

PROPOSED THEMES
FOR EXECUTIVE COMMITTEE CONCLUSIONS IN 2010

I. INTRODUCTION

1. At the Executive Planning Meeting on 11 December 2009, UNHCR proposed the following protection themes for discussion by Executive Committee (ExCom) members and Standing Committee observers in 2010: the protection of persons of concern with disabilities; and birth registration. The theme of disabilities has already been the subject of previous discussions, including at an Informal Consultative Meeting held on 9 June 2008. The purpose of this paper is to provide a preliminary outline of each of the themes proposed, with broad and preliminary pointers to the issues at stake.

II. PROPOSED THEMES

1. The protection of persons with disabilities

2. The adoption of the “Convention on the Rights of Persons with Disabilities” (CRPD) at the end of 2006 marked a historic watershed in the development of human rights. The Convention is the first comprehensive human rights treaty of the 21st century and, with 82 States having signed at its opening, it has the highest number of opening signatories in respect of any human rights instrument. The Convention, which entered into force on 3 May 2008, provides a broad categorization of persons with disabilities; clarifies norms and standards specific to their needs; and sets out States’ obligations to ensure their equal enjoyment of rights in all areas of civil, political, economic, social and cultural rights. The Convention signifies a shift in attitudes and approaches to persons with disabilities: for instance it has moved from a medical to a social approach, and it also recognizes disability as an environmental designation and not an accurate reflection of the person.

3. The protection of displaced persons with disabilities is a shared concern for all States as well as for intergovernmental and non-governmental organizations involved in this area of humanitarian work. While some progress has been made to date, many areas still require strengthening, for example:

(a) staff and partners still tend to maintain a vision of “vulnerability and dependence”, which has resulted in measures that focus on assistance-based activities rather than targeted action to build on the capacities of persons with disabilities;

(b) persons with disabilities who face difficulties in relation to communication, concentration, understanding or mobility may encounter serious barriers in accessing essential services. For example, they may be unable to access transport, to understand written and verbal information, to register with institutions for documentation and support, or to recall and recount with accuracy relevant details during refugee status interviews;

(c) adults and children with disabilities often face ostracism or marginalization within their immediate families and communities, which exacerbates the protection challenges they face. In terms of solutions, they may have fewer opportunities to integrate locally or to avail themselves of resettlement programmes. In return situations, they may be excluded from returnee assistance programmes, especially in respect of the allocation of housing and land;

(d) greater efforts are needed to coordinate stakeholders' interventions in order to harmonize approaches and the utilization of meagre resources for better protection of persons with disabilities.

5. UNHCR believes it timely to adopt an ExCom conclusion which would draw upon the norms and standards of the Convention and provide a consistent framework for activities in relation to refugees and other persons of concern with disabilities. An ExCom conclusion on this theme would help to clarify the particular protection risks for persons with disabilities; underscore the need to make this a priority concern; and elaborate on key policy elements. Such a conclusion could also bring greater visibility to the issues and call for their systematic inclusion in policy guidance; strengthened accountability; improved training and capacity building; the implementation of effective mechanisms for early identification, monitoring, response and solutions; as well as helping to improve protection and programme delivery.

2. Birth registration

6. Being registered at birth is a fundamental right of every child, as recognized in both the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights.

7. Registration is the first step towards ensuring recognition as a person before the law. It is often a precondition for the exercise of other rights, such as education and health care. Because registration establishes proof of age, it provides children with a degree of protection against child labour, early marriage, sexual exploitation and recruitment into armed forces or armed groups. Similarly, unregistered children are at heightened risk of trafficking or of being treated as adults when in conflict with the law. Finally, birth registration is useful for planning purposes.

8. Birth registration is also essential for ensuring the right of every child to acquire a nationality, because it documents the place of birth and parental affiliation, thereby proving that a child is entitled to the nationality of a State, either by *jus soli* or by *jus sanguinis*. In sum, it is a tool for preventing statelessness.

9. In the specific context of UNHCR's refugee operations, birth registration systems also facilitate efforts to reunite unaccompanied and separated children with their families. Furthermore, birth registration is a key step towards an appropriate durable solution for refugees, namely voluntary repatriation, local integration or resettlement.

10. Birth registration is, therefore, crucial to protect children of concern to UNHCR and to implement the Office's mandate to prevent statelessness. However, baseline data established in early 2009 revealed that the level of birth registration among persons of concern is unacceptably low. UNHCR has therefore made the attribution of individual and civil documentation one of its Global Strategic Priorities, and has set targets to raise the rate of registration and issuance of birth certificates.

11. The Executive Committee has recognized the importance of birth registration in various Conclusions on International Protection, notably in: No. 105 (LVII) – 2006 on Women and Girls at risk; No. 106 (LVII) – 2006 on Identification, prevention and reduction of statelessness and protection of stateless persons; and No. 107 (LVIII) – 2007 on Children at risk. However, while those conclusions have emphasized the importance of birth registration, they have not provided the more detailed guidance that is required in the particular context of forced displacement and statelessness.

12. A conclusion could usefully explore the legal measures to ensure the following: birth registration; administrative and institutional arrangements; and sensitization of affected populations. It could also set out the roles of States, UNHCR and other United Nations agencies. This is particularly important because multiple actors are involved in birth registration efforts, with key roles played by States, UNICEF¹ and UNFPA. These agencies would need to be part of the consultations and drafting process. Finally, a conclusion could provide a useful compilation of best practices and become a central point of operational guidance on birth registration.

UNHCR
January 2010

¹ UNICEF's Child Protection Strategy adopted by its Executive Board in June 2008 recognizes the importance of birth registration and the link with the prevention of statelessness.