

Access to National Identity Documents in Zimbabwe:

*A case to relook the services at
the Registrar General's Office
in the registration process*



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Introduction

Access to national documentation is central to the enjoyment of fundamental human rights. Having a legal identity recognised by the law and by the State is an indispensable prerequisite for access to fundamental rights. Rights and identity are closely intertwined in several ways. Research has shown that Zimbabwe has stateless persons for many varied reasons and the biggest being failure to acquire birth certificates despite the existing national legal frameworks and regional and international instruments that the country is party to that address the right to nationality.¹ From as early as birth, an individual's identity is formed and preserved by registration. Zimbabwe has a central registration system under the administration of the Registrar General (RG).² The Registrar General's Office is mandated to manage the civil registration system in Zimbabwe and discharges the functions of birth registration through the delegated roles of the district registrars, deputy registrars, and assistant registrars where applicable.³ This gives this office of the RG a critical role in the promotion and protection of rights to birth registration and consequently access to other national documents.

Zimbabwe Lawyers for Human Rights (ZLHR) has been involved in work that seeks to promote access to national documents. Apart from its community based initiatives such as the mobile legal clinics where registration issues continue to surface, the organisation has supported grassroots organisations such as community-based organisations (CBOs) and the citizenry in general to take the government to task over the challenges faced in the

¹ According to the United Nations High Commissioner for Refugees (UNHCR) 2016 Fact Sheet, approximately 300 000 people are at risk of being stateless. See UNHCR Operation in Zimbabwe Fact Sheet, April 2016. Available at: <https://reporting.unhcr.org/sites/default/files/UNHCR%20Zimbabwe%20Factsheet%20-%20APR16.pdf>

² section 3(a) of the Births and Deaths Registration (BDR) Act [Chapter 5:02]

³ 3(b) and 3(c) of the Births and Deaths Registration (BDR) Act [Chapter 5:02]

registration processes as they seek to exercise their rights. Interventions by ZLHR have had some success in terms of clearly setting out the scope of the legal obligations of central government, to provide for rights related to access to documentation.⁴ Despite such interventions, a large number of children and some adults in Zimbabwe, fail to acquire identity documents at the Department of the Registrar General's Office (DRG) despite several efforts towards an improved access to national documents. Lack of access to documentation has become a recurring problem that adversely affect individuals and the communities they would otherwise meaningfully be contributing to if documented. The organisation, through its community activities and through its partners has noted that some people are still finding it difficult to obtain national documents despite the existence of a clear and progressive legal framework.

This paper will undertake to probe and scrutinise the impediments to access to national identity documents in Zimbabwe. The paper will identify the policy gaps and impediments that are hindering access to national documentation. It will examine current policies in place in relation to the implementing institution i.e. the Registrar General's Office (RG) and whether it is effectively rendering services that enhance access to national documents as provided by the law in Zimbabwe. The paper will conclude with policy recommendations for solving the challenges identified.

⁴ For example in Scott & Another v Registrar General & Another HB 70/24 ZLHR successfully challenged the use of certain provisions in the Procedure Manual used by the Registrar General's office which made it difficult for married women who have children other than with their erstwhile husbands to process the birth of their children in the actual father's surname, thus violation the right to a birth certificate.

Legal framework for access to identity documents

International framework

Article 6 of the Universal Declaration on Human Rights (UDHR), lays out the right of everyone to recognition as a person before the law. According to the United Nations's comment on the UDHR at 70, the content and scope of article 6, is so critical because it is a right that starts and must be obtained at birth. Article 15(1) of the UDHR also stipulates that everyone has the right to a nationality. Without birth registration, children are at risk of being stateless. Zimbabwe is a state party to the International Covenant on Civil and Political Rights (ICCPR) which provides in Article 24(2) for the right of every child to be registered immediately after birth and to a name. It is worth noting that this right is provided for under the same article as the right to a name, suggestive of the interrelatedness of the rights to a name and birth registration.

Apart from the ICCPR, the United Nations Convention on the Rights of the Child (CRC), which is the first international treaty focusing comprehensively on children's rights, lays out that children should be registered immediately after birth and should have the right from birth to a name and to acquire a nationality.⁵ Article 7(1) of the CRC establishes a legitimate connection between a child and their country. Article 7(2) of the CRC provides that states shall ensure the implementation of the rights in article 7(1) in line with national legislation and adherence to the relevant international standards where the child would otherwise be stateless.⁶ Birth registration therefore establishes evidence of one's nationality.

⁵ United Nations (UN) Convention on the Rights of the Child (CRC), art 7(1). Zimbabwe ratified the CRC on 11 September 1990.

⁶ Article 7(2).

Regional Framework

The African Charter on the Rights and Welfare of the Child (African Children's Charter)⁷ embeds African ways of protecting children placing critical responsibilities on parents as the primary duty bearers together with States. The African Children's Charter gives better protection to children as it offers both a legal and cultural context to the protection of children in Africa. Zimbabwe acceded to the African Children's Charter in 1995 and as a result, Zimbabwe has a duty under international law and, particularly, under the African Children's Charter, to ensure domestication of the Charter. Article 6(2) states that every child shall be registered immediately after birth.

National Framework

The legal framework governing national documentation in Zimbabwe is set out in the Constitution⁸ and subsidiary legislation. From as early as birth, an individual's identity is formed and preserved by registration. Section 35(1) of the Constitution provides for different ways of acquiring citizenship, namely, by birth, descent or registration. Section 81 provides for the rights of a child to be promptly provided with a birth certificate, while section 35(3) (b) accords a citizen the right to acquire passports and other travel documents. Births and deaths registration is regulated by the Births and Deaths Registration Act (BDR Act),⁹ while the National Registration Act and Citizenship of Zimbabwe Act¹⁰ regulate national and citizenship registration, respectively.¹¹ The Registrar General's Office is mandated to manage the civil registration system in Zimbabwe. Zimbabwe has a central registration system under the administration of the Registrar General (RG).¹² The RG also discharges the functions of birth registration through the delegated roles

⁹ Chapter

¹⁰ National Registration Act [Chapter 10:17]

¹¹ Citizenship of Zimbabwe Act [Chapter 4:01]

¹² Section 3(a) of BDR Act

of the district registrars, deputy registrars, and assistant registrars where applicable.¹³ This gives this office of the RG a critical role in the promotion and protection of rights to birth registration and consequently access to the rest of the national documents. Other institutions such as the Department of Social Development (Formerly Social Welfare) also play a crucial role in facilitating the acquiring of national documents by facilitating registration of abandoned children and carrying out investigations where whereabouts of parents are unknown, among other functions.¹⁴

Given the supremacy of the Constitution in Zimbabwe's legal system, these provisions serve as the minimum standard and norms that guide the strength and practice of national legislation and administration to implement the realisation of such rights in Zimbabwe. The Government of Zimbabwe must therefore comply with its obligations under international human rights law and ensure that all duly ratified international instruments are adequately domesticated to allow for the gradual implementation of international standards at the national level when we talk of national documents and eradicating statelessness.

Challenges in Zimbabwe's registration systems

While the Zimbabwean Constitution is fairly clear on the right to national documents, the problem of limited access to national documents still exists. High numbers of unregistered births persist. The Constitution makes registering a child not only the duty of the child's guardian, but also the public responsibility of the Government. Multiple research has been conducted over the years in relation to access to documentation.¹⁵

¹³ Section 3(b) and 3(c) of BDR Act

¹⁴ As noted in the Zimbabwe Human Rights Commission National Inquiry on Access to Documentation in Zimbabwe, April 2020. Available at <https://www.zhrc.org.zw/research/>

¹⁵ The most comprehensive document being the report by the Zimbabwe Human Rights Commission mentioned in the previous footnote.

The issue of access to identity documents is and will continue to be an urgent human rights concern in Zimbabwe. This is because access to documentation is an essential human right that underpins the enjoyment of other human rights. People's human rights are pervasively violated in the absence of identification documents. This emphasises the fact that it is beyond a process of administration but a human rights issue that requires a more holistic approach. More recently, a national inquiry conducted by the Zimbabwe Human Rights Commission established that a number of barriers existed which hindered people's access to documentation. These barriers included registration issues, socio-cultural norms, and economic issues as the major barriers.¹⁶ Socio cultural norms and registration requirements were identified as the biggest challenges faced by many people to access documents in all the provinces.

Another barrier to accessing national documents is that most laws relating to acquiring of documents are not aligned to the Constitution. However, legal barriers, while present, do not represent the majority of barriers affecting access to identity documents. The Constitution is clear at Section 35 (3) that Zimbabwean Citizens are entitled to rights and benefits that include passports and other travel documents, birth certificates and other identity documents issued by the State. The main issues encountered are bureaucratic in nature and lean to include poor infrastructure, limited capacity, and funding constraints that contribute to serious deficiencies in access to national identity documents in Zimbabwe. Thus an interplay of various factors, not just legal ones, but also administrative and cultural, affect birth registration in Zimbabwe.

In engaging with communities through-out Zimbabwe over the past decade, and recently in Harare, Mudzi, Gweru, Tsholotsho and Gwanda in 2025,

¹⁶ Chapter 3 of the ZHRC National Inquiry Report gives a detailed analysis of the challenges faced in obtaining national documents.

ZLHR has noted that the general trend is that most people are not fully vested in the legal framework in relation to the registration of births and acquiring of national registration cards. This is augmented and made worse by the fact that there is a fear of approaching government departments to seek assistance as most people view staffers in the RG's office as being hostile. There were cases reported during the mobile legal aid clinics of alleged corruption in which officers from the RGs office were alleged to have sought bribes in order to process applications for documentation. There was a concern raised over the perceived lack of efficiency at the RGs office in view of the long waiting time in long queues before being served. The other concern raised was the high fees that members of the public are charged for services.

The centralisation of the documentation process is also a major barrier as often times when district officials encounter a difficult situation, they simply refer the concerned person to visit the central registry offices in Harare in order to have the issue fully ventilated. This becomes problematic for many people in the rural areas who already struggle to reach the district registry offices, and now will be required to travel to Harare, where they have no relatives to accommodate them, lack the funds and may face language barriers, in order to acquire a national document. Conversely those that have relocated from the place that they were born or obtained their original birth certificate and national registration documents are referred back to obtain birth records or to correct documents or obtain replacement copies. Over the years there has been massive rural urban migration. The land reform program has also been responsible for a lot of relocation. This increases the cost of accessing documentation.

Another roadblock encountered is the use of the Birth and Death Procedure Manual in the RG's office, a document that is not accessible to the public but has significant impact on the issuing of national documents. The Procedure Manual, for example, makes it mandatory for the relatives of the

mother of the child to be present when the father of the child is trying to register the birth of the child whose mother has abandoned the child. The procedure is not provided for in the BDR Act nor in the subsidiary Births and Deaths Registration (General) Regulations¹⁷ and thus a self-imposed process being implemented by the RG. It was noted particularly in Tafara that there is a large number of cases of mothers that leave their children with paternal grandparents and relocate to neighbouring countries without leaving contact details. In many case the relatives of the mothers are not known or if known are unwilling to assist with the registration of the children. Social issues such as the no payment of lobola were highlighted as some of the reasons for not cooperating.

It also emerged that there is a large number of children that are born in neighbouring countries to Zimbabwean parents that return to Zimbabwe. They have faced challenges in obtaining local birth certificates and national identity documents. This has prejudiced them in registration for national examinations.

Finally, the information dissemination on the rights to national documents and how to obtain them, has been largely left to the civic society organisations without the RGs office weighing on this and having concerted and language specific awareness campaigns in the communities. The mobile registration drives conducted by the RG's office do little to raise awareness on the rights to documents as their aim is to merely have access to those documents and usually coinciding with elections. These are not scheduled throughout the year in view of children being born every day. Regrettably it has been observed that there are many children that fail to be registered because their parents have not been registered perpetuating generational statelessness.

¹⁷ Births and Deaths Registration (General) Regulations, 1988, Statutory Instrument 194 of 1988)

Lessons from developments elsewhere in the region

The World Bank has identified South Africa as one of the countries in Sub-Saharan Africa as having implemented a successful civil registration policy¹⁸. South Africa's civil registrations are currently estimated to be at 90% and this was a result of a deliberate policy by the South African Government to ensure the largest coverage in terms of documentation. The World Bank case study indication that a number of factors has helped South Africa make significant strides in ensuring the majority of its citizens are documented.

The key factors are summarised below:

- *Closely integrated civil registration and identification services:* the Department of Home Affairs and Department of Health work together in ensuring that civil registrations are accurately and quickly recorded. The two departments concluded an Intergovernmental protocol in 2010 that allows of sharing of information, combatting fraud and establishing best practices in the process of issuing birth and death certificates.
- *Large network of registration points:* South Africa has 574 civil registration and national ID offices across the country In addition, the setup of hospital registration points (390 connected online, and 132 manual collection) and use of mobile service units (115 and one 4x4) have played a key part in achieving high rates of civil registrations.
- *Access to social programs as an incentive for registration:* the Department of Home Affairs works together with the Department of Social Development and the South Africa Social Security Agency to ensure that vulnerable members access social grants. National documentation is a prerequisite to access the grants and thus the

See World Bank. South Africa ID Case Study, Washington DC. 2018. Available at <https://documents1.worldbank.org/curated/en/315081558706143827/pdf/South-Africa-ID-Case-Study.pdf>

various government departments collaborate to ensure a seamless process.

- *Regular, annual budget allocation and continued political commitment:* according to the World Bank case study, the South African Department of Home Affairs has an annual budget of around US\$600 million of US\$486 million (81%) is allocated for civic services, and the department employs a total of 9,000 staff, of which 7,287 are dedicated to providing for civic services.
- *Clear goals and regular performance monitoring:* the South African government ensures that these policies and plans are clearly defined and available for public consumption. A notable example was the drive to reduce late birth registrations, that is births registered after the statutory 30 days, which dropped from 1,055,528 in 2002 to 241,677 in 2012.
- *Leveraging digital technologies and implementing continuous system upgrades:* South Africa has largely digitalised its civil registration services by investing in the development of the National Population Register (NPR) and the Home Affairs National Identification System (HANIS). The registration offices are computerised and online, with mobile registration units having access to satellite connectivity.
- *Provision of reliable, real-time identity verification services:* the Department of Home Affairs has databases that allow other government agencies and private sector entities to conduct real-time verification of their customers. This helps guard against fraud and identity theft.

Recommendations

The Zimbabwe Lawyers for Human Rights recommends the following:

- Government to lead relevant stakeholders in formulating a National Policy that deals with access to national documents to ensure that the process of acquiring registration documents is an easy one for citizens.

- Special attention should be placed on vulnerable groups of people who face multiple challenges in accessing documents. Such groups include women and children (in particular, orphans), persons with disabilities, older persons, Gukurahundi – affected communities, minority groups (e.g. the San, Tonga and Doma, mixed race and inter –sex communities) among others.
- The Registrar General's Office should make concerned efforts to ensure more mobile registrations more organized and systematic in terms of timing and regularity.
- It is recommended that birth certificates be issued at places of birth i.e. hospitals or major clinics. Birth registration legislation and related acquisition laws need to be reformed in order to be more sensitive and responsive to community realities.
- Coordination between the Ministry of Health and Child Care and the Ministry of Home Affairs, and other relevant government departments to prioritize birth registration of minors, as this would ensure greater numbers of children getting registered at birth, including those delivered in homes.
- The government must be innovative in addressing birth registration, in particular, consider rolling out the use of digital technologies to ensure an efficient process of registration that reaches the remotest of areas in Zimbabwe. Partnering with the private sector on this will ensure a sustainable digital transformation aimed at improving birth registration
- The clause on compulsory registration of children needs to be supported by enabling instruments that can help to enforce it.
- Support to ensuring that vulnerable groups of children and persons have access to birth registration
- The Birth and Death Registration Act needs review to provide for corrective mechanisms and administrative measures to ensure the registration of older children and unregistered adults, in an integrated, inclusive and protective approach.

- Urgent review and alignment to the Constitution of the laws and policy imperatives that continue to frustrate our people's ease access to documentation in particular the Births and Deaths Registration Act [Chapter 5:02] and the Citizenship Act [Chapter 4:01].



**ZIMBABWE
LAWYERS
FOR
HUMAN RIGHTS**

*Fostering a culture
of human rights*

Harare Office:

(National coverage)

Kodzero-Amalungelo House 102 Sam Nujoma Street, Harare.

Phone: (+263 242) 705370/708118/764085

Fax: (+263 242) 705641

Mutare Office:

(Covering Manicaland and Masvingo)

Winston House, Ground Floor, Cnr 1st Avenue/2nd Street, Mutare.

Phone: (+263 02020) 60660

Bulawayo Office:

(Covering Matabeleland, Midlands and Bulawayo)

3rd Floor Barclays Building, 8th Avenue & JNM Nkomo Street, Bulawayo. Phone:

(+263 0292) 7222014

24-Hour Hotlines National: (+263) 772 257 247

Matabeleland/Midlands: (+263) 773 855 635

Manicaland/Masvingo: (+263) 773 855 719

Email: info@zlhr.org

Website: www.zlhr.org.zw

Facebook: Zimbabwe Lawyers for Human Rights

X: @ZLHRLawyers

ZLHR Chatbot: 00263 787601800