

INTEGRATED, BUT UNDOCUMENTED:

UNHCR Representation in Kenya
In partnership with:
Haki Centre
Kenya Human Rights Commission
Haki Africa
Open Society Initiative for Eastern Africa
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A study into
the nationality
status of the
Makonde
community in
Kenya

TABLE OF CONTENTS

1	Introduction and objectives of the assessment	3
2	Methodology of the assessment	4
3	Results of the assessment	5
	3.1 Size of the Makonde population	5
	3.2 Demographic profile of respondents	7
	3.3 Country of birth and arrival in Kenya	9
	3.4 Documentation	12
	3.5 Application for Kenyan documents	16
	3.6 Mobility, political engagement and arrest by law enforcement officials	18
	3.7 Migration patterns and nationality of past Makonde generations	20
	3.8 Documentation and access to education of Makonde children	25
	3.9 Perceptions on the regularization of nationality status	27
4	Conclusions and recommendations	31
	ANNEX: Members of the field assessment team	34

1. INTRODUCTION AND OBJECTIVES OF THE ASSESSMENT

An estimated 20,000 persons are considered to be stateless or of undetermined nationality in Kenya¹, despite the lack of detailed statistics on affected populations. The Makonde who originate from Northern Mozambique are often counted among affected populations alongside other groups, such as Nubians, Galjeel, Pemba, Waata, Coastal Arabs and Somali Kenyans. A common feature among these populations is that they have either not been able to access Kenyan documentation or had difficulty in proving their Kenyan nationality in vetting processes that may take place prior to issuance of Kenyan national identity cards.

Kenya has significantly strengthened its national legislation in favor of stateless persons during recent years, including a new definition on citizenship, related rights, as well as provisions to apply for Kenyan citizenship as a stateless person or a descendant of a stateless person.² The Government of Kenya has gradually approached the implementation of legislative changes, including the announcement on the setup of an inter-departmental Government taskforce on statelessness in 2014.

The lack of specific information on affected populations, notably on documentation and residence in Kenya, has hindered efforts to advocate for regularization of their nationality status. In the case of the Makonde, their challenges have been well known at general level, but lacked a sufficient evidence base to effectively justify arguments to address their cause. Against this background, the objectives of the assessment can be summarized, as follows:

1. Collect specific and quantifiable data on all dimensions relevant to the definition of the nationality status of the Makonde population in Kenya³ including different generations.
2. Suggest avenues for regularization of nationality status and prevention of statelessness.

The report was prepared by Johannes Tarvainen, Associate Protection Officer, who was in charge of designing and coordinating the assessment under the supervision of Catherine Hamon Sharpe, Assistant Representative Protection in the UNHCR Representation in Kenya. The assessment was conducted jointly with four organizations from the partner group on statelessness in Kenya, which provided active support during all stages of the research: Haki Centre, Kenya Human Rights Commission, Open Society Initiative for Eastern Africa and Haki Africa. The advice provided by Radha Govil from the Statelessness Unit in UNHCR Geneva was appreciated in all stages of the assessment, notably on the design of the questionnaires.

¹ Statistics based on the UNHCR Kenya web page accessed on 25 February 2015 : <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e483a16&submit=GO#>

² Constitution of Kenya, 2010: chapter 3 – citizenship, chapter 4 – Bill of Rights. Kenya Citizenship and Immigration Act, 2011: articles 15 and 17.

³ For a general context of and analysis on statelessness in Kenya, please refer to the report: “The Frontier and the Challenge of Inclusive Citizenship”, to be published by the Kenya Human Rights Commission in 2015.

2. METHODOLOGY OF THE ASSESSMENT

The methodology of the assessment consists of two components: a quantitative survey and a qualitative questionnaire, both of which were carried out in October 2014. The objective of the quantitative survey was to estimate the size of the Makonde community living in Kwale, Kilifi and Mombasa Counties. It was rolled out at household-level with the support of focal points in the Makonde communities in various locations. The survey focused on questions related to the household size and composition of Makonde households including husbands and spouses of other ethnic origin than Makonde. The community focal points returned a total of 812 completed survey forms, which informed the sample size for the qualitative part of the assessment.

The qualitative questionnaires were rolled out through individual interviews with the objective to capture one respondent per household. The targeted scope of the qualitative questionnaires was 25% of households that were identified in the quantitative survey. The research team interviewed a total of 226 respondents based on the qualitative questionnaire which focused on the thematic areas of country of origin, documentation and nationality with the coverage of up four generations: the respondents and their children as well as their parents and grandparents. All interviews were conducted in Swahili.

Out of the completed questionnaires, 220 questionnaires were considered valid after data entry. Six questionnaires were invalidated for the following reasons: the respondent was not of Makonde origin (3), the respondent was unwilling to finish the interview (2) and the respondent was the son of the head of household who had already been interviewed (1).

The valid qualitative questionnaires (n=220) cover 27% of the households identified in the quantitative survey (n=812). The coverage of the questionnaires is therefore considered to be broad enough to draw generalizable conclusions of the qualitative data for the purposes of the assessment.

The following methodological limitations may affect the reliability of qualitative data and thereby cause minor deviations to the results outlined in the report. First, not all respondents may have perceived the questions in the same way or understood the questions to their full extent. This may apply particularly to questions related to legal or administrative procedures. For example, respondents may have referred to the application for Kenyan national identity documents and the application process for Kenyan citizenship in an interchangeable manner. Second, not all data provided by the respondents may have been registered or entered in a consistent manner, which would fully reflect the respondents' answers. For example, "no" answers may have been recorded as blank fields which in the analysis stage of the assessment did not fall under negative answers, but into the category of unknown information.

3. RESULTS OF THE ASSESSMENT

This chapter outlines and analyzes the results obtained from the quantitative and qualitative components of the assessment. The chapter is divided into nine sections. The first section introduces the size of the Makonde population based on the results of the quantitative survey. Sections 2 to 9 present the different thematic areas covered by the qualitative questionnaire. The key findings in each category are summarized at the beginning of the respective sections.

3.1. Size of the Makonde population

- *3,016 individuals of Makonde origin were identified during the assessment. With a likely addition of unidentified individuals, the total number of Makonde in Kenya may amount to 4,000 persons or more.*
- *The majority of Makonde, close to 90%, live in Kwale County on the south coast of Kenya. Smaller populations are found in Kilifi and Mombasa Counties. Most Makonde live in rural locations scattered across a large area including remote villages.*
- *Close to every second household (40%) reported marriage to a husband or spouse of other origin than Makonde, most commonly Digo.*

The quantitative survey identified a total of 812 households in which either one or both of the parents are of Makonde origin⁴. The identified households consisted of 3,016 individuals⁵ of Makonde origin leading to an average household size of 3.7 persons. The size of the adult population is 1,491 persons: 755 men and 736 women. The number of children under the age of 18 is 1,525, of which 731 are boys and 794 girls. The percentage of children under 18 years is 51% of the total population.

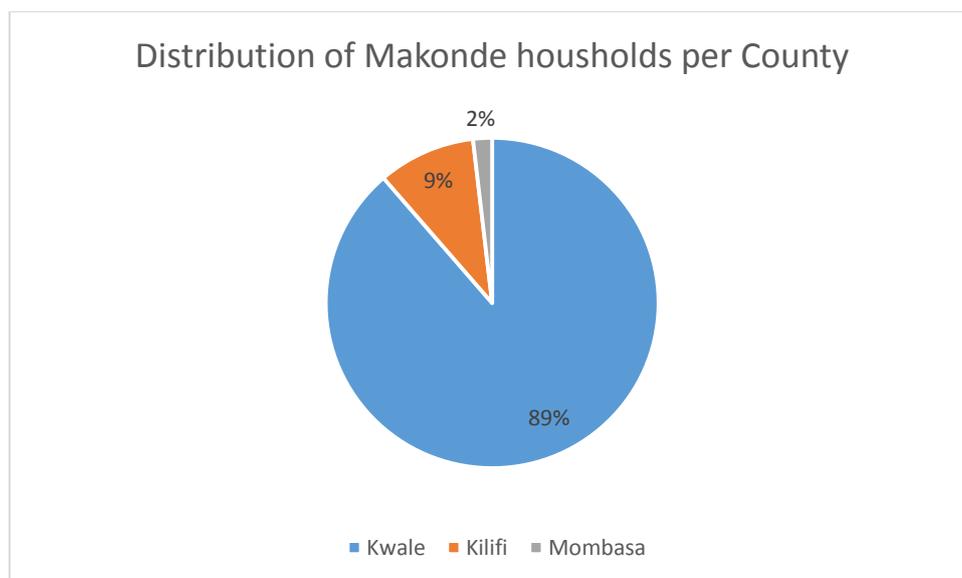
The actual size of the Makonde community is likely to be slightly higher than indicated above. Community members indicated that not all households wished to be identified for the purposes of the assessment, particularly in Mombasa County. Using an additional margin of 33%, the total population of individuals of Makonde origin in Kenya can be estimated to amount up to 4,000 persons. This figure excludes the scenario in which a considerably large number of individuals would have decided to remain unidentified for purposes of the assessment. It is also probable that a small number of households are located outside the geographical scope of the assessment, namely in Taita Taveta County and in the capital area of Nairobi.

⁵ All children, both minors and of adult age, are included in the figure. In households of mixed marriage, Kenyan heads of households or spouses are excluded from the figure.

The Makonde population lives in scattered locations across a relatively large area in Kwale, Kilifi and Mombasa Counties. The majority live in in Kwale County where the survey identified 720 households (89%), followed by 77 households in Kilifi County (9%) and 15 households in Mombasa County (2%). Some of the villages particularly in Kwale and Kilifi Counties are small in size and situated in remote locations at large distance from public services, whereas other villages – often bigger in size – are more centrally located within the respective Counties.

The majority of the Makonde reside in rural locations in villages up to the size of 150 households. Makonde households in urban settings are found predominantly in Mombasa County. Due to lack of comprehensive statistics, it is not possible to estimate the percentage of Makonde living in urban areas.

The Makonde marry commonly outside their own community. 40% of households (n=325) reported that either the head of household or the spouse is not of Makonde origin. Most commonly mentioned tribes in case of mixed marriages were Digo, Giriama and Duruma in the order of size. 18% of Makonde households (n=150) are single-headed.



The quantitative survey encompassed the following locations in the three Counties:

Location	Constituency	County
Lunga Lunga	Lunga Lunga	Kwale
Vanga	Lunga Lunga	Kwale
Mwangwei	Lunga Lunga	Kwale
Kanana	Lunga Lunga	Kwale
Kibiga	Msambweni	Kwale

Gazi	Msambweni	Kwale
Makongeni	Msambweni	Kwale
Ukunda	Msambweni	Kwale
Vuga	Matuga	Kwale
Kisauni	Kisauni	Mombasa
Mtwapa	Kilifi South	Kilifi
Kilifi	Kilifi South	Kilifi
Gede	Magarini	Kilifi
Watamu	Magarini	Kilifi

3.2. Demographic profile of respondents

- *The average household size of the Makonde is large the median being 6 persons. Vast majority of respondents spoke Makonde as their mother tongue (96%). Over one third of married respondents hold a written document of their marriage.*
- *The level of education among the adult population is low: 46% have of respondents had no formal education and 47% primary education. Access to primary education has been higher among respondents in the age of 18-35 years (69%), but low at secondary level.*
- *The majority of the Makonde (83%) receive their income through informal or self-employment consisting primarily of farming, fishing and small-scale businesses. Access to the formal employment sector is highly limited (4%)*

This section introduces the profile of respondents captured in the qualitative questionnaires that were accepted as valid (n=220). The gender balance of the sample was 55% men and 45% women. The age categories represented in the interviews were, as follows: 6% of respondents (n=14) were 18-25 years old, 18% (n=40) were 26-35 years old, 29% (n=64) were 36-45 years old, 25% (n=54) were 46-59 years old and 19% (n=42) over 60 years old. 3% of respondents (n=6) did not specify their age.

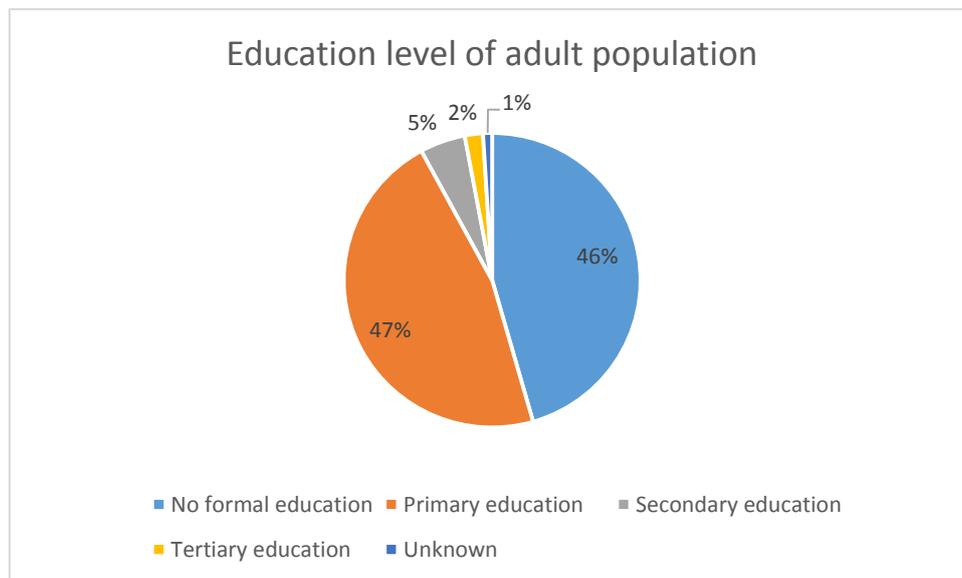
The interviews targeted a slightly higher percentage of respondents from Kilifi and Mombasa Counties compared to the results of the quantitative survey: 80% of respondents (n=176) informed that they live in Kwale County, 15% (n=32) in Kilifi County and 4% (n=8) in Mombasa County. 2% of respondents (n=4) did not specify their place of residence.

Language and religion: 96% of respondents (n=212) speak Makonde as their mother tongue, 3% (n=6) Swahili, 0.5% (n=1) Digo and 0.5% (n=1) Sena. Concerning the knowledge of other languages, 95% of respondents (n=209) indicated that they speak and understand fluently Swahili, 18% (n=40) Digo, 15% (n=32) English and 0.5% (n=1) Portuguese. In their

faith, 85% of respondents (n=188) stated to be Christians, most commonly Roman Catholic, and 15% (n=32) Muslims.

Household size: 8% of respondents (n=17) lived in 1-person households, 45% (n=99) in households of 2-5 persons, 41% (n=90) in households of 6-10 persons and 5% (n=11) in households of more than 10 persons. The most common household size among respondents was 6 persons with 14% (n=38). For purposes of the qualitative assessment, the figure of the household size includes grandchildren and members of the extended family living under the same roof, as applicable. 1% of respondents (n=3) did not specify the size of their households.

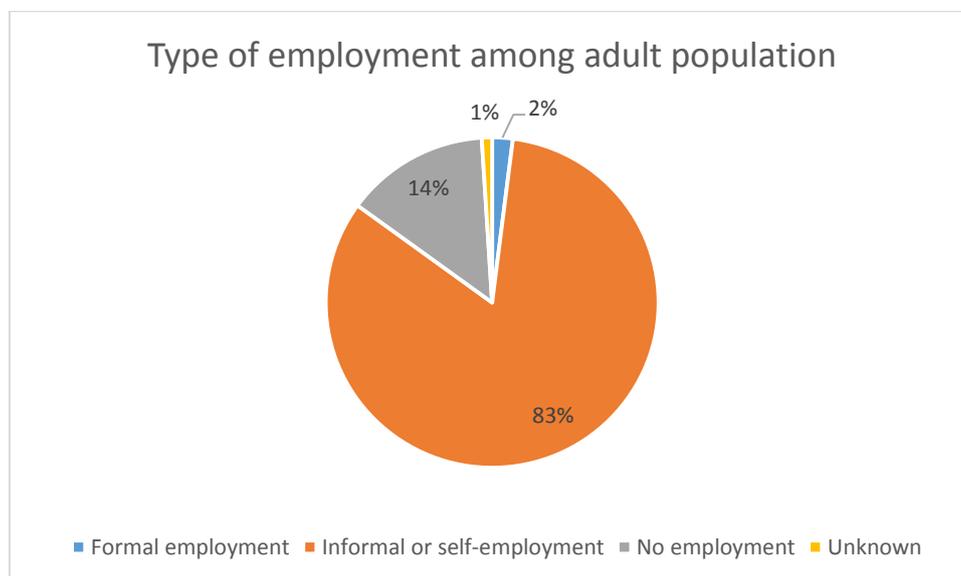
Marital status: 60% of respondents (n=132) indicated to be married, 10% (n=21) separated, 9% (n=20) divorced, 8% (n=17) widowed, 7% (n=16) cohabiting and 6% (n=13) single. 39% of married respondents (n=52) stated to have a certificate of their marriage: 25% (n=33) specified the document to be a Christian marriage certificate, 8% (n=11) a Muslim marriage certificate and 2% (n=3) a civil marriage certificate. Other documents mentioned by respondents included dowry and consent letters as well as agreements signed by witnesses or elders.



Education: 46% of respondents (n=101) stated that they have not received any kind of formal education, 47% (n=104) has partially or fully completed primary education, 5% (n=10) has partially or fully completed secondary education and 2% (n=5) tertiary education or vocational training. When the age group of respondents is limited to 18-35 years old (n=54), 20% (n=11) have no formal education, 69% (n=37) have undergone primary education to partial or full extent, 7% (n=4) of secondary education and 4% (n=2) tertiary education. In the same age group, the percentage of female respondents constitute 73%

(n=8) of respondents with no formal education, 57% (n=21) of respondents with primary education and 0% of respondents with secondary or tertiary education.

Employment and livelihoods: 2% of respondents (n=4) stated that they are engaged in formal employment, primarily through jobs in the industrial section, such as sugar production, and teaching. 83% of respondents (n=183) considered themselves as informally employed or self-employed. Farming, fishing, wood carving, casual labor and small-scale business were among the most commonly mentioned sources of income in these categories. 14% of respondents (n=30) stated that they are not employed. In the latter category, most respondents indicated that they receive their income through small jobs, small-scale business or earnings of another family member. Women and men were represented to a similar extent among respondents who consider themselves as informally or self-employed, but respondents with formal employment were exclusively men.



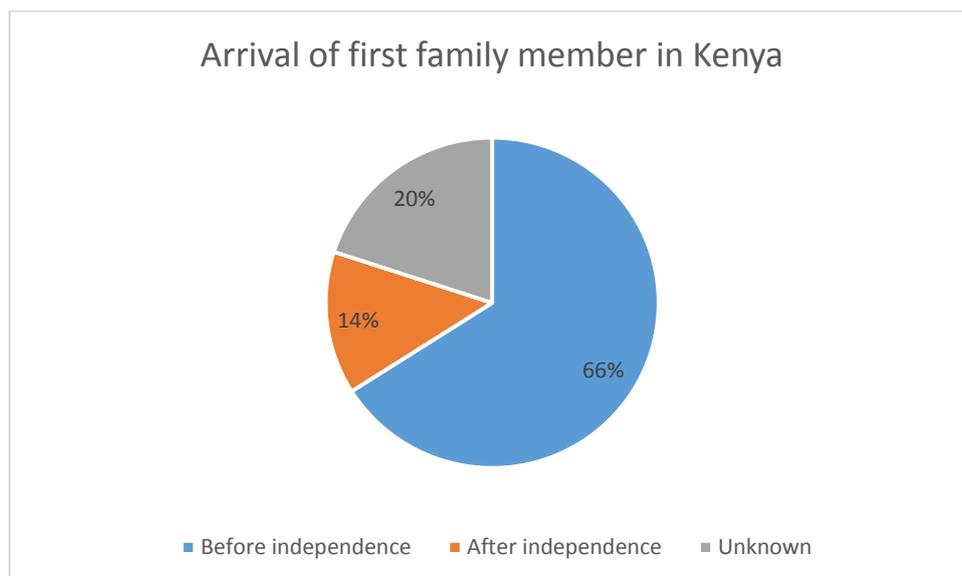
3.3. Country of birth and arrival in Kenya

- *The majority of the present-day Makonde have lived in Kenya throughout their lives (76% of respondents). The age of respondents born in Tanzania and especially in Mozambique was older than of the respondents born in Kenya.*
- *The Makonde have started to arrive in Kenya since the 1920s. Two out of three respondents stated that they or their families had arrived in Kenya prior to independence in 1963.*
- *The adult population of the Makonde in Kenya reaches up to the fourth generation. Children within the respondents' families belong already up to the fifth generation, meaning that their great great grandparents initiated their family's arrival in Kenya.*

The majority of respondents named Kenya as their country of birth, namely 76% (n=168), whereas 12% (n=26) stated that they were born in Tanzania and 11% (n=25) in Mozambique. The breakdown of the age of respondents born in Kenya is, as follows: 7% (n=12) were 18-25 years old, 21% (n=36) 26-35 years, 32% (n=54) 36-45 years, 25% (n=46) 46-59 years and 13% (n=21) over 60 years. 3% of respondents born in Kenya did not indicate their age.

The age of the respondents born in Tanzania was slightly higher than of the respondents born in Kenya: 8% (n=2) fell into the category of 18-25 years, 12% (n=3) were 26-35 years, 31% (n=8) 36-45 years, 23% (n=6) 46-59, 23% (n=6) over 60 years and 4% (n=1) of unknown age. An ever clearer shift towards older generations was observed among respondents born in Mozambique, out of which 60% (n=15) were over 60 years, 24% (n=6) 46-59 years, 4% (n=1) 26-35 years, 4% (n=1) 18-25 years and 8% (n=2) of unknown age.

The first generation of the Makonde started to arrive in Kenya in the 1920s. 1% of respondents (n=3) specified that the first person or persons in their family had arrived in Kenya in the 1920s, 4% (n=8) in the 1930s, 8% (n=8) in the 1940s, 9% (n=20) in the 1950s and 2% (n=4) in 1960-1962. In total, 66% of respondents (n=145) stated that themselves or their family members had arrived in Kenya before independence in 1963. This makes them eligible to apply for Kenyan citizenship as a stateless person or as a descendant of a stateless person, as outlined in articles 15 and 17 of the Kenya Citizenship and Immigration Act, 2011.⁶ 14% of respondents (n=30) said that they had arrived in Kenya after independence and 20% (n=45) did not provide information specifying the time of arrival before or after independence.

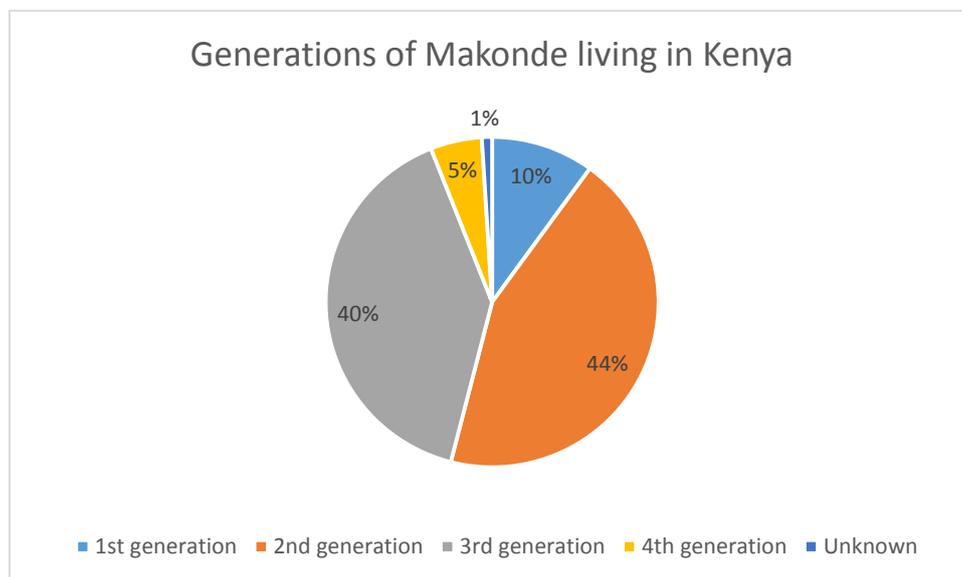


⁶ *ibid.*

Four generations of Makonde were found to reside in Kenya at the time of the research. The first generation to arrive in Kenya was represented by the minority of respondents, namely 10% (n=22) given that most of them and their peers arrived several decades ago. The first generation refers to persons that initiated the arrival of themselves or their families to Kenya. The second generation of Makonde in Kenya was represented by 44% of respondents (n=96). It refers to persons whose parent or parents⁷ came to Kenya as well as to persons who migrated to Kenya together with their parents. The third generation refers to persons whose grandparent(s) initiated their family's migration to Kenya and was represented by 40% (n=88) of respondents. The fourth generation refers to the great grandparents' arrival in Kenya and was represented by 5% of respondents (n=11).

7% of respondents (n=16) specified that at least two generations of their family arrived in Kenya at the same time, for example the parents together with their children. 1% of respondents (n=3) did not provide information pertaining to their generation in Kenya. The migration patterns to Kenya and nationality status of former Makonde generations will be elaborated more thoroughly in section 4.7 of this chapter.

The 4th generation of Makonde over 18 years is still small, but assumed to be rapidly growing due to the large average size of households. It is notable that 91% of respondents in the fourth generation (n=10) stated that they have children, which indicates that some of the Makonde children represent already the fifth generation of their families in Kenya.



⁷ Including other family members in the parents' generation, such as aunt and uncle.

3.4. Documentation

- *Documentation on the adult population's birth is very low: 3% of respondents hold a Kenyan birth notification and 0% a Kenyan birth certificate, although 7% have possessed a birth certificate in the past. 0.5% holds a Mozambican birth document.*
- *Access to Kenyan identity documents is equally low. 3% of respondents hold a Kenyan national identity card, many of which are married to a person of another tribe. 23% have a waiting slip issued by Kenyan officials. Cases of double documentation occur.*
- *The prevalence of documentation issued by Mozambican officials in Kenya is slightly higher: 15% of respondents hold at least one document, most commonly the emergency travel document. 3% have returned documents to Mozambican officials.*

Members of the Makonde population have approached both Kenyan officials as well as officials from the Mozambican High Commission and Consulate in Kenya for documentation. However, the prevalence of identity documents of any kind was observed to be less than 15% among the Makonde population during the assessment. Nevertheless, low percentages of respondents indicated ownership of either Kenyan or Mozambican documentation. Observations concerning birth and identity documentation are further outlined below.

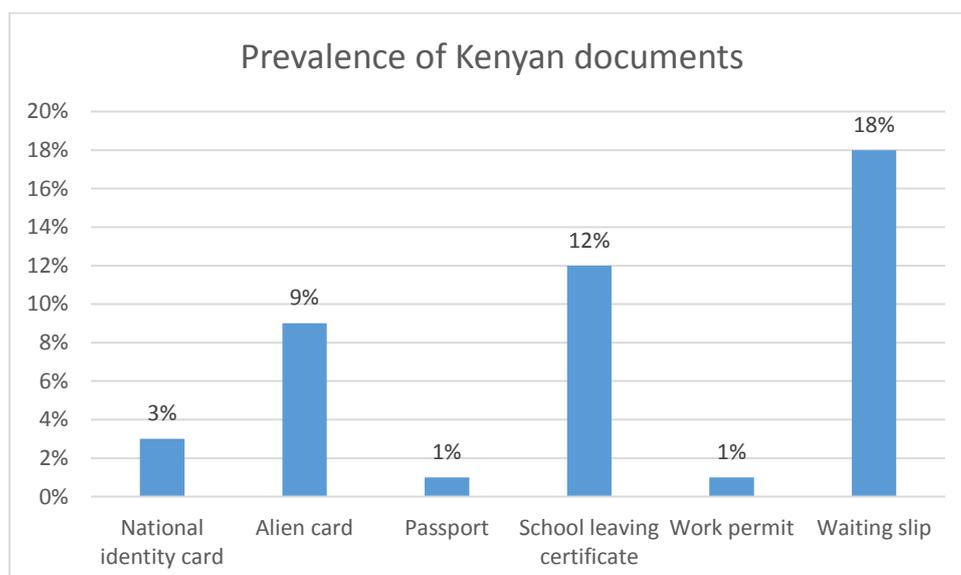
Birth notification and certificate: Birth registration in Kenya is a two-phased process. The parents receive a birth notification upon the birth of the child, most commonly in the clinical facility where the child is born. After reception of the birth notification, the parents have to apply for a birth certificate for their child within 6 months of the child's birth in order to avoid late registration. The Government of Kenya issues birth certificates for any child born on Kenyan territory irrespective of the parents' nationality or existence of identity documents, as long as parents apply for the birth certificate in due time with the registrar of births and deaths. In case of late registration, however, the registrar is obliged to request the national identity document of at least one of the parents prior to the issuance of the birth certificate.

A minority of respondents indicated to possess documentation of their birth. 3% of respondents (n=7) stated to have a Kenyan birth notification or clinical card, 96% (n=212) did not have a birth notification and 1% (n=2) did not know. Less than 1% of respondents (n=2) stated that they have a Kenyan birth certificate and 0.5% (n=1) a Mozambican birth registration document, the exact type of which the person did not specify. 98% of respondents (n=215) informed that they do not have a birth certificate and 1% of respondents did not provide information. However, both respondents who indicated to hold a Kenyan birth certificate specified that they do not hold the document anymore due to its loss or destruction. This indicates that none of the respondents currently held a Kenyan birth certificate at the time of the assessment.

A total 7% of respondents (n=16) comprising of the two respondents mentioned above stated that they have had a birth certificate in the past, but that it got lost or destroyed. Of these respondents, 69% (n=11) were born in Kenya, 19% (n=3) in Tanzania and 13% (n=2) in Mozambique. 0.5% (n=1) of respondents who stated to have held a birth certificate in the past indicated to be in possession of a Kenyan national identity card.

Kenyan national identity card: access to national identity documentation can be regarded as a key step for a person to prove his citizenship and access the related rights and benefits. The majority of respondents, 84% (n=184), have not held a Kenyan national identity card. 13% of replies (n=29) were unspecified. However, 3% of respondents (n=7) stated to be in possession of a Kenyan national identity card, out of which 14% (n=1) specified that the card is expired and no new card has been provided. 29% (n=2) of respondents with national identity card were women and the largest age group represented were 26-35 year-olds with 43% (n=3).

The possession of Kenyan national identity cards was most common among respondents who had married a husband or spouse from another Kenyan tribe. This group consisted 86% of respondents (n=6). 29% of respondents (n=2) stated that their father had a Kenyan national identity card, while their mother and grandparents had not. 43% (n=3) indicated they had received the Kenyan national ID through informal means, either by indicating a different name or tribe than their own. 43% (n=3) had to undergo a vetting process before they received the ID card. 57% of respondents (n=4) stated that they also have a Mozambican emergency travel certificate, 29% (n=2) a voting card and 14% (n=1) each a consular card and political membership card.



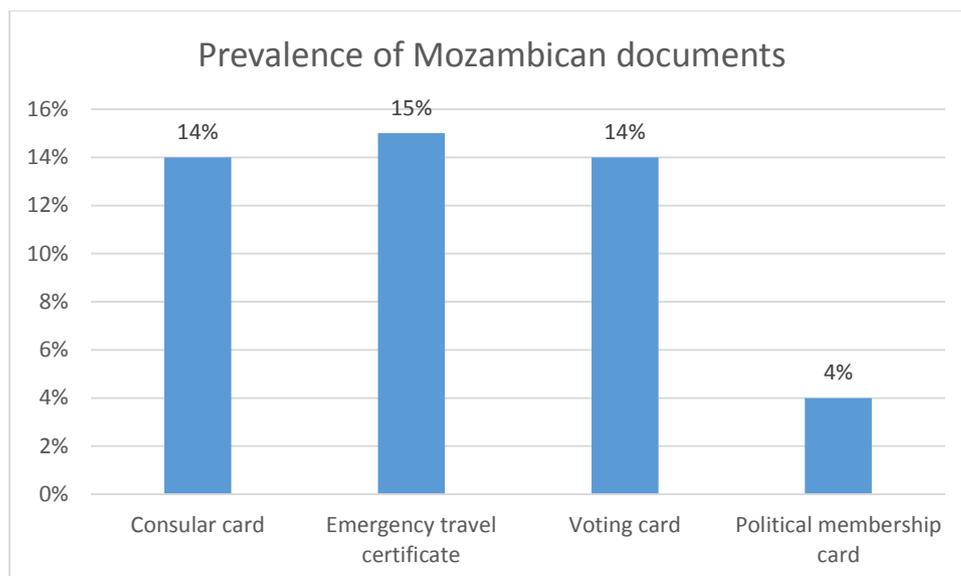
Kenyan alien card: The possession of a Kenyan alien card was slightly more common among respondents, 9% of which (n=19) stated to have held a Kenyan alien card at some stage of their life. 53% of respondents (n=10) specified that the alien card was expired, 11% (n=2) indicated that the card was lost and 5% (n=1) that the card was confiscated. None of the respondents specified that the alien card in their possession would still be valid. Based on respondents' remarks, it appears that previously issued alien cards have not anymore been renewed in recent years. 77% of respondents (n=170) had never possessed a Kenyan alien card, 14% (n=31) of replies were unspecified.

Other Kenyan documents: 1% of respondents (n=2) indicated that they hold a Kenyan passport, one respondent of which specified that the passport is of temporary validity. 12% of respondents (n=27) held a school leaving certificate, 56% of which (n=15) were in the age of 18-35 years. 1% of respondents (n=2) stated that they are in possession of a Kenyan work permit after their application for the permit had been successful. Both respondents informed that they work for a Kenyan agricultural company.

The most common document issued by Kenyan authorities was a waiting slip, which was held by 18% of respondents (n=39). 15% of respondents (n=6) with a waiting slip specified that it had been issued for a national identity card and another 15% (n=6) for an alien card. 23% (n=9) specified that the waiting slip was expired and 21% (n=8) stated that it was issued in 2007-2008. 5% of respondents with a waiting slip (n=2) stated that they had received a national identity card. Various respondents who had received a waiting slip were told by officials that they are not eligible for the national identity card, at least not for the moment.

Mozambican consular card: The prevalence of Mozambican documentation was higher among respondents compared to Kenyan documentation. Multiple respondents commented that they have resorted to approach Mozambican officials for documents due to the difficulty in accessing Kenyan documents. The Mozambican consular card is the identification document issued by Mozambican officials in Kenya, namely the High Commission in Nairobi and the Consulate in Mombasa. The consular card does not equal a Mozambican passport, nor does it allow access to Kenyan services according to the respondents.

14% of respondents (n=30) stated that they hold a consular card or have possessed one in the past. 40% of the respondents in this category (n=12) specified that their consular card is expired or that they have returned the card. When the number of respondents with expired or returned cards is deducted, the percentage of respondents with a consular card drops to 8% (n=18). 70% of respondents (n=154) stated that they have not been in possession of a consular card and 16% (n=36) did not provide information.



Mozambican emergency travel certificate: 15% (n=32) of respondents stated that they hold an emergency travel certificate or have possessed one in the past. The document allows its holder to be identified for purposes of international travel. 23% of respondents in this category (n=7) specified that the document is expired or that they have returned the document. 71% of respondents (n=157) stated that they have not been in possession of an emergency travel certificate and 14% (n=31) did not provide information.

Mozambican voting card and political membership card: 14% (n=31) of respondents stated that they hold a voting card or have possessed one in the past. 25% of respondents in this category (n=8) specified that the document is expired or that they have returned the card. 70% of respondents (n=154) stated that they have not been in possession of a voting card and 16% (n=35) did not provide information.

The political membership card was less prevalent among respondents than other documents issued by Mozambican officials: 4% (n=8) of respondents stated that they hold a voting card or have possessed one in the past. 38% of respondents in this category (n=3) specified that the document is expired, they have returned the document or that the document was taken by Mozambican Government officials. 73% of respondents (n=161) stated that they have not been in possession of a political membership card and 23% (n=51) did not provide information.

Multiple respondents held more than one Mozambican document. Of the respondents who replied “yes” or “valid” to the possession of a consular card (n=18), 67% (n=12) also hold an emergency travel certificate, 61% (n=11) a voting card and 17% (n=3) a political membership card. 4% of all respondents (n=9) indicated that they are in simultaneous possession of three documents issued by Mozambican officials: a consular card, an emergency travel document and a voting card. 1% of respondents (n=2) also hold a political membership card,

bringing the total number of Mozambican documents in their possession to four. A total of 3% of respondents (n=6) stated that they have returned their documents to Mozambican officials.

3.5. Application for Kenyan documents

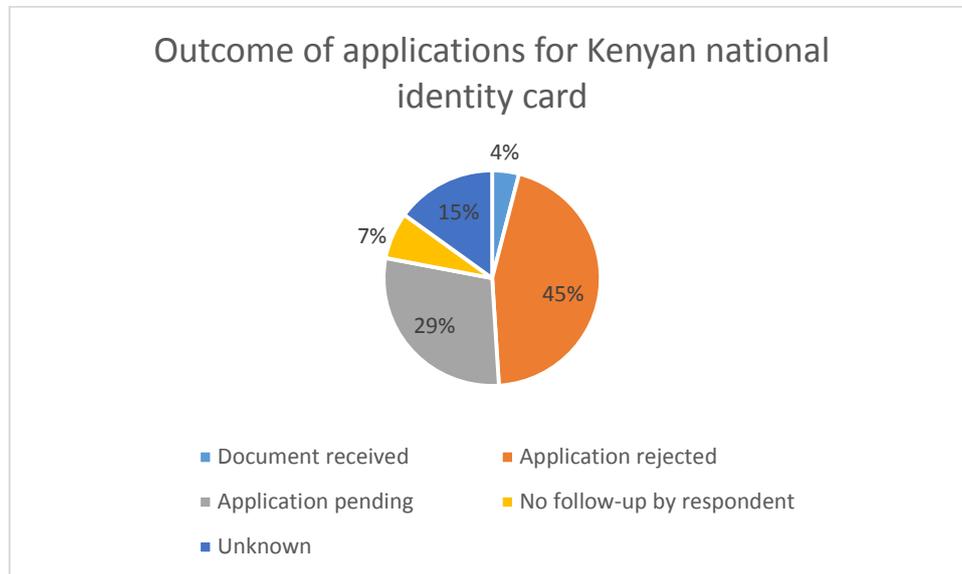
- *Over half of respondents (53%) have approached Kenyan officials in order to receive documentation, 45% specifically the national identity card. The area chiefs and assistant chiefs are the most common focal persons.*
- *The success rate for applications is low. 45% of respondents had their application for national identity card rejected the most common reason being that they are not entitled to documents for Kenyan citizens. One third of applications remain pending.*
- *Vetting processes are not common within the Makonde community (27%), although they have taken place over several decades at small scale. A minority of respondents (5%) has aimed to obtain Kenyan documentation through informal means.*

Attempts to receive Kenyan documents were commonly mentioned during the assessment. 53% of respondents (n=117) stated that they have approached or registered with Kenyan officials to apply for documents at some stage of their lives, either for themselves or for their children. 45% of respondents (n=99) specified that they had applied for Kenyan national identity card, 10% (n=23) for birth certificate and 4% (n=8) for alien card. 69% of respondents who had applied for Kenyan documents (n=81) had approached the area chief or sub-chief for their application, 13% (n=15) the district officer, 5% (n=6) the registrar, 4% (n=5) immigration and 3% (n=3) the district commissioner. 11% of respondents (n=13) specified that they had approached various officials.

The general success rate of applications for Kenyan documents has been low. A few applicants received the document they applied for: 4% (n=5) were issued with a national identity card and 4% (n=5) with a birth certificate. 33% of respondents (n=39) stated that they have been asked to wait, while no further action has been taken on their process and 44% of respondents (n=51) stated that their application was rejected. 7% of respondents (n=8) did not follow-up on their application and 15% (n=17) did not specify the outcome of the process.

The rejection figures were higher among respondents who had applied for the national identity card in particular: 45% (n=45) of respondents stated that their application had been rejected by Government officials and 29% (n=29) had been asked to wait. According to the respondents, the most common reason for rejection given by Kenyan officials was that they are of foreign origin and therefore not entitled to documents for Kenyan citizens. Direct

reference to the applicant’s Makonde origin was also common. 2% of respondents (n=2) said that they did not receive the national identity card because they could not produce the national identity card of at least one of their parents, whereas 1% (n=1) was denied due to the lack of the applicant’s birth certificate.



Vetting is not common within the Makonde community: 27% of respondents who had applied for Kenyan documents (n=27) stated to have undergone a vetting process. The majority of respondents specified that they had been subject to vetting as part of their application for national identity cards. 67% of respondents who had undergone vetting (n=18) resided in Kwale county, 22% (n=6) in Kilifi County and 7% (n=2) in Mombasa County. 74% were men, 26% women and all age groups were represented.

Vetting of the Makonde has taken place during several decades. Based on specifications by 44% of respondents who had undergone vetting (n=12), the processes have taken place between 1970 and 2013, whereas 19% (n=5) specified the timeframe further to 2012-2013. In terms of results, 7% of respondents (n=2) had received a national identity card through the vetting process, 30% (n=8) were denied the national identity card due to being Makonde or foreigner, 15% (n=4) were denied without being given a reason and 15% (n=14) have not been informed of a decision.

A minority of respondents, 5% (n=11), indicated that they have tried to receive Kenyan documents through informal means, 82% of which (n=9) specified that their attempt was related to obtaining a Kenyan national identity card.

3.6. Mobility, political engagement and arrest by law enforcement officials

- *The Makonde in Kenya and Tanzania have close family ties with each other and travel across the border is common (41%). One fifth of respondents used a Kenyan document for border crossing, 12% a Mozambican document and 42% no document.*
- *Political engagement among the Makonde is relatively low: 10% of respondents have participated in Mozambican elections and 2% in Kenyan elections.*
- *Makonde have commonly been arrested (42%) often due to lack of valid documentation, although targeted arrests were not frequently reported. Extortion takes place in situations of arrest and imprisonment.*

Mobility: A large number of Makonde have family ties that extend beyond Kenya, which is reflected in the population's mobility. 41% of respondents (n=91) stated that they have travelled abroad since residing in Kenya. The most common country of travel is Tanzania which was mentioned by 76% of respondents (n=69), whereas only 1% (n=1) specified having traveled to Mozambique. For purposes of travelling, 20% of respondents (n=18) used a document issued by Kenyan officials when crossing the border, 12% (n=11) a document issued by Mozambican officials and 1% (n=1) a Convention Travel Document. 42% of respondents (n=38) traveled through undesignated border points without documents. 25% of respondents (n=23) did not provide information on documentation.

A variety of documents are used for travel. Respondents with Kenyan documents crossed the border with a temporary Kenyan passport, travel document or stamped letter from immigration officials (n=9), a letter issued by the area chief, sub-chief or immigration officials (n=7), a Kenyan national identity card (n=1) or a school leaving certificate (n=1). All respondents who had used a Mozambican document for border crossing referred to the emergency travel certificate (n=11). 12% of all respondents who traveled abroad faced challenges with immigration officials upon re-entry to Kenya. Challenges included questions related to travel without documents or through informal routes, extortion and harassment. No major differences were reported in the acceptance of Kenyan documentation (83%, n=15) and Mozambican documentation (82%, n=9) at border checkpoints.

While the assessment did not collect detailed statistics on the percentage of Makonde respondents with links to Tanzania, 22% of respondents (n=48) replied to an open-ended question regarding links to Tanzania that they have frequent contact with members of their core or extended family who live in Tanzania. The existence of business relationships was not explicitly mentioned, whereas in contrast regular visits of relatives of Makonde origin are common from Kenya to Tanzania and vice versa.

Political engagement: 15% of respondents (n=33) indicated that they have participated in elections at some point of their life. 10% of respondents (n=23) specified having participated in Mozambican elections⁸. The most commonly mentioned participation was in the presidential elections in 2004, 2009 and 2014. 2% of respondents (n=5) specified having participated in Kenyan elections, 40% (n=2) of which specified participation in elections during President Jomo Kenyatta's term. 0.5% of respondents (n=1) stated to have participated in Mozambican elections while residing in Mozambique, but not in Kenya. 2% of respondents (n=4) had participated in elections, but did not specify the country.

Arrest by police: 41% of respondents (n=90) informed that they have been arrested by Kenyan law enforcement officials at some point of their life. 3% of respondents (n=7) specified the time of their arrest, which extended over the years 1966–2009. 14% of respondents (n=30) stated the arrest was related to the lack of valid documentation. Other reasons mentioned included selling or being under the influence of alcohol (8%, n=17), lack of work permit or license to sell products mostly marketed to tourists, such as woodcarvings (3%, n=6), illegal entry into Kenya (1%, n=2) and disagreement with another community member (1%, n=2). 3% of respondents (n=7) specified that they were jailed for a period of 2 weeks to 6 months as a result of the arrest. 1% of respondents (n=2) further specified that they were imprisoned for the lack of ID for 3 to 6 months.

Extortion is common in situations of arrest. 22% of respondents (n=48) reported to have paid a bribe. The indicated amounts ranged from KES 200 to KES 5,000. 8% of respondents (n=18) mentioned that the bribe was paid to the police, mostly in situations of arrest and imprisonment.

3.7. Migration patterns and nationality of past Makonde generations

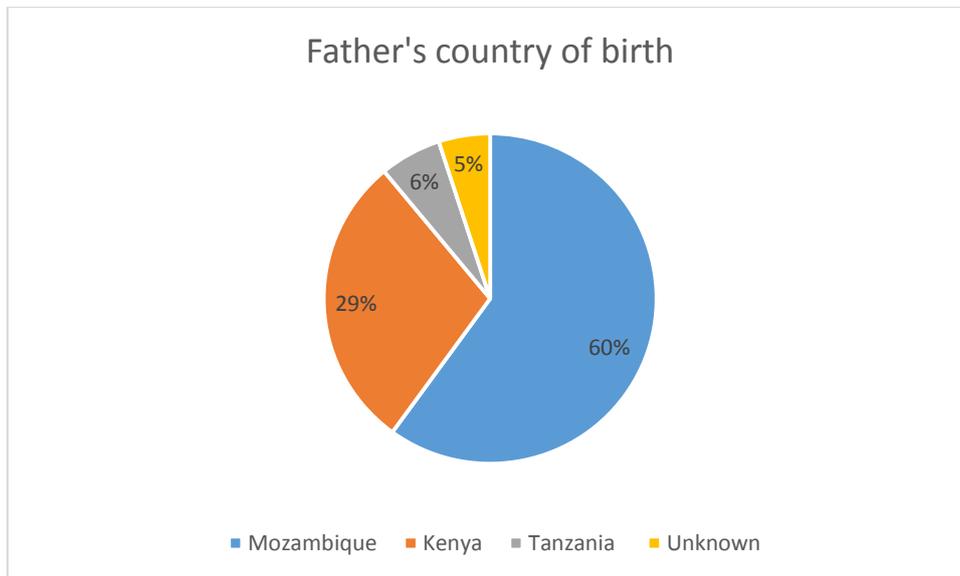
- *Migration patterns of the Makonde have covered Mozambique, Tanzania and Kenya. One third of the respondents' parents (29% / 34%) were already born in Kenya, whereas the same applies for less than 3% of grandparents.*
- *Transitory residence in Tanzania has been common prior to onward migration to Kenya. A small number of returns out of Kenya have taken place among parents and grandparents both to Mozambique and Tanzania, primarily among aged population.*
- *The respondents perceive their parents nationality largely according to their country of origin. Proof of nationality is known for 18% of fathers and 13% of mothers, but for less than 5% among grandparents.*

⁸ Respondents who did not specify the country of elections, but stated to have a Mozambican voting card are included in the figure.

- Respondents whose father had a Kenyan national identity card indicated a 50% success rate in registration for a Kenyan national identity card for themselves, while the success rate was 0% when the holder of the card was the respondent's mother.

The Makonde have migrated between their original region of Northern Mozambique, Tanzania and Kenya since the beginning of the 20th century, as outlined in section 4.3. This section explores further the arrival of the Makonde in Kenya through the migration patterns of the respondents' parents and grandparents. It also focuses on the respondents' perceptions on their parents' and grandparents' nationality and documents to establish it.

Migration patterns of parents: 60% of respondents (n=133) informed that their father was born in Mozambique, 29% (n=64) in Kenya, 6% (n=13) in Tanzania and 5% (n=10) did not know. 64% of respondents (n=143) provided information on their fathers' country or countries of residence in addition to the country of birth, which is analyzed in detail below.



The migration patterns of the respondents' fathers who were born in Mozambique (n=133) are versatile. Out of the total number, 3% (n=4) of fathers lived always in Mozambique. 31% (n=41) of respondents stated that their father migrated directly from Mozambique to Kenya without specifying residence in a third country. An estimated 11% (n=15) have migrated to Tanzania, but have not continued onward to Kenya⁹. 34% (n=45) of fathers migrated first to Tanzania and continued onwards to Kenya.

⁹ The estimate is based on the number of respondents who indicated Mozambique as their father's country of birth and Tanzania as the country of residence and deducting the responses in which the father is explicitly mentioned among the arrivals of the family in Kenya. It is possible that the figure is slightly lower than mentioned in case the respondents have not highlighted the arrival of the father in Kenya (e.g. if the grandparents have been the first persons of the family to arrive in Kenya).

The transit periods indicated by the respondents range from a few months up to 20 years. 11% of respondents (n=14) were able to specify the transit period of their fathers in Tanzania to 1-5 years, but the majority of respondents did not have specific information on the duration of their fathers' residence in Tanzania. 6% of respondents (n=8) were able to define both the duration of their fathers stay in Tanzania as well as the exact year of arrival in Kenya.

Movements have not taken place only from Tanzania to Kenya, but also vice versa. 2% of respondents (n=4) specified that their father had first migrated to Kenya and then back to Tanzania. In both cases the time of residence in Kenya as well as the departure to Tanzania took place before 1963. It remains unspecified in these cases whether the respondent remained in Kenya at the time or returned independently to Kenya at a later stage.

Of the respondents' fathers that were born in Kenya (n=64), 17% (n=11) have migrated to Tanzania at some stage of their life and 3% (n=2) to Mozambique. A few respondents in this category indicated multiple return movements. Of the respondents' fathers were born in Tanzania (n=13), 62% (n=8) migrated to Kenya.

The respondents' information on the country of birth and migration of their mother is to a large extent similar to the information provided on the fathers, as many couples migrated together. It is, however, notable that the number of mothers born in Mozambique is 7% smaller compared to fathers, which indicates prevalent marriages of Makonde to spouses from other tribes already in past generations. 53% of respondents (n=118) stated that their mother was born in Mozambique, 34% (n=74) in Kenya, 10% (n=22) in Tanzania and 3% (n=6) unknown. 55% of respondents (n=122) provided information of their mothers' country of residence in addition to the country of birth, which is analyzed below.

Out of the mothers born in Mozambique (n=118), 2% (n=2) did not leave their country of birth according to the respondents. An estimated 12% migrated to Tanzania without moving onward to Kenya. 2% of respondents (n=2) specified that their mothers returned to Mozambique after having migrated to Tanzania. 34% (n=40) lived in Tanzania for a transit period prior to moving to Kenya. A further 30% of respondents (n=35) indicated that their mother moved directly from Mozambique to Kenya without mentioning a transit period in Tanzania.

Of the mothers born in Kenya (n=74), 12% (n=9) have resided in Tanzania at some point of their life. 1% (n=1) has resided in Mozambique for a period of 3 years, but returned to Kenya. Of the mothers born in Tanzania (n=22), 55% (n=12) had migrated to Kenya and 5% (n=1) to Mozambique. Selected cases of return movement, for example from Kenya to Tanzania, can be observed among respondents' mothers in a similar fashion to the

respondents' fathers. The same applies to the difficulty in determining the duration of residence in a third country prior to arrival in Kenya.

Nationality of parents: The respondents' perceptions on the nationality of their parents correspond to a large extent to the parents' country of birth. 65% of respondents (n=142) indicated their father to be Mozambican, 16% Kenyan (n=36), 6% of no nationality (n=14), 3% Tanzanian (n=6), whereas 10% of respondents did not know the nationality of their father (n=22). The breakdown looks similar for responses regarding the nationality of the mother: 60% of respondents (n=131) stated their mother to be Mozambican, 22% Kenyan (n=49), 7% of no nationality and 3% Tanzanian (n=7). No knowledge on the mother's nationality was indicated by 8% of respondents (n=18).

The available proof of nationality of the respondents' father is significantly lower compared to the knowledge of his country of birth: 18% of respondents (n=39) stated that their father has or had a document to prove his nationality. 14% of respondents (n=30) were able to specify the type of document. Of the respondents referring to specific documents, 70% (n=21) referred to documents proving their father's Mozambican nationality, which included the Mozambican consular card (n=4)¹⁰, voting card (n=1), emergency travel certificate (n=4)¹¹ and birth certificate (n=1), as well as the Kenyan alien card (n=4), tax documents (n=1) and refugee card (n=1).

27% of respondents with specific documentation for their father (n=8) referred to documents proving his Kenyan nationality including the Kenyan national identity card (n=4), alien card (n=2), land certificate (n=1) and the Mozambican emergency travel certificate (n=1). Out of the respondents with proof of their father's Kenyan identity card, 50% (n=2) had received a Kenyan identity card themselves upon application, whereas the remaining 50% (n=2) stated that the application process for their national identity card was pending. Interestingly, 50% of respondents whose father had a Kenyan alien card (n=1) stated to have received the Kenyan national identity card as result of a vetting process. 3% of respondents (n=1) stated to have a document in support of the father's Tanzanian nationality, namely the Tanzanian national identity card. 7% of respondents (n=2) stated that the waiting slip or Kenyan alien card, one each, is perceived by them as proof that their father had no nationality.

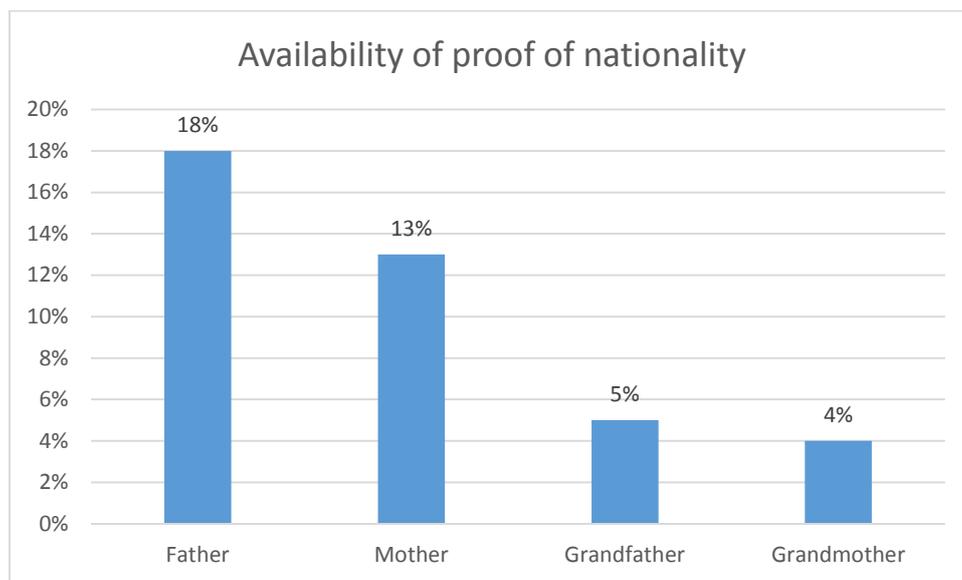
The proof of nationality of the respondents' mother yielded similar results, although the prevalence of documents was lower compared to the respondents' father. 13% of respondents (n=28) stated that their mother has or had proof for her nationality, whereas 10% (n=22) were able to specify the type of document, 61% of which (n=14) Mozambican

¹⁰ Three respondents referred to a Mozambican ID, which was interpreted as consular card.

¹¹ Two respondents referred to Mozambican passport, which was interpreted as emergency travel certificate.

nationality, 27% (n=6) Kenyan nationality, 5% (n=1) Tanzanian nationality and 5% (n=1) no nationality. The types of documents were similar to the ones mentioned under the proof of nationality of the respondents' father.

Among mothers with documentation to prove their Kenyan nationality, 33% (n=2) possess or have possessed a Kenyan national identity card. It is notable that in both cases the respondent has applied for a Kenyan national identity document without receiving it. This leads to a 0% success rate in contrast to respondents whose father possessed a national identity card in which case the success rate was 50%.

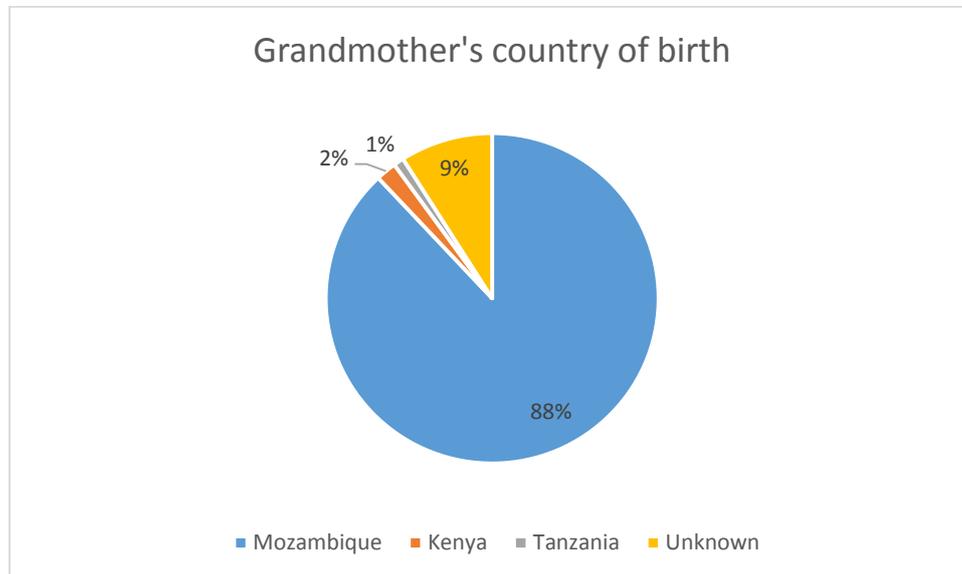


Migration patterns of grandparents¹²: The vast majority of the respondents' grandparents was born in Mozambique. 90% of respondents (n=197) indicated that their grandfather was born in Mozambique, 3% (n=6) in Kenya and 1% in Tanzania (n=3). 6% of respondents did not know their grandfather's country of birth (n=14). The figures are similar for the respondents' grandmothers: 88% were born in Mozambique (n=194), 2% in Kenya (n=4) and 1% in Tanzania (n=2). 9% of respondents (n=20) did not know their grandmother's country of birth.

The respondents had significantly less knowledge of their grandparents' countries of residence compared to information about their parents, which makes information of the grandparents' migration patterns less comprehensive. 31% of respondents (n=68) were able to specify their grandfather's country of residence in addition to the country of birth. Of

¹² Information is interpreted to apply primarily to paternal grandparents, as per verbal instructions to data collectors during the interviews. No separate information was collected of maternal grandparents.

grandfathers born in Mozambique, at least 15% (n=29) had migrated to Kenya¹³, 9% (n=18) to Tanzania, whereas 6% (n=11) had resided both in Tanzania and Kenya. 2% of respondents in this category (n=4) specified that their grandfathers had lived in Tanzania for a transit period of 1 to 6 years prior to moving to Kenya.



Of respondents' grandfathers who were born in Kenya, 33% (n=2) had moved to Tanzania at a later stage of their life, providing further evidence that movement of the Makonde between Tanzania and Kenya has taken place into both directions among multiple generations.

Among the total of respondents, at least 1% (n=2) did thus indicate that their grandfathers who were born in Mozambique returned to their country of origin in the late days of their lives. Of respondents' grandfathers born in Tanzania, 100% (n=2) had migrated to Kenya, whereas 50% (n=1) returned to Mozambique prior to death. Another respondent (n=1) who was not able to specify the grandfather's migration pattern indicated that he had returned to Mozambique before his death.

The migration patterns of the respondents' grandmothers appeared similar to the grandfathers'. 27% of respondents (n=59) had information about their grandmother's countries of residence. Of the grandmothers born in Mozambique, 14% (n=27) had migrated to Kenya Kenya, 10% (n=17) to Tanzania, whereas 4% (n=7) had resided both in Kenya and Tanzania. Respondents whose grandmothers were born in Kenya were not aware that any of them had resided in another country. Of grandmothers born in Tanzania, 50% (n=1) had migrated to Kenya.

¹³ The real percentage may be higher assuming that not all respondents may have knowledge of their grandparents' migration patterns outside Mozambique.

Nationality of grandparents: Compared to the number of respondents who stated that their grandparents were born in Mozambique, a slightly smaller percentage of respondents perceived their grandparents as Mozambican nationals. 81% of respondents (n=178) perceived that their grandfather was of Mozambican nationality, 5% (n=12) of Kenyan nationality and 1% (n=3), whereas 12% (n=27) of respondents did not have information of their grandfather's nationality. 79% of respondents (n=174) stated that their grandmother was of Mozambican nationality, 8% of Kenyan nationality (n=17), 1% of no nationality (n=3), 0.5% (n=1) of Tanzanian nationality and 11% (n=25) of unknown nationality.

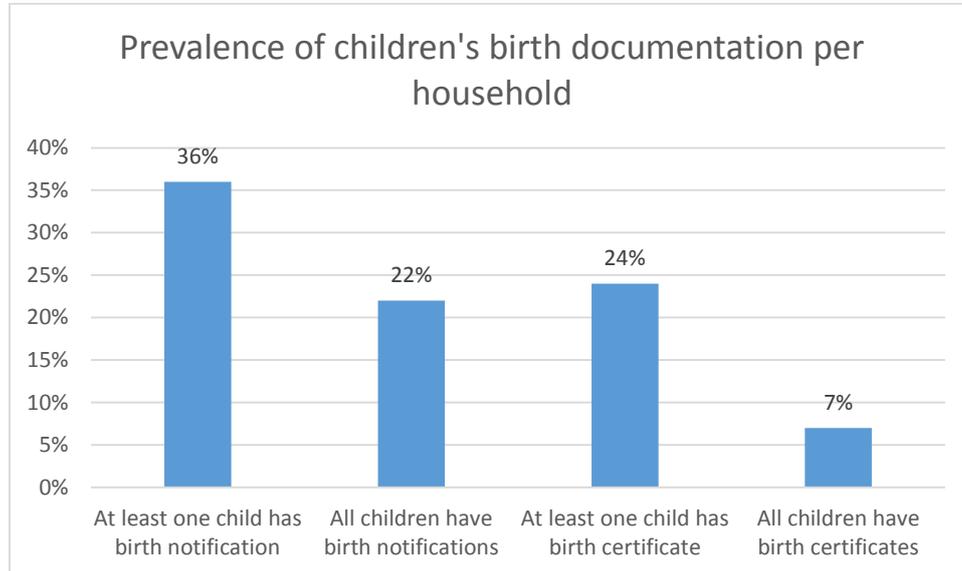
The proof of nationality becomes highly limited in the generation of the respondents' grandparents. 5% of respondents (n=11) were aware of proof of their grandfather's nationality, out of which 75% (n=8) were able to specify the type of document. The same figures for the grandmother's proof of nationality are 4% (n=9) and 3% (n=6). The documents mentioned as grandparents' proof of nationality were largely in line with the documents mentioned for the parents including the Kenyan alien card, as well as Mozambican identity and travel documents. However, none of the grandparents had been in possession of a Kenyan national identity card.

3.8. Documentation and access to education of Makonde children

- *A low percentage of children have valid birth documentation: in 22% of households all children have a birth notification and in 7% of households a birth certificate. The increase in birth registration is still significant compared to the parents' generation.*
- *Key reasons for the lack of birth certificates include the denial of parents' requests by Government officials, mostly due to lack of parents' identity documents, as well as low percentage of parents approaching Government officials for birth certificates.*
- *Despite lack of birth documentation, the respondents' children have notably higher access to education than their parents. Drop-outs are common and are often related to the lack of children's documentation, which blocks access to national exams in classes at the end of primary and secondary education (classes 8 and 12).*

Birth registration: 91% of respondents (n=201) stated to have children, most of them between 2 and 4 (50%). 36% of respondents with children (n=72) reported that at least one of their children has a Kenyan birth notification, whereas 22% (n=44) specified that all of their children have birth notification. The age of the children with birth notification varied from 2 months to 30 years. 24% of respondents (n=48) stated that at least one of their children has a Kenyan birth certificate, whereas 7% (n=14) specified that all of their children have birth certificates. The age of children with birth certificates varied from 1 to over 20

years. It is, however, notable that only 2% of respondents (n=4) specified that they have children under the age of 10 years who hold a Kenyan birth certificate. One respondent stated: “It has become harder now to access them [birth certificates] then when I got for the first two of my children”.



1% of respondents with children (n=2) stated that at least one of their children has a Mozambican birth certificate. 6% of parents (n=14) indicated to have registered their children in the name of another person in order for the children to obtain birth certificates.

Respondents mentioned a variety of reasons for the lack of Kenyan birth certificates for their children. 17% of respondents (n=35) stated that they had approached a Government official for the birth certificate, but their request was refused. 11% (n=23) that the refusal was related to the lack of a national identity card of the parent(s). 7% of respondents (n=14) specified that they had made several attempts to obtain birth certificates for their children.

Various respondents mentioned that the refusal was argued for either one or both parents not being Kenyan. In mixed marriages, refusals for birth certificates by Government officials were reported both because of the mother or the father not being Kenyan. 6% of respondents (n=13) reported that they have applied for a birth certificate for their children, but have not yet received a decision.

The respondents whose request for their children’s birth certificates were refused by Government officials did not specify how old the children were at that time and whether the children already had a birth notification. According to current national legislation and administrative procedures, children born in Kenya can obtain a birth certificate up to the age of six months without the requirement of parents’ identity documentation. However, at

least one of the parents has to produce identity documents as part of late birth registration that occurs when the child is more than six months old.

Approximately 35% of respondents (n=71) stated that they had not tried to get a birth certificate for their children.¹⁴ Most common reasons included delivery at home, negative experiences of others, low expectations with regards to the possibilities of succeeding, ignorance and perceived length of the procedure. 2% of respondents (n=4) specified that the school has been trying to support their children in obtaining birth registration, mostly prior to the KCPE exams.

44% of respondents (n=96) stated that they know which official to approach for birth registration. 25% (n=56) specified that the official to approach is the chief or assistant/ sub-chief, 5% (n=10) the registrar of persons and 4% (n=9) medical staff. The timeframe to avoid late birth registration was said to be known by 13% of respondents (n=29). However, only 2% of respondents (n=4) mentioned the correct timeframe of six months.

Education: Despite the low percentage of birth documentation, the respondents' children have had considerably better access to education in Kenya than the respondents themselves. 74% of respondents (n=149) stated that one or more of their children is undergoing or has completed primary education, 18% (n=37) secondary education and 2% (n=5) tertiary education. However, school drop-outs are common: 26% of respondents (n=58) reported that at least one of their children had dropped out of school. Most drop-outs occurred in the last grades of the 8-year primary education. Of the respondents whose children had dropped-out, 12% specified that the drop-out took place in 4th grade, 19% in 5th grade, 24% in 6th grade, 19% in 7th grade, 29% in 8th grade and 7% in secondary school (grades 9-12). Commonly indicated reasons for drop-outs were the lack of identity documents to participate in the national exams and lack of funds to cater for school fees.

3.9. Community members' perceptions on the regularization of their nationality status

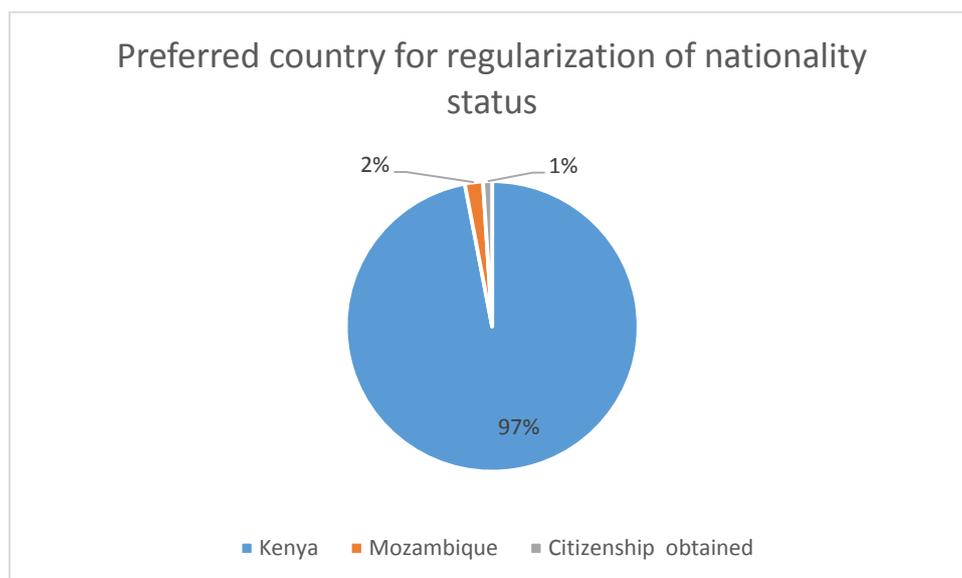
- *The vast majority of the Makonde (90%) identify themselves as Kenyans arguing that Kenya is the country in which they have lived their whole life and raised their children. 97% of respondents wish to approach Kenya for regularization of nationality status.*

¹⁴ The exact number of respondents in this category is difficult to define, as a few respondents mentioned only the reason for the lack of children's birth certificates (e.g. parents' lack of ID) without specifying, if they had applied or not.

- *Awareness within the community on the legal provisions on the application for Kenyan citizenship is low. Community members perceive in clarity on how to initiate the process of regularizing their nationality status and the outline of the procedure.*
- *Respondents highlighted the pervasive effects of the lack of documentation, including employment, access to justice, land ownership and risk of arrest. Community members state that have approached Mozambican officials for documentation as an emergency measure due to the lack of access to Kenyan identity documents.*

Country of identification: 90% of respondents (n=197) identify themselves as Kenyans and 8% as Mozambicans (n=18). 2% (n=5) did not specify a country of identification. 66% of respondents who identify themselves as Kenyans specified that they arrived in Kenya before independence or are descendants of such persons. Out of the respondents who identify themselves as Mozambicans, 95% wish nevertheless to approach Kenya for the regularization of their nationality status. Furthermore, 72% of respondents who identify themselves as Mozambicans have arrived in Kenya before 1963 or are descendants of such persons, which means that they are eligible to apply for Kenyan citizenship as a stateless person according to the Kenya Citizenship and Immigration Act.

Regularization of nationality status: 97% of respondents (n=213) stated that they wish to approach Kenya for regularization of their nationality status, 1% (n=2) stated that they are already citizens of Kenya in possession of all official documentation they need and 3% (n=5) did not provide a name of a country. No respondent wished to approach Mozambique for regularization of nationality status.



Awareness of provisions on statelessness in national legislation: 21% of respondents (n=46) indicated that they are aware on the procedure of application for Kenyan citizenship as a stateless person, as outlined in Article 15 of the Kenya Citizenship and Immigration Act. 12% of respondents (n=26) had heard of the procedure of application for Kenyan citizenship as a descendant of a stateless person, as outlined in Article 17 of the Kenya Citizenship and Immigration Act.

When the respondents were asked which Government official they would approach on queries related to application for citizenship, 45% (n=100) mentioned the area chief, 7% (n=15) the district officer, 6% (n=14) immigration officials and 1% (n=3) the registrar of persons. 27% of respondents (n=60) specified that they did not know which official to approach. Respondents who provided additional comments to the question stated among others: “I consider myself as Kenyan and not stateless, I am in need of an ID” and “I am willing to apply [for Kenyan citizenship], if directed in the process”.

Return to Mozambique: 4% of respondents (n=9) stated that return to Mozambique could be an option for them. 67% of these respondents were born in Kenya 56% over 46 years old. Equally 56% specified that they had arrived in Kenya prior to independence. 89% had married within the Makonde community, which is a much higher percentage than in the whole sample. 56% are male and 44% female. 56% do not have a formal education.

Additional comments by respondents: At the end of the questionnaire, respondents had the possibility to provide additional comments to the interview. 44% of respondents (n=96) wished to make an open-ended comment. Most of these were related to access to documentation and registration for citizenship which were to some extent referred to interchangeably. Multiple respondents referred to the consequences related to the inaccessibility of Kenyan documents. One consequence is the blockade to accessing the formal job market. Some respondents said that they had received a job offer, but the employer could not hire them due to lack of ID or work permit.

Other respondents had faced challenges with access to justice and ownership of land, especially in situations where neighbors with Kenyan identification documents had challenged their ownership. Claims to land are difficult to establish and the Makonde have not had access to titled deeds during recent years unlike their neighboring tribes. With regards to security, fear of arrest is still common due to lack of documentation, although some respondents stated that the situation has significantly improved from the era of president Moi. Beyond insecurity, multiple respondents felt a sense of humiliation because they feel to be Kenyans, but perceive to be treated as foreigners.

The lack of documentation may also affect the formal integration of the Makonde, despite the high level of integration in their everyday life. In the words of one respondent: “a

Makonde cannot be elected as head of village due to lack of identification [documents]”. With regards to the registration process, concerns were also raised about an alleged cost of Ksh 2,000 to launch the registration for citizenship application. Some respondents reverted to the difficulty in accessing documentation, for example in terms of giving up applying for birth certificates after multiple attempts. Another respondent stated that she was unable to access Kenyan identity documents although her father was a recognized Kenyan citizen.

Multiple respondents wanted to specify reasons for having sought Mozambican documents. According to one respondent, community members “took the card out of ignorance. They were not fingerprinted or photographed [by Mozambican officials prior to receiving the documents]. Fear of arrest as well as perceived inability to access Kenyan documents, often combined with multiple attempts of application either by oneself or close relatives, were equally mentioned as reasons to approach Mozambican officials. Some respondents expressed their deception with regards to the low level of benefits the holding of Mozambican documents has yielded.

Other respondents highlighted that Mozambican officials have actively approached their communities with regards to registration. Reasons related to the despair of the current situation and inability to access documentation through formal ways were also mentioned as reasons for seeking out to fraudulent means in achieving documentation, such as indicating a fake name or tribe. Some respondents expressed their concern of what will happen to persons with fake documentation for example in the case of a registration exercise and how this will influence the assessment on the regularization of their nationality status.

4. CONCLUSIONS AND RECOMMENDATIONS

The results of the assessment indicate that the Makonde in Kenya are integrated into the Kenyan society in many ways. The majority of respondents indicated that they have lived in Kenya whole their life, raised their children and sent them to school Kenya, sustained themselves through various livelihoods in a similar manner to Kenyans and married persons from other tribes considered as Kenyan nationals. Makonde have lived in Kenya up to the fifth generation including their minor children, but the arrival of the first generation of their families to Kenya is documented to a limit

Only a small fraction of respondents possessed documents that would prove that they are “considered as a national by any State under the operation of its law”¹⁵, or were able to effectively access such documentation. Over half of respondents had approached Kenyan Government officials to register for Kenyan documentation, predominantly the national identity card, but in most cases their application was either rejected or not acted upon.

A minority of respondents had obtained documents issued by officials of the Government of Mozambique in Kenya, such as consular cards and emergency travel certificates. It remains unclear, whether these documents alone can constitute sufficient proof of Mozambican nationality, including access to entitlements to the same extent as for example with a Mozambican national identity card or a Mozambican passport. No respondent provided evidence of possession of a Mozambican passport or national identity card, either valid or expired. From a practical angle, respondents indicated that the Mozambican documentation they have received has not enabled them to regularize their status in Kenya in any form and the vast majority stated that return to Mozambique is not an option for them.

In the absence of further proof with regards to documentation, persons of Makonde origin in Kenya may assumed to be either stateless or of undetermined nationality¹⁶ based on information provided by respondents during the assessment. The national legislation in Kenya provides avenues for the regularization of the nationality status of the Makonde, notably through provisions outlined in the Kenya Citizenship and Immigration Act, 2011.

¹⁵ Convention relating to the Status of Stateless Persons, 1954. Article 1 – definition of the term “stateless person”. The full definition reads “a person who is not considered as a national by any State under the operation of its law”.

¹⁶ The term “undetermined nationality” was adopted in UNHCR Executive Committee Conclusion no. 106 (2006) on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons. It refers to persons who lack proof of possession of any citizenship, have links to more than one state and are perceived or treated by authorities in the State of residence as possessing links which give rise to nationality of another State.

The recommendations below are developed from the findings of the assessment. They aim to provide avenues for resolving the nationality status of the Makonde population in Kenya, including the prevention of further statelessness or undetermined nationality among the population. The recommendations are addressed to a variety of actors with the underlying notion that decisions regarding the recognition of nationality ultimately fall within the sole competence of national Governments. The recommendations are likely to apply to a large extent also to other populations affected by statelessness or undetermined nationality in Kenya, which merits further exploration concerning their adaptability.

1. Identify and collect officially recognized quantitative data on the Makonde and other populations affected by statelessness or undetermined nationality in Kenya.

Main role: Government of Kenya

Support role: UNHCR

2. Register of willing individuals of Makonde origin across Kenya, including remote locations, for purposes of application for Kenyan citizenship, as per national legislation¹⁷. Use community networks for outreach purposes especially in remote and urban locations.

Main role: Government of Kenya

Support role: civil society organizations, UNHCR

3. Establish procedures to ensure that all minors under 18 years are taken into account as part of registration activities. Explore the possibility to issue birth certificates for minors in the age of 0-17 years as part of the registration of the adult population.

Main role: Government of Kenya

Support role: UNHCR, UNICEF, civil society organizations

4. Disseminate detailed information to individuals and communities regarding criteria, procedures and timelines for registration, expected dates of decision and the possibility to appeal.

Main role: Government of Kenya

5. Explore the possibility of establishing safeguards to ensure that decisions regarding nationality are taken in a transparent and inclusive way, which is not harmful to the cohesion of Makonde communities. These considerations should include individuals who arrived in Kenya after 1963, but are integrated into Kenyan society, as well as their descendants.

Main role: Government of Kenya

Support role: UNHCR

¹⁷ Kenya Citizenship and Immigration Act, 2011: Articles 11, 13, 15, 17.

6. Include individuals who hold documents issued by Mozambican official, but wish to apply for Kenyan citizenship in the registration. Liaison with the Government of Mozambique to setup procedures for the return of Mozambican documentation in case the individual receives a positive decision on Kenyan citizenship.
Main role: Government of Kenya
Support role: UNHCR
7. Setup procedures to regularize the nationality status of individuals who have obtained Kenyan documents through fraudulent means or who are registered in multiple databases.
Main role: Government of Kenya
Support role: UNHCR
8. Identify individual-level alternatives for regularization of nationality status in case of negative decision by the Government of Kenya or if the individual does not wish to approach Kenya for regularization of nationality status.
Main role: UNHCR
9. Explore possibility of opening access to national primary and secondary education exams for Makonde and other minors without birth certificate residing in Kenya.
Main role: Government of Kenya
Support role: UNHCR, UNICEF, civil society organizations
10. Explore the possibility of waiving the requirement of parents' national identity documentation as part of late birth registration. Support mobile birth registration activities.
Main role: Government of Kenya
Support role: UNHCR, UNICEF, civil society organizations
11. Organize a systematic community sensitization program and setup of community resource persons on birth registration and procedures related to the regularization of nationality status. Setup of individual support services for example in form of a paralegal program.
Main role: civil society organizations
Support role: Government of Kenya, UNHCR
12. Continue to develop national legislation in order to setup further mechanisms for the reduction and safeguards for the prevention of statelessness.
Main role: Government of Kenya
Support role: UNHCR, UNICEF, civil society organizations

ANNEX: MEMBERS OF THE FIELD ASSESSMENT TEAM

1. The roll-out of the quantitative surveys including two rounds of community sensitization meetings was conducted by Phelix Lore from Haki Centre in Kwale, Kilifi and Mombasa Counties on 20-25 October 2015
2. The qualitative interviews were carried out in Kwale, Kilifi and Mombasa Counties on 20-25 October 2015 by an assessment team consisting of the following members:

Mr. Johannes Tarvainen	UNHCR Representation in Kenya
Ms. Florence Wanjiru	UNHCR Representation in Kenya
Ms. Zahara Mwataku	UNHCR Representation in Kenya
Mr. Abdikadir Abdi	UNHCR Representation in Kenya
Mr. Phelix Lore	Haki Centre
Ms. Diana Gichengo	Kenya Human Rights Commission
Mr. Adam Hussein Adam	Open Society Initiative for Eastern Africa
Mr. Khalid Hussein	Haki Africa
Ms. Salma Hemed	Haki Africa
4 research assistants (names TBC)	Haki Africa