



*Identity, Citizenship, and the  
Registrar General: The Politicking  
of Identity in Zimbabwe.*

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## **EXECUTIVE SUMMARY**

This report addresses a fundamental issue that most people are aware of, but rarely give much attention to until they are personally affected; acquiring identity documents and citizenship. It is common knowledge that there are many challenges that Zimbabwean citizens face in accessing identity documents. It is also widely known that the prominence of the 'alien' status in 2002 through the amendment of the Citizenship of Zimbabwe Act (Chapter 4.1) has seen some people losing their Zimbabwean citizenship; forced to identify themselves as other nationalities to which their descendants belonged such as Malawian or Mozambican.

This report is based on the views and experiences of a total of 160 Zimbabwean women from 9 different provinces of the country. It details women's perceptions of identity, the challenges they face in accessing identity documents and citizenship status as well as the consequences that losing or failing to access such documents and status has on the quality of their lives as well as the lives of their children. It also analyses the role that the Registrar General's (RG) office plays in making identity documents and citizenship inaccessible entitlements to the general public.

The paper makes recommendations based on these women's views and supporting evidence from previous analyses and press reportage; these recommendations would improve services that the RG's office gives to the public if implemented.

## Background

*“The hunger to belong is not merely a desire to be attached to something. It is rather sensing that great transformation and discovery become possible when belonging is sheltered and true.”*  
(John O'Donohue in *Anam Cara's -A Book of Celtic Wisdom, Page 22*)

What exactly does an identity mean to an individual or to a group? It is, of course, a great philosophical problem, but it is also a matter of basic everyday concern. Indeed, the right to identity is one of the most fundamental rights owing to citizens to which their sense of belonging is attached. Without an identity, an individual loses the most basic connection with their nationhood, rights, and privileges, as well as obligations and duties arising from that identity. Without an identity an individual becomes a stateless person, and basic entitlements such as a name, a domicile, freedom of movement, access to education, the right to vote, the right to work, and such other rights are lost or exercised with varying levels of difficulty. Legal identity is a crucial factor from which every person derives entitlements and obligations that would otherwise not be claimable without that identity.<sup>1</sup>

International norms state clearly the importance of an identity, with the Universal Declaration for Human Rights stating that;

*“Everyone has the right to recognition everywhere as a person before the law.”<sup>2</sup>*

Without identity the process of claiming one's legal rights is excessively difficult. Without birth certificates, marriage certificates, passports, in fact without any of the myriad forms of identity, a person can scarcely be a person in this modern world. It is exactly for this reason that the UN Declaration makes this a universal right.

For example, in Zimbabwe children without birth certificates face difficulties in getting an education because the birth certificate is a prerequisite to sit for national examinations.<sup>3</sup> To achieve the Millennium Development Goals 2 and 3, which are, respectively, to achieve universal primary education, and ensure that all children, both boys and girls, complete full primary schooling by 2015, the Government of Zimbabwe needs to prioritise birth registration and simplify the process and the requirements for such registration. However, neither the current Zimbabwean Constitution, nor the Birth and Death Registration Act [Chapter 5:02], provide for birth registration as a right, yet, obviously, the registration of an individual is the first step towards defining their identity.

In 2010, the Research and Advocacy Unit (RAU) produced a report entitled, “*A right or a privilege*”: *Access to Identity and Citizenship in Zimbabwe*.<sup>4</sup> This report came in the wake of the increasing challenges

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<sup>1</sup> R. Dube A right or a privilege: Access to identity and citizenship in Zimbabwe A report produced for the Research and Advocacy Unit November (2009) 6-7.

<sup>2</sup> Article 6 of the UHDR.

<sup>3</sup> A requirement prescribed in Section 35 (d) of the Zimbabwe Schools Examinations Council Act [Chapter 25:18] referenced in R. Dube A right or a privilege: Access to identity and citizenship in Zimbabwe above.

<sup>4</sup> R. Dube, A Right or a Privilege? Access to Identity and Citizenship in Zimbabwe, A report produced for the Research and Advocacy Unit (RAU), November 2009.

that women in Zimbabwe were facing in accessing the most basic entitlement in their lives, an identity. It also came in the wake of the promulgation of several amendments to the Citizenship Act, which amendments had the effect of rendering a huge part of the population, which had previously been considered Zimbabwean, stateless. This report described the components and essence of the right to citizenship, as well as the importance of identity documents.

In the months of January and February 2012, RAU facilitated eleven (11) focus group discussions with a representative sample of 160 women from nine (9) different provinces in Zimbabwe. These women came from urban, rural, and peri-urban areas.<sup>5</sup> This report is a follow-up to the first report, reflecting the views of the women in the focus group discussions, and also highlighting the various challenges that the women indicated as facing in accessing identity documents, and acquiring citizenship for themselves, and for their children.

### **Levels of awareness amongst the women**

The women in the focus group discussions were clear about the fact that, in Zimbabwe, an individual has the ability to be in possession of seven identity documents, six (6) of which should be given to them during the subsistence of their lives, while one is wholly dependent upon their death. These documents are a birth confirmation record, a birth certificate, an identity card, a passport, a driver's license, a marriage certificate, and a death certificate. Although this report will reflect the views of the women in generally accessing all documents, a separate report shall detail the challenges women face regarding marriage certificates. The women were also aware of the importance of these identity documents; and they stated the following as uses of identity documents and this was stated consistently in all the focus group discussions:

- *These documents give an individual an identity, citizenship rights and statehood;*
- *Using a birth certificate or an identity card, an individual gains access to an education as these documents are needed in registering for the lowest level of school; preschool as well as registering for national examinations;*
- *Birth certificates, identity cards and marriage certificates are very useful tools for individuals to claim their rights as beneficiaries from a deceased estate;*
- *If in possession of an identity card or passport, an individual can register to vote and vote;*
- *An identity card is needed to allow citizens access into formal spaces such as banks, protected offices such as embassies, United Nations offices and some government buildings;*
- *Identity cards and passports are crucial documents for individuals seeking employment in or outside the country, respectively;*
- *Without a valid passport, an individual can not travel to other countries thereby limiting their freedom of movement;*
- *A marriage certificate is also instrumental as proof for a spouse claiming any form of matrimonial privilege.*

### **Accessibility of identity documents**

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<sup>5</sup> They were from Bindura, Buhera, Bulawayo, Chegutu, Chinhoyi, Chivhu, Gwanda, Gweru, Gokwe, Harare, Masvingo, Marondera, Mount Darwin, Mutare, Mutoko, Murehwa, Muzarabani, Rusape, Shamva, Shurugwi, and Uzumba Maramba Pfungwe.

The focus groups established that many people in Zimbabwe face numerous challenges accessing identity documents. These challenges range from unaffordable charges, difficult attitude of the employees at the Registries, and bureaucratic hurdles. The processes of acquiring documents are, by and large, difficult for individuals trying to access identity documents for the first time, but for those who are trying to replace lost, stolen, or damaged documents, these difficulties increase when they are faced by women.

### **Challenges in accessing identity documents**

As suggested above, there are a number of challenges in women trying to access documents that should be their legal right, and, more importantly, should be easy to obtain as citizens. However, as will be seen, the women reported that this is not the case

#### *Unaffordable charges*

The fees set for accessing identity documents were generally perceived as too high and beyond the reach of many Zimbabweans. For instance, getting a birth certificate of a child born in Zimbabwe to Zimbabwean parents is free of charge. However, the cost of getting a birth certificate for a child born outside Zimbabwe has many charges to it. First, the parents have to pay a deposit in South African Rand of ZAR110 into the Zimbabwean Consulate's Standard Bank Account, and then pay United States \$50 upon submission of the forms applying for the certificate at the Registrar General's (RG) Offices in Zimbabwe.<sup>6</sup>

Regarding the costs of acquiring a passport, one woman had this to say:

*"I have an issue regarding passports. I am a widow and I need to do what I can to fend for my family. My first passport was easy and affordable to get. But it has since expired and replacing it has been hard. The costs are prohibitive and I know of a lot of poor and widowed women like me who are struggling to afford the price of getting a passport."*

The Registrar-General's office (R-G) does not seem to sympathise with individuals who lose their documents through theft and other circumstances beyond citizens' control. Although the penalty fee for lost or stolen passports has been removed, citizens still need to pay to acquire the new passport. Surely if it is a case of theft, the passport should be replaced free of charge?

#### *Recommendations*

- *The RG should address the disparity in costs of acquiring a birth certificate for children born outside Zimbabwe as compared to those born in Zimbabwe. Since there is no difference in material used or service offered there is no justification for the disparity in charges as the child remains a Zimbabwean, entitled to the birth certificate as of right?*
- *The RG should also create subsidies for acquiring identity documents for vulnerable members of society including but not limited to the following: widows, orphans and street children.*
- *Replacement of stolen passports where police reports are made available must be for free*

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<sup>6</sup> Birth Certificate, Ministry of Foreign Affairs <http://www.zimbabweconsulate.co.za/main/birth.html>.

### *Attitudes of employees at the office of the Registrar-General*

It emerged in all the focus groups that the employees at the Registrar-General's office are largely rude and unhelpful. The treatment reported ranged from general neglect and ignoring of the public seeking assistance, to outright rude remarks directed at individuals.

One woman stated:

*"We have a big challenge with the people at the RG's office; they neither acknowledge people's presence nor treat others in a respectful manner when people are making enquiries. They are not working the way they should as people who work with the public."*

*"Sometimes the officials at the RG's office have the tendency to make errors and they make the public pay to rectify them as if it is the public that made those mistakes in the first place."*

Citizens are aggrieved with the service they get. The processes are not as speedy as they should be, and there seems to be a deliberate effort to frustrate citizens in a bid to elicit bribes for quicker service.

*"I took my passport in 2003. There were very few passport officers then, but now there are so many of them yet people are still sleeping at the R-G's office. You are not protected in any way. The majority of these people sleeping there are women exposing them to the dangers of being robbed, raped, killed or beaten. Can this be addressed in any way?"*

The women's views resonated with previous reports detailing the extent of delays and the long queues at the R-G's office.<sup>7</sup> Some people have been denied passport renewal as they appeared dead in the system of registries because of mistakes made by employees at the R-G's office. For instance, a Mutare man was denied passport renewal because a death record with all his details had been filed at the R-G's office, yet, upon closer scrutiny, it emerged that the R-G's office had misspelt the name of the actual deceased person.<sup>8</sup>

### *Recommendations*

- *The RG's office should strengthen its complaints procedure to enable public grievances with the employees at the Registrar's office's conduct to be scrutinised and addressed in order to improve the service proffered to the public*
- *The Code of Conduct of employees at the RG's office should become more than just a mere document presented to them, and to which they give a cursory glance when they are first recruited, it should be*

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<sup>7</sup> Gugulethu Nyazema, "Passport Office: Will queues ever disappear?" The Daily News, 8 January 2012 <http://www.dailynews.co.zw/index.php/features/49-featured/6404-passport-office-will-queues-ever-disappear.html>.

<sup>8</sup> Patrice Makova, "Mudedde eposes as 'ghost' seeks passport," The Zimbabwe Mail, 15 April 2012, <http://www.thezimbabwemail.com/zimbabwe/11320-mudedde-exposed-as-%E2%80%98ghost%E2%80%99-seeks-passport.html>.

*the binding norm by which all employees at the RG's office conduct themselves among themselves and between them and citizens seeking services from them.*

#### *Bureaucratic hurdles*

Bureaucratic procedures in getting some identity documents were considered a challenge by most of the women. The women noted that the Office of the R-G has its own set of rules and requirements, varying from place to place, which causes confusion as the women do not know exactly what they need to get identity documents. For example, in some areas, proof of residence is required while in others it is not. In some areas, it is easy for single mothers to get birth certificates for their children using their maiden name, while, in other areas they are required to bring the father of the child, which is against the law which clearly states that women can get birth certificates for their children without the father, should they want to. As a result, some single mothers can not acquire birth certificates for their children without the father, leaving the children vulnerable and likely to go for prolonged periods in life without birth certificates.

The women had this to say:

*"I wanted to get a passport for my child but they wanted me to bring proof of residence. I do not own a property. The house I live in belongs to my father but he passed away before changing the title deeds from the previous owner's name into his name. I do not know how to resolve this issue so I can get a passport for my child"*

*"When a child goes to get an ID, they are asked the name of their village headman and the chief, but if the child does not have that information they can get turned away."*

In some cases, the women are told to bring proof of residence in order to get an ID or a passport, yet in other places the birth certificate is considered as sufficient proof of an individual's origin. Another woman also stated:

*"We are told to bring the landlord and his ID and his proof of residence and an affidavit that I am his tenant. Which landlord would agree to be dragged to the registries office at 4 in the morning in order to be there when you get served at 7 am?"*

#### *Recommendations*

- *The RG's office should issue a public circular which explains in short, precise points and demystifies the requirements for citizens to access each document that the office is responsible for issuing collaborating its efforts with those already underway civil society organisations such as the Legal Resources Foundation. This will ensure that citizens are not confused about what to bring and it will also ensure that the processes are more transparent.*
- *The RG should also distribute among its employees decision of the courts that have changed previous practices and ensure that these decisions are implemented uniformly and consistently across the country. For instance, decisions of the High Court and Supreme Court enabling women to register their children<sup>9</sup> and to acquire passports for their children<sup>10</sup> significantly change the processes women*

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<sup>9</sup> ***Rumbidzai Cleo Katedza v Adrian Tulani Chunga and the Registrar of Births and Deaths*** Case No. HC1043/03 in which the ruling of the court meant that the mother of a child born out of an unregistered customary law union has the right to name her child, and register that name on the child's birth certificate without the consent of

*have to go through yet in most places, women still face the same challenges they used to before these decisions were made.*

### *Corruption*

The women bemoaned the levels of corruption that have plagued the system of the issuance of identity documents. The forms of corruption reported ranged from individuals selling queue positions, selling access to a registration officer, and selling even the right to be acknowledged and served within the R-G's office. Most of the corruption was linked to individuals promising swift and speedy processing of documents. The women's assertions substantiated previous reports in the media about the levels of corruption witnessed at the R-G's office.<sup>11</sup>

The complaints reported were as follows:

*"They let people into their offices through the back door instead of following the queues."*

*"Some people charge USD3 for a letter of proof of residence. They are agents for those who are inside the offices so they get more money from all the people"*

*"I visited mobile registration centers several times, what I saw was shocking. A lot of our youth in rural areas are failing to get ID's because the chiefs will demand payment before they issue someone with a letter to show they are resident in that area. These things need to be addressed. In some cases you will find the officials demanding goats or chickens."*

*"My son lost his passport in Johannesburg. He came back to try and get a 3 day passport. He spent 3 weeks trying to get it without success. He met a young man who pulled him aside and asked for USD50 bribe money. When he paid the bribe he got his passport immediately."*

*"Those who have money can jump the queue and get their passport immediately. But those without money have to sleep at the offices. Once we solve the issue of corruption it would help."*

*"We can talk about the law, but what works is money, everyone likes getting bribes and at the end of the day it is fairly pointless as everyone is very corrupt. Whether you go to the police or to the lawyers it is an issue...that is where we need to resolve a way forward."*

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the father. She can also apply for a passport for her child and travel abroad with him/her without the father's consent. The case of **Nenya v Gombakomba** Case No. HC 10172/02 also confirmed this ruling.

<sup>10</sup> As per the decision of the Supreme Court of Zimbabwe in the case of **Margaret Dongo vs The Registrar General and the Attorney General** SC 6/10-Constitutional Application 292/08 in which the court stated that the guardianship role of fathers over their children as prescribed in the Guardianship of Minors Act [Chapter] did not in any way exclude the mothers' ability to apply for passports on behalf of their children as the act of acquiring a passport fell out of the roles of guardians to perform 'juristic' acts, of which applying a passport is not.

<sup>11</sup> Jane Makoni, "Corruption at RG's Office," The Zimbabwean, 8 February 2012 <http://www.thezimbabwean.co.uk/news/zimbabwe/56168/corruption-at-rgs-office.html>.

Corruption was also reported linked to the Vehicle Inspection Department (VID) through which citizens can acquire drivers' licences.<sup>12</sup> It was pointed out (and is notorious) that employees at the VID demand bribes from anyone trying to get a passport. Such bribes can be acquired from people writing the examination for a learner's driver's licence (also known as the provisional licence) and for the road test in which the learner's practical driving skills are tested. The road test determines whether one continues to have more driving lessons or is awarded a driver's licence. The examiner has room to demand a bribe as they exercise full discretionary powers over who has passed and who has not. As one woman stated:

*"I have paid so many bribes to the VID department for my child to get a driver's licence. The most recent amount was USD300, the day I paid the USD300; he came back with a licence. The VID is one of the most corrupt areas and something needs to be done."*

#### *Recommendations*

- *Corruption should be stemmed by the enforcement of strict disciplinary measures;*
- *Members of the public should have confidence in a system that allows them to report corruption by employees of the RG's office and see it punished accordingly*

#### *Centralisation of the archaic system of Registry*

The obvious backwardness of the system in place presented a major problem for many women in accessing identity documents. Not only is it manual in most registration centres, but it is also centralised at the regional level. Although the decentralisation from the central state has, to some extent, improved the situation, there is still need to enable citizens to access identity documents closer to their homes. Herewith, are some of the sentiments shared in the focus group discussions:

*"Why is it that if you give birth in Harare and you move to Gweru you are told to take a birth certificate where the child was born and not where you will be residing? Can the RG not have a computerised system which is able to respond to the needs of every individual wherever they may be?"*

*"Where I come from in Manicaland, the problem is that the passport process is centralised in Mutare region. Everyone from Chimanimani, Vumba, Bocha and all other areas come to apply for passports at the Mutare office. The costs of travelling to Mutare are high for many people and the queues can be long. How can this be helped?"*

#### *Recommendations*

- *Government should prioritise, as part of the challenges in improving ICT's, the system of registration to make it computerised so that every individual's records can be accessed from a central database available at all registries offices in all districts in Zimbabwe. This will go a long way in alleviating travel costs and improving the accessibility of the current system to many individuals.*

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<sup>12</sup> The Vehicle Inspection Department is the authority tasked to ensure the roadworthiness and fitness of all vehicles in Zimbabwe. They are also responsible for ensuring roadworthy drivers; hence they issue licences and manage the testing of student drivers enabling them to get a proper driver's licence.

### *Inability to get birth records*

Birth records are a pre-requisite for the acquisition of birth certificates. Birth records give proof of the place where the child was born; detailing the hospital and the ward where the child was born, the identity of the delivery nurse, as well as the name of the mother, and the name given to the child upon birth. This requirement is very important as it guards against the theft of children and illegal adoptions. However, many women are failing to get these birth records, not because they are not the true mothers of their babies, but because they are failing to pay maternity fees. In many urban centres, women are detained in hospitals for long periods of time after delivering their babies for failing to pay bills. When they are eventually released, the child's birth record is withheld until they pay off the amount owing in full.<sup>13</sup> Some women had this to say:

*"Birth records are supposed to be taken within 6 weeks after giving birth for free. Some people do not manage to get them at that time because they will be owing hospital fees. After the 6 week period lapses, they will have to pay for the birth record, so most people will not manage. Most people who do not manage to get these documents are people who are already disadvantaged. Some of these things can happen but some people want a lot of bribes at the same time."*

*"In urban communities a lot of people who give birth may have a long stay in hospitals. So the bill will very high. They can be denied access to a birth record until they pay or clear their bill."*

The question of birth records is a clear illustration of the indivisibility, interdependence, and interconnectedness of human rights. In this case, the right to health contained in the ability of citizens to access affordable maternal health care directly impacts upon their ability to acquire identity documents with the failure to get birth records. Consequently, without identity documents, many other rights such as the right to identity itself, the right to education, the right to work, and to exercise their freedom of movement will be affected.

### *Recommendations*

- *Government needs to issue a directive allowing every mother to be given a birth record in order to get a birth certificate for children. In denying the mother a birth record, the state punishes the innocent child- going against every fibre of the principle of the best interests of the child.<sup>14</sup>*
- *Public hospitals must find other means of following up payments of maternity fees, apart from withholding birth records*
- *Government needs to create a wholesome environment in which every citizen has easy, affordable and accessible maternity care. It is a duty of excellence and sacrifice for women to give birth and enable population growth. They must not be punished for it.*

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<sup>13</sup> See "Hospital Practice Challenged" The Zimbabwean, 7 October 2011, <http://www.thezimbabwean.co.uk/news/zimbabwe/53500/hospital-practice-challenged.html>.

<sup>14</sup> The principle of 'the best interests of the child' is set out in the United Nations Convention on the Rights of the Child (CRC) urging states to protect children and ensure that decisions made by state and non-state actors are made with their primary consideration being in the best interests of children in order to safeguard their well being.

## Challenges specific to replacement of identity documents

The scourge of political violence that has marked Zimbabwe's elections since 2000 has not only had physical and psychological impact,<sup>15</sup> but it has also had tremendous effects on access to identity documents. Some people, who lost their identity documents through political violence, when their identity documents were either burnt to ashes together with other household property, or confiscated by the police, face many problems replacing these lost documents. Among the women that participated in the focus group discussions, the following sentiments were raised concerning some of the challenges women face in replacing lost, damaged, or stolen documents:

*"My husband was from Mozambique. I lost his death certificate in a fire when my house was burnt. As a result I had to get my son's birth certificate in my name. Changing that name to the father's name is a very difficult process as I have no way of accessing records to his identity. I have tried getting a replacement of my husband's death certificate but have failed."*

*"I was kidnapped by the police in Kuvadzana where I live. They confiscated my identity documents. For a long time I did not know who to report to because usually one should be able to report to the police, but now if it is the same police who took my documents what was I supposed to do. I was then advised to go to a different police station in a place where they do not know me and report that my documents had been stolen."*

A number of people who had lost their identity cards also reported that, on replacement, the new identity documents now recorded them as aliens, a term given to Zimbabweans of white origin, or of foreign origin, who are perceived not to have their ancestral roots in Zimbabwe, and hence have no rural home in Zimbabwe. For the women, this new dimension tended to raise further problems for them regarding getting identity documents for their offspring. It also then disenfranchised them, as aliens can not vote in terms of the current electoral laws.

### *Recommendations*

- *Where documents are lost as a consequence of **vis maior** (unforeseen circumstances) which are beyond the control of the document holder, the RG's office should replace these documents either for free or at a very low cost.*
- *The requirement for those reporting lost documents through theft or arson to have a police report is a reasonable requirement that should ordinarily be observed. However, in the context of electoral violence, such police reports were not available as the police were refusing to take records of any cases related to elections and electoral violence.<sup>16</sup> Hence the system should be flexible to accommodate such eventualities with the best interests of the citizens at the centre of their service provision.*

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<sup>15</sup> AP Reeler, Zimbabwe women and their participation in elections, Research and Advocacy Unit, December 2011 and Women, Politics and the Zimbabwe Crisis, Research and Advocacy Unit (RAU), IDASA (An African Democracy Institute), the International Centre for Transitional Justice (ICTJ) and the Women's Coalition of Zimbabwe (WCoZ), May 2010.

<sup>16</sup> Preying on the "weaker" sex: Political Violence Against women in Zimbabwe, Report Produced by the Research and Advocacy Unit (RAU), (IDASA) An African Democracy Institute and the International Centre for Transitional Justice

### *Specific Challenges for single women*

Single women face unique difficulties accessing birth certificates for their children. This is true despite the existence of standing and binding decisions from the courts allowing single mothers to get birth certificates for their children by themselves in their names should the father refuse to give the child his name.<sup>17</sup> Most women, unaware that they can get children's birth certificates in their names, raise their children without this important identity document simply because the father would have refused to cooperate.

Should they want to give the child the father's surname, at the R-G's office, the women are required to bring the father of the child and 2 witnesses in order to get the birth certificate. This then deters the women from accessing the birth certificate as they can not get all 5 people involved; namely the mother, the father, the child, and the 2 witnesses in one place at the same time.

Older women, left behind with their orphaned grandchildren, also face similar serious challenges as the fathers may have run away or denied responsibility, and they cannot get the witnesses required to acquire the birth certificates.

Some of the women in the focus group discussions stated that the ability to make the birth certificate in their own name remains a problem. The women explained that the issue is not just about giving the child a birth certificate, but about giving them their true identity. Some women face challenges from society in general, or their families in particular, should they decide to give the child an identity that does not show the father. Sometimes, children who are old enough to understand the implications may refuse to adopt the mother's name.

### *Recommendations*

- *Single mothers, especially those who are abandoned whilst pregnant or those who take care of orphaned children are vulnerable members of society. Hence they should be at the centre of the state's social welfare system. This should include special assistance in the acquisition of identity documents rather than making the system more difficult for them as compared to married couples.*
- *The R-G's office should give single mothers easy access to register their children in line with standing decisions of the courts. It should not take an order of the court to compel them to do so as most women are either, unaware of these decisions or unable to get the relevant legal representation to compel the RG to implement these decisions.*

### *Citizenship*

*"Breathes there the man with soul so dead, who never to himself hath said, This is my own, my native land! Whose heart hath never within him burned, as home his footsteps he hath*

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(ICTJ), November 2010; No Hiding Place: Politically Motivated Rape in Zimbabwe, Produced by the Research and Advocacy Unit(RAU) and the Zimbabwe Association of Doctors for Human Rights (ZADHR), December 2010; A.P Reeler, Zimbabwe women and their participation in Elections, Research and Advocacy Unit, December 2011; Preying on the Weaker Sex, Research and Advocacy Unit (RAU), 2010.

<sup>17</sup> Katedza vs Chunga (as above).

*turned, from wandering on a foreign strand! If such there breathe, go mark him well; For him no Minstrel raptures swell; High though his titles, proud his name, Boundless his wealth as wish can claim; Despite those titles, power, and pelf, The wretch, concentr'd all in self, Living, shall forfeit fair renown, And, doubly dying, shall go down To the vile dust, from whence he sprung, Unwept, unhonour'd, and unsung.”<sup>18</sup> (Sir Walter Scott)*

These wise words speak to the importance of citizenship.<sup>19</sup> Why is citizenship so important? Citizenship determines the legal status of individuals within a state and shapes their relationship with the government, setting out the parameters of an individual’s civil, political, social, economic and cultural rights and competence. Article 15 of the Universal Declaration of Human Rights (UDHR) says “[e]veryone has the right to a nationality” and that “[n]o one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.” In Zimbabwe, the state does not give citizenship to individuals simply because they are residents, or even because they are born here. By denying many people citizenship, the state is capitalising on the weaknesses of the international world order which permits differential treatment between citizens and non-citizens when it comes to matters of voting and citizen participation in politics. However, in Zimbabwe, the distinction is prone to abuse with certain individuals being labelled as ‘non-citizens’ (when they are in fact citizens) so as to disenfranchise them. The determination of citizenship serves a political agenda.

Since the enactment of the Amendment to the Citizenship Act,<sup>20</sup> many people have faced numerous challenges acquiring citizenship. These were examined in detail in a 2010 RAU report<sup>21</sup>. As was pointed out in this report, citizenship is usually accorded to individuals through three means; birth, descent, or naturalisation. By birth, it means that, if an individual is born in a certain country, they are citizens of that country. It may also be acquired by virtue of being born to a citizen, whether that person is living in or outside the country of their citizenship, and this is known as citizenship by descent. Citizenship can also be acquired by application to the relevant authorities of a state, known as acquired citizenship or naturalisation. In Zimbabwe, however, these usually predictable patterns of acquiring citizenship are not as predictable, posing the question of who is or who is not entitled to Zimbabwean citizenship. The answer to that remains a mystery to all except the Registrar-General who is the responsible authority for overseeing matters of identity and citizenship.

The focus groups raised a number of new issues that are of grave concern.

#### *Loss of citizenship upon loss of identity documents*

A number of the women who participated in the focus groups reported that they had lost their citizenship. One of them had lost her identity card in a fire that had been caused by political violence. When she tried to replace the document, the replacement came back labeling her an alien.

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<sup>18</sup> Sir Walter Scott, *The Lay of the Last Minstrel*, ed. Margaret A. Allen, canto sixth, 1, lines 16, p. 123.

<sup>19</sup> Sir Walter Scott was a Scottish Novelist, Poet, Historian and Biographer, 1771-1832.

<sup>20</sup> Citizenship of Zimbabwe Act [Chapter 4:01] as amended by Acts 23/1984, 7/1990 (s. 152(5)), 12/2001, 22/2001 (s. 4), 23/2001 (s. 49), 1/2002 (s. 43), 12/2003.

<sup>21</sup> R. Dube, *A right or a Privilege, Access to identity and citizenship* (as above)

One woman from a rural farming community reported:

*“I am troubled by the issue of aliens. Like many other people, I may be a descendant of a Malawian father but I was born in Zimbabwe. But now I can not vote because I am classified as an alien”*

#### *Denial of citizenship upon delaying acquisition of an identity card*

Some of the women explained that, in their areas, anyone who tries to acquire an identity document after they have reached the age of 20 gets an 'alien' identity, meaning that they are not citizens. This seems to be due to the attempt to disenfranchise the younger citizens, a demographic group that has consistently shown a lack of affiliation to ZANU PF.

#### *Inability of women to transfer citizenship to foreign spouses*

The women reported that the law declining women the right to pass on their citizenship to their foreign husbands was one of the main factors affecting children's access to identity documents. In most cases, if the spouse is a foreigner, they have to acquire Zimbabwean citizenship first in order to give the child a Zimbabwean identity. The acquisition of such citizenship status is a lengthy and costly process hence prejudicing the child's ability to possess an identity.

As a consequence, the R-G has faced legal suits for denying individuals citizenship. He has been challenged in court for refusing to grant a passport on the basis that the individual concerned had dual citizenship and therefore had to revoke one entitlement in order to be considered as a full Zimbabwean citizen.<sup>22</sup> In another case, the R-G unilaterally revoked the citizenship of a Zimbabwean businessman and seized his passport declaring him no longer a Zimbabwean citizen.<sup>23</sup> However, he was ordered to restore it by the courts. All these cases point to the clear abuse of power that the discretionary powers the RG holds regarding citizenship rights are permissive of.

#### *Recommendations*

Citizenship is a make or break factor for the lives of individuals. It is therefore central to the realization of human rights by every individual and should not be granted or revoked willy-nilly. It does not only affect the individual concerned, but cascades to generations of descendants linked to that individual. The loss of citizenship or the inability to obtain citizenship also means that the freedom of movement of these women is limited. They can not get passports, which are an important form of identity that denotes the nationality of its holder. A passport confirms nationality or citizenship of Zimbabweans.

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<sup>22</sup> See Piroro Case Alex Bell, Registrar General faces Court Action after refusing Zim man passport,” SW Radio Africa, 26 October 2011, <http://www.swradioafrica.com/2011/10/26/registrar-general-faces-court-action-after-refusing-zim-man-passport/>.

<sup>23</sup> See “Government tries to revoke Trevor Ncube's citizenship” <http://www.insiderzim.com/stories/2610-government-tries-to-revoke-trevor-ncubes-citizenship.html> 22 October 2011.

Hence;

- *The denial or retraction of citizenship must not remain the prerogative of an individual, in this case the Registrar General;*
- *The government of Zimbabwe must co-operate with the governments of Malawi, Mozambique and Zambia in particular to ensure that all Zimbabwean individuals of Malawian, Mozambican or Zambian descent gain access to identity documents and citizenship of either country to avoid creating huge swathes of stateless persons.*

### **Concluding Remarks**

One thing stands clear; the office of the R-G holds immense power. Its management affects scores of people. The ability to give or withdraw people's identity documents or to grant or revoke citizenship status must and should not be vested in an individual's discretionary powers. Hence, the following reforms are necessary:

- *The RG's office should be subjected to public scrutiny with a view to increasing public accountability and transparency in the administration of the country's political systems and also with a view to upholding citizens' rights to identity and citizenship*
- *Clear steps by which processes of registration to acquire identity documents, citizenship and appear on the voters' roll are carried out must be laid out. Such steps must be concise and should be carried out by independent, objective employees at the RG's office. In the event of these employees' failing to follow the laid out procedures, prescribed disciplinary measures must be applied without fear or favour*
- *The staff at the RG's office needs training to foster attitudinal change among employees so that the office serves the interests of the public timeously and courteously*
- *Structural changes to ensure that where discretion is required it does not lie in the hands of an individual but a system of individuals with the competence to make such decisions must be made*
- *The system of registration must be networked allowing citizens to access their details from any part of the country without incurring unnecessary expenses.*

As the Co-Minister of Home Affairs said, "Passports are supposed to be a birthright not a privilege,"<sup>24</sup> and indeed every identity document must be looked at in that light.

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<sup>24</sup> Theresa Makone shocked by corrupt officials at the Registrar General's Office, Zimbabwe Metro <http://www.zimbabwemetro.com/theresa-makone-shocked-by-corrupt-officials-at-the-registrar-general%E2%80%99s-office/>