



APRIL 2005 SPOTLIGHT:

Determining Child Abuse & Neglect Across Cultures

This month's spotlight addresses child abuse and neglect - what it is, who are considered mandated reporters, and how reporting should occur - and the complexities of assessing child abuse and neglect in refugee families.

The U.S. child welfare system is built upon the concept of *parens patriae* - "a legal term that asserts that government has a role in protecting the interests of children and in intervening when parents fail to provide proper care."^[1] Parents have a constitutionally protected right to raise their children as they choose, including a responsibility to protect a child's safety and well-being. When parents cannot, or do not, meet this obligation, the State has the authority to get involved.^[2]

Federal child welfare statutes establish minimum standards, which are then implemented with greater specificity by State statutes.^[3] A minimal description of child abuse and neglect is found in the Federal Child Abuse Prevention and Treatment Act (CAPTA), as amended by the [Keeping Children and Families Safe Act of 2003](#).

- "Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or
- An act or failure to act which presents an imminent risk of serious harm."^[4]

Child maltreatment is defined in specific terms by each individual state, however some general examples of what might be considered abuse or neglect (depending on state statutes) are listed below.

- Abuse can be physical, sexual or emotional.
 - Physical abuse can include an injury which is the result of punching, beating, kicking, shaking, hitting a child, whether the caretaker intended to hurt the child or not.
 - Sexual abuse can include fondling a child's genitals, incest, rape, penetration, sodomy, indecent exposure, or exploitation through prostitution or the production of pornography.
 - Emotional abuse, which is almost always present with the other two forms of abuse, is a "pattern of behavior which impairs a child's emotional development or sense of self-worth" including constant criticism, threats, rejection, or the withholding of love, support or guidance.^[5]
- Neglect is a failure to provide a child's basic needs and can be physical, medical, educational, or emotional.^[6]

Any person can report child abuse and neglect, and statutes in 18 states require any individual suspecting child abuse and neglect to report it. Many states also specify certain professionals as "mandated reporters", meaning that they are required by law to report child maltreatment. These designated professionals, typically those in regular contact with children, are legislated by individual states. They typically include professions such as the following:

- Health care workers
- School personnel
- Child care providers
- Social workers
- Law enforcement officers
- Mental health professionals.^[7]

[Lists of mandated reporters for each state](#) are available on the Child Welfare Information Gateway Web Site.

Those who believe they have identified an instance of child abuse or neglect can report it to the local Child Protective Service (CPS) office, which will investigate the matter. A [list of states](#) with toll-free (800, 866 or 888) phone numbers for reporting child abuse and neglect is available on the Child Welfare Information Gateway Web Site or call the Childhelp USA National Child Abuse Hotline at 1-800-4-A-CHILD (1-800-422-4453). Urgent or life threatening situations should be reported by calling “911.”

Defining child abuse and neglect, and explaining the reporting procedures, is the easy part. Correctly identifying the existence of child abuse and neglect can be much more difficult and complicated. Most Americans are accustomed to the role of child protective service (CPS) in the U.S., but this government function is completely foreign to most refugees. While many Americans may view CPS as a necessary entity in order to protect children, some refugee parents view this government function as a kind of “big brother” by which neighbor can report on neighbor and the government can take away that which is most dear to them - their children. Furthermore, many refugees have fled oppressive or abusive governments in their home countries, leading to a mistrust of government actions and intentions that may take years to diminish. This inherent suspicion of government can create in some refugees a deep-seated fear of CPS and related child welfare agencies.

There is virtually universal agreement that decisions concerning children should be grounded in the “best interests of the child,” evident in the nearly-global ratification of the Convention on the Rights of the Child (CRC), which states in Articles 3.1 and 18.1:

Article 3.1: *In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

Article 18.1: *States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.*^[8]

This treaty was signed by former President Clinton but has yet to be ratified by the U.S. Congress. Thus it provides guiding principles in the U.S. but does not have the force of law. Somalia is the only other country that has not yet ratified the CRC.^[9]

Despite this near-global agreement regarding the CRC, the practicalities of parenting behavior and discipline practices are culturally defined and can lead to serious disagreements about what is appropriate or necessary. Actions thought to be normal or appropriate in one culture may be interpreted as abuse or neglect by another culture.

Some parenting actions are effective because a whole society holds similar underlying assumptions. When an individual tries to transport those actions and assumptions to another culture, the results can be disastrous. An example of this occurred in 1997, when a Danish mother left her infant in a stroller outside a Manhattan restaurant, while she and the father were dining inside. Although this is a common practice in Denmark, a passerby called “911,” the parents were arrested, and the child was placed temporarily in foster care. To most American parents, it seems unthinkable to leave a child in a stroller unattended on a New York City street. In contrast, Danish parents find it unthinkable that this culturally accepted practice would result in an arrest in the U.S. What may appear initially to Americans as parental neglect is considered by Danes to be a healthy practice. This custom works in Denmark because of shared assumptions about the importance of fresh air for children, as well as a lower risk of street crime and child abduction. In the words of one Danish newspaper, “In Denmark it is commonplace to leave babies in pushchairs outside of cafés and shops - in New York it is a criminal act punishable by imprisonment.”^[10]

This parenting clash occurred between two “Westernized” countries, thought to have many shared cultural values. Imagine the difficulties for refugees coming to the U.S. from vastly different countries. They face a great challenge in recognizing and readjusting parenting assumptions that are no longer shared by the wider society. Most of us are not conscious of our own culturally shared assumptions or beliefs, making it very difficult to instantly change them.

The newly released BRYCS document, [“Liberian Refugees: Cultural Considerations for Social Service Providers”](#) discusses parenting and discipline practices that were acceptable in traditional Liberian society, but that may conflict with common practice in the U.S. For example:

Liberian parents are used to relying on a communal network of support for raising children, which was present without intentional arrangement. American parents are used to making very intentional arrangements for the care of children and relying upon one’s own nuclear family for those arrangements. By American standards, a Liberian parent who allows a child to play unsupervised may appear to be neglectful. However, the Liberian parent may be mistakenly assuming that other adults nearby will be providing supervision, since this was the way things worked back home.^[11]

Child abuse and neglect likely happen to some degree in every culture and society. However, the definition of what is considered abuse or neglect varies by culture and by society. Certainly U.S. child welfare authorities must abide by the laws of the U.S., and refugees must learn to adapt their practices to their new home. But to the extent that discretion and interpretation are factors in assessing child maltreatment, information on cultural background and context can also be important resources in determining if the appearance of abuse or neglect is a cultural misunderstanding or a traditional cultural practice that can be changed through education, or something more harmful. As noted in the fact sheet on “What is Child Abuse and Neglect:”

These situations [of what neglect may be] do not always mean a child is neglected. Sometimes cultural values, the standards of care in the community, and poverty may be contributing factors, indicating the family is in need of information or assistance.^[12]

Some state statutes include exceptions to the definitions of child abuse and neglect. For example, Colorado, Minnesota and American Samoa include “cultural practices” as possible exceptions to the statutory definitions of child maltreatment; other common exemptions include religious practice (30 states and 1 territory), corporal punishment (15 states and 2 territories) or poverty (7 states).^[13]

Refugees typically receive some orientation to American parenting practices, before and after arrival in the U.S. However, refugees are also dealing with many other difficult issues at the same time - new language, new environment, finding and keeping employment, trauma from war and displacement - making it likely that they will rely on parenting practices which are familiar and comfortable to them in a situation of many unknowns.

Refugee service providers and child welfare agencies can be tremendous resources to one another in addressing the intersection of culture and parenting with refugee families. Refugee service providers can serve as cultural arbiters or bridges between refugee families and child welfare entities; similarly, child welfare agencies and related service providers can help refugees with issues such as parenting education, mental health care, and family preservation. To encourage more collaboration between refugee service providers and child welfare agencies, the BRYCS project has focused on this important information sharing across professions through its cross-service training manual, [“Building Bridges: A Guide to Planning and Implementing Cross-Service Training.”](#) Last year, BRYCS also provided six mini-grants of \$3,000 to various communities interested in developing cross-service training programs.

The U.S. child welfare system and refugee parents share an important fundamental value: the protection of children. Concern about their children’s safety and future is what motivates many, if not most, refugees to make the arduous journey and transition to the United States. Child welfare authorities, refugee communities and refugee service agencies should build on this important shared value to increase understanding about parenting needs and practices across cultures.

¹ U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Office on Child Abuse and Neglect, *The Child Abuse Prevention and Treatment Act, Including Adoption Opportunities & The Abandoned Orphans Assistance Act, As Amended by The Keeping Children and Families Safe Act of 2003* (Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, February 2004), p.4. Retrieved March 2005 from http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/capta03/capta_manual.pdf.

² Ibid.

³ To find child welfare statutes for a particular state, go to the "Definitions of Child Abuse and Neglect" Web page of the National Clearinghouse on Child Abuse and Neglect Information (NCCANI):

http://childwelfare.gov/systemwide/laws_policies/statutes/define.cfm

⁴ U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Office on Child Abuse and Neglect, National Clearinghouse on Child Abuse and Neglect Information (NCCANI), *What is Child Abuse and Neglect* (Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, January 2004), p.1.

⁵ Ibid., 2.

⁶ Ibid., 1.

⁷ NCCANI, *Mandatory Reporters of Child Abuse and Neglect* (Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, June 2003), p.1. Retrieved March 2005 from http://childwelfare.gov/systemwide/laws_policies/statutes/manda.cfm.

⁸ United Nations, *Convention on the Rights of the Child*, (Adopted by the United Nations General Assembly November 20, 1989, entry into force September 2, 1990). Retrieved March 2005 from <http://www.unhchr.ch/html/menu3/b/k2crc.htm>.

⁹ UNICEF, *Convention on the Rights of the Child: Introduction*. Retrieved March 2005 from <http://www.unicef.org/crc/>.

¹⁰ "Danish Mother Sues New York State for 20 Million Dollars," *The Copenhagen Post Online*, May 21, 1998. Retrieved March 2005 from <http://www.cphpost.dk/get/55274.html>.

¹¹ BRYCS, *Liberian Refugees: Cultural Considerations for Social Service Providers* (Baltimore, MD and Washington, DC: Bridging Refugee Youth and Children's Services (BRYCS), April 2005), p.6. Retrieved March 2005 from http://www.brycs.org/documents/Liberian_Cultural_Considerations.pdf.

¹² NCCANI, *What is Child Abuse and Neglect*, p.1.

¹³ Computations made by author based on data in NCCANI, *Definitions of Child Abuse and Neglect* (January 2003).

<http://nccanch.acf.hhs.gov/general/legal/statutes/define.pdf>

Resources

Relevant fact sheets from the Children's Bureau of the Administration for Children's Services, U.S. Department of Health and Human Services.

1. [What Is Child Abuse and Neglect?](#)
2. [Mandatory Reporters of Child Abuse and Neglect](#)
3. [Recognizing Child Abuse and Neglect: Signs and Symptoms](#)
4. [How Does the Child Welfare System Work?](#)
5. [Definitions of Child Abuse and Neglect](#) - complete report summarizing state child abuse and neglect standards
6. [State Statutes Search](#) - to locate state child welfare statutes
7. [How to Report Suspected Child Maltreatment](#)

Additional resources on the intersection of culture, parenting and child abuse and neglect.

From the Coalition for Asian American Children and Families:

1. [Understanding the Issues of Abuse and Neglect and Asian American Families](#)
2. [Crossing the Divide: Asian American Families and the Child Welfare System](#)

From BRYCS:

1. [Somali Bantu Refugees: Cultural Considerations for Social Service Workers](#)
2. [Liberian Refugees: Cultural Considerations for Social Service Workers](#)
3. [Multi-Cultural Guidelines for Assessing Family Strengths and Risk Factors in Child Protective Services](#)
4. [Program Description: Center for Multicultural Human Services, Multicultural Family Strengthening to Improve Learning and Development](#)
5. [Building Bridges: A Guide to Planning and Implementing Cross-Service Training.](#)

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