA) techniques have been applied to collect data. Details of case study and RA are hereunder. Information was also gathered from personal (participant and non-participant) observation,<sup>25</sup> informal conversations and open interviews<sup>26</sup> with UNHCR staff (international and national), with staff of partner NGOs (the majority being national) and with the refugee community.<sup>27</sup> Secondary information has also been obtained from available sources such as UNHCR and UNICEF reports and other literature on vulnerable children.

The open interviews were conducted with UNHCR and partner NGO staff as well as with refugee representatives from the Camp Management Committee (CMC), Bhutanese Refugee Children's Forum (BRCF) and Women's Forum (BRWF) and with refugee incentive workers volunteering with UNHCR's partner NGOs. The data that was collected from these interviews includes the knowledge of staff and community around child protection issues, in particular, protection issues concerning UASC; what mechanisms are currently in place in the camps to protect children; the communities perception, attitudes and response to UASC in the camps; and suggestions on how to

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<sup>25</sup> Personal observation is defined by Creswell (2003) as when a "...researcher takes field notes on the behavior and activities of individuals at the research site," (pp.185).

<sup>26</sup> As mentioned by Creswell (2003) an open interview is a completely unstructured interview and does not involve the implementation of predetermined questions and special topics.

<sup>27</sup> This was possible through the internship with UNHCR.

strengthen the protection and services available to these children. I conducted all the interviews in English; there was no need to employ an interpreter in this process.<sup>28</sup>

### ***Case Study of UASC from Bhutan in Nepal***

Case study is a strong tool for collecting qualitative information as it can be used to facilitate observing the real life situations of the research participants in particular settings. A case study<sup>29</sup> focusing on a protracted refugee situation in Nepal was chosen because most of the research on UASC has focused largely on children becoming separated from their parents or extended family in the initial phases of a refugee operation - the emergency phase. Yet, separation occurs in protracted operations and can pose acute protection risks for children and as mentioned above, it is an issue that remains invisible or hidden from those in a position to provide protection and care to these children. For this reason, minimal attention has been given to refugee children who may become separated after a camp has been established for a number of years.

### ***Rapid Assessment Survey***<sup>30</sup>

Although a substantial part of the study was based on my internship with UNHCR SOD and the subsequent data collected through the rapid assessment survey, qualitative techniques were also employed through my own independent research as part of this dissertation. The rapid assessment (RA hereafter) was conducted on a camp-by-camp

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<sup>28</sup> However, all rapid assessments were conducted in Nepali by the Registration staff employed to work on the UASC project.

<sup>29</sup> A case study is defined by Stake, (1995) as a method in which a "...researchers explore an in depth program, an event, an activity, a process, or one or more individuals. The case(s) are bounded by time and activity, and researchers collect detailed information using a variety of data collection procedures over a sustained period of time (Creswell, John W, (2003). Research Design: Qualitative, Quantitative, and Mixed Methods Approaches. (second edition) Sage Publications, 15).

<sup>30</sup> A rapid assessment is an approach to research designed to investigate a complex situation and does not require a significant amount of time or other resources. For more information, see Beebe, James (2001).

basis, starting with Khudunabari on 21 June 2007 and ending with Beldangi II Extension on 23 July 2007. The project took much longer than originally anticipated to carry out, mainly because of the situation both within and outside of the camps.<sup>31</sup> By no means was this RA a comprehensive examination of the situation of UASC in the camps. Rather, it was a starting point, which aims to provide critical information that is required to begin discussions around developing a comprehensive approach for addressing the needs of this vulnerable group of children including a systematic monitoring tool to ensure their health and well-being and, to begin to plan appropriately for the resettlement of these children.

The rationale behind the UASC Rapid Assessment project was six-fold: i) to uncover the magnitude of this issue; ii) to gain knowledge and a better understanding of the situation of these children; iii) to compile a case management system for UASC (electronic and hard files); iv) to verify existing data on UASC; v) to use the information gathered to develop strategies to strengthen UNHCR's capacity for refugee child protection in general and for parentless children residing in the camps in Nepal specifically, which would include developing SOPs<sup>32</sup> for UASC, implementing a tracing and family reunification programme and pressing the Government of Nepal (GoN) to approve formal guardianship of these children and, vi) to provide UNHCR with the necessary information required to plan for the large-scale resettlement operation of the refugees from Bhutan and, specifically, to plan appropriately for the UASC being resettled to a third country as a durable solution option, (i.e. to put forth recommendations

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<sup>31</sup> Ethnic tensions in the region were high and the situation in the camps was uncertain at the time of the UASC project due to the divide among the community on issues concerning durable solution options available to the refugees from Bhutan. For more information, see limitation to research further down in the report.

<sup>32</sup> Standard Operating Procedures (SOPs).

required to design a project to carry out full Best Interest Determinations (BIDs)<sup>33</sup> of each UASC being considered for resettlement).

A rapid assessment report survey<sup>34</sup> was drafted and used during the project to gather information on unaccompanied minors and separated children identified<sup>35</sup> in the refugee camps. The content of the assessment form was critical to the project as it would need to capture important information required to meet the objectives of the task. The RA form was separated into eight sections and the data collected included:

- i) The child's biographical data, (name, gender, age) and registration status;
- ii) Information on the customary/primary caregiver, (name, age, relationship to the child, length of time the child has been in their care);
- iii) Information on the child's biological parents (name, registration status, whereabouts, how often the child has contact with parents and when was the last time they had contact);
- iv) Information on the child's access to essential services (food rations, proper shelter and education);
- v) The health and physical appearance of the child;
- vi) Any follow-up measures (i.e. referrals); and,
- vii) The interview setting in which the rapid assessment was conducted.<sup>36</sup>

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<sup>33</sup> "The formal Best Interests Determination (BID) is a formal process with specific procedural safeguards and documentation requirements that is conducted for certain children of concern to UNHCR, whereby a decision-maker is required to weigh and balance all the relevant factors of a particular case, giving appropriate weight to the rights and obligations recognized in the CRC and other human rights instruments, so that a comprehensive decision can be made that best protects the rights of children." A full BID is required for all unaccompanied minors and separated children being resettled to a third country. For more information see, UNHCR Guidelines on the Formal Determination of the Best Interest of the Child (UNHCR, 2006a).

<sup>34</sup> The rapid assessment report form was drafted and sent to various units at UNHCR SOD, including protection, community services and durable solutions, which had staff that had expertise in protection or an interest in the project. From there, constructive feedback was incorporated into the form, which took several months to develop and finalize. See Appendix A for the final draft of the UASC Report Form used during the project.

<sup>35</sup> All UASC who were identified during the recent Census through partner NGOs and refugee community based organizations (CBOs) were included in the rapid assessment project.

<sup>36</sup> See Appendix A for the final draft of the UASC Report Form used during the project.

For the most part, the assessments were carried out in the child's current household/care arrangement. There was also a section for the UASC project team to highlight any relevant observations such as the conditions inside the household and the relationship with the caregiver during the assessment.

A substantial part of my responsibility with UNHCR SOD was the coordination and management of the UASC RA project. Thus, this chapter highlights the lack of policy concerning UASC and demonstrates that policy alternatives must be developed to adequately care and protect UASC. Eventually, enhancing the protection available to these children will contribute to the overall development of nations. The UASC RA project was comprised of a team of twelve local interviewers<sup>37</sup> (six small teams of two staff) who received a two-day training on refugee and child protection, highlighting the issues relating to UASC as well as including a brief component on interviewing skills, specifically, skills required when interviewing children.<sup>38</sup>

All information that was collected during the rapid assessment (included on the report form) for each individual case was entered into UNHCR's registration software programme, proGres<sup>39</sup> before the internship was completed. In addition, an individual case file was made for each child visited during the assessment. This included children that were incorrectly identified as UASC and who may be at risk for future parent-child separation. All participants involved in this study, including UASC and their caregivers

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<sup>37</sup> The interviewers were selected from Registration Staff employed by LWF during the Census of the refugees.

<sup>38</sup> The 2-day training took place at UNHCR SOD on the 8<sup>th</sup> and 9<sup>th</sup> of June 2007. The facilitators of the training included the Programme Officer, Community Services Assistant and intern/researcher.

<sup>39</sup> ProGres is the data management software programme UNHCR uses for individual registration of all persons of concern. The tool allows UNHCR staff to collect, share and use information on refugees and other persons of concern. ProGres has the ability to store photographs demographic information and special needs information of each refugee. However, all information that was collected during the rapid assessment (included on the report form) for each individual case was entered into proGres and an individual case file was established. For more information see, <http://www.unhcr.org/home.html>.



involved in the rapid assessment, willingly participated and gave their verbal consent (assent with regard to the UASC was given on behalf of the caregiver) to engage in this rapid assessment and research process.

### ***Scope of the Research Study***

The lack of baseline data and knowledge on the overall situation of UASC in the camps in Nepal<sup>40</sup> and closely followed by the political climate within the camps<sup>41</sup> and, in the region<sup>42</sup> and the overall instability in the country were challenges for the study.<sup>43</sup> Another major challenge was that most of the children assessed during the UASC project were interviewed in the presence of their current caregiver. Their presence likely posed the possibility of children dramatically altering their responses, for fear of reprisal,<sup>44</sup> compared to if the child were interviewed alone or in phases.<sup>45</sup> It would have been better if the interviews could be taken in the absence of the caregiver.

Many aged-out UASC were identified and documented during the Census activities and this distorted the actual number of children that should be categorized as

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<sup>40</sup> There may have been a list compiled by the UNHCR Community Services Unit, in collaboration with Caritas, of children who potentially were separated from their parents but this list was never verified or followed up in any detail.

<sup>41</sup> Immediately following UNHCR's information campaign on third country resettlement the situation in the refugee camps became tense. The refugees became suspicious of all activities carried out by UNHCR. For more information see, <http://www.unhcr.org/home.html>.

<sup>42</sup> Ethnic tension in the eastern region of Nepal heightened during the time of this research investigation and rapid assessment project.

<sup>43</sup> Nepal has struggled for over five decades to implement a stable, effective and legitimate democracy and consequently, this small landlocked kingdom has been plagued with poverty, corruption, instability, illegitimacy and conflict - undoubtedly stemming from its political turbulence. Since 1990, more than 13,000 people have been killed in the Maoist insurgency and many more persons have been internally displaced in the country.

<sup>44</sup> The researcher/intern had UASC contact her personally to inform her of the real situation in the household after the initial phase of the project was completed in the camps.

<sup>45</sup> For example, if the child was interviewed in the presence of his/her caregiver, then alone and finally, the interview concluded with bringing the caregiver back in the same space as the child.

unaccompanied or separated.<sup>46</sup> However, the prevalence of aged-out children indicates that many children have most likely had an incredibly difficult time growing up in the camps with no first line of protection and support.<sup>47</sup> In addition, younger children were more difficult to assess for obvious reasons, including they did not always understand their situation or were certain on how and/or why they became separated from their parents.

At the time of the project, proGres, at SOD was not, capable (did not have the capacity) of generating statistical information on key findings, including:<sup>48</sup> i) the number of UASC who had both or one parent living in one of the seven camps; ii) the reason behind the child being unaccompanied or separated (i.e. abandoned, orphaned, remarriage or divorce of parents, etc.); iii) the relationship to the caregiver (paternal or maternal grandmother, aunt, sister, etc. or, non-blood relative); iv) the situation inside the household (i.e. cases of abuse, neglect, exploitation, violence); v) the performance of the child in school (i.e. repeated a class, dropped-out; and if, vi) the child was compelled into early marriage or had any other special protection needs besides being UASC.

The above information was collected during the rapid assessment (included on the report form) for each individual case; it was entered into proGres and is available at the Nepal office. Furthermore, the statistical information can be generated from progress which will be helpful in the future when working on UASC issues in the camps and/or on broader child protection issues.

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<sup>46</sup> In addition, many children were wrongly identified as UASC, or not identified at all, during the Census activities.

<sup>47</sup> This point will be addressed further down in this report.

<sup>48</sup> However, all information that was collected during the rapid assessment (included on the report form) for each individual case was entered into proGres and an individual case file was established.

Because of the sensitive nature of this research, coupled with the expectations from the UASC and their caregivers during the time of the assessment, it was not possible for the researcher/intern to investigate into the issue in more depth, without raising expectations.

Although there have been significant improvements in child refugee protection both in Nepal and globally, the conclusions reached in this study highlight the disconnect between policy and practice and identify the need and gap in protection and services available to UASC. Additionally, underlining the pressing need to invest more resources into strengthening the protection mechanisms currently in place for UASC children in protracted refugee operations.<sup>49</sup>

### ***Ethics and Informed Consent***

Prior to carrying out this research study, I received approval from Saint Mary's University Research Ethics Board (REB).<sup>50</sup> All participants were informed prior to the interviews (this did not include the children and caregivers who were involved in the rapid assessment) about the voluntary nature of the study and they were all given comprehensive information regarding their confidentiality and assured that any identifying information would be protected as per The Tri-Council Policy on Research Involving Humans. Thus, all participation in this study was completely voluntary and all data used will protect the identity of the participants via pseudonyms as well as coding.

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<sup>49</sup> A large-scale response, however, is extremely challenging in most protracted refugee operations, as UNHCR has to scale back their programming constantly because of budget constraints created by donor fatigue.

<sup>50</sup> Please see my official ethics approval from Saint Mary's University REB (file number is REB 06-114) at the back of this thesis.

As an activity carried out by UNHCR Sub-Office Damak, which was born out of protection and welfare concerns for UASC, all those identified as unaccompanied or separated were required to participate in the assessment on the basis that the information gathered would improve the overall situation of these children. Furthermore, UNHCR was fully aware of my research on UASC; part of the reasoning behind selecting me for this internship position was because of the issues I was investigating for my Masters Dissertation.

## **Chapter 4: The Case of UASC from Bhutan living in Nepal**

All of the issues discussed in the preceding chapters are important when developing policy concerning the protection of refugee children and, specifically UASC in protracted situations. Also, appropriately addressing some or all of these issues will improve the protection and services available to refugee children as well as the overall development of the communities and eventual nations in which they reside.

Further, the data collected from this study, which comprises a considerable part of this chapter, will be able to influence policy and inform future research as well as contribute to existing protection strategies in this area, ultimately strengthening refugee child protection capacity. This chapter begins with a historical account of the refugees from Bhutan living in Nepal. Also included in this chapter is information and findings that capture the actual camp situation as well as a camp-by-camp breakdown of all the UASC that were identified and included in the rapid assessment.

The findings of the study are expected to influence the policy and inform future research and protection strategies in this area and ultimately, strengthen refugee child protection capacity and, in particular, services available to UASC. This research is critical to UASC residing in protracted refugee situations as they remain invisible to policy makers. Thus, every attempt must be made to find an appropriate durable solution for each child as soon as possible. With that being said, any action or decision concerning UASC should always promote the *best interests* of the child. In particular, UASC should be placed in an environment where they experience safety, emotional security and stability.

## ***Historical Context***

Most of the refugees originating from Bhutan, mostly ethnic Nepalese,<sup>51</sup> began to arrive in eastern Nepal in the early 1990s, with the majority arriving by the end of 1993. The Government of Nepal (GoN) recorded the first group of 60 asylum seekers from Bhutan on 12 December 1990. At the height of the influx, up to 1,000 persons of concern, arrived daily from Bhutan to Nepal, with over 85,000 registered in one of the seven camps by the end of 1993. To cope with the mass influx of refugees, in September 1991, the Government of Nepal (GoN)<sup>52</sup> formally invited UNHCR<sup>53</sup> to coordinate the humanitarian operation.

Along with the UNHCR, the World Food Programme (WFP), and a number of partner organizations (Non-governmental organizations-NGOs and implementing partners-IPs) have been assisting in the operation. The different IPs currently responsible for assisting the refugees are: the Lutheran World Federation (LWF), Caritas Nepal,<sup>54</sup> The Association of Medical Doctors of Asia-Nepal (AMDA)<sup>55</sup> and the Nepal Bar Association (NBA)<sup>56</sup> Jhapa unit. The National Unit for the Coordination of Refugee Affairs (NUCRA) was established by the government within the Ministry of Home Affairs (MoHA) to plan, coordinate and monitor refugee affairs in Nepal. The MoHA

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<sup>51</sup> Concentrated in the southern region of Bhutan, and are descendants of Nepali settlers commonly referred to as “Lhotshampas” or “Southern Bhutanese,” the majority of which practice Hinduism and speak Nepali

<sup>52</sup> Nepal is not a signatory to the 1951 Convention or the 1967 Protocol Relating to the Status of Refugees and has no national legislation pertaining to asylum-seekers or refugees. However, it is a signatory to the 1989 Convention on the Rights of a Child (1989).

<sup>53</sup> UNHCR with two offices have been working in Nepal since 1963, with the Tibetan refugee caseload. Today, the Office works with the Tibetans (mostly coordinating their transit to India or another third country), the refugees from Bhutan and recently, internally displaced persons (IDPs) resulting from the insurgency within the country.

<sup>54</sup> LWF implements the water and sanitation projects in the camps. Caritas Nepal is responsible for implementing the education programme for children in the camps.

<sup>55</sup> AMDA implements the health sector.

<sup>56</sup> NBA handles most legal issues involving the refugees from Bhutan.

itself has its own Refugee Coordination Unit (RCU) to better manage the field level operations.<sup>57</sup> A significant portion of the refugee population, who had fled Bhutan for Nepal prior to 7 June 1993, were recognized on a *prima facie* basis. This group of refugees was given “group refugee” status at the time of their arrival in Nepal.<sup>58</sup>

Persons, who arrived in Nepal after 7 June 1993, are required to undergo a process of individual refugee status determination (RSD). With the support of UNHCR, the MoHA implemented a screening post for RSD at Kakarbhitta<sup>59</sup> whereby asylum-seekers have to meet eligibility criteria.<sup>60</sup> Most claims made by asylum-seekers who went through individual status determination after 1993 were based on grounds of family reunification. It was common to have persons fleeing Bhutan after the mass exodus and seeking asylum in Nepal. Most of these new arrivals claimed they fled Bhutan so they could be reunited with family already registered in one of the seven camps.

The estimated 108,000<sup>61</sup> refugees from Bhutan are sheltered in seven refugee camps. However, many persons of concern, including a number of UASC, still reside in the camps with an unclear status, such as non-registered refugees.<sup>62</sup> The camps and their populations include: Beldangi I, approximately 18,600; Beldangi II, approximately 22,600; Beldangi II Extension, approximately 11,600; Goldhap, approximately 9,600;

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<sup>57</sup> Working directly under the MoHA, the RCU has an office at Chandragarhi, Jhapa along with a government presence (RCU Camp Supervisor and Assistant Camp Supervisor), assigned to each of the seven camps.

<sup>58</sup> States tend to recognize refugees on a *prima facie* basis during a large-scale exodus, whereby the circumstance engendering the influx from the country of origin is apparent and group rather than individual refugee status determination is carried out.

<sup>59</sup> A small town on the border of Nepal and India. The vast majority of refugees from Bhutan entered Nepal from this point of entry.

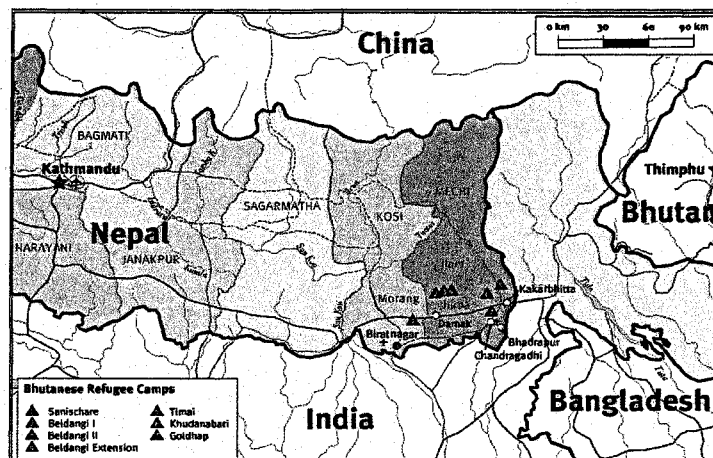
<sup>60</sup> Asylum-seekers are individually screened and required to meet the 1993 eligibility criteria, proving that they fled Bhutan on persecution grounds and arrived in Nepal directly from Bhutan.

<sup>61</sup> Some of these persons are registered as refugees and some are not. The number is unknown but it has been estimated to be approximately 10,000.

<sup>62</sup> Non-registered refugees are persons of concern who have yet to acquire any legal refugee status; which may include asylum seekers who could potentially fall within the category of statelessness (UNHCR, 2008).

Khudunabari, approximately 13,200; Sanischare, approximately 21,200 and Timai, approximately 10,400 refugees, which are located in two districts, Jhapa and Morang, in the eastern region of Nepal (see Figure II for a map of the refugee camps).

**Figure II: Map of seven refugee camps in eastern Nepal**



Source: Human Rights Watch (HRW), © 2003 by HRW.

### ***Policy Changes in Bhutan: The Push Force***

The refugees were forced to leave their homeland as result of citizenship legislation and arbitrary policies of the Royal Government of Bhutan (RGB)<sup>63</sup> under the “One Nation, One People” policy, referred to by the refugees as the “Bhutanization” process. There are claims that they were targets of discrimination and lacked customary and legal rights to land, employment and education as well as citizenship. This is a way of protecting its national identity by integrating the many diverse ethnic groups living in the country,<sup>64</sup> particularly the “Lhotshampas” or “Southern Bhutanese” who comprise mostly of ethnic

<sup>63</sup> Bhutan is not a signatory to the 1951 Convention or the 1967 Protocol Relating to the Status of Refugees. However, it is a signatory to the 1989 Convention on the Rights of a Child (CRC).

<sup>64</sup> Bhutan is a multi-ethnic, multi-lingual and religious nation. There are more than 20 languages spoken, with the national language, Dzongkha, recognized in 1961 as the official language. Buddhism (many sub-sects) makes up a significant part of the religious groups in Bhutan, approximately 65%, Hinduism around 30% and Islam and Christianity 5% and 2% respectively (statistics retrieved from Wikipedia, see <http://wikipedia.org>).



Nepalese and now make up the majority of refugees residing in the camps in Nepal.

However, the refugees claim that these measures were intended to exclude the Lhotshampas from political,<sup>65</sup> cultural, economic and educational activities and eventually deprived and stripped many of their citizenship rights, forcing them to flee or to leave the country.

The main ethnic groups in Bhutan are the Ngalongs,<sup>66</sup> Sharchops<sup>67</sup> and Lhotshampas.<sup>68</sup> However, there are several indigenous peoples inhabiting remote areas of the country. The major policies of the RGB include revising the Citizenship Acts of 1958, 1977 and 1985 and adopting the One Nation, One People policy, which included Drigham Namza, the Green Belt Policy and the introduction of No Objection Certificates (NOCs). The revised Citizenship Act of 1985 outlined strict guidelines and defined three criteria for granting citizenship, (i) by birth, (ii) by registration and, (iii) thorough naturalization; including the following provisions: a) Citizens by birth: a person whose parents are both citizens of Bhutan should be deemed to be a citizen of Bhutan at birth and, b) A person permanently domiciled in Bhutan, on or before 31 December 1958 and whose name is registered in the census register by the Ministry of Home Affairs shall be a citizen by registration.

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<sup>65</sup> RGB banned peaceful demonstrations and imprisoned individuals who supported the democratic movement. The democratic movement was mobilized and had many supporters in the southern belt of Bhutan.

<sup>66</sup> The Ngalongs migrated to Bhutan in the 9th century and are of Tibetan origin. This ethnic group is recognized for introducing Tibetan culture and Buddhism to Bhutan and dominate the political system.

<sup>67</sup> Recognized as Bhutan's earliest inhabitants and can be traced back to the tribes of northern Burma and northeast India, the majority of the population in the eastern regions. To a certain extent they have been assimilated into Ngalong culture. They speak their own language called Tsangla.

<sup>68</sup> Concentrated in the southern region of Bhutan, Ethnic Nepalese are descendants of Nepali settlers and are commonly referred to as "Lhotshampas" or "Southern Bhutanese," the majority of which practice Hinduism and speak Nepali.

Drigham Namza is an ancient code of conduct in Bhutan, comprised of rules that are enforced so that citizens comply with the ancient traditions, culture and customs of the Ngalongs. The code includes imposing restrictions on dress, language and religion while implementing limitations for obtaining employment as well as access to education. The Green Belt policy was a strategy to create a “Green Belt” area of one kilometre inside the southern belt of Bhutan, along the Indo-Bhutan border, the same region predominantly inhabited by the Lhotshampas. People occupying this region were to be forcibly displaced and trees and plants were to be grown in their place. Because of pressure from international human rights groups outside of Bhutan, the RGB was not able to carryout this process. NOCs were not issued to students whose parents were suspected of being involved in anti-nationalist or terrorist activities. Many refugees were accused of anti-nationalist activities, arbitrarily arrested, detained, tortured and raped, a number were also wounded or killed prior to fleeing the country. A No Objection Certificate (NOC) is an essential government document required to gain access to education in Bhutan and ensure that all *bona-fide* Bhutanese children receive first preference for admissions into schools.

The RGB also conducted a Census in 1988 which placed people into seven distinct citizenship categories: F1 - Genuine Bhutanese citizens; F2 - Returned migrants (i.e. people who left Bhutan and then returned); F3 - “Drop-out cases” (i.e. people absent from the census but were registered in a previous census, 1971 and 1979-1981); F4 - Non-national woman married to a Bhutanese man; F5 - Non-national man married to a Bhutanese woman; F6 - Children who had been legally adopted and, F7 - Non-nationals (i.e. stateless or third country nationals who had illegally migrated to Bhutan).

The 1988 census, combined with the national integration policies, has had (and continues to have) significant emotional, economic and political implications on the ethnic Nepalese population in southern Bhutan and the refugee community in Nepal as well. Following these policies changes, post offices, health posts and schools were converted into detention centers (or burned down) and tactics were used to intimidate men, women and children. Many of them were forced to leave Bhutan after signing “voluntary” migration forms.

Rounds of bilateral talks between Bhutan and Nepal, on the issue have been futile. The RGB refused to take back the refugees on the justification that the Lhotshampas were third country nationals who illegally migrated to southern Bhutan and were not entitled to *bona-fide* Bhutanese citizenship or that they “voluntarily” left the country, knowing the consequences that are outlined in the 1985 Citizenship Act. However, the refugees denounce both of these claims. While the majority of refugees would prefer to return home, this may never take place. Although the camps are overcrowded, they are well managed and maintained by the GoN and UNHCR with the assistance of the refugee community, under the Camp Management Committee (CMC).<sup>69</sup>

### ***Reviewing Some Policy Issues: Invisibility and Vulnerability***

GoN does grant the refugees from Bhutan full protection in the camps. However, the GoN has not allowed for local integration of those refugees.<sup>70</sup> Most of the refugees are dependant on humanitarian assistance because of their situation. This dependency created

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<sup>69</sup> Comprised of refugee representatives that manage the overall functioning of the camps and handles security, social welfare and other aspects of camp life. At the top of the CMC is the Camp Secretary and Assistant Camp Secretary. There is also a gender focal point and a number of sub-committees. Generally, the CMC is UNHCR first point of contact in the camps.

<sup>70</sup> However, under Nepali citizenship law, refugee women who marry Nepali men are entitled to acquisition of Nepalese citizenship as well as any children born out of these marriages.

by the limited rights accorded to the refugees by the GoN<sup>71</sup> results in frustration in the camps. A Census<sup>72</sup> of the refugees was jointly carried out by the GoN and UNHCR from November 2006 to May 2007. The verification of existing data was a critical part of the operation in Nepal especially to determine the priority of any refugee operation and the number of UASC, and assess the complexity and extent of the situation.

At this point, the only durable solution offered to the refugees is third country group resettlement, with the United States offering to resettle 60,000.<sup>73</sup> UNHCR, in collaboration with the International Organization for Migration (IOM) and resettlement countries, has begun a large-scale programme for the resettlement of refugees.<sup>74</sup> Voluntary repatriation and local integration are not durable solution options at this point in the operation. Further, because of the protracted nature of this refugee situation, the operation has become very much routine in its delivery and this prolonged stay in camps could potentially contribute to the vulnerability as well as frustrations of many refugees, including UASC.

Based on my findings, the following section captures the present situation and condition of UASC in the refugee camps in Nepal.

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<sup>71</sup> Though international law allows refugees movement and having employment; however, the GoN does not permit them to engage in gainful activities outside the camp. Many refugees still work “illegally” as teachers and laborers throughout much of Nepal and India.

<sup>72</sup> The Census, carried out by UNHCR with the support of the core countries committed to finding durable solutions to the refugee operation, verify the GoN’s existing information on the refugees and to update both UNHCR’s and the GoN’s demographic data on each refugee. UNHCR has been pressing GoN to carry out this activity for a number of years.

<sup>73</sup> Some other countries such as Australia, Canada, Denmark, Norway and the Netherlands have also expressed interest in resettling the refugees from Bhutan.

<sup>74</sup> It is anticipated that the first group of refugees from Bhutan will be resettled to the United States in March 2008 as part of the group resettlement process between 5 and 7 years.

## ***Findings and Lessons Learned***

Prior to the Census activities mentioned above, that were jointly carried out by the GoN and UNHCR from November 2006 to May 2007, the number of unaccompanied minors and separated children (UASC) was unknown to the operation but was assumed to be a considerably low number, as no substantial issues had ever been raised concerning UASC. Many people commented (refugees, NGO staff) that the refugee community itself was taking care of “parentless” or “orphaned” children, finding placements, making sure their needs were being met and that outside actors such as UNHCR and its partner NGOs did not have to play a significant role in the process because as far as they understood there was not many UASC in the camps and those that were unaccompanied or separated were being adequately protected by the refugee community. However, the refugee community has a history of hiding things from UNHCR, downplaying the camp reality for fear that they would get a poor reputation within the international community, and this would have negative consequences, such as donors would scale back their contributions to the operation in Nepal and the negative publicity would diminish the refugees likelihood of practicing their right to return, someday voluntarily repatriating to Bhutan.<sup>75</sup>

While many separated children share similar experiences (reason for separation and conditions within their caregivers home/family), no individual case is the same.

Furthermore, each child requires a more in depth assessment to determine the actual situation. Ideally, this would include a modified<sup>76</sup> (best interests assessment) or full BID

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<sup>75</sup> The researcher’s field notes while working in the camps in Nepal.

<sup>76</sup> A modified BID or best interests assessment is defined by UNHCR as, “part of a continuous process in which the best interests of the child are pursued continuously as the overall goal of any interventions made on behalf of an unaccompanied or separated child throughout the displacement cycle” (UNHCR, 2006a).

being conducted, depending on the circumstances of each individual case and the priority or referral that each child's case was given during the rapid assessment process.

Although the purpose of the rapid assessment was not designed to collect information on the individual causes of separation for each child, the project was able to capture some of the relevant issues and demonstrates the importance of carrying out child protection work. Furthermore, the information gathered in this assessment translates into an extremely resource intensive project for UNHCR SOD to carry out – verifying the existing information gathered from the project and setting up a systematic identification, monitoring, reporting, tracing and family reunification process. Keep in mind, the purpose of the rapid assessment was not to go into an in depth account of each individual case, but to get an indication of the extent of the issue and put forth recommendations on how to proceed with programming and protection activities.

While the majority of unaccompanied minors or separated children visited during the rapid assessment appeared to be living in a *protected environment* it is recommended that UNHCR carry out modified or full Best Interest Determinations (BID) for all UASC identified, primarily for three reasons: i) to ensure the health and well-being of the child is being promoted ii) because a number of UASC indicated during the project that they were being neglected and/or exploited and, iii) for resettlement purposes or to explore other durable solution options available to these children.

## ***Profile of UASC***

With the preliminary results of the Census, combined with the completion of the RA project, the number of UASC identified in the camps as of 28 July 2007 was 536,<sup>77</sup> which is significantly higher than once assumed by UNHCR SOD and much lower than the 200 cases that were identified during the Census activities which confirms the importance of this study. However, the number generated by proGres is considerably lower than the number of children recorded in my field notes during the RA project and research investigation.

The cumulative statistics indicate that there were slight disparities between gender, with 276 males and 260 females being identified. The majority of UASC fell within the age range of 12-18 years, 277 children, whereas the 5-11 age group had 151 children and, the 0-4 age group was comprised of seven children.

Based on the qualitative data, it is understood that separated children comprise the highest number of UASC in the camps. Extended family members, mostly parental relatives, are caring for the majority of UASC in the camps; however, a number of children are residing with non-blood relatives in informal foster care arrangements. Many of the UASC claimed that they are being abused or exploited by their caregivers and/or extended relatives. In addition, most UASC indicated that they were in school but doing poorly because of their situation at home. A few children were identified as living in child-headed or female-headed households. Unexpectedly, most UASC have at least one parent residing in one of the seven camps.

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<sup>77</sup> This number was based on the number of UASC that was generated from proGres on 28 July 2007. However, the researcher's field notes suggest that the actual number of participants in the rapid assessment project was well over 650. This raises critical issues with the proGres database and its validity.

## ***Age and UASC***

When analysing data it is important to consider the age range and developmental needs of the children who have been identified as well as their gender. After being entered into proGres the data gathered from the rapid assessment was broken down by age into four distinct age ranges (developmental stages): i) the first age/stage, 0-4 years; ii) the second age/stage, 5-11 years; the third age/stage, 12-18 years and, iv) the fourth age/stage, 19 years and above.

By grouping the unaccompanied minors and separated children into four distinct age/stage categorizes some noticeable trends emerged. The first trend on the issue of age was that the lower the age range (developmental stage) the lower the number of UASC and as we move into a higher range (age and developmental stage), the number of UASC increases.

An interesting observation was that infants and young children between the ages of 0 to 4 years comprise the least number of UASC; three (3) males and four (4) females were identified, for a total of seven (7), out of an overall 536<sup>78</sup> UASC verified during the rapid assessment (1.31 % of UASC are between the ages of 0 to 4 years). This significantly low number of children indicates that the refugee community to some extent understands the fundamental importance of the infants, toddlers and young children's emotional and developmental stages of a child's life and that the paternal family possibly allows mothers to care for her child/ren during his or her early years, as discussed above.

It could also indicate that parents do not find it too difficult to support a child during the first five (5) years of his or her life. During their infant and toddler years, a

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<sup>78</sup> This number, 536 does not match up with the researcher's number of children involved in the UASC project. Her records indicate well over 650 individuals were assessed during the project. This inaccuracy raises some serious concerns with proGres.



refugee child does not require much material support and/or require a large part of their food ration.<sup>79</sup> In addition, the child is not yet attending school and does not require parents to provide a school uniform, school supplies and kerosene to complete homework at night. However, the data reveals that 12-18 age group has the highest number of UASC. It is important to underline that most of the UASC in this age group (12-18) were born into the refugee camps in Nepal, as the operation has been in existence for 17 years.

The prevalence of UASC in the 12-18 age group could be attributed to families not having the capacity to meet the needs (and subsequent demands) of older children, i.e., clothing; school fees and stationeries; toiletries, including soap and dental hygiene products; funds to go to social outings such as the cinema and so on. It could also be that parents may sense that children in this age group have the maturity and capacity to take care of themselves. In addition, parents may not feel the need (or strong attachment to the child) to keep the family together if there is a death, disappearance or remarriage of one of the parents, which in some circumstances may result in a parent-child separation. Thus, separation becomes both expected as well as accepted among some parents and the broader refugee community.

It is important to note that the age and gender of an UASC, in particular, girl UASC, put him/her at an acute protection risk, making him/her vulnerable to sex and gender-based violence (SGBV).

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<sup>79</sup> An infant, child and adult refugee all get the same amount of food rations.

## ***Gender and UASC***

As pointed out earlier in the thesis, the refugee community is stratified among caste, gender, age and to a lesser extent ethnic and religious lines. Issues of gender and social exclusion are also prevalent in both the refugee camps and local community.

Overall, the camp population is evenly divided among gender lines, with the female population just under 50% and males slightly over, 49.3% and 50.7% respectively. Adults make up 64.5% of the total refugee population, which mean children, (below the age of 18 years) comprise roughly 35.5% (while children under the age of five years represent 7.6% of this percentage). The elderly, refugees 60 years and above, represent 6.6% of the adult population.<sup>80</sup>

Gender breakdowns of participants identified as UASC during the project were also divided among the various age ranges. Out of a total of 536<sup>81</sup> participants assessed, 276 were comprised of males while 260 females were identified, or 51.5% male and 48.5% female UASC. The table below illustrates the findings across age and gender lines.

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<sup>80</sup> UNHCR SOD, July 2007.

<sup>81</sup> This number, 536 does not match up with the researcher's number of children involved in the UASC project. Her records indicate well over 650 individuals were assessed during the project. This inaccuracy raises some serious concerns with proGres.

**Table I: UASC Age and Gender Breakdown**

Camp	Age 0-4 years		Age 5-11 years		Age 12-18 years		Age 19+	
	Male	Female	Male	Female	Male	Female	Male	Female
<b>Beldangi I</b>	1	0	16	16	38	29	9	12
<b>Beldangi II</b>	0	0	6	4	22	27	8	13
<b>Beldangi II Extension</b>	0	1	7	4	12	8	5	3
<b>Goldhap</b>	0	0	5	7	7	6	1	1
<b>Khudunabari</b>	2	1	16	20	30	19	6	7
<b>Sanischare</b>	0	1	20	19	27	24	13	12
<b>Timai</b>	0	1	4	7	16	12	5	6
<b>All Camps (Total)</b>	3	4	74	77	152	125	47	54

When it comes to gender and UASC, one of the main concerns is that there are several young girls who are registered in the same household as their biological parents, when in reality they have been ostracized from their family for engaging in sexual activities. For example, one UASC that was interviewed was registered with her biological parents but not living in the camp with them. Her parents had disowned her after they found out she was working in local restaurants and hotels as a “dancer” and “domestic servant.” However, it is my understanding she was involved in sex work, and employed in the local area hotels as a prostitute.<sup>82</sup> This type of situation seems to be underreported in the camps, and should be looked into in the future.

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<sup>82</sup> The researcher’s field notes from an interview with an UASC in the camps in Nepal.

## ***Status of UASC***

A number of children that have been identified as either unaccompanied or separated are also residing in the camps as non-registered children. The status of non-registered poses many acute protection risks for children, including such issues, as non-registered children are not guaranteed access to primary education in the camps or a regular food ration, which ultimately heightens their vulnerability. However, UNHCR has made significant efforts in its capacity to identify non-registered children, whether they are parentless or not, in an attempt to ensure they are not at an acute protection risk and that all have access to basic food rations and education available to the refugees in the camps.

Non-registered status could be an underlying factor in separation, such as in the situation where both a child and their parents are non-registered, having left Bhutan after 1993 when the GoN stopped granting *prima facie* refugee status to those fleeing Bhutan and seeking temporary asylum in Nepal. Some non-registered refugee parents could find it particularly challenging to support a family in the camps without the protection and material assistance offered to a registered refugee family. Thus, parents may make the conscious decision to “drop-off” their child or children in the camps (with extended family) where they perceive that their children will be better off.

The GoN has not yet officially recognized a number of UASC residing in the camps as refugees. These children can be positioned in one of three broad categories: i) non-registered children; ii) non-registered children with a non-refugee parent or, iii) a non-registered child of deregistered parents. In general, child asylum seekers are at a heightened risk because they are not assured the rights accorded to recognized refugees. Yet, UASC who are also in limbo when it comes to their status are at an even more acute

protection risk, particularly, in the Nepal context. Many of these non-registered UASC who are residing with extended families are in an incredibly vulnerable situation because many are completely dependant on their caregivers to secure food on a daily basis, as they are not entitled to a food ration and, to provide resources for school fees, uniforms, supplies and clothing. An additional child puts a large amount of strain on families who are already struggling to cope with the limited resources available. This coupled with the GoN restrictions on the refugees working outside of the camps, places the child at risk for abuse and exploitation.

An overwhelming majority of non-registered UASC reside in Khudunabari camp, established in April 1993, just 2 months before the GoN (7 June 1993) went from granting *prima facie* refugee status to setting up individual screening procedures to recognize refugees from Bhutan seeking temporary asylum in Nepal. These children could have arrived in Nepal shortly after *prima facie* status was given to the refugees and as a result many are still trapped in the asylum process.

Furthermore, some UASC indicated that they were only temporarily separated from their parents. Their parents brought them to the camps to live with relatives so that they could have access to better education and openly practice their cultural and religious practices. In southern Nepal, some children are still not able to go to school because they have not yet obtained a No Objection Certificate (NOC).<sup>83</sup>

The tables below illustrate the RCU status registration of non-registered UASC on a camp-by-camp basis, which were identified during the rapid assessment project.

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<sup>83</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

**Table II: UASC Non-registered Child (other)**

Camp	Age 0-4 years		Age 5-11 years		Age 12-18 years		Age 19+	
	Male	Female	Male	Female	Male	Female	Male	Female
<b>Beldangi I</b>	0	0	2	1	6	3	0	0
<b>Beldangi II</b>	0	0	0	3	3	0	0	0
<b>Beldangi II Extension</b>	0	0	2	0	1	3	0	0
<b>Goldhap</b>	0	0	2	2	1	0	0	0
<b>Khudunabari</b>	0	0	4	9	4	6	1*	0
<b>Sanischare</b>	0	0	2	3 (+1)**	1 (+1)**	1	0	0
<b>Timai</b>	0	0	0	1**	0	0	0	0
<b>All Camps (Total)</b>	0	0	12	18	16	13	0	0

\* During the UASC rapid assessment project, one (1) “aged-out” female, above 19 years of age was identified as being a non-registered adult. This aged-out UASC resides in Khudunabari camp.

\*\*During the UASC rapid assessment project, three (3) UASC were identified as KKV pending, two females between 5-11 years, residing in Sanischare and Timai camps respectively and, one male between 12-18 years residing in Sanischare camp. KKV pending indicates that these UASC children have initiated the individual refugee status determination (RSD) process with the GoN after 1993.

Based on my observation and informal conversations with refugees, mostly leaders and NGO refugee incentive workers, my speculation is that there are more non-registered unaccompanied children than what was identified during the rapid assessment. A child who is both non-registered and UASC is at a heightened protection risk and could potentially, because of his/her increased vulnerability be less visible than an UASC registered as a refugee by the GoN.

Again, it is important to underline that children residing in a camp with a non-registered status are not guaranteed the same rights as those children and adults that have been granted full refugee status by the GoN.

**Table III: UASC Non-registered Child of De-registered Parent**

Camp	Age 0-4 years		Age 5-11 years		Age 12-18 years		Age 19+	
	Male	Female	Male	Female	Male	Female	Male	Female
<b>Beldangi I</b>	0	0	0	0	0	0	0	0
<b>Beldangi II</b>	0	0	0	0	0	0	0	0
<b>Beldangi II Extension</b>	0	0	0	0	0	0	0	0
<b>Goldhap</b>	0	0	0	0	0	0	0	0
<b>Khudunabari</b>	0	0	0	0	0	0	0	0
<b>Sanischare</b>	0	0	1	0	0	0	0	0
<b>Timai</b>	0	0	0	0	1	0	0	0
<b>All Camps (Total)</b>	0	0	1	0	1	0	0	0

Most likely, these two non-registered, UASC male children were born after their biological parents were de-registered from the Refugee Coordination Unit (RCU) records, sometime after the re-registration that occurred by the GoN in 1994. It is critical that these children be recognized as refugees by the GoN, as the RCU registration records indicate that their parents were once registered as refugees, thus, that status should be transferred onto their children. It is also important to examine the rationale behind de-registering their parents.

**Table IV: UASC Non-registered Child of Non-refugee Parent**

Camp	Age 0-4 years		Age 5-11 years		Age 12-18 years		Age 19+	
	Male	Female	Male	Female	Male	Female	Male	Female
<b>Beldangi I</b>	0	0	0	1	0	0	0	0
<b>Beldangi II</b>	0	0	0	0	1	1	0	0
<b>Beldangi II Extension</b>	0	0	0	0	0	0	0	0
<b>Goldhap</b>	0	0	1	0	0	0	0	0
<b>Khudunabari</b>	0	0	1	0	0	3	0	0
<b>Sanischare</b>	0	0	1	0	0	0	0	0
<b>Timai</b>	0	0	0	0	1	0	0	0
<b>All Camps (Total)</b>	0	0	3	1	2	4	0	0

This group of UASC raises a great deal of concern, particularly since these children are born out of a mixed marriage - one of the child's biological parents is a registered refugee, more often than not, the mother and the other biological parent is a non-refugee, typically the father. Moreover, as discussed above, the citizenship laws of Nepal state that children born of a Nepali father (genuine citizen of Nepal) shall retain (assume, acquirer, naturalize) the citizenship of their biological father. There are three distinct issues here, i) the non-registered status of the child, ii) the child has one refugee parent and one non-refugee parent and, iii) the child has been identified as unaccompanied or separated.

A trend among many children born of mixed marriages, not just of unaccompanied or separated non-registered children of a non-refugee parent, is that many refugee women married to a non-refugee man end up raising the child without the support of the biological father, with the father eventually abandoning the mother and child/ren. In some



cases, the mother remarries a refugee who generally is much older than her (or a man with a mental or physical disability), as this is one of the few options available to her in the community and they raise the child/ren together. The issue here is that the child has been abandoned by his or her biological non-refugee father and lives in the camp with her refugee mother and refugee stepfather but remains non-registered because of the policy ascertained by the GoN.

**Table V: UASC Registered Refugees by the GoN**

Camp	Age 0-4 years		Age 5-11 years		Age 12-18 years		Age 19+	
	Male	Female	Male	Female	Male	Female	Male	Female
<b>Beldangi I</b>	1	0	14	14	32	26	9	12
<b>Beldangi II</b>	0	0	6	1	18	26	8	13
<b>Beldangi II Extension</b>	0	1	5	4	11	5	5	3
<b>Goldhap</b>	0	0	2	5	6	6	1	1
<b>Khudunabari</b>	2	1	11	11	26	10	6	6
<b>Sanischare</b>	0	1	16	15	25	23	13	12
<b>Timai</b>	0	1	4	6	14	11	5	6
<b>All Camps (Total)</b>	3	4	58	56	132	107	47	53

\* During the UASC rapid assessment project, one (1) female, in the age range 5-11 years was identified as missing, her whereabouts unknown. This UASC is recorded as residing in Timai camp.

## ***Education and UASC***

Without question, the most important activity for refugee children in the camps in Nepal is attending the well-established schools being implemented by Caritas Nepal. With that being said, school performance is very low among the majority of UASC that were assessed during the rapid assessment project, making a clear link between UASC and

poor performance in school. While most UASC go to school, it is not uncommon for these children to have repeated two or more classes. The UASC assessed directly attributed this poor performance in school to the conditions inside their household. Some of the reasons indicated by the UASC is that failing class directly resulted from the additional responsibilities they had to perform within the household. These responsibilities varied with age and gender of the child.<sup>84</sup> It is important to point out, that a few children are doing extremely well in school and many have continued their studies outside the camps. See the table below for the overall camp education breakdown for UASC.

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<sup>84</sup>The researcher's field notes from an interview with an UASC in the camps in Nepal. For more information, refer to the section on neglect (pg. 92).

**Table VI: Overall Camp Education Breakdown for UASC**

Camp	Age 0-4 years		Age 5-11 years		Age 12-18 years		Age 19+	
	Male	Female	Male	Female	Male	Female	Male	Female
Pre/Primary	3	4	6	9	1	1	0	0
Grade 1	0	0	15	15	0	0	0	0
Grade 2	0	0	18	15	3	0	1	0
Grade 3	0	0	14	17	7	4	2	0
Grade 4	0	0	12	13	24	24	2	2
Grade 5	0	0	3	3	20	19	2	2
Grade 6	0	0	3	1	26	20	1	5
Grade 7	0	0	0	1	20	19	2	7
Grade 8	0	0	0	0	17	17	6	10
Grade 9	0	0	0	0	9	13	10	7
Grade 10	0	0	0	0	17	0	8	8
Grade 11	0	0	0	0	3	4	4	4
Grade 12	0	0	0	0	1	1	3	6
Informal schooling	0	0	0	1	0	0	1	0
No education	0	0	3	2	4	3	1	1
University	0	0	0	0	0	0	4	2
All Camps (Total)	3	4	74	77	152	125	47	54

## ***Culture and Tradition***

Based on my research findings, culture and tradition have many implications for parent-child separation in the camps and in the majority of cases, it appears as though it is the primary reason behind voluntary separation which is an issue that is discussed in more detail in this section. Further, both the refugee and host community are deeply imbedded

in cultural and traditional practices as well as customary law, which originate primarily from the patriarchal and complex caste systems within the country. Although there have been many improvements (challenges to laws and practices), both within and outside of the camps, in general, women, children and low castes people face harsh discrimination and are at a severe disadvantage. Accordingly, these deep traditions and cultural practices appear to be the cause of many parent (usually mother) child separations in the camps. Moreover, the cultural implications of remarriage on children from previous marriages are the most prevalent cause of parent-child separation in the camps.

When a marriage occurs both inside and outside of the camps, the wife moves to her husbands' household, which generally has many extended relatives living there as well. It is a common practice in the camps, that after a man divorces<sup>85</sup> his wife (or remarries another women) that a child will become separated. Mothers are frequently forced to abandon their children because of traditional practices in this society. If a man divorces a women, the women usually has to leave that household and the paternal family does not permit her to take her child/ren with her when she leaves. An exception that appeared in a few of the individual cases was when a mother is still breastfeeding a child. In this situation, the mother is allowed to temporarily take the child with her (usually back to her parents household) until the child turns five years of age or stops breastfeeding (whatever comes first) and then she is compelled to give the child to the paternal relatives. This can pose many challenges, particularly, when there are multiple children involved and the siblings are separated (i.e., one child is living with the

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<sup>85</sup> There is no formal divorce process available to the refugees from Bhutan in Nepal. UNHCR, NBA and GoN are working towards establishing a formal mechanism.

biological mother and the other child is living with the paternal relatives).<sup>86</sup> Most times children have some sort of contact with their mothers, especially if they live in the same camp. Some UASC indicated they see their mother (and to a lesser extent, their father) at least once in a week, usually during ration or water collecting.

In addition, customary laws do not permit children of non-blood relations in the same household (i.e., a mother who remarries may not be permitted to bring her children from her first marriage to the new household, even if she would like to). Again this is linked to the stepfather and his paternal lineage. However, this does not appear to be widely practiced in the camps if the child is of the same caste. In addition, customary laws do not permit children of different castes to enter a new household if a parent remarries. This parent-child separation occurs in the camps and appeared during the UASC project.

The GoN has recently changed its custody laws pertaining directly to the rights of women, stating that a mother has custody rights of her children until the age of 16 years which is also the age of majority in Nepal concerning the legal definition of childhood. Yet, the age of majority when dealing with marriage is 18 years of age for females and 21 years of age for males. However, customary law still prevails inside and outside the camps and this is not widely accepted or practiced. In the context of Bhutanese law pertaining to child custody and the rights of mothers, under Section Kha 7-2, the mother is awarded custody of children younger than 9 years of age, regardless of the circumstance leading up to the parent-child separation. Furthermore, this article was

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<sup>86</sup> The separation of UASC siblings does exist in the camps, however not in large numbers.

amended in 1996, under Section Kha 7-3(1), whereby, the custody of a child under the age 9 shall be given to the mother.<sup>87</sup>

There also appears to be a correlation between caste and parent-child separation. However, there needs to be more investigation into this issue to substantiate this relationship. The same assumption can also be made between parent-child separation and ethnicity and religion, as the preliminary information collected revealed higher instances of UASC in low castes, primarily the Dalit<sup>88</sup> caste which include, the Biswa, Sarki, Kami and Darjee; and among the Matwali (Mongolian) ethnic group, which include, the Rai, Limbu, Subba and Gurung, the majority of whom practice Buddhism.

Camp<sup>89</sup> and caste dynamics are very interesting to investigate when exploring the issue of UASC in this context. For instance, Goldhap camp, which is predominantly Braham<sup>90</sup> (has the highest composition of refugees who belong to the Braham caste), had the least number of UASC children identified. This could be because it is the smallest camp in terms of population but could also be linked to religion and the practice of divorce, remarriage and polygamy, which are not widely accepted or carried out within this caste/religious group. It is important to point out that Brahmas have been known to hide unacceptable practices or potentially shameful activities from the refugee community and UNHCR, in fear that they will bring disgrace to their “pure” caste/religious group. Accordingly, the issue of UASC could be more prevalent in this camp than identified during the assessment; however, the true extent is masked from

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<sup>87</sup> For more information, see Bhutan CEDAW Report, January 2003.

<sup>88</sup> Dalits are also referred to as “untouchables.”

<sup>89</sup> All cumulative statistics for all UASC assessed during the rapid assessment project can be obtained through proGres. These statistics can be broken down on a camp-by-camp basis and include information on ethnicity, religion, age, gender, education level and status of the child.

<sup>90</sup> Braham is the highest caste in Hindu religion/culture.

UNHCR. Furthermore, Beldangi I camp, which has the highest number of Matwali's, appears to have the highest number of UASC identified. This could be attributed to the fact that Matwali's are known for their relative openness as well as their widespread practice of divorce, remarriage and polygamy; this coupled with the fact that this group is also well known for their consumption and abuse of alcohol, among both men and women, can create a situation where children of this ethnic group are at a higher risk of parent-child separation.

### ***Refugee Children from Bhutan***

The refugee children from Bhutan have been born into or have spent the majority of their young lives in the congested camps in eastern Nepal. Both within and outside the camps children are perceived as passive agents within their families and communities.

Moreover, children are not seen as social actors and are generally excluded from any decision-making processes, even decisions that may affect their own well-being, such as UASC views on who and where they would like to live. However, children do contribute to the functioning of their household and communities in many ways, such as the daily collection of water, firewood and food rations and looking after younger siblings, the sick and the elderly.<sup>91</sup> As mentioned above, social relations and power dynamics (gender and caste discrimination) are key to understanding the functioning of this society and important when examining the issues concerning UASC.

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<sup>91</sup> The majority of these domestic tasks are gendered, with young girls carrying out most of work inside the household.

## ***Degree and Cause of Parent-child Separation***

The preliminary research suggests that the vast majority of UASC residing in the camps in Nepal have become separated from their parent(s) after being born into the camps (or in the surrounding areas and outside of Bhutan). Yet, some individual cases did indicate during the assessment that they became separated from their parents in Bhutan and later taken to the camps by neighbors or extended relatives.<sup>92</sup> However, this is not the situation for aged-out separated children, with the majority of these individual cases reporting their separation from their parents occurred prior to flight from Bhutan (or soon after the establishment of the camps in Nepal). Many of the aged-out separated children claim that the separation from their parents occurred after the death of one or both parents.

As mentioned above, separation can result through a voluntary, essentially a conscious decision made by one or both parents or occur through an involuntary (unintentional) action and can be permanent or temporary. In the camps in Nepal, there are varying degrees of separation but inclusive of both voluntary and involuntary actions. Poverty,<sup>93</sup> registration status, customary laws (traditions), death of one or both parents, divorce, remarriage and abandonment<sup>94</sup> are some of the primary reasons that refugee children from Bhutan become temporarily or permanently separated from their parents.

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<sup>92</sup> Some UASC indicated that they were only temporarily separated from their parents. Their parents brought them to the camps to live with relatives so that they could have access to better education. In southern Bhutan, some children are still not able to go to school because they do not have a No Objection Certificate (NOC).

<sup>93</sup> Although without question poverty contributes to the prevalence of separation in the camps, it cannot explain away the reason for separation as hundreds of poor families in the camp who have not abandoned or became separated from their children. Poverty is defined as not being able to satisfy the most essential basic needs.

<sup>94</sup> For this thesis, child abandonment is the practice of abandoning children outside of the process of legal adoption. Some issues that may contribute to child abandonment include social, cultural, and political factors (UNHCR, 2006a).



Following the separation from their parents, most of the UASC appear to stay in the camps, with the majority staying in the same camp that they have been registered in (that is if they are registered), but this is not always the situation. Many children indicated that they felt responsible for their parents leaving.<sup>95</sup>

It appears that most UASC have been entrusted and placed in the care of extended family members (sometimes the child has multiple caregivers), however, there is a fine line between entrusted and surrendered in this situation. This will require further investigation as it will be a point of contention during the resettlement of these children, particularly for obtaining signed consent from one or both parents before the UASC is resettled to a third country.

There were a number of children identified as orphans<sup>96</sup> during the rapid assessment and many of these children claim to be living in child-headed households – placing them at an acute protection risk.<sup>97</sup> Again, this requires verification and further investigation. In addition, many UASC indicated they did not know the whereabouts of one or both of their parents, claiming they have disappeared or are missing.

A significant number of children have been abandoned *per se* by one or both parents. However, as discussed subsequently, this abandonment occurs primarily for two main reasons: i) death of a parent and the subsequent remarriage of the living parent and, ii) the informal divorce and subsequent remarriage of both parents.<sup>98</sup>

The “drop-off” phenomenon was a common trend found among the UASC assessed in the project. This is when parents or a parent “drops-off” a child or children to relatives

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<sup>95</sup> The researcher’s field notes from an interview with an UASC in the camps in Nepal.

<sup>96</sup> For this study, orphans are defined as children whose parents are both known to be dead (UNHCR, 2006a).

<sup>97</sup> The issue of orphans and child headed-household will be discussed further in the thesis.

<sup>98</sup> This seems to be higher in UASC who are of mixed marriages, usually the father being a Nepali, NOC.

who have already been granted refugee status by the GoN and are residing in one of the seven camps. In most cases, these children are dropped off to their grandparents. Generally, the parents do not return and they are now “missing, whereabouts unknown.”<sup>99</sup> This happened early on in the operation and is still happening in the camps today, which could be attributed to the large-scale group resettlement programme now underway in the camps. Some of these children indicated that at least one of their parents is living in Nepal, India and to a lesser extent in Bhutan. This drop-off phenomenon could be attributed to the perceived benefits of living in the refugee camps, i.e., food rations, access to education and health care and now the possibility of resettling to the United States. It is important to note that many of these children are non-registered and are not receiving the most essential basic services available, such as food rations and access to the education programme in the camps.<sup>100</sup> However, UNHCR is working to have these children recognized as refugees by the GoN and provided with access to basic food rations and education in the camps schools.

Some UASC, under Nepali Citizenship law, have the right to acquire citizenship. The citizenship law of Nepal states that children born of a Nepali father (genuine citizen of Nepal) shall retain (assume, acquirer, naturalize) the citizenship of their biological father. There are four distinct issues here; i) the child has no proper documentation, ii) the child is not registered, iii) the child has one refugee parent and one non-refugee parent and, iv) the child has been identified as unaccompanied or separated.

Children who are entitled to Nepali citizenship include those who were born out of mixed marriages, with their father being a genuine Nepalese citizen. For the most part,

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<sup>99</sup> The researcher’s field notes from an interview with an UASC in the camps in Nepal.

<sup>100</sup> The majority of these children reside in Khudunabari camp. For more information see the section on status of UASC (pg. 68).

these parent-child separations occur when the Nepali father abandons the refugee mother and subsequently, the refugee mother remarries and can not take her child or children with her to the new household.<sup>101</sup> This issue of acquisition of Nepali citizenship should be followed up with UNHCR in collaboration with NBA and the GoN.

There were no reported cases of children becoming separated or lost during initial flight,<sup>102</sup> being abducted, running away or children absent from parental care without consent during the UASC project. However, full BIDs may reveal otherwise.

Many children visited during the rapid assessment indicated during the assessment that their parent or parents were (and still are) working outside the camp during the Census and thus, were identified as an UASC. In addition, some households where UASC were identified ended up categorizing all children in that household as UASC (when in fact they had different parents than the actual UASC). When visited during the project it was determined that many of these children were not UASC.<sup>103</sup> However, it was updated in proGres that the child participated in the rapid assessment and was not in fact a UASC but the potential for future separation was possible. This is one of the reasons it is critical UNHCR verifies the existing data for each UASC identified in proGres and that a systematic identification, monitoring, tracing and reporting mechanism is implemented in the camps.

There are limited services available in the camps, to support and educate families (mother and fathers) about the importance of family unity such as psychosocial counseling for parents who are struggling to meet the needs of their children and

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<sup>101</sup> This will be discussed in more detail further on in this thesis.

<sup>102</sup> If children had been separated during flight at this point in the refugee operation in Nepal they would be aged-out children or young adults.

<sup>103</sup> Some children that were visited were also temporarily residing with sick relatives and not actually a UASC.

contemplating entrusting the child with an extended family member (or neighbor) or abandoning them altogether. Additional support for families and in particular, mothers with young children could be explored.<sup>104</sup>

As mentioned above, the phenomenon of child abandonment (which may be viewed by the refugees as a harsh term) is widely practiced in the camps. Leaving a child or children after remarriage (or elopement as refugees commonly refer to it) with another spouse is very much a common practice in the camps and the parent-child separation that follows is to some extent a normal and accepted practice in the camps.

In some cases, there seems to be no close attachment between the biological parent and child. Typically the bond between the extended family, more often than not paternal or maternal grandparents in this context, is stronger.

Once the parent-child separation occurred there appeared to be irregular visiting patterns of the biological parent(s). The mothers seemed to visit their child/ren more than fathers did. However, for the most part, visiting by parents is nonexistent, usually occurring once a year during festival time. Although, this did vary among respondents and sometimes depended on if the parent and separated child lived in the same camp and the reason behind the parent-child separation. More often than not UASC indicated that they had to initiate contact with their parent(s). Primarily, parents of UASC did not give any support, whatsoever, to the child or caregiver.<sup>105</sup>

Accidental separation was not a significant cause of separation in the camps. Accidental separation is more likely to occur during large-scale refugee movements,

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<sup>104</sup> For example, there is a supplementary feeding programme funded through UNHCR's sister agency, WFP, for all children under the age of five. This type of additional activity targeting vulnerable families could offset the additional expense of having a small child in the family's household, reducing the potential of future parent-child separation.

<sup>105</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

during the initial flight or the “emergency phase” of an operation, not during the “care and maintenance phase” in which refugees have been trapped in long-term, protracted operations like the case being discussed.

Some UASC were not born in the camp or did not come to Nepal during the mass exodus from Bhutan. Many were brought to the camps later on, either to receive access to better services which they were being denied in Bhutan, such as, education or because their parents died, went missing or abandoned them. Many of these children were brought from Bhutan to the camps in Nepal by neighbors.

To reiterate, a parent-child separation is a very complex issue, one that is very traumatic on the child. It cannot be stressed enough that each child requires an individual assessment as each child has unique problems which require special considerations; this also includes conducting separate assessments for siblings that are UASC.

### ***Caregivers and their Families***

It is most common to find UASC in the camps staying with caregivers who are from their extended family, generally the child’s paternal relatives. Most of these caregivers are aunts, uncles, grandparents and adult siblings of the UASC.<sup>106</sup> Only a few children claimed to be living with unrelated (non-blood) informal foster families.<sup>107</sup> Given that the cultural and traditional practices (within both the camps and adjacent local communities) rely heavily on paternal lineage, UASC rarely stay with maternal extended families. However, there is a significant number of children residing with their maternal relatives in the camps.

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<sup>106</sup> In most cases the adult siblings are not much older than the UASC. Most of these adult siblings grew up in the camps as an UASC.

<sup>107</sup> All of the caregivers have taken on *de facto* guardianship.

In addition, there are a number of children living with their older siblings and some are in child-headed households.<sup>108</sup> Most of these care arrangements are the result of parental death or abandonment.

The majority of UASC in the camps stay permanently with their caregiver. If the UASC has several relatives within the refugee community, however, sometimes they will move (or are compelled to move) from household to household or camp to camp. This instability can be detrimental to the overall well-being of the child.<sup>109</sup>

It appears that most care arrangement decisions are made by the extended family and, only in extreme cases is the community, CMC or UNHCR involved.<sup>110</sup> As mentioned above, the refugee community (as well as communities in Nepal) is based largely on cultural traditions and it is customary for extended family to care for a child in the absence of their parents.<sup>111</sup> With that being said, the level of community participation and the role of protectors of these children must be strengthened. In the Thai refugee operation, a successful way to achieve this was through the establishment of a Child Protection Committee (CPC).<sup>112</sup> The idea of mobilizing a CPC, comprised of refugee representatives in each of the camps in Nepal has a great deal of potential and is explored further on in this thesis, focusing on issues such as who could be on the committee and how it could operate in the overall care and protection of UASC.<sup>113</sup>

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<sup>108</sup> This will be discussed further on in this thesis.

<sup>109</sup> This is a situation where it would be important to carry out a full BID to determine what living arrangement is in the *best interest* of the child.

<sup>110</sup> UNHCR had the least involvement.

<sup>111</sup> In most circumstances, the paternal family makes both the decision and becomes the customary/primary caregiver.

<sup>112</sup> For more information on Child Protection Committees (CPC) see, Tolfree, 2006.

<sup>113</sup> For more information on how the overall procedures might be carried out in the camps in Nepal for UASC, see Figure III: Proposed Reporting Procedures for Case Identification, Assessment and Monitoring of Unaccompanied and Separated Children in the Camps in Nepal.

A common complaint among UASC caregivers and the UASC is that the food ration and briquettes distributed to the refugees are insufficient as they tend to “run out” before the next ration distribution day. This is even more of an issue when the UASC is non-registered and not receiving a food ration or if there is another non-registered or de-registered person living in the same household as the UASC.<sup>114</sup>

### ***Legal Guardianship, Adoption and Formal Foster Care***

Adoption<sup>115</sup> and formal foster care<sup>116</sup> are not practiced widely in Nepal or Bhutan mostly because of the deep traditions and customary practices of separated children living within the extended family and the lack of formal procedures. Thus, it is not surprising that there is no formal process for obtaining legal guardianship<sup>117</sup> for UASC in the camps in Nepal. UASC are not appointed a guardian. Basically, the parental responsibility is taken on by an extended family member (or multiple family members) or the informal non-related foster parent. Although adoption generally requires some sort of background check, in this context this is not the case. Separated children are generally placed with extended families or with families of the same caste.

It can be assumed that some extended family and community members in the camps in Nepal have taken in a separated child, with the expectation that they will receive some type of financial, material or service benefit from their own family

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<sup>114</sup> The researcher’s field notes from an interview with an UASC in the camps in Nepal.

<sup>115</sup> For this thesis, child adoption is defined as the formal legal process of permanently placing a child with parents (other than the biological parents) who are willing to accept all parental responsibilities concerning the care and protection of that child. This could possibly include placing the child with adult extended family members who agree to take on this responsibility (UNHCR, 2006a).

<sup>116</sup> For this thesis, informal foster care is when a person has taken on the responsibility to care and protect the interest of a child but has not been granted legal custody or guardianship.

<sup>117</sup> For this thesis, child custody and guardianship are the legal terms which are generally used to explain the legal and practical relationship between child and parent. A legal guardian is a person who has been given the legal authority, in conjunction with the responsibility, to care and protect the interests of another person, in most cases, a child (UNHCR, 2006a).

members or from UNHCR as a direct result of caring for UASC. Many caregivers were hopeful that the UASC Rapid Assessment project would bring some sort of benefit to their household, in return for them taking care of an UASC. The project team was very clear about the intentions of the project and was careful not to raise refugee expectations in the process.

Furthermore, during the assessment many caregivers indicated that they found it difficult to meet the needs of the UASC in their care; in particular, elderly grandparents and adult siblings underlined this issue. Many elderly grandparents have multiple UASC to care for in their household. Moreover, they indicated that they would value UNHCR or one of its partner NGOs in assisting them in meeting the needs of the UASC in their care, in areas such as, supplementary food items, clothing, school uniforms and school fees.<sup>118</sup>

It is also important to point out that prior to the Census there was no documentation of these care arrangements and still today, there is no custody or care agreement signed by the UASC's customary/primary caregiver.<sup>119</sup>

In the absence of both parents it is imperative to have a legally appointed guardian to continue the parental responsibilities. This is one of the issues concerning children that UNHCR has been pressing the GoN on. Furthermore, the quality of care arrangements should be assessed with regular monitoring and updates to the child's individual case file.

### ***Informal Foster Care and Extended Family Care Arrangements***

Informal foster care arrangements are the most prevalent care arrangements for UASC in the camps. While most of these children are living with extended, paternal family

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<sup>118</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

<sup>119</sup> This could pose some challenges during the group resettlement of the refugees and in particular, for UASC.



members, however, in some cases separated children are living with maternal relatives and in even fewer cases, separated children are residing with non-relatives.

Most of the customary/primary caregivers are elderly grandparents and paternal aunts and uncles. However, it was an interesting to note that many caregivers were either extremely young or too old to adequately protect and care for the UASC. Many grandparents indicated that they were not capable of working outside the household due to their health and age, and they were worried about the future of their grandchildren and in particular, not being able to pay for school fees, supplies and clothing.<sup>120</sup>

### ***Non-family Care Arrangements (foster care)***

Based on information gathered the overwhelming majority of UASC reside with caregivers from their extended family, yet a few children were in care arrangements with adult caregivers who were not a blood and/or caste relation. The children that are living with non-family members appear to have been abandoned early on in their childhood, as infants.

### ***Whereabouts of Parents: Parent(s) Living in one of the Refugee Camps***

A critical piece of information that emerged from this research was that most children claimed (usually supported by the child's current caregiver) that at least one and more often than not, both, of their biological parents lived in one of the seven camps.<sup>121</sup> This instantly sparks many questions concerning parent-child separation in the camps, such as, why the child (or children) is not living in the same household and being cared for by at

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<sup>120</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

<sup>121</sup> Biological parents do not necessarily reside in the same camp as the child and caregiver but most likely, live in one of the seven camps.

least one of their biological parents.<sup>122</sup> In terms of possible family reunification, this piece of data is very important. Moreover, this type of information underlines the importance of initiating modified (best interests assessment) or full BIDs as well as tracing and family reunification procedures in the camps.

### ***Mother and Child Separation***

Although, as in most societies, women, such as mothers, grandmothers, aunts and sisters play a significant role in raising and caring for children; it became apparent during this research that refugee mothers who are no longer with their husbands<sup>123</sup> have a challenging time keeping their children with them after divorce, remarriage or death of their husband. Moreover, widowed, abandoned and divorced women along with SGBV survivors hold low positions within the extended family and refugee community. In many cases there is a great deal of stigma attached to these women, making their situation in the camp extremely difficult and the potential for parent-child separation much higher.<sup>124</sup>

The data suggests that an overwhelming majority of mother's have not voluntarily given up their parental obligation/responsibility of their child/ren but rather because of the cultural practices, which are deeply imbedded in the refugee community, mothers are forced, compelled to relinquish their rights as mothers. The importance of a full BID in these types of situations is of particular importance, where the rights of the mother conflict with customary law as well as the attachment that many UASC may have formed with their customary/primary caregivers and caregivers' families. Particularly, now that

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<sup>122</sup> Interestingly, there has been no examination as to why these children are not living with their parents, mainly because the issue of UASC has remained "hidden" from UNHCR during this operation.

<sup>123</sup> As a result of death, divorce (and subsequent remarriage) or abandonment.

<sup>124</sup> This is irrespective of age, caste, ethnic affiliation or the circumstance surrounding their situation.

the group resettlement process is ongoing in the camps and the potential for UASC and mothers (or *vis vie* caregivers) to be permanently separated is a serious concern.<sup>125</sup>

### ***UASC Living on their own in Child-head Families/Households***

Although there are a small number of children who have been identified as living in child-headed households in the camps during the rapid assessment project, there has been inadequate attention given to child-headed household that do exist in the camps and these children continue to be exposed to multiple vulnerabilities. Many aged-out unaccompanied children are caring for UASC siblings and live in extremely vulnerable households; single females, head some of these households. All of the cases were urgently referred to Community Services and Protection Units immediately following the UASC project.

Furthermore, many of the children in these households indicated that they find it difficult to manage every aspect of their lives. Most of the young girls pointed out that they feel at a heightened risk for abuse and violence in the camps as everyone is aware of their situation, no adult caregiver is present and sometimes, there are no males living in the household. In addition, many of the older children in these households indicated that they dropped out of school so that they could support and give more opportunities to their younger UASC siblings.<sup>126</sup>

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<sup>125</sup> Potential for children, parents and caregivers to be resettled to different states or countries raises serious concerns.

<sup>126</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

## ***Neglect, Abuse and Exploitation***

Many of the unaccompanied and separated children that participated in the rapid assessment project indicated that one or more of their extended family members were mistreating them. Moreover, they claimed that their caregivers were physically, mentally and emotionally abusive. They made comments pointing to exploitation inside the caregivers' household, such as having no time to study, spending the majority of their time forced to complete household responsibilities. The majority of these children revealed that this abuse was generally at the hands of a paternal/maternal aunt or uncle or a stepmother or stepfather.<sup>127</sup>

Most refugee children are kept busy inside the home, especially girl children, performing household responsibilities such as cooking, cleaning and collecting water and food rations. Based on data from this study it appears as though separated children are even more compelled to perform chores in and around the households of the extended caregiver or informal foster families in which they reside. Many separated children indicated that their caregivers play off their already existing vulnerabilities through intimidation tactics and were treated different from their caregiver's children. A few older separated children mentioned that they are responsible for doing the bulk of the work around the household (leaving little to no time to study, finish homework or play) and that their caregiver's children had lots of time to study and play because they did not have to engage in any work around the home. In addition, several separated children indicted some form of minor abuse occurred within their care arrangement.<sup>128</sup>

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<sup>127</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

<sup>128</sup> Ibid.

Many separated children expressed a feeling of isolation within the caregivers' home, at school and within their community. They also feel a sort of "double abandonment," on one side, from their parents (and caregivers) and on the other side, from UNHCR. Some UASC pointed out that while it is up to them to bring attention to their situation to UNHCR, they often lack the access to staff or fear retaliation from caregivers. Consequently, the majority of these children stay silent, therefore remaining invisible to those responsible for them and in a position to provide protection to them. An UASC expressed his distress during an interview, "We have no parents, we have no one to take care and protect us."<sup>129</sup>

One aged-out, unaccompanied orphaned minor, who took on the role of both parents after the death of her mother and father (caring for four younger brothers in one of the camps), indicated during her interview that she made the choice not to move into her paternal uncles' household as she knew she would be forced to leave school and become her uncles slave - domestic servant. She insisted that she could care for her younger brothers and wanted to continue studying in the camp school and living in the camp household that was registered to her biological parents. This young woman is now a refugee incentive worker, teaching primary students in one of the camp schools and although she admits it was difficult to take care of her brothers, she is happy with the decision not to join her uncle's family (two of her brother are studying in university and two are studying in high school outside of the camp).<sup>130</sup>

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<sup>129</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

<sup>130</sup> Ibid.

A number of separated children, the majority of whom were female, claimed that caregivers would threaten to arrange a forced marriage<sup>131</sup> or force the child out of the household if they did not comply with the rules set out by their caregiver, rules pertaining to anything from performing household chores, to cutting back food rations to making an economic contribution to the family.<sup>132</sup> Several children also attributed their poor performance in school to their environment at home. Since these children had limited alternatives and no real support system many were forced to stay in an abusive and exploitative environment, while, some opted for marriage or left the camp in search of employment, most likely as sex workers, further increasing their vulnerability.

This research was not able to conduct more in depth assessments for each UASC, and as a result, the research is not able to determine if more serious abuses, such as SGBV (prostitution, sexual trafficking, etc.) were taking place within the care arrangements of these children. It was determined, however, that these children are at an increased risk for abuse, exploitation and violence and with a full BID conducted for each UASC in the camps, this link will become evident. If such cases are reported through the proper channels that have been established in the camps, UNHCR should be able to obtain specific information from proGres under special protection needs concerning serious abuses against these children and make the correlation.

## ***Orphans***

There appears to be a high number of children in the camps that are orphans – both parents are deceased. While most of these children are residing with extended family,

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<sup>131</sup> In this context, refugees in the camps would refer to the forced marriage as an “early marriage.”

<sup>132</sup> The researcher’s field notes from an interview with an UASC in the camps in Nepal.

some are living in child-headed households. It does not appear as if orphans carry are stigmatized within the refugee community, which if did could potentially contribute to the vulnerability of this special group of children. Many of the refugees commented that they feel sympathy for these children and the situation they are faced with.<sup>133</sup> However, it is important to note that some non-refugees involved in the study claimed that there is a widespread religious belief in Nepal that a child who is an orphan is in one way or another linked to the death of his/her parents. Furthermore, it is believed that orphans invite negative karma into the extended family or community in which they are residing. This belief could contribute to the mistreatment and neglect of UASC in the camps in Nepal.<sup>134</sup>

There were also a number of children that indicated that they do not know the whereabouts of one or both of their parents, which again underlines the importance of implementing a tracing mechanism. This issue of missing parents could pose problems during the resettlement of UASC. Furthermore, there is a general misconception in both the refugee community and among UNHCR and partner NGO staff concerning UASC many think all are orphans. This could be addressed with information campaigns and training on child protection concerns and, issues pertaining to UASC in particular.

### ***Vital Events Registration***

There is no formal process in the camps to register or document the birth of a child, commonly referred to as *vital events* registration. The absence of birth certificates and other identifying documents places refugee children at an acute protection risk and even

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<sup>133</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

<sup>134</sup> Ibid. Please note this belief was not talked about in the camps. It was brought to the researcher/intern's attention during an interview outside the camps.

at an even greater risk if the child is unaccompanied or separated. The RCU Camp Supervisor currently carries out the registration process in the camps, however these are not official documents. Information such as births, deaths, marriages and divorces are maintained in a logbook and kept in the RCU's office in each of the seven camps.

UNHCR has worked extremely hard to press the GoN to proceed with vital events registration and documentation for the refugees from Bhutan. As a result, children born in the camps will be issued a birth certificate. This is a significant step forward in guaranteeing and protecting the rights of refugee children. However, for those UASC that are living in child-headed households or with caregivers who are non-blood relatives, UNHCR could consider pressing the GoN to distribute photo identification (ID) cards to these individuals.<sup>135</sup>

### ***Aged-out UASC***

Many aged-out children have spent most of their childhood in the camps and have grown up without a parent or parents to love and care for them, which would provide them with protection and attachment that would foster a healthy environment (as healthy as a refugee camp can be) for a child to grow up in.

### ***Siblings***

An overwhelming majority of UASC are siblings; at least two children born of the same biological parents and now being cared for by the same adult caregiver. Older brothers and sisters are compelled to take on the role and responsibilities of adults, many working

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<sup>135</sup> In collaboration with the GoN, UNHCR is now in the process of issuing ID cards to all refugees above the age of 16 years in the camps. These ID cards could also be issued to some of the vulnerable UASC in the camps, in particular unaccompanied minors and children in child-headed households.



both inside and outside of the household as well as taking on the role of parents by caring for their younger siblings who have been identified as unaccompanied or separated. Some of these siblings are aged-out children in single-headed households or unaccompanied minors in child-headed households.

### ***Relations with Stepparents***

It is not uncommon for tensions to develop between a child and stepparent after one or both biological parents remarry. In this context, the issue of remarriage has contributed significantly to parent-child separation. While it appeared that stepchildren generally had good relations with stepsiblings and did not tend to distinguish between themselves, many relationships between a child and stepparent appeared to be strained as many UASC indicated that their stepparent abused or neglected them in some way. Moreover, remarriage and subsequent abandonment was the most prevalent reason for child separation in the camps.

### ***Contributing Financially to the Caregiver's Family (child labour)***

A number of children who participated in the assessment indicated that they are obligated to work outside of their caregiver's home (sometimes outside of the camp) to contribute to their caregiver's family. Furthermore, several children admitted that if they did not contribute to their caregiver's family in some way that they would be forced to leave the care arrangement that they were currently living in. This fear of having nowhere to go, or having nobody to seek support from, left many UASC feeling helpless and alone. Many

of these children claimed that they are unhappy and have limited opportunities as a result of their situation – being unaccompanied or separated from their parents.<sup>136</sup>

Similar to the common forms of income generating activities observed in the camps, the “informal” employment that UASC are engaged in are divided among age and gender lines. Most of the unaccompanied or separated girl children are involved in spinning, weaving and traditional Nepali hat making. Many of the unaccompanied or separated boy children are involved in collecting stones and more laborious activities outside the camp such as farmers and construction workers. Both girls and boys indicated that their participation in informal economic activities interfered with their studies. In many situations, these children had to leave school or could no longer continue their studies after they obtained their School Leaving Certificate (SLC), equivalent to completing class ten in the camp schools.<sup>137</sup>

One course of action that may assist in limiting the exploitation of these children is to explore the issue of targeted assistance programmes for UASC and their caregivers. Some programme areas to explore are additional rations, non-food items (NFI) such as clothing (school uniforms) and school supplies, educational opportunities (expenses after class ten), vocational training, involvement in children and women’s programmes in the camps and access to resettlement as a protection tool and not as a durable solution.

### ***Early or Forced Marriage***

As discussed above, a small number of children (including aged-out children) who participated in the rapid assessment project indicated that they felt compelled to get

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<sup>136</sup> The researcher’s field notes from an interview with an UASC in the camps in Nepal.

<sup>137</sup> Ibid.

married at a young age (which is 18 years for females and 21 years for males with regard to marriage and 16 years for both boy and girl children when pertaining to childhood). Although the phenomenon of early or forced marriage is not uncommon in the refugee camps in Nepal, the participants made the link between growing up parentless in the camps and the compulsion to get married. There were a range of reasons given and these varied across gender lines. For example, an unaccompanied male participant indicated that it was too difficult to maintain the household on his own (collect water and food rations, prepare food, wash clothes, etc.) and go to school and/or work informally outside of the camp. A female participant disclosed that her caregiver, an extended family member, gave her the option of getting married or moving out of her caregivers household.<sup>138</sup> It is customary practice for women to enter their husbands' household after marriage. Thus, the case mentioned above would indicate that the girl's caregiver was attempting to relinquish their *de facto* guardianship responsibilities by forcing the UASC to marry and subsequently move out of the care arrangement.

### ***Health Concerns***

There were no major health concerns to report from this research. Most UASC have access to the camp based health services and have someone willing and able to take them if they are injured or fall ill. However, many UASC appeared to be underweight compared to other children their age. This could be a result of UASC not getting their entire food ration, as many claimed that their caregivers withheld all or some parts of their ration at some point during their care arrangement.<sup>139</sup>

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<sup>138</sup> The researcher's field notes from an interview with an UASC in the camps in Nepal.

<sup>139</sup> Ibid.

## ***Tracing and Family Reunification***

Currently, there is no systematic process in place for tracing and reuniting families in the camps in Nepal. However, there does not appear to be any direct barriers to implementing a formal mechanism for tracing and reuniting families. Such a mechanism could help reduce the number of UASC in the camps and is an essential component to the formal BID process and eventual resettlement of UASC. Furthermore, it would be beneficial for UNHCR to collaborate with the International Committee for the Red Cross (ICRC) as this organization has a vast amount of experience in tracing and reuniting families of UASC.

The nature of refugee camps in Nepal is quite different compared to other refugee operations, particularly because this operation is a protracted situation (care and maintenance phase) rather than an emergency operation that materialized as a result of conflict and large-scale war. The issue of tracing would appear to be much easier to facilitate in this operation as most parents of UASC are either deceased or have remarried and are known to be living in the same camp or in one of the other six camps. This would appear to make the process much easier (in most cases) than in an emergency operation where children were separated from their parents during flight and the whereabouts (of the parent or child) is unknown. However, it might be more of a challenge to trace parents of UASC who are known to be living outside of the camps (exact whereabouts unknown) in Nepal, or India and even more difficult to trace parents who are still residing in Bhutan. It is important to keep in mind the complexity of the issue of UASC in the camps - as every individual case has its own unique circumstances attached to it.

## ***Best Interests of the Child***

It is critical when determining the *best interests* of a child in cases of family reunification, to keep the child's perspective (own wishes) in mind. All children, including refugee children, have the right to express their own opinions and this should always be allowed when determining the care and protection arrangements for each individual child as well as the durable solutions options available to them. Specifically, a child should be questioned on matters such as does the UASC have a strong attachment with his/her customary/primary caregiver; does the child want a reunion with his/her parents. It is also important to consider whether the parent(s) desire a reunion with the child and keep in mind the individuality of each case.

## ***Resettlement and UASC***

The group resettlement of refugees from Bhutan is now in progress in Nepal. When managing UASC who are in the process of being resettled it is imperative that information sharing and collaboration between agencies/actors involved occurs on all levels. In addition, it is important to share information among all stakeholders, including the UASC, and to follow up with each child who has been resettled to a third country. With that being said, resettlement raises many concerns for the children who are unaccompanied or separated from their parents. These children could be at risk of their current caregivers abandoning them as there is no formal process to obtain legal guardianship in the camps and as a UASC a formal BID must be conducted before the child can resettle to a third country, including the United States. As the BID process is lengthy it may impede the family's resettlement application (process).

Caregivers may perceive a separated child as an exclusion cause from resettlement, or that the family may be at a lower priority for referral; this will need to be monitored carefully or UNHCR may find more children claiming to be UASC as they may have perceived benefits for resettlement or be at a higher priority for referral. Moreover, the UASC label may become a “magnet” for resettlement; families might “push” children into making fraudulent claims because of the special assistance given to UASC in resettlement countries.<sup>140</sup> Alternatively, the UASC may be perceived as an impediment for families who have separated children living with them, consequently, separated children may then become unaccompanied minors.

In addition, all UASC identified and documented during the rapid assessment will require a full BID to be carried out to assess whether it is in the separated child’s *best interests* to be taken from his/her current caretaker and placed back with one of his/her parents prior to the resettlement of these household/families. It is important to recognize that in many cases the UASC has spent the majority of his/her childhood with the caregiver and caregiver’s family and has no strong attachment to one or both of his/her parents. Many separated children indicated openly that they love living with their caregiver, are very happy with the arrangement and do not want to live with their parent(s) as they know they are not welcome by the stepparent and his/her new family.<sup>141</sup> Again, as resettlement countries like the United States prefer to resettle UASC with their biological parents (in most cases reuniting the UASC back with their biological mother) where possible, this could pose many problems; more importantly, it could have severe psychosocial implications for the children involved.

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<sup>140</sup> Many resettlement countries such as the United States have special programmes for UASC including financial assistance. This may be attractive to some refugees and should be monitored carefully.

<sup>141</sup> The researcher’s field notes from an interview with an UASC in the camps in Nepal.

It is also important to note that both voluntary repatriation and local integration are not durable solution options available to refugees from Bhutan in Nepal at this point in the operation.

### ***Safe Homes, Orphanages and Community-based Care***

In many refugee operations, safe homes or orphanages have been used as a way to address the immediate needs of these UASC. Ideally, children should remain in the community if they are not at an immediate risk, i.e. if the protection and care they are being provided appears to be in their *best interests* and their needs are being adequately met.

Although safe houses may appear to be a way to deal with the issue of UASC there are many negative aspects to these homes. They attract unneeded attention to these children's already existing vulnerabilities (as a result, increasing their risk of abuse and exploitation); creating a push-pull factor. Refugee parents may feel, however, that safe homes provide better opportunities for their children and voluntarily drop their children off at the homes to be cared for by other adults or an organization.

This type of institution often generates a lot of attention from private donors, resulting in monetary contributions which allow the homes to improve programming activities available to refugee children. However, these types of care arrangements have been criticized not only because of the push-pull factor but also because the child is often in a depressing institution-like environment and the likelihood of the UASC developing a

bond or attachment (which is linked to the overall healthy develop of a child) with an adult caregiver is rare.<sup>142</sup>

Currently, the camps in Nepal have no designated children's safe homes; however, if constructed and implemented carefully they could shelter unaccompanied minors or those separated children who are in vulnerable situations. Safe homes could also look at the possibility of reaching out to survivors of SGBV and single female heads of households and could offer psychosocial counseling and vocational training. This could be executed by one of UNHCR's partner NGOs, and possibly managed by the Bhutanese Refugee Women's Forum (BRWF).

### ***Referrals to UNHCR Sub-Office Damak (SOD)***

A section on the UASC Rapid Assessment Report form<sup>143</sup> was for follow-up measures, including referrals to UNHCR SOD Units, with the majority of referrals going to the Community Services Unit (CSU) and Protection Unit. Referrals were given normal or urgent priority identification.<sup>144</sup> Five hundred and ninety-one (591)<sup>145</sup> individual cases have been assessed during the project. At the time of the project, the CSU was responsible for issues concerning UASC and from the table below we can get an

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<sup>142</sup> For more information on safe homes operating in refugee camps see Tolfree, David, (2006). "Situational Analysis Report: Strengthening Alternative Care Options for Refugee Children." A Report for UNICEF Thailand.

<sup>143</sup> For more information see Appendix A for the complete UASC Rapid Assessment Form.

<sup>144</sup> Normal referrals were given to most UASC, as a more in depth assessment is required for each individual case by an experienced professional. Urgent priorities were given to UASC that indicated they were being abused or exploited as well as to unaccompanied minors in child-headed households, non-registered UASC and UASC children living in a single female-headed households.

<sup>145</sup> This number was based on the number of UASC that was generated from proGres on 28 July 2007. However, the researcher's field notes suggest that the actual number of participants in the rapid assessment project was well over 650.



indication of how many cases were referred to that particular unit and what priority the cases were given.<sup>146</sup>

**Table VII: UASC Referrals to UNHCR SOD Community Services Unit**

<b>Referrals to Community Services Unit</b>			
<b>Camp</b>	<b>Normal</b>	<b>Urgent</b>	<b>Total</b>
<b>Beldangi I</b>	34	22	<b>56</b>
<b>Beldangi II</b>	28	11	<b>39</b>
<b>Beldangi II Extension</b>	19	13	<b>32</b>
<b>Goldhap</b>	8	7	<b>15</b>
<b>Khudunabari</b>	30	32	<b>62</b>
<b>Sanischare</b>	57	13	<b>70</b>
<b>Timai</b>	17	7	<b>24</b>
<b>All Camps (Total)</b>	<b>193</b>	<b>105</b>	<b>298</b>

The UASC that were visited by the UASC project team have been updated and entered into proGres (individual cases have either been entered into PR0001 – for regular monitoring by the CSU or PR0006 – for URGENT follow up of the CSU). Extremely vulnerable individual (EVI) cases were referred to both the CS and Protection Units.<sup>147</sup>

Each individual case has its own hard case file containing the completed rapid assessment

<sup>146</sup> Unfortunately, the author does not have the number of referrals to other units; however, this information is available from proGres.

<sup>147</sup> These EVI cases included unaccompanied minors in child-headed households, non-registered UASC and UASC children living in a single female-headed household.

form and the event comments that have been entered into proGres.<sup>148</sup> The individual case files are organized by sub-sector, grouped by camp and stored in the CSU office in locked cabinets.

The UASC that have been identified as “urgent priority” should be revisited as soon as possible. This is for two primary reasons: i) their situation is extremely vulnerable and requires a more in depth assessment to be carried out to determine the child’s best interests and, ii) many of these children are between the ages of 15 and 18 years old and therefore in terms of resettlement (for both protection or durable solutions grounds) they have a limited period of time in which to be processed, get accepted by a third country and qualify for the special programmes which are set up in many resettlement countries for UASC. Most UASC have to be under the age of 18 years to qualify for these programmes once they have been resettled in a third country.<sup>149</sup>

It is important to highlight that the monitoring of UASC is a task that is very labour and time intensive. Yet, it is an undertaking that should be carried out in every refugee operation, particularly since it is apparent that a solid reporting and monitoring system would curb the abuse and exploitation of many refugee children. The children in the most vulnerable situations are those who are residing in camps without parents or without an adult caregiver who is providing an environment where the child can grow and develop into a healthy productive adult.

Furthermore, the reason for separation and the status and whereabouts of parents is critical information to uncover during an assessment. Any family information, including number and whereabouts of siblings and extended relatives is also essential information

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<sup>148</sup> The researcher, as part of her internship responsibilities with UNHCR SOD and, with the assistance of one Registration Staff member carried out this lengthy task.

<sup>149</sup> This is also the case for UASC being resettled to the United States.

to include in the individual case files. If the parent or parents are alive, it is imperative to find out, particularly if there is a chance of reuniting the parent(s) and child. How often the child has contact with their parents and if the parent(s) supports the child in any way is crucial. Any information on the education levels and medical history of the child is also relevant information to include in the assessment/case file.

### ***Strategies for Preparedness and Prevention of Separation***

This research study raises some critical issues. What happens next, in terms of if and how UNHCR proceeds will have a profound impact on the future of separated children in the camps in Nepal as well as in other protracted refugee situations. It is also crucial that the issues discussed in the above sections are incorporated into existing policy so that refugee child protection capacity is strengthened and, the invisibility and vulnerability of UASC is identified and addressed.

Further, this particular research provides an understanding of the varying caregivers and arrangements for separated children in the refugee camps and discusses challenges confronted by these children as well as identifies areas of improvement at the familial, community and agency levels. Protection for refugee children must be a collective responsibility, involving families, the refugee community, governments, UNHCR and its partner NGOs, but above all, it must also include the child. In addition, all programming should promote activities that seek to prevent the separation of children from their parents or guardians. Potential and definite causes must be identified, addressed and preventive steps must be taken to ensure that the number of children being separated from their parents or guardians is kept at a minimum. Families that are considered to be “at risk” or more vulnerable, such as households headed by women, single-parent families,

elderly parents, mothers in poor health and those families with disabled members, need to be monitored on a regular basis to guarantee the *best interests* of the child and/or children are being met. It is also essential that UNHCR, IPs and the refugee community in particular are able to respond quickly if a child and/or children were to become separated as a result of a vulnerable situation.<sup>150</sup> Furthermore, it is important to underline that according to the UNHCR Guidelines on the Formal Determination of the Best Interests of the Child, all UASC must have a BID carried out *within two years* from the moment the UASC has been identified (UNHCR, 2006a).

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<sup>150</sup> For more information on how the overall procedures could possibly be carried out in the camps in Nepal for UASC see Figure III: Proposed Reporting Procedures for Case Identification, Assessment and Monitoring of Unaccompanied and Separated Children in the Camps in Nepal.

## **Chapter 5: Conclusion and Recommendations**

The data collected from this research and, discussed in the previous chapter, addresses issues in the camp that need to be incorporated into policy concerning UASC in protracted refugee situations. At the level of both policy and practice this concluding chapter offers suggestions on how to develop a strategy that can serve as a tool to improve the overall protection available to UASC and offers recommendations on how to strengthen refugee child protection capacity globally. Further, this chapter highlights the lack of knowledge concerning UASC in protracted refugee situations and demonstrates that policy alternatives must be developed to adequately care for and protect these children. Eventually, enhancing the protection available to these children will contribute to the overall development of nations.

The enduring reality is that refugee situations are largely ignored after the turmoil and persecution that caused them to escape their country of origin is no longer making headlines in the media. Sadly, this also holds true for children who comprise almost fifty percent of the global refugee population. Refugee children, and UASC more specifically, appear to be expendable and their plight is invisible to most. Exploring the issue more intimately that one begins to uncover that growing up parentless in refugee camps that children are exposed to risks, increasing their vulnerability to abuse, neglect and exploitation, including but not limited to child labour, child soldiering and sex trafficking. It is this heightened vulnerability, which also keeps these children's condition and situation relatively invisible to those responsible for them and in a position to protect them.

To address the circumstances of living in refugee camps without parents, it is imperative that key measures be identified at the earliest stages of any refugee operation, with the aim of providing adequate protection for UASC at the centre of programming activities. Moreover, it is critical that special considerations addressing the unique needs of children be taken into account at the initial stages of the refugee operation. This would involve integrating child protection concerns into all aspects of programming as well as developing and implementing an appropriate monitoring tool to address any protection gaps and to strengthen existing protection measures so that the operation can broaden its protection capacity. It is important to reiterate that the most effective way to care and protect refugee children is to facilitate and support community capacity for traditional protection mechanisms, which will differ for every operation. It is also crucial that any child identified as being separated from both parents must be registered and assessed at the early stage of operation. A comprehensive case file also must be created for each individual case, including all pertinent information and documentation. It would also be useful to include a photograph of the child which would assist in parent/family tracing efforts.

Clearly, refugee children have been a priority for UNHCR; however, it is important that the refugee protection agency continue to highlight child protection issues within each operation and mobilize funds from the international community so that they can strengthen the care and protection available to refugee children and, UASC in particular. The scope and complexity of situations in which children become separated from their parents, coupled with the diverse needs of each separated child, make this issue both a unique and difficult one - requiring a well thought out and comprehensive solution. No

one mechanism can be a blueprint for dealing with each separated child in every refugee operation<sup>151</sup> but rather should be a starting point for addressing and meeting the acute protection needs of this vulnerable group of refugee children. A child protection strategy could be developed that has the capacity to meet the special needs of this specific group of refugee children while keeping in mind that separated children exist and will continue to exist within all displaced populations.<sup>152</sup>

The reason for developing a comprehensive protection strategy is to specifically address the protection needs and concerns of UASC in protracted refugee operations, to minimize the number of children who become separated by ensuring measures are in place to prevent prolonged or permanent separation as well as to ensure those children who do become separated from their parents or primary caregivers have access to essential services. In addition, setting up an early identification system (response mechanism at the earliest stage of separation) and an effective monitoring process that involves mobilizing the refugee community and strengthening the capacity of governments, UNHCR field staff and its partner NGOs, to address the concerns and heightened vulnerability of UASC, will improve the condition and overall well-being of these children residing in refugee camps.

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<sup>151</sup> Similar to an UASC, a refugee situation has its own set of unique circumstances.

<sup>152</sup> Children can become separated from their parents or traditional, primary or customary caregivers during any phase of a refugee operation; yet, attention being focused after prolonged stays in refugee camps. While the majority of children become separated during flight or the emergency phase of a refugee operation, this research examines the issue of children becoming separated while residing in a protracted refugee situation, not during the chaos of conflict in the country of origin or during flight to the country of asylum.

## ***UNHCR Sub-Office Damak (SOD)***

UNHCR SOD has four Units that appear to be the most involved in child protection programming<sup>153</sup> and issues: i) Community Services Unit (CSU), ii) Programme Unit, iii) Protection Unit (which includes the Field Unit) and, iv) Durable Solutions Unit. There are international and national staff in all of these Units, all of whom have a wide range of experience and educational background. Yet, there appears to be gap in understanding the needs and issues concerning UASC in general and, this context in particular.<sup>154</sup> The CSU appears to be the section that is most aware of UASC issues, with the Community Services Assistant taking on much of the workload directly relating to vulnerable refugees, including UASC.

It is important to highlight that the operation has recently, within the past four years, increased its field presence in the camps; this has been a positive step in terms of having a UNHCR staff in each camp. However, the addition of a Child Protection or Community Services Officer in Damak (or Kathmandu) as well as the development of SOPs for UASC would be beneficial to the operation.

## ***Government of Nepal (GoN) and Partner NGOs/ Implementing Partners (IPs)***

The host State, in this context, Nepal,<sup>155</sup> has an international obligation and the customary/primary responsibility to protect and ensure the well-being of refugees residing within their borders, which includes UASC. The GoN should put in place

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<sup>153</sup> SOD also works with its partner NGOs concerning child protection programming and issues.

<sup>154</sup> This includes the understanding of the BID process.

<sup>155</sup> Although, the GoN has made significant improvements in the overall conditions of Nepali children, to date many of their policies for protecting children are not in line with international standards. The GoN is a signatory to the 1989 CRC.



strategies for interviewing or granting UASC refugee status as well as establishing a formal process for obtaining legal guardianship in the camps.

UNHCR's implementing partners could develop and implement specific programmes targeting UASC.

### ***Refugee Community***

Refugee child protection is a shared responsibility between UNHCR, governments, partner NGOs and the refugee community – all having a commitment and important role to play in the lives of refugee children.<sup>156</sup> Furthermore, in any refugee situation, from emergencies to repatriation, the family is a child's first line of security, followed closely by the child's community. The refugees from Bhutan also have the capacity to take on a key role in the care and protection of UASC in the camps.

### ***Identifying and Documenting UASC***

A fundamental method of ensuring protection of UASC is to establish an effective systematic identification and monitoring system. Yet, before monitoring of children can begin, we have to know whom we need to be monitoring. Furthermore, because of the nature of the camp situation in Nepal (protracted, close proximity of huts, etc.) and the traditional and cultural values attached to extended family and community, identifying UASC has been a challenge.

The recent Census of the refugees from Bhutan has provided information (special needs, name, age, gender, status, etc.) on UASC that can be used as a basis for the UASC RA project. In addition, it was a key step to providing adequate assistance and protection

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<sup>156</sup> The involvement and role of UNHCR should depend on the stage or phase the refugee operation is in, i.e., emergency versus a protracted, care and maintenance situation.

to UASC along with highlighting their special needs and vulnerabilities and, is critical for finding durable solutions and for planning, implementing and monitoring the situation of vulnerable groups such as UASC.

Some children that were identified during the Census activities as being either unaccompanied or separated admitted during the rapid assessment project that they (or their parents/caregiver's) intentionally identified themselves (or the child of concern) as unaccompanied or separated because they did not want to lose their hut or the non-essential food items (NFI)<sup>157</sup> that went along with it. Many of these false identifications were cases where the father, generally the head of household, was deceased and the mother remarried and shifted to her second husband's household. However, in some cases children would stay in the deceased father's household, (alone or with other relatives) making it difficult to determine whether these children were in fact UASC. Other cases appeared where the child or children would shift to the mother's new household and "rent" the initial household to other refugees.

The information listed below was collected during the rapid assessment (included on the report form) for each individual case; it was entered into proGres and is available from the Nepal office: i) the number of UASC who had both or one parent living in one of the seven camps; ii) the reason behind the child being unaccompanied or separated, (i.e. abandoned, orphaned, parents remarried or divorced, etc.); iii) the relationship to the caregiver, (paternal or maternal grandmother, aunt, sister, etc. or, non-blood relative); iv) the situation inside the household, (i.e. cases of abuse, neglect, exploitation, violence); v) the performance of the child in school, (i.e. repeated a class, dropped out); and, vi) if the child was pressured into early marriage or dropping out of school because of the situation

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<sup>157</sup> NFIs include items such as soap, briquettes and water jugs.

inside the household. The statistical information gathered from the rapid assessment will be helpful in the future when working on UASC issues in the camps.

### ***Monitoring of UASC and their Care Arrangements***

A primary starting point to improving the protection available to UASC in the camps in Nepal is to establish an effective monitoring system within the refugee community. In this context it is important to mobilize the refugee community in every aspect of the process. Ideally, the refugees, in collaboration with the RCU, UNHCR and its partner NGOs would themselves take the lead in the overall monitoring of the UASC.<sup>158</sup>

Moreover, once a child has been identified as an UASC, the monitoring process is probably the most critical aspect of the overall protection available to these children. Furthermore, the intention is not to point out these children and their potential vulnerabilities to the community, but to implement a systematic process to protect their well-being and *best interests*.

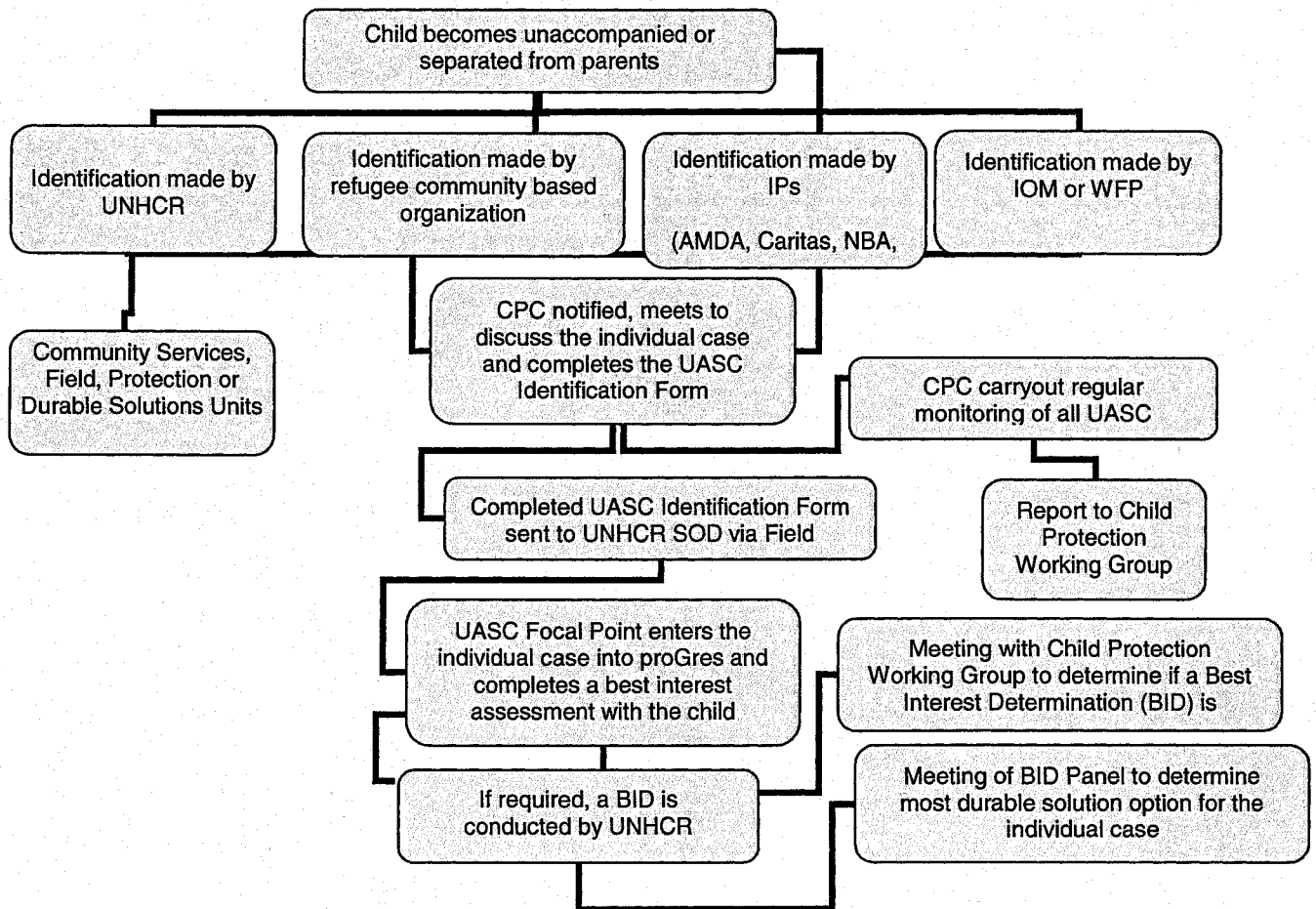
While the majority of UASC reside in camps in Nepal, the information in this thesis is also pertinent to UASC in both the Tibetan and urban caseloads in Nepal. It can be used to assist in providing better care and protection to the millions of refugee children who are also living in camps, separated from their parents and/or families. Furthermore, it is important to underline once more that the most critical components for protecting UASC include: i) *identification*; ii) *documentation*; iii) *monitoring*; iv) *tracing*; and, v) *family reunification* where possible.

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<sup>158</sup> In the initial stage UNHCR will have to work closely with the refugee community to design and implement a comprehensive strategy for UASC, but ultimately the goal would be for the community to take on the majority of the responsibility. In an emergency phase of an operation this would not be possible.

A comprehensive response to the issues of UASC, within an inter-agency framework, could be explored and adopted into this operation, particularly, emphasising the need to begin to develop a concrete monitoring tool that consists of monthly follow-ups with these children. Further, collaboration amongst all stakeholders, partner NGOs, the GoN and the refugee community, is key to ensuring that children are being both identified and protected throughout their stay in the camps, regardless of the duration of their stay or the nature of their situation. The capacity of SOD could be strengthened to prevent and respond to the issue of UASC in the camps. Moreover, a multi-sectoral approach in community-based responses in the camps (and within partner NGOs) could be mobilized to enhance the protection and services available to UASC while keeping in mind that in developing, implementing or assessing any services children should be the primary consideration. Further, it is imperative that the *best interests* of the child are, without fail, the foundation of all programming and protection activities. In addition, addressing the protection needs of UASC should be seen as a process, not as a one-time activity, mainstreamed into regular programme and protection work. Refer to the flow chart in below, Figure III: *Proposed Reporting Procedures for Case Identification, Assessment and Monitoring of Unaccompanied and Separated Children in the Camps in Nepal*, to see how the overall process could be executed in the camps in Nepal.

**Figure III: Proposed Reporting Procedures for Case Identification, Assessment and Monitoring of Unaccompanied and Separated Children in the Camps in Nepal**



### ***Child Protection Working Group***

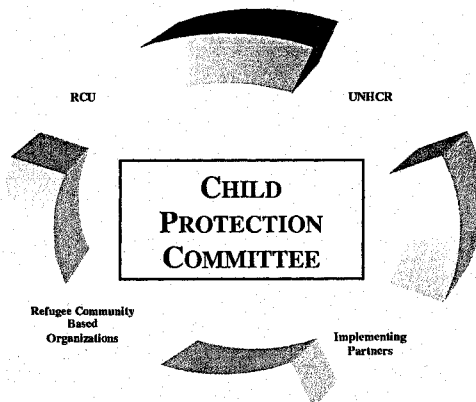
The Child Protection Working Group could be set-up to manage and monitor the Child Protection Committees (CPC) (see information on the CPC below). This group could be comprised of UNHCR staff representing the Field, Protection, Community Services and Resettlement Units. The group could meet on a monthly basis (or bi-monthly if required) to ensure the functioning of the committees at the camp level as well as to discuss individual cases that may require a more in depth assessment or formal Best Interest

Determination (BID). One Focal Point could be assigned to this working group, ideally it would be a child welfare or protection specialist that would also be responsible for the overall UASC identification, monitoring, reporting, tracing, family reunification and BID process carried out as part of this refugee operation. This working group would probably consist of the same staff that forms the BID panel.

### ***Child Protection Committee (CPC)***

A strategy that was implemented in the Thai refugee operation was introducing the concept of Child Protection Committees (CPC).<sup>159</sup> This committee was established to specifically deal with child protection issues at the camp level and, issues concerning UASC in particular. In the Nepal context, the CPC could be comprised of refugees from community-based organizations (CBOs), such as the CMC, BRWF and BRCF, along with representatives from the school, UNHCR (Field Assistant (FA) responsible for the particular camp) and its partner NGOs. The RCU could also play a significant role (i.e., overseeing) in the functioning of the committee.

**Figure IV: The Child Protection Committee (CPC)**



<sup>159</sup> For more information on safe homes operating in refugee camps, see Tolfree, David, (2006). "Situational Analysis Report: Strengthening Alternative Care Options for Refugee Children." A Report for UNICEF Thailand.

The CPC could work in close collaboration with the Child Protection Working Group and be comprised of 5-7 refugee representatives, with one CPC being set up in each of the seven camps. The CPC would be responsible for identifying children who have recently become unaccompanied or separated from their parents, completing an UASC Identification Form (see Appendix A, the form would be a modified version of this) and communicating this information (i.e., completed form) on to the UNHCR FA and/or directly to the Child Protection Working Group. UNHCR could also explore the idea of having a refugee incentive Community Social Worker (CSW) in each camp to assist with the psychosocial counseling for UASC and their caregivers. This is a position that was also implemented in the camps in Thailand and could potentially work in the Nepal operation as well.

## ***Overall Recommendations***

### ***Recommendations: UNHCR SOD***

UASC concerns could be integrated into all aspects of UNHCR SOD programming activities as well as the programming activities of their IPs, including but not limited to:

- i. Drafting SOPs for UASC (as well as SOPs for the formal BID process), underlining procedures for identification, monitoring, reporting and documenting, tracing and family reunification of UASC;
- ii. Initiating BID assessments for all UASC (verifying data collected during rapid assessment project);
- iii. Creating an individual case file for each UASC as well as entering the information into proGres and making certain both files are kept up-to-date;
- iv. Initiating formal BID for individual cases that are at a heightened risk, or for the purpose of resettlement; and,
- v. Establishing a BID panel, including the involvement of partner NGOs.

Expanding the Community Services Unit to include:

- i. A Community Services Officer, who has extensive knowledge in child protection programming issues, particularly relating to the protection of UASC;
- ii. A Child Protection or Welfare Specialist, who has experience in the protection of UASC; to be responsible for all child protection programming issues concerning UASC and other vulnerable children in the camps; and,
- iii. Definitions of staff members' responsibilities and accountability regarding UASC.

Expanding the Protection Unit to include:

- i. A Child Protection Officer, who has extensive knowledge in child protection programming issues, particularly relating to the protection of UASC; and,
- ii. Definitions of staff members' responsibilities and accountability regarding UASC.

For those UASC that are living in child-headed household or with caregivers who are non-blood relatives the GoN could be pressed to distribute photo identification (ID) cards to these individuals.

Ensure equal access for all UASC to durable solutions, including resettlement.

Invite ICRC to SOD to collaborate on how to establish a family tracing system for UASC who are unaware of the whereabouts of their parents.

Initiate tracing procedures and begin family reunification when possible and if in the *best interests* of the child (if child are reunited with one or both of their biological parents, they should continued to be monitored for a number of months).

All Community Services, Programme, Protection, Field and Resettlement staff at UNHCR SOD could be provided with a workshop on child protection, specifically on issues concerning UASC and the BID process. This includes national as well as international staff.

- i. Define of staff members' responsibilities and accountability regarding UASC.

All RCUs and Assistant RCUs that work in the camps could be provided with a workshop on child protection, specifically on issues concerning UASC and the BID process.

- i. Define the roles and responsibilities of the GoN and accountability regarding UASC.



All partner NGOs and CBOs that work with children in the camps could be provided with a workshop on child protection, specifically on issues concerning UASC and the BID process.

- i. Define partner NGOs responsibilities and accountability regarding UASC.
- ii. The refugee participants could include the gender focal point, the BRCF facilitator, school counselors, a representative from the BRWF and CMC, Youth Friendly Centre peer educators and the community health volunteer (CHV).

The establishment of a Child Protection Working group, UNHCR and NGO staff.

The establishment of Child Protection Committee (CPC) in each camp; comprised of refugees, government, UNHCR and NGO staff.

- i. The refugee participants could include the gender focal point, the BRCF facilitator, school counselors, a representative from the BRWF and CMC, Youth Friendly Centre peer educators and the community health volunteer (CHV).

More support targeting the needs of UASC and their caregivers (caregiver families) could be explored, including:

- i. Creating mechanisms for separated children and their caregivers to seek psychosocial counseling and parental advice. This could possibly be an outreach programme offered through the BRCF and the BRWF.
- ii. Creating networks for these children and their caregivers so that they can share problems that they experiencing.
- iii. Addressing the issue of UASC who have dropped out of school and/or married at an early age. Alternatives could be available to these children such as vocational training or participation in camp level organizations and activities.

Work with refugee community to raise awareness on child rights, in particular the rights of UASC. This could be carried out in the form of a street drama by BRCF, BRWF or the YFCs.

### ***Recommendations: GON***

- i) Press the GoN to make speedy decisions in child asylum cases.
- ii) Address the issue of legal guardianship and work with the GoN to develop concrete policies and laws specifically dealing with UASC in the camps.

- iii) All RCUs and Assistant RCUs that work in the camps could be provided with a workshop on child protection, specifically on issues concerning UASC and the BID process.
  - a. Define the roles and responsibilities of the GoN and accountability regarding UASC.

### ***Recommendations: Partner NGOs/IPs***

- i) UASC concerns could be integrated into all aspects of IPs programming activities.
  - a. The school councilors and BRCF facilitator's roles could be enhanced to allow them to take on a much more proactive role in child protection, in particular, issues concerning UASC.
- ii) All partner NGOs and CBOs that work with children in the camps could be provided with a workshop on child protection, specifically on issues concerning UASC and the BID process.
  - a. The refugee participants could include the gender focal point, the BRCF facilitator, school counselors, a representative from the BRWF and CMC, Youth Friendly Centre (YFC) peer educators and the community health volunteer (CHV).
- iii) The establishment of a Child Protection Working group; comprised of UNHCR and NGO staff.
- iv) The establishment of Child Protection Committee (CPC) in each camp; comprised of refugees, government, UNHCR and NGO staff.
  - a. The refugee participants could include the gender focal point, the BRCF facilitator, school counselors, a representative from the BRWF and CMC, Youth Friendly Centre peer educators and the community health volunteer (CHV).
- v) More support could be targeted towards the needs of UASC and their caregivers (caregiver families), such as:
  - a. Creating mechanisms for separated children and their caregivers to seek psychosocial counseling and parental advice. This could possibly be an outreach programme offered through BRCF and BRWF.
  - b. Creating networks for these children and their caregivers so that they can share problems that they experiencing.
  - c. Addressing the issue of UASC who have dropped out of school and/or have married at an early age. Alternatives could be available to these children, such as vocational training or participation in camp level organizations and activities.

- vi) Work with community to raise awareness on child rights and, in particular the rights of UASC. This could be carried out in the form of a street drama by BRCF, BRWF or the YFCs.

### ***Recommendations: Child Protection Strategy***

In the future, the development of a comprehensive child protection strategy could include:

- i) To prevent future separation of children in the camps, the capacity of families to care and protect their children should be strengthened.
- ii) To prevent future separations as well as to cope with the issue of children who are already living parentless in the camps, the community's capacity should be strengthened.
- iii) Ensure that children identified as unaccompanied or separated have access to services available to the refugee community: shelter, food, clean water, health and education.
- iv) Strengthen the role of the government, in particular the RCU, in the overall process as well as in the development of policies, legislation, regulations and infrastructure in Nepal that will help to protect vulnerable children inside and outside of the camps.
- v) In collaboration with partner NGOs and the refugee community, implement awareness programmes.
- vi) Strengthen children's participation and, allow their voices to be heard in programme design and implementation.
- vii) Strengthen gender equality, i.e., the role of women and girls in the refugee community.

### ***Recommendations: Refugee Community***

- i) All partner NGOs and CBOs that work with children in the camps could be provided with a workshop on child protection, specifically on issues concerning UASC and the BID process.
  - a. The refugee participants could include the gender focal point, the BRCF facilitator, school counselors, a representative from the BRWF and CMC, Youth Friendly Centre (YFC) peer educators and the community health volunteer (CHV).

- ii) The establishment of Child Protection Committee (CPC) in each camp; comprised of refugees, government, UNHCR and NGO staff.
  - a. The refugee participants could include the gender focal point, the BRCF facilitator, school counselors, a representative from the BRWF and CMC, Youth Friendly Centre (YFC) peer educators and the community health volunteer (CHV).
- iii) More support could be targeted towards the needs of UASC and their caregivers (caregiver families) such as:
  - a. Creating mechanisms for separated children and their caregivers to seek psychosocial counseling and parental advice. This could possibly be an outreach programme offered through the BRCF and the BRWF.
  - b. Creating networks for these children and their caregivers, so that they can share problems that they experiencing.
  - c. The school councilors and the BRCF facilitator's roles could be enhanced to take a much more proactive role in identifying, reporting and responding to vulnerable children, particularly, UASC.
  - d. Addressing the issue of UASC who have dropped out of school and/or have married at an early age, alternatives could be available to these children, such as vocational training or participation in camp level organizations and activities.
- iv) Work with community to raise awareness on child rights, in particular the rights of UASC. This could be carried out in the form of a street drama by the BRCF, the BRWF or the YFCs.

### ***Recommendations: Identifying and Documenting UASC***

It is recommended that formal procedures be put in place to identify UASC, and that the SOD develops procedures and an individual case management system for UASC, including:

- i) Drafting SOPs for UASC (as well as and SOPs for the formal BID process), underlining procedures for identification, monitoring, reporting and documenting of UASC.
- ii) Initiating BID assessments for all UASC (verifying data collected during rapid assessment project)
- iii) Creating an individual case file for each UASC as well as entering the information into proGres, making certain both files are kept up-to-date.

- iv) Initiating tracing procedures and beginning family reunification when possible and if in the *best interests* of the child (if child are reunited with one or both of their biological parents, they should continued to be monitored for a number of months).
- v) Looking into how proGres can generate more detailed information on individual UASC cases.

### ***Recommendations: Monitoring of UASC and their Care Arrangements***

A series of measures may be taken to enhance the protection of UASC in the camps in Nepal. The administration of a monitoring system in a protracted refugee situation (emergency versus care and maintenance phase) can take many forms including:

- i) Drafting SOPs for UASC (as well as SOPs for the formal BID process), underlining procedures for identification, monitoring, reporting, documenting, tracing and family reunification of UASC;
- ii) Initiating BID assessments for all UASC (verifying data collected during rapid assessment project);
- iii) Creating individual case files for each UASC as well as entering updated information into proGres;
- iv) Establishing a Child Protection Working group which could include UNHCR and NGO staff (although, focus should be on UASC, do not want to “push” parents to become separated from their child/ren – perceived benefit);
- v) Establishing a Child Protection Committee (CPC) in each camp; comprised of refugees, government, UNHCR and NGO staff;
- vi) Including refugee participants such as the gender focal point, the BRCF facilitator, school counselors, a representative from the BRWF and CMC, Youth Friendly Centre peer educators and the community health volunteer (CHV);
- vii) Working with the refugee community to raise awareness on child rights and, in particular the rights of UASC, carried out in the form of a street drama by BRCF, BRWF or the YFCs;
- viii) Pressing the GoN to establish legal guardianship procedures for UASC in the camps;

- ix) Creating mechanisms for separated children and their caregivers to seek counseling, such as an outreach programme offered through the BRCF and the BRWF;
- x) Initiating tracing procedures and beginning family reunification when possible and if in the *best interests* of the child (if child are reunited with one or both of their biological parents, they could continued to be monitored for a number of months); and,
- xi) Looking into how proGres can generate more detailed information (statistical data) on individual UASC cases.

### ***Further Research***

My intention is to follow up with further research that precipitated from this work including the steps UNHCR Nepal takes to address this issue after reading this research study and the eventual resettlement of UASC to the United States. UASC in the camps are vulnerable now but the impact that resettlement may have on these children when they reach the age of majority has the potential to negatively affect their personal self-development and self-esteem and their capacity to contribute economically, politically and socially to the development of their new nations.

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## Appendices

### *Appendix A: Rapid Assessment Report Form For Unaccompanied Minors and Separated Children*

#### **SECTION I: CHILD'S BASIC BIO DATA**

Full name: \_\_\_\_\_ Male ☐ Female ☐ Age: \_\_\_\_\_

Registered ☐ Non-registered ☐

Camp: \_\_\_\_\_ Sector/Hut No.: \_\_\_\_\_

#### **SECTION II: HOUSEHOLD INFORMATION (CURRENT)**

Is there a care-giver (above 18 years) living with the child in the same household?

Yes ☐ No ☐

How long has the child been living with the care-giver, indicate: \_\_\_\_\_

Care-giver's family composition (total number of family members in household): \_\_\_\_\_

Number of children in care-giver household (including this child): \_\_\_\_\_

Is the child living in a child-headed household (no care-giver/adult family member above 18 years living with the child in the same household)?

Yes ☐ No ☐

If yes, please indicate the number of children (including this child) living in the child-headed household: \_\_\_\_\_

How many care-giver/living arrangements did the child have: \_\_\_\_\_

Does anyone in the household have a disability/special need (excluding this child)?

Yes ☐ No ☐ If yes, indicate: \_\_\_\_\_

Are there any problems with the current care arrangement stated by the child?

Yes ☐ No ☐ If yes, indicate:

Are there any problems with the current care arrangement stated by the care-giver?

Yes ☐ No ☐ If yes, indicate:

### **SECTION III: PRIMARY CARE-GIVER INFORMATION (CURRENT)**

Full name: \_\_\_\_\_ Age: \_\_\_\_\_

Camp: \_\_\_\_\_ Sector/Hut No.: \_\_\_\_\_

Marital status:

Married ☐ Single ☐ Widowed ☐ Divorced ☐ Separated ☐

If applicable, full name of spouse: \_\_\_\_\_

Relation of child to care-giver:

☐ Maternal relative ☐ Paternal relative

Grandparent ☐ Aunt/Uncle ☐ Sibling ☐ Other (indicate): \_\_\_\_\_

☐ Neighbour in Bhutan ☐ Neighbour in camp

Same caste:

Yes ☐ No ☐

### **SECTION IV: FAMILY INFORMATION**

Name of biological father: \_\_\_\_\_

If applicable, indicate: Camp: \_\_\_\_\_ Sector/Hut No.: \_\_\_\_\_

☐ Deceased, indicate number of years: \_\_\_\_\_

☐ Remarried: \_\_\_\_\_ Name of wife: \_\_\_\_\_

☐ Missing/disappeared from camp, indicate number of years: \_\_\_\_\_

☐ Unknown

How often does child visit his/her father?

Daily ☐ Weekly ☐ Monthly ☐ Yearly ☐ Not at all ☐

If not at all, please indicate when the last time the child had contact with his/her father was:



Name of biological mother: \_\_\_\_\_

If applicable, indicate: Camp: \_\_\_\_\_ Sector/Hut No.: \_\_\_\_\_

☐ Deceased, indicate number of years: \_\_\_\_\_

☐ Remarried: \_\_\_\_\_ Name of husband: \_\_\_\_\_

☐ Missing/disappeared from camp, indicate number of years: \_\_\_\_\_

☐ Unknown

How often does child visit his/her mother?

Daily ☐ Weekly ☐ Monthly ☐ Yearly ☐ Not at all ☐

If not at all, please indicate when the last time the child had contact with his/her mother was:

<b>SECTION V: ACCESS TO ESSENTIAL SERVICES (FOOD, SHELTER, EDUCATION)</b>
---------------------------------------------------------------------------

Does the child receive his/her food ration? Yes ☐ No ☐

How often does the child take food (meals/snacks) in a day? \_\_\_\_\_

Which household is the child's food ration registered under?

Camp: \_\_\_\_\_ Sector/Hut No.: \_\_\_\_\_

Census registration:

☐ With care-giver household

☐ With a different household, indicate: Camp: \_\_\_\_\_ Sector/Hut No.: \_\_\_\_\_

☐ Non-registered child

Does the child go to school? Yes ☐ No ☐

If yes, indicate which school and class is the child currently in?

School: \_\_\_\_\_ Class: \_\_\_\_\_

If no, why (give brief details), including the highest class level attained?

How does the child perform in school?

☐ Above average (child is a top of class)

☐ Average (child has not repeated a class)

☐ Below average (child has repeated a class), indicate which class and how many times repeated: \_\_\_\_\_

☐ Poor attendance/standing

## SECTION VI: HEALTH AND PHYSICAL APPEARANCE OF CHILD

Does the child have a disability/special need? Yes ☐ No ☐

If yes, indicate:

- ☐ Physical disability, indicate: Moderate ☐ Severe ☐
- ☐ Hearing impairment, indicate: Partial ☐ Full ☐
- ☐ Visual impairment, indicate: Partial ☐ Full ☐
- ☐ Speech impairment
- ☐ Mental disability, including retardation (psychosocial condition)

Does the child's body appear to be relatively, (compared to other children his/her age in camp) normally developed?

Yes ☐ No ☐ Not Sure ☐

Does the child appear to be clean/well taken care of?

Yes ☐ No ☐ Not Sure ☐

Does the child have any visible signs of neglect?

Yes ☐ No ☐ Not Sure ☐

If yes, indicate:

- ☐ Dirty/old/torn clothing
- ☐ Angular stomatitis (thinning or fissuring at the mouth angles)
- ☐ Skin irritations/rashes
- ☐ Scabies (extreme itching; common places include, around the wrist, folds of the elbow, face, scalp and feet)
- ☐ Eye and/or ear infection
- ☐ Bruising or any visible marks/scarring

Does the child appear healthy?

Yes ☐ No ☐ Not Sure ☐

Has the child complained of any health problems in the last 6 months?

Yes ☐ No ☐

If yes, has the child been taken to the PHC (AMDA health post)?

Yes ☐ No ☐

If yes, who took the child to the PHC? \_\_\_\_\_

***The following section is to be answered by the interviewer only!***

## SECTION VII: FOLLOW-UP MEASURES

Is there a need for intervention by UNHCR?

☐ Urgent (give details/reasons):

☐ Hut visit required as soon as possible to make further assessment

☐ Not urgent, but needs further assessment

☐ No need, care arrangement appears to be satisfactory for all

☐ Child needs material support, please indicate:

Clothing ☐ School uniform ☐ School stationary ☐ Other  
(indicate):

☐ Care-givers family needs material support, please indicate:

Repair materials for hut ☐ Other (indicate): \_\_\_\_\_

☐ Medical follow-up required, child indicated the following health concerns, problems:

Is there a need for follow-up by RCU? Yes ☐ No ☐

Is there a need for follow-up by WFP? Yes ☐ No ☐

Is there a need for follow-up by IPs?

☐ AMDA

☐ Caritas

☐ Lutheran World Federation (LWF)

☐ Nepal Bar Association (NBA)

## SECTION VIII: INTERVIEW SETTING

☐ Assessment was conducted alone with the child

☐ Assessment was conducted with child in the presence of the care-giver

☐ Assessment was conducted in phases

Child's attitude/behaviour during assessment:

☐ Sociable to normal (extrovert)

☐ Withdrawn and/or anxious (introvert)

Did any discrepancies in responses arise between the child and care-giver during the assessment? Yes ☐ No ☐

<b>SECTION IX: ADDITIONAL INFORMATION</b>
-------------------------------------------

Please include any relevant information that you think should be noted in this assessment:

**Assessment conducted by:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Date of Assessment:** \_\_\_\_\_ **Location:** \_\_\_\_\_



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