

DISCUSSION PAPER

Getting on the list: the registration of children born to IDPs



IDPs in Laghman province, Afghanistan. NRC/Christian Jepsen, November 2013

15 MAY 2015

Forced displacement devastates lives. Most internally displaced people (IDPs) lose their homes, land, livelihoods and personal documentation, and many suffer the death of family members or become separated from them. Their overall experience severely hampers their ability to exercise a wide range of fundamental human rights. It can also seriously impede children's right to be registered at birth.

Despite the international obligation to record the births of all children who fall under the jurisdiction of a state, worldwide nearly 230 million children under the age of five have not been registered for a wide range of reasons, from social and cultural to legal and logistical.¹ Many are born to parents who have fled conflict, violence and natural hazards.

Displaced parents often have the same reasons for not registering the birth of their children as their counterparts in the general population, but in many cases they also face additional challenges specific to their displacement. They may have been displaced to areas under the control of non-state armed groups (NSAGs), where government registration no longer takes place; they may be legally required to start the process in their place of residence, or where the birth took place; they may have to submit civil documentation lost in the course of their displacement; or the registration procedure in their area of refuge may be in a language they do not speak.

A number of states have established registration processes for IDPs that are gateways to assistance. Many potential beneficiaries do not come forward, however, whether because they have not been properly informed about the procedure, they are worried about possible social stigma associated with their official status as an IDP, or worse they fear it may invite reprisals from one party to a conflict or another. The registration process may also involve an eventual obligation to return to unsafe places of origin. Meantime, the failure to register children born in displacement can have serious consequences for their health, education and wellbeing.

The registration of both IDPs and their new-born can play a major role in protecting the rights of children born in displacement. Aside from upholding their right to be registered at birth and given a name, the personal and statistical data gleaned can inform non-discriminatory assistance programmes tailored to their needs. It can also help to uphold other basic rights, such as protection from family separation, child labour and sexual exploitation. Given the potential risks registration can involve, however, such processes should be designed and implemented in line with international human rights standards, particularly those related to child protection.

This paper provides a brief review of the legal and conceptual frameworks relevant to children born in displacement, and sets out the benefits of registering their birth and status as an IDP. Via a series of case studies from Colombia to Mali and from Serbia to Myanmar, it goes on to highlight the obstacles displaced parents face. Having established an evidence-based picture of such obstacles, it clarifies states' responsibilities in overcoming them and identifies specific measures that should be taken to uphold the rights of children born in displacement in accordance with international standards and obligations. This discussion paper builds on a short related report issued in June 2014, "Born in displacement: challenges in assisting and protecting descendants of internally displaced people".

I. Legal and conceptual frameworks

International human rights instruments and frameworks that relate to IDPs, such as the Guiding Principles on Internal Displacement, do not explicitly address the issue of registering children born to IDPs, or whether they should be assigned the same status.² Guiding principle 20 does, however, state that "the authorities concerned shall issue to [IDPs] all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates". A couple of re-

¹ UNICEF, Every child's birth right: Inequities and trends in birth registration, New York, 2013

² IDMC, Born in displacement: Challenges in assisting and protecting descendants of internally displaced people, June 2014



Susy returned from LRA captivity with a son and now wants to study and build a future, Dungu, DRC. Photo: Anne Ackermann for NRC/Perspective, July 2013

gional and sub-regional frameworks on IDPs' protection and assistance also touch briefly on the same issue.

At the regional level, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, known widely as the Kampala Convention, adopts wording similar to that of guiding principle 20. Article 13 establishes that state parties "shall ensure that internally displaced persons shall be issued with relevant documents necessary for the enjoyment and exercise of their rights, such as passports, personal identification documents, civil certificates, birth certificates and marriage certificates". The same article also sets out the obligation to "create and maintain an up-dated register of all internally displaced persons within their jurisdiction or effective control".

At the sub-regional level, the Pact on Security, Stability and Development in the Great Lakes Region, known widely as the Great Lakes Pact, does likewise in its protocol on the protection and assistance to IDPs. Principle 20 states that "the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents."

At the international level, the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR) and the Fourth Geneva Convention on the protection of civilians in time of war clearly establish the right of children to be registered immediately after birth and given a name.³

3 Convention on the Rights of the Child, article 2; International Covenant on Civil and Political Rights, article 24.2; 4th Geneva Convention on the protection of civilians in time of war, articles 50 and 136

The right applies to all children, without discrimination and irrespective of whether they are born during an emergency that might, for example, lead to displacement.⁴ This implies the adoption of special measures, because the failure to register births among certain sectors of the population, in this case children born to IDPs, would amount to discrimination.⁵

The principle of non-discrimination is key to determining the extent of states' responsibility to register the birth of children born in displacement, and to register them specifically as IDPs. The Committee on the Rights of the Child and the Human Rights Committee have developed standards and guidance which underline that the failure to do so may amount to discrimination and be seen as contrary to a number of CRC and ICCPR provisions if applied to a particular group.⁶

Birth registration forms part of a broader civil registration system that records the occurrence and characteristics of the vital events of each individual in accordance with the legal or regulatory requirements of a given country.⁷ It aims to establish a person's existence and family ties before the law, and

4 It should be noted that ICCPR allows state parties to derogate from a number of provisions in times of emergency, including the obligation to register all children immediately after birth, CRC does not

5 The UN Human Rights Committee and the Committee on the Rights of the Child commented that the failure to register births may amount to discrimination and be seen as contrary to CRC articles 24, 26 and 27 if applied to a particular group. UN Human Rights Committee, concluding observations: Syrian Arab Republic (CCPR/CO/71/SYR), 24 April 2001, §27; UN Committee on the Rights of the Child, general comment no. 11: Indigenous children and their rights under the convention (CRC/C/GC/11), 12 February 2009, §41 and 43

6 UN Committee on the Rights of the Child, general comment no. 7: Implementing child rights in early childhood (CRC/C/GC/7/Rev.1), 20 September 2006, §25; UN Human Rights Committee, general comment no. 17 (HRI/GEN/1/Rev.1), 1994. See also UN Department of Economic and Social Affairs, statistics division (UNSD), Principles and Recommendations for a Vital Statistics System, 2014

7 *Ibid*, p.65

also constitutes a statistical tool.⁸ It should be carried out in a continuous, permanent, compulsory and universal way, and the information recorded can only be used for the purposes enshrined in the law.

While birth registration should be universal, the registration of children born to displaced parents as IDPs is not.⁹ IDP registration should not be an end in itself but should be tied to benefits linked to the specific needs resulting from displacement. Registration should be open, fair and transparent, have clear criteria and timelines for decisions, and the data collected should be confidential.¹⁰ It should never lead to discrimination towards or among children born in displacement.

II. Registration: a tool to advance children's rights

The personal and statistical data gleaned when registering the birth of children born in displacement, or when recording new-borns as IDPs, can play a significant role in ensuring that their specific needs are not overlooked and their rights are respected. It can inform targeted programmes, particularly in the areas of family tracing and reunification, the prevention of statelessness, exploitation and abuses, and the identification and facilitation of durable solutions.

a. A tool for informed programming

National and international responders to IDPs' needs commonly use registration to collect quantitative and qualitative information on which to base their humanitarian, recovery and development programmes. In **Haiti**, detailed demographic data was essential to the delivery of effective and targeted humanitarian assistance during the recovery phase after the January 2010 earthquake.¹¹

Other data collection tools such as community estimates and household surveys can be used to obtain information on a population, but given that they only gather quantitative and not personal data, they tend not to yield enough to plan targeted assistance for groups with specific vulnerabilities and protection needs, such as children born in displacement.

In some countries, the delivery of assistance is conditional on IDPs' registration. Every child born in displacement in these countries should have effective access to registration procedures that inform programming. Responders should ensure that all such children who meet the vulnerability criteria receive appropriate assistance, irrespective of their parents' marital status, geographical location or any other factor that could be used to discriminate against them.

A recent study led by the Norwegian Refugee Council (NRC) in the **Democratic Republic of Congo** (DRC) revealed that some IDPs living with host families in urban settings, and particularly children, faced serious protection risks, including because they were unable to register and so did not receive assistance.¹² To reflect the changing demographic and needs

of the displaced population accurately, IDPs should remain registered until they achieve a durable solution.¹³ Registration should ensure that they receive appropriate humanitarian assistance, even in cases of secondary and multiple displacement, in order to avoid life-threatening gaps for the most vulnerable.

As of 2011, IDPs in **Iraq** were moving from one governorate to another, and were frequently unable to transfer their food ration cards to their new areas of displacement. Given their reliance on food assistance and the difficulties they faced in finding work, they were highly vulnerable to food insecurity. Their precarious situation is likely to have led to malnutrition among children, particularly babies born in displacement. Many IDPs needed legal help in obtaining new food ration cards.¹⁴

Fear of deregistration and with it the loss of assistance may lead households to split up rather than return together. Such separations were a concern in **Sudan** in 2012, where some family members returned to their homes in Darfur while other stayed on in camps to maintain their status as IDPs and access to services including education.¹⁵

The strategy was also a precautionary measure in case the security situation or agricultural output in their return areas deteriorated, allowing them to go back to their camps if necessary. The fact that the World Food Programme (WFP) did not provide food assistance in return areas pushed even more families to split up, leaving a disproportionate number of female-headed households and unaccompanied minors in the camps, which constituted a serious protection concern.¹⁶

b. A tool for protecting children's rights

The registration of children born in displacement as IDPs at birth can help to mitigate the risk of family separation, particularly in cases of secondary and multiple displacement. As such, it contributes to fulfilling children's right to a family unit as enshrined in CRC and other international instruments.

Research on children separated from their parents during their flight from the 1986 to 2006 conflict in **Uganda**, and following the 2004 Indian Ocean tsunami in **India, Indonesia, Sri Lanka** and **Thailand**, confirmed that identity documents such as birth certificates were essential to family tracing and reunification efforts.¹⁷ The registration of children born in displacement as IDPs can help to identify unaccompanied minors and their family ties.¹⁸ Registration can also help to prevent cases of statelessness. Even if the process in and of itself does not legally confer a nationality on a child, a birth certificate is an essential element for acquiring one.¹⁹

8 *Ibid*, p.3

9 IDMC, Born in displacement: Challenges in assisting and protecting descendants of internally displaced people, June 2014

10 Brookings Institution, University of Bern, Protecting Internally Displaced Persons: a manual for law and policy makers, October 2008, pp.14-15

11 IOM, IDP registration in Haiti: Update and analysis of the population remaining in IDPs sites, December 2012

12 NRC, Living conditions of displaced persons and host communities in urban Goma, DRC, December 2013, p.9

13 Brookings Institution-University of Bern, *op cit*, pp.14-15

14 UN Human Rights Council, report of the secretary general's representative on IDPs' human rights on his visit to Iraq (A/HRC/16/43/Add.1), 16 February 2011, §45

15 UN Human Rights Council, report of the independent expert on IDPs' human rights on his mission to Sudan (A/HRC/24/31), 18 September 2013, §38

16 *Ibid*

17 JIPS, Uganda: Profile at glance, 2011, p.13; UNICEF, Birth registration and armed conflict, 2007, p.vii

18 Brookings Institution-University of Bern, *op cit*, p.99

19 For more information on principles of *jus solis* and *jus sanguinis* in acquiring nationality and citizenship rights, see Feere J, Birthright citizenship in the United States: a global comparison, 11 August 2010; and Manby B, Citizenship law in Africa, October 2010. For gender related issues, see Azizi S, Hajiazizi B and Hassankhani R, Discriminatory or Non-Discriminatory Application of *Jus Sanguinis*, Journal of Politics and Law, 1 March 2012

Large numbers of Roma IDPs in **Serbia** do not have birth certificates, because they were not registered when they were born, or because they lost their documents when they fled their homes. Without them, they have been unable to register the birth of their children born in displacement. This has left thousands of people “legally invisible” and potentially stateless across more than one generation, as highlighted by the UN special rapporteur on IDPs’ human rights.²⁰

The registration of children born to IDPs and the assistance and protection it unlocks also helps to prevent violations of their rights, including child labour, sexual exploitation, trafficking, early marriage and recruitment into the military and NSAGs.²¹ An NRC study on the living conditions of IDPs and host communities in the eastern **DRC** city of Goma showed that displaced children who were not registered and did not receive assistance were more likely to be recruited into child labour.²²

Registration can also help to ensure displaced children’s access to education. In **Côte d’Ivoire**, where conflict disrupted the process until 2011, their ability to enrol in school and take exams was hampered by their lack of a birth certificate.²³

Ultimately, registering the birth of children born to displaced parents, and registering them specifically as IDPs can facilitate the achievement of durable solutions. The gathering of reliable quantitative and qualitative data on IDPs is essential in identifying their needs and providing tailored assistance. Determining the number of children born to IDPs and their parents’ settlement preferences can improve the design and implementation of humanitarian and social programmes in areas of return, local integration and resettlement. Registration and a birth certificate can also help to ensure that displaced children’s inheritance rights are upheld.

III. Challenges to registration

Displaced parents face numerous challenges in registering the birth of their children. In many cases, they are similar to those faced by other underprivileged sectors of the general population, when laws and procedures impose requirements that complicate the process, including the payment of fees.

That said, displaced parents are often disproportionately affected by such obstacles in ways that amount to discrimination. Challenges include logistical difficulties associated with their displacement that mean birth registration is not universal, general disruption of the national registration system, unaffordable costs, and strict procedures and rules of proof in terms of personal documents.

a. Normative frameworks that restrict registration

In some countries, birth registration is restricted to certain population groups effectively based on their ethnicity. In **Myanmar**, the system discriminates between children born to citizens and non-citizens.²⁴ The 1982 citizenship law stipulates

20 UNGA, Report of the special rapporteur on IDPs’ human rights on his follow-up mission to Serbia, including Kosovo (A/HRC/26/33/Add.2), 5 June 2014

21 UNICEF, Birth registration: Right from the start, Innocenti Digest, 2002, p.5

22 UNICEF, Birth registration and armed conflict, 2007, p.14

23 IDMC, IDPs rebuilding lives amid a delicate peace, 28 November 2012

24 Burma Citizenship Law, 15 October 1982; UNGA, Situation of Human Rights in Myanmar (A/RES/69/248), 29 December 2014, §8



A baby, only a few hours old, was born in an IDP camp in Santipur, Kokrajhar district, Assam, India. Some camps are far from towns or cut off from the NGOs, so the women give birth in the camp. Photo: Vivian Dalles, 2007

that full citizenship depends on a person’s membership of one of the country’s 135 officially recognised ethnic groups. In Rakhine state, most of the children born to IDPs belong to the Rohingya ethnic minority, which the government considers illegal immigrants from Bangladesh.²⁵ Despite the fact that Rohingyas have lived in the area for generations, most of them are stateless and the citizenship law states that they can only register two children per family as “temporary residents”.²⁶

In other countries, the national legislation governing the registration of people as IDPs has limited access to IDPs status that is not in keeping with international standards on displacement. In **Colombia**, the definition of an IDP used is narrower than that set out in the Guiding Principles. Persons who were displaced by violence committed by state and paramilitary forces, or for reasons not directly related to the conflict, such as natural disasters or drug-related aerial fumigation of drug crops, are not considered as IDPs.²⁷ As a result of their not being able to register, they do not receive assistance, and for children born in displacement this means limited access to education and exposure to the risk of child labour.

In **Nepal**, most of the people displaced by the activities of the military during the country’s ten-year civil war from 1996 to 2006 were never registered as IDPs, because until 2007 the authorities’ definition only recognised those displaced by Maoist rebel violence.

b. Disruption of services and gaps in coverage

Universal registration implies that the process is physically, economically, culturally and administratively accessible to all. For IDPs, however, physical access may be limited and require the use of mobile registration systems and digital technologies to ensure they are able to register themselves and their children without discrimination.

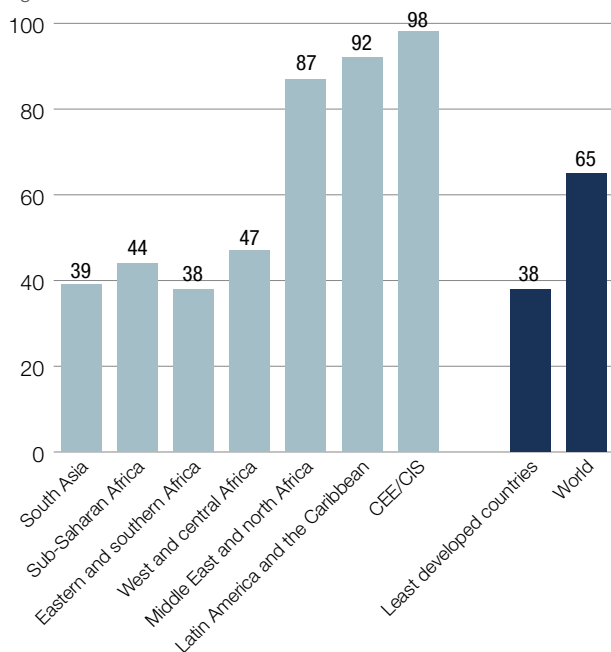
25 IDMC, Stakeholder report on Myanmar for UNHRC’s Universal Periodic Review, 23 March 2015, p.2

26 UNICEF, Myanmar appeal, 24 January 2015; OCHA, Myanmar humanitarian response plan 2015, 12 December 2014, p.22; Irrawaddy, Rohingya children in Burma camps going hungry, 9 August 2014; Irrawaddy, UNICEF highlights plight of Burma’s IDPs vulnerable children, 2 April 2014; Plan International, Chronic malnutrition among displaced children in Myanmar, 21 February 2014

27 University of California, Human rights centre and UNHCR, Safe heaven: sheltering displaced persons from sexual and gender-based violence, Colombia case study, May 2013, p.27

Conflict and disasters brought on by natural hazards often increase the disparities in geographical coverage, impinging on the right of children born in displacement to be registered at birth. In 2014, **Sub-Saharan Africa** had one of the lowest birth registration rates worldwide (see figure one) and was also home to around a third of the world's IDPs. There were 11.4 million in the 21 sub-Saharan countries that IDMC monitors,²⁸ and in such a context the registration of children born in displacement is even less likely to happen.

Figure 1: Percentage of children under five years who are registered, by region



Note: Estimates are based on a subset of 158 countries covering 83% of the under-five population in the world. Regional estimates represent data from countries covering at least 50% of the regional population. Data coverage was insufficient to calculate a regional estimate for East Asia and the Pacific.

Source: United Nations Children's Fund, *Every Child's Birth Right: Inequities and trends in birth registration*, UNICEF, New York, 2013

Somalia's civil registry is generally lacking, but the lowest birth registration rate is among IDPs living in rural and conflict zones.²⁹ Births were only registered in urban areas before the outbreak of conflict in 1991, and the disparity in geographical coverage has got worse since.³⁰

Similarly, on **the Philippines'** southern island of Mindanao, birth registration centres do not exist in rural areas. The lack of transport to reach government offices, and insecurity linked to the Moro insurgency has deterred the registration of children born to Muslim IDPs.³¹ Here, and in remote areas hit by typhoon Haiyan in November 2013, children born to IDPs are highly unlikely to be registered at birth.³²

Even when registration services have good geographical coverage, they are often disrupted in areas affected by gener-

alised violence, as was the case in the northern part of **Côte d'Ivoire** during the 2002 to 2007 conflict, and across much of the country during post-electoral violence of 2010 and 2011.³³

IDPs also face challenges in registering the birth of their children in countries such as **Uganda**, where the procedure has to take place in the district where the child was born. This is in contravention of principle 20 of the Guiding Principles,³⁴ and it is very unlikely that displaced parents will return to do so. Other countries, such as **DRC**, stipulate that births have to be registered in one of the parents' place of residence, which raises similar issues.³⁵

Evidence from **Uganda** suggests that IDPs living outside camps are less likely to have access to registration services than their counterparts in camps. The authorities have only acknowledged displaced people living in rural host communities and those who fled to urban areas as IDPs since 2012.³⁶ Until then, they had been considered better off than those in camps, and were generally seen either as economic migrants or former IDPs who had achieved a durable solution. This perception led to their exclusion from registration procedures and assistance.³⁷

To overcome logistical obstacles to birth registration, including those that occur during displacement, countries such as **Uganda** and **the Philippines** introduced changes to facilitate the procedure at the local level. **Uganda** made it possible to register births that took place in health centres on the spot, and introduced a mobile vital record system developed with the help of the UN Children's Fund (UNICEF) and Uganda Telecom.³⁸ The system enables mothers to register births that take place outside health facilities by giving details by mobile phone to a local government official who enters the information on a central database.

In **the Philippines**, the NGO Plan International negotiated with Muslim rebels on Mindanao in 2007 to secure the registration of all births on the island, including children born to IDPs. It operated mobile units of civil registrars with armed escorts in areas under rebel control.³⁹ Since 2011, UNHCR has funded free mobile units for displaced communities, a project implemented by the social welfare and development department of the Autonomous Region of Muslim Mindanao (ARMM).⁴⁰

Following typhoon Haiyan in 2013, UNHCR extended its support for mobile registration units to the national government. Since then, the National Statistics Office has run the units in ARMM in order to reduce the number of unregistered children.⁴¹

c. Socio-economic challenges

The impact of registration fees as a disincentive for parents to register their new-born is not specific to IDPs, but they are

28 IDMC, *Global overview 2015: People internally displaced by conflict and violence*, 2015, p.8

29 Immigration and Refugee Board of Canada, *Somalia: Birth registration, including the issuance of birth certificates; the registration of children attending school; title deeds; whether the owner of a home or business must obtain a title deed*, 26 June 2013

30 INS Resource Information Centre, *Somalia*, 9 February 2001; UNICEF, *Birth registration and armed conflict*, *op cit*, p.7

31 *Ibid* UNICEF, p.32

32 UNHCR, *Global Report, the Philippines*, 2013

33 UNICEF, *Every child's birth right: Inequities and trends in birth registration*, 2013, p.32 and p.34

34 Government of Uganda, *Birth and death registration act*, article 7

35 Government of DRC, *Family code*, article 116, 1987

36 RLP, *From arid zones into the desert*, October 2012

37 IDMC, *New displacement in Uganda continues alongside long-term recovery needs*, January 2014

38 UNICEF, *In Uganda seeking to improve birth registration across Africa*, 2013

39 UNICEF, *Birth registration and armed conflict*, *op cit*, p.32

40 UNHCR, *Statelessness: A new lease on life thanks to a birth certificate*, 3 November 2011; UNHCR, *Global Report, the Philippines*, 2013, p.3; UNHCR, *Report on regional workshop on good practices in birth registration*, 7 December 2012, p.11

41 *Ibid* UNHCR, *Report on regional workshop on good practices in birth registration*

likely to be more affected because displacement tends to increase people's socio-economic vulnerability. Given that many IDPs lose their livelihoods and most of their assets, even standard fees for compulsory registration may be prohibitive. The combination of cost, distant registration centres and complex procedures is likely to mean that many displaced parents will choose not to register the birth of their children.

In **Bosnia and Herzegovina**, cost and lack of identity documents are the main barriers to Roma IDPs registering births.⁴² Some mothers give birth at home by choice, but others do so because they do not have the documents or medical insurance needed to deliver in hospitals or medical centres. Given that it is more complicated and costly to register home births, not all do so.⁴³ In **Mali**, most displaced children from Mopti region did not have a birth certificate as of 2014 because their parents could not afford the cost.⁴⁴

Some registration procedures may not be discriminatory in and of themselves, but they may impose burdens that affect IDPs disproportionately, leading to de facto discrimination.⁴⁵ In **Kenya**, registration is only free if it takes place immediately after birth.⁴⁶ UNICEF and the UN Refugee Agency (UNHCR) have emphasised that such requirements may restrict registration, and should not be enshrined in domestic law.⁴⁷ This is particularly relevant to IDPs, given that any delay in registering is likely to be the result of a crisis rather than voluntary.

To overcome such challenges, countries such as Haiti and **Côte d'Ivoire** reviewed their domestic normative frameworks following disasters brought on by natural hazards and conflict respectively. In an effort to provide non-discriminatory access to birth registration, they temporarily waived the costs involved, including for late registration.

In 2011, **Côte d'Ivoire**, suspended fees for the late registration of children born between September 2002 and July 2011 in northern, western and central areas, and from November 2010 to July 2011 across the whole country.⁴⁸ The suspension ran until July 2012, but it was not well publicised or implemented, and in January 2013 the deadline was extended until July 2014.⁴⁹ In **Haiti**, a January 2014 presidential order enabled the population to register births going back five years without charge or having to go through a judicial procedure.⁵⁰

The two cases show, however, that while amending the legal framework is a prerequisite for universal registration, particularly in the aftermath of conflict or disasters brought on by natural hazards, its impact is bound to be limited if the target population is unaware of the changes introduced.⁵¹

42 Unpublished communication from Vasa Prava, on file with IDMC, April 2015

43 *Ibid*

44 IDMC, IDP voices: Hawoye, displaced from Mopti region, Mali, 21 February 2014

45 Human Rights Committee, Concluding observations: Syrian Arab Republic, *op cit*, §27; Committee on the Rights of the Child, general comment no. 11, *op cit*, §41 and 43

46 Government of Kenya, Births and deaths registration act, 1990, §8

47 UNHCR, Child protection issue in brief: Birth registration, August 2013, p.1; UNICEF, A passport to protection: guide to birth registration programming, 2013, p.23

48 Government of Côte d'Ivoire, Order no. 2011-258 of 28 September 2011 on the registration of births and deaths that took place during the crisis. See also articles 1 and 2

49 Government of Côte d'Ivoire, Law no. 2013-35 of 25 January 2013 on the modification of order no. 2011-258 of 28 September 2011

50 Haiti introduced similar measures in 1988, 1995 and 2002 to improve birth registration coverage

51 UN Human Rights Council, Report of the special rapporteur on IDPs'

In **Côte d'Ivoire**, UNICEF and several NGOs observed that despite the January 2013 extension of the deadline for free registration, around 25 per cent of displaced children had not been registered by the time it expired.⁵² Tens of thousands of children were registered under the legislation, but many parents who were still displaced, lived outside target areas or who were unaware of the law did not do so.⁵³

Parents who did not register their children's birth before their displacement are even less likely to once displaced.⁵⁴ Research in **Sudan, Somalia and Ethiopia** has shown that a lack of information and understanding of the benefits often results in parents not doing so.⁵⁵ In **Pakistan**, some of the most vulnerable IDPs, including children born to IDPs and female heads of household, do not receive assistance because they were unaware of the registration process and the help it unlocks.⁵⁶

In some cases, social and cultural considerations act as a deterrent to birth registration. In **Bosnia and Herzegovina**, children born to displaced women as a result of wartime rape were not always registered at birth, because they were sometimes seen as reminders of atrocities rather than rights holders.⁵⁷

In **DRC**, people in need of assistance, particularly single women, did not register themselves and their children as IDPs for fear of social stigma, and as a result they did not receive the support they were entitled to. This increased their exposure to other violations of their rights, and in the case of children, made them more vulnerable to forced labour.⁵⁸

Many people in **Kenya**, including IDPs, consider the term IDP as tantamount to an insult. They perceive those living in displacement camps as people who "own nothing and have no one". As a result IDPs go extreme lengths to avoid being seen as such. People who fled the post-election violence of 2007 and 2008, and who sought refuge with host families, did not register themselves or their children as IDPs and so forewent assistance.⁵⁹ Children born to unregistered IDPs living with host families faced food insecurity, and an increased risk of child labour, family separation and sexual exploitation.

d. Lack of documentation

IDPs may be unable to register their children if they lack the required proof of identity, which can amount to discrimination.⁶⁰ Displaced parents may have never possessed civil

human rights on his mission to Côte d'Ivoire (A/HRC/23/44/Add.1), 24 May 2013, §41, GARR, Haiti/Civil status : Presidential decree of 16 January 2014 is far from being beneficial for Haitian civil status (*Haiti/Etat civil : L'Arrêté présidentiel du 16 janvier 2014 est loin d'être bénéfique au système d'état civil haïtien*), 2014.

52 IDMC, Côte d'Ivoire: new commitments signal hope for 300000 still internally displaced, 26 February 2015

53 *Ibid*

54 UNICEF, Every child's birth right: Inequities and trends in birth registration, *op cit*, p.20; Plan International, Count every child, the right to birth registration, 2009, pp.31, 48 and 62

55 *Ibid* Plan International, p.31; Ehab Ahmen Mohamed Frah, Reasons for low birth registration in Sudan, *Journal of African studies*, March 2015; *Ibid* UNICEF, p.16

56 Government of Pakistan and OCHA, Multi-cluster initial rapid assessment, Bannu report, July 2014, pp.24-31

57 Charli Carpenter, *Forgetting Children Born of War : Setting the Human Rights Agenda in Bosnia and Beyond*, Columbia University Press, New York, May 2010

58 *Ibid*

59 Brookings Institution, Municipalities and IDPs outside camps : the case of Kenya's integrated displaced persons, May 2013, p.8 and 11

60 Human Rights Committee, concluding observations: Syrian Arab



Sasha is a baby born in Slaviansk, Ukraine. When Aliona, his mother, was 8 months pregnant, the couple fled the fighting in their town of Gorlivka so that she could give birth safely. That decision almost killed her, but not because of battle; she picked up a dangerous infection. The baby, like his mother, gets medical attention. But he hasn't a birth certificate. His mother must register him and can't yet. And without it, he's in limbo, still not eligible for other aid. UNHCR, September 2014. <https://youtu.be/aV4Nok4xRl>

documents, or they may have been lost in the course of their displacement. In their absence, they may also be denied access to services such as healthcare.⁶¹ In **Serbia**, many Roma IDPs lack the identity documents needed for registration. Other IDPs face similar difficulties, but the situation for the Roma is particularly acute given that many of those from Kosovo never had personal documents such as birth certificates in the first place. This leaves Roma IDPs in legal limbo. They can only register their children born in displacement if they can prove that they themselves were born in Serbia, including Kosovo, which is impossible to do because they were not registered there. Without civil documents, Roma IDPs are unable to apply for an ID card, register the birth of their new-born or register as IDPs, and as a result enjoy basic rights and services for themselves and their children.⁶²

IDPs in the Kurdish region of **Iraq** face similar issues and are often instructed to return to their home governorate to apply for new documents. Special offices have been established in Baghdad and Najaf for the purpose, but many IDPs are unable to afford the cost of the journey, or are unable to travel because they lack the very documents they are meant to be applying for.⁶³

During **Nepal's** ten-year civil war, many IDPs struggled in their places of refuge to replace documents lost during their displacement. Without them, they were unable to access public services or register their new-born.

d. Confidentiality and security

Personal information must be protected in accordance with UN Statistics Division (UNSD) standards on data collection

and management. They require that information collected for the registration of births be used only for statistical and civil documentation purposes.⁶⁴ UNSD also recommends the adoption of measures to guarantee the confidentiality of data recorded in civil registries.

Birth certificates should not include all of the information recorded in civil registries, and especially not if doing so might be prejudicial for the child. UNHCR recommends that "in the case of a child born out of wedlock (...) or where privacy concerns make it desirable that information about the second parent is not included in the certificate, procedures should allow for the registration of the single parent's name, address and nationality".⁶⁵

In many cases, data on marital status, religion and ethnicity may be highly sensitive and misused to discriminate against certain groups. Displaced parents, just like the rest of the population, may be reluctant to register the birth of their children if they do not trust the procedure, and doubt the information they give will be used exclusively for assistance and statistical purposes.⁶⁶

IDPs who are especially marginalised or traumatised by their experiences may wish to avoid contact with authorities and may be reluctant to provide personal information. In **Nepal**, most of the people displaced during the 1996 to 2006 civil war were reluctant to register as IDPs for fear of retaliation by the parties to the conflict, or because they felt doing so would bring them no benefits.⁶⁷ The term IDP became a negative label used by the Maoist rebels for people seen as closely associated with the state.⁶⁸

Republic, *op cit*, §27; Committee on the Rights of the Child, general comment no. 11, *op cit*, §41 and 43

61 Plan International, A New Name, and a New Identity for Baby Isabel, 2009

62 UNGA, Report of the special rapporteur on IDPs' human rights on his follow-up mission to Serbia, including Kosovo, *op cit*, §§20-22; Mensur Haliti, Blindspot Kosovo Roma and the decade, 30 May 2011, p.13

63 Iraq protection cluster, IDP protection strategy for the Kurdish region of Iraq, 2014-2015, p.4

64 UNSD, *op cit*, p.11 and p.69

65 UNHCR, Child protection issue in brief: Birth registration, p.3

66 UNICEF, Every child's birth right: Inequities and trends in birth registration, *op cit*, p.7; UNICEF, Birth registration and armed conflict, *op cit*, p.10

67 UNGA, Report of the secretary general's representative on IDPs' human rights on his mission to Nepal (E/CN.4/2006/71/Add.2), 7 January 2006, §§21-25

68 IDMC, Nepal: IDP return still a trickle despite ceasefire, 16 October 2006

In **Colombia**, many IDPs have been reluctant to approach the government institution that determines IDPs' status for fear of being identified and targeted by the armed groups that displaced them.⁶⁹ Guerrilla and paramilitary groups have been known to kill IDPs for fear they would provide information on their military activities. As such, many do not register themselves or their children, despite the flexible timeframe for doing so and the tangible benefits it accrues.⁷⁰

Conclusion and recommendations

All children benefit from specific protection under international human rights law. Those born in displacement, however, often have additional needs, and registration can help to address them. For this reason, states are obliged to take positive measures to ensure that all displaced children under their jurisdiction have effective access to registration procedures without discrimination, and in a way that does not increase their vulnerability.

States should waive all logistical obstacles to registration and the prolonged disruption of birth registration should be avoided. Notification and registration by mobile phone should be promoted to speed up the resumption of the service, and should be encouraged as part of a flexible, decentralised system with broad geographical coverage in times of crisis, rather than relying on procedures that oblige people to physically present themselves at offices. The integration of birth notification into existing social and health services would serve the same purpose. Notification may not constitute registration in and of itself, but it would be recognised as a proof that a birth has taken place and would facilitate registration later. Such methods are cost effective, efficient and sustainable.

In order to improve access to registration procedures during times of conflict, states should also promote the use of mobile registration teams independent of any party to the fighting, to reach remote areas, places where IDPs have fled to and territory under the control of NSAGs.

Given the exceptional circumstances that displacement involves, States should ensure that documentation requirements and administrative procedures do not prevent displaced parents from registering themselves and their new-born. They should also introduce policies and practices that facilitate the issuance and replacement of documents, such as birth certificates and without unnecessary administrative burdens. Documentation procedures should be fast, flexible, simple

69 Immigration and Refugee Board of Canada, Colombia: IDPs, including relocation options available to IDPs; whether IDPs are issued documents that indicate their status, including requirements and procedures to obtain copies of these documents, 12 July 2013

70 IDMC, Colombia: Displacement continues despite hopes for peace, 14 January 2014

and effective. They should include the recognition of official records and acceptance of unconventional proof of IDPs' identity and legal status, regardless of the language they were issued in. They should also assist IDPs in replacing documents lost during their displacement that prove their age, marital status and previous place of residence, and support their citizenship claims.

States should ensure that socio-economic considerations do not deter IDPs from registering their new-born by making the process free of charge, even in the case of late registration. Charges not only act as a deterrent, but can also amount to discrimination. Neither should language and literacy be barriers to fulfilling administrative requirements. IDPs should have the same access to information and registration procedures as their counterparts in the general population, and if necessary they should be helped to understand and fill out the required forms.

With the support of international agencies and NGOs if necessary, states should make use of mass media and other means of communication to raise awareness among displaced parents of the importance and benefits of registering their new-born. They should be provided with clear, regular and timely information, whether they live in or outside of camps.

In keeping with the principle of non-discrimination, IDPs and their children hosted by families and those living in other dispersed settings should have the same access to registration and subsequent assistance as those with similar needs living in camps.

The return of IDPs and their children to their places of origin should not automatically cancel assistance since return does not constitute a durable solution in and of itself. Returnees who still have needs linked to their displacement should continue to receive assistance.

Because the registration of children born in displacement can help to identify unaccompanied minors and reunite separated family members, it should record essential information on the identity of individuals, family members, their place and date of initial displacement and their current residence.

States and others involved in the collection of personal data for registration should review their systems to ensure they safeguard the confidentiality of IDPs' information in keeping with their right to privacy and in order to overcome their mistrust of the procedures involved and their fear of social stigma. Adequate data protection measures should be put in place, including secure computerised storage. Sensitive information, such as religion and ethnicity, should not appear on any documents issued.

In order to avoid the stigmatisation and discrimination many IDPs and their children face, efforts should also be made to sensitise the general population to their plight. Awareness raising in schools and other campaigns, including participatory theatre, that have been effective when applied to refugees, can also be used in the context of internal displacement.

CONTACT

Dora Abdelghani
Trainer and Legal Officer
Tel: +41 22 795 07 44
Email: dora.abdelghani@nrc.ch

IDMC
Norwegian Refugee Council
Chemin de Balexert 7-9
1219 Geneva, Switzerland
www.internal-displacement.org
Tel: +41 (0)22 799 0700
Fax: +41 (0)22 799 0701