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DIFFICULT TO MEASURE CENSUS TOPICS

Measuring Statelessness through Population Census

Note by the Secretariat of the United Nations High Commissioner for Refugees

I. INTRODUCTION

1. The international community has long been concerned with the phenomenon of statelessness and a long series of UN treaties and resolutions has recommended that statelessness be avoided and that those cases which do occur should be resolved. In addition to its traditional responsibilities for refugees under its statutory function of providing international protection, UNHCR has been given a specific and global mandate relating to the prevention and reduction of statelessness and the protection of stateless persons by the United Nations General Assembly. This mandate dates from 1974 but has since been expanded and its implementation guided by various other General Assembly Resolutions, as well as Conclusions of UNHCR's governing body, the Executive Committee of the Programme of the High Commissioner.

2. The Office has also been called upon to regularly inform the international community on the magnitude of the problem of statelessness. The identification of stateless persons is thus fundamental to the discharge of the responsibility entrusted to UNHCR. Statistics on the phenomenon of statelessness serve as a vital tool for indicating where States' efforts are required to prevent statelessness from occurring and to resolve those cases which do occur, for example through naturalization. As well, they may indicate whether there is a stateless population for

which special measures need to be taken, such as registration as stateless persons and granting of a specific legal status

3. Some stateless persons are registered and enjoy a specific status pursuant to States' obligations under the 1954 Convention relating to the Status of Stateless Persons and/or the domestic law of the state where they reside, and this facilitates enjoyment of a minimum package of human rights and resolving their statelessness. Frequently, however, stateless people are not registered as such and frequently have inadequate personal identity documentation or no documentation at all. This of course creates practical obstacles to the enjoyment of many human rights but also poses challenges to identification of the nature and magnitude of statelessness. As a result, UNHCR only has only reliable information for approximately 3 million people in 52 countries but estimates that the true magnitude of statelessness worldwide is above 12 million.

4. UNHCR's Executive Committee has recognised that census data may provide valuable information to supplement registration data and less formal survey data. In its Conclusion on Identification, Prevention and Reduction of Statelessness and the Protection of Stateless Persons, the Executive Committee *[c]alls on UNHCR to continue to work with interested Governments to engage in or to renew efforts to identify stateless populations and populations with undetermined nationality residing in their territory, in cooperation with other United Nations agencies, in particular UNICEF and UNFPA as well as DPA, OHCHR and UNDP within the framework of national programmes, which may include, as appropriate, processes linked to birth registration and updating of population data.* The same conclusion also *[e]ncourages those States which are in possession of statistics on stateless persons or individuals with undetermined nationality to share those statistics with UNHCR and calls on UNHCR to establish a more formal, systematic methodology for information gathering, updating, and sharing.*¹

5. UNHCR therefore welcomes the recommendation contained in the Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing that "provisions should be made in order to obtain separate data for stateless persons".²

II. DEFINITION

6. According to the 1954 United Nations Convention relating to the Status of Stateless Persons, a stateless person is "a person who is not considered as a national by any State under the operation of its law." A person satisfying this definition is "de jure" stateless. In addition, there are persons who have a nationality but who are nevertheless "de facto" stateless because that nationality is ineffective. Such persons may be outside the country of their nationality and unable to avail themselves of its diplomatic and consular protection and assistance; and/or persons of undetermined nationality, ie. who are unable to prove their nationality and thus unable to exercise their rights as nationals. In practice, it may sometimes be difficult to distinguish between *de jure* and *de facto* statelessness. Because of these complexities, UNHCR would also

¹ UNHCR Executive Committee Conclusion No. 106 on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, paragraphs (b) and (d), emphasis added.

² Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, Document ECE/CES/STAT/NONE/2006/4, paragraph 377.

recommend that censuses ordinarily be restricted to gathering information only about *de jure* stateless populations, and populations with undetermined nationality.

7. The internal law of some States may use a broader definition of *de jure* statelessness than that given in the 1954 Convention, which may include elements of the definition of a *de facto* stateless person. For example, the internal law of many countries in the Commonwealth of Independent States (CIS) uses a variation of the following definition: “*a stateless person is a person who does not hold the nationality of State X, and who has no evidence of holding the nationality of another State.*”

8. It should also be noted that some persons who are stateless are also refugees, though being stateless is not, on its own, sufficient to qualify as a refugee and most refugees are not stateless. UNHCR recommends that States provide separate statistics on refugees and stateless persons in order to facilitate the formulation of policies which address the specific situation of each group.

III. CAUSES OF STATELESSNESS

9. As noted by UNHCR’s Executive Committee, *statelessness may arise as a result of restrictions applied to parents in passing on nationality to their children; denial of a woman's ability to pass on nationality; renunciation without having secured another nationality; automatic loss of citizenship from prolonged residence abroad; deprivation of nationality owing to failure to perform military or alternative civil service; loss of nationality due to a person's marriage to an alien or due to a change in nationality of a spouse during marriage; and deprivation of nationality resulting from discriminatory practices.*³ In Member States of the UN Economic Commission for Europe, a significant portion of persons who are currently stateless owe their predicament to the effects of State succession in the 1990s.

IV. INFORMATION THAT MAY BE GATHERED THROUGH CENSUS

10. The Recommendations of the Conference of European Statisticians (CES) address a number of key characteristics of the statelessness phenomenon. The census question about country of citizenship (core topic) provides information on the number of *de jure* stateless persons in the country.

11. Although most stateless persons have not migrated internationally, the questions on migration in the CES Recommendations are of great importance for understanding the profile of the stateless population. Questions on country/place of birth and country of birth of parents as well as the range of questions on residence all provide indicators as to the possible causes of statelessness. These questions also reveal the nature of links that stateless persons may have to the country undertaking the census and to other countries, thereby providing guidance to policy makers on potential solutions through possible acquisition of nationality on the basis of birth, descent, residence or marriage. Past or present concentration of stateless persons in specific

³ UNHCR Executive Committee Conclusion No. 106 on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, paragraph (j).

localities may point to specific causes of statelessness, for example inadequate administrative procedures at the local level or failure to prevent statelessness upon State succession when the locality in question passes from the sovereignty of one State to that of another.

12. Many States allow for facilitated acquisition of nationality by stateless persons and the creation of many new States in the past two decades has meant that many States have specific rules and procedures for establishing who was considered a national upon State succession. Questions on citizenship acquisition may indicate where naturalization or acquisition by declaration or other means, including at the time of creation of the State, have successfully addressed statelessness or, conversely, that they have not.

V. METHODOLOGICAL ISSUES

13. The difficulty in clearly distinguishing between *de jure* and *de facto* statelessness, and the different definitions of statelessness that are currently in use, create challenges in ensuring the comparability between States of statistics on stateless persons. Where self-identification of statelessness is concerned, as in a census, these challenges may be compounded. For example, some persons may identify themselves as stateless when they are not, other persons may consider that they hold a nationality when they do not, yet other persons may consider that their nationality is effective when it is not, or *vice versa*. Incorrect self-identification may occur for a variety of reasons. For example, a person may not correctly understand the terms “stateless person” and “citizen/national”, or may not have a clear idea of whether he or she is stateless or not.

14. Moreover, in many countries, stateless persons live in a very precarious situation on the margins of society because they lack requisite identity documentation and/or are illegally in the territory and/or are subject to discrimination.⁴ They therefore may be reluctant to come forward to be counted, or to reveal their personal circumstances, because of concerns about the use to which the information they provide will be put. Indeed, history unfortunately shows that population data has even been misused in certain countries in the past to actually render a certain segment of the population stateless through being denationalized.

15. On the other hand, where a country has instituted a procedure for the identification and documentation of stateless persons, this may assist in the self-identification of statelessness during a census. Moreover, data on stateless persons from population registries may be used in conjunction with census data to provide a more detailed analysis of the population.

16. The completeness and quality of information on the stateless population that may be derived from census data will depend in large measure on the accuracy of responses to questions on citizenship. Given the problems with self-identification mentioned above, consideration should be given to inclusion of questions which permit cross-checking of data based on self-identification of citizenship, such as a question on country(ies) where one is entitled to a passport. Additionally, proxy questions may sometimes be useful. For example, if it is known

⁴ Discrimination may even be the very reason why such persons are stateless, e.g. through the discriminatory application of nationality laws.

that members of a certain population group are ordinarily stateless, questions to ascertain a respondent's membership in the group may serve as an indicator of statelessness.

17. Based on the foregoing, UNHCR would recommend not only that data collection instruments (questionnaires, etc.) seek information on statelessness, but also that the classification/coding specifically includes stateless persons as a separate category, thereby permitting analysis of stateless persons. Similarly, UNHCR would recommend that census reporting also specifically address statelessness.

VI. CONCLUSION

18. Statelessness is not always well understood and the scope of the phenomenon in specific countries is often ignored. Population census can provide valuable information on the size and profile of stateless populations and thereby facilitate the work of policy makers by pointing to causes of statelessness and therefore how it can be prevented and reduced once it has occurred. There are methodological challenges to accurate measurement of statelessness, however. UNHCR would therefore invite States to share information on their experiences measuring statelessness in past censuses and look at the issue in the next round of population censuses as per the recommendation of the Conference of European Statisticians.
