

# Victory for citizens called 'aliens' by Tobaiwa Mudede

*...denied vote for years, so-called aliens win right to register for 2018 poll*

HARARE-Born in Zimbabwe, Ignatius Veremu has always felt that the government views him as less Zimbabwean. As one of the Zimbabweans tracing their roots to neighbouring countries and classified as "alien", Veremu has failed to vote for years.

He will be able to vote this year though, thanks to the intervention of Zimbabwe Lawyers for Human Rights (ZLHR), whose assistance ensured a court victory for the so-called "aliens".

High Court Judge, Justice Nyaradzo Munangati-Manongwa, on 29 November 2017 granted an order allowing the so-called aliens to register as prospective voters in the 2018 general elections. All they have to do is to bring their identity documents endorsed 'alien' and a birth certificate and proof of residence to Zimbabwe Electoral Commission (ZEC) officials, who are currently conducting the biometric voter registration exercise.

This was after human rights lawyer Denford Halimani of ZLHR petitioned the High Court on behalf of Harare resident Sarah Kachingwe and two opposition political parties namely MDC-T and MDC-N.

Halimani was seeking an order to compel ZEC to register the so-called aliens as prospective voters in the 2018 general elections during the ongoing biometric voter registration exercise.

So-called aliens are mainly people who migrated from neighboring Southern African Development Community (SADC) countries such as Malawi, Zambia and Mozambique during the colonial era to settle in Zimbabwe. Even their children or grand children have also been termed "aliens". Even in instances where one of the grand parents or parents was born in Zimbabwe they were considered as "aliens". This was due to the fact that their perceived entitlement to citizenship of another country was interpreted as having another citizenship.

Kachingwe and the opposition political parties argued that the present situation whereby people born in Zimbabwe to parents of foreign (SADC) origin are required to renounce their entitlement to foreign citizenship before being issued with a fresh identification card by the Registrar General's Office is unlawful as it is in contravention of Section 56 of the Constitution, which prohibits discrimination and promotes equality.

ZEC had been insisting that the so-called aliens must first approach the offices of the Registrar-General for their citizenship status to be regularised and confirmed before they could register as voters. Although there are no specific figures of people likely affected, a former Malawian information minister once estimated that more than a third of Zimbabwe's population is of Malawian origin.

The ruling, which came after years of lobbying, protests and litigation to force the government to allow the so-called aliens to vote, was a huge relief for Veremu and many others in his situation.

"I failed to vote in 2008. In 2013, I was turned away at the polling station," said Veremu. "They said I am an alien so I couldn't vote. It was painful because I have known no other home except Zimbabwe. This is my home, yet when it comes to voting, I was considered an outsider," he said.

Unemployed and elderly, Veremu said he would not have been able to satisfy the ZEC requirements of regularising his citizenship due to lack of resources.

"Where would I get the \$40 required by the Registrar-General's Office?" he said.

At a meeting held by ZLHR with residents of Epworth suburb on the outskirts of Harare last year, many of the so-called aliens criticised electoral authorities for discriminating against them.

They said they were born in Zimbabwe, yet they were treated as second class citizens despite the Constitution guaranteeing rights like any other Zimbabwean.

For more than a decade, ZLHR has been fighting for the rights of so-called aliens to cast their votes.

The organisation argued that the Registrar General's Office, which was in charge of voter registration until recently, was disenfranchising people born in Zimbabwe but whose parents migrated from other countries during the pre-independence era due to the erroneous interpretation of the citizenship laws.

In 2008 for example, ZLHR noted that voters were turned away when they failed to produce renunciation of citizenship certificates in addition to their national identity document.

This flew in the face of established and continuously re-affirmed precedent which categorically stated that persons born in Zimbabwe are citizens by birth - a position clearly articulated in the Zimbabwean Constitution and supported by the courts and Parliament - and do not need to renounce an entitlement to a potential foreign citizenship (on the basis of ancestry) which they have never claimed.

The trend continued during the 2013 elections. ZEC, which took over voter registration of potential voters from the Registrar-General's Office, adopted a similar stance threatening to disenfranchise thousands of people - until ZLHR intervened.

The ruling by Justice Munangati-Manongwa has put the matter to rest.

"It is hereby declared that: Any person born in Zimbabwe who is of or over eighteen years with an identification card endorsed 'alien' and a birth certificate showing that such person was born in Zimbabwe, and at least one of the parents of such person was born in Zimbabwe or from the SADC region, with proof that he or she was ordinarily resident in Zimbabwe on the relevant publication date in 2013, is entitled to be registered . . . to vote without any impediment or additional requirement other than requirements relating to all (other) people," ruled Justice Munangati-Manongwa. ➤



Victorious game changer...Sarah Kachingwe



Disenfranchised... Some of the so-called 'aliens' queuing to seek legal assistance at ZLHR offices in Harare

# How the term alien came about: a historical timeline ...and some Zimbabweans ended up being called 'aliens'



By Bryant Elliot

1953 to 1963

ZIMBABWE, then-called Southern Rhodesia, was the dominant country in the Federation which was formed between the then Nyasaland (now Malawi), Northern Rhodesia (now Zambia) and Southern Rhodesia (now Zimbabwe). Particularly during that period, but even before and after, there was a substantial migration of people into this country from many countries, particularly the surrounding countries of Malawi, Zambia and also Mozambique, in search of work.

One consequence of this substantial migration into Zimbabwe is that there is today a large minority of people who were born in Zimbabwe, but one or both of whose parents were born in another country. It is fair to say that the vast majority of these people have severed their ties with the countries where their ancestors come from and regard Zimbabwe as their permanent home, in fact their only home.

Also prior to Independence, there was a migration of people from Europe, particularly from the colonial power, Britain, into Zimbabwe. However, their numbers were much smaller compared to those from African countries and many of them and their descendants have retained their ties with their countries of origins.

1980 - 1995

At the time of the Independence of the Republic of Zimbabwe on 18 April 1980, the previous Constitution of Zimbabwe was implemented, attached as a Schedule to the Zimbabwe Constitution Order (S.I. 1979/1600) of the United Kingdom. Chapter II of that Constitution dealt with citizenship. Section 5 stated, in general terms, that a person born in Zimbabwe was a citizen of Zimbabwe provided that his/her father was, at the date of his/her birth, a citizen of Zimbabwe or ordinarily resident of Zimbabwe. Section 8 stated that a person who was, on 18 April 1980, both a citizen of Zimbabwe and a citizen of a foreign country could not thereafter be deprived of his/her citizenship of Zimbabwe. This section therefore, in effect, allowed for dual citizenship. The effect of the original section 9 was that a citizen of Zimbabwe by birth could not, under any circumstances, be deprived of that citizenship.

The Independence Constitution was first amended by the Constitution of Zimbabwe Amendment Act (No. 3) (Act 1 of 1983). This amendment repealed section 8. It also amended the powers of Parliament as set out in section 9 of the original Constitution, to allow it to enact a law to deprive a person of his/her citizenship. The following proviso was an important insertion:

*"Provided that no such law [in relation to citizenship] shall provide for the cessation by, or deprivation of, any person of his citizenship of Zimbabwe where such person is a citizen thereof by birth except on the grounds that he is or has become a citizen of some other country."* [my emphasis]

This amendment therefore allowed Parliament to enact a law to deprive a citizen of Zimbabwe by birth of his/her citizenship. This was the first time in the history of this country that this had been done.

Following the Constitution of Zimbabwe Amendment Act (No. 3) (Act 1 of 1983), Parliament enacted the Citizenship of Zimbabwe Act (Act 23 of 1984) [Chapter 4:01], which still remains in force to this date although it has been amended. Section 9 sub-sections (1) and (2) of this Act (the provisions of which have remained unamended to date) state as follows:

(1) Subject to this section, no citizen of Zimbabwe who is of full age and sound mind shall be entitled to be a citizen of a foreign country.

(2) A citizen of Zimbabwe of full age who, by voluntary act other than marriage, acquires the citizenship of a foreign country shall immediately cease to be a citizen of Zimbabwe.

Section 9(7) of the Act, in its original form, stated as follows:

*"9(7) A citizen of Zimbabwe of full age who, on the 1<sup>st</sup> December 1984, [which is the date when the Act came into operation] is also a citizen of a foreign country shall cease to be a citizen of Zimbabwe one year after that date unless, on or after the expiry of that period, he has renounced his foreign citizenship in the form and manner prescribed."*

The effect of this last provision was that, for a dual citizen to retain his/her Zimbabwean citizenship, he/she had to renounce his/her foreign citizenship by 1 December 1985. He/she had to do this in the form prescribed, which was set out in the Citizenship of Zimbabwe (Dual Citizenship) Regulations 1984 (SI 384/1984). These Regulations stated that a person who held dual citizenship only had to renounce his/her foreign citizenship in terms of Zimbabwean law, and not in terms of the law of the foreign country. As one country is not bound by the laws of another, it meant that a foreign country could still recognise that person as its citizen if dual citizenship was allowed in terms of its own laws. This is in fact what happened in practice. As a result, this provision had little practical effect.

For instance, in the case of Britain, which allows dual citizenship, a dual citizen of Zimbabwe and Britain renounced his/her Zimbabwe citizenship in terms of Zimbabwe law and handed in his/her Zimbabwe Passport at the Registrar-General's Office. The latter then sent this Passport to the British Embassy who, in turn, notified the person concerned that his/her British Passport was available for collection at their Embassy. (The British authorities did not require any additional renunciation of Zimbabwean citizenship under British law.)

1996 - 2008

The next change in the citizenship laws was by the Constitution of Zimbabwe Amendment Act (No. 14) (Act No. 14/1996). That constitutional amendment amended the original section 5 of the Constitution so as to restrict the manner in which a person could be a citizen by birth of Zimbabwe. A person had to be born in Zimbabwe and, at the date of that person's birth, either his/her father or mother had to be a citizen of Zimbabwe.

By 2000, the Government wanted to make the prohibition of dual citizenship more effective. In the case of *Carr v. Registrar-General 2000 (2) ZLR 433 (S)*, the Registrar-General attempted to argue that, in order to effectively renounce his/her foreign citizenship, a citizen of Zimbabwe had to do this in terms of the laws of the foreign country concerned. However, the Supreme Court ruled that section 9(7) as it stood did not provide for this and that renunciation in terms of Zimbabwe law was all that was required.

Following on from this court ruling, in 2001 the Zimbabwe Parliament amended Section 9(7) of the Citizenship of Zimbabwe Act (quoted above) by stating that a citizen of Zimbabwe who

*"...is also a citizen of a foreign country... shall cease to be a citizen of Zimbabwe six (6) months after that date unless, before the expiry of that period, he has effectively renounced his foreign citizenship in accordance with the law of that foreign country and has made a declaration confirming such renunciation in the form and manner prescribed."* [my emphasis]

That Amended Act was enacted into law on 6<sup>th</sup> of July 2001. This meant that each relevant person had until 6 January 2002 to renounce his/her foreign citizenship in the prescribed manner as set out in the 2001 Amendment Act and the consequential Regulations. If he/she did not do so then he/she automatically, and without taking any positive step on his/her part, ceased to be a citizen of Zimbabwe. This included persons born in Zimbabwe.

The effect of this amendment was to make considerable inroads into the concept of citizenship by birth, a concept which is fundamental in a national state. However, the effect in practice was even more severe because of the interpretation placed on the amendment by the Registrar-General's Office.

It is clear from its wording that section 9(7), as amended by the 2001 Amendment Act, only applies to those persons who are in law citizens of a foreign country as well as being citizens of Zimbabwe. It does not apply to those persons who may have some potential claim to foreign citizenship through their parents but who have taken no steps to take up that claim. This has been so interpreted in a number of judgements in the Zimbabwe High Court. These judgements include the following:

• *Morgan Tsvangirai v. Registrar-General and Others (Judgment HH 29/2002)*

• *Ricarudo Manyere v. Registrar-General of Citizenship and Minister of Home Affairs 2002 (Judgment HH 87-2002)*

• *Job Sibanda v. The Registrar General of Citizenship N.O. (Harare High Court Case No. 3626/02)*

• *Lewis Uriri v. Registrar General of Citizenship and another (Harare High Court Case No. 7128/03)*

• *Trevor Ncube v. The Registrar General and another (Harare High Court Case No. 7316/06)*

However, the Registrar-General has not applied the ratio of these judgements to other cases and has consistently wrongly interpreted this amendment to mean that any person who potentially has a claim to foreign citizen by virtue of the fact that one or both of his/her parents was born in a foreign country, but has not taken up that claim, has automatically lost his/her Zimbabwean citizenship. That person, so the Registrar-General says, has to renounce that foreign citizenship and apply for resumption of his/her Zimbabwean citizenship.

A consequence of this wrong interpretation of section 9(7) of the Act adopted by the Registrar-General is that a person can be deprived of the only citizenship he/she has, rendering that person stateless either temporarily or permanently.

The information put out at the time when the 2001 Amendment Act was enacted into law and the understanding amongst the general Zimbabwe public at that time was that it only applied to persons of European descent and not to anyone else. Consequently, it was only those particular people who stood in queues, mainly at the South African and British Embassies, to renounce their foreign citizenship by the deadline of 6 January 2002. People of African descent, in other words the vast majority of the population, were only made to realise the full implications of the amendment after the expiry of the deadline when they were already deemed, according to the Registrar-General, to have automatically lost their Zimbabwean citizenship.

In fact numerous people born in Zimbabwe of African descent were unaware that they were now regarded by the Registrar-General's Office not as citizens of Zimbabwe but rather as aliens, with all that that entails in political, economic and social effects. Most would only become aware of their predicament if they apply for a Zimbabwe Identity Document or a Zimbabwe Passport or a Birth Certificate for their child. They are then required to produce their "long" Birth Certificates showing in which countries their parents were born. If their "long" Birth Certificates show that either or both their parents were born in a foreign country then the Registrar-General's Office regards them as non-citizens of Zimbabwe: "aliens", that is. This applies even if the particular person concerned had previously been regarded as a citizen of Zimbabwe and had held a Zimbabwe Identity Document or a Zimbabwe Passport.

The Registrar-General requires such persons to "renounce" their so-called "foreign citizenship" and to apply to "resume" their Zimbabwe citizenship, this time not as a citizen by birth but rather as a citizen by registration. All this takes time and money and requires the persons concerned to attend at the Registrar-General's Office for an extended period, going from office to office and filling in forms. This is made worse by the long queues there. It is also made worse by the corruption at the Registrar-General's Office and the prevalence of touts outside. In many cases, especially for poor people who live in the rural areas, it is often in practice very difficult to comply with the requirements.

In 2003, there was a further amendment to the Citizenship of Zimbabwe Act which sought to make it easier for Zimbabwean citizens who were also citizens of SADC Countries to retain their Zimbabwean Citizenship. In order to qualify in terms of this Amendment Act, a person, presuming he/she was born in Zimbabwe, has to apply for the "confirmation" or "restoration" of his/her Zimbabwe citizenship (the wording varies and in fact the amended Act is badly and confusingly drafted in several respects), and comply with the following requirements:

1. At least one of the person's parents had to have been born in a SADC country and not in any other country.
2. The parent concerned had to have entered Zimbabwe on or before 18 April 1980.
3. The parent concerned had to have entered Zimbabwe as a "migrant worker" which is defined as a farm labourer, mine worker, domestic employee or a worker in any other unskilled occupation.
4. The parent concerned had to have continued residing in Zimbabwe from his/her date of entry into Zimbabwe until the date of the birth of the applicant.
5. The applicant concerned has to have continuously resided in Zimbabwe since the date of his/her birth up to the date of his/her application. However,

there are exceptions to this rule in respect of any temporary absence from Zimbabwe depending on the reasons.

6. The applicant concerned cannot at any time have acquired any foreign citizenship or any foreign passport.

In practice, the 2003 Amendment seems to have made little, if any, difference for persons whose ancestors came from a SADC country. The Registrar-General's office treat them in much the same way as those whose ancestors came from non-SADC countries and are governed by the 2001 Act.

So, on the Registrar-General's interpretation of the law, any person born in Zimbabwe with a parent born in a foreign country is regarded as having automatically and without taking any positive step on his/her part, lost his/her citizenship because he/she did not renounce his/her "foreign citizenship" in the six months period from 6 July 2001 to 6 January 2002. That person is therefore classified as an alien in the land of his/her birth.

Such a person has first to apply to the Embassy of the foreign country concerned for a certificate of renunciation of the citizenship of that foreign country. Depending on the country concerned, this can be difficult to obtain. This is because the person is not in fact a citizen of that foreign country and therefore has no citizenship to renounce. Even if the Embassy concerned cooperates with the Zimbabwe authorities and issues some form of certificate which the Zimbabwe authorities considers to be acceptable, this procedure can take a considerable period of time and it involves expenses.

If the foreign Embassy concerned issues a certificate of renunciation, which is in fact usually simply a certificate that the person concerned is not a citizen of that foreign country in terms of the laws of that country (rather than a certificate stating that the person concerned is a citizen of that foreign country and is renouncing that citizenship), the applicant then has to go the Registrar-General's Office and sign a renunciation form prescribed in terms of the Zimbabwe Citizenship Regulations addressed to the foreign Embassy concerned.

This form may present some difficulty in completing as it requires the applicant to provide the date and place of birth and also the Zimbabwean Identity Document Number of the person born outside Zimbabwe. The foreign Embassy also requires proof that the parent concerned was indeed born in that foreign country and when and where.

The next step, according to the Registrar-General's requirements, is for the person concerned to apply for resumption of Zimbabwe citizenship. Again, this takes time and involves expense. The person's "long" Birth Certificate has to be produced. If the person concerned does not have one, then he/she is unable to apply for resumption of citizenship. This frequently occurs in respect of persons who were born during the colonial era in the former commercial farms where Birth Certificates were often not issued. Furthermore, even if the application for resumption of citizenship is successful, the person is only granted citizenship by registration which is an inferior form of citizenship to citizenship by birth.

The above is what happens in practice as I understand it. This practice is at variance with the law. However, the Registrar-General denies this and simply talks in general terms of the need to comply with his "administrative procedures". He thereby disguises the true effect of his requirements.

2009 - 2013

To return to the legal position, the next change to the citizenship laws after the 2003 Amendment to the Citizenship of Zimbabwe Act 1984 was the Constitution of Zimbabwe Amendment Act (No. 19 of 2009). In terms of this amendment, with effect from 13 February 2009 the whole of Chapter II of the old Constitution was repealed and substituted. This new Chapter is somewhat akin to Chapter 3 of the new Constitution. As it has been overtaken by the provisions of the new Constitution, there is no need to analyse its contents. However, it should be noted that during that period in the case of *Piroro v. Registrar-General of Citizenship & ORS 2011 (2) ZLR 26*, the High Court (Mavangira J.) declared that:

*"The provisions of Section 9(7) of the Citizenship of Zimbabwe Act [Chapter 4:01] in so far as they relate to citizenship by birth, are ultra vires the powers vested in the Parliament of Zimbabwe in terms of Section 9 of the Constitution of Zimbabwe and are in consequence of no force or effect."*

The effect of this declaration was that a citizen by birth of Zimbabwe cannot, under any circumstances, be deprived of such citizenship.

2013

Constitution Amendment No. 20: See Know Your Rights on Page 3

# From a slum, woman fights for aliens rights

EPWORTH-Resident in one of the country's poorest settlements, Sarah Kachingwe defied her circumstances to take powerful State institutions that she regarded as an obstacle in her quest to assert her voting rights.

Kachingwe's determination has now resulted in a ruling that opens the way for a class of



Man of the moment: ZLHR lawyer Denford Halimani at a media briefing at Kodzero-Amalungelo House explaining the implications of the High Court ruling confirming the right to vote of Zimbabwean citizens by birth whose IDs mistakenly identify them as 'Aliens'.

Zimbabweans previously considered as second class citizens to vote in elections to be held in 2018.

As human rights campaigners, lawyers and other Zimbabweans celebrated High Court Judge, Justice Nyaradzo Munangati-Manongwa's ruling ordering that the so-called aliens be allowed to register as voters, Kachingwe was happy to remain in the background.

Yet, she was the driving force behind the ruling.

When the Zimbabwe Electoral Commission (ZEC) announced that it had launched a blitz to register voters, Kachingwe, as a civic minded citizen, heeded the call and made a beeline for the local registration centre.

She was turned away, told by ZEC officials that she was an "alien" hence not Zimbabwean enough to be allowed to register as a voter.

Kachingwe was born in Zimbabwe 57 years ago to Catherine Jaure, a Zimbabwean by birth and Chemunyaya Kachingwe who hailed from Malawi but had settled in Zimbabwe.

"The officials at Makomo in Epworth declined to allow me to register. They referred me to the Registrar General (RG)'s Office to 'regularise' my identification card," she said.

At the RG's Office, officials told her she needed to part with a staggering \$5 000 for her identification card to be regularised.

"I am not gainfully employed. This is an amount which I couldn't afford to pay," she said.

She decided to fight for her rights.

The Epworth resident sought help from Zimbabwe Lawyers for Human Rights, whose lawyer Denford Halimani immediately took up the case and successfully argued that ZEC's actions were illegal and Kachingwe's rights as a Zimbabwean citizen had been infringed. Halimani asked the High Court to assert Kachingwe's fundamental rights as she is entitled to all rights, benefits and privileges of being a Zimbabwean.

Justice Munangati-Manongwa agreed that the so-called aliens were getting a raw deal.

Kachingwe demonstrated the predicament an alien finds himself or herself in, said the judge.

"These persons have been labelled aliens with their identity documents duly endorsed as such. The Shorter Oxford Dictionary defines an alien as a stranger, a foreigner, a resident of foreign origin. Given the circumstances of these people which included their place of birth and parental origins, the label of alien was not in my view appropriate. Constitutional intervention brought clarity to this class of aliens," said Justice Munangati-Manongwa in her ruling, citing sections 36 and 43 of the Constitution.

"Put simply, section 43(2) provides that any person who was born in Zimbabwe before 22 May 2013 is a citizen by birth if one or both of his parents

was a citizen of a SADC member State and he or she was ordinarily resident in Zimbabwe as at that date," said the Judge in a 15-page judgment, which has been hailed as a landmark ruling. ➤



Sarah Kachingwe

## Kachingwe-A Woman Who Defend Human Rights

EPWORTH-The human rights record of Zimbabwe is a precarious one. It exposes one to being discriminated against, being denied enjoyment of fundamental rights, being the target of harassment, intimidation, arrests and even abductions.

But Sarah Kachingwe (SK), a 57 year-old brave woman's courage to protect her own rights and those of other citizens is extraordinary and inspiring. Kachingwe, a widow and a mother of four children and 15 grandchildren, shares her experience with The Legal Monitor (LM) about being discriminated against in her country of birth for more than 30 years and being classified as an alien.

LM: What drove you to take legal action?

SK: I endured a lot of pain in failing to vote and yet I was born here in Zimbabwe. We were oppressed for a long period of time. I haven't voted since I was born. Life was tough as we were being discriminated and disenfranchised from voting. So this motivated me to stand up for other people classified as "aliens" together with me.

LM: How did you feel being described as an "alien"?

SK: It pained me a lot. But I just held on to hope

that one day we will be allowed to vote and here we are, we will be voting in 2018.

LM: Have you now registered as a potential voter?

SK: I registered immediately after the court order was granted.

LM: Noting that you haven't exercised your right to vote since 1980, how easy will it be for you to appreciate the process?

SK: I don't even know how to vote but those voter educators will help us and educate us.

LM: How do you feel having secured such a landmark court ruling?

SK: I am happy that myself and those previously classified as "aliens" can now exercise our right to vote. It's satisfying that other people can now vote owing to my actions.

LM: Are you satisfied that you helped change the legal framework regarding voting in Zimbabwe?

SK: Tinochinja. I managed to change the old order. ➤

## Know Your Rights

### Constitution of Zimbabwe Chapter 3 Citizenship

#### 36 Citizenship by birth

- (1) Persons are Zimbabwean citizens by birth if they were born in Zimbabwe and, when they were born -
  - (a) either their mother or their father was a Zimbabwean citizen; or
  - (b) any of their grandparents was a Zimbabwean citizen by birth or descent.
- (2) Persons born outside Zimbabwe are Zimbabwean citizens by birth if, when they were born, either of their parents was a Zimbabwean citizen and -
  - (a) ordinarily resident in Zimbabwe; or
  - (b) working outside Zimbabwe for the State or an international organisation.
- (3) A child found in Zimbabwe who is, or appears to be, less than fifteen years of age, and whose nationality and parents are not known, is presumed to be a Zimbabwean citizen by birth.

#### 43 Continuation and restoration of previous citizenship

- (1) Every person who, immediately before the publication day, was a Zimbabwean citizen continues to be a Zimbabwean citizen after that date.
- (2) Every person who was born in Zimbabwe before the publication day is a Zimbabwean citizen by birth if - (a) one or both of his or her parents was a citizen of a country which became a member of the Southern African Development Community established by the treaty signed at Windhoek in the Republic of Namibia on the 17<sup>th</sup> August, 1992; and
- (b) he or she was ordinarily resident in Zimbabwe on the publication day.

# 'Aliens' long walk to freedom

HARARE-Just like Nelson Mandela, the late South African leader and revered international icon, theirs was a long walk to freedom too.

Owing to the manipulation of the "alien" vote in successive elections, Zimbabwean citizens who for years were considered as aliens had been disenfranchised from the voting process in the country.

Through manipulation of the alien vote during elections, the ruling ZANU PF party ensured that by hook or crook it survives against its political adversaries since independence.

Zimbabwean electoral authorities backed by some ruling party officials had many a time demanded that the so-called aliens "prove" their loyalty before receiving the "privilege" of voting.

At registration centres and at polling centres, potential registrants and potential voters were turned away for flimsy reasons aimed at disenfranchising them.

This flew in the face of established and continuously re-affirmed precedent which categorically states that persons born in Zimbabwe are citizens by birth - a position clearly articulated in the Zimbabwean

Constitution and supported by the courts and Parliament - and do not need to renounce an entitlement to a potential foreign citizenship (on the basis of ancestry) which they have never claimed.

Even in cases where lawyers from Zimbabwe Lawyers for Human Rights (ZLHR) obtained court orders to bar electoral authorities from denying the so-called aliens their voting rights, officials still defied court orders to ensure that they don't exercise one of their fundamental rights; the right to vote. But all that is now history thanks to the intervention by ZLHR, whose lawyer Denford Halimani petitioned the High Court on 13 November to stop the blatant disenfranchisement of citizens from participating in the governance and political processes of their country.

Halimani secured a landmark court order entitling 57 year-old Sarah Kachingwe considered an "alien" and any class of persons in similar predicament as her to be registered as voters by the Zimbabwe Electoral Commission during the biometric voter registration exercise upon production of the identification card endorsed alien coupled with a birth certificate showing that they were born in Zimbabwe to parents from the SADC region or one of whom is a Zimbabwean and provide proof of residence. Below, *The Legal Monitor* publishes some pictures showing some Zimbabweans classified as "aliens", who sought legal assistance from ZLHR in 2017 as they battled to be registered as potential voters in order to cast their vote in the 2018 general elections. ➤



Face The Nation: ZLHR Executive Director Roselyn Hanzi, ZLHR lawyer Denford Halimani and Ellen Kandororo-Dingani of ZESN speaking at a media briefing held in Harare explaining the implications of the High Court ruling confirming the right to vote of Zimbabwean citizens by birth whose IDs mistakenly identify them as 'Aliens'

**ZEC**  
@ZECzim

Persons (+18yrs) whose National IDs are inscribed "ALIEN" and have long Birth Certificates that indicate that one or both parents are citizens of either Zimbabwe or any other SADC country - go and register now!!

6:41 AM - 4 Dec 2017

#ZimDecides2018 #Impactyourworld; ZLHR acted on behalf of the so-called aliens and the Zimbabwe Electoral Commission immediately "embraced" and complied with the High Court order.



#IBELONG: The United Nations High Commission for Refugees and Zimbabwe Lawyers for Human Rights team are committed to defending the right to other rights-CITIZENSHIP!!! We encourage people to assert their right and be active citizens today and contribute to ending statelessness. Picture Credit: Fannuel Hungwe