

PARLIAMENT OF ZIMBABWE

**TO THE HONOURABLE THE SPEAKER AND MEMBERS OF
PARLIAMENT, IN PARLIAMENT ASSEMBLED**

2nd SESSION – NINTH PARLIAMENT

PRESENTED TO PARLIAMENT ON 30th APRIL 2020

The Petition of the Undersigned:

1. Institute for Community Development Zimbabwe (ICOD Zim) of 7150 Bradburn Extension Masvingo, (0771 653 196, 0787 018 832)

Whose members are:

1. Talent Maposa
2. Gamuchirai Mukura and
3. Derica Hove

Respectfully show that your Petitioners

- i. being citizens of Zimbabwe; and
- ii. whose funding method is donor funding from various development partners and well-wishers;

ACKNOWLEDGING that the Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (Constitution) mandates Parliament of Zimbabwe to make laws, carry out executive oversight and discharge a representative role, as well as protect the Constitution and democratic governance in Zimbabwe;

COGNISANT that in the exercise of its legislative function and authority Parliament can in fact initiate, prepare, consider or reject any legislation;

RECOGNISING that the State and all institutions and agencies of government at every level are accountable to Parliament;

AWARE that Section 210 (Independent complaints mechanism) of the Constitution peremptorily requires:

An Act of Parliament must provide an effective and independent mechanism for receiving and investigating complaints from members of the public about misconduct on the part of members of the security services, and for remedying any harm caused by such misconduct;

MINDFUL of the following peremptory provisions of the Constitution

- i. *[t]he national security of Zimbabwe must be secured in compliance with this Constitution and the law. Section 206(2) (National Security)*
- ii. *[i]n particular, the protection of national security must be pursued with the utmost respect for (a) the fundamental rights and freedoms and the democratic values and principles enshrined in this Constitution; and (b) the rule of law. Section 206(3) (National Security);*

- iii. [t]he security services are subject to the authority of this Constitution, the President and Cabinet and are subject to parliamentary oversight. Section 207(2) (Security Services);
- iv. [m]embers of the security services must act in accordance with this Constitution and the law. Section 208(1) (Conduct of members of security services); and
- v. [n]either the security services nor any of their members may, in the exercise of their functions violate the fundamental rights or freedoms of any person. Section 208(2)(d) (Conduct of members of security services)

CONCERNED that close to seven years since the adoption of the Constitution in 2013, no tangible action has been taken towards realising the constitutional imperative of *an effective and independent mechanism for receiving and investigating complaints from members of the public about misconduct on the part of members of the security services, and for remedying any harm caused by such misconduct;*

DISTURBED by reports of assault, corruption and other misconduct by members of the security services during the national lockdown that was announced by H.E. the President of the Republic of Zimbabwe and provided for in Statutory Instrument 83 of 2020 – Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) Order, 2020 from 30th of March, 2020, to the 19th of April, 2020;

AWARE that although the High Court of Zimbabwe, on April 16, 2020, granted an interim order – in a case that challenged torture, inhumane and degrading conduct, disregard of human dignity and violation of the Constitution by members of the Police Service and the Zimbabwe National Army – requiring members the security services to respect human rights, dignity and fundamental freedoms when enforcing the National Lockdown regulations, such an order does not provide for the investigation of complaints against misconduct and the remedying harm caused by such misconduct.

WORRIED that the absence of *an effective and independent mechanism* envisaged under Section 210 deprives members of the public a constitutionally prescribed avenue for redress;

MINDFUL that asking members of the public to report complaints about misconduct on the part of members of the security services and expect remedies any harm caused by such misconduct to internal mechanism provided by the security services is woefully inadequate to satisfy the dictates of Section 210 which requires *an effective and independent mechanism.*

NOW THEREFORE your petitioner beseeches the Parliament of Zimbabwe to exercise its constitutional role and address the following issues of public concern:

- i. Ensure the promulgation of an Act of Parliament envisaged by Section 210 of the Constitution to *provide an effective and independent mechanism for receiving and investigating complaints from members of the public about misconduct on the part of members of the security services, and for remedying any harm caused by such misconduct;*
- ii. Ensure the protection of the public through Parliament's oversight functions *vis-à-vis* the aforesaid mechanism;
- iii. Subject the relevant mechanism to such oversight as may be provided in the relevant Act of Parliament; and
- iv. Inquire, using its constitutionally provided oversight function, into reports of assault and other misconduct by members of the security services during the national lockdown.

PETITIONER'S PLEA AND PRAYER:

The petitioners beseech the Parliament of Zimbabwe to exercise its constitutional mandate to give effect to Section 210 of the Constitution and inquire into reports of assault and other misconduct by members of the security services during the national lockdown.

WHEREFORE, we pray that your Honourable House will be pleased to take this case into favourable consideration, and grant any other such relief as it may deem fit,

AND your petitioner, as in duty bound, will ever pray.

Dated at Harare, this 30th day of APRIL, 2020

Signatures:

1.  (Talent Maposa ICOD Zim)

2.  (Gamuchirai Mukura ICOD Zim)

3. D. Hove (Derica Hove ICOD Zim)