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Item 5 (a) of the provisional agenda for the expert segment\*

**Assessing progress in the development of civil registration and vital statistics systems in the region: how can Africa accelerate progress in meeting regional and international commitments? Birth registration**

Item 4 (a) of the provisional agenda for the ministerial segment\*\*

**Statutory reports on the progress of the regional civil registration and vital statistics programme and civil registration and vital statistics systems in Africa: report on progress in the registration of births**

## **Birth registration for the prevention of statelessness in Africa: submission by the Office of the United Nations High Commissioner for Refugees**

### **A. Civil registration and refugee protection**

1. Civil registration is important for policy development, planning and protection. Accurate, complete, reliable, relevant and timely data are instrumental for realizing policy objectives, including the goals of the comprehensive refugee response framework of the Office of the United Nations High Commissioner for Refugees (UNHCR),<sup>1</sup> such as enhancing refugee self-reliance and inclusion. Birth registration is part of an effective civil registration system that acknowledges an individual's existence before the law, establishes family ties and tracks the major events of an individual's life, from live birth to marriage and death.

2. Persons of concern to UNHCR, whether refugees, asylum-seekers, internally displaced persons, returnees or stateless persons, have the right to have their births registered. Birth registration is crucial for international and legal recognition of the existence of an individual as it establishes a child's legal identity, whether that child is a refugee or not. In addition, birth

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<sup>1</sup> See General Assembly resolution 71/1, annex I.



registration can help to prevent statelessness. Accordingly, it is an important protection tool, ensuring fundamental human rights, especially in displacement situations.

3. Birth registration in particular is an essential form of child protection, as it gives a child, including refugee children, a name, an age, and an existence that is recognized and acknowledged by the civil authorities. It also confers rights and privileges that apply while a person is of concern to UNHCR and long after. These include rights based on nationality and personal status, such as having access to education, food and health care; and, eventually, the right to marry, vote, obtain a passport, be allowed to trade, open a bank account, and own property.

4. If refugee children cannot provide proof of their age and identity, they become “invisible”, so to speak, to the authorities. As a result, they are more vulnerable to abuse and exploitation, such as trafficking, slavery, forced recruitment, early marriages, child labour, and detention and prosecution as an adult.

5. Ideally, refugee births should be registered in the normal national civil registers, but this has not always been the case. In Southern Africa, for example, all States, except four, engage in the registration and documentation of refugees and asylum-seekers on their territories. For various reasons, some asylum countries are unwilling to facilitate birth registration of the newborn children of refugees and asylum-seekers. In some cases, asylum countries may not have a working birth registration system in the country or in those areas where refugees are hosted.

## **B. Selected best practices**

6. The following list provides some of the best practices<sup>2</sup> worth emulating concerning the birth registration of refugees and asylum-seekers:

(a) In Kenya, UNHCR supports partners in conducting mobile birth registration exercises in areas where stateless communities live, notably in Kwale and Kilifi counties. These exercises are planned and conducted in collaboration with the Department of Civil Registration Services;

(b) In 2017, Ethiopia launched the civil registration of refugees, making the service more accessible by establishing civil registration offices in all refugee camps and in selected locations with a high concentration of refugees;

(c) In Burkina Faso, the introduction of a mobile system that allows children to be registered remotely has made birth registration much more accessible, especially to rural people who live far from a civil registry office;

(d) In 2016, UNHCR entered into an agreement with Côte d’Ivoire and Ghana to ensure that all Ivorian refugee children born in Ghana and whose families decide to repatriate voluntarily to Côte d’Ivoire will have their births registered with the Ivorian authorities – the goal is to prevent cases of statelessness upon return. The transcription of Ghanaian birth certificates into the Ivorian civil registry takes place at the embassy or consulate of Côte

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<sup>2</sup> UNHCR, *Good Practices Paper – Action 7: Ensuring birth registration for the prevention of statelessness* (November 2017). Available at [www.refworld.org/docid/5a0ac8f94.html](http://www.refworld.org/docid/5a0ac8f94.html).

d'Ivoire in Ghana before the return. The birth is officially recorded in the consular registry, facilitating the swift enrolment of children in the Ivorian national civil registry after their return;

(e) As a result of advocacy efforts by UNHCR and partners, Jordan integrated birth registration for refugee children into the country's health sector. This has also provided an additional incentive for refugee women to deliver their children safely, receive the medical care that they need, and obtain a birth notification, which is issued by hospitals or certified midwives.

### **C. Birth registration and statelessness**

7. Individuals can be at risk of statelessness if they have difficulties in proving that they have links to a State. For example, a lack of birth certificates can create such a risk. This is because birth registration documents that show where a person was born and who their parents are, is a key element needed to establish a person's entitlement to a nationality.

8. Birth registration is fundamental to the protection of children and to the prevention of statelessness. Every child has the right to be registered at birth, as recognized in the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the African Charter on the Rights and Welfare of the Child. 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.

9. Birth registration is equally essential in ensuring the right of every child to acquire a nationality. It is important, however, to distinguish between birth registration and the process by which individuals acquire a nationality. Birth registration establishes in legal terms the place of birth and parental affiliation, which in turn serves as documentary proof underpinning the 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 constitutes a key proof of the link between an individual and a State and therefore serves to prevent statelessness.

10. In the context of the UNHCR "I Belong" campaign to end statelessness, launched in 2014, along with its ten-year Global Action Plan to End Statelessness 2014–2024, Action 7 of this Plan calls upon States to "ensure birth registration for the prevention of statelessness".<sup>3</sup> This action is in recognition that birth registration is a crucial tool for preventing statelessness and ensuring the person's right to a nationality.

11. During the fifth session of the Conference of African Ministers Responsible for Civil Registry held in 2019, and with regard to civil registration and vital statistics and identity management for durable solutions for refugees, internally displaced persons and returnees, African ministers stressed the interlinkage between prevention of statelessness and birth registration, especially regarding refugees and other forcibly displaced persons. To that end, Member States recommended the creation of robust and inclusive identification registration systems that would provide for birth registration and the issuance of identity and travel

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<sup>3</sup> See [www.unhcr.org/uk/protection/statelessness/54621bf49/global-action-plan-end-statelessness-2014-2024.html?query=2009%20Global%20Trends](http://www.unhcr.org/uk/protection/statelessness/54621bf49/global-action-plan-end-statelessness-2014-2024.html?query=2009%20Global%20Trends).

documents to refugees in order to prevent statelessness and facilitate their return to their home countries.

#### **D. Key issues**

12. As nationality is typically acquired in accordance with the nationality law of each State, a lack of birth registration on its own does not usually make people stateless. Some specific categories of children and adults, however, may face increased risks of statelessness without birth registration. These individuals are those born in certain situations for which the lack of birth registration may create or exacerbate their risk of statelessness. In addition, the individual's situation and legal status, or lack thereof, along with the parents' lack of status, may expose them to additional difficulties in having access to birth registration or obtaining related documents.<sup>4</sup>

13. These categories of persons whose lack of birth registration augments their risk of statelessness, include:

(a) Refugees, asylum-seekers, and their descendants born in a country of asylum, returnees, internally displaced persons, and other people forced to flee;

(b) Vulnerable children – orphaned or abandoned children (foundlings), trafficked children, unaccompanied or separated children, and children born out of wedlock;

(c) Persons living in border areas where the lack of birth registration may lead to or contribute to confusion or a lack of documentary evidence as to whether they are nationals of one State or another;

(d) Nomadic or semi-nomadic populations whose territories cross international borders;

(e) Minorities and persons with perceived or actual ties with a foreign State or several foreign States;

(f) Migrant populations who may have difficulty in proving nationality of the country of origin, especially when one or more generations of children are born abroad (a risk that increases with each successive generation);

(g) Other marginalized and undocumented communities who have gone for generations with no or limited identity and civil status documentation.

14. Several UNHCR regional studies on statelessness and citizenship have been conducted throughout the continent<sup>5</sup> the results of which have shown that universal and non-discriminatory access to birth registration remains an issue in law and in practice, disproportionately affecting some categories of populations. In certain African countries,

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<sup>4</sup> UNHCR, *Good Practices Paper – Action 7*.

<sup>5</sup> Bronwen Manby, *Nationality, Migration and Statelessness in West Africa* (Dakar, UNHCR; International Organisation for Migration, June 2015); *Statelessness and Citizenship in the East African Community* (Nairobi, UNHCR, September 2018); *Citizenship and Statelessness in the Member States of the Southern African Development Community* (Nairobi, UNHCR, December 2020); and *Citizenship and Statelessness in the Horn of Africa, December 2021* (Nairobi, UNHCR, 2021).

administrative barriers, and bottlenecks that hinder people having access to birth registration, relating in particular to specific categories of children and individuals and to late birth registration, undermine the principle of universal and non-discriminatory access to birth registration. This includes prerequisite documentation or other requirements for the birth registration, especially for certain categories of persons as listed above. For example, it may be a documentary requirement to provide the national identification, passport, or documentary proof of nationality of the child's parents, which is unobtainable, therefore precluding access to birth registration for the child. In other cases, it may be required for the child's parents to have a legal or immigration status in the country of birth in order to register the birth of the child. In some cases, the fact that the parentage of a child is unknown, precludes the birth registration in the country where the child is found.

15. In addition, levels of birth registration in some States on the continent remain low and are difficult to adjust subsequently because procedures for late birth registration have not been established or are long, complex, and expensive and therefore inaccessible for marginalized or undocumented populations and other groups at risk of statelessness.

## **E. Recommendations**

16. Acknowledging the wider ratification of the African Charter on the Rights and Welfare of the Child by Member States, the proposed side event is intended to leverage article 6 of the African Charter, providing for the child's right to birth registration, name and nationality, and the related general comment<sup>6</sup> on this provision issued by the African Committee of Experts on the Rights and Welfare of the Child, underlining that discrimination on whatever grounds jeopardizes the principle of universality of birth registration. Furthermore, the African Committee of Experts highlight that the prevention of statelessness among children starts with the adoption of all necessary measures to ensure that all children born on its territory have their birth registered. The general comment underscores the importance of birth registration for children exposed to the risk of statelessness and pave the way towards the necessary measures to be put in place by States to ensure accessible and flexible birth registration, which in turn will contribute to reducing or mitigating that risk of statelessness among certain groups of children.

17. In view of this situation, the side event is intended to bring together legal experts from the African Committee of Experts on the Rights and Welfare of the Child and UNHCR to shed light on the importance of ensuring universal, non-discriminatory and accessible birth registration for all children, regardless of the nationality, migration and residence status of their parents and the child's legal status, including being of unknown origin. Furthermore, the event is intended to examine the various good practices implemented in African countries, and aimed at facilitating access to birth registration for specific categories of populations, such as those who are at particular risk of statelessness and whose situation makes it difficult for them to register births or obtain related documents. The presentation of country case studies will provide an opportunity for participants to discuss how domestic laws and practices can shape accessible and flexible birth registration for these populations at risk of statelessness, thereby helping to reduce or mitigate these risks.

18. Presentations and discussions will enable the participants, with the support of the legal experts from the African Committee of Experts on the Rights and Welfare of the Child and

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<sup>6</sup> See [www.acerwc.africa/wp-content/uploads/2018/04/General-Comment\\_Art6\\_ACRWC\\_English.pdf](http://www.acerwc.africa/wp-content/uploads/2018/04/General-Comment_Art6_ACRWC_English.pdf).

UNHCR, to frame and agree on key recommendations to ensure accessible, non-discriminatory and flexible birth registration approaches for all children at risk of statelessness, regardless of such factors as nationality, immigration, documentation status or other status of the parents or lack of parentage.

19. The recommendations below, drawing on the practice of the four countries presented, focus on ensuring accessible, non-discriminatory and flexible birth registration procedures, including late birth registration, benefiting groups of children at risk of statelessness. This includes: children of undocumented and marginalized communities in the Congo, following national census on civil status documents; orphans or abandoned children found in Côte d'Ivoire (foundlings); children of Pemba descent born in Kenya and remaining with undetermined nationality; and refugee children of Syrian origin born in their country of asylum in Egypt.

20. The proposed recommendations are the following:

(a) That the necessary legal, policy and administrative measures should be taken to ensure full respect in law and in the practice of the key principle of universal and non-discriminatory birth registration for all children born on the territory by competent authorities of the country of birth, irrespective of the child's nationality, migration or other status or that of the parents and any other grounds, such as ethnic group, colour, gender, language, religion, political or other opinions, national and social origin, fortune, birth or other status of the child's parents;

(b) That the domestic legal policy and administrative frameworks formulated for the birth registration of children born on the territory and identified as at risk of statelessness should be flexible, accessible and adjustable by considering barriers to registration, such as displacement, conflict, natural disaster, marginalization, and discrimination based on the legal status of the child's parents or lack of thereof;

(c) That national population and documentation censused should be leveraged to put in place flexible approaches and systems that make late birth registration accessible at the local level, including mobile birth registration, to tackle existing deficits, especially when the population face risks of statelessness;

(d) That alternatives should be developed to documentation or other requirements that cannot be met by children from undocumented and marginalized communities or other groups affected by statelessness to guarantee their non-discriminatory and universal access to birth registration, including in the case of late birth registration.

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