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The Zimbabwean Documentation Process: Lessons Learned

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Background on the Zimbabwe Documentation Process

'I am tired now, I just feel like giving up on this.'

Applicant queuing at the Harrison Street office in
Johannesburg, 2 December 2010

Between September 20 and December 31, 2010, the Department of Home Affairs (DHA) carried out the Zimbabwe Documentation Process (ZDP). Intended as a model for similar documentation projects that the DHA plans to extend to other categories of Southern Africans, the process provided a path for regularising the status of undocumented migrants. It also provided an alternative to the asylum system, which Zimbabweans have turned to in large numbers. Many of these individuals have been waiting for extended periods for their asylum claims to be finalised.

As part of its justification for the short duration of the ZDP, the DHA characterised the process as an extension of the one year special dispensation for Zimbabweans, which lasted from April 2009 to April 2010. The special dispensation protected Zimbabweans from deportation and introduced a three-month visa-free entry system. The third element of the special dispensation – a special permit that would enable Zimbabweans to remain in the country – never came into effect during this period.

According to the DHA, the special dispensation was officially in effect for a year. The moratorium on deportations, however, continued after the dispensation ended. On 2 September, 2010, Cabinet announced that it was ending the special dispensation, signalling that deportations were set to resume. Shortly after this announcement, the DHA announced the ZDP, introducing a special permit for Zimbabweans who had been in the country prior to 1 May, 2010 and extending the moratorium until the end of the documentation process.

The ZDP relaxed the normal requirements for work, study, or business permits. The application had three primary components:

- 1) A completed application form, together with fingerprints
- 2) A Zimbabwean passport

- 3) Documentation confirming one of the following: a) proof of employment (e.g., an affidavit from the employer); b) proof of registration with an educational institution; or c) Proof of business (e.g., company registration, registration with the South African Revenue Service).

At some point during the process, the DHA began allowing all eligible Zimbabweans to apply, regardless of when they entered the country. The passport requirement was relaxed during the last two weeks of the process. Individuals could then apply if they had a receipt showing that they had applied for a passport. During the last few days of the process, the DHA called on all individuals who had proof of Zimbabwean nationality of any kind to register with the department.

In the period leading up to the documentation process, civil society organisations began voicing concerns about the short timeline provided and the management of the process. These concerns continued as the process got underway. In light of these concerns, and in order to identify any obstacles as they emerged, the African Centre for Migration and Society (ACMS) – formerly the Forced Migration Studies Programme – began sending researchers to observe the situation at several DHA offices. The researchers also began administering a survey to prospective ZDP applicants as they stood in the queues.



Applicants queue outside the DHA office in Harrison Street, Johannesburg.

The findings from this monitoring provide a picture of how the process worked and highlight important problem areas. As such, they offer valuable lessons that can assist the DHA to make improvements if the process is duplicated for other nationalities. This report presents the key lessons learned, with suggestions for carrying out future regularisation measures.

Methodology

ACMS began monitoring the Johannesburg DHA office at the beginning of October 2010. Researchers also began administering a survey that targeted the experiences of individuals queuing outside these offices. The questions asked about the current immigration status of applicants, their knowledge of the documentation process, the efforts they had made to obtain the necessary documentation, and their interactions with staff at the DHA offices.

The survey commenced on 22 October 2010 at the Harrison Street office of the DHA in Johannesburg. As resources allowed, the survey was extended to the Market Street office in Johannesburg, as well as the Pretoria, Germiston, and Cape Town offices. At the same time, field researchers continued to monitor general conditions at these offices.

A total of 905 applicants were surveyed between 22 October 2010 and 31 December 2010. Table 1 indicates the number of surveys administered at each office. The number of surveys completed at each office was contingent on the availability of researchers, given the short time period for implementing the research project.

Table 1: Survey Sample by DHA Office

Johannesburg/Harrison Street	199
Pretoria	511
Johannesburg/Market Street	10
Germiston	66
Cape Town/Wynberg	119

The Lead-Up to the Process

Timeframes for Preparation and Application

The Zimbabwean Documentation Process (ZDP) was announced at the beginning of September 2010. It began operating a few weeks later, on 20 September 2010 with a stated end date of 31 December 2010. Given ACMS's empirically-based estimate of approximately 1.5 million Zimbabweans in the country,¹ and DHA's own numbers confirming at least 400,000 Zimbabwean asylum seekers since 2008, three months was an extremely ambitious timeline.

In fact, the short lead time for the ZDP, and the brief period allocated to the process itself, were the greatest obstacles to its success. Neither DHA offices nor individual applicants had sufficient time to prepare in advance of the process. Once underway, pressures stemming from the short duration of the process hindered its effective functioning.

The short lead time for the ZDP, and the brief period allocated to the process itself, were the greatest obstacles. Neither DHA offices nor applicants had sufficient time to prepare. Pressures due to the short duration of the process hindered its effectiveness.

The Minister of Home Affairs suggested that these documentation options had been open to Zimbabweans for over a year – since the commencement of the special dispensation for Zimbabweans.² However, this claim is somewhat misleading as individuals could only claim work, study, or business permits under the special dispensation through the normal, and much more stringent, conditions for these permits. The survey findings suggest that the majority of applicants were relatively unskilled labourers who would not have been eligible for work permits prior to the relaxation of permit conditions under the ZDP initiative. Thus, entering the asylum system was the only regularisation option open to the majority of beneficiaries of the special dispensation prior to September 2010. Accordingly, and contrary the Minister's statements, the bulk of applicants had only three months to apply for regularisation.

¹ 'Population Movements in and to South Africa,' Forced Migration Studies Programme Fact Sheet 1, Updated Version: June 2010.

² 'No deportation of Zimbabweans until all processes finalized,' Press Statement, 23 December 2010, available at <http://www.info.gov.za/speech/DynamicAction?pageid=461&sid=15406&tid=26125>.

Unmanageable Levels of Demand

The rush to apply before the deadline created overwhelming levels of immediate demand on the system. Consequently, individuals faced exceedingly long queues and were forced to spend multiple days away from work, study, and childcare, often staying overnight outside the DHA offices in the scramble to meet the deadline.

At the same time, the short time for implementation left many DHA offices ill-prepared for the start of the process. Many DHA offices reported that they required additional staff and resources, as well as extended working hours.



An applicant sleeping outside the Harrison Street DHA Office.

Insufficient Time to Prepare Applications

The short application window made it impossible for most applicants to obtain the necessary documents before the deadline. Acquisition of passports posed the greatest challenge, for two reasons. First, to obtain a passport, many applicants had to return to Zimbabwe for birth certificates, a journey that levied a significant time and financial burden. Second, the Zimbabwean consulate was unable to meet the demand for passports. This is an important

lesson for future regularisation processes, as government bureaucracies in SADC more broadly may be ill-equipped for accelerated processing of mass applications.

As a result of the difficulties obtaining passports, the documentation process was biased against those who did not previously possess passports—a category that included many otherwise eligible applicants. Only 12% of respondents in the survey had managed to obtain passports following the announcement of the documentation process – the rest had held passports prior to the launch of the ZDP. Desperate to meet the deadline, many individuals applied with expired or expiring passport, and the consequences of this strategy for their applications remain unclear.

Zimbabweans who did not manage to obtain a new passport in the three months running up to the December 31 deadline could not apply until the passport requirement was relaxed during the last two weeks of the process.

Key Obstacles in the Lead-Up to the Process

- There was inadequate time between the announcement and implementation of the process, resulting in:
 - inadequate preparation of regional offices; and
 - insufficient time for individuals to obtain the documents necessary for their applications.
- The short duration of the documentation process created unnecessary pressures on the application process.

Lessons Learned: Recommendations

- ✓ Increase the time period between announcement of a regularisation process and its implementation in order to provide sufficient preparation time.
- ✓ Ensure that regional DHA offices are fully prepared for the regularisation process, with adequate information, staff, and training, before the process commences.
- ✓ Provide adequate time for the application process so that the rush to meet the deadline does not create demand and queues beyond the capacity of DHA offices to manage.

Problems with Queue Management

'I have no idea what is happening. I just wish an official would come out and speak to us.' Harrison Street, 2 December 2010

'I do not know what is going on. I do not know if I will be served or if I will go home. The lines are really long and they do not tell us if we all will be seen.' Cape Town, 13 December 2010

'There is an older guy who hands out papers, but he does not hand them out to people – you have to go to him, and I do not want to lose my space.' Cape Town, 17 December 2010

Access to DHA Offices

Access to DHA offices and the related issue of queue management were among the biggest challenges in the documentation process. Individuals generally queued for several days before getting inside, and 14% of respondents resorted to approaching more than one office in an effort to gain access and successfully apply.

These difficulties were exacerbated by the fact that applicants had to queue over multiple days to complete the various steps of the application process, and 17% of all respondents reported spending the night waiting outside the office – two nights on average. Among those who slept outside the office, 21% said there were children in their care when they did so. Others complained that the need for childcare meant that they could not queue for long periods, or overnight, and that this prevented them from completing the application process.

The long queues exposed applicants to danger, especially when queuing overnight. A small proportion of people (5%) reported being hurt, threatened or robbed while waiting in the queue. Some were harassed by passersby or others in the queue. However, close to a third (32%) of those who reported mistreatment pointed to security guards as the perpetrators.

Queue Management

During the long time spent in the queue, the majority of applicants did not receive any information about the process by which they would be admitted to the offices or the manner through which they should lodge their applications. Only 23% of respondents reported receiving any information on the process while they were in the queue. Those who obtained information were more likely to obtain it from others in the queue (42%) than from a DHA official (37%). In the absence of information about the application process—and the likely cut-off point for applications on a particular day—many arrived in the early morning hours and spent all day in the queue, only to be turned away at the end of the day. This problem could have been alleviated by the use of appointment slips in combination with a system for determining how many people could be served each day.

Conditions in the queue were also problematic, particularly given that the short application window created lengthy queues. Individuals spent several hours every day waiting outside the DHA offices with no protection from the sun or rain, no seating, and in many cases no access to toilets.



Applicants queue outside the Pretoria office of the DHA.

Key Obstacles in Queue Management

- High demand due to the short application period impeded access to DHA offices.
- Most DHA offices lacked an effective system for managing queues, leaving people outside of the offices for hours and days at a time.
- Individuals in the queues received no information on the application process or the procedure for admitting applicants.

Lessons Learned: Recommendations

- ✓ Extend the application period for regularisation processes in order to alleviate pressure at the DHA offices.
- ✓ Provide information to applicants about the queuing and application process.
- ✓ Develop an effective system of queue management that gives applicants an indication of whether they will be served on a particular day, in combination with an appointment system.

Inefficiencies in the Application Process

'I wish the system was faster. I missed work today and I am afraid that I will not be seen today and I will miss more work.' Cape Town, 15 December 2010

'I have come to check my application. I give my passport in the morning and I wait until the afternoon and they tell me my application is pending.' Cape Town, 24 December 2010

'You're obtaining a permit in an arduous way. This is the fifth day I'm here and just to find out if I'm approved. The process changes everyday too.' Harrison Street, 1 December 2010

Protracted, Multi-Stage Application Process

The lack of preparation gave rise to multiple and unnecessary inefficiencies in the application process. Individuals generally had to queue, often over several days, for each of three steps in the application process:

- 1) Picking up the application form;
- 2) Returning with the completed application form to receive a number; and
- 3) Waiting for the number to be called to submit the application.

Often, they had to return to the office on another day to

- 4) Pick up receipts acknowledging their applications; or
- 5) Enquire about the results of their application because of the lack of communication from the DHA.

At some offices, applicants who had received an SMS arrived at the office to find there were two additional steps in the process:

- 6) Submit their passport number to a security guard who would conduct a block-and-trace procedure to check the applicant's record.
- 7) Return to the office to collect their receipt and/or decision after being cleared under this procedure.

On average, respondents who participated in the survey as they queued had been to that DHA office three times. The burden on applicants could be greatly eased, and queues greatly reduced, through streamlining the application process, preferably to a single stage.



Distribution of documents outside the Harrison Street DHA office.

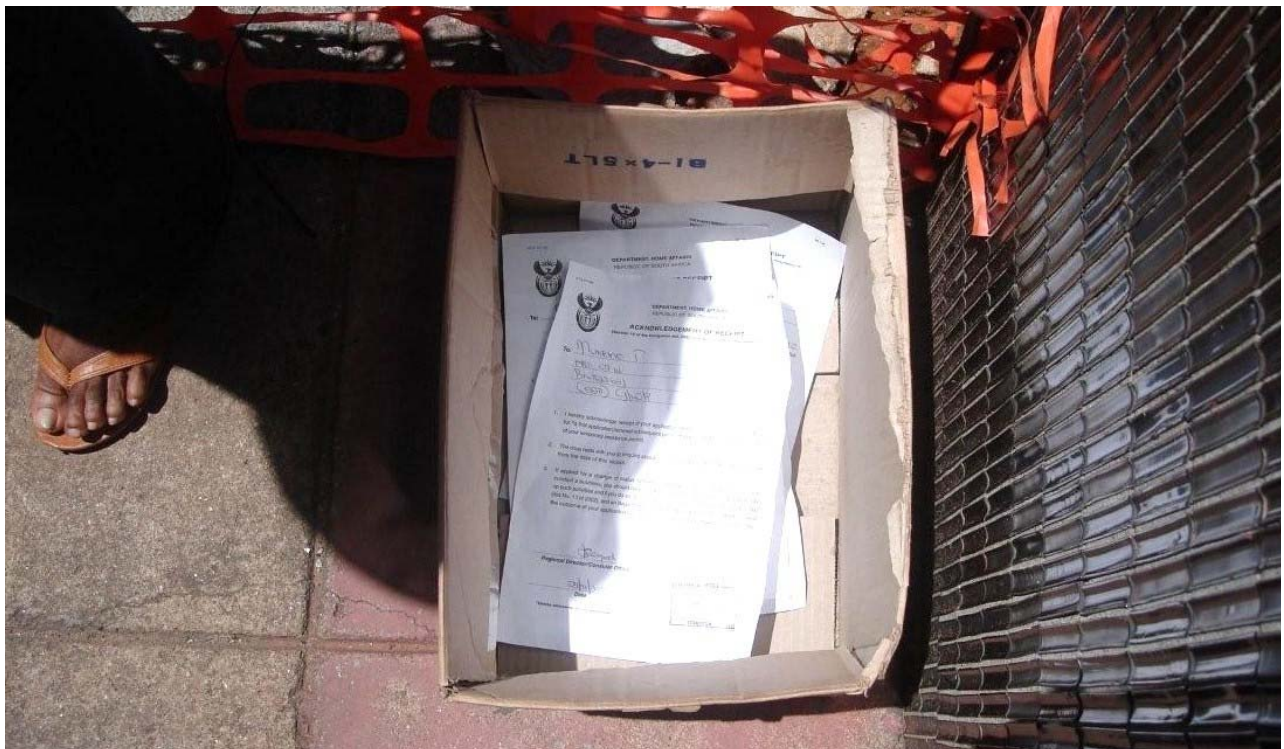
Distribution of Application Forms

One of the greatest contributors to the inefficiency of the process—and one of the easiest to remedy—was the method by which the application forms were distributed. In many cases, applicants queued for hours or days just to obtain the forms. They then had to begin the queuing process again to submit their applications, as they were barred from submitting the form on the same day that they picked it up. This increased their transport costs and time away from work or studies, as well as increasing the pressure in the queues. That 51% of the individuals surveyed in the queues (a quarter of whom had been to the office more than once) had not yet filled out the application form suggests that demand in the queues could have been alleviated dramatically if an alternative distribution system for application forms had been put into place.

At the Cape Town Office, an official carrying a limited number of forms would periodically emerge and take up a position apart from the queue, compelling individuals to rush over to him in a scramble to obtain the form while risking losing their place in the queue. In Germiston, individuals queued to receive a folder with a date telling them when they could return to receive their application form. By mid-December, applicants were being told to return for their application forms on the 30 or 31 December: the cut-off date for submission of applications. Whether they were then able to submit their applications before the deadline remains unclear. However, what is clear is the need for a more rational system for distributing application forms in future documentation efforts.

Pressures in the queues, and the burden on those applying, could easily be alleviated through the following measures:

- Making the forms more widely available in a variety of locations,
- Providing a permanent box or location simply for picking up the application form, and/or
- Offering application forms directly to people standing in queues.



Unmonitored receipt box outside the Germiston DHA office.

Delays in Issuing Receipts

That many regional offices did not give receipts upon taking an individual's application also proved problematic. This defeats the object of a receipt system, which should provide an applicant with immediate, reliable proof of his or her application. Instead, at the offices we surveyed, applicants waited for an SMS and then returned to collect their receipts. At the Germiston office, these receipts were stored in a box that lay unmonitored outside the office, putting them at risk of theft or loss. The delay in providing applicants with receipts created an additional bureaucratic hurdle and increased the risk that individuals may not have received them, leaving them vulnerable to arrest and deportation as a result of administrative inefficiency.

Key Obstacles in the Application Process

- Individuals had to come to the office multiple times to complete the application process, queuing each time.
- Individuals could not submit their applications on the same day that they picked up the application form, contributing to the inefficiency of the process.
- There was no effective process for administering application forms.
- Bureaucratic hurdles increased the time and financial burden on applicants to complete the application process.

Lessons Learned: Recommendations

- ✓ Streamline the application process so that it only requires one trip to the DHA in order to submit an application.
- ✓ Make the application forms widely and freely available so that individuals do not have to queue together with applicants at other stages of the application process in order to obtain them.
- ✓ Provide receipts of application immediately upon submission of the application to the regional office to limit the potential for bureaucratic mismanagement and to minimise the burden on applicants.

Communicating Information and Publicising Changes to the Process

'I just wish the Home Affairs people would come outside and give us proper info. Because people in the queue are busy saying that if you fill in the form it means you are voting for Zanu.' Harrison Street, 25 November 2010

'There is no fixed way of handling the documentation issue. They are always changing the rules. They don't have the proper system that they can use to work properly.' Pretoria, 21 December 2010

Communicating Information

The Department of Home Affairs' failure to adequately communicate information about the ZDP to applicants, employers, and regional DHA offices was a major source of confusion and contributed to administrative unfairness in the process. Most respondents heard about the ZDP from the media, but lacked information about how the general application process worked and what documents they were required to provide. Further highlighting the inadequacy of information sharing, regional offices developed their own criteria for fulfilling the permit requirements.

Employers also were not adequately informed about the details of the ZDP process, and many were unsure of whether acknowledging employment of previously undocumented Zimbabweans would leave them vulnerable to legal action. As a result, many employers were reluctant to provide affidavits or copies of their IDs to their employees for fear of prosecution, leaving their employees unable to obtain all of the necessary documents. Better communication with employers also could have facilitated communication of the requirements to the Zimbabweans they employed.

As the process continued, the DHA began easing certain requirements, including the May 1st cut-off date, the possession of a passport, and the possession of all required documents before the deadline. These requirements were relaxed in order to assist applicants and facilitate the documentation process. While this adaptability is commendable, the changing requirements unfortunately were not effectively communicated to applicants. Nor was it clear that all regional offices were aware of them or were implementing them uniformly. As a result, many individuals who became eligible for the permits following these changes may nonetheless have been excluded from the process.

On 15 December, two weeks before the deadline, the DHA announced that it was relaxing the passport requirement, and that applicants only needed to show a receipt confirming that they had applied for a passport. The survey results registered an increase in the numbers of Zimbabweans applying without a passport following this announcement, from 8% to 32%. Nonetheless, two-thirds of applicants continued to be individuals with passports, suggesting a large number of Zimbabweans may have been excluded because of a lack of information. Given the poor performance of the Zimbabwean consulate and the significant numbers of Zimbabweans in need of passports, it seems likely that many Zimbabweans remained unaware of the changing practice and that the DHA's message did not reach many of its intended targets.



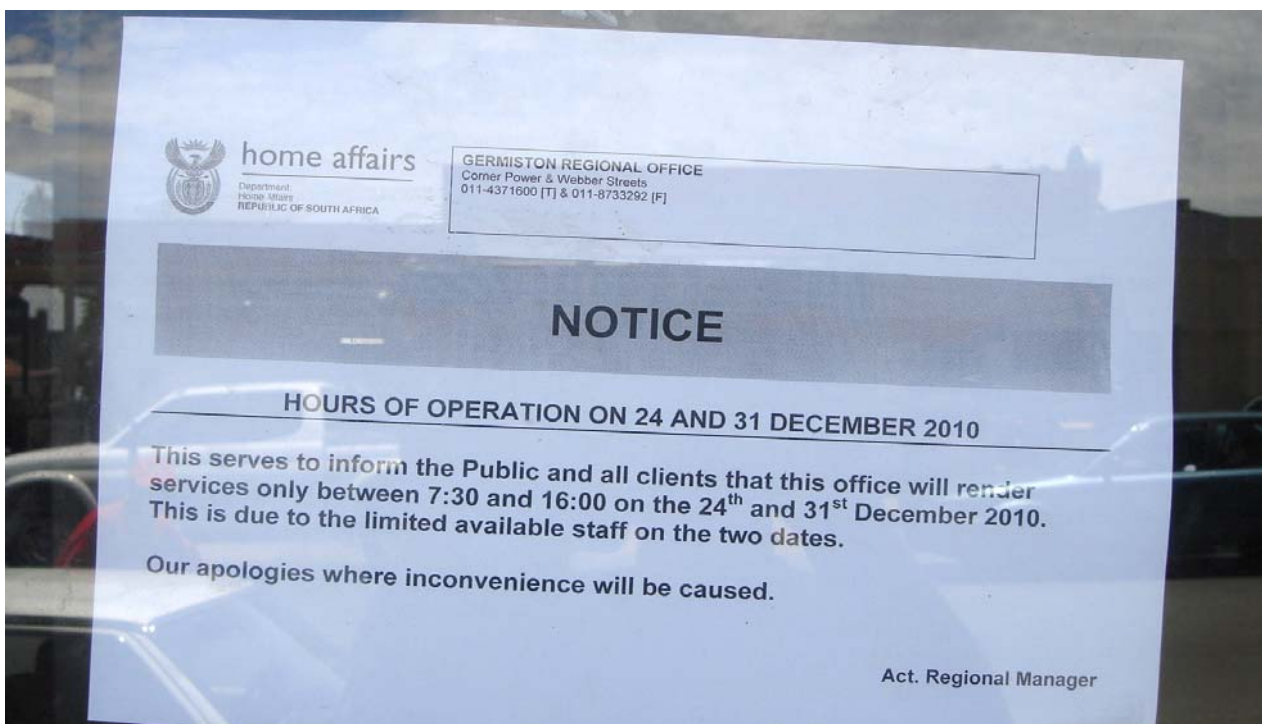
Would-be ZDP applicants queuing outside the Zimbabwean Consulate.

By the last week of the process, the DHA began instructing Zimbabweans to register for the ZDP with any documentation proving their nationality, stating that these applicants would be able to complete their applications after the deadline. Again, the survey results registered an increase in applicants applying with incomplete documents—from 7% to 16%. The overwhelming majority of applicants, however, remained those who had complete documents. Accordingly, news of the decision to register applicants who did not have all of the required documents may not have reached many prospective applicants.

Administrative Justice and Changing Requirements

Failure to adequately communicate the changing requirements to potential applicants may have negatively affected individuals who attempted to apply before the changes took effect and who remained unaware of these changes. Such individuals, turned away earlier in the process, may have been unfairly denied the opportunity to apply simply because shortfalls in communication by the DHA deterred them from reapplying.

Together with poor information provision, the fact that applicants were also subject to different requirements depending on when they applied raises concerns about the administrative fairness of the process. One applicant who was at the Pretoria office at the end of November stated that he did not have a passport, and that he did not know how to apply for one. Once inside the DHA office, an official told him that it was too late to apply for a passport because it would not be issued in time for the documentation deadline. If this applicant remained unaware of the receipt-only provision that later took effect, he and others like him may have been unfairly excluded from the process. A longer application period would have increased the likelihood that all applicants became aware of the changing requirements.



Notice indicating staff shortages at the Germiston DHA office.

At some point during the documentation process, the DHA dropped the condition that applicants had to have been in the country before May 1, 2010 in order to be eligible for the special permits. There was no official announcement of this change—which was communicated largely through word of mouth and observations of changing practices at the offices—so many Zimbabweans remained unaware that the requirement had been relaxed, making it particularly problematic from an administrative justice perspective. The Market Street office in Johannesburg, for example, made a public announcement at the end of October stating that individuals who had arrived in the country after May 1, 2010 could not apply under the ZDP and must apply under the regular regime – a regime whose requirements most would have been unable to meet. Because the DHA did not publicise the relaxation of the cut-off date, many individuals who heard this announcement were unlikely to have returned to apply after being turned away previously. Moreover, it is unclear when precisely this condition was dropped, and whether it was applied uniformly across offices. As a result, applicants may have been subject to different regimes depending on where and when they applied.

Key Obstacles in Communication and Publicity

- The DHA did not effectively communicate information to applicants, employers, or regional DHA offices, increasing confusion about the process and impeding administrative justice.
- Many Zimbabweans remained unaware of changing practices relaxing the application requirements and may have missed opportunities to apply as a result.
- Many employers refused to give affidavits or other relevant documents for fear of prosecution.
- Many regional offices remained uninformed about changing practices.

Lessons Learned: Recommendations

- ✓ Communicate information widely and effectively both before and during a regularisation process.
- ✓ Ensure that there is adequate time for information to be communicated to all those who may be affected.
- ✓ Provide clear information about any changes to the process and make sure that all regional offices implement the changes uniformly.
- ✓ Provide adequate time for applicants to take advantage of any changing practices.

Oversight and Uniformity of Requirements across Offices

'They are refusing new passports unless you have got an asylum to prove that you were here before the World Cup. Some applications are getting rejected.'

Pretoria, 17 December 2010

'They refused my proof of registration from Unisa and I don't know why. Maybe the lady who interviewed me knows little about it, because most of my friends have been served with proof of registration from the same university.'

Pretoria, 19 November 2010

The lack of adequate preparation meant that many regional offices were not fully informed about the specific requirements of the process, and many developed their own rules and procedures. As the first quote above reveals, some offices were not even aware that the May 2010 cut-off date had been suspended, and continued to reject individuals on this basis even during the last two weeks of the process. In addition, some applicants were told that their documents were insufficient, while individuals with identical documents were allowed to proceed. Applicants reported being asked to submit tax clearance certificates, or other documents that were not included in the official requirements. This lack of uniformity violates one of the central tenets of administrative fairness.

To its credit, after becoming aware of variations among offices, the DHA instituted a review of all applications. But the lack of effective oversight and communication with regional offices nonetheless resulted in the unfair exclusion of some individuals from the process. Monitors observed that some offices were informally rejecting individual applicants without forwarding their applications to the DHA head office in Pretoria for adjudication, as required. These applicants received no official rejection notifications, and no information on appeals. And because their applications were not submitted, they will not benefit from the DHA review process. The individual decision-making conducted by these offices rendered the process administratively unfair, denying certain individuals both clear reasons for their rejection and an opportunity to appeal.

Key Obstacles Relating to Oversight

- Practices across offices were not uniform, as regional offices adopted their own practices and procedures, in violation of the standard of administrative fairness.

- Regional offices rejected applications without submitting them for formal adjudication, preventing some applicants from being registered with the DHA before the deadline.



Applicants queue outside the Germiston office of the DHA in December 2010.

Lessons Learned: Recommendations

- ✓ Establish better oversight and quality control of regional offices to ensure the proper practices are being carried out.
- ✓ Clearly communicate requirements, procedures and responsibilities to regional offices to prevent arbitrary, localised decision-making.

Administrative Fairness

The lack of preparation, ad hoc changes, and poor management of the application process give rise to significant administrative justice concerns over the ZDP. They also contribute to the risk that applications will not be adjudicated fairly. In particular, it remains uncertain whether everyone will benefit from the review and appeals process, as it is unclear precisely how this system will operate. Clear communication of administrative procedures is a core element of administrative fairness. The fact that individuals do not know the exact status of their application, and how it will be dealt with, violates the constitutional standard of administrative justice.

By 20 December 2010, the DHA was calling on Zimbabweans to apply with any type of identity document to ensure that they were registered in the system before the 31 December deadline. The department has now set a 30 June 2011 deadline for adjudication of applications, meaning that these applicants must obtain their passports at some point before this date. This may prove problematic, given the inability of the Zimbabwean government to meet the demand for passports. Moreover, recent press reports state that Zimbabwe has closed off any additional passport applications, leaving those who applied with other identity documents out in the cold.³

Rejections and Appeals

Researchers at the DHA offices encountered applicants who had been rejected, but had received no reasons, nor any information on the appeals process. On a positive note, the DHA has stated that all decisions will be reviewed. In light of the problems and inconsistencies in the application process, certain issues still require clarification:

- What is the current immigration status of individuals who were rejected early in the process? How will they be protected from arrest and deportation?
- How will those who were rejected be informed that their decisions are under review?
- For applications that are rejected during the review process, will there be an opportunity to appeal?

³ Brian Chitemba, 'Passport Applications on Hold,' *The Zimbabwe Independent*, 13 January 2011, at <http://www.theindependent.co.zw/local/29547-passport-applications-on-hold.html>

- How will applicants be informed of the results of the review process, and the opportunity for appeal?

These questions require clear answers in order to ensure that the process is conducted fairly and meets the Constitutional standard of administrative justice.

Administrative Justice and Asylum Seekers

According to the DHA, a key goal of the ZDP was to regularise the status of economic migrants who were turning to the asylum system in overwhelming numbers. Many bona fide asylum seekers also may have applied for permits because of the significant backlog in the asylum system. In fact, half of the survey respondents had asylum seeker permits. Among the other half, most were undocumented.

Many of the asylum seekers who applied had to give up their asylum status in order to submit their permit applications. While the DHA has characterised the forfeiture of asylum status as a voluntary process, at some offices individuals were not allowed to apply for the permits without filling out a forfeiture form. The fact that individuals chose to enter the ZDP process, however, does not necessarily mean that these individuals do not qualify for asylum. Many bona fide asylum seekers may have opted to apply for permits because of the significant barriers to obtaining asylum, including unfair adjudications and excessively long waiting periods for finalisation of an asylum claim. The required forfeiture of asylum status violates the rights of asylum seekers and contravenes the law, given that the Refugees Act and the Immigration Act are two separate legal regimes. A previous court decision confirmed that asylum seekers and refugees who apply for temporary or permanent residence permits in terms of the Immigration Act are not required to give up their asylum or refugee status.⁴

The fate of former holders of asylum seeker permits whose ZDP permit applications are ultimately rejected remains uncertain. The DHA has not indicated whether these individuals will be able to re-enter the asylum system, despite their continued eligibility under the Refugees Act. If they are left undocumented, they will be subject to deportation, in violation of the international prohibition against refoulement—the practice of returning an individual to a country where he or she may face persecution.

⁴ 2003 11 11 *Dabone & Others v Minister of Home Affairs & Another* (Court Order).

Key Obstacles to Administrative Justice

- Individuals may be unable to obtain their passports before the DHA's stated deadline for adjudication.
- The appeal and review process remains unclear, particularly for those applications that were rejected early in the process.
- Many applicants did not receive information about the appeals process.
- Many asylum seekers were forced to give up their status in order to apply for permits under the ZDP.
- Asylum seekers who were forced to give up their status may be left undocumented and subject to refoulement if their permit applications are unsuccessful.

Lessons Learned: Recommendations

- ✓ Ensure that the Zimbabwean consulate has processed all Zimbabwean passport applications before closing the adjudication period.
- ✓ Make sure that individuals are informed about the status of their applications, including the review and appeal process.
- ✓ Provide clear guidelines about how the review and appeal procedures will work, and how individuals will be informed about their right to appeal.
- ✓ Keep the asylum and immigration legal regimes separate, as required by law. Asylum status should only be forfeited once an alternative status is granted.
- ✓ Ensure that those individuals who gave up their asylum status are able to re-enter the asylum system if they do not obtain documentation under the ZDP.

The Zimbabwean Documentation Process represents an important step in the regulation and regularisation of migration in South Africa. ACMS welcomes the efforts of the DHA in this respect, but certain problems remain. The findings of the monitoring project provide an important opportunity to learn and improve the process for future rounds. The key obstacles and lessons learned are summarised below.

Summary of Key Obstacles

- There was inadequate time between the announcement and implementation of the process, resulting in:
 - Inadequate preparation of regional offices;
 - insufficient time for individuals to obtain the documents necessary for their applications.
- The short duration of the documentation process created unnecessary pressures on the application process.
- High demand due to the short application period impeded access to DHA offices.
- Most DHA offices lacked an effective system for managing queues, leaving people outside of the offices for hours and days at a time.
- Individuals in the queues received no information on the application process or the procedure for admitting applicants.
- Individuals had to come to the office multiple times to complete the application process, queuing each time.
- Individuals could not submit their applications on the same day that they picked up the application form, contributing to the inefficiency of the process.
- There was no effective process for administering application forms.
- Bureaucratic hurdles increased the time and financial burden on applicants to complete the application process.

- The DHA did not effectively communicate information to applicants, employers, or regional DHA offices, increasing confusion about the process and impeding administrative justice.
- Many Zimbabweans remained unaware of changing practices relaxing the application requirements and may have missed opportunities to apply as a result.
- Many employers refused to give affidavits or other relevant documents for fear of prosecution.
- Many regional offices remained uninformed about changing practices.
- Practices across offices were not uniform, as regional offices adopted their own practices and procedures, in violation of the standard of administrative fairness.
- Regional offices rejected applications without submitting them for formal adjudication, preventing some applicants from being registered with the DHA before the deadline.
- Individuals may be unable to obtain their passports before the DHA's stated deadline for adjudication.
- The appeal and review process remains unclear, particularly for those applicants who were rejected early in the process.
- Many applicants did not receive information about the appeals process.
- Many asylum seekers were forced to give up their status in order to apply for permits under the ZDP.
- Asylum seekers who were forced to give up their status may be left undocumented and subject to refoulement if their permit applications are unsuccessful.

Summary of Recommendations

The Lead-Up to the Process

- ✓ Increase the time period between announcement of a regularisation process and its implementation in order to provide sufficient preparation time.
- ✓ Ensure that regional DHA offices are fully prepared for the process, with adequate information, staff, and training, before the process commences.

- ✓ Provide adequate time for the application process so that the rush to meet the deadline does not create demand and queues beyond the capacity of DHA offices to manage.

Queue Management

- ✓ Extend the application period for regularisation processes in order to alleviate pressure at the DHA offices.
- ✓ Provide information to applicants in the queue about both the queuing and application process.
- ✓ Develop an effective system of queue management that gives applicants an indication of whether they will be served on a particular day, in combination with an appointment system.

Managing the Application Process

- ✓ Streamline the application process so that it only requires one trip to the DHA in order to submit an application.
- ✓ Make the application forms widely and freely available so that individuals do not have to queue together with applicants at other stages of the application process in order to obtain them.
- ✓ Provide receipts of application immediately upon submission of the application to the regional office to limit the potential for bureaucratic mismanagement and to minimise the burden on applicants.

Communication and Publicity

- ✓ Communicate information widely and effectively both before and during a regularisation process.
- ✓ Ensure that there is adequate time for information to be communicated to all those who may be affected.
- ✓ Provide clear information about any changes to the process and make sure that all regional offices implement the changes uniformly.
- ✓ Provide adequate time for applicants to take advantage of any changing practices.

Oversight and Uniformity

- ✓ Establish better oversight and quality control of regional offices to ensure the proper practices are being carried out.
- ✓ Clearly communicate requirements, procedures and responsibilities to regional offices to prevent arbitrary, localised decision-making.

Administrative Justice

- ✓ Ensure that the Zimbabwean consulate has processed all Zimbabwean passport applications before closing the adjudication period.
- ✓ Make sure that individuals are informed about the status of their applications, including the review and appeal process.
- ✓ Provide clear guidelines about how the review and appeal procedures will work, and how individuals will be informed about their right to appeal.
- ✓ Provide clear guidelines about how the review and appeal process will work, and how individuals will be informed about their right to appeal.
- ✓ Keep the asylum and immigration legal regimes separate, as required by law. Asylum status should only be forfeited once an alternative status is granted.
- ✓ Ensure that those who individuals who gave up their asylum status are able to re-enter the asylum system if they do not obtain documentation under the ZDP.