

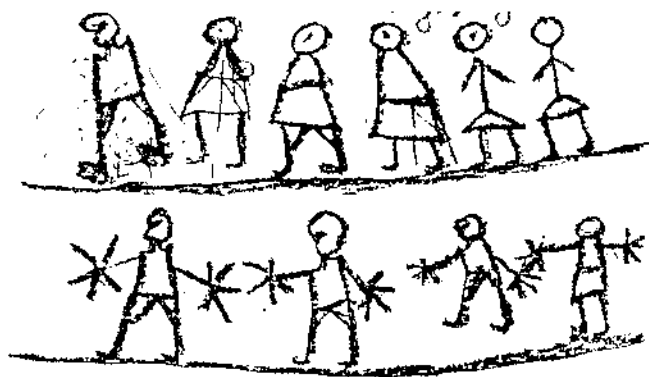
Working with Refugee and Immigrant Children

Issues of Culture,
Law & Development

Lutheran Immigration and Refugee Service

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Cover art: depiction of the flight from Rwanda to Zaire by 12-year-old Rwandan refugee Donatira. Courtesy of Reinhold Kauenhoven Janzen.



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Introduction



While much has been written separately about immigration and child welfare, very little material has examined the overlap between these fields. The intersection of immigration law and child welfare policy is where each field can learn greatly from the other to serve a child's best interests. But there is little linkage between immigration issues and broader child welfare concerns. For this reason, Lutheran Immigration and Refugee Service [LIRS] wrote and produced this manual. This manual combines information about migration issues, child welfare and child development to bridge the gap between these two disciplines. We have focused particularly on unaccompanied refugee or migrant children in the asylum process.

There is no doubt that an interdisciplinary approach is the most effective way to address the varied needs and experiences of refugee and immigrant children. Saywitz and Goodman, noted researchers on child testimony in courtroom proceedings, have shown that both services to children, and information from children, improve when professionals representing different disciplines work together.

“Investigations conducted by multidisciplinary teams ... are thought to produce more accurate and complete information with less stress placed on children”¹

Such coordination is clearly in the best interests of both children and service providers. Along with increased interdisciplinary coordination, additional research into this field of study would further improve services for children.

Premises

The central premise of this manual is that refugee and immigrant children require and deserve the best possible professional help. In order to be truly effective, the traditional professional base needs to expand to include a thorough understanding of culture and child development. This premise translates into six overarching principles that have informed this work:

Unaccompanied children often flee their countries of origin because of some traumatic event or circumstance. Flight can often be “from” rather than “to”. In such situations, it is generally the child’s last option. The decision to leave is not made casually. For some children, it will be the result of a specific event, such as the death of a caregiver; for others, the trauma may be ongoing, such as hunger. The effect on a child’s development can be traumatic, since flight and the accompanying risks are often both painful and destructive. Other times children flee at the behest of their family, often without knowing the reasons for flight. Children may flee without their parents’ knowledge, either because there is no parent to tell or because they fear telling their families.

The needs of children differ from those of adults. Obviously, working with children is different from working with adults. Some issues of culture and procedure have the same implications for both minors and adults, but the underlying influences of age, development and experience will impact every aspect of work with a child client. Practitioners who approach a child as they would an adult will have difficulty understanding and communicating with their client.

Children’s rights are universal. All children, regardless of their immigration status, should be entitled to the same rights and protections by society. The broad rights of children, which were agreed upon after years of negotiation, are spelled out in the United Nations Convention on the Rights of the Child. This Convention has been signed by more countries than any other international convention (although ratification by the U.S. is still pending). Article 22 specifically addresses the rights of refugee children:

“States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are parties.”

These universal rights are of particular importance to “undocumented” children (i.e. immigrant children who are in the U.S. without permission from the Immigration and Naturalization Service), who may be ineligible for certain child welfare services in some states.

Children have the right to fair and informed representation. Children, like adults, have the right to fair and informed representation in legal matters. This is particularly important for immigrant children who, because of age, language and cultural barriers, may not adequately understand legal proceedings against them. Article 37 of the UN Convention on the Rights of the Child provides as follows:

“Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.”

Working with children requires commitment. Taking on a child client does not imply a less serious or significant case. On the contrary, a child client may require extra preparation and time in order to build trust and to understand the child’s developmental stage. Working with a child client is not all fun and games, but the rewards are great.

Unaccompanied children are particularly vulnerable. Children without parents or guardians face greater risks of exploitation, abuse and neglect because they have no adults to champion their cause or to protect them from mistreatment. Compared to the overall pool of asylum seekers and refugees, unaccompanied minors are a small group. At the same time, this small group requires greater attention because its needs are more easily overlooked.

This manual uses “refugees” as a generic term for those seeking refuge, rather than the strictly legal definition that grants immigration status in the United States.

HOW THIS GUIDE CAN HELP

This manual is for professionals working with children who have left everything they know to come to the United States, a strange and, at times, hostile land. The primary audience for this manual includes those working in the following areas:

- asylum attorneys and paralegals
- refugee resettlement agencies
- English as a Second Language [ESL] teachers
- Immigration judges
- INS Officers
- juvenile and family court judges
- Guardians *ad litem* [GAL’s] and Court Appointed Special Advocates [CASA]

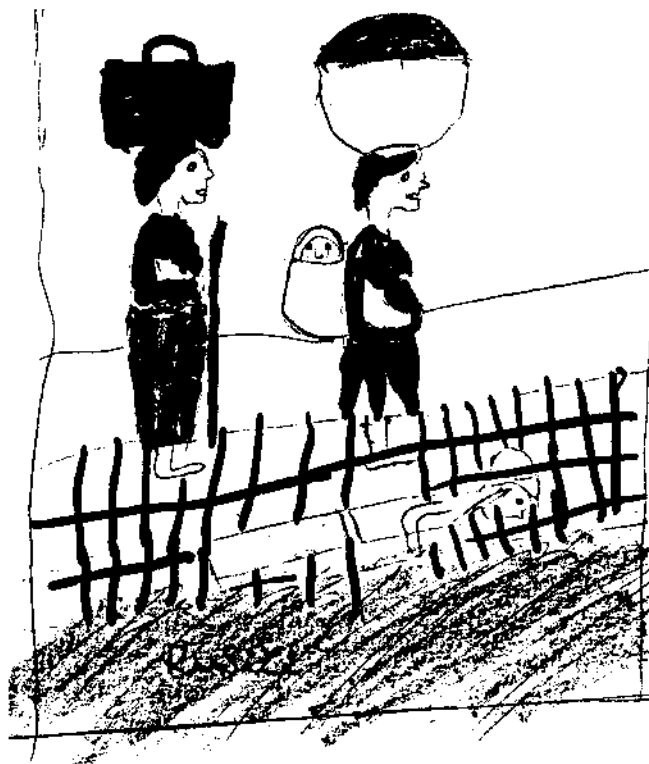
Professionals working in the following areas might also find this information to be helpful:

- American Public Welfare Association agencies
- Child Protective Services [CPS] workers
- foster families for refugee and immigrant youth
- International Federation of Social Workers members
- probation and truant officers
- psychologists and social workers
- public health and medical officials
- school guidance counselors and teachers
- schools of social work
- State administrators of the Interstate Compact on the Placement of Children [ICPC]

By explaining how a child’s emotional, cultural and developmental experiences relate to immigration legal matters, this manual will help people working with refugee children to improve the quality of their services.

Jurisdictional issues continue to be sorted out in the courts and Congress regarding the custody of immigrant minors. These matters raise complex issues given the interplay between various court systems (particularly immigration and family court). Many legal questions regarding state versus Federal jurisdiction, and the priority of enforcement concerns versus the “best interests of the child” continue to be debated. While these broad questions are tangential to the more immediate and practical matters addressed in this manual, the broader questions of jurisdiction over immigrant children and the intersection between child welfare and immigration regulations raise issues which can deeply affect the children we serve.

We hope that this work will help pave the way for others. We welcome comments and suggestions on this manual, in the hope that further work can be done on this important topic.



Fleeing from Rwanda to Zaire, by 13-year-old Rwandan refugee Monique. Courtesy of Reinhild Kauenhoven Janzen.

ACKNOWLEDGMENTS

Lutheran Immigration and Refugee Service [LIRS] advocates on behalf of refugees and other uprooted people. LIRS helps them with resettlement in the United States, foster care for unaccompanied minors, support of community-based asylum projects and assistance with immigration services. LIRS, founded in 1939, receives support from the Evangelical Lutheran Church in America, the Lutheran Church-Missouri Synod and the Latvian Evangelical Lutheran Church in America. The U.S. Department of State, Department of Health and Human Services, Department of Justice, and many generous individuals and foundations support the work of LIRS.

LIRS maintains a unique involvement with unaccompanied minors, that is, uprooted children who enter the U.S. without a parent or guardian. As one of only two voluntary agencies authorized by the Department of State to resettle refugee children in specialized foster care programs, LIRS has served more than 5,000 unaccompanied minors from 18 different countries for more than 20 years. Over the past decade, LIRS has also been active in monitoring the care and treatment of unaccompanied minors who enter the U.S. and are detained by the United States Immigration and Naturalization Service [INS]. LIRS continues to seek ways to advocate and provide for these vulnerable children.

Through our work with uprooted children and youth, we have seen that many of the professionals and advocates assisting these young people are new to working either with children or with those from other cultures. These differences can complicate

even the best-intentioned working relationships. In trying to advise professionals who have assisted these youths, we have learned that there is a dearth of material on the crossroads between child welfare and immigrant issues.

This observed need gradually developed into the conceptual framework for this manual. We are very grateful to the Aaron Diamond Foundation for its generosity in funding this project, as well as for its patience during the years it has taken to complete it.

The text of this manual was written by three members of the LIRS staff: Julie C. Macdonald, Ed.D.; John E. Whitfield, Esq.; and Susan G. Schmidt, M.S.W., M.T.S., Wendy Liebowitz, Raluca Oncioiu, Elisa Messori and Tracy Shupp provided research assistance at various points. In addition, we have had the gracious assistance and input of numerous experts and practitioners, including: Annie Wilson and Darlene Midlang, LIRS; Roy Petty, formerly of Midwest Immigrant Rights Center; Dona Abbott, Bethany Christian Services; and, Wendy Young, Women's Commission for Refugee Women and Children.

We are also grateful to a number of legal practitioners who shared their experiences in working with child clients, including: Zama Neff, Lisa Palumbo, Tim Smith, Michael Hyde, and Meredith Linsky. The children's art that appears throughout this manual was generously provided by Bethany Christian Services, Lutheran Social Services of Iowa, Mennonite Central Committee, Reinhild Janzen and Defense for Children International. Finally, we are grateful to Janet Torsney and Susan Fazekas for their editorial and design assistance.