


TO: THE LEGISLATURE
SOUTH AFRICAN GOVERNMENT
FROM: UNITY FELLOWSHIP CHURCH
13 MAIN STREET
MIDWAY, SOWETO

ttmukhuba@telkomsa.net



30 March 2015


The Petitioner, Unity Fellowship Church, followers of our Lord and Saviour, Jesus Christ, the Son of the True Living God whose name is Jehovah, under the leadership of Pastor Mukhuba and Dr Mukhuba, and representing the more than sixty five thousand (65 000) signatories of this petition, hereby requests the Gauteng Provincial Government and the Gauteng Provincial Legislature, to heed the following:

Signatures attached - [Signature]

1. Unity Fellowship Church was established ten years ago. The Church bought four portions of land in 2008. These portions were consolidated in one portion, namely, Portion 41 Klipriviersoog Ext 1. The physical address of the church is No. 13 Main Street, Midway, Soweto. This stand is separated from a residential area by a fence (see attached photo).
2. We applied to the municipality for consent for a place of worship and this consent was granted conditionally. Part of the conditions was about noise.
3. We submitted building plans and a site development plan to the municipality and these were also approved.
4. After building, we occupied the place in 2009 and started holding church services.
5. Our troubles started in 2009 when some residents, not more than 10, complained to every office of the Johannesburg Council and the South African Police Service that whenever we worshipped, we made too much noise for them. At some point these residents apparently arranged a petition regarding this matter.
6. Because of the complaints from these residents, we have, since 2009, been subjected to visitations from most departments of the Joburg City Council. The Johannesburg Metro Police Department (JMPD) has been particularly relentless, as they would come every week to threaten us or issue us with notices.
7. The City of Johannesburg also held a hearing of stakeholders in 2013 and thereafter sent us (Unity Fellowship Church) a letter informing us, that the consent for a place of worship had been withdrawn. The City of Johannesburg also instituted legal proceedings to interdict us from worshipping in our church and among other things, to have our church demolished.
8. We are opposing the matter in court. This should not distract from the pertinent issues raised in this petition that relate the us as citizens, our rights and the responsibility of the South African government and or Legislature's responsibility towards us as citizens of the Republic.

REPUBLIC OF SOUTH AFRICA

(Form of Petition to Parliament)

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA
IN PARLIAMENT ASSEMBLED

The Petition of the undersigned ¹

Roger William Tobias Chance
Johannesburg, 2193

Member of Parliament

9a 7th Avenue, Parktown North,

Respectfully sheweth: That²

The Unity Fellowship Church in Chiawelo, Soweto, is under threat of closure due to actions by the City of Johannesburg to withdraw its operating license, which actions I have reason to believe are unlawful. The Church was awarded a license to operate and is now drawing over 5 000 worshippers weekly.

The Church is also being denied a license to set up its operations on a new premises in Eikenhof, Johannesburg. Should this license be granted the church will move from Chiawelo and thus remove the cause of the resident's discontent, which is the noise caused by the worshippers.

I am seeking relief for the church in the form of a) the City retaining its license in Chiawelo until b) the church is granted a license to operate in Eikenhof and has moved itself there to the point of being fully operational and c) the City Metro Police no longer harassing the church and its worshippers during services at the church

Wherefore your petitioner (or petitioners) prays (pray) that the Honourable Parliament will be pleased to take his (or their) case into favourable consideration, and grant such relief as it may deem fit.

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

(Signatures to follow)



¹ Here insert (a) in the case of one petitioner, name, description and place of residence and (b) in the case of more than one petitioner, description and place of residence.

² Here set forth the case or circumstances to be brought to the notice of Parliament and the nature of the relief asked for.

9. Despite the matter being in court, our church is continually subjected to harassment and persecution by members of JMPD who visit us every time we have a service. They even come when we are having a wedding and the only justification they use for continually harassing us is that they are responding to complaints from residents. When we ask them to state how they themselves would issue notices on the basis that we are making a noise when they have not measured the noise levels to determine if the so-called noise is within accepted limits, they become rude and aggressive and still issue these notices.
10. Church services are usually disrupted whenever JMPD arrives.
11. We, as Unity Fellowship Church, hereby contend that the noise stipulation as it exists in the consent for a place of worship should not be used to stop us from exercising our constitutionally guaranteed rights, the right to assemble, freedom of association and majorly, the right to worship.
12. We contend that the by-law of the Council cannot take precedence over the constitution, national laws and national interests.
13. We would also like to point out that no law is absolute in itself. The legal rights of the residents of houses bordering the church cannot be deemed by any measure to be greater than the rights of people worshipping in the church. A generic precept of democracy is that a minority cannot prescribe to a majority. Arguable as this may be, it is our firm belief that the rights of 5000 people who worship at Unity Fellowship Church are greater than the rights of 10 or 100 residents.
14. We contend that since our church is built in an industrial area, there is little justification of action against us on noise since, in any event, noise regulations in an industrial area are different from those in a residential area.
15. If one looks at the position of where the City actually gave permission for the church building, one must wonder whether the City of Joburg applied its mind rationally. The church building, which accommodates about one thousand people, is built about 5 metres away from someone's bedroom window. Surely the City should have refused to approve the building plans and at least insisted that the church building be built on the opposite side of the property. Even if members of the church just clapped their hands and did not sing, the clapping would generate enough sound to qualify being called noise since the church is so close to the bedroom windows of the houses close to it (see attached picture).
16. We also wonder how these houses were built so close to an industrial area. There is always a buffer zone between a residential area and an industrial site. I grew up in Tshiawelp. The area where these houses are built has always been a buffer zone between the residential area and the industrial area. Sadly and perhaps questionably, the City of Joburg approved the building of these houses. One must wonder what would happen to these house dwellers if say, for instance, a manufacturing company that produces certain gases operated on the industrial site where the

church is situated. One must also wonder what these residents and the City would do if a manufacturing factory operated in the industrial site where our church is built and its operations generated noise. Would the City stop the factory from operating and generating noise in an area where it actually has a right to operate simply because some residents whose houses were probably built irregularly complained about noise?

17. If JMPD claims, as it always does when it perpetuates harassment against us, that they are responding to complaints. Isn't it illogical to respond and issue notices and threats even though you haven't even measured the noise levels? Does the JMPD always respond to complaints even if there is no substance to the complaint?
18. Stadiums like Orlando Stadium and Dobsonville stadium, like most stadiums in Black areas, are only separated from houses by a street. If residents complained about noise during a soccer match or any other event in the stadium, would JMPD go and issue notices to the stadium and threaten to stop the match?
19. The City of Johannesburg should at least admit that they should not have allowed the church to be built so close to the houses. Perhaps they should have suggested or only approved that the church be built at the opposite end of where the church is currently located; at least far from the houses. Even all the formal traditional churches like the Anglican Churches, the Lutheran Churches, etc. are separated by at least a street or streets from houses; whereas our church is only separated from the houses by a fence. (Again, refer to the attached picture).
20. The City cannot now punish us with withdrawal of the consent for a place of worship and demolishing of our church simply on the pretext of enforcing by-laws.
21. The City cannot try to evade responsibility because surely, if we insisted through legal processes for an investigation of why the houses are built in a buffer zone, and if that investigation found out that they were irregularly built, what then? Surely you can't demolish houses that have been built over more than 5 to 10 years ago and today punish owners who were not privy to possible shenanigans in the approval of the area for building of houses.
22. We, as a church, bought land in Eikenhoff to relocate the church but we meet hurdle after hurdle from the City even though this would have provided a solution for the City in terms of overcoming the present impasse.
23. The court process can and will probably take way too long. Why subject the residents and ourselves to continued discomfort?
24. By-laws do not have precedence over the Constitution, national interests and laws. Guard against politicization of churches. The churches play a pivotal role in instilling and maintaining morality in and on society. Attacking churches on the basis of the manner of their worship is akin to advancing a policy of religious reductionism or religious control much like in totalitarian states.

25. The City, as did previous apartheid administrations, provided land for small churches but it has no policy to provide land for the growing trend of churches with large numbers of worshippers of more than a thousand members; factoring in also the unavoidable parking as most of those members would have cars and almost always not stay within walking distance of the church. The Grace church in Pimville is a case in point. Cars clog the roads every time they have a service, surely to the chagrin of the residents who stay in that area, even if they do not register official complaints. There is also the case of the church in Wolmarans street.
26. Churches, by their very nature, like most stadiums, particularly in black areas, are in residential areas. Should those churches that expand because of the grown or growing membership relocate to the moon because of a few residents in their area of operations do not like their form of worship, or deem their form of worship to be noisy?
27. Is the government, through Local Government structures of governance such as the Joburg City, whose responsibility it is to provide services, going to close all churches who make noise for the sake of protecting the rights of those who reside next to churches? What about the rights of the church-goers? Is the City going to ignore those rights in favour of the few who complain about noise or parking? Are the rights of the few more important than the rights of the many? Is this apartheid clothed in new and different clothing; where the rights of the few were greater than the rights of the majority and this anomaly justified by-laws, to put the icing on the cake?
28. Where must the 5000 who worship God at Unity Fellowship Church now go? Even squatters who invade buildings or land illegally are provided, by law, alternative accommodation when removed from the place they are illegally occupying. A most recent case was a story published in the 'Pretoria News' of the 23rd March 2015 of the Plastic View informal settlement case. Lawyers acting for these squatters obtained 'an urgent High Court order against the Tshwane municipality... Judge Legodi Phatudi found that auctioning off the property without a plan to relocate nearly 3000 people living there would cause them irreparable harm.
29. We on the other hand, are told that because we incense some residents by the so-called noise that we generate when worshipping our God, must reduce our noise and if we refuse, our consent is withdrawn and our church is earmarked for demolition, on land we actually own, without being provided with alternative accommodation to continue practicing our faith. Lucky the squatters!
30. During apartheid, most black people did not have cars and they always mostly walked to church. Those dynamics have drastically and dramatically changed post-apartheid. Churches are no longer attended or frequented by only people staying within walking distance. Almost all churches now have members who drive or commute from afar from the church location, this new dynamic should be taken into consideration when approving a place of worship by the municipality. It cannot be ignored in favour of rigid by-law applications that do not factor in the evolving nature of churches in society.
31. Religion should be practiced outside of the political domain. Members of a church should ascribe to any political persuasion and have only one common denominator, their faith and belief in

their God. But churches are now forced by politicians who make political and administrative decisions to enter the political arena to defend their very survival. Is this prudent?

32. The matter could also be construed to be about different religious beliefs. Some members of the very community who is complaining are actually members of the very same church complaints are raised about. Shouldn't the Government/Council weigh rights rather than simply say we will stop you worshiping because other members of the same community are complaining about noise? Don't those members of the same community have rights to practice their religion?
33. What about Shebeens, the ZCC's Mkhukhus, wakes, weddings funerals, inyangas and sangomas practises? Are we forgetting that the apartheid system designated us as black people to live in labour camps which still exist today which are called locations where house and their yards are so small you can literally hear your neighbour shouting at his wife or children? Why is this reality ignored at the expense of opportunistic and selective so-called realistic complaints that warrant investigation and sanction? In a country where there are shebeens operating everywhere more especially in Black areas and parties all the time, the State/Local government resources are used to monitor the activities of religious formations. Why not monitor the unavoidable noise level at these shebeens and parties. Are we to surmise that the South African government has a hidden agenda to wipe Christian churches off the face of the earth? How does one explain the fact that we have never heard of any persecution of Sangomas or the Muslim mosques when they make the usual noise and affect street parking?
34. Bluntly put; the ZCC cannot practice their all night Mkhukhu rituals if a neighbour of the person hosting the Mkhukhu complains about the noise they generate, the government, National or Provincial or Local would demolish the thousands of structures the ZCC has illegally and irregularly built in literary every place in South Africa because these structures do not in the slightest conform to any building regulation. The Muslims cannot practice their religion if a neighbour complains about the noise their criers make when calling people to prayer. The sangoma and inyangas cannot practice their day and night initiation noisy rituals since they are held at the sangoma's house and the noise generated offends a neighbour. The bereaved in Soweto and such like places cannot hold a night vigil because a neighbour complains that he is suffering the discomfort of the noise. All the Zionist churches that hold their services with loud drums and singing in someone's yard cannot hold their services since someone finds their form of worship and the resultant noise repulsive. The large schools who use loud hailer to call students and staff cannot be allowed to operate since the noise disturbs those whose houses are close to the school, if a resident lodges a complaint about noise to the JMPD. The black man who believes in ancestor worship cannot slaughter a goat or a cow because his white neighbour calls the JMPD to complain about the inhumane nature of the slaughter. A Zulu chief cannot be installed in Kwazulu-Natal, as is customary, in the traditional and cultural way where a cow is killed with bare hands simply because some white people and some organisations like the Society for the Prevention of Cruelty to Animals (SPCA) complain about the obviously terrible prolonged death the beast will endure. Is the government, national/provincial or Local going to move train tracks because someone complains about the unbearable noise generated when trains pass by, especially at night?

35. The point here is that the enforcement of certain by-laws negates or run contrary to what even our former apartheid lords simply ignored. Are we now becoming a police state where every law is applied without discretion? Laws are enacted to ensure societal harmony and order. The very tenets of these laws do not imply strict rigidity and adherence to their application. That is why our courts almost always apply them in terms of reasonability and rational circumstantial contextuality. If the courts applied the laws of the country rigidly without factoring circumstance and context, 99 percent of people who appeared before them would be unavoidably jailed.
36. To reiterate the point made earlier in this submission; laws are not absolute in themselves. To add to this point, someone's rights in a democratic dispensation will certainly infringe on another's rights. Authorities in governance and the court systems simply have to apply the dictum of balance. In other words; whose rights are construed to be more reasonable in a dispute. Shouldn't the majority's right, if it does not infringe on societal order, have precedent on a minority's right? In South Africa, to have a semblance of order the majority's right was insisted upon to create a semblance of an orderly society. Otherwise, black people should have accepted the apartheid status quo as it was enacted in law, never mind its obvious unreasonableness.
37. To stick to the application of a by-law that prescribes that your worship of your God by making noise is punishable is irrational and runs counter to constitutionally guaranteed rights. Christian worship, by its foundational precepts, is noisy. Psalm 81 reads: Sing aloud to God our strength; make a joyful noise to the God of Jacob. Take a psalm, and bring hither the timbrel, the pleasant harp with psaltery. Blow the trumpet in the new moon, in the time appointed, in the solemn feast day. Psalm 98; 5-6: Make music to the Lord with the harp, with the harp and the sound of singing, with trumpets and the blasts of the ram's horn – shout for joy before the Lord, the King. The Christian religion is premised on making noise in terms of its practise. There is no religion on earth where people worship in silence.
38. Today, Christians are increasingly adhering to forms of worship prescribes in the Bible which unequivocally require Christians to worship God by making what others will call noise. So it goes without saying that without what others call noise you are probably worshipping a different god to the Christian God. Attacks, persecutions and the harassment we and other churches are experiencing have the hallmarks of a government intent on establishing an atheist state. Any rational person cannot arrive to any conclusion other than that.
39. If a City Council, provincial government and or national government can so brazenly curtail religious practice under pretexts such as safeguarding and upholding the interests of a complaining minority in a community where the majority are in favour of the existence of that religious entity, only one conclusion can be reached, that is, that the state entities are themselves intolerant of religion.

In summation, we therefore, in our particular case in the immediate, ask the government of the Republic of South Africa, in its various manifestations as itself or a Provincial or Local Government, to desist from harassing and persecuting us as a church with respect to our form of religious practice

through its agencies such as the JMPD. We ask the government of the Republic to insist that the City of Johannesburg, respect and protect our religious rights as enshrined in the Constitution by among other things, withdrawing the cancellation of the consent for a place of worship for our church. We ask that the City be encouraged to withdraw its court case against us and seek a win-win solution for both the residents and ourselves. For instance, the City could speed up our application to relocate to the farm we bought in Eikenhof. We have bought one hundred and ten (110) hectares. In a country where the government is seriously struggling to meet its targets of land redistribution, Black people like ourselves who buy land for ourselves without assistance from the government, should be praised instead of being vilified. We should be helped with any development we plan on the land, much like the apartheid government helped white developments in agricultural land converted to other land uses.

In the long run, we ask the government/ City to review its policies with respect to religious entities and the practice of their religion, factoring in the new phenomenon of big churches in residential areas, even though, of course, our case is different in terms of the fact that we are actually based in an industrial area. This should not in itself detract from the contentions raised in this petition.

It is disconcerting that it is black government that now wants to deny the black experience. The Black experience is based on making noise in all celebratory occasions; be they churches, weddings and funerals. We are now stopped from being black at the altar of expedient correctness. As a church, our worship cannot and should not be regulated by by-laws or laws merely because a few people do not like it. Have our black leaders forgotten how and what it is to be black? Is this detachment from the Black reality a result of their staying in leafy suburbs and therefore now lack empathy and understanding for how people live in the locations and other black area?

In commanding the Black people to rise against any form of oppression, that visionary son of the African soil, Nelson Rolihlahla Mandela, once said: If the ANC government does to you what the apartheid government did to you, you must do to the ANC government what you did to the apartheid government. Are we now being provoked, like the other many black communities who have issues with the government for a myriad of reasons, to rise against the government as a church to protect our rights? The very rights contained and protected in the supreme law of the land; the Constitution.

If the argument is that the less than hundred people (we think they are far less than that) also have rights, fair enough. However, should their rights be the only rights protected? What about the rights of members of the very same community who are members of Unity Fellowship Church? What about the rights of the thousands who also worship in this church?

Other than religious practices, our church play a pivotal role in society as it provides twenty five (25) families with monthly food provisions. We employ more than sixty (60) people and we pay tertiary fees for those students whose parents cannot afford.

Lastly, it must be pointed out, it is ironic that the sanctuary that enabled the resistance movements to organise against apartheid during the tumultuous years of apartheid enslavement of black people was the same churches that our government now seeks to destroy at the flimsiest of excuses and opportunity.

We ask that the South African government, through the people's representatives, the national Parliament and Provincial Legislature, to ensure that we are allowed to practice our Christian religion, even in spite of complaints against our form of worship. We, as a church, hasten to point out that we do not labour under any illusion that our form of worship is acceptable to everyone. We respect the rights of others to be offended by the way we practice our religion but do not believe that their discomfort should culminate into censure for us or the confiscation of our sound system and musical instruments or demolition of our church if we refuse to comply with questionable by-laws that are applied only selectively.

We ask only, within what the Constitution allows, to be free from harassment and persecution by anyone, more especially the State at National Provincial and Local levels, in as far as the practice of our religion is concerned. Please guarantee our rights!

Thank you.

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Unity Fellowship

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