

**THE PROTECTION OF CHILDREN
UNDER CONDITIONS OF
NATURAL DISASTER**

The international community is aware of the fact that the State of Haiti has recently suffered one of the most serious tragedies in its history: the capital of the country has been devastated by a series of large-scale earthquakes. Through information and images provided by the media and by actors who are intervening in the area, we have become increasingly aware of the consequences of this catastrophe, which has critically affected families in a nation in which 50% of the population is composed of children and adolescents. For this reason, it is now more than ever extremely important to uphold the principles of the Convention on the Rights of the Child with regard to emergency intervention on behalf of the children of Haiti, particularly in high-risk situations, and mainly focus attention on children, from the perspective of rights.

During the days following the tragic event, we witnessed the prompt deployment of international humanitarian aid and the diversity of efforts undertaken in order to care for the population by means of basic measures, such as those taken by the Organization of American States in making its facilities in Haiti available, as well as the technical and financial support provided for rescue and protection.

The Inter-American Children's Institute (IIN), a specialized organization of the Organization of American States (OAS), wishes to suggest to Member States the minimum measures to be taken for the treatment of children under conditions of natural disaster.

The IIN constantly receives questions or requests for guidance with regard to such situations, which unfortunately occur regularly in the Americas. It is suggested that Member States bear in mind the following issues which are dealt with in international regulations, as well as the protection guidelines issued by the United Nations:

1. Convention on the Rights of the Child

The Convention on the Rights of the Child provides for a variety of measures for the special protection of children in exceptional situations such as armed conflicts and natural disasters, or for children who are refugees. Some of the rights which aim at ensuring the existence of a protective environment for children in these circumstances are described in such articles as: Article 3, according to which the States must ensure protection under any conditions of this nature; Article 10, which concerns the reunification of families; Article 11, which regulates situations involving wrongful removals, and Article 20, which regulates the establishment of special and alternative care in the permanent or temporary absence of the family.

These measures take into account the joint responsibility of the State, the family and the community in the effective protection of children in conditions of emergency or natural disasters.

2. UN Guidelines for the Appropriate Use and Conditions of Alternative Care for Children

These guidelines regarding measures the States should take in order to ensure the care of children who have been temporarily or permanently deprived of parental care, were issued in November 2009 and are entirely in harmony with the Convention on the Rights of the Child.

They are based on the principle of preserving the child's biological family setting at all costs, and only resorting to separation from the family as an exceptional measure. If a separation must occur, measures should be taken to provide family-based shelter and efforts should be made in order to preserve the child's social and cultural environment in such extreme circumstances. In such cases, adoption is a feasible measure as a last resort and if it should take place, the adoption by persons within the child's own country should be fostered. International adoption should therefore be a subordinate measure in such situations.

In emergency situations, the Convention on the Rights of the Child attempts to ensure the activation of protective measures aimed at guaranteeing basic rights (health, education, food, safe environment, etc.). In addition, it is important to maintain a record of children who are lost, and children who have lost their family settings, and to ensure reunification whenever possible. The State must also ensure that the whole of the registration, protection and family reunification process is guaranteed. Adoption under emergency conditions is not advisable until all measures undertaken by the State have been fulfilled; namely, the registration of children without families, alternative care and efforts on behalf of possible family reunification.

In the section on the care of children under emergency conditions, the following should be particularly noted:

158. All principles set out in the present Guidelines should continue to apply in situations of emergency arising from natural and man-made disasters including international and non-international armed conflicts, as well as foreign occupation. Individuals and organizations wishing to work on behalf of children without parental care in emergency situations are expected to endorse and operate in keeping with these Guidelines

159. In such circumstances, the State or *de facto* authorities in the region concerned, the international community, as well as all local, national, foreign and international agencies providing or intending to provide child-focused services should pay special attention to:

- a. Ensuring that all entities and persons involved in responding to unaccompanied or separated children are sufficiently experienced, trained, resourceful and equipped to do so in an appropriate manner;
- b. Developing, as necessary, temporary and long-term family-based care;
- c. Using residential care only as a temporary measure until family-based care can be developed;

- d. Prohibiting the establishment of new residential facilities structured to provide simultaneous care to large groups of children on a permanent or long-term basis;
- e. Preventing the cross-border displacement of children, except under the circumstances foreseen in para. 165;
- f. Making co-operation with family tracing and reintegration efforts mandatory.

The guidelines also expressly stipulate that:

165. Children in emergency situations should not be moved to other countries for alternative care except temporarily for compelling health, medical or safety reasons. In that case, this should be as close as possible to their home, they should be accompanied by a parent or care-giver known to the child, and a clear return plan should be established.

166. Should family reintegration prove impossible within an appropriate period, or be deemed contrary to the child's best interests, stable and definitive solutions such as *kafala* or adoption should be envisaged and, failing this, other long-term options should be considered such as foster care or appropriate residential care, including group homes and other supervised living arrangements.

3. International regulations

It is suggested that the States should sign, endorse or fulfil the following related conventions and regulations: The Convention on the Rights of the Child; the 1996 The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children; the United Nations guidelines for the alternative care of children, and the binding stipulations of humanitarian International Law, as well as those which regulate armed conflicts.

4. Measures to be taken in emergency contexts

The IIN suggests that Member States should adopt emergency plans which focus specifically on the needs of children, as well as train specialized personnel and bear in mind the guidelines mentioned above.

With regard to the adoption of children in national emergencies caused by natural disasters, this should only be considered as a secondary option to the efforts of the State to place the child in local family care or in alternative care, until the emergency situation is overcome and the legal status of the child can be ensured.