

PARLIAMENT OF ZIMBABWE

FORM OF PETITION

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

SECOND SESSION – NINTH PARLIAMENT

PRESENTED TO PARLIAMENT ON 09 MARCH 2020

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The Petition of the Undersigned:

Zimbabwe Coalition on Debt and Development of No. 9 Bargate Road, Mt. Pleasant, Harare
whose members are:

- (a) Jonah Gokova – Trustee
- (b) Joy Mabenge - Trustee
- (c) Lucy Mazingi - Trustee
- (d) Mukasiri Sibanda – Board Chairperson
- (e) Nomalanga Ncube – Board Vice Chairperson
- (f) Annah Mushunje – Board Treasurer
- (g) Janet Zhou – Board Secretary/Executive Director

And whose contact person is **Janet Zhou** (Executive Director), Contact Telephone: +263 242776830/1 or cell: 0775415685 email: janet@zimcodd.co.zw

Your petitioners, having consulted their membership spread across the country through consultative Public Finance Management Indabas in Harare, Bulawayo, Mutare and Gweru attended by 216 participants (133 males, 83 females); and who constitute a cross-section representation of the most affected by the petition's subject matter, are supported in this petition by civil society organisations appended at the end;

Respectfully show that your Petitioners:

- i. Being citizens of Zimbabwe; and
- ii. Whose funding methods are subscriptions from members and donor funding from various development partners and well-wishers;

RECOGNISING that the Constitution of Zimbabwe mandates Parliament of Zimbabwe to protect the Constitution and democratic governance in Zimbabwe, to ensure that the provisions of the Constitution are upheld;

COGNISANT that the Founding Provisions of the Constitution of Zimbabwe states that;

Section 2 (2): “The obligations imposed by this Constitution are binding on every person, natural or juristic, including the State and all executive, legislative and judicial institutions and agencies of government at every level, and must be fulfilled by them”

COGNISANT of the role of Parliament as provided for in the Constitution of Zimbabwe, 2013.

Section 119 of the Constitution provides as follows:

“(1) Parliament must protect this Constitution and promote democratic governance in Zimbabwe.

(2) Parliament has power to ensure that the provisions of this Constitution are upheld and that the State and all institutions and agencies of government at every level act constitutionally and in the national interest.

(3) For the purposes of subsection (2), all institutions and agencies of the State and government at every level are accountable to Parliament.”

FURTHER COGNISANT ALSO of the mandate vested on Parliament to oversee public finance management under Section 299 of the Constitution which provides as follows:

(1) “Parliament must monitor and oversee expenditure by the State and all Commissions and institutions and agencies of Government at every level, including statutory bodies, government controlled entities, provincial and metropolitan councils and local authorities, in order to ensure that- (a) all revenue is accounted for; (b) all expenditure has been properly incurred; and (c) any limits and conditions on appropriations have been observed.”

MINDFUL that the Zimbabwe is committed to, and practices representative democracy.

OBSERVING that the government of Zimbabwe is desirous to amend the Constitution of Zimbabwe as expressed in the Constitution of Zimbabwe Amendment (No. 2) Bill published in the government *Gazette* on the 31st December 2019 and again on the 17th January 2020.

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

It is not in the best interest of the citizens of Zimbabwe to wholesomely enact the proposed Bill without further interrogation. Your petitioners respectfully draw your attention with concern to Clause 23 of the Bill which seeks to amend Section 327(3) (a) of the Constitution:

- i. The Constitutional Amendment No.2 Bill gazetted in December 2019 radically alters the oversight role of Parliament on loans advanced by non-state institutions. Section 327(3)(a) of the Constitution is amended by repeal of “**foreign organisations or entities**” by insertion of “international organisations” which is defined in the Constitution. “**International organisations**” is defined as, “an organisation whose membership consists of two or more independent States or in which two or more independent States are represented”. This is significant. Should this amendment sail through, Section 327(3) will no longer apply to agreements with for instance, foreign banks or similar non-State institutions with no international acclaim even if the agreements impose fiscal obligations on Zimbabwe. This, in our considered view, is worrisome and cause for concern.
- ii. The Amendment of Section 327 (3)(a) will take away Parliament’s powers to approve loans with all entities outside the definition of “**international organisations**”. Parliament’s oversight role will now be limited to agreements concluded with

“international organizations” such as World Bank, International Monetary Fund, African Development Bank ONLY.

- iii. Amendment of Section 327 (3) erodes the oversight power of parliament and subsequently takes away accountability to the citizens as Parliament also has a representative function.
- iv. In our understanding of the international financial architecture, foreign organizations or entities present greater risk than affiliated inter-governmental organisations as such corporations conduct transnational businesses for profits. They have resources to lend to governments, not on humanitarian grounds or aid but for huge profits. They usually require sovereign guarantees or security of debts in form of minerals, land or other assets of value. Prominent ‘Debt vultures’ fall into this category.
- v. The Proposed Constitutional amendment of Section 327 (3) is contradictory and is ultra vires sections 119 (2) and (3) of the Constitution, which compels all institutions and agencies of the State and government at every level to act Constitutionally and in the national interest and are accountable to Parliament.
- vi. The proposed amendment of Section 327 further poses risk of government non-compliance to Section 300 (1)(c) of the Constitution which states that debts and obligations whose payment or repayment is guaranteed by the State; and those limits must not be exceeded without the authority of the National Assembly.

PETITIONER’S PLEA AND PRAYER:

- 1) The petitioners beseech the Parliament of Zimbabwe to urgently protect the constitutionally guaranteed right of every Zimbabwean citizen wellbeing, development and prosperity that risk being threatened/breached by the emasculation of powers of Parliament as a democratic representative and oversight institution; and to mitigate the risk of mortgaging future generations through unchecked debt contraction.
- 2) The petitioners further pray that the Minister of Justice together with the Minister of Finance gives clarity and rationale behind the proposed amendment of Section 327(3)(a) of the Constitution to allow for citizens to make informed decision during the consultation process.

- 3) We pray, that the relevant Portfolio Committees – Justice, Legal and Parliamentary Affairs and Budget, Finance and Economic Development Committee, further investigates and document the implications of amendment of Section 327(3) of the Constitution, and share a detailed report to Parliament allowing the August house and the general citizenry to make informed decision on the matter before the amendment sails through.
- 4) We further pray that Parliament extends more time for consultation and consideration before tabling the Amendment Bill in Parliament.
- 5) Your petitioners, stand prepared to appear before the relevant Portfolio Committee to share our concerns and reservations with regards to amendment of Section 327(3) of the Constitution.

WHEREFORE, your petitioners pray that the Honorable House will be pleased to take their case into favorable consideration, and grant such relief as prayed for, or as it may deem fit.

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

Dated at HARARE, this _____ day of March 2020

Signatures:

Name, Zimbabwe Coalition on Debt and Development

Name, Zimbabwe Coalition on Debt and Development

Name, Zimbabwe Coalition on Debt and Development

Name, Zimbabwe Coalition on Debt and Development

Name, Zimbabwe Coalition on Debt and Development

Petition Endorsed and Supported by the following member organisations:

1. Community Water Alliance
2. Vendors Initiative for Social and Economic Transformation (VISET)
3. Media Monitors
4. Zimbabwe Council of Churches
5. Zimbabwe National Students Union
6. Southern African Parliamentary Support Trust
7. Media Centre
8. Simukai Trust
9. Treatment Health and Advocacy Trust
10. Students Solidarity Trust
11. United Mutare Residents & Rate Payers Trust
12. Transparency International Zimbabwe
13. Women's Coalition Zimbabwe
14. Padare
15. Manicaland Youth Assembly
16. Zimunya Young People's Network
17. Conscious Development and Empowerment Trust
18. Mutasa Youth Forum
19. Penhalonga Residents and Ratepayers
20. Zivai Community Empowerment Trust
21. Zimunya Young People's Network
22. Family Aids Support Organisation
23. Zimbabwe Chamber of Informal Economy Associations
24. Legal Resource Foundation
25. Youth Essence
26. National Association of Non-Governmental Organisations
27. Childline Zimbabwe
28. Zimbabwe Lawyers for Human Rights
29. Bulawayo Progressive Residents Association
30. Women's Institute for Leadership Development
31. Bulawayo Vendors and Traders Association
32. Zimbabwe Human Rights Association
33. YIELD Zimbabwe
34. Paediatric Adolescent Treatment Africa
35. Rural Communities Empowerment Trust
36. Vostile Creations
37. Zimbabwe Congress of Trade Unions
38. Working Girl Foundation
39. Gwanda Development Trust
40. Christian Legal Society of Zimbabwe