

BIRTH REGISTRATION: A TOPIC PROPOSED FOR AN EXECUTIVE COMMITTEE
CONCLUSION ON INTERNATIONAL PROTECTION

1. Birth registration is fundamental to the protection of children of concern to UNHCR and to the prevention of statelessness. Every child has the right to be registered at birth, as recognized *inter alia* in the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. The United Nations General Assembly has urged States to intensify efforts in the area of birth registration,¹ while the Executive Committee has called on States to facilitate birth registration and to do so with the assistance of UNHCR, the United Nations Children's Fund (UNICEF) and the United Nations Population Fund (UNFPA).² However, the Executive Committee has yet to provide detailed guidance on this key element of protection.

2. Birth registration is the first step towards ensuring recognition as a person before the law. Failure to document a person's legal existence beginning from birth can prevent the effective enjoyment of a range of human rights. For example, access to education and health care may be problematic. Furthermore, because registration establishes proof of age, it provides children with a degree of protection against child labour, early marriage, illegal adoption, sexual exploitation and recruitment into armed forces or armed groups. Similarly, unregistered children are at heightened risk of trafficking and of being treated as adults when in conflict with the law. The biodata provided by birth registration is useful in the operational context of tracing and family reunification, for planning purposes and in the search for durable solutions..

3. Birth registration is also essential in ensuring the right of every child to acquire a nationality. However, it is important to distinguish between birth registration and the process by which individuals acquire nationality. At birth, acquisition of nationality under the law generally occurs automatically either by *jus sanguinis* (descent) or *jus soli* (birth on the territory). Birth registration establishes in legal terms the place of birth and parental affiliation, which in turn serves as documentary proof underpinning acquisition of the parents' nationality (*jus sanguinis*), or the nationality of the State based on where the child is born (*jus soli*). Thus, while nationality is normally acquired independently and birth registration in and of itself does not normally confer nationality upon the child concerned, birth registration does constitute a key form of proof of the link between an individual and a State and thereby serves to prevent statelessness.

¹ UN General Assembly Resolution A/RES/63/241, of 13 March 2009.

² See in particular Executive Committee Conclusions 90 [r], 106, [h] and 107 [c, h].

4. Failure to register a child immediately after birth can in principle be addressed through late registration procedures. This can be more costly, however, and may in some instances prove very difficult or impossible due to factors such as conflict, natural disaster, migration and the separation of families.

5. UNHCR baseline data from early 2009 revealed that the level of birth registration among persons of concern is unacceptably low: Only 46 per cent of newborns in 103 refugee camps and 49 per cent of newborns in 94 urban areas were issued birth certificates. This data is complemented by the global statistics provided by UNICEF, which show that only 50 per cent of children under five in developing countries are registered.³ UNHCR has therefore made the attribution of individual and civil documentation one of its Global Strategic Priorities⁴, and has set targets to raise the registration rate and issuance of birth certificates, beginning with populations of concern and children who are at risk of becoming stateless due to birth registration deficits.

6. Ensuring birth registration remains a challenge that needs to be addressed through concerted action by multiple actors, with States playing a key role. The guidance of the Executive Committee in the form of a Conclusion on birth registration, is therefore both timely and necessary. A Conclusion would draw on existing international legal standards and provide detailed guidance on how to apply them in the operational context. In doing so, it would take account of the growing body of good practice of States, United Nations agencies and civil society, in the area of birth registration, and also the diversity of approaches taken by States with regard to civil registration more generally. Below is an outline of some of the areas such a Conclusion could usefully address. A more detailed outline of the Conclusion could be provided in due course.

7. UNHCR would therefore welcome suggestions for issues that might be included in a Conclusion on birth registration, in particular related to the following areas:

(a) Laws and policies on birth registration that ensure timely and compulsory birth registration for all children within the national territory, including those born on ships flying the flag of the State and on planes registered in the country in question;

(b) Non-discrimination, ensuring equal access to birth registration for all persons of concern to UNHCR, regardless of such factors as nationality, immigration status or marital status of the parents;

(c) Accessibility of birth registration, in particular through (i) developing policies that take into account barriers to registration such as displacement, conflict, natural disasters, poverty and discrimination, (ii) putting in place systems that make birth registration accessible at the local level, including mobile birth registration to address existing deficits, (iii) integrating birth registration with other public programmes such as those relating to childbirth, maternal-infant care, immunization and education, (iv) waiving registration fees, and (v) facilitating the registration of children born to nationals abroad;

³ UNICEF, State of the World's Children Special Edition: Celebrating 20 Years of the Convention on the Rights of the Child, Table 9.

⁴ UNHCR, Global Strategic Priority 2.5, Global Appeal 2010-2011.

(d) Addressing the situation of individuals who were not registered immediately after birth by facilitating late registration, in particular through flexible requirements of proof and by not requiring payment of additional fees or fines;

(e) Allowing children access to basic services such as health and education, until such time as they can be registered;

(f) Establishing and strengthening accessible and sustainable civil registration systems, including digital records and innovations such as the use of satellite communications technology by birth registration teams in remote locations;

(g) Raising awareness of procedures and the importance of birth registration, in particular through community outreach programmes that take into consideration cultural barriers to registration;

(h) Developing the capacity of relevant State authorities and community actors, notably civil registry officials, judges, local authorities, health care providers (such as hospitals and midwives), educational authorities and community leaders;

(i) Cooperation between relevant State entities, United Nations Funds and Programmes (notably UNHCR, UNICEF and UNFPA), development agencies and civil society organizations, on the promotion of birth registration and on the recognition of birth attestations issued by these organizations while children are waiting to be officially registered by the relevant State authorities.

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