



W/O 3/93

Campaigners for Human Rights

# **An Analysis of the ZHRC's National Inquiry Report on Access to Documentation**

January 2021



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# 1. Executive Summary

This Special Report is designed to simplify the National Inquiry on Access to Documentation which was carried out by the Zimbabwe Human Rights Commission (ZHRC). The Special Report was prepared to help communities understand the inquiry, the objectives of the inquiry, the link between national documentation of identity and human rights and steps that can be taken by both individuals and duty bearers to ensure access to documentation. Finally, this report provides communities with recommendation to help and support communities in the realization of their right to national documents of identity.

In section two this report introduces the National Inquiry on Access to Documentation by the Zimbabwe Human Rights Commission and highlights the importance of the both the inquiry and documents of national identity to the enjoyment of rights.

In section three, this report analysis the National Inquiry report by ZHRC and communities consulted in compiling this report. Section 2 discusses the stakeholders that were consulted in compiling the report.

In section four, this report discusses the participation of communities or citizens during the inquiry. It highlights the group of persons, civil society organizations and communities that responded to the ZHRC call to participate in the National Inquiry. It further discusses the challenges faced by each province.

In Section five, this report summarizes the findings by the ZHRC, the similar challenges faced by provinces and challenges faced by special groups for example orphans, women, children, intersex and minority groups in accessing documents of national identity.

In section six, this report gives an analysis of the findings, discusses the administrative practices affecting documentation and the root causes of non-documentation and other issues affecting national documentation.

In section seven, this report will discuss and explains the recommendations by the ZHRC. It will discuss briefly both recommendations for policy framework and legal framework, and how these reforms can address some of the challenges faced, ultimately improving experiences and accessibility.

In section eight, the report investigates and analyses in detail the recommendations by the ZHRC.

In section nine this report discusses in detail how citizens can contribute and ensure that all persons and together with their families are properly documented

In section ten, this report explains and discusses steps that the government can take to ensure that documentation of all citizens and accessibility of national documentation.

In section eleven, this report discusses what ZHRC can do to ensure that its recommendations are implemented by duty bearers.

In section twelve, this reports discusses ZimRights' position regarding the National Inquiry and access to documents of national identity

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In section thirteen this report concludes by a call to action for citizens, government and duty bearers.



*Pic Credit: Rutendo Mawere Citizens applying for national documents of identity at the Deeds Registry*

## 2. Introduction

This special report is part of ZimRights' continued efforts to empower and capacitate communities through civic education to ensure human rights awareness and enjoyment at a community level. The Zimbabwe Human Rights Commission (ZHRC) conducted the National Inquiry on Access to Documentation that saw the involvement and engagement of many Civic society Organizations. Zimbabwe Human Rights Association was a part of the organizations that complemented these efforts.

Most importantly, ZimRights was actively involved in the process by submitting observations, findings, and recommendations to the Commission, thereby enriching the findings. This document feeds from the National Inquiry Report by the ZHRC to affording communities access to vital information, thereby enhancing their participation. The document is an easy to read special report simplified by ZimRights to benefit the greater community.

These efforts are motivated by the fact that access to documentation is a key human right upon which the enjoyment of other human rights is based. Without identity documentation, people are deprived of their human rights. The findings show that there have been violations of human rights such as the right to education, political rights, access to health, freedom of movement and residence among others.

At the heart of the enjoyment of human rights is the issue of access to national documentation which by all measures is an essential right. This is so because it is an enabler to the full enjoyment of other rights.

The need for the **National Inquiry on Access to Documentation in Zimbabwe** (National Inquiry) was made necessary by evidence gathered by the ZHRC and other organisations, ZimRights being part of them. This evidence showed a widespread lack of national documents within communities in Zimbabwe, and the inquiry focused on such documents as birth certificates, national identity cards, passports, death certificates and proof of citizenship.

The National Inquiry Process was such that it engaged all relevant players from members of the Community, Civil Society Organizations, key Government Ministries and departments among other players.

ZimRights was thus actively involved in the outreaches as well as mobilization campaigns within various communities. ZHRC conducted ten (10) provincial public hearings and one (1) national public hearing and ZimRights was involved in these hearings and made submissions.

The findings of the National Inquiry include challenges experienced by the public and special interest groups and the impact of lack of documentation on the enjoyment of human rights.

There were some shared challenges that were noted across all Provinces. These include problems at the Department of the Registrar General and knowledge gaps and other limitations on the part of citizens.

Challenges of special interest groups like persons with disabilities, Gukurahundi affected communities, minority groups, inter-sex person, Tongogara Refugees and disaster-affected communities were also noted.

At the end of the inquiry, recommendations and suggestions for improvement were made particularly to the Department of the Registrar General, community members, and other departments or Ministries that deal with national documentation. The recommendations address the following issues; policy and legal framework, administration of documentation, family structure, gender and cultural aspects of documentation and knowledge, attitudes, and citizens' attitudes towards documentation. To which end, the role of ZimRights is to ensure continued public awareness and engagement of the Government to ensure the implementation of the recommendations.

## 3. Analysis of Report

Access to personal, national documentation is a critical human right. It is strongly connected to other existing human rights that are enjoyed by people daily. National documents are important as they create a relationship between a citizen and their country and give rise to rights and duties that are due to both parties. The decision to conduct the **National Inquiry on Access to Documentation in Zimbabwe** (National Inquiry) was informed by evidence gathered by the Zimbabwe Human Rights Commission (ZHRC) that lack of documentation was having a widespread negative impact on the full enjoyment human rights in Zimbabwe. The National Inquiry was, therefore, conducted to gather evidence on the nature and extent of this challenge and to make recommendations that will improve access to documentation for people in Zimbabwe. It focused on access to birth certificates, national identity cards, passports, death certificates, and proof of citizenship (the five documents).

The importance attached to these national documents is that they prove one's status of being Zimbabwean. National documents allow a person access to benefits and rights, including getting employment, medical care, qualifying for state assistance, inheritance, enrollment into educational institutions, local and international travel, voting, eligibility to form a political party, and requesting the issuance of official documents and permits, among others. A person without documentation will have difficulties enjoying these rights and freedoms accorded to everyone.

The National Inquiry process involved all relevant players, as such, it was inclusive and consultative. It focused on people who had challenges accessing documentation. It also ensured the engagement of all relevant players responsible for ensuring access to documentation. Stakeholders who were engaged in the process included Government Ministries, departments and agencies, Independent Commissions, Academic Institutions, Civil Society Organisations (CSOs), Faith-Based Organisations (FBOs), Organisations for Persons with Disabilities (OPWD), Community Based Organisations (CBOs), Residents Associations, University students and the general public. So rich was the level of the engagement so much that almost every person was allowed to contribute.

The Zimbabwe Human Rights Commission was actively involved in the whole process. It conducted awareness campaigns to stakeholders and the general public on the National Inquiry under the theme; **"My Identity My Right "**.

Meetings with key players and outreaches were conducted in all the districts of the 10 provinces from June – November 2020, to engage citizens and key players on the National Inquiry. Outreaches included visits to minority and marginalized communities such as San, Tonga, and Doma to get evidence on challenges and problems being faced by people to get documentation. After that, the ZHRC held ten (10) provincial and one national Public Hearing and reports with findings from each province were compiled.

Some of the challenges that were faced and eventually overcome included time and resource constraints, the participation of marginalised groups, cooperation from the Department of Registrar General and accessibility to communities.

Meetings to confirm the accuracy of the information and evidence collected through the outreaches were conducted in all the ten provinces from 13 – 21 January 2020 to share the early findings of the National Inquiry with stakeholders. A total of four hundred and fifty-five (455), stakeholders participated at the validation meetings. All the provinces confirmed the early findings as correct and representative of their communities' national documentation issues.

Stakeholders also made additional input to the draft provincial reports that were shared. The draft National Inquiry Report findings and recommendations were further availed to the Ministry of Home Affairs and Cultural Heritage (MoHCH) and the Registrar General's Department (DRG) for their feedback on the accuracy of the information concerning institutional processes and procedures. The report was then reviewed and adopted by the ZHRC Commissioners in April 2020.

## 4. Analysis of the Participation

The National Inquiry Report is a product of inclusion, consultation and participation of all relevant players and stakeholders. The method adopted by the ZHRC was such that prior to conducting public hearings, evidence of challenges experienced by people in accessing documents was gathered from national and provincial stakeholder consultative/engagement meetings. In these meetings, stakeholders identified hotspot areas that were most affected by lack of national documents. This informed the areas that the ZHRC targeted for outreaches and gathered evidence from the written submission forms.

The ZHRC further engaged stakeholders during conducting evidence gathering outreaches in all the districts of the 10 Provinces in Zimbabwe. After conducting public hearings in all 10 Provinces, the ZHRC held provincial stakeholder validation meetings where findings of the public hearings and National Inquiry processes were shared. Stakeholders had the opportunity to input into and confirm the findings of the National Inquiry. ZHRC targeted stakeholders working on access to documentation and those with access to communities such as Provincial and District Co-ordinators and traditional leaders. The stakeholder representation and participation included all relevant players so much that it afforded the ZHRC a thorough appreciation of the situation on the ground. Most importantly, it goes without saying that the method of engagement that was adopted was all-inclusive. This greatly enhanced the outcome of the inquiry as it was fair and balanced with no element of bias.

The participation of traditional leaders at the meetings was crucial given their role and close relationship with communities who face access to documentation challenges. Participation from representatives of Government Ministries was meaningful due to their responsibility and role in the documentation process. They were constituted mainly by Provincial and District Registrars, Provincial and District Development Coordinators, Provincial and District Social Welfare Officers, Immigration, Police and Prison Officers. Civil Society Organisations familiar with access to documentation and were working with communities participated in the process. They represented such vital groups as women, persons with disabilities, youth, elderly, and children.

Most of the evidence of the National Inquiry was gathered from information received from individual witnesses and stakeholders' forms given at community outreaches, thus reflecting active participation of people at the community level, which is key to the findings of the report.

ZHRC mobilised citizens facing access to documentation challenges in local communities in collaboration with Traditional Leaders, Provincial Development Coordinators (PDCs), District Development Coordinators (DDCs), and Civil Society Organisations (CSOs). This was done to make use of their relationships and trust with communities, language skills, and familiarity with issues at hand to gain maximum participation and engagement from affected communities.

Outreaches were conducted in all the Districts of the ten Provinces of the Country. A total of twenty thousand, five hundred and sixty-four (20,564) people attended the outreaches and were engaged in the National Inquiry process throughout the country. Out of the total number of people engaged at outreach meetings, thirteen thousand seven hundred and ninety-four (13794) were women and six thousand seven hundred and seventy were men (6770) . The majority of people engaged were women across all the Provinces, which demonstrates that the documentation was a challenge affecting many women.

A total of seven thousand, five hundred and forty-four (7,544) forms submitted by witnesses were received from all the Provinces (4877 females, 2647 males). Several factors affected the high and low numbers of submissions received such as mobilisation of people with challenges of access to documentation, arrangements of mobilising people and access to communities.

Several affected persons were selected to appear and give oral evidence before the Commission as primary witnesses; they were selected from the forms completed at the outreach meetings. In selecting witnesses to appear, the following factors were considered: Gender; Age; Marginalised communities; Disability; and Geographical coverage. Again this was greatly important because it expanded the diversity of both findings and recommendations of the ZHRC as it captured information from almost all society groups.

Stakeholders such as the Department of the Registrar General, Provincial and District Registrars, Provincial and District Social Welfare Officers, Provincial Education Officials, Traditional Leaders, school heads, prison officials, religious leaders, CSOs representatives and Councillors also submitted oral evidence before the Commission.

## 4. Analysis of the Participation

Their testimony's main focus was to outline the access to documentation challenges affecting the people of Zimbabwe. One key aspect of their testimony was to explain the legal procedures for the issuing of the different types of identity documentation.

The Commissioners conducted field visits to identify marginalised communities to get an in-depth understanding of and gather evidence on these communities' challenges in accessing documentation. The other objective was to assess the impact of lack of documentation on enjoyment of their human rights. It had been noted during public hearings that some marginalised communities avoided directly engaging in the National Inquiry process as indicated by the few individual submissions received from those communities.

Field visits were conducted in the following communities

- Communities affected by Gukurahundi disturbances (Matobo, Matabeleland South);
- Indigenous Minority Communities (San, Matabeleland South);
- Communities living along Zimbabwe's borders (Mutasa District, Manicaland Province, bordering Mozambique);
- Inmates and mentally impaired persons (Khami Prison and Mlondolozhi female Prison and Mental Institution, Bulawayo);
- The refugee community (Tongogara Refugee Camp, Manicaland Province); and Cyclone Idai disaster affected communities (Kopa, Chimanimani, Manicaland Province).

All these efforts were aimed at affording the Commissioners a full appreciation of the situation on the ground with a view to enrich the findings of the Commission.

## 4.1 Challenges to Participation

The process of rolling out the National Inquiry was affected by the following challenges among others:

- Time- the National Inquiry duration of twelve months was not enough to carry out all critical processes and activities for a national process of such a wide reaching extent.
- Limited resources- Limited Funds made it impossible to reach out to more communities where there were issues of non-documentation.
- Limited human rights awareness generally as well as access to documentation issues.
- Low numbers of submissions were received from marginalised communities, with affected people avoiding directly engaging and participating in the National Inquiry process. They preferred that their representatives give evidence on their behalf. To reduce the effect of this challenge, the ZHRC ensured that representatives of Gukurahundi-affected communities such as traditional leaders and CSOs were invited to present oral evidence on behalf of individuals during public hearings, and individual witnesses who came forward were given the option to give their evidence in private.
- Very few People living With Disabilities attended the community outreaches organised in the provinces due to mobility challenges among other reasons. This resulted in low submissions by People living With Disabilities. The ZHRC reduced the impact of this challenge by visiting institutions where People living With Disabilities are kept such as Margaret Hugo, Copota School of the Blind and Henry Murray, among others. The Commission also engaged Organisations of Persons with Disabilities (OPWD) such as Federation of Organisations of Disabled Persons in Zimbabwe (FODPZ) and Jairos Jiri to make oral and written submissions.
- Mobilisation and Inaccessibility of Communities- It is important to note that due to non-decentralisation and its limited visibility, the ZHRC had to rely on stakeholders on the ground to mobilise people affected by lack of at documentation. For some outreaches, this was not effectively done, resulting in low attendance. Where such challenges were experienced, the ZHRC invited a stakeholder to give evidence on documentation issues affecting the community at large so that no information was lost.

## 5. Summary of the Findings

The National Inquiry gathered evidence on a number of challenges that people experienced in accessing the five documents. The National Inquiry established that the biggest challenge people are facing resulted from lack of a birth certificate as a primary document. This finding was similar to various findings from other stakeholders.



*Pic Credit: Rutendo Mawere Citizens applying for national documents of identity at the Deeds Registry*

The following were similar challenges noted across all Provinces:

- Uneven distribution of the offices of the Department of Registrar General (DRG) leading to long distances to access services together with expensive/unaffordable transport costs;

## 5.1 Findings of similar challenges across all Provinces

The following were similar challenges noted across all Provinces:

- Uneven distribution of the offices of the Department of Registrar General (DRG) leading to long distances to access services together with expensive/unaffordable transport costs;
- The Department of the Registrar General's failure to apply registration policies uniformly among provinces;
- Lack of birth confirmation records.
- Difficult process for registration for children born outside health facilities.
- Costs of accessing services and payment methods.
- Irregular mobile registration programmes;
- Limited resources at the DRG's Offices such as lack of equipment, supplies like stationery, office infrastructure and staff accommodation which affect the quality of services provided.
- Lack of human rights-based service delivery and customer care by the Department of the Registrar General staff who turn away some people because they don't have all the requirements;
- Allegations of corruption;
- Unaffordable citizenship by registration fees of RTGS 5000.00.
- Unnecessary delay by parents to register children.
- Lack of awareness on the importance of registration by relevant stakeholders.
- Language limitations as some citizens do not speak English.
- Non-acceptance of confirmation letters from Traditional Leaders by some DRG Officers.
- Demand for completion of lobola payments.
- Generational non-documentation challenges.
- Migration and unknown whereabouts of parents.
- Falsification of documents and registration information.
- Unequal treatment of minority groups such as San, Tonga, and Doma communities
- Challenges experienced by persons with disabilities (PWDs) and other groups that need special care.

## 5.2 Other challenges faced by special groups

Other special groups also presented problems that affect them apart from the challenges above, and these include:

### **Children**

- Laws prohibiting fathers or paternal relatives to register children in the absence of mother, maternal relatives or death certificate of deceased mother.
- Difficulties faced by children in child headed families.
- Difficulties of registering children born in prison.
- Un-documented children in conflict with the law cannot be released temporarily pending trial, and are at risk of being prosecuted as adults.

### **Orphans**

- Failure to meet registration requirements such as death certificates, witnesses, unknown whereabouts of relatives, lack of cooperation of relatives and lack of money to cover costs of registration fees and transport costs.
- Issuance of short birth certificates to orphans in care homes, which are not accepted for passport applications

### **Women:**

- Some women were divorced because they lacked identity documents.
- Some women face gender-based violence from their husbands or grown up children because of failure to register children due to their un-documented status.
- Some women are looked down upon and called names such as zvidhuura (fake people) for not having identity documents.

### **Inter-Sex Persons**

- Inter-sex persons are not recognised at law.
- National identity documents are categorised in the traditional male and female sex categories, without provision of inter-sex.
- The law does not accommodate inter-sex persons who wish to change their sex on their identity documents.

### **Persons with Disabilities**

- There is no user-unfriendly DRG infrastructure for wheelchair users
- Information on DRG services, requirements and legislation are not in accessible format for persons with disabilities, such as audio or braille.
- Lack of sign language interpreters in DRG Offices.
- Lack of capacity and awareness by DRG officials to provide disability sensitive services.
- Allegations of ill-treatment, abuse and name calling of persons with disabilities by some DRG Officials.
- Negative and discriminatory attitudes by families of persons with disabilities resulting in hiding them in their houses and not registering them
- Mentally impaired mothers often fail to register their children due to lack of support from relatives, resulting in generations of unregistered children
- Financial dependency on relatives to cover registration costs.
- Lack of identifying features of disabilities on identity cards render persons with disabilities vulnerable especially in emergencies.

### **Minority Groups: San, Tonga, Coloured Community, Doma Community**

- High illiteracy and poverty levels marginalised them and made access to documentation difficult.
- Language barriers affect access to documentation.
- Long distances and costs of travel to DRG Offices affect access to documentation.
- Most births are home births, which make registration difficult as there are no birth confirmation records.
- National identity documents of Coloured persons classify their place of origin as double zero, meaning that no place of origin is given to them.
- This means they cannot access land from places of origin as none was assigned to them, yet there are born in Zimbabwe.

### **Elderly Persons (60years +)**

- Elderly persons who had identity documents but no birth certificates find it difficult to obtain birth certificates as one of the requirements was that they should present witnesses who are 10 years older than them. Most are not aware of the process of self-registration.

- Experience difficulties accessing registration due to challenges associated with old age such as loss of memory resulting in failure to remember birth details such as place of birth, date of birth and villages where they came from and their chiefs.
- Are too frail to register their grandchildren
- Lack finances to afford registration fees and transport costs to access DRG Offices.

### **SADC Foreign Nationals**

- Are not aware that they qualify for registration of citizenship by birth if they were born before 2013 to one or both parents who were citizens of SADC countries. They, therefore, remain with their old identity cards which limits their status to foreigners.
- Are not aware that the fee for regularising their citizenship status is RTGS 40 as opposed to RTGS 5000.00.
- Inconsistencies from the RG's Office in dealing with issue of Alien IDs and citizenship, in some cases where one of the parents was a foreign national and another Zimbabwean, children were issued with Alien IDs contrary to the provisions of Section 36 of the Constitution.

### **Imprisoned Persons**

- A large percentage does not have national identity documents, preventing them from accessing restorative opportunities such as education and other training skills.
- Persons living in prison are unable to get supporting documents and witnesses required in the registration process.
- Are at risk of not being granted the temporary release of awaiting trial if un-documented.
- Do not qualify for age-related pardons as there are no identity documents to prove their age.
- Zimbabwe Prison Services is affected by a shortage of resources such as fuel to carry imprisoned persons to RG Offices.

### **Gukurahundi Affected Communities**

- Negative effects of Gukurahundi on accessing national documents such as birth certificates and death certificates are still being experienced
- Many people lost national documents in the Gukurahundi era and are unable to replace them.

- Failure to get death certificates in cases of missing persons who died in this era resulting in generations of un-documented persons.
- Failure to get death certificates prevents registration for birth certificates and consequently national identity cards.
- In cases where witnesses were required to support the application of documentation, many are often scared to testify about the death of their relatives for fear of the unknown.
- Some Gukurahundi affected persons are reluctant to participate in mobile registration exercises as it reminds them of Gukurahundi events.
- Approximately 90% of those who experienced Gukurahundi suffer from mental health problems due to the trauma and cannot access documentation.

### **Tongogara Refugees**

- Those whose refugee applications were rejected dating back to 2010 continue to stay at Tongogara Camp un-documented as they do not qualify to be registered.
- Children born in Zimbabwe to parents whose refugee status was rejected are not issued with birth certificates.
- Children born to parents, where one parent was granted refugee status but the other parent's application is rejected are not issued with birth certificates.
- A category of Rwandese refugees is unwilling to return to Rwanda alleging that the circumstances that led them to flee are still existent. These are without documents and their children in Zimbabwe are not eligible to be issued with birth certificates
- A category of one thousand five hundred and seventy-six (1576) Mozambicans who came to Tongogara refugee camp at the height of Mozambique's internal conflict are still treated as asylum seekers.

### **Disaster Affected Communities**

- Due to Cyclone Idai disaster, communities lost their national documents, registration services were disrupted and Department of the Registrar General's infrastructure was destroyed
- Mobile registration exercise that was launched by the DRG to reduce the effects of the cyclone were affected by the unavailability of electricity, inadequate power backup to print documents, shortage of stationery, delays in verification of fingerprints and the overwhelming demand for documents

### **Border Communities**

- Difficulties are experienced by people living along the border in establishing their actual nationality as there are no physical border boundaries. This was so in Mashonaland Central in areas bordering Zambia and Mozambique such as Mbire, Muzarabani, Mount Darwin and Rushinga
- Due to the non-availability of accessible services such as health facilities, most women gave birth at home or have to travel to health facilities in neighboring countries, resulting in difficulties acquiring birth confirmation records
- Some parents whose children were born in Zimbabwe but immunised in Mozambique fail to acquire birth certificates for their children. DRG officials automatically assume the person is Mozambican on detection of a Mozambican immunisation mark.

## 6. Analysis of the Findings

An analysis of the National Inquiry findings includes assessing laws, policies, including responsibilities and processes of institutions tasked with national documentation functions. It revealed that some gaps and inconsistencies pose barriers to documentation which include the following;

Administrative practices which affected access to documentation by Government Ministries and Departments with a responsibility of national documentation such as;

- Ministry of Home Affairs and Cultural Heritage
- Department of Registrar General,
- Immigration Department,
- Ministry of Health and Child Care,
- Department of Social Welfare and the Zimbabwe Republic Police

### 6.1 Analysis of Administrative Practices affecting documentation

Administrative practices by these institutions proved to be important in order for people to access documents, yet they were found to lack in some key essentials that are important to ensure access to national documentation. The gaps or limitations were identified to be:

- Lack of a national policy on documentation.
- Lack of adequate decentralisation of DRG services.
- District and sub-offices not adequately resourced and providing limited and manual registration services
- Shortage of consumables e.g. ink, passport paper and equipment such as computers, printers, vehicles.
- Inadequate human resources.
- Delays in verification process of fingerprints required for registration.
- Use of Standard Operating Procedures that are not adopted by the DRG leading to inconsistencies in application of processing documentation (Draft DRG Procedure Manual, Births and Deaths).

- Lack of enforcement of the policy deterring health institutions from withholding birth confirmation records for lack of payment of hospital bills
- Lack of coordination on documentation issues among Government Ministries and Departments.
- No national statistics on documentation.

## 6.2 Root causes of Non-Documentation

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Further the analysis noted root causes and factors which hindered documentation including but were not limited to the following;

- Generational non-documentation.
- Poverty which results in limited resources to access national documents.
- Migration: parents leaving unregistered children in the custody of relatives and friends.
- Corruption on the part of officials who are responsible with the issuance of national documents.
- Strict application of laws governing registration.
- Cultural and religious beliefs which disregard the need of citizens to obtain national documents.
- Breakdown of the traditional family unit and people's attitudes towards registration.

## 6.3 Laws and policies affecting easy access to national documentation

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Some laws and policies which affect easy access to national documentation were identified, for instance;

- i. Parts of the Citizenship Act which outlaw dual citizenship was found to be inconsistent with the Constitution of Zimbabwe.
- ii. The Births and Deaths Registration Act was found to have unfair provisions, for instance distinguishing children born outside marriage, and Section 12, in particular, which does not allow fathers to register their children in the absence of a mother or maternal relative where children are born as a result of an extra marital affair. This is so despite the fact that Section 56 (2) of the Constitution provides for equality between women and men while disregarding discrimination.

iv. There were knowledge gaps, attitude problems, and practices that both duty bearers and citizens had towards documentation which also affected access to documentation and human rights and freedoms. These included the following:

Lack of knowledge on registration requirements which can be attributed to non-availability of information on the law and other information necessary for registration

Lack of legal awareness and empowerment among citizens is a critical aspect of national documentation.

Lack of knowledge and awareness among the public of positive changes in the law and policies.

Illiteracy and lack of access to information on registration contribute significantly to non-documentation.

## 6.4 Other issues affecting national documentation

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Other findings included:

1. Duty bearers, especially at lower levels such as the DRG's District and Sub offices, did not know registration procedures resulting in citizens not being documented.
2. It was noted that there was poor customer service by some of the DRG offices.
3. Evidence gathered also showed practices by the DRG officials, which negatively affect access to documentation. For example, practices such as using the type of immunisation mark as the only determinant of nationality without any other supporting evidence or investigation to establish nationality.

# 7. Recommendations

The ZHRC came up with recommendations drawn from the findings and outcomes of the inquiry. From the recommendations, action steps that can be taken by different stakeholders were also drawn. The recommendations are targeted in that they are addressed to the relevant stakeholders or actors with the obligation to implement them. The steps taken by different arms of government that are specific Ministries, Departments, and Institutions are outlined below.

## 7.1 Ministry of Home Affairs and Cultural Heritage (RG Department, Immigration Department and Zimbabwe Republic Police)

### **Policy Framework**

- Develop a national policy on access to documentation to provide guidance, strategies and framework on documentation.
- Develop internal policies/procedures/manuals consistent with the law to provide guidance and instructions for the DRG staff to issue national documents.
- Delegation of power and key functions to address lack of decentralisation of DRG services.
- Conduct regular and well-resourced mobile registration programmes.
- Investigate all allegations of corruption at the DRG offices and address this vice, such as installing CCTVs at offices.
- Formulate and implement policies on accelerated registration of internally displaced persons and all special interest groups.

### **Legal Framework**

- Amend Section 12 of the Births and Deaths Registration Act to remove discriminatory provisions that affect registration of children born out of wedlock.
- Develop Regulations to the BDR Act for better implementation of its provisions.
- Take measures to ensure that all children born in Zimbabwe are registered at birth without discrimination to address the gap in the law that denies children born of indeterminate nationality the right to have their births registered.

- Develop standard forms for schools and traditional leaders to be used in support of applications for birth registrations.
- Review with the view to reducing the prescribed fees charged when one is applying for citizenship by registration to accommodate people who have lived in Zimbabwe all their lives instead of those seeking citizenship by registration under normal circumstances.
- Push for an increase in financial support to the DRG to address shortages of equipment and consumables e.g. ink, passport paper, computers, printers and vehicles.

### **Processing of Documentation**

- Develop efficient systems of transmitting fingerprints between DRG and the Criminal Investigations Department of the ZRP in order to address delays in the fingerprint verification process, which is required for registering persons over twenty-one (21) years.
- Adopt a biometric system of registration and electronic storage and maintenance of past records.
- Develop and adopt Manuals for processing national documents to curb the use of draft manuals that have not been formally adopted by the DRG, resulting in inconsistencies in registration.
- Use existing information in the DRG's database when renewing or replacing documents and desist from requesting these from applicants.
- Computerise all manual (handwritten) birth certificates and IDs as a matter of policy rather than on application for computerisation at the instance of clients.
- Advocate for a one-stop-shop for service provision by institutions with a mandate to conduct national documentation to be housed at the DRG Offices in order to promote coordinated services.

### **Gender Dimensions of Documentation**

- Use alternative supporting documents e.g. health cards and affidavits to address difficulties faced by women who give birth outside Zimbabwe in registering children where birth confirmation records are not readily available.
- Formulate gender-sensitive policies that consider the gender dimensions of access to documentation to address gender disparities in registration as women bear the burden of registering children in the majority of cases.

### **Cultural Dimension of Documentation**

- Conduct awareness-raising campaigns to address cultural impediments that hamper access to documentation, such as difficulties experienced by women to register children in their maiden names due to cultural beliefs that children must carry their father's surnames.
- Enforce provisions of the BDR Act, which mandate relatives to facilitate the registration process to eliminate the cultural demand for outstanding lobola payment, which impedes registration in cases where the parents of the child are divorced, separated, or deceased.

### **Family Structure and Documentation**

- Amend the BDR Act to include new and emerging patterns in the family structure to address changes in traditional family structure and enable registration.
- Develop forms that consider the evolved family structure to cater to family members who can facilitate the acquisition of national documents on behalf of children.

### **Knowledge, Attitudes, and Practices of Duty Bearers and Citizens towards Documentation**

- Undertake a comprehensive institutional and staff capacity assessment of the DRG and implement the findings to address staff's limited knowledge on registration procedures that has led to citizens not being documented.
- Induct staff on awareness of the intricacies of the local communities they are operating in order to effectively provide the requisite services.
- Raise awareness on the importance of registration and requirements for accessing national documentation through publicity campaigns, development and dissemination of Information, Education and Communication (IEC) materials, in partnership with stakeholders such as United Nations Agencies and CSOs.
- Adopt Standard Operating Procedures (SOPs) for processing documents to address inconsistencies in the different DRG offices' information to avoid people having to go back and forth to these offices.
- Raise awareness on importance of documentation to address lack of prioritisation and procrastination of registration by the general public.

## 7.2 Ministry of Health and Child Care

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### **Policy Framework**

- Ensure implementation of the policy directive prohibiting withholding of birth confirmation records by health institutions and personnel for non-payment of hospital fees resulting in failure to register births.

### **Processing of Documentation**

- Liaise with the DRG to ensure availability of birth confirmation record forms at all health institutions at all times.
- Supervise adherence by health institutions to the policy prohibiting withholding of birth confirmation records for non-payment of fees for health care services rendered.

## 7.3 Ministry of Primary and Secondary Education

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### **Policy Framework**

- Ensure implementation by all Schools of the policy, allowing schools to enroll children without birth certificates pending birth registration.

## 7.4 Ministry of Justice Legal and Parliamentary Affairs

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### **Legal Framework**

- Ensure adoption of the 1961 United Nations Convention on the Reduction of Statelessness and amend domestic legislation on nationality accordingly so as to ensure that every child enjoys the right to acquire a nationality.
- Ensure enactment of a law and regulations on travel documents.

### **Gender Dimensions of Documentation**

- Formulate policies that take into consideration the gender dimensions of society.

## 7.5 Ministry of Finance and Economic Development

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### **Processing of Documentation**

- Minute from Ministry of Health and Child Care to Provincial Medical Directors and Chief Executive officers at central hospitals prohibits the withholding of birth confirmation records due to failure to pay hospital debts.
- Increase funding allocation to the DRG to enhance efficient service delivery and address shortages of equipment and consumables e.g. ink, passport paper, computers, printers, and vehicles.
- Grant Treasury concurrence for unfreezing of staff positions within the DRG to address inadequate human resources.
- Grant Treasury concurrence to hire staff who are conversant in local languages in the relevant communities and who are disability-sensitive to address the lack of diversity in human resources.
- Avail financial support for implementing the Devolution Strategy in line with Section 264 of the Constitution to address the lack of decentralisation of the DRG.
- Increase in budgetary support to the DSW to address lack of resources by the Department to implement its mandate of carrying out investigations needed to support applications for registration and acquisition of other national identity documents by vulnerable groups.

## 7.6 Parliament of Zimbabwe

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### **Legal Framework**

- Pass the proposed pieces of legislation when suggested by various line ministries on access to documentation to address the lack of alignment and gaps in laws related to access to documentation.

## 7.7 Public Service Commission

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### **Processing of Documentation**

- Unfreeze all staff positions within the DRG and seek Treasury concurrence to address this department's inadequate human resources.
- Grant the DRG permission to hire staff who are conversant in local languages spoken in the communities that they are deployed to address lack of diversity.

## 7.8 Department of Social Welfare

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### **Processing of Documentation**

- Request an increase in budgetary support to address lack of resources for implementing the mandate of carrying out investigations needed to support registration and documentation applications.
- Facilitate registration of institutionalised children, People living With Disabilities and the elderly so that they can acquire national documentation.

## 7.9 Zimbabwe National Statistics Agency (ZIMSTAT)

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### **Processing of Documentation**

- Produce important statistics on documentation to address lack of national statistics on documentation.

## 8. Analysis of the recommendations

In conducting the National Inquiry, the ZHRC extensively engaged stakeholders and this ensured that the recommendations would be broad in an effort to improve access to documentation nationally.

The stakeholders who contributed to the recommendations include Government, Traditional Leaders, CSOs, Faith-Based Organisations and individuals. This is of great importance because it reflects citizen participation and makes the recommendations practical since they were formulated from people who need the services of national documentation.

Further, the approach adopted by the ZHRC in conducting the National Inquiry encouraged stakeholders to participate freely in the gathering of views on the issue at hand.

The recommendations are key in that they align various government departments and departments thereby easing access to national documents.

The recommendations are in line with the United Nations Sustainable Development Goals (SDGs)<sup>13</sup>, which Zimbabwe is committed to achieving together with the rest of the world, which places birth registration firmly on the international development agenda. As such the National Inquiry will contribute to the achievement of SDGs.

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*Pic Credit: Rutendo Mawere Citizens applying for national documents of identity at the Deeds Registry*

## 9. What can citizens do?

To ensure that there is improved access to documentation, citizens also have a role to play and these roles include, among others:

- Registering of children at an early stage and avoid delays and carelessness that result in generational non-documentation.
- Taking the initiative to acquire knowledge on registration requirements for national documents
- Relatives should stop the practice of demanding Lobola Payment to assist in the acquisition of a death certificate as this results in delays and non-documentation.
- Religious leaders should desist from discouraging their church members from obtaining national documents.
- Citizens should not engage in the falsification of documents and registration information as this will result in non-documentation.
- They must encourage other family members and members of the community to be registered.

## 10. What can the Government do?

In order to bring to life the recommendations from the National Inquiry, the Government of Zimbabwe must:

- a) Adopt the National Inquiry Report into key government policies.
- b) Formulate a National Policy that deals with access to National documents
- c) Quicken the alignment of such legislation as the Birth and Death registration Act and the Citizenship Act to Zimbabwe's Constitution.
- d) Bring into play the office of the Minister of State for Presidential Affairs in charge of Implementation and Monitoring so that thorough follow-ups are made on the implementation of the recommendations by various Government departments.
- e) Government can facilitate an exchange programme or a peer review between Departments of the Registrar General of Zimbabwe with those of other countries in the Region.

# 11. What can the ZHRC do to ensure the implementation of its recommendations?

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## **a) Development of an action and monitoring plan**

The ZHRC must carry out follow up actions to monitor progress on the implementation of recommendations by respective stakeholders, which will be articulated in an action and monitoring plan, which action plan must be reviewed periodically.

## **b) Raise awareness**

In addition to monitoring the implementation of recommendations, the ZHRC will also raise awareness on the human rights impact of lack of access to documentation.

## **c) The Complaints Handling and Investigation Department**

The Complaints Handling and Investigations Department of the ZHRC will conduct follow-up action on complaints raised and cases taken up by the DRG throughout the National Inquiry process. On its part, the Monitoring and Inspections Unit will continue monitoring relevant institutions to assess the level of implementation of the recommendations.

## **d) Stakeholder engagement**

The ZHRC must continuously engage with the various stakeholders to assess the progress that is being made while effecting continuous improvements to the whole process.

## **e) Reports to Government**

The ZHRC must continuously submit its findings to the Government to influence policy and decision making.

## 12. ZimRights key Asks

1. Ensure implementation of recommendations from the National inquiry-have engagement meetings periodically with players involved in the National documentation process.
2. Leave no-one behind-Pursue equity in the access to national documentation at a community level through regular awareness campaigns and follow-ups.
3. Move together-Establish multi-stakeholder mechanisms for engaging both society and relevant players.
4. Document, Legislate and Regulate-create a strong and reliable framework that meets and accommodates the daily needs of people

## 13. Conclusion

Without doubt the national inquiry exposed and identified challenges that are faced by communities to access national documentation. The uniqueness of the inquiry is such that it was all-inclusive and captured information from the length and breadth of Zimbabwe. By and large, most of the identified challenges had to do with the Department of the Registrar General. On a positive note, by the end of the inquiry, some changes and improvements were already effected for example mobile registration was conducted for victims of cyclone Idai. Birth certificate registration was on the increase for places like Bulawayo. On the part of the officers at the Department of the Registrar General's department, they were scheduled to undertake training in customer care. All this reflects on the success of the National inquiry and how the relevant players are willing to implement the recommendations.

However, there remains work to be done both by the Department of the Registrar General, the Government and other key players like ZimRights at ensuring that all recommendations from the national inquiry are implemented.



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