

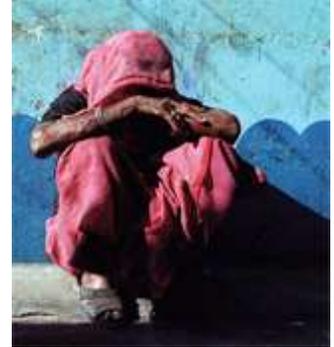


UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

FIGHTING STATELESSNESS

Today, an estimated 12 million people are stateless worldwide: they are not considered as nationals by any State under the operation of its law. Statelessness often limits access to birth registration, identity documentation, education, health care, legal employment, property ownership, political participation and freedom of movement. Denial of these rights impacts not only the individuals concerned but also society as a whole, in particular because excluding an entire sector of the population may create social tension and significantly impair efforts to promote economic and social development. For all of these reasons, UNHCR seeks to redouble its efforts to address statelessness together with States and work in coordination with other UN agencies, regional organizations, NGOs and civil society at large.



FINDINGS IN MOZAMBIQUE

Mozambique has not signed any of the Statelessness Conventions (neither the 1954 nor the 1961 Statelessness Conventions), although it has adopted a number of international and regional human rights instruments containing important references to nationality. The issue of Statelessness; however, remains pertinent and it is partially recognized as such by the Government (especially in case of Mozambicans residing abroad) and also by civil society, particularly in the areas inhabited by persons with citizenship problems.

A serious challenge in the Country is the fact that no new nationality legislation has been enacted after the introduction of the 2004 Mozambican Constitution. Further, the applicability of the 1975 Nationality Act and the 1975 Regulations Implementing the Nationality Act is contested. In practice, this leads to inconsistent practices of the Civil Registry Offices at provincial level. This is especially critical when it comes to the application of witness procedures for persons lacking primary documentation (birth certificates).



While pursuing its efforts to enhance the knowledge and the response to reduce and prevent statelessness in Mozambique, UNHCR supported a mission of an expert on statelessness in January 2009. Joined by local UNHCR staff and a representative of the National Institute for the Support to Refugees (INAR), the expert undertook a fact-finding mission to the bordering areas with Zimbabwe and Nampula province.

The joint UNHCR-INAR mission concluded that due to legal gaps in nationality legislation, allied to the lack of implementation guidelines from the Central level for civil registration, Mozambique has a significant potential to have among its original population, persons who are stateless and/or at risk of statelessness. This is aggravated by the problem of low registration rates; as well as the lack of documentation combined with long-term migration patterns of Mozambican-origin population within the countries of the region.

The mission easily identified a group of about 300 stateless individuals in Manica province, who were mainly returnees from Zimbabwe and who did not have either their Mozambican or their Zimbabwean nationality/citizenship recognized. Based on a participatory assessment, it was established that these persons have difficulties in accessing basic services (in particular education and health) and employment opportunities, as well as in receiving economic subsidies from the government's social programmes. They also reported to be victims of harassment by authorities, especially the police, due to their lack of documentation and their links with other States. In addition, it was found that such persons have no access to legal remedies and property rights and represent an easy target of discriminatory treatment by administrative and law enforcement authorities, because they either speak a different dialect or are not Portuguese-speakers.

POPULATION OF CONCERN

In practice, the population of concern can be divided into two groups:

(i) individuals who have already returned to Mozambique and have failed to establish their nationality in Mozambique because of their lack of primary documents (as a result of low registration rates, loss of documents, inaccurate and/or lost records, dysfunctional witness procedures, etc), being thus marginalized from many of their civil, political, social and economic rights in the Country;

(ii) those who are still abroad and have not established their Mozambican nationality (due to low registration rates, loss of primary documents, inaccessibility of diplomatic / consular services, choice, lack of information, unawareness or negligence). Under these circumstances, they face difficulties in establishing legal residency in foreign countries and as a result, they do not benefit from rights normally granted to foreigners. They may also have difficulties establishing any other nationality for which they would otherwise be eligible, as it is impossible to prove that they either renounced the Mozambican nationality or were never entitled to it (e.g. the case of Zimbabwe).

Triggered by the mission on Statelessness, MINEC presented a request to UNHCR to assist on an on-going project to tackle the issue of potentially stateless persons (or “persons with citizenship problems”) among Mozambican immigrants residing in foreign countries (Group 2 above). MINEC has called for UNHCR’s financial support for a mobile registration campaign close to 1 million USD. In this respect, MINEC had already started in early 2009 a plan for registering Mozambicans in other countries in the region, which covered some 14,000 individuals in Tanzania, Zimbabwe, Malawi and Kenya altogether. The plan, however, was put on hold due to the presidential elections. UNHCR considers said initiative quite noble and intends to support the project at least for some countries, as a start. MINEC estimates that around 45,000 persons of Mozambican origin without their citizenship recognized currently live in Malawi, another 42,000 in Tanzania, 35,000 in Zimbabwe, 30,000 in Swaziland, 20,000 in Zambia and 1.2 million in South-Africa.

The issue of potentially stateless persons living in Mozambique (Group1 above) has been more difficult to seize. Currently, there are no official or unofficial data estimating the number of persons of Mozambican origin that have returned and/or live in the Country and who remain with their nationality/citizenship not recognized. While several NGOs assisted such individuals in two provinces (Manica and Tete) in the past, currently there are neither assistance programmes nor statistics of such individuals. A local UNHCR mission in September 2009 received information on the identification of around 1,000 persons at risk of statelessness concentrated in Catandica (Serra Choa), border with Zimbabwe. It was reported by the local authorities that the problems of having no citizenship recognized is well-known in the area and common to all bordering areas on that region.

UNHCR STRATEGY ON STATELESSNESS

Given UNHCR’s Mandate on statelessness, the Country Office in Mozambique seeks to put in place measures to prevent and reduce statelessness through:

- Support to the Government of Mozambique in its plan to register the population of Mozambican origin living in other countries of the region;
- Advocacy for Mozambique’s accession to the Statelessness Conventions, including at the highest government levels;
- Support local NGOs in the bordering areas to identify persons of concern and assist returnees in accessing birth certification and civil registration procedures;
- Advocacy in cooperation with humanitarian partners for the identification of cases, harmonization of laws and administrative practices;
- Establishment of awareness campaigns and legal aid clinics in areas with high concentrations of populations of concern, especially in the bordering provinces (Tete and



Manica).

ACHIEVEMENTS SO FAR:

Government Awareness and Commitment

UNHCR has engaged in a number of advocacy efforts to tackle statelessness within the population of Mozambican origin, both living inside and outside the country's territory. The main result achieved in this regard was the increased cooperation of certain divisions of the Ministry of Foreign Affairs (Department of Legal and Consular Affairs) and the Ministry of Interior (Department of Identification and Documentation). With the support of UNHCR Regional Office, there were number of meetings with the Directors and high officials from both department and other relevant divisions also within the Ministry of Justice (Civil Registrar Office), including three planning meetings in 2010; both at the higher level (Directors and Heads of Departments with Mozambique Representative and the Regional Deputy Representative); as well as technical level. This has contributed to a deeper understanding and awareness of the issue of statelessness by the relevant authorities and an increased willingness to cooperate, plan and implement joint efforts to tackle the issue, both at the national and regional level.

Furthermore, increased commitment by GoM was achieved when two teams of officials were created under the leadership of the Department of Legal and Consular Affairs, The teams were aimed at coordinating efforts on statelessness together with UNHCR; one for tackling the issuer under the national perspective and the other, under the regional perspective.

Under the national perspective, the team created was under the leadership of the Department of Documentation, Ministry of Interior. Two meetings were held with the Chief of Department, in which UNHCR presented the conclusions of its study based on the preliminary figures published by the national CENSUS. Based on the presentations, a plan was set to identify together with the Civil Registrar Officer (Ministry of Justice) the provinces where the risk of statelessness was more evident. Unfortunately, until the end of the reporting period, neither Department were able to present a final proposal to UNHCR.

Under the perspective of the Mozambican population living in diaspora within the region, technical meetings were held to put forward a proposal for fact-finding missions in three neighbouring countries (South Africa, Malawi and Zimbabwe) which would serve as a basis for further organization of mobile brigades to register population at risk of statelessness. Also, efforts to organize a national conference on statelessness, which was aimed at discussing the causes as well as possible interventions to be done in the next two years, were carried out jointly by UNHCR and MoFa throughout the second semester. However, by the end of 2010, MoFA was still not ready to present a final proposal for the fact-finding missions and mobile brigades, as approval at the higher ministerial levels was still pending. Likewise, the organization of the national conference was also postponed for beginning of 2011, upon request of MoFA given the overlapping thereof with other national conferences already scheduled for the end of 2010.

Pilot Project for Mapping Population at Risk

A pilot project for mapping, identification and legal assistance of cases of statelessness (or risk of statelessness) was carried out with an IP (local NGO called Share) in the last quarter of 2010 in two bordering districts with South Africa. Mapping tools and methodologies were produced by UNHCR and a legal analysis presented to the IP. A total of 4,576 persons (3,135 in Magude and 1,441 in Moamba) were mapped, out of which 787 were found with any civil registration status (i.e. 18.5% of the population mapped). An information campaign was done and lobbying with the two district's public notaries have resulted in the organization of mobile brigades covering most of the two districts. As a result, 383 mapped without civil registration were registered by mobile brigades.

UNDAF 2012-2015

Lastly, under the preparation of the new UNDAF (2012-2015), UNHCR was able to include Statelessness as an issue to be covered by joint efforts of UN Agencies and Government in the next five years. Differently from the previous UNDAF, where statelessness was not covered in any of the pillars, the new ONE UN Programme for the next five years now includes right to nationality and citizenship as part of the outcomes under the Governance pillar. This was an exceptional achievement, serving as the basis for local fundraising initiatives aimed at covering statelessness as well as for sharing the burden with other UN Agencies in view of an increase in civil registration and access to citizenship across the country.

Constraints

The major constraint to tackle statelessness in Mozambique is the clear understanding of the issue and the separation thereof from the issue of non-documentation. The majority of the population in Mozambique is undocumented and it is only a small parcel thereof that remains at risk of statelessness. Thus, the main challenge is to make the separation clear and understandable for partners, both at the government and civil society sides, that UNHCR interventions are limited by its mandate to tackle only the statelessness parcel.

Most of the commitment of the Government seems to rely on the fact that UNHCR will support the issuance of documentation (both ID and Passports). In all meetings with GoM and Civil Society, UNHCR has thoroughly explained that it would not support activities simply to provide documentation, unless confirming that the concerned population would be indeed at risk of statelessness otherwise. However, the government officials in particular see such interventions as an opportunity to receive additional funds to support documentation for all undocumented nationals, especially passports for those in diaspora. The challenge thus remains in convincing other UN Agencies (i.e. UNDP, UNFPA, and UNICEF) or donors to join efforts to tackle the issue of undocumented persons, within which UNHCR would be solely responsible for stateless cases or unresolved citizenship problems.

Unmet Needs

By the end of 2010, there was still need to engage with the Legal Department of the Ministry of Interior and with the Civil Registrar Office for achieving better understanding of the practical application of administrative regulations on nationality, especially for cases of persons who have lived or were born in bordering countries, without having any documentation proof of their or their ancestor's Mozambican nationality. In this connection, there was also need for further engagement with parliament and Ministry of Justice to discuss and gather further information about a new Bill of Law on Nationality, aimed at replacing the previous framework of 1975.

Also, there was still need to engage in further fact-finding missions to bordering provinces, especially Manica, Tete and Niassa for identification of communities at risk of statelessness as well as possible partnerships with local NGOs or CBOs.

Moreover, there was a need to identify further partners from the Civil Society who could replicate the pilot project for mapping and profiling of persons at risk of statelessness. Further engagement with UNFPA, UNICEF and UNDP was also planned to be achieved in a more concrete basis, aiming for a joint programme on access to citizenship. However, due to competing priorities both in UNHCR and in the other agencies, the plan did not come forward. A step further was achieved to partially address this plan, with the inclusion of statelessness under the new UNDAF (2012-2015). Nevertheless, closer follow-up at the level of Heads of Agencies is needed to ensure that activities tackling citizenship will be included in the Agencies' workplans and that further action will be taken in a cooperative manner.