

AN ASSESSMENT OF BIRTH REGISTRATION IN ZANZIBAR

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**DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIRMENTS FOR THE MASTER OF LAW IN INFORMATION
TECHNOLOGY AND TELECOMMUNICATIONS (LLM IN IT & T) OF THE
OPEN UNIVERSITY OF TANZANIA**

2014

CERTIFICATION

The undersigned do certify to have read and hereby recommend for acceptance by the Open University of Tanzania a Dissertation titled “**An Assessment of Birth Registration in Zanzibar**”, in fulfilment of the requirement for the Master’s Degree in Information Technology and Telecommunications Law.

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DEDICATION

This work is dedicated to my family.

ACKNOWLEDGMENT

In the name of GOD the most gracious the most merciful, He who enabled me through his grace and guidance to write this piece of Dissertation work and provide me with the peaceful life, health and patience during all my period of this course. All the strength is from him and all the weakness is the result of my own shortcomings.

I am heavily indebted to my family who I spent much time missing them while concentrating on my course work. Their moral support always gave me the strength and courage to final stage of my course.

My sincere gratitude goes to my fellow partners and staff at my department especially those whom I work together at IT section. May I also take this opportunity to thank my Research Supervisor for his tireless effort that lead to the completion of this research and also all my course director whom without their support the finally work could not be difficult to be accomplished. Also my thanks should go to all OUT staff and Administration for their patience and assistance for the whole period of my course.

Finally, I would like to thank all those individuals who made this study possible through their contributions, cooperation, moral and material supports; it is impracticable to thank all of them individuals.

ABSTRACT

This study seeks to explore the relevance of the birth registration in Zanzibar for planning and maintaining the government statistics for its citizen identification and for giving priority of service and opportunity offered by Zanzibar government. The research addresses the notion of Registrar General Offices 'RGO's' role in birth Registration and record keeping process in helping and improving the reduction of the number for late birth Registration and minimize, the opportunity of fraud. In addition this research deeply examines the late registration problem and gives analysis that drive to the solution that could assist RGOs to provide quality and standard service. The study used questionnaires in gathering data and Statistical Package (Social Sciences Software 'SPSS' Ver.12) was used to analysis data. The finding of the study reveal that late registration is not the only the factors that causing fraud in birth registration but there are other factors such as improper authorization, contradiction of the policy between key actor (RGO's) and other institutes that issue different kinds of government identification Card (ID) (Zanzibar Identification Card "Zan ID, Zanzibar Social Security Fund "ZSSF", Zanzibar Election Commission "ZEC" and high court of Zanzibar), disintegration of data related to birth between different Institutes and education for the key actors. The study has been able to achieve its objectives as evidenced in a synthesis of literature and an empirical survey and accordingly the conclusion were drawn. The hypothesis was proved that the poor data record keeping could lead to opportunity of fraudulent birth certificate, which is the problem of RGO's and supported by improper authorization, which was strongly recommended to be considered made in the concluding chapter.

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LIST OF ABBREVIATIONS

EC	European Convention
BDR	Birth and Death Registration
CRC	Convention on the Rights of the Child
CDC	Centers for Disease Control and Prevention
CDT	Collected Data Table
DQ	Data collected from Questionnaire
EU	European Union
EDI	Electronic Data Interchange
EGoZ	Electronic Government of Zanzibar
ICCPR	International Covenant on Civil and Political Rights
GATT	General Agreement on Tariffs and Trade
UDHR	Universal Declaration of Human Rights
UN	United Nation
UNICEF	United Nation International Children Funds
USA	United States of America
MOH	Ministry of Health
MLPS	Presidential Office Ministry of Labor and Public Services
OCGS	Office of Chief Government Statistical
RGO's	Registrar General Office
RGoZ	Revolution Government of Zanzibar
SPSS	Statistical Package for the Social Sciences
TRIPS	Trade Related Aspects of Intellectual Property Rights
WITO	World International Trade Organization

Zan Ids	Zanzibar Identification Cards
ZEC	Zanzibar Election Commission
ZSSF	Zanzibar Social Security Funds

CHAPTER ONE

1.0 RATIONALE

Zanzibar is a semi-autonomous part of UNITED REPUBLIC OF TANZANIA. Zanzibar has developed its own political structure under the Constitution of Zanzibar of 1984. It is believed undoubtedly as one of the most beautiful islands in the Indian Ocean. Zanzibar is a nation richly endowed with remarkable cultural and natural heritage. Zanzibar is approximately 35km off shore from the Tanzania mainland and only six degrees south of the Equator. As small group of Islands with limited space, Zanzibar is a collection of two big islands Unguja (also called Zanzibar Island) and Pemba with a number of smaller Islands and atolls.

Zanzibar has been popular throughout history with artists, musicians and poets and still captivates people to this day. Zanzibar has approximately 1.3million people according to 2012¹ censer. Zanzibar people are of mixed culture mainly coming from mainland, Asia, Europe and other part of the world. People of Zanzibar depends on agriculture and fishing where other are government and private employee. The rest are businessman because of the nature of the Island, mostly essential commodity cannot be found they should be imported from Middle East, Asia and Europe whereby they need passport to travel, its compulsory to have birth certificate in order to get passport.

Due to the problem of the size of the Island, population growth, the number of visitor arrival for tourism and those looking for employment opportunities, the government of Zanzibar has introduced the Zan Ids to identify citizens. Zan Ids are only issue by

¹State of the environment report for Zanzibar, 2004/2005 pp.17

submitting other document with a copy of birth certificate. The pressures on lands scarcity the environment is being more heavily utilized than ever before while other parts are rapidly degraded.

1.2 Birth Registration

1.2.1 Definition

Birth Registration: The birth registration is the process by which a child's birth is recorded in the civil register by the applicable government authority. It provides the first legal recognition of the child and is general required for the child to obtain a birth certificate.² The important of the Birth registration is essential for the identification and regaining the citizenship for the nation. It provides an important source of vital statistical data to governments that enabling them to plan better for the health, economic, education and development for their peoples.³

Birth certificate: Is a statement of an individual, usually the attendant at birth that a child was born to certain parents at a stated time and place. It is important that the registered child receives a birth certificate, since it provides a permanent, official and visible evidence of a state's legal recognition of his or her existence as a member of society. A birth certificate provides proved evidence for a child name whereby the following are identified

- i. Name of the bearer of the certificate
- ii. Age, with exact date and time of birth
- iii. Nationality at birth

² Jonathan Todres, Birth Registration, *An essential First Step toward Ensuring the Right of All Child*, 2003, pp.1

³Ibid

- iv. Parents name
- v. Place of birth

This information that is found in the birth certificate is very important and will be needed by the child later on in his/her application for obtaining National identification card, passport, driving license and voting card.⁴ Also may be required as an opportunities to gain economic prestigious like employment, opening bank account obtaining business licenses. Whereby if it is missed there will be a barrier for the mention opportunities.

1.2.2 Birth Registration Globally

Almost all countries have statutes and laws that regulate the registration of births and death. Globally is the responsibility of the hospital administrative, midwife mother's physician, midwife, or the parents⁵ of the child to see that the birth is properly registered with the appropriate government agency. This are cleared mention at article.15 of Universal Declaration of Human Right provide that “having a birth certificate is a basic human right”. While article.24 of the International Covenant on Civil and Political Rights, and article.7 of the Convention on the Rights of the Child, regarded birth certificate as the first human right and can provide a gateway to the realization of many other civil, political, economic and social rights for children.

The kind of information and data that are included on the birth registration differ from one country to the other, and mostly based on infrastructure, administrative capacity to register births, sometimes funds available for registration, access to the

⁴Convention on the Rights of the Child, regarded birth certificate Article.7

⁵ Birth and Death Registration ACT 2006 article 9(1)

population and kinds of technology used for management of databases. It is possible to find efficiently working registration system, with full coverage even in very poor countries so long as registration is made a main concern.⁶ UNICEF estimate that 44 per cent of sub-Saharan Africa's children under-five years of age are registered today and in rural areas the rate is even lower, for children of Eastern and Southern Africa, the reality is even more worrying: only 38 per cent of children are registered, ranging widely from 3 per cent in Somalia to 95 per cent in South Africa.⁷

The above data indicate the problem of late birth registration will be high in some of the Africa country especially in Somalia whereby it clear shows birth registration is at minimum level. Even though South Africa has high percentage of birth registration in general problem of late registration has not been solved as some the actor look it as an opportunity for fraud. Some countries take stem mention to insure that this problem is not much spread, for example in Cuban³ people were sentenced in immigration scam for faking Cuban birth certificates.⁸

1.2.3 Importance of Birth Registration

The right to birth registration is contained in many human rights conventions and instruments, including;

- i. The International Covenant on Civil and Political Rights (ICCPR) 1976⁹
- ii. Convention on the Rights of the Child (CRC) in 1989,¹⁰ and

⁶ Percentage of children under age 5 whose births are registered (by sex, place of residence and household wealth quintile) <<http://data.unicef.org/child-protection/birth-registration#sthash.GdhQxhgm.dpuf>> (access 04/07/2014)

⁷ UNICEF, Birth Registration <http://www.unicef.org/esaro/5480_birth_registration.html> (access 15/07/2014)

⁸ Andrian Hauser and Catherine E. Shoichet, CNN <<http://edition.cnn.com/2013/01/18/justice/florida-cuban-birth-certificates/index.html?iref=storysearch>> (access 14/07/2014)

⁹ Article.24

- iii. The Convention on the Protection of the Rights of All Migrant Workers and their Families 1990.¹¹

The Universal Declaration of Human Rights¹² announced over 50¹³ years ago that: -

“Everyone has the right to recognition everywhere as a person before the law.”¹⁴

The Universal Declaration also affirmed the right of all people to ‘nationality,’ meaning the right to be considered a citizen of some state.¹⁵ Subsequent global and regional human rights treaties have reaffirmed and refined the basic human right to legal recognition and nationality.¹⁶

Assefa B., (2005) suggest that;

“Birth registration is a fundamental human right and essential means of protecting a child’s right to an identity. Birth is the first point of contact between a child and the state. And it is the door to other rights, providing a measure of protecting against age-related exploitation and abuse.”¹⁷

¹⁰ Article.7

¹¹ Article.29

¹²The international human rights movement was strengthened when the United Nations General Assembly adopted of the Universal Declaration of Human Rights (UDHR) on 10 December 1948. Drafted as ‘a common standard of achievement for all peoples and nations’, the Declaration for the first time in human history spell out basic civil, political, economic, social and cultural rights that all human beings should enjoy. <http://www.ohchr.org/en/professionalinterest/pages/internationalallaw.aspx>

¹³ UN, The Universal declaration of human right, <http://www.un.org/en/documents/udhr/history.shtml> (access 10/07/2014) (The Universal Declaration of Human Rights, which was adopted by the UN General Assembly on 10 December 1948, was the result of the experience of the Second World War.)

¹⁴UDHR Art.2

¹⁵UDHR Art.15

¹⁶Two useful approaches to analyzing stakeholder interests in development are DFID’s drivers of change (<http://www.gsdrc.org/go/topic-guides/drivers-of-change>)and

SIDA’s power analysis(http://www.sida.se/sida/jsp/sida.jsp?d=118&a=24300&language=en_US), access (4/07/2014)

¹⁷AssefaBequele, The Africa Child Policy Forum, *Universal Birth Registration: The Challenge in*

The child without birth certificate could be denied the right to a name and nationality that could lead to barriers in access of right as citizen like education, social assistance or health care. Later on could definitely ask for birth certificate which is basic human right and the society will demand for the access of services.

1.2.4 Birth Registration in Zanzibar

Registrar General's Office (RGO's): Is the one of the oldest Government offices, which is mandated with the registration and issuance of Certificates of vital events as (Births, Deaths, Marriages, Divorces, and Adoption) like the Article. 7 of BDR ACT No.10 2006 provide that: -

The Registrar of Births and Deaths shall have the following powers and functions:

- (a) to register births and deaths and to issue certificates therefore;
- (b) to provide registrars, Shehas, medical practitioners with such books and forms as may be required, and with such instructions and directions, as he may consider necessary for the registration of births and deaths in their areas;
- (c) require any particulars relating to births and deaths be proved by oath or statutory declaration.

Before establishment of BDR ACT N0.10 2006, Zanzibar was the first country in East Africa to establish birth and death registration system since 1909.¹⁸ The Decree of Birth and Death Registration has been going through many amendments since then; the last revised was in 2006. Currently, researches were undergoing for drafting of

Africa, 26 -30, 2005, pp.2

¹⁸Tanzania Registrar General's Office, *A Country Paper for presentation at the Eastern and Southern Africa Conference on Universal Birth Registration*, Improving Services to Protect the Rights of the Most Vulnerable Children, Mombasa, Kenya, 26-30 September 2005 pp.2

new Birth and Death registration policy, which will be full automatized.

1.2.5 Procedure of Obtaining Birth Certificate

In order to obtain a birth certificate, in Zanzibar an individual must submit a "notification of birth"¹⁹ to the Registrar General Office or District registrar office nearby, where a notification of birth is issued by a hospital, a health center, and dispensary, however when delivery occur at home then the information are recorded at the Sheha record book and then submit the record to the registrar general office or district office, whereby the BDR ACT N0.10/2006 define

*“Sheha” means an officer of the Government appointed in terms of section 15 of the Regional Administration Authority BDR ACT No.1/1998 and the term “shehia” shall be construed accordingly;*²⁰

As a general rule, hospital or health center records include the newborn's gender, weight, date and place of birth, and mother's name. The awareness of the birth registration for People of Zanzibar has been accepted by International organizations. The United Nations Department of Economic and Social Affairs Statistics Division report show that 90 percent has complete birth registration in Zanzibar.²¹ These are clear indication that Zanzibar's peoples are aware of the importance of birth registration. Despite the awareness of the important of having birth registration there

¹⁹Immigration and Refugee Board of Canada (IRB), *Tanzania: Procedure for obtaining a birth certificate in Zanzibar if no other identity is available; whether the birth certificate can be obtained from outside Tanzania or through a proxy*, <<http://www.refworld.org/docid/52149d254.html>>12 April 2012 (accessed 28/06/2014)

²⁰ Preliminary of ACT No.10/2006 interpretation.2,

²¹United Nations Department of Economic and Social Affairs Statistics Division, *Status of Civil Registration and Vital Statistics in the SADC Region*, Technical Report, ESA/STAT/2010/10 20 June 2010pp.7

is a problem that once the birth certificate is issued and lost it is difficult to access back original data?

Why when the birth certificate is lost then it is difficult to get the original information about birth record of the concern person?

1.2.6 Objectives of the Research

The Research seeks to explore the importance of the birth registration and data record keeping as vital for the national statics and the development plans. One apparent reason for the lack of vital statistics from the civil registration system is the unreliable registration system.²² Therefore birth registration is right for being issued to the right person who will have an opportunity of economic privilege and the possibility of automatically qualified to be a citizen. Due to the nature and the size of these islands this factor is very important. Another reason of the research is to find out how birth certificates are issued when it is lost either by the previous record or affidavit at the court and the justification. The main objective shall be but not limited:

- i. To assess the data recording system
- ii. To examine the procedure of birth registration
- iii. To examine the education for the concerned a tor
- iv. To examine the policy of the birth registration
- v. To examine the information protection policy of individual in Zanzibar.
- vi. To examine the participation of media

²² Ibid

1.3 Hypothesis

Zanzibar is located in East Africa. It is composed of the Zanzibar Archipelago in the Indian Ocean, 25–50 kilometers (16–31 mi) off the coast of the Tanzania mainland. Both Island count to 2,654 square kilometer of which 1,666 square kilometers for Unguja and the remaining 988 square kilometers is for Pemba. Due to its nature of beautiful beach, good climate with different kind of fruits and spices, these has been the factor that has attracted tourism business where many foreigner come to visit and some of them like to live permanent.²³

Tourism is the fastest growing sector of Zanzibar's economy. However, there are number of complaints that the tourism sectors do not benefit the general population of Zanzibar as much revenue currently remains overseas²⁴. There are many tourist investments, which are owned by foreigner especial in hotels industry. This has attracts some people from outside to come and look for employment opportunity. In Zanzibar employment opportunity in industry area is very limited due to the limited number of industry, which almost all are in small scales industry. The only opportunity in employments, that most of the Zanzibar people's hope is from the government, its institutes, agency, and tourism sector. The most recent employment record in Zanzibar as per statistics data of 2013 show that total number of Government employee are 32,559²⁵, while the private sector contribution for the

²³The history of Emerson Skeen's, the owner of the famous new hotel "Emerson Spice" has lived in Zanzibar since 1990, died on 31st May 2014 and buried <http://www.zanzibarmusic.org/about_pages/brd_trust.html> or <<http://archive.today/RACgM>>(accessed 27/06/2014)

²⁴ State of the environment report for Zanzibar 2004/2005, pp.16

²⁵ Zanzibar Anti-corruption and Economic Crime Authority (ZAECA), *Zanzibar integrated strategy for integrity and anti-corruption (2014-2018)* draft release 16th June 2014 pp.21

employment opportunity is 11,824.²⁶

Compared with the population of Zanzibar and the number of foreigner who come; its shows that there is big demand to create more employment opportunity. As this was noticed by the Islands' House of Representatives Member who wanted to know what measures the government would take to control the population increase at a time of rising unemployment and land scarcity in Zanzibar.²⁷ It is the policy of Zanzibar Government that employment opportunity should be taken by Zanzibar's who are identified by the original birth certificate and Zanzibar Identification Cards whereas the retirement age in Zanzibar is 55 year optional and 60 years compulsory.²⁸ The retirement age is only official recognized by the date of birth, could be the retirement age, employment opportunity or citizen ship are the causes for the birth certificate to be lost for the concern person.

1.4 Research Problem

There are ten (10) district registrar offices in Zanzibar whereby birth certificates are issued. These offices are not integrated and the data are captured and stored manually. These data collected from different district registrar office are submitted to the head office (Registrar General Offices) once at the end of the years whereby the storage is also manual with poor environment.

²⁶ Mohammed H. Rajab, Office of Chief Government Statistician, *Zanzibar Statistical Abstract 2012*, December 2013, pp.32

²⁷ IRIN: humanitarian news and analysis, Zanzibar: Population Growth Threatens MDGs, <http://www.irinnews.org/report/73175/tanzania-high-population-growth-threatens-mdgs-in-zanzibar> >, July 12, 2007, (accessed 27/06/2014)

²⁸ Zanzibar Social Security Fund, <http://www.zssf.org/index.php?issubmenu=yes&menuid=4>, (access 10/07/2014)

In order to obtain a birth certificate at Zanzibar an individual is requested to submit a Notification of Birth. The notification of birth is only issued by the hospital, health care or dispensary at the time of birth. This notification of birth is required to be submitted not more than sixty days from the date of the birth²⁹ to the Registration General Office or at the District Registrar Office within which the birth occurred whereby the birth certificate will be than issued.

In case for the new child who was born outside of the hospital, health care or dispensary (birth occur at home), the parent are supposed to report to the Sheha,³⁰ who is responsible to record and submit the information to the registration office not more than 42 day for those new child born at hospital or dispensary see the Section 9 (1) (e) of the BDR ACT no.10 of 2006state that;

9 (e) a found exposed child a person who find him/her, to give to the registrar of the area within which such child is born, within forty-two days of the birth of the child, information of the prescribed particulars required to be registered concerning such birth and in the presence of the registrar or any person authorized by the registrar in that behalf to sign the register.

However they can also report at the District Registrar of Birth and Death Certificate to obtain a Birth Certificate. Currently the registration fee is TZs 2,500/- for the new child born at the hospital and TZs 2,000/- for the new child born at home. For the case of late registration or lost certificate the concerned person is required to pay TZs 3,500/-, whereby TZs 1,500/- for the document searching and TZs 2,000/- for

²⁹ BDR ACT No.10 2006, Acticle.14(1)

³⁰ BDR ACT No.10 2006, Article 6(1)

filling the application form. Article 14(1) of BDR No.10 2005 state that A registrar shall not register any birth after sixty days from the date of the birth except upon payment of the prescribed fee and unless, after due inquiry, the registrar is satisfied of the correctness of the particulars tendered for registration.

The below are procedures, which s/he has to follows in order to meet the requirement that will satisfy the authorized office to issue a late birth certificate: -

- i. Filling the application form issued from the registrar office. The form must be filling by the parents or guardian.
- ii. After filling the form s/he has to go to the back home where s/he live and get the approval of the identification by the Sheha.
- iii. Then s/he has to go to District Commissioner for his/her approval.
- iv. After that s/he has to go to the court with his/her witness who has knowledge of the birth for the affidavit (evidence by oath)³¹.
- v. After the affidavit form the court s/he has to be submitted back to the registrar office with other supporting documents like Clinic Card or Baptismal certificate or sometime s/he may be ask to submit both documents with the identification of the nationality of parent.

This kind of registration is known as Late Registration that happens when the concern person has never done registration when s/he was a child or when the original birth certificate is lost and cannot be justified by the registrar officer. The late registration procedure has raise many complain from the actor, as it is very complex and fragmented, which required the concerned person to make multiple trips

³¹Birth and Death Registration Act, s. 25

to and fro from local government offices where they have to spend time and always have to queue, paying fees at the registrar office and fines at the court. The procedure of obtain new certificate by late registration is very bureaucratic, intimidating which confuse many people.

Within these procedures sometimes the concern person need to find the alternative way whereby these result to an improper authorization that could lead for someone to get birth certificate. At the meantime, all birth certificate record from 1980's backward is difficult to be justified and many applications before 1990's are consider as late birth certificate registration. Could be the registration procedures and data storage is the problem that when birth certificate is lost then it is difficult to get the original information about birth record of the concerned person.

1.5 Literature Review

1.5.1 Definition of Literature

“A critical summary and assessment of the range of existing materials dealing with knowledge and understanding in a given field, its purpose is to locate the research project to form its context or background, and to provide insights into previous work.”³² However literatures review in its may be restricted to books, journals or article in one order or sub order approach. Its purpose is to locate the research project, to form its context or background, to provide insights into previous work. Literature review gives reason why the topic is of sufficient importance for it to be researched.

³²Lee Barron Research Method, 'Literature review,' <<http://srmo.sagepub.com/view/the-sage-dictionary-of-social-research-methods/n109.xml>>(accessed 01/07/2014)

In 2005 Zambia country report identify importance of having birth registration and birth certificate as the first official acknowledgement of a child's existence by the State and is essential if they are to access other rights.³³ Where births remain unregistered, there is an implication that these children are not recognized as persons before the law.³⁴ Their access to fundamental rights and freedoms may be compromised. As their existence has never been recorded, there is no guarantee that their disappearance will be either. Further, as they will not be included in statistical information about children, their situation cannot be monitored.³⁵

Birth registration also contributes to economic empowerment and facilitates the realization of other human rights. Legal identity is the basis of legal empowerment, and is therefore a bridge to other entitlements that are, or may be, contingent on proof of identity, age, familial relationships, or place of birth. These may include education, healthcare, protection, voting and citizenship rights. Birth registration is also a prerequisite for many day-to-day activities such as opening a bank account, obtaining a passport, and obtaining a driving or marriage license. Similarly, it plays an important role in matters of succession and the inheritance of property.³⁶

It should be noted that legal registration and citizenship, though related, are distinct issues³⁷. One can have uncertain citizenship even in the presence of a valid birth

³³Assefa Bequele, Universal Birth registration The Challenge in Africa, *A paper prepared for the Second Eastern and Southern Africa Conference on Universal Birth Registration Mombasa, Kenya, September 26 – 30, 2005*, pp.2

³⁴ Ibid

³⁵ Ibid

³⁶International development law organization (IDLO), *strengthening the legal protection framework for girls in India, Bangladesh, Kenya and Liberia – Bangladesh country report*, pp.1

³⁷ Wikipedia, <http://en.wikipedia.org/wiki/Canadian_nationality_law>, (access 10/07/2024) Section 3(2) of the current act states that Canadian citizenship is not granted to a child born in Canada if either parent was a

registration.³⁸ The primary focus of this research is the issue of late birth registration and data recording keeping in Zanzibar that can cause to obtain illegal birth certificate and citizen whereby, the proof by knowing the place of birth is used in proving citizenship by birth.

In this regard the commonest and legally recognized means used here are by producing an affidavit of birth or a birth certificate. Despite the fact that these are effective means of test if they are authentically affected, they suffer a number of weaknesses. Among other factors that aggravate these weaknesses include the current life of migrations.³⁹ The latter have produced new permanent abodes to people. This can be well illustrated in such large cities like Dar es Salaam, Mwanza, Mbeya and Arusha. That being the case, knowledge on the place of birth of a person has proved to rely largely on oral testimony of the person under concern. In that similar vein, issuance of birth certificates and affidavits is largely exercised in the district where the applicant resides.⁴⁰

It is true that having birth certificate is the essential key to access legal protection for individual human right from the private and governmental institution that offers services.

“.. It's a small paper but it actual establishes who you are and gives access to the rights and the privileges, and the obligations of citizenship”

diplomatic or consular officer or other representative at the time of birth and neither parent was a Canadian citizen or Canadian permanent resident

³⁸ Ibid

³⁹ Clement B. Mubanga, Who is a Tanzanian citizen? An appraisal of the mechanisms of proof of Tanzanian citizenship, Open University Law Journal 2013, Vol.4 No.1:7-19 pp.13

⁴⁰ Ibid

(Archbishop Desmond Tutu: 2005, February).⁴¹

The Article 2, of Universal Declaration of Human Right (UDHR) states that:

Everyone is entitled to all the rights and freedom set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.⁴² Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent, trust, non-self-governing or under any other limitation of sovereignty.

The article indicate that the human rights protection is not just linked to respect for individual freedom but also to the social and cultural construing of inclusive societies, in which prejudices and barriers are eliminated and all can live without social, legal or practical stigma.

As for the UNICEF provide that

The birth registration is the process by which a child's birth is recorded in the civil register by the government authority. It provides the first legal recognition of the child and is generally required for the child to obtain a birth certificate and as a result any other legal documents and rights.⁴³ While UN has defined Birth registration is the continuous, permanent and universal recording, within the civil

⁴¹Ibid 10

⁴² *Ibid*

⁴³ UNICEF, Innocent Digest, *Birth registration right from the start*, No.9 –March 2002 pp.2

registry, of the occurrence and characteristics of births in accordance with the legal requirements of a country.⁴⁴

Therefore birth registration is very vital, as it will provide the official recognition of the child and gives the opportunities to obtain sometimes citizenship. Many countries have statutes and laws that regulate the registration of births. In all countries it is the mother's physician, midwife, hospital administrator, or the parent of the child responsibility to see that the birth is properly registered with the appropriate government agency.⁴⁵

Despite of varying mechanism on the process of birth registration and data recording may from country to country their importance remain the same. In 1836 England and Wales Parliament has passed an ACT that led to the setting up the General Register Office (GRO) for the record of births and the recording began on 1st July 1837.⁴⁶ The General Register Office (GRO) in UK is responsible for the birth registration. It is must for parent to register the baby birth to the district where the baby was born within forty -two days (42)⁴⁷ whilst the district office will send birth certificate to the parent address home. In case the parent can't reach to the district where the baby was born, s/he can go to any district office and the register will send the information to the appropriate district office.⁴⁸

⁴⁴United Nations, Department of Economic and Social Affairs, *Statistics Division*, 2001, pp.50

⁴⁵Wikipedia, Birth Certificate <http://en.wikipedia.org/wiki/Birth_certificate> (access 04/07/2014)

⁴⁶<https://www.gov.uk/research-family-history>(access 04/07/2-13)

⁴⁷Register a birth <https://www.gov.uk/register-birth>(access 04/07/2-13)

⁴⁸Ibid 10

In Zanzibar it is compulsory to obtain a birth certificate for a new born. The official record of birth certificate is usually stored at the authorized government agency here the RGO's has responsibility of keeping recording according to the law and the certified copies of the original are issued upon *requested*.

In Nigeria, a signatory to the convention established the compulsory registration of births and deaths since 1979, with the National Population Commission (NPC) established and charged with the statutory responsibility of production of vital and demographic data in 1992.⁴⁹

Therefore a birth registration: Is a functional vital registration system in any country, by supplying the most reliable data on deaths and births and population dynamics, provides indicators for health and development; and pre-requisite data for the effective planning of health and other services, resource allocation, legal, administrative and health policy formulation, program planning, and evaluation.⁵⁰

However, the 1992 Model State Vital Statistics ACT and Regulations published by the National Center for Health Statistics within the Centers for Disease Control and Prevention (CDC) state that:

“Even though the legal responsibility for the registration of vital records rests with the individual States, the States and the National Center for Health Statistics (the Federal partner) work together to build a uniform system that produces records to satisfy the legal requirements of individuals and their families and also

⁴⁹Tobin EA, Obi AI, Isah EC. Status of birth and death registration and associated factors in the South-south region of Nigeria, *Ann Nigerian Med* 2013;7:3-7

⁵⁰Ibid 11

to meet statistical and research needs at the local, State, and national levels. The cooperation includes the development and promotion of standard certificates and reporting forms, training and quality control programs, and model legislation.”

The above statement has been proved in 2005 Asian tsunami, when birth registration record has help to reunification of families and identification of the lost as the Setelet al., pointed out

“Reuniting children with family and extended family members in emergency situations is the best way to provide children with safety, security and care, and birth certificates and other documents of identification are essential to reunification efforts.”⁵¹

There are some important limitations of vital registration data. If the vital event was at the time of the occurrence then the accuracy and the completeness of the characteristics of the events are assured, however if there is time laps that there is a danger of some information to be overlooked. In the case of longer time lapse, the valuable data could be forgotten.

1.5.2 Issue of the Birth Certificate Registration in Zanzibar

It is a common practice for Zanzibar’s people to apply for the Birth Certificate, as it is needed for the application to obtain Zan Ids,⁵² whilst the Zan Ids is the important tool for the application of the employment, passport, election registration card for

⁵¹ Ann Seiddman, Robert. Seidman and Susan Morrison Using law to improve Africa birth registration rate, *A resource Book*, pp.8

⁵² Hon. SubeitKhamis Faki , Zanzibar House of Representative, *Budget session No 23, Hansard Report 17/07/2012*, <http://www.zanzibarassembly.go.tz/Hansard/2012/bg-2012/kikao-cha-ishirini-na-tatu.pdfpp.17> (access 05/07/2014)

vote and citizenships. However due to the poor data record keeping, the justification of the birth certificate issued by late registration for the lost certificate is questionable and the process for late registration has raise many complain⁵³and It creates opportunities for fraudulent.⁵⁴

The Immigration and Naturalization Service says it seizes dozens of fraudulent birth certificates every day, either counterfeit copies or valid ones acquired by impostors. "The birth certificate is really the document of choice" for illegal immigrants, said James R. Hesse, chief intelligence officer at the agency's Forensic Document Laboratory." It shows both identity and nationality, and that's a big deal."⁵⁵

Every genealogist knows of the frustration that arises from searching for a birth or death record in an area and for a time period in which such events were recorded, but not finding the desired record.⁵⁶

The difficult of searching the previous information of birth certificate should create the opportunity for fraudulent, although it has to be identified by difference agency but it still should not be the reason for other to obtaining the illegal birth certificate. In July 2007 the Member of house of representative and Minister responsible of finance Mwinyihaji Makame Mwadini informed that:

The Zanzibar government was planning to set up its family planning campaign and

⁵³ Ibid

⁵⁴ June Gibbs Brown, Department of Health and Human Services Office of Inspector General, *Birth Certificate fraud*, September 2000 pp.14

⁵⁵ RENWICK McLEAN, False Birth Certificates Let Immigrants Outwit System, May 29, 2000 < <http://www.nytimes.com/2000/05/29/us/false-birth-certificates-let-immigrants-outwit-system.html>>

⁵⁶ Elizabeth L. Nicolas Statewide Civil Vital Records in the United States <http://www.progenealogists.com/unitedstatesvitalrecords.htm> (access 6/07/2014) 19

impose stricter migration rules to regulate the flow of outsiders wishing to settle in the Islands. He continued by said “we have to strengthen the family planning and consider the idea of regulating people coming from the outside to settle in Zanzibar. The use of identity cards is also intended to monitor [the entry of] people”.⁵⁷ Whereby, the authorization of identity card was in question due to the late registration.⁵⁸ Also the Member of Parliament wanted to know what measures the government would take to control the population increase at a time of rising unemployment⁵⁹ and land scarcity in Zanzibar.

As Mwinyi Sadallah indicated in IPP Media text translated in English

There are some people who made an attempt to get ZAN IDSs while they have no justification, by having forged birth certificates, which is illegal, while the fake document was identified by the control system.⁶⁰

As from the mzalendo.net text translated in English

Chama Cha Mapinduzi Youth Wing (UVCCM) deputy secretary general for Zanzibar, Mr. ShakaHamduShakahas threatened to disclose the names of officials from Zanzibar Government departments, who issue birth certificate to unqualified people, which is illegal.⁶¹

There is ongoing discussion about the procedure of late birth registration, whereby in

⁵⁷ Tanzania, High population growth threatens MDGs in Zanzibar, <http://www.irinnews.org/report/73175/tanzania-high-population-growth-threatens-mdgs-in-zanzibar> (access 5/07/2014)

⁵⁸ Ibid

⁵⁹ RGoZ, The Zanzibar Strategy For Growth And Reduction Of Poverty: 2010-2015 (ZSGRP II) MKUZA II, ‘A successor to the Zanzibar Strategy for Growth and Reduction of Poverty 2007-2010 (ZSGRP)’ pp.60

⁶⁰ MwinyiSadallah, <http://www.ippmedia.com/frontend/index.php?l=52342> 15/03/2013 (access 5/06/2014)

⁶¹ Elbattawi <http://mzalendo.net/habari/shaka-nitawataja-wanaotoa-vyeti-kisiasa.html> 08/10/2013 (access 4/07/2014)

17th July 2012 at the of House of Representative session the House Member Mr. Subeit Khamis Fakih comment the following text translated in English.

A part from the adults, there are children who were born recently, but still there is delay of getting their birth certificate. He was criticizing the procedure whereby the actor needs to make up and down movement in different location where the register offices are located. These consume their time and incur cost, which most of the peoples are difficult for them to afford.

He continue by asking

What are the procedures that our adults needed to follow to be identified as natives and there will be no difficult for them to get their birth certification. He highlights the consequence of not having birth certificate, that they will lose their rights. For example, if you do not have birth certificate than you cannot get Zan Ids and if you don't have Zan Ids then you cannot get security bond at the court or bank and you will not able to be registered at the vote registry book.⁶²

The RITA Chief Executive Officer Phillip Saliboko said that

By mid this year, we are going to ask private companies to submit **birth certificates** of their employees for verification.' the move came after realizing that many people in the private sector used fake certificates when

⁶²⁶² Ibid 14

applying for employment.⁶³

From the budget speech of 2014/2015 from Presidential Office Ministry of Labor and Public Service Hon. Haroun Ali Suleiman said: (text translate in English)

They have done verification for the staff employment record for the Ministry of Health (MoH) and found 20 staff they don't have employee contact, 47 staff don't have record for date of birth and 740 staffs their contract for employment were not found, whilst total of 2,317 employee personal file were checked.⁶⁴

However during the research follow up at Ministry of Labor and Public Service on 1st of July 2014 I meet the director of human resource and planning Mr. Khamis H. Juma who handed the report to the researcher with full detail of the activities done by Zanzibar ministries in assessing the employee personal file record. He confirm that some of the government employee/staff files does not have date of birth and worried that this could lead the problem at the retirement age.

The problem of fake birth certificate does not end in employment; recently the Zanzibar Government Local News Paper (Zanzibar Leo) text translated in English reported that: -

The departments of immigration announce that there will be a change of the Tanzania passport due to the many problems found including fake

⁶³ Posted by APA Tanzania intensifies campaign against fake birth certificate <<http://en.starafrika.com/news/tanzania-intensifies-campaign-against-fake-birth-certificates.html>, 16, January 2013> (access 04/07/2014)

⁶⁴ Hotubayawaziri wanchiofisiyara iskazinautumishi wa umma, *kuhusumakadirio yamapatona matumizi kwamwakawafedha 2014/2015. Katika baraza la wawakilishi – Zanzibar*, Mei 2014 pp.19

document of obtaining passport.⁶⁵

1.6 Conclusion

The researcher has been reading different article locally and international regarding the recognition of the birth certificate globally, with the environment surrounding it legally, the consequence of the fraud that has been identified, and different has been proposed solutions to minimize risk of fraudulent.

In 1995, the National Association for Vital Records and Health Statistics (now called the National Association for Public Health Statistics and Information Systems) issued a staff report identifying many of the same problems associated with birth certificate fraud. They recommended uniformity and standardization of the forms and paper used to issue certified copies of birth certificates and further suggested that more resources should be directed toward matching death and birth information.

Therefore it is responsibility for every country to make sure that there is proper way to issue birth certificate and the protection of the data recorded. The researcher found that there has been lack of the mention factor in Zanzibar.

The researcher noticed that there was no proper authorization, the procedures are quite complicated, this drive people to find the easy way of obtaining birth certificate that consequently leads to increases the opportunities for fraud, theft, bribery, or other illegally methods to obtain birth certificates. Although people in Zanzibar are aware of birth registration,⁶⁶ however, they are not aware that it is their right to have birth certificate and the responsibility and accountability of data recording keeping

⁶⁵Mwandishi Wetu, '*Uhamiaji kubadilisha tena paspoti*', Zanzibar Leo, Jumanne 08/07/2014, pp.1-2

⁶⁶Ibid

lies to the register office as from the Article 7 of Births and Deaths Registration ACT.

- (a) to register births and deaths and to issue certificates therefore;
- (b) to have custody and keep records of all files, register books and returns made by the registrars;
- (c) to provide registrars, she has, medical practitioners with such books and forms as may be required, and with such instructions and directions, as he may consider necessary for the registration of births and deaths in their areas;

There is a need to establish a Register Office Data Center that will be integrated all register office including Unguja and Pemba. While there is already the Government Data Center (E-Gov DC) it will be useful to use that advantage to store their data. The establishment of policy for Data Protection ACT, Information Security ACT and False Identification Crime ACT are highly needed, while providing knowledge for the key actor and creating awareness for citizen.

Accountability and respect for the rule of law: A rights-based approach seeks to raise levels of accountability in the development process by identifying ‘rights holders’ and corresponding ‘duty bearers’ and to enhance the capacities of those duty bearers to meet their obligations. So it is important to calls for the translation of universal standards into locally determined benchmarks for measuring progress and enhancing accountability.⁶⁷

⁶⁷UN A human Rights-Based Approach to EDUCATION FOR ALL, ‘A framework for the realization of children’s right to education and rights within education,’ 2007, chapter 1pp.11

In this regard, for example, one of my respondents had this to narrate. “I left from the advocate with an affidavit of birth prepared by him to the Immigration Headquarters to apply for a passport only to find that my name had been wrongly spelt. When I returned to the advocate for corrections, there was no record anymore and thus I had no record anymore and therefore I was required to re supply the information.” Secondly, it is very rare for advocates to interrogate their clients on the basis of proving citizenship of their clients. Thirdly, as it is evidenced in courts, information is even not given by the real parties swearing or affirming, Instead, it may be found that it is a mere informer who supplies the information and even signs on behalf of those named in the affidavit. In this situation, proof of Tanzanian citizenship by birth using an affidavit of birth remains also a weak mechanism to proof Tanzanian citizenship by birth.⁶⁸

Recommendation: From the above quotation and the experience the researcher noticed from difference registrar office and from what the researcher have learn through Internet from experienced countries like England, Nigeria, Kenya, USA, South Africa, New Zealand and Canada I suggest that all agencies that rely on birth certificate in Zanzibar as a means of establishing identity must understand the limitations of accepting a birth certificate as proof of age, citizenship, or identity, the proper authorization for issuing and verification of Birth certificate should be at the Registrar Office only.

⁶⁸Ibid

CHAPTER TWO

2.0 RESEARCH METHODOLOGY

2.1 Introduction

According to Bryman and Bell (2000:32), a research method is “simply technique for collecting data. It can involve a specific instrument such as self-completion questionnaire or a structured interview, schedule or participants observation whereby the researcher listens to and watches others”.⁶⁹ This suggests that the data condition methods consist of observation, interview and questionnaires.⁷⁰

2.2 Observation

Definition: Observation is a fundamental way of finding out about the world around us. As human beings, we are very well equipped to pick up detailed information about our environment through our senses. However, as a method of data collection for research purposes, observation is more than just looking or listening. Research, simply defined it as a “systematic enquiry made public”⁷¹ In research data collection by using observation method, the observation must be selective. In order to make observation what we hear or see sometime need to be recorded for the data to be analyzed and interpreted. These could be done at the public, whereby the observer needs to be physically present.

This method is complicated as most of the actor in Zanzibar they do not like their comment to be recorded. This is the reason why the researcher has decided not to

⁶⁹Omar Abbasi M.Sc., International Marketing and Brand Management Quantitative Experiment, Lund University School of Economics and management pp..20

⁷⁰ FAO Fisheries Technical paper 382, *Guidelines for the routine collection of capture fishery data*,

⁷¹ What is observation, <http://www.strath.ac.uk/aer/materials/3datacollection/unit5/whatisobservation/>

choose this method. Also it will be difficult to collect data, time consuming and the researcher need to be physical present at all location needed for the research requirements.

2.3 Interview

In business research, the aim for interviewers is to elicit different types of information from the interviewee or respondent. The different types of interview are structured, unstructured, semi-structured, standardized, focused, group, intensive, in-depth, qualitative, oral history or life history⁷² Interviews are particularly useful for getting the story behind a participant's experiences. The interviewer can pursue in-depth information around the topic. Interviews may be useful as follow-up to certain respondents to questionnaires, e.g., to further investigate their responses.⁷³

As for the interviews the following will be the concern.

- i. Interviews are completed by the interviewer based on what they respond
- ii. Interviews are easier only for respondent, if what is sought is opinions or impressions for them.
- iii. Interviews are a far more personal form of research than questionnaires.
- iv. In the personal interview, the interviewer works directly with the respondent.
- v. The interviewer is considered a part of the measurement instrument and interviewer has to be well trained about how to respond to any contingency that will happen.

⁷²Dr. Rita S. Y. Berry, Collecting data by in-depth interviewing
,<<http://www.leeds.ac.uk/educol/documents/000001172.htm>> (access 16/07/2014)

⁷³ Ibid

- vi. The interviewer has the opportunity to probe or ask follow up questions for which he seeks the information's.
- vii. Interviews are time consuming and they are resource intensive.

With the above-mentioned aspects for the interview method, which are more complicated to be meeting, the researcher decided to reject this method with more concern of the time and the distance between respondents.

2.4 Questionnaire

During the research the main question that the researcher was keen to ask the actors and hearing their opinion sat different institutes during the visit was

- i. What is the procedure employed in your institute to keep data record and when did you start?
- ii. How many cases have you received for applications of late registration and what do you think are reasons?
- iii. Do you think there is fraud opportunity in issuing birth certificate by late registration?

Beside the above the general questions, the researcher prepared questionnaire that are attached with this report as an appendix 1.

2.5 Justification of the Research Methodology

A questionnaire is generally a series of written questions for which the respondents have to provide the answers. According to Saunders et al., (2000), the questionnaire is the most widely used data collection method by the survey strategy; however, both

experiment and case study research strategies can make use of this technique. As a data collecting instrument, it could be structured or unstructured.

Structured questioner this is a types of question that are used in a research questionnaire whereby the respondent need less time to thinks and give the answer for the question. Unstructured questioner this need time to think and the answer need some open explanation. The research questionnaires are most frequently, a very concise, pre-planned set of questions designed to meet specifically information to meet a particular need for research information about mentioned topic. The research information is obtained from respondents normally from a related interest area and their knowledge.

The researcher has decided to use the delivery and collection questionnaire technique with both structured and unstructured questions. This is because it is the common method used and economical it is the cheapest one since the cost of printing and the way to get to reach to the actor are affordable. And since the people are familiar with this method the respond also will be high.

Zanzibar people are not interested in face-to-face interview due to the shy culture they have and it will be difficult to make arrangement and appointment to meet the actors at the most to get the maximum response at a time. Also the cost of transportation will be much higher compared to the questionnaires approach. The expected respondents are RGO's staff, Ministry of Health, Ministry of Information, Sports and Tourism, Courts staff, Ministry of Labor and Public Service, Media, Zan IDs and others that include civil servant, randomly selected with an estimated sample

population of ten firms. About 60 questionnaires distributed to them.

Another methodology that the researcher has employed in this dissertation is Internet research, relying for the most part, on a study of written texts such as convention, article and journals that relate to the topic in the context of international human right agreement and data protection, with particular reference to the birth certificate data record keeping.

The research through Internet are important because of the significant transformation has occurred in legal scholarship globally and internationally, for example, the availability of legal resources of international convention are need to be considered and what are the cognisance of international, regional and alternative perspectives with the relevance to the domestic situation.

In addition to that M McConville & W. H. Chui point out

“The law itself becomes problematic both in the sense that it may be a contributor to or the cause of the social problem and in the sense that whilst law may provide a solution or part of a solution, other non-law solutions, including political and social re-arrangement, are not precluded”⁷⁴

The author implied that the modern technology and faster growing of Internet is not inescapable that trans-jurisdictional instruments, such as conventions relating to human rights, increasingly penetrate domestic legal systems and stimulate those responsible for operating or interrogating national systems to have regard to wider

⁷⁴M McConville & W H Chui ‘Introduction and Review’ in M McConville & W H Chui (eds) *Research Methods for Law* (2007) 1

considerations than was possible before.⁷⁵

The authors thinking are useful for this research, the quote from the international convention about human right; the important of keeping record of birth certificate in Zanzibar is the objective of the research.

⁷⁵Ibid

CHAPTER THREE

3.0 INTERNATIONAL AND NATIONAL DATA PROTECTION

MOVEMENTS WITH PARTICULAR PROTECTION OF PERSONAL DATA

3.1 Introduction

The legal system in Zanzibar started a long time since colonial period. During 1827 Zanzibar did not establish the legal system when Sultan Said from Muscat Empire rules Zanzibar as the center of his empire. This was opportunity for the other foreign nations, which had commercial or other sovereign interest in Zanzibar to enter into treaties with the Sultan, which among other things granted and promise those States was the extraterritorial legal and judicial jurisdiction in Zanzibar.

The state that was interest at that time is United States (1833 Treaty), United Kingdom (1839 Treaty), France (1844 Treaty)⁷⁶ etc. The United Kingdom was the only nation that fully exercised the extraterritorial jurisdiction by establishes Consular court, which had power to handle all cases, civil and criminal over all British subject in the Sultan dominions of the East Africa in 1860.⁷⁷

It was through this window that the British crown extended to Zanzibar a number of Indian laws, English laws, principles of common law and equity to Zanzibar, whereas in 1909⁷⁸ the British system establish the Birth and the Death Registration Act, that was compulsory to register for non-Africans while for Africa it was voluntary.

⁷⁶Sanderson Beck, East Africa 1700 – 1950, East Africa, and Europeans 1700 – 1856, <<http://www.san.beck.org/16-12-EastAfrica.html>> (accessed 16/07/2014)

⁷⁷Ibid

⁷⁸Ibid 1

The Islamic legal and court system was established since 1897 by Sultan for his subjects⁷⁹ the courts were essentially applying Islamic law, which was formally declared a fundamental law of Zanzibar. This system was famously referred as the dual legal system.

These courts adjudicate Muslim family cases such as child custody, divorces, and inheritance. All cases tried in Zanzibar courts, except those involving constitutional issues and Islamic law, can be appealed to the Court of Appeals of the Union on the Mainland Tanzania.⁸⁰ The government did not designate religion on passports or records of vital statistics; however, it required religion to be stated in police reports in cases where individuals may be asked to give sworn testimony.

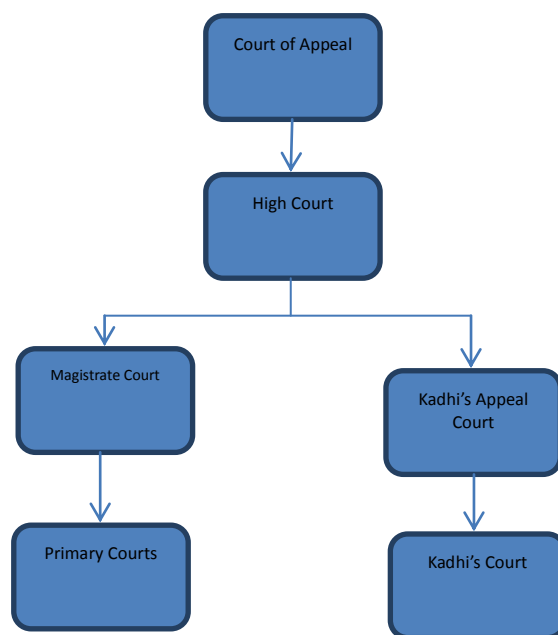


Figure 3.1: The Zanzibar Legal System Structure

⁷⁹Ibid

⁸⁰Tanzania, pp.2 <<http://www.state.gov/documents/organization/171641.pdf>> (access 17/07/2016)

3.2 International Legal Framework of Birth Registration

3.2.1 International Database Protection

Laws for the protection of individual privacy have been adopted worldwide. The objectives can be varying between countries, however, regardless of the objective, data protection laws tend to converge around the principles that individual should have control over their personal information. The protections of databases have been clarified by International agreements under copyright laws.⁸¹

Computer programs are protected as literary works within the meaning of Article 2 of the Berne Convention. Such application applied to computer program whatever may be the mode or form of their expression.⁸²

Other international organization that protecting the individual database are:

- i. The issuance of a Directive on Databases by European Union (95/46/EC) for protection against unlawful extraction of the database.
- ii. The General Agreement on Tariffs and Trade (GATT) for protection of Intellectual property and later become the World Trade Organization.

3.3 The Berne Convention

The Berne Convention, as revised at Paris on July 24, 1971, and amended on September 28, 1979, enters into force. The Berne Convention provide principle of the national treatment that Member State must protect the works from other Member State in the same manner as it provides protection of their own works. The United

⁸¹WIPO copyright protection, (adopted in Geneva on December 1996), article.4

⁸²Ibid

Republic of Tanzania is member of Berne Convention since July 25, 1994.⁸³ On that date, the United Republic of Tanzania has become a member of the Berne Union.⁸⁴ Since Zanzibar is part of United Republic of Tanzania it is duty bound to honor this national treatment commitment.

3.4 Directive 95/46/EC of the European Parliament

The EU Data Protection Directive (also known as Directive 95/46/EC) is a directive adopted by the European Union designed to protect the privacy and protection of all personal data collected for or about citizens of the EU. The Directive 95/46/EC encompasses all key elements from article 8 of the European Convention on Human Rights, which states that;

“Its intention to respect the rights of privacy in personal and family life, as well as in the home and in personal correspondence”

The purpose of the Directive was to harmonize the protection of database within European Union. In order to understand importance of the Directive we have to define data and personal data.

Article 2(a) of the EU Directive define the personal data is

"any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification

⁸³ Berne Notification N0.156, Berne Convention for the Protection of Literary and Artistic Work, Accession by the United Republic of Tanzania, http://www.wipo.int/treaties/en/notifications/berne/treaty_berne_156.html (access 14/07/2014)

⁸⁴Ibid

number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity,"

Data is considered personal when it enables anyone to link information to a specific person, even if the person or entity holding that data cannot make that link. Examples of such data include address, bank statements, credit card numbers, and so forth. And Processing is also broadly defined and involves any manual or automatic operation on personal data, including its collection, recording, organization, storage, modification, retrieval, use, transmission, dissemination or publication, and even blocking, erasure or destruction.⁸⁵

3.5 Protection of the Data

The Directive applied that in the responsibilities of protecting data, does not only lies on the parties who established or operates within the EU, but whenever the controller uses equipment located inside the EU to process personal data.⁸⁶ In order for the protection of data to be monitored effectively, the Directive propose that the supervisory selected by the EU must has the authorization to monitor and protection of data level in the state and has the right to advise the government about related rules and regulation that are being violated.

Whilst the function of the data controllers is to notify the governing authority commencing any processing of personal information, also the controller must

⁸⁵Article 2(b) of the EU Directive

⁸⁶ "Data controller" or "controller" refers to any natural person, legal person or public body which alone or jointly with others determines the purpose and means of processing of personal information.

understand what kind of protection measures are taken to ensure safety and security of processing of related data.

3.6 Database Protection Under Copyright Law

The objectives of the Directive on the harmonization of certain aspects of copyright and related rights in the information society are to adapt legislation on copyright and related rights to reflect technological developments and to transpose into Community law, the main international obligations arising from the two treaties on copyright and related rights adopted within the framework of the World Intellectual Property Organization (WIPO) in December 1996.⁸⁷

Article 1 of the Directive 96/9 EC provides that:

Databases, which by reason of the selection or arrangement of their contents constitute the author's, own intellectual creation shall be protected as such by copyright.

For the database to be protected under the Copyright Law Article 3 of EC Database Directives state that

A database that satisfies the creativity requirement of copyright must be protected by copyright.

These implied that the qualified owners of databases are granted specific and exclusive copyright. The owner has rights to make or to authorize temporary or permanent reproductions; translations, adaptations, arrangements and any other

⁸⁷EU: Copyright in the Information Society <http://ec.europa.eu/internal_market/copyright/copyright-info/index_en.htm> (access 19/07/2014)

alteration, whilst the Article 7(1) of EC Database Directive also created a new *sui generis* right to prevent the unauthorized extraction or re-utilization of the contents of the database. This right gives the author of the database absolute control over any use of the information contained in the database.

3.7 Important of Protecting Database

Government collect largest amount of recorded personal information in the form of government records. The government collects data for individual starting from the birth until death; the Government keeps track of all the major events of their citizen. For example records are kept for driver's licenses, property ownership, criminal activities, address, bank statements, credit card numbers and many more. Although, some of this information is confidential but still most of it is stored in the form of public record. There is great possibility for other to access and to misuses information without authorization of the owner.

The concern of privacy and protection of human right for the data collection and processed was major factor for convention as the Article 8 (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms 1960⁸⁸ states:

“There shall be no interference by a public authority with the exercise of this right except as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or economic well-being of the country, for the prevention of disorder or

⁸⁸ The Council Of Europe, European Convention for the Prevention of Torture and The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment < <http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/humanrightsconceptsideasandfora/humanrightsfora/thecouncilofeurope/>> (access 13/07/2014)

crime, for the protection of health of morals or for the protection of the rights and freedoms of others.”

The article clearly clarifies the important of data collection for the national interest while at the same time maintains the confidentiality, protection whilst there is no interference of individual privacy. More ever it is responsibilities for the authorized supervisor to process according to the law.

3.8 Data Protection Act

The Data Protection ACT 1998 is the UK’s implementing legislation. It provides the framework for the UK’s data protection regime, with detail being filled in by means of specific items of legislation known as “statutory instruments” or “regulations”. The Act exists to strike a balance between the rights of individuals to privacy and ability of organizations to use data for the purpose of their business. The Act was introduces in basic rules of registration for users of data and the right of access of the data. The Act applies to the following:

- (a) at least one of the conditions in Schedule 2 is met, and
- (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

Other principles are

- ii. relevant and sufficient for the purpose;
- iii. accurate;
- iv. kept for as long as is necessary and no longer;

- v. processed in line with individuals' rights;
- vi. secure, and
- vii. only transferred to other countries that have suit data protection controls

3.9 Zanzibar Databases and New Technology

Zanzibar Act No 2 of 2011 section 97 which established the institution relating to information and communication technology policy and operation within the public service state that;

“There will be a department under public service ministry, which shall execute all functions related to the use of information and communication technology within the government”.

It is that department according to the laws of Zanzibar empowered and vested a mandate to create policies and implement the agenda and maintain the resource. However the RGoZ has already established the department that will deal with the policies, unfortunately till now there are no laws that deal with database protection and digital information security. However, despite that Zanzibar does not have the Law that protecting individual but the RGO’s since 2006 has planned to establish the electronic database for the recording information about birth and death registration. Article 8 (2) of BDR no.10 2006 state clearly that;

“All entries and records required to be kept and all certificates required to be issued under this section, may from the first day of January 2006 be stored, processed and analyzed electronically and all existing records shall gradually be transferred to electronic database”.

However, unit now the RGO's uses the paper based as the main way of processing the birth registration. The RGO's office has been in the pilot from moving from paper base to electronic database system for long time, even unit of the writing of this desertion there are still in the pilot. Despite the problem of the equipment and knowledge worker the ACT has a number of weaknesses that need to be considering before moving to the digital age. The BDR Act No.102006 has a number of procedural flaws. For examples Section.14 (1) states that;

“A registrar shall not register any birth after sixty days from the date of the birth except upon payment of the prescribed fee and unless, after due inquiry, the registrar is satisfied of the correctness of the particulars tendered for registration”.

Continuous in Section 14 (2) by provide that;

A registrar shall not register any birth after twelve months from the date of the birth except with the written authority of the Registrar of Births and Deaths for registering the birth and such authority shall state that the Registrar of Births and Deaths is satisfied of the correctness of the particulars tendered for registration and then only upon payment of the prescribed fee.

The registrar office should think of the alternative way and try to remove the fee for any registration like New Zealand done to remove the fee of the registration on their Act;

The Births, Deaths, Marriages, and Relationships Act 1995 removed the fee and other requirements that applied when registering a birth more than two

months after the date of birth.⁸⁹

However, the BDR Act No. 10 2006 does not stipulate what the fees or criteria for setting the fees should be. These create confusion to the applicant and provide room for unethical employees to benefit from the bribe.

Again Section 8 (2) states that;

“All entries and records required to be kept and all certificates required to be issued under this section may from the first day of January 2006 be stored, processed and analyzed electronically and all existing records shall gradually be transferred to electronic database”.

And section 8(3)

Until such time when all records have been stored and be capable of being electronically processed and analyzed, the present registry system and the electronic system shall run parallel.

However, the Act does not provide for any electronic or alternative means of data storage, creating inefficiencies and an increased likelihood of duplication and errors. The Act did not consider the security of information flow.

3.10 Laws and Legislations on ICT

As the above mention currently there is no comprehensive data privacy legislation in effect in Zanzibar. Directive 95/46/EC on data protection is not applicable. However

⁸⁹Tatauranga Aotearoa, Statistics New Zealand Information Center, Late Birth Registrations, Part of the series: Vitals Articles, pp.8

the RGoZ was working together with the Tanzania mainland to refine and adopt the ICT legislations that were in the drafting stage at the time of this research. The legislation will have three Acts;

- i. **Electronic Transaction Act 2013** – the purpose of this Act is to facilitate electronic transactions and other related matters carried by EDI or other means of electronic communication, secure electronic signatures, and to provide for the use, security, facilitation and regulation of electronic communications and transactions.
- ii. **Data Protection Act 2013** – the purpose of this Act is to promote the protection of personal information processed by public and private bodies; to introduce information protection principles so as to establish minimum requirements for the processing of personal information.
- iii. **Computer Crime and Cybercrime Bill**– the purpose of this legislation is to criminalize offences against computers and network related crime; to provide for investigation and collection of evidence for computer and network related crime; to provide for the admission of electronic evidence for such offences.

3.11 Conclusion

The researcher found that the government faced delay in setting universal birth registration as a priority, and remains constrained by a lack of funds, equipment, trained personnel and implementation of Cybercrime Law. The RGO's does not have any kind of transportation for the staff.

Suggestion: The implementation of privacy and security legislations would promote an environment of accountability and responsibility. There is a need to promulgating a Data Protection Act for the purpose of curing a certain mischief, incidences of violation of right to privacy misuse of information and unauthorized data access.

CHAPTER FOUR

4.0 DATA COLLECTION

4.1. Introduction

Data collection is the process of gathering and measuring information on variable of interest in an established systematic fashion that enable one to answer stated research question, test hypothesis and evaluate outcomes.⁹⁰

More clearly the researcher needs to collect data from various sources into one output point for analysis after examine and evaluate. As from Bryman and Bell “the research methodology is simply technique for collecting data. Therefore a Data collection is the recording of one or more data variables (length, duration, etc.) from members of a population of "data-units".⁹¹

Two basic data collection approaches are possible:

- i. By complete enumeration, where all members of the whole population are measured;
- ii. By sampling, where only a proportion of members of the whole population are measured.

In research there are many methods employed for data collection while methods vary by discipline the emphasis on ensuring accurate and honest remain the same. From the research hypothesis, the interested institutions that the researcher for some reasons found that they are linked with the research topic are the following:

⁹⁰ Data collection, Statistical Data Collection Methods, Types of Data Collection Methods <http://www.ask.com/wiki/Data_collection> , March 2014, (access 11/07/2014)

⁹¹ FAO Guidelines for the Routine Collection of Capture Fishery Data <http://www.fao.org/docrep/003/x2465e/x2465e08.htm#TopOfPage>>

Zanzibar Commission for Tourism, Ministry of Health (Mnazi-Mmoja Hospital), Ministry of Labor and Public Service, Zanzibar Identification cards, General Registrar Office, High Court and OCGS

The data was collected in projection to prove the hypothesis when analyzed, the researcher work hard up and down to collected data where the process was successfully at some of the Institutions while some were not willing to give collaboration for some reason beyond the researcher knowledge. Nevertheless, the researcher able to collect enough data for analysis

4.2. Data from the Tourism

As from the research hypothesis the data below shows frequencies of the foreigners that are arrival/departure in Zanzibar by flight and ferry boat from around the world. The main concern was data keeping and recording and the employment opportunities.

Table 4.1: International Tourism Arrival Summary For Flight and Seaport in A Month

No.	Month	Jan	Feb	Mar	Apr	May	Total
1.	Airport	25,472	25,970	16,819	10,093	6,256	84,610
2.	Seaport	4,897	4,889	3,276	2,731	3,081	18,874
3.	Total	30,360	30,859	20,095	12,824	9,337	103,484

Source: Zanzibar Commission for Tourism

Table 4.2: Annual Records of Visitor Arrivals in Zanzibar by Country of Residence 2008 - 2012

Country of Residence	2008	2009	2010	2011	2012
EUROPE					
Scandinavia	8,791	8,719	7,814	8,863	8,887
United Kingdom	12,949	13,377	13,757	13,103	12,288
German	6,990	8,188	8,750	11,139	12,337
Italy	41,610	45,244	41,234	61,639	48,795
France	3,958	4,608	4,415	6,130	8,768
Dutch	3,677	3,781	-	4,427	4,820
Belgium	1,715	1,808	-	3,999	4,438
Russia	-	-	-	1,063	1,375
Turkey	-	-	-	1,230	2,447
Spain	-	-	-	1,622	2,156
Other European Country	9,348	11,189	17,647	11,839	12,492
Subtotal	89,038	96,914	93,617	125,054	118,803
ASIA					
Japan	727	799	718	1,137	1,645
China	-	-	-	1,698	1,912
Other Asia	6,326	5,477	5,708	7,428	7,872
Subtotal	7,053	6,276	6,426	10,263	11,429
AFRICA					
Kenya	4,722	4,414	5,054	6,077	6,148
South Africa	8,746	9,575	9,410	12,290	11,145
Other Africa	3,744	3,406	3,015	4,366	5,605
Subtotal	17,212	17,395	17,479	22,733	22,898
AMERICA					
United states& Canada	10,100	9,540	9,436	10,752	9,709
Other American Country	590	931	1,309	1,566	2,157
Subtotal	10,690	10,471	10,745	12,318	11,866
OCEANIA					
Australia/New Zealand	4,452	3,898	4,569	4,699	4,227
	4,452	3,898	4,569	4,699	4,227
All Countries	128,445	134,954	132,836	175,067	169,223
Growth Rate	10.3	5.1	1.6	31.8	3.3

Source: Zanzibar Commission for Tourism.

4.3. Data from the Ministry of Health (MOH)

Data was collected with the aim of looking on data records and compared with birth certificate issued by registrar office as for the hypothesis.

Table 4.3: Total Number of Live Birth in Zanzibar Hospitals 2010 - 2013

P E M B a	Health Facilities	Total Deliveries				Live birth			
		2010	2011	2012	2013	2010_	2011	2012	2013
	ChakeChake Hosp.	2,899	2,812	3,110	3,557	2,706	2,691	3,078	3,503
	Mkoani Hosp.	1,318	1,490	1,647	2,006	1,249	1,462	1,647	1,980
	Wete Hosp.	1,193	1,608	2,041	2,288	1,189	1,564	1,953	2,240
	Micheweni Cottage	552	625	828	1,083	548	590	815	1,071
	Vitongoji Cottage	142	199	245	261	141	201	244	263
	Wesha PHCU+	136	158	145	127	137	158	148	127
	Bogowa PHCU+	86	122	172	150	81	125	174	150
	Makangale PHCU+	69	87	52	114	69	87	78	114
	Ukunjwi PHCU	-	-	37	50	-	-	37	50
	M/Ng'ombe PHCU+	67	25	56	134	67	24	57	135
	Pujini PHCU +	55	59	46	46	54	59	46	44
	Wingwi PHCU +	20	28	61	63	21	28	61	64
	Fundo PHCU +	15	26	66	92	12	26	68	92
	Tundauwa PHCU	-	-	25	45	-	-	25	45
	Junguni PHCU	-	43	86	153	-	43	86	154
	Kojani PHCU+	-	5	176	176	-	5	175	177
	Kengeja PHCU	-	-	63	293	-	-	63	293
	Konde PHCU	-	221	205	283	-	224	204	283
	Total Pemba	6,552	7,508	9,036	10,921	6,274	7,287	8,959	10,785
U N G U J a	MnaziMmoja	10,168	10,518	16,63	11,137	10,259	10,36	16,28	10,828
	MwembeLadu	4,530	5,655	5,881	6,221	4,501	5,523	5,692	6,160
	Kivunge Cottage	1,404	1,430	1,549	1,756	1,407	1,429	1,561	1,679
	Al-rahma	423	786	855	1,007	457	771	840	995
	Makunduchi	431	698	728	820	417	682	714	827
	Fuoni PHCU +	248	264	484	649	233	293	489	652
	Marie Stopes	113	-	-	-	114	-	-	-
	Chukwani Maternity	97	156	158	200	97	180	158	198
	D/Vijibweni HCU+	68	106	63	186	70	105	63	186
	Uroa PHCU+	42	27	37	42	44	27	37	42
	B/Misufini PHCU+	42	73	70	163	42	73	67	165
	Nungwi PHCU+	33	68	97	96	34	68	97	96
	T/Gomani PHCU+	8	7	12	94	8	7	12	97
	Gamba PHCU+	4	2	-	-	4	3	-	-
	Jambiani PHCU +	17	30	36	53	17	29	39	52
	Muyuni PHCU +	5	18	14	5	4	19	14	5
	Kendwa PHCU	-	46	174	102	-	46	175	103
	Kitope Church Disp.	-	18	35	30	-	17	35	30
	Kitope PHCU	-	29	47	31	-	29	47	32
Mahonda PHCU +	-	55	165	89	-	55	165	89	
Matemwe PHCU +	-	12	16	95	-	12	16	96	
	Total Unguja	17,633	19,998	27,05	22,776	17,708	19,73	26,50	22,332
	Total Zanzibar	24,185	27,506	36,088	33,697	23,982	27,022	35,465	33,117

Source: Ministry of Health (MnaziMmoja Hospital)

4.4. Data from the Registrar General Offices (RGO's)

Table 4.4: Total Number of Birth Registration in Zanzibar 2009 – 2013

SUMMARY OF THE REGISTRATION											
Year	Urban	West	North A	North B	Central	South	Miche weni	Wete	Chake Chake	Mkoani	Total
2009	16,200	3385	3,150	1365	521	1043	3,189	3,890	3,528	3,514	39,785
2010	17,350	3300	3,164	1622	0	1005	3,167	3,773	0	4,508	37,889
2011	19,600	3696	3,194	1744	0	1266	3,788	3,778	4,814	3,217	45,097
2012	19,800	4100	3,464	1771	375	1189	3,996	4,645	5,608	4,192	49,140
2013	17,011	3089	4,360	1732	728	1128	4,048	3,593	4,305	3,739	43,733
	89,961	17570	17,332	8234	1,624	5631	18,188	19,679	18,255	19,170	

Source: from the Registrar General Office

Table 4.5: Number of birth registration for male and female 2009 – 2013

URBAN			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	7875	8,325	16,200
2010	8723	8627	17,350
2011	9818	9782	19,600
2012	9853	9947	19,800
2013	8850	8161	17,011

WEST			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	1718	1667	3385
2010	1702	1598	3300
2011	1827	1869	3696
2012	2017	2083	4100
2013	1659	1430	3089

NORTH A			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	1561	1,589	3,150
2010	1592	1572	3,164
2011	1587	1607	3,194
2012	1739	1725	3,464
2013	2535	1825	4,360

NORTH B			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	710	655	1365
2010	751	871	1622
2011	873	871	1744
2012	866	905	1771
2013	970	762	1732

CENTRAL			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	243	278	521
2010			0
2011			0
2012	216	159	375
2013	403	325	728
MICHEWENI			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	1,663	1,526	3,189
2010	1,468	1,699	3,167
2011	1,839	1,949	3,788
2012	2,007	1,989	3,996
2013	2,211	1,837	4,048
CHAKEAHAKE			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	1,797	1,731	3,528
2010			0
2011	2,358	2,456	4,814
2012	2763	2845	5,608
2013	2,266	2,039	4,305
SOUTH			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	551	492	1043
2010	468	537	1005
2011	601	665	1266
2012	574	615	1189
2013	638	490	1128
WETE			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	1,892	1,998	3,890
2010	1,894	1,879	3,773
2011	1,835	1,943	3,778
2012	2,235	2,410	4,645
2013	1,869	1,724	3,593
MKOANI			
YEAR	BIRTH		
	FEMALE	MALE	TOTAL
2009	1,687	1,827	3,514
2010	1,693	2,815	4,508
2011	1,522	1,695	3,217
2012	2,056	2,136	4,192
2013	2,040	1,699	3,739

Source: from General Register Office

4.1. Data from Ministry of Labor and Public Service (MLPS)

Data collected from the MLPS where point of interest was to look for the employment opportunity, total current government and private employees, database Recording System for the employee of the Zanzibar RGoZ.

Table 4.6: Vacancy Opportunities for the period 2010 -2014

Years	Total number of Job Vacancy that government has planned	Total number of employments that government has manage to employee	Remain Job Vacancy
2010 - 2011	5265	2476	2789
2011 - 2012	2476	357	2119
2012 – 2013	2552	1794	758
Total	10293	4627	5666

Source: from Ministry of Labor and Public Service

Summary for the examine file for the Zanzibar

Table 4.7: Summary for examined files of employees in Unguja Ministries

S/N	Ministry Name	Date of Contract Approval	Staff without date of registration	Staff with contract after retire	Total Number Of Staff
1	Minister for Public Services and Good Governance	60	5	14	353
2	Minister for Finance, Economic Affairs and Development Planning	143	21	24	634
3	Minister for Labor, Peoples Economic Empowerment and Cooperatives	8	0	1	154
4	Office of Second Vice-President	87	0	1	362
5	Office of first Vice-President	30	1	0	177
6	Minister for Constitutional Affairs and Justice	142	0	7	600
7	Minister for Trade, Industries, and Marketing	28	0	0	128
8	Minister for Social Welfare, Women and Children Development	36	0	0	220
9	Minister for Agriculture and Natural Resources	428	23	5	2096
10	Minister for Livestock and Fishing	139	2	1	520
11	Minister for Information, Culture, Tourism and Sports	235	72	175	764
12	(OR) and Office of House of Representatives (BLM)	58	12	6	900
13	Minister for Infrastructure and Communication	80	5	6	775
14	Minister of Education and Professional Training	-	-	-	-
15	Minister for Health	221	219	152	1263
16	Minister for Lands, Housing, Water and Energy	43	11	7	497
Total		1738	371	399	9443

Source: from Ministry of Labor and Public Service

Table 4.8: Summary for Examine Files of Employees in Pemba Ministries

S/N	Ministry Name	Date of Contract Approval	Staff without date of birth	Staff with contract after retire	Total Number Of Staff
1	Minister for Public Services and Good Governance	24	1	0	52
2	Minister for Finance, Economic Affairs and Development Planning	22	2	2	72
3	Minister for Labor, Peoples Economic Empowerment and Cooperatives	16	0	1	57
4	Office of Second Vice-President	6	1	0	58
5	Office of first Vice-President	12	5	5	49
6	Minister for Constitutional Affairs and Justice	56	11	4	203
7	Minister for Trade, Industries, and Marketing	5	2	11	42
8	Minister for Social Welfare, Women and Children Development	16	11	3	67
9	Minister for Agriculture and Natural Resources	206	126	52	627
10	Minister for Livestock and Fishing	78	34	20	171
11	Minister for Information, Culture, Tourism and Sports	24	8	10	201
12	(OR) and Office of House of Representatives (BLM)	39	25	11	266
13	Minister for Infrastructure and Communication	15	9	3	208
14	Minister of Education and Professional Training	994	185	196	3571
15	Minister for Health	740	47	20	807
16	Minister for Lands, Housing, Water and Energy	51	68	17	443
Total		2304	535	355	6894

Source: from Ministry of Labor and Public Service

Number of government employee

Table 4.9: Total Number of Government Employees from 2010 to July 2014

Years	2010	2011	2012	2013	2014
	35,700	36,200	35,601	37,300	38,153

Source from Ministry of Finance

Number of private employee

Table 4.10: Total Number of Private Employees from 2010 - 2012

Years	2010	2011	2012	2013	2014
	11,824	49,779	25,894		

Source from Commission of Tourism

Table 4.11: Total Number Zan IDs Issued from 2010 to July 2014

Year	2010	2011	2012	2013	Up to July 2014
	22,297	10341	25,036	43,179	10,992

Source: from Zanzibar Identification Card

4.2. Data from the ZAN IDs,

The Zan Ids agency is responsible for issuing Zanzibar Identification Card. The aim of collecting data from this agency is to collect the statistic of the fake birth certificate used to obtain the Zan Ids, and total number of the Zan IDs issued in a year. There are no data collected from high court because of poor data record for the number of people who went for court affidavit in order to get birth certificate by late registration as required in the Article 25 (1) of DBR No.10 2006 which state that: -

The Registrar of Births and Deaths may, in the performance of his/her duties under this Act, require the prescribed particulars relation to the birth or death of any person to be proved by evidence on oath which the Registrar of Births and Deaths is hereby authorized to administer or by statutory declaration.

4.3 Conclusion

Generally, in all visited institutions there was no proper data record keeping and mostly they use old method (paper based) or some of the institution use computer but not at expected level.

Suggestion the knowledge of computer application is highly needed and therefore the institute must train their staff. There are some of institutions where data was difficult to be collected due to the bureaucracy authorization that needs to be educated. There should understand of the actors about the difference between the data protection, individual privacy, and data that can be used for the public interest and to establish the Cyber Crime Act, for protecting data and Information Security.

CHAPTER FIVE

5.0 DATA ANALYSIS

5.1 Introduction

Data Analysis is the science of examining raw data with the purpose of drawing conclusions about that information (Rouse, M. 2013). The data collected during research need to be analyzed and interpreted. Baker (2003) declares that we are currently moving from an era of information scarcity to an era of information overload, and therefore a decision has to be made through successive focusing on information needs, availability, worthiness, interpretation, analysis of secondary sources and primary sources.

In this research, analysis of both the primary and secondary information will be important for achieving the research objectives. The primary data collection from the Institutions would be the evidence for the poor data recording keeping that increases the opportunity for fraud of birth certificate to occur. The study gathered both qualitative and quantitative information's. Secondary data collected from the mentioned literature sources analyzed through literature review and conceptual analysis. Data analysis for the questionnaires was made using SPSS version 12.0 SOFTWARE. The analysis starts with the collected data from the institutions followed by the questionnaire responses.

5.2 Data from Tourism

The data collected show the increase and fluctuation number of foreigner visiting in Zanzibar as shown in CDT 1 and 2. The data was collected as for the hypothesis, to look threat on employment opportunity and citizenship caused by foreigner. The

hypothesis was proved as there were no data shows about those who are living. As a result the Government decided to issue IDs to foreigner as for the noticed problem, according to Mr. Issa Yussuf, quoted below.

“Although he did not mention how many foreigners living in Zanzibar would be targeted in the new identification programme⁹²

However data collected was perhaps inaccurate because not all visitors are required to register at immigration (for instance those arriving from other parts of Tanzania).

5.3 Data from MOH

The collected data from MOH come from different hospitals in Zanzibar was to look for record keeping and to make the comparison with birth registration issued by registrar office and population growth per years. CDT 3 shows alert for the population growth from 27,022 to 35,465 and 33, 117 respectively for the 2011 – 2013. However the record was only for birth delivery in hospital.

5.4 Data from RGO’s

The researcher was much interested with data from RGO’s office as it was the subject of the research. Interest was to look for the data record keeping, late registration record, and annual birth registration. More ever the data was used to make comparison with birth record of the various hospitals in Zanzibar. As from the CDT 4 it is shows that there was big difference of birth rate recorded in hospitals annual and birth registration at RGO’s. This can be noticed in the year **2012/2013**.

⁹²IssaYussuf, Zanzibar Government to issue its residents ID cards to foreigners <<http://archive.dailynews.co.tz/index.php/parliament-news/6902-zanzibar-government-to-issue-its-residents-id-cards-to-foreigners>>(access 20/07/2014)

Birth rate was 25,465 and 33,117 respectively while birth registration from RGO's was 49,140 and 43,733. This shows that the difference was due to the higher rate of late registration. The late registration problem was also indicated in some district of registrar office as for the case of the CENTRAL of Unguja for the year 2010 and 2012 where there was no birth registration record and the same case happens at CHAKECHAKE for the year 2010.

This indicates that there will be more applications for late registration and prove the hypothesis as well as research problem. From the **CDT4** it was impossible for the whole year within the central of Unguja that there was no birth and no birth registration and also for the Chakechake, which is the center town of Pemba.

5.5 Data from MLPS

Data was collected from government employee and private sector with the aim of comparison with job vacancies, population growth, and data recording keeping for government employee. **CDT 5** shows that the vacancies and employment does not match, whilst **CDT 7** and **8** shows opportunities of employment archived by government and private.

CDT 7 and **8** shows the employed staff without date of the birth. This was clear indication for the prove of the hypothesis.

5.6 Data from Zan Ids

The CDT 11 shows the increasing number of Zan Ids issued in 2013, which indicates the importance of IDs for economic and social advantages. As from the record above

and quoted statement of the Minister below it is clear indication of poor data record keeping and great opportunity for obtained Zan Ids without proper justification as needed from the RGO's. At the same time there was no action taken for the identified fake birth certificate as for the BDR Act no 10 2006.

“The minister said last year (2011/2012) about 20,971 Zanzibar is including 10,393 civil servants who met the requirements were issued with Zan Ids, this year 2012/2013 we target to issue 10,500 Zan Ids to Zanzibar is.”⁹³

5.7 Data from Questionnaire

Total number of questionnaire distributed was 60 and 55 was collected which is 91.65% of the response, time was the main constraint to the researcher to collected all distributed questionnaire but researcher was satisfactory with the response and analysis was done using SPS Software version 12.

The data for questionnaire was all entered with the exception of the question 5, 8, 11, 13, 15, 16, 22, 24, 26, and 30, which require explanation from respondent.

Table 5.1: Gender Response

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Female	31	56.4	56.4	56.4
Male	24	43.6	43.6	100.0
Total	55	100.0	100.0	

Source: from Field Research, 2014

⁹³ ibid

The Table 5.1 shows the gender response from the questionnaire as was distributed. The aim of the Question was to look for the Majority gender response. The result shows that the majority of the respondent was female. This is according to the population of the Zanzibar and the census result, which shows that the majority of the Zanzibar people are women. About 60% of Zanzibar population is women.

In relation to the question 1 the aim of this question was to look for average age of the employee and citizen who will be the working tools for the research and the result shown from the Table 5.2 that the average respondent are of the age of 20 and 50 years are of about 54.5%. This is because the work forces for the RGoZ employee are youth, even though there are some who are at above that age.

Table 5.2: Average Years of Respondents

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Below 20	10	18.2	18.2	18.2
Between 20 -50	30	54.5	54.5	72.7
Above 50	15	27.3	27.3	100.0
Total	55	100.0	100.0	

Source: from Field Research, 2014

From the Table 5.3 is shown that most respondent are married this was because of culture of Zanzibar and there is specially campaign from the GOVERNMENT and INTERNATIONAL ORGANIZATION which emphasis people in marriage to AVOID AIDS. This campaign is being funded by Government and Other international organization and is working well.

Table 5.3: Marital Status

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Married	30	54.5	54.5	54.5
	Single	18	32.7	32.7	87.3
	Divorce	7	12.7	12.7	100.0
	Total	55	100.0	100.0	

Source: from Field Research, 2014

The aim was to evaluate the RGoZ employee education whereby Table 5.4 show that education is still a problem mainly to employee above 50 years and majority in between 20 to 50 years. There was special government initiative to boost the education to its employee by motivate them with salary that forced former employees with lower education to join the higher level institute in order to match with new working environment. The problems do no longer exist for the new employees where majority of them are graduates.

Table 5.4: Education Level of Respondents

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	O-Level	24	43.6	43.6	43.6
	A-Level	7	12.7	12.7	56.4
	Diploma/Degree	20	36.4	36.4	92.7
	Master/PhD	4	7.3	7.3	100.0
	Total	55	100.0	100.0	

Source: from Field Research, 2014

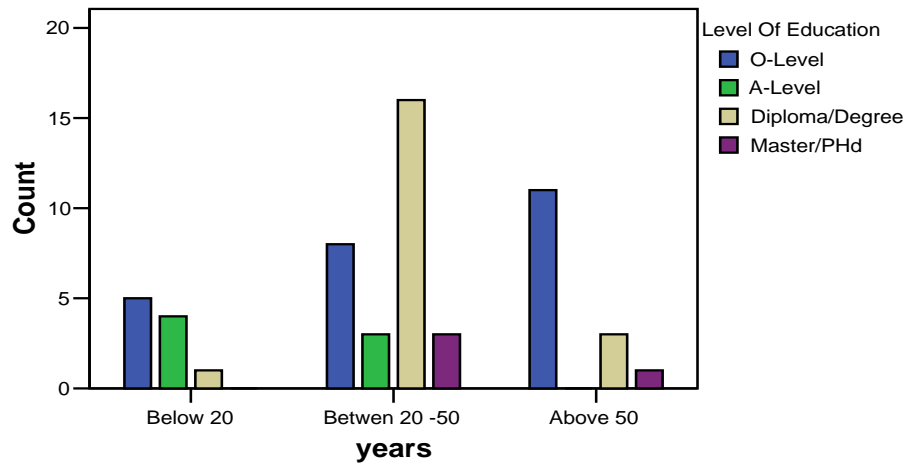


Figure 4.1: Level of Respondents Education with their Ages

Source: from Field Research, 2014

The researcher found that there is indication of increasing number of educated employee this is because of government and international organization initiatives to promote education in Zanzibar by establish Universities currently there are above 5 universities.

Table 5.5: Employees and Unemployed

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	43	78.2	78.2	78.2
No	12	21.8	21.8	100.0
Total	55	100.0	100.0	

Source: from Field Research, 2014

The Figure 4.1 shows the number of the employment whereby 78.2% have been employee and 21.8%unemployed. The percentage of employed as for this research is high because the researcher distributes most of the questionnaire to the government and institute as for the hypothesis.

Table 5.6: Response of Birth Certificate Condition for Employment

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	36	65.5	65.5	65.5
	No	19	34.5	34.5	100.0
	Total	55	100.0	100.0	

Source: from Field Research, 2014

Table 5.6 shows that it is necessary to have birth certificate as condition for employment as for the question. The rest minority response could be not employee by the government, retired employee or self-employee.

Table 5.7: Response for Employment Opportunity

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Simple	3	5.5	5.5	5.5
	Difficult	6	10.9	10.9	16.4
	Very Difficult	46	83.6	83.6	100.0
	Total	55	100.0	100.0	

Source: from Field Research, 2014

Table 5.7 shows that the majorities of the respondent 83.6% agreed that employment opportunities in Zanzibar are very difficult, due to the economic status of the government that forced to limit number of employment. Also limited number of industries is also among the factor.

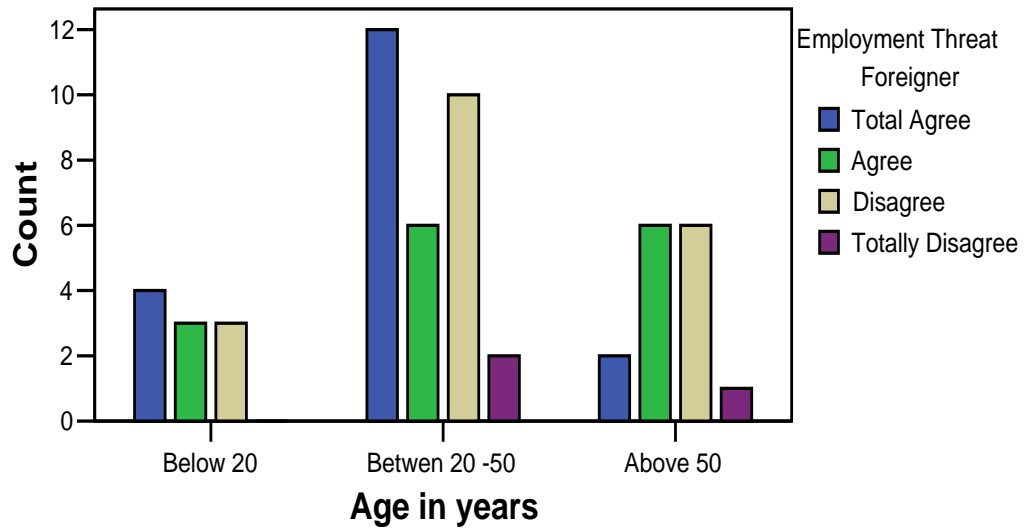


Figure 4.2: Response of Threat for Foreigners' Job Opportunities

Source: from Field Research, 2014

From the graph it shows that citizens are worried with the foreigner in employment. This was strongly supported in the hypothesis of the research. Whereby small percent show that there is no threat.

Table 5.8: Interest of Foreigner to Live in Zanzibar

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	47	85.5	85.5	85.5
No	8	14.5	14.5	100.0
Total	55	100.0	100.0	

Source: from Field Research, 2014

Table 5.8 shows that 85.5% of people of Zanzibar believe that due to the nature and employment opportunity that Zanzibar has attracts foreigner to live in Zanzibar as strongly supported by the research hypothesis.

Table 5.9: Birth Certificate

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	50	90.9	90.9	90.9
No	5	9.1	9.1	100.0
Total	55	100.0	100.0	

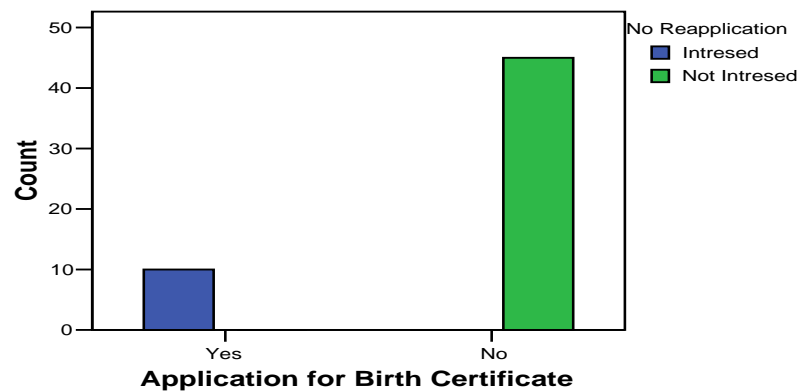
Source: from Field Research, 2014

Table 5.9 shows that majority of Zanzibar people have birth certificate. This is because of its important and awareness of having birth certificate. The awareness of birth registration in Zanzibar it has been explained briefly in the literature review of the research.

Table 5.10: Late Registrations - Application for Birth Certificate

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	10	18.2	18.2	18.2
No	45	81.8	81.8	100.0
Total	55	100.0	100.0	

Source: from Field Research, 2014

**Figure 4.3: Application for Birth Certificate (Late Registration)**

Source: from Field Research, 2014

Table 5.10 show that 81.8% have not applied again which means that as for literature review show that there was no problem of awareness on importance of birth registration. The highest number of people having birth certificate, they was not point as for the question to apply again, whereby 18.2% they don't have birth certificate and show that they are interest to apply for it.

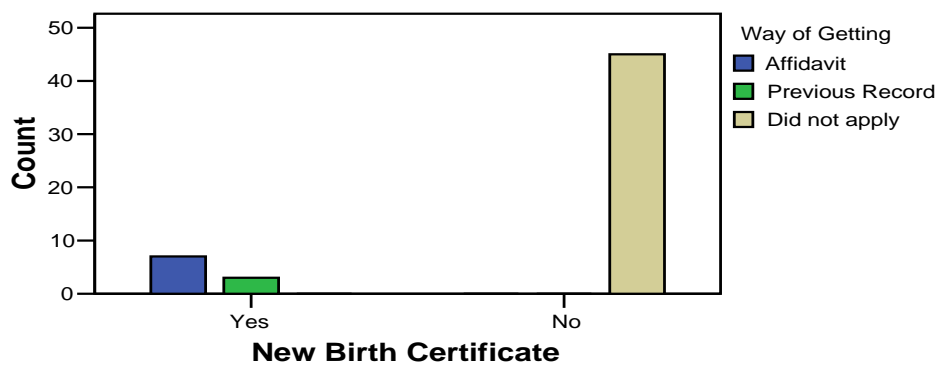


Figure 4.4: Birth certificate Data Record Keeping

Source: from Field Research, 2014

Graph shows that majority's gets birth certificate by affidavit. This proves the data recording keeping was poor, as they could not find their original pervious data. This linked directly to the hypothesis and research problem.

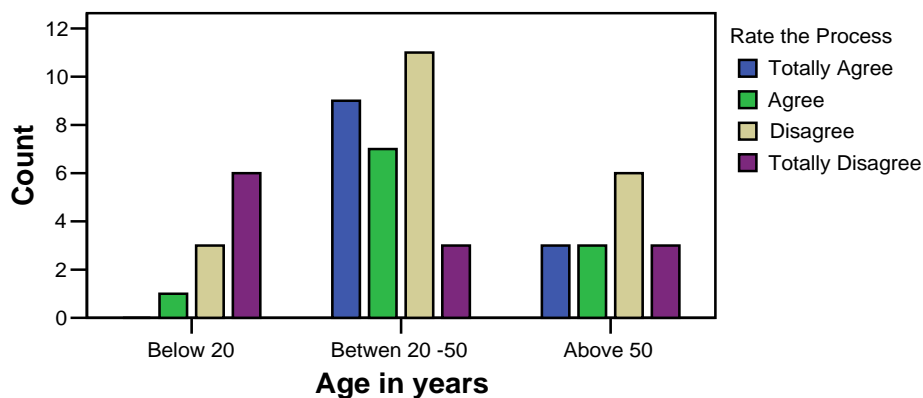


Figure 4.5: Late Registration Procedure

Source: from Field Research, 2014

Graph shows that most of the respondent for the research question were not agree with procedure of late registration as it has been explained briefly in the literature review and strongly supported by hypothesis.

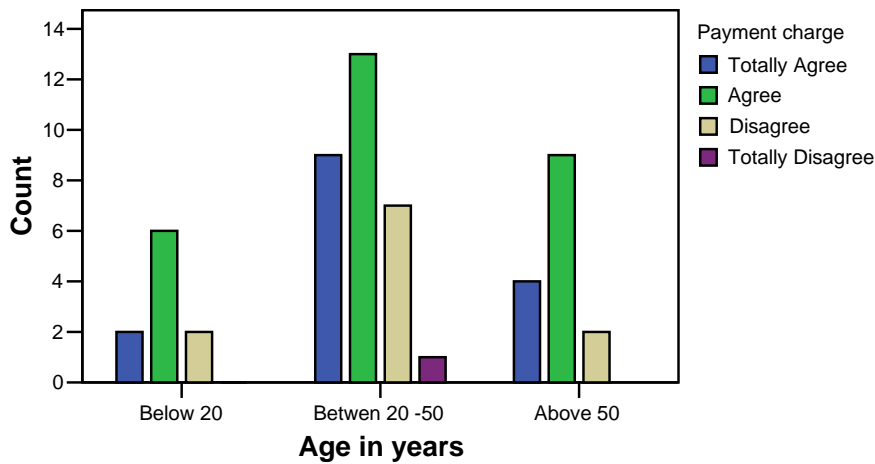


Figure 4.6: Payment Procedure

Source: from Field Research, 2014

The Figure 4.5 shows that peoples are willing to pay for registration of the birth certificate fees but as Figure 4.6 indicate that most of them are not satisfied and their concern is for the late registration procedure.

Table 5.11: Awareness of Birth and Death Registration Act

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	6	10.9	10.9	10.9
No	49	89.1	89.1	100.0
Total	55	100.0	100.0	

Table 5.11 show that people are not aware if there is any policy that binds the parent to register their children while RGO's has Act since 1909. Also they are not aware of

any Act regarding to data protection.

Table 5.12: Awareness of Database Protection Act

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	4	7.3	7.3	7.3
No	51	92.7	92.7	100.0
Total	55	100.0	100.0	

Table 5.12 shows strongly supported by response shown in Figure Table 5.11 89.1% whereby most of the responses 92.7% of Table 5.12 from questionnaire of this research are not aware of the existing policy and the proposed Act that will be implemented.

Table 5.13: Media Participation - Media Participate

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	8	14.5	14.5	14.5
No	47	85.5	85.5	100.0
Total	55	100.0	100.0	

Table 5.13 shows that the participation of media for education of birth registration is low. This strongly indicated as for the response of the questionnaires, question number 27 and 29.

5.7 Conclusion

Data recording keeping: From analysis and institution visited as mentioned above,

the researcher found that most of institution use old technology of data recording keeping (manual) whereby the environment of storage was not good. Most of the previous data that has been stored cannot be accessed.

Suggestion: As the technology has changed and availability of equipment (computer and software) people need to change method of data storage from manual to computerized system with backup copy of software and hard copy.

Computer usage: most of the institution used computer at lower level of applications.

Suggestion: there is a need to train staff at higher level of computer application usage to meet the need and challenge for new technology demand. IT professional are needed in all institute.

Privacy and Security: researcher found that privacy and security for individual data is at minimum level in most of institute visited as they use manual files to store personal information, whereby sometimes unauthorized person can access the file and changes the information as for the case of the MPLS or misplace files as its seems for the case of Central and Chakechake district registrar office.

Suggestion: they need to change data record keeping system from manual to computerization and there should database administrator who will be responsible for the data processing and backup (both hard and soft copy) of the information. There is a need for implementation of high policy security system of authorization.

Improper Authorization: the researcher found that there is improper authorization in late registration this was proved as there was no data record kept for application of affidavit in court for monthly or year. Also this happens at the RGO's and Zan Ids. There is no case of the fake birth certificate in Zanzibar, while there are identified fake birth certificates as mention at the literature review.

Suggestion: there should be proper authorization, responsibility and accountability for the key actor. The Section 23 and 24 of BDR Act No .10 of 2006 states that

Any person who forges, reregister or falsifies any certificate, declaration or order under this Act, or knowingly uses, or gives or sends to any person, as genuine any false or forged certificate, declaration or order for the purposes of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten millions shillings or imprisonment for a term not exceeding seven years or both such fine and imprisonment.

While Section 24 state that

Any person who instigates or encourages another person to register births or deaths by making false declaration or who advises or encourages another person to obtain a false certificate shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five million shillings or imprisonment for a term not exceeding three years.

This Sections need to be excised but the RGO's has to publish it and create awareness of its existence in public.

CHAPTER SIX

6.0 RECOMMENDATION AND CONCLUSION

6.1. Introduction

This research investigates the birth registration in Zanzibar, analysis data record keeping and late registration procedures according to the Zanzibar Birth and Registration Act No.0 of 2006. It provides some possible solutions to RGO's where the needs have not been addressed. A trend of developing and expanding of birth registration has been seen to many countries for the aim of the data record keeping statistics as for the demand of government development plan and minimize the fraud opportunities. The implementation of new technology for data record keeping has been recommended. The research has proved the hypothesis and has identified the research problem where the research methodology approach and research questionnaire was pilot to the research achievement.

6.2. Research Result

The researcher found that there is conflict of authorization for issuing ID card in Zanzibar from the key actor. This will be elaborated briefly in the proceeding ACT for the following department.

ZEC, Zan Ids, court and RGO's

6.3. Conflict between the IDs Department within Zanzibar

6.3.1. Zanzibar Electronic Act

ZEC is a Commission department of electronic vote responsible for issuing identification card for voters. The ZEC has the power of issue Voter Card to citizen after seeking advices from Sheha. Sheha is considered as main actor for the

justification of the right for someone to be illegible of obtaining voter identification card and his name to be listed in the voter registration book and automatically this data are used in ZEC database record.

However, the existing ZEC law that has gives the right to registrar does not set out legal conditions to be used as standard unit for proof of residence or citizen of a prospective voter, hence leaving very wide discretionary powers to the Shehas to give out their decisions as to residence of the respective people basing on their political leanings. Section 11A(1)(c) of the ZEC Act NO.11 of 1984 state that

Co-operating with the Registration Officer, Assistant Registration Officer, Sheha or Assistant Sheha of the Shehia in which the registration office is established to secure the smooth compliance of the laws and regulations pertaining to the conduct of the registration of voters at the registration office.

And Section 12.(1) of ZEC Act NO.11 of 1984 state that

12.(1) No person shall be registered as a voter unless he:

- (a) Fulfills the conditions for registration as voter as provided in the provisions of section 7(2) of the Constitution;
- (b) Produces his Zanzibar is identity card issued under Act, No. 7 of 2005.

Section 11A (1)(c) that leave the room for Sheha as main actor of input to database without proof of residence or citizen. Whilst this effect is empowered without considering the effect by Section 119 (13) of the Constitution safeguards the decisions of the Zanzibar Electoral Commission related to the execution of its functions and states that there shall be no court of law that will have powers to

investigate any action taken by the Commission in executing its mandate bestowed to it by the Constitution.

This proves that the power given to ZEC as for above quoted Act are against the RGO's policy.

6.1.1. High Court - Deed Pool for Changing Name

Changing a name refers to that legal Act where a person adopts a name different from the names s/he has been using before. Tanzanians can change of name or names through deed polls regulation. This can be done at any time for any reasons that not related to fraud or avoiding obligation. The law of obtaining deed polls is the law governing the Registration of Documents Act, whereas changes of name regulations are also set out.

The declaration (affidavit or sworn statement) that s/he has abandoning her/his old name, and from the day s/he sworn s/he would like to user new name at all time and you want everybody to do the same. This includes their full name, forename, surname and middle name. After the applicant finished his/her all the produces of changing name and had been approved s/he is required to submit a copy of the Decree Changing Name to the registrar. The Applicant has option of changing name as for his/her interest.

The Deed Pool for Changing Name is an opportunity for fraud of birth certificate while the document is official recognised.

6.1.2. Zanzibar IDs

The Zan Ids is a government department whereby it is responsible for issuing Zanzibar Citizenship. The Zan Ids has the mandate for the mentioned responsibility as for the section 6 of the Registration of Zanzibar is Resident Act no.7 of 2005 state that

6. Subject to the provisions of this Act and directives of the Minister, the Director shall :-

- (i) register every Zanzibari resident in Zanzibar who has attained the age of eighteen years and above;
- (ii) issue identity cards to every registered Zanzibar is resident in Zanzibar;
- (iii) maintain a record of all Zanzibar is resident in Zanzibar to whom this Act applies.

The Act shows that the Director and the Minister of the Ministry for constitution and good governance has the authority of registration and issuing Zan Ids, which is the Citizenship. Section 15 of the Registration of Zanzibar is Resident Act no.7 of 2005 state that

"4A. Every Zanzibar is resident in Zanzibar who has attained the age of eighteen and above shall be registered and be given an identity card which shall be issued by the Director."

The article indicates that the mandate given to the Director or Minister to identify the Zanzibar is is against the policy of the Birth and Death Registration Act No.10 of

2006 that gives this right to identify the Zanzibar citizen since they should have individual data record since the date of the birth, changes of name, marriage and death.

Problem Noticed: The Act No.10 of BDR 2006 gives full mandate to the registrar office to keep record of individual data of the citizen since the data of the birth.⁹⁴ The mandate that has been given to RGO's Zanzibar has been affected by the notified above Act within the Institution. Therefore the notified Act gives the opportunities of fraud and possibilities of increasing number of late registration.

6.2 Suggestion

The research has proved the hypothesis that poor data record keeping and late registration could lead to fraudulent opportunity of obtaining birth certificate.

This can be avoided from the light of the research finding by applying the following suggestion to the RGO's: -

1. There should be only one institute that has mandate of prove for citizenship. This could be done by rectified the Act for the mention department and leave the power to the RGO's.
1. The information of the individual data reference should be from RGO's database. As that will be the main function of the RGO's from the section 34 (1) and (2) state that
 - i. 34. (1) The Registrar of Births and Deaths shall establish and maintain a system of collaboration, consultation and cooperation with other

⁹⁴Birth and Death registration No.10 2006, art.7

Governmental agencies. And

- ii. (2) Without limiting the generality of the subsection (1) of this section the Registrar of Births and Deaths may share and exchange data and information relating to the registration of births and deaths with Immigration Department, the Office of Chief Government Statistician and Zanzibar Identity Cards Registration Office.

The sharing and exchanging of data information can be implemented by using the infrastructure of EGoZ Data Center that has already been established by RGoZ and creating backup at the RGO's.

- i. RGO's should remain the solely responsible for identifying the Zanzibar is citizen by providing a unique number to the birth certificate that will be used by other Institute that issue IDs.
- ii. The new policy of RGO's should consider to forward payment of the birth registration of the new baby⁹⁵ unit the time the birth certificate will be needed for excess to economic or social life. This will boost the RGO's income and for that the policy should also include the justification of the copy by having official stamp from its office that should be paid with duration of time to be used. All Government and private organization should be noticed that they must use the satisfied copy of birth certificate with stamp from registrar office.
- iii. The RGOs need to get full support from RGoZ by providing enough funds that will be used to train and motivate staffs, buying equipment

⁹⁵Notes: the registration of the new baby should be compulsory and free at the time of birth according to the Act No.10 BDR 2006

needed, and software updated.

If the recommended suggestion will be worked out the RGOs will work more efficient, deliver quality and reliable service that will meet the standard needed by public.

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APPENDIX

Appendix i: Questionnaire to the and Zanzibar People

This questionnaire aim to collect data about the problem of birth certificate when it lost, it is difficult to obtain the original information of the concern person in Zanzibar, the research is part of my LLM IT & T studies at Open University of Tanzania 2013/2014.

Please provide information as correctly as you can. I guarantee the confidentiality for anything you write and use for the mentioned purpose only. (This questionnaire is anonymous) Your contribution is highly appreciated.

Thanks in advance.

Please Tick

- | | | | | | |
|---|----------|----------------------------|---------|----------------------------|-------------------------------------|
| 1. Gender | Male | <input type="checkbox"/> 1 | Female | <input type="checkbox"/> 2 | |
| 2. Age (years) | Below 20 | <input type="checkbox"/> 1 | 20 - 50 | <input type="checkbox"/> 2 | Above 50 <input type="checkbox"/> 3 |
| 3. Marital Status | Married | <input type="checkbox"/> 1 | Single | <input type="checkbox"/> 2 | Dvoice <input type="checkbox"/> 3 |
| 4. Level Of Education (Please tick all that apply). | | | | | |

O – Level Certificate

A – Level Certificate

Diploma / Degree

Master Degree & PHD

Other course attended (Please Specify)

.....

.....

5. Place of work and Occupation.

.....
.....

6. Are you employed?

Yes 1 No 2

7. How do you find the employment opportunity in Zanzibar?

Very Simply 1 Simple 2 Difficult 3 Very difficult 4

8. If the answer is box 3 or 4 Explain why

.....
.....
.....
.....

9. Have you been asked for birth certificate as condition for employment?

Yes 1 No 2

10. Do you think foreigner are threat for employment opportunity?

Totally agree 1 Agree 2 Disagree 3 Totally disagree 4

11. If the answer is box 3 or 4 Explain why

.....
.....
.....
.....
.....
.....

20. If the answer is YES, how did you get?

By court affidavit 1

Previous Data Records 2

21. If the answer is box 1 or 2, how do you rate the procedure?

Totally agree 1

Agree 2

Disagree

Totally disagree 4

3

22. If the answer is box 3 or 4 Explain why

.....
.....
.....
.....
.....

23. How do you rate the payment charge?

Totally agree 1

Agree 2

Disagree 3

Totally disagree 4

24. If the answer is box 3 or 4 Explain why

.....
.....
.....

25. How do you rate data recording?

Best 1

Better 2

Fair 3

Poor 4

26. If the answer is box 3 or 4 Explain why?

.....
.....
.....

27. Is there any policy that binding the parent to register their child?

Yes 1

No 2

28. Do you think the media participate to educate parent the importance of birth registration?

True 1

Not True 2

29. Is there any law that protecting individual data?

Yes 1

No 2

30. What could be done to help the registrar office?

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.....

..... THANKS AGAIN