



## **WELCOME SPEECH BY THE ZHRC CHAIRPERSON, DR. E.H MUGWADI AT THE OFFICIAL LAUNCH OF THE REPORT ON THE NATIONAL INQUIRY ON ACCESS TO DOCUMENTATION IN ZIMBABWE**

*Date: 30 September 2020*

*Venue: Meikles Hotel, Harare*

*Our esteemed Guest of Honour, Speaker of the Parliament of Zimbabwe, the Honourable Advocate Jacob Francis Mudenda*

*Cabinet Ministers here present*

*Fellow Commissioners and former Commissioners of the Zimbabwe Human Rights Commission here present*

*Representatives of Sister Independent Commissions*

*The Executive Secretary and Secretariat of ZHRC*

*Heads of Government Ministries and Departments here present*

*Parliamentary Portfolio and Thematic Committees here with us*

*Distinguished Traditional Leaders and Members of the Chiefs Council of Zimbabwe*

*Our Highly Respected Development Partners here present*

*Civil Society Organisations represented here*

*Members of the Media Fraternity*

*Ladies and Gentlemen*

*All protocols observed*

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It is with a great sense of pride and achievement that I stand before you today as the current Chairperson of the Zimbabwe Human Rights Commission to welcome you to this grand occasion which is the first of its kind for the ZHRC as we launch the National Inquiry (NI) Report on Access to Documentation in our beautiful land Zimbabwe. This important task was carried out in discharge of the Commission's dual mandate as a National Human Rights Institution and Public Protector formally Ombudsman on Administrative Justice functions.

The Report we are launching today is a product of an almost year-long nationwide inquiry conducted by the Commission from May 2019 to April 2020, with the aim of getting a deep understanding of the underlying reasons why a significant proportion of citizens were facing challenges in accessing identity documents. The main objective being to find durable solutions to the identified problems. The National Inquiry focused on five national documents, namely: birth certificates, identity cards, passports, death certificates and citizenship.

A National Inquiry is an investigation or research into a systemic human rights problem in which the general public and stakeholders are invited to give evidence, voluntarily. Many National Human Rights Institutions (NHRIs) the world over, have the function of conducting National Inquiries when necessary, as a way of resolving systemic human rights issues. The Zimbabwe Human Rights Commission is empowered to conduct National Inquiries by Section 243 (1) (j) of the Constitution of Zimbabwe which

mandates the Commission to conduct research into issues relating to fundamental human rights, freedoms and social justice. The National Inquiry on Access to Documentation is ZHRC's first ever National Inquiry in its quest to address systemic violations of human rights in this country.

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Mr Speaker Sir, the decision to conduct the National Inquiry on Access to Documentation in Zimbabwe was informed by empirical evidence obtained from the Commission's programming work, in which it was established that lack of documentation had serious negative impacts which impeded the full enjoyment of human rights on the part of a significant proportion of the citizenry and residents of this country.

The Commission, has organised this event to celebrate the product of what to us was an enormous research, and to reflect on the journey we went through which was nothing short of a 'roller-coaster'. The Commission as you know has not yet been empowered to decentralise to all Provinces and Districts and had to rely on various stakeholders who assisted us to have access to remote parts of the country where the challenges of ease access to documentation are most prevalent.

Stakeholder consultations and outreaches were conducted in all the districts with public hearings taking place in all the 10 provinces of the country from June – November 2019. A total of seven hundred and forty-one (741) stakeholders and twenty thousand, five hundred and sixty-four (20,564) persons were engaged in the National Inquiry process. Seven thousand five hundred and forty-four (7544) written submission forms from individuals were received whilst one hundred and ninety-one (191) written submission forms were also received from stakeholders.

Our capacitation through pre- inquiry training to carry out the National Inquiry, as well as our emotional state of preparedness were, I must admit thoroughly put to test in this exercise. We are glad the Registrar General's Office and the Department of Social Welfare were with us throughout the process witnessing the anguish and hopelessness of our people as they

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gave their heart rending testimonies on why they had failed to access the documents for themselves, their wives, their children, their grandchildren, their nieces, their brothers, their sisters and other loved ones within the family unit. It was disheartening to witness on countless occasions scenes of sobbing men and women who had almost lost hope of acquiring these documents for themselves or their dependants.

The findings contained in the Report are an eye-opener on the various challenges that confront people in accessing national documentation and the negative impact that lack of access to identity documents has on their lives. The findings were validated at Provincial levels by Stakeholders and therefore, the Commission is proud and confident that this Report is a true reflection of the prevailing challenges that

people are facing in accessing documentation and will be a useful tool that will be used to influence remedial policy formulation and the appropriate legal framework on the issue of documentation in Zimbabwe.

The report unveils root causes and factors that hinder documentation including but not limited to the following; generational non-documentation, poverty, negative cultural and religious practices and beliefs, migration and unknown whereabouts of parents, procrastination, negligence and lack of awareness by parents and guardians on the significance of national documents as well as home births that result in lack of birth confirmation records which are a sine qua non for birth registration. In addition and conversely the NI revealed a host of challenges faced by the Registrar General's Department that include resource constraints and poor conditions of service for personnel working in the Department especially at provincial and district levels, continued centralisation of some services, rigidity in application of policies and lack of human rights-based

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approach to service delivery, sporadic mobile registration exercises, to mention but a few.

Honourable, Mr Speaker, Sir, while it is not within your personal power to address all these challenges, I believe it is within your purview through the August House you preside over and that of the Ministry of Home Affairs and Cultural Heritage that administers (the RG's Department, Immigration Department and Zimbabwe Republic Police) to ensure 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]. 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.<sup>1</sup> Section 43 of the Constitution on Continuation and restoration of previous citizenship, guarantees the so-called Aliens from SADC, Citizenship by birth and yet many of them remain here as Aliens<sup>2</sup>. Acquisition of a passport in Zimbabwe remains a tall order when Section 66 of the Constitution on Freedom of Movement guarantees the right to a passport or other travel documents as inalienable rights.

In relation to the right of access to a birth certificate, the Commission received numerous testimonies of children who dropped out of school,

<sup>1</sup> Section 35 (3) entitles all Zimbabwean citizens, rights and benefits to the protection of the state wherever they maybe, to passports and other documents, to birth certificates and other documents.

<sup>2</sup> Section 43 on Continuation and restoration of previous citizenship to every person who was born in Zimbabwe before the publication day of the Constitution to be a Zimbabwean citizen by birth if (a) one or both his or her parents was a citizen of a country which became a member of SADC at its establishment and b) he or she was ordinarily resident in Zimbabwe on the publication day.

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failed to enrol at schools of their preference, including government schools or failed to participate fully in inter-school sporting activities because of lack of birth certificates. This state of affairs prevails in spite of the provisions of Section 81 (c) (i) and (ii) which guarantees prompt provision of birth certificates to

children<sup>3</sup>. These provisions need to be operationalised and implemented so as to put into effect the letter and spirit of the Bill of Rights in the Constitution.

Let us remember as a nation, that a document such as a birth certificate, is the primary identity document from which all other rights flow and which enables a person to acquire all the other national documents. These national documents enhance a person's ability to navigate through life and achieve personal fulfilment. On the other hand, lack of a birth certificate results in far reaching consequences and shuts doors to life's opportunities. In particular, lack of access to a birth certificate impedes enjoyment of fundamental human rights and freedoms. Birth registration establishes a person's legal existence, legal personality and identity. Birth registration is therefore documentary proof of nationality. The importance of nationality is to prevent statelessness. Accordingly, undocumented persons do not exist legally and are considered as lacking citizenship of any country. They therefore run the risk of falling outside the reach of government's protective measures towards them which protection is a Constitutional obligation.

Ladies and Gentlemen, most affected witnesses who gave testimonies during the National Inquiry made it clear they did not feel that they belonged to the country as it was difficult for them to access rights which

3 Section 81 (c) (i) (ii) accords children under the age of eighteen years born in Zimbabwe or born outside Zimbabwe and is a Zimbabwean citizen by descent prompt provision of a birth certificate.

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are supposed to be enjoyed by citizens such as rights to healthcare, housing, travel documents, social welfare benefits, cell phone lines, bank and mobile money accounts, education and other civil and political rights. With the prevailing socio-economic challenges, many reportedly wanted passports not only to facilitate freedom of movement as contemplated in Section 66 of the Constitution but as a source of livelihoods. It is no secret that many of our people survive on cross – border trade and those close to the borders who came to testify admitted that they ended up resorting to illegal entry into neighbouring countries, compromising their rights to life, personal security, human dignity and also becoming vulnerable and susceptible to exploitation, abuse and modern forms of slavery and servitude. It is therefore clear, Mr Speaker, Sir, ladies and gentlemen that urgent responses are needed to address the identified challenges so that the plight of people failing to enjoy human rights due to lack of documentation can be resolved or minimised. As a Commission, we therefore, appeal to stakeholders to whom recommendations have been addressed in the Report to take ownership of those recommendations and work expeditiously towards their implementation. The yearning among citizens for enjoyment of fundamental human rights and freedoms has never been greater and should be met by adopting lasting solutions that are proposed in this Report. 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), refugees at Tongogara Refugee camp, prison inmates, the floods and cyclone Idai affected communities among others.

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May I end this short discourse Ladies and Gentlemen, by thanking our development partners, in particular TRACE, who availed resources and technical support to the project. We thank you wholeheartedly. The launch of the National Inquiry Report is not the end of the journey but the beginning of yet another task of ensuring that the recommendations are implemented so that affected individuals, families and communities are facilitated to acquire the national documents which they yearn for. We believe that their challenges are not insurmountable since during the National Inquiry process, we celebrated several success stories where some individuals managed to acquire national documents on the spot during Public Hearings. If the Department of Social Welfare continues to work closely with the RG's Department as they did during the Public Hearings, we will certainly be assured of speedy resolution of most of the cases of non-documentation which were brought to our attention. I would also like to thank all stakeholders who facilitated and participated in the National Inquiry, some of whom are represented at this event. I sincerely thank the ZHRC Secretariat who worked diligently and tirelessly during the outreaches, data gathering, analysis and compilation of this Report. Last but not least, I would like to thank my fellow Commissioners serving and recently retired, who participated throughout the process by gathering compelling evidence and patiently listening to and documenting numerous testimonies of witnesses upon which this Report is based. I thank you all for joining us to witness this joyous occasion during this not so joyous Covid – 19 induced lockdown which has also imposed further limitations in terms of access to national documentation since the RGs Offices have not been fully operational since the initial phase of the

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National Lockdown in March 2020. May Almighty God continue to protect us all.  
I THANK YOU.