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Comments	Report of the fifty-eighth session of the Executive Committee of the High Commissioner's Programme (Geneva, 1-5 October 2007) (A/AC.96/1048 , 10 October 2007).

Conclusion on Children at Risk

The Executive Committee,

Recalling its Conclusions Nos. 47 (XXXVIII), 59 (XL) and 84 (XLVIII), specifically on refugee children and/or adolescents, Conclusion No. 105 (LVI) on Women and Girls at Risk, Conclusion No. 106 (LVI) on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, Conclusion No. 94 (LIII) on the Civilian and Humanitarian Character of Asylum, Conclusion No. 98 (LIV) on Protection from Sexual Abuse and Exploitation, Conclusion No. 100 (LV) on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations as well as all provisions of relevance to the protection of refugee children set out in other Conclusions, many of which are relevant for other children of concern to UNHCR,

Taking note of the more recent international developments in relation to the protection of children, in particular the two Optional Protocols to the 1989 Convention on the Rights of the Child (CRC), Security Council resolutions 1612, 1674, and 1325, the Paris Commitments to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups and the United Nations Secretary-General's Study on Violence against Children,

Recognizing the important work done by the United Nations Children's Fund (UNICEF) and non-governmental organizations (NGOs) in relation to the protection of children,

Affirming that children, because of their age, social status and physical and mental development are often more vulnerable than adults in situations of forced displacement; *recognizing* that forced displacement, return to post-conflict situations, integration in new societies, protracted situations of displacement, and statelessness can increase the vulnerability of children generally; *taking into account* the particular vulnerability of refugee children to being forcibly exposed to the risks of physical and psychological injury, exploitation and death in connection with armed conflict; and *acknowledging* that wider environmental factors and individual risk factors, particularly when combined, can put children in situations of heightened risk,

Acknowledging that, while both girls and boys face many of the same protection risks, they also experience protection challenges specific to their gender, and *reaffirming* that, while many risks may be prevalent in all settings, camp and urban environments may generate different protection needs,

Noting that this Conclusion applies to children, as defined under Article 1 of the CRC, who are asylum-seekers, refugees, are internally displaced or returnees assisted and protected by UNHCR, or are stateless, particularly addressing the situation of those at heightened risk,¹

Recalling that the protection of children is primarily the responsibility of States, whose full and effective cooperation, action and political resolve are required to enable UNHCR to fulfil its mandated functions,

Recognizing the varied means and capacity of host countries; and *reaffirming* its call to the international community, in cooperation with UNHCR and other international organizations, to mobilize the financial and other resources necessary, including in support of host communities, to ensure the provision of protection and material assistance and the achievement of durable solutions, based on international solidarity, cooperation and burden and responsibility sharing, as well as on the understanding that inadequate protection, or inadequate, inappropriate or poorly distributed assistance, can increase the risks children face,

(a) *Adopts* this Conclusion which provides operational guidance for States, UNHCR and other relevant agencies and partners, including through identifying components that may form part of a comprehensive child protection system, with the aim of strengthening the protection of children at risk;

Fundamentals of child protection

(b) *Recognizes* that strategies and actions under this operational guidance should be underpinned by the following principles and approaches, amongst others:

- i. Children should be among the first to receive protection and assistance;
- ii. States should promote the establishment and implementation of child protection systems, in accordance with international obligations of States concerned, and to which children under their jurisdiction should have non-discriminatory access;
- iii. The support provided by UNHCR and other relevant agencies and partners in helping States fulfil their obligations should supplement and strengthen the national child protection system in areas where gaps exist, and be delivered in a spirit of partnership by building on each actor's comparative advantages to reinforce the beneficial impact on the protection of children;
- iv. States, UNHCR, and other relevant agencies and partners shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child, and that mechanisms exist to inform children and adults alike of children's rights and options;
- v. The principle of the best interests of the child shall be a primary consideration in regard to all actions concerning children;
- vi. Due consideration should be given to the importance of the family and family support structures for the protection of children;
- vii. Non-discriminatory enjoyment of rights and each child's right to life should be ensured, while also assuring to the maximum extent possible each child's survival and development, supported by a caring and protective family environment and zero tolerance for all forms of violence against children;
- viii. The active promotion of gender equality is essential to the protection of girls and boys, particularly those at heightened risk;
- ix. Emphasis should be given to children in the prioritization of financial and other necessary resources;
- x. A rights-based approach, which recognizes children as active subjects of rights, and according to which all interventions are consistent with States'

obligations under relevant international law, including, as applicable, international refugee law, international human rights law and international humanitarian law, and acknowledgement that the CRC provides an important legal and normative framework for the protection of children;

- xi. In recognition that detention can affect the physical and mental well-being of children and heighten their vulnerability, States should refrain from detaining children, and do so only as a measure of last resort and for the shortest appropriate period of time, while considering the best interests of the child;
- xii. A two-pronged approach comprising: (1) mainstreaming of age, gender and diversity into all UNHCR programmes, policies and operations, and (2) targeted action, to ensure that all children, girls and boys of diverse backgrounds, can enjoy protection on an equal basis; and
- xiii. A collaborative approach whereby all relevant actors work together to: identify risks faced by children; undertake participatory situation and comprehensive gap analyses to identify, assess and respond to the wider environmental and individual factors placing children at heightened risk; and document and share information with due respect for rules of confidentiality;

Identification of children at risk

(c) *Calls on* States, UNHCR and other relevant agencies and partners to put in place modalities, as appropriate, for early and continuous identification of children at heightened risk. Risk factors that put children in a situation of heightened risk can include both risks in the wider protection environment and risks resulting from individual circumstances, taking into account the cumulative effects of being exposed to several risk factors, such as:

- i. Wider environmental risk factors including, but not limited to: an insecure environment; lack of access to child-sensitive asylum procedures; situations of displacement, particularly protracted situations; statelessness; lack of sustainable solutions; poverty and families' lack of self-reliance opportunities; inadequate access to and use of services such as education and health care; disruption of family and community support structures; prevalence of traditional practices that are harmful to children; discrimination, intolerance, xenophobia, and gender inequality; and lack of documentation of the parent-child relationship through birth registrations and issuance of birth certificates; and

- ii. Individual risk factors, including, but not limited to: unaccompanied and separated children, particularly those in child-headed households as well as those accompanied by abusive or exploitative adults; stateless children; adolescents, in particular girl mothers and their children; child victims of trafficking and sexual abuse, including pornography, pedophilia and prostitution; survivors of torture; survivors of violence, in particular sexual and gender-based violence and other forms of abuse and exploitation; children who get married under the age specified in national laws and/or children in forced marriages; children who are or have been associated with armed forces or groups; children in detention; children who suffer from social discrimination; children with mental or physical disabilities; children living with or affected by HIV and AIDS and children suffering from other serious diseases; and children out of school;

(d) *Recognizes* the challenges involved in identifying children at heightened risk as they are frequently less visible than adults and may not have the opportunity or feel able to report protection incidents, particularly if these occur in the private domain and/or are associated with social stigmas or taboos; *acknowledges* the need to provide children access to adults with expertise in age-appropriate and gender-sensitive interviewing and communication skills to ensure that children's views are taken into account and their needs and protection risks are adequately identified and responded to;

(e) *Recognizes* that individual, careful and prompt registration of children can be useful for States, UNHCR and other relevant agencies and partners in identifying children at heightened risk;

(f) *Recognizes* that the systematic collection and analysis of age- and sex-disaggregated data, and of data on children with specific needs, such as unaccompanied and separated children, can be useful for States, UNHCR and other relevant agencies and partners in identifying children at heightened risk;

Prevention, response and solutions

(g) *Recommends* that States, UNHCR and other relevant agencies and partners work in close collaboration to prevent children from being put at heightened risk, and respond, as necessary, through the general prevention, response and solution measures listed non-exhaustively below:

- i. Within the framework of the respective child protection systems of States, utilize appropriate procedures for the determination of the child's best interests which facilitate adequate child participation without discrimination: where the views of the child are given due weight in

accordance with age and maturity; where decision makers with relevant areas of expertise are involved; and where there is a balancing of all relevant factors in order to assess the best option;

- ii. In the case of UNHCR, conduct best interests determinations respecting child protection systems of States in cooperation with other relevant agencies and partners;
- iii. Incorporate needs and rights of children into early warning mechanisms, alerts and contingency plans, and ensure integration of child-based risk analysis into inter-agency assessments relevant to children at risk and development cooperation strategies and plans;
- iv. Establish confidential, accessible and child and gender-friendly complaints and referral systems, in coordination with national authorities when necessary, with clear roles for receiving, referring and addressing complaints from or about a child while ensuring the safety of the child, and for managing case files; children should be adequately informed about the availability of complaint and remedial mechanisms;
- v. Promote the implementation of mechanisms for monitoring the protection of children at risk, particularly of those in alternative care arrangements;
- vi. Strengthen or promote the establishment of child protection committees, as appropriate, with equal and meaningful participation of girls and boys;
- vii. Facilitate access to administrative or judicial procedures of States that are in accordance with their international obligations and that allow for the prosecution of perpetrators of crimes committed against children, and in which decisions on whether a child should be separated from her or his abusive or negligent parents or caretakers are made based on a determination of the child's best interests;
- viii. Develop child and gender-sensitive national asylum procedures, where feasible, and UNHCR status determination procedures with adapted procedures including relevant evidentiary requirements, prioritized processing of unaccompanied and separated child asylum-seekers, qualified free legal or other representation for unaccompanied and separated children, and consider an age and gender-sensitive application of the 1951 Convention through the recognition of child-specific manifestations and forms of persecution, including under-age recruitment, child trafficking and female genital mutilation;

- ix. Ensure that age assessments are only carried out in cases when a child's age is in doubt, and take into account both the physical appearance and the psychological maturity of the individual; that they are conducted in a scientific, safe, child and gender-sensitive and fair manner with due respect for human dignity; and that they consider the individual as a child in the event of uncertainty;
- x. Establish and/or implement codes of conduct, including stipulating zero tolerance for child exploitation and abuse for all humanitarian staff, including those working in the delivery of services, and for other staff in authority such as border guards, and ensure that confidential and accessible complaints systems are in place which include child and gender-sensitive investigation and follow-up, so as to encourage the reporting of abuse and exploitation where codes of conduct are breached;
- xi. Address, on a priority basis, the concerns of children in protracted refugee situations, including through intensifying efforts for durable solutions which will reduce the risks they face;
- xii. Support the efforts of host countries to enhance education, health care and provision of other basic services in refugee-impacted areas as well as expand national protection capacities for addressing the needs of children in particular; and
- xiii. Mobilize financial and other necessary resources, as appropriate, including by action to ensure the provision of protection and material assistance and timely durable solutions based on international solidarity, cooperation and burden and responsibility sharing;

(h) *Further recommends* that States, UNHCR and other relevant agencies and partners undertake the following non-exhaustive prevention, response and solution measures in order to address specific wider environmental or individual risks factors:

- i. Provide, where possible, asylum-seeking and refugee children with individual documentation evidencing their status;
- ii. Register births and provide children with birth or other appropriate certificates as a means of providing an identity;
- iii. Facilitate children's enjoyment of family unity through putting in place procedures to prevent separation, and in respect of unaccompanied and separated children, facilitate tracing and family reunification with their

- family members in accordance with the respective child's best interests, with due respect for the national legislation of respective States;
- iv. Promote the provision of alternative care and accommodation arrangements for unaccompanied and separated children, and facilitate the appointment of a guardian or adviser when an unaccompanied or separated child is identified;
 - v. Make all efforts to provide a secure environment including through selecting safe locations for camps and settlements as close to local facilities as possible, undertaking child and gender-sensitive protection-based site planning;
 - vi. Take appropriate measures to prevent the unlawful recruitment or use of children by armed forces or groups, and work towards the unconditional release from armed forces or groups of all children recruited or used unlawfully by armed forces or groups, and their protection and reintegration;
 - vii. Take effective and appropriate measures, including legislative, administrative and judicial, to prevent and eliminate traditional practices that are harmful to children taking into account the physical and mental harm caused to the child, and the different impact on girls and boys;
 - viii. Encourage the inclusion of all children in education programmes and strengthen children's capacities, including by enabling their equal access to quality education for girls and boys in all stages of the displacement cycle and in situations of statelessness; promote learning and school environments that are safe, do not perpetuate violence, and promote a culture of peace and dialogue; designate child-friendly spaces in camp and urban environments; and promote access to post-primary education wherever possible and appropriate, life-skills and vocational trainings for adolescents and support recreational activities, sports, play and cultural activities;
 - ix. Make all efforts to ensure integrated nutrition and health interventions and access to adequate food through measures that address the root causes of food insecurity and malnutrition, including by enhancing families' enjoyment of self-reliance, age and gender-sensitive food distribution systems, targeted nutrition programmes for pregnant women and children during their critical first years of development, and by providing treatment for malnourished children;
 - x. Make all efforts to ensure access to child-friendly health services, which provide appropriate medical and psycho-social care for child survivors of

violence, including for children with disabilities, take steps towards realizing access to HIV and AIDS prevention, treatment, care and support, including antiretroviral treatment and prevention of mother to child transmission; and for adolescents access to age-sensitive reproductive healthcare as well as health and HIV information and education;

- xi. Establish and provide access to appropriate psychological support and training programmes as required to prepare children better for social reintegration;
- xii. Give high priority to enabling children with disabilities to have access to special assistance and to adequate health and social services, including psychosocial recovery and social reintegration;
- xiii. Develop capacities and competencies on child protection issues through training of government officials, UNHCR staff and implementing and operational partners to enhance knowledge of the rights of children, the fundamentals of child protection and gender analysis;
- xiv. Facilitate the provision of child-friendly information on the conditions in places of return to enable refugee and internally displaced children, in particular those unaccompanied and separated and others at heightened risk, to participate in decision-making on their return; promote respect for protection of children's inheritance rights; and provide, where possible and appropriate, child- and gender-sensitive/adapted reintegration support on integration and participation in the communities to which they are returning, targeting and recognizing the specific needs of the returning child;
- xv. In the context of voluntary repatriation of refugees, take appropriate steps to ensure that unaccompanied or separated children are not returned prior to the identification of adequate reception and care arrangements;
- xvi. Facilitate the integration of internally displaced children in places of settlement through targeted action in support of their integration as fully included members of the community, including by taking measures to address discrimination faced by internally displaced children;
- xvii. Whether in the context of resettlement or local integration, facilitate the integration of refugee children through targeted support in schools, particularly for adolescents, and through providing language classes and education on the culture and social structures in the host country for refugee children; provide support for refugee children at heightened risk that is targeted at addressing their specific needs; and where integration is

being implemented, facilitate, as far as possible, the naturalization of refugee children in accordance with national laws and regulations;

- xviii. Enhance the use of resettlement as a protection and durable solutions tool for children at risk; where appropriate, take a flexible approach to family unity, including through consideration of concurrent processing of family members in different locations, as well as to the definition of family members in recognition of the preference to protect children within a family environment with both parents; and recognize UNHCR's role in the determination of the best interests of the child which should inform resettlement decisions including in situations where only one parent is being resettled and custody disputes remain unresolved due to the unavailability or inaccessibility of competent authorities, or due to the inability to obtain official documents from the country of origin as this could jeopardize the safety of the refugee or his/her relatives; and
- xix. Safeguard the right of every child to acquire a nationality, and ensure the implementation of this right in accordance with national laws and obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless; and consider the active dissemination of information regarding access to naturalization procedures.

¹ Hereinafter referred to as "children" or "a child"