

PROPOSALS FOR AN EXECUTIVE COMMITTEE CONCLUSION
ON CHILDREN AT RISK¹

A. Current position based on previous ExCom Conclusions

1. The Executive Committee has to date adopted three Conclusions specifically devoted to protection of refugee children,² and has included in numerous other Conclusions references to the rights and specific protection needs of children. The standards and operational guidance provided in these Conclusions have to a large extent formed the basis for States' and UNHCR's work in the area of child protection. In the three Conclusions specifically devoted to the protection of refugee children, the Executive Committee has, among other things, recognized:

- the violations of children's' human rights in different areas of the world and their specific needs and vulnerability within the broader refugee population;³
- that children must be among the first to receive protection and assistance;⁴
- the need for States and relevant parties to respect and observe rights and principles that are in accordance with international human rights and humanitarian law and that are of particular relevance to international refugee protection, especially to safeguarding child and adolescent refugees;⁵
- the fundamental importance of the Convention on the Rights of the Child and that all actions on behalf of refugee children must be guided by the principle of the best interest of the child as well as by the principle of family unity;⁶
- the exposure of refugee children to physical violence, family separation and other violations of their human rights and the right to protection from all forms of exploitation;⁷
- the right of children affected by armed conflict to special protection and treatment, and the need to take steps to preserve the civilian and humanitarian nature of refugee camps and settlements;⁸
- the need to prevent separation of children and adolescent refugees from their families and to promote care, protection, tracing and family reunification for unaccompanied minors;⁹
- the specific needs of and protection risks faced by unaccompanied and separated children and the need to carry out individual assessments with them;¹⁰

¹ A Conclusion on Children at Risk would refer to asylum-seeking, refugee, IDP, returnee children at risk.

² ExCom Conclusions No. 47 (XXXVIII – 1987), No. 59 (XL – 1989) and No. 84 (XLVIII – 1997).

³ ExCom Conclusions No. 47 (a) and ExCom Conclusion No. 84 (PP2).

⁴ ExCom Conclusions No. 47 (c) and ExCom Conclusion No. 84 (PP2).

⁵ ExCom Conclusion No. 84 (a).

⁶ ExCom Conclusions No. 47 (d) and ExCom Conclusion No. 84 (PP4 and a(i)).

⁷ ExCom Conclusions No. 47 (e) and ExCom Conclusion No. 84 (PP3 and a(v)).

⁸ ExCom Conclusion No. 84 (a(iv) and b(ii)).

⁹ ExCom Conclusion No. 84 (b(i)).

- the need to ensure that refugee children are given particular attention through regularly assessing resources and requirements;¹¹
- the right of children and adolescents to adequate food and the highest attainable standard of health; as well as the need to develop and/or support programmes and strategies for alleviating the nutritional problems and health risks faced by refugee children;¹²
- the fundamental right of refugee children to education and the right of all refugee children benefit from primary education of a satisfactory quality; the need for refugee children to pursue further levels of education; as well as the link between education and durable solutions;¹³
- the need to promote continuing and expanded cooperation between UNHCR and other concerned agencies and bodies;¹⁴
- the development and dissemination of the UNHCR 1997 Guidelines on the Protection of Refugee Children;¹⁵ and
- UNHCR's strategy for follow-up to the United Nations Study on the Impact of Armed Conflict on Children ("the Machel Study").¹⁶

B. The issue today and the relevance of an ExCom Conclusion

2. Over the past ten years since Conclusion No. 84 (XLVIII – 1997) was adopted, significant developments have taken place in regard to the understanding of children's rights and their integration into UNHCR's work. The inclusion of a specific Objective on "measures to improve the framework for the protection of refugee children" in Goal 6 of the Agenda for Protection is one illustration of this acknowledgement.

3. Significant advancement has been made within the United Nations to gain a deeper understanding of the protection needs of children as well as in progressive developments in the normative framework for protection of children. Among these are: the work of the SRSB on Children and Armed Conflict and several Security Council resolutions, in particular Resolution 1612; the United Nations Special Session on Children on 8-10 May 2002 and its outcome document 'A World Fit for Children'; the United Nations Secretary-General's Study on Violence against Children; the work on child protection issues carried out within the Inter-Agency Working Group on Unaccompanied and Separated Children, including its Guiding Principles on Unaccompanied and Separated Children; the Optional Protocols¹⁷ to the Convention on the Rights of the Child (CRC) as well as developments in relation to the interpretation and application of the Convention on the Rights of the Child such as the CRC General Comments No. 6. It is timely that these conceptual and normative developments be reviewed by ExCom so as to formulate an operational framework for the protection of persons of concern to UNHCR.

¹⁰ ExCom Conclusions No. 47 (j) and Exom Conclusions No. 59 (g and h).

¹¹ ExCom Conclusions No. 59 (d).

¹² ExCom Conclusions No. 47 (q), Exom Conclusions No. 59 (e) and ExCom Conclusion No. 84 (a(iii)).

¹³ ExCom Conclusions No. 47 (o and p), Exom Conclusions No. 59 (f)

¹⁴ ExCom Conclusions No. 47 (s)

¹⁵ ExCom Conclusions No. 59 (c)

¹⁶ ExCom Conclusion No. 84 (PP7 and d)

¹⁷ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000, entered into force on 18 January 2002 and Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000, entry into force 12 February 2002.

4. In light of the role of UNHCR within the inter-agency collaborative approach as cluster lead for protection, camp management/camp coordination and shelter, operational guidance could also be helpful in relation to the protection of IDP children. All ExCom Conclusions so far cover only refugee children.

5. From its side, UNHCR has improved its methodology for ensuring participation of children of concern and consequently the identification of risk factors through systematically conducting participatory assessment;¹⁸ it has also issued the 1997 Guidelines on the Protection and Care of Refugee Children and developed the UNHCR Guidelines on Formal Determination of the Best Interests of the Child.¹⁹ However, serious protection issues remain. According to UNHCR's analysis of the progress made through the implementation of UNHCR's age, gender and diversity mainstreaming (AGDM) strategy and information gathered through the participatory assessments, some of the risk factors identified are found in the wider protection environment while some are the result of the individual's particular circumstances. Unaccompanied and separated children are also, as a group, often at heightened risk of being exposed to violations of their rights. These protection gaps could be examined and elaborated upon by ExCom, and UNHCR's activities on behalf of children at risk might be reinforced through operational guidance in an ExCom Conclusion.

6. ExCom could also review responses to protection gaps, and solutions. These could address both the risk factors themselves and the resulting protection problems, immediate and longer term. The Committee could examine, *inter alia*: the implementation of formal best interest determinations and establishment of effective family tracing and reunification systems for unaccompanied and separated children; empowerment of parents and families, including through self-reliance strategies and programmes; the role of education and recreation facilities; the achievement of an overall secure environment for children's activities, both at home and in other social settings; the impact of types of child care facilities on protection; the implementation of the AGDM strategy; improved access to child-friendly services; and durable solutions, in particular for children with traumatic experiences, maximizing the potential of adolescents.

C. Outline for a possible Conclusion on children at risk

7. The Executive Committee could play a critical role in bringing together the aforementioned standards developed over the past ten years into an operational framework that could serve to enhance the protection of refugee, internally displaced and returnee children. An ExCom Conclusion on Children at Risk could examine issues relating to the identification of children in need of international protection, prevention strategies and individual responses and solutions, with specific references to the following issues:

Identification of children at risk

- Vulnerability and risk factors and conducting an age, gender and diversity analysis;
- Mechanisms for the identification of unaccompanied and separated children in need of international protection and the role and timing of formal best interest determinations;
- Child sensitive asylum procedures, child-specific forms and manifestations of persecution and an age-sensitive interpretation of the refugee definition;

¹⁸ See the UNHCR Tool for Participatory Assessment in Operations, Geneva, May 2006.

¹⁹ UNHCR Guidelines on Formal Determination of the Best Interests of the Child, (provisional release May 2006).

- Elements of a protective environment and building effective child protection systems.

Preventive strategies

- Keeping children safe, including safe school environments, the Code of Conduct and maintaining the civilian and humanitarian character of asylum;
- Equal access to child/youth friendly services for boys and girls, including quality education, adequate health care and nutritional well-being;
- Support to families and communities, including livelihood opportunities and the provision of adequate assistance;
- Prevention of sexual and gender-based violence and abuse;
- Prevention of exploitation, including child labour, trafficking, recruitment and use of children by armed groups and armed forces;
- Support to adolescent boys and girls, including through access to secondary education or other relevant education programmes such as vocational skills training and recreational programmes;
- Child participation in all actions affecting them, including in risk assessments;
- Birth registration and individual identification.

Individual responses and solutions

- Best interests assessments and formal best interests determinations;
- Family tracing and reunification;
- Age and gender-sensitive asylum procedures and reception standards;
- Response to sexual and gender based violence;
- Medical and psycho-social care, including for children with disabilities;
- Appropriate child care facilities; counselling and recreational facilities;
- Durable solutions including resettlement of children at risk.

8. Roles and responsibilities, and coordination and cooperation among States, UNHCR and its humanitarian and development partners would need to be reflected in a Conclusion on Children at Risk. Underpinning an operational approach is partnership among all key players, in particular local and national authorities, and civil society groups and entities.

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