For attention: Dr PC Jacobs

Email: comments.bill@csp.gov.za

Civilian Secretariat for Police Service

18 November 2020

Dear Dr PC Jacobs

Submission in response to the South African Police Service Amendment Bill [2020]

We attach our written submission in response to the South African Police Service Amendment Bill [2020].

Should you have any queries, it would be appreciated if you could contact Rafael Friedman (Email: Rafael@hsf.org.za) or Catherine Kruyer (Email: catherine@hsf.org.za).

Yours sincerely

Francis Antonie

Director

Helen Suzman Foundation Comments on the South African Police Service Amendment Bill

Section A: Introduction

1. Introduction

1.1 The Helen Suman Foundation ("HSF") welcomes the opportunity to make submissions to the Civilian Secretariat on Police ("Secretariat") on the South African Police Service Amendment Bill ("Bill"), which proposes amendments to the South African Police Service Act 68 of 1995 ("Act").

1.2 The HSF is a non-governmental organisation whose main objective is to promote and defend the values of our constitutional democracy in South Africa, with a focus on the rule of law, transparency and accountability. In this context, the South African Police Service ("SAPS") performs an extremely important role and it is therefore crucial that the legislation which governs its functions and operations is appropriate and in keeping with constitutional principles.

1.3 The Bill is comprehensive and covers a number of areas. The HSF's comments on matters of policing independence and accountability are set out in section B below, and comments on the proposed amendments to the Regulation of Gatherings Act 205 of 1993 ("Gatherings Act") are set out in section C below.

Section B: Comments on policing independence and accountability

1. Amendments resulting from Constitutional Court judgment and order

1.1 The HSF recognises the work of the Secretariat in drafting this Bill in order, among other aims, to bring the legislation into line with the Constitutional Court's judgment and order in *Helen Suzman Foundation v The President and Glenister v The President*[1]

[1] *Helen Suzman Foundation v President of the Republic of South Africa; Glenister v President of the Republic of South Africa* [2014] ZACC 32.

("Helen Suzman Foundation Judgment"), particularly in relation to the independence of the Directorate for Priority Crime Investigation ("DPCI").

2. Lack of criteria for the appointment of the National Commissioner of Police

2.1 It is noted that section 20 of the Bill seeks to make changes to the criteria for the appointment of the National Head of the DPCI, by adding that academic qualifications are a relevant consideration.

2.2 This proposed change provides further evidence of the stark contrast to the complete lack of any criteria for the appointment of the National Commissioner of Police and Provincial Commissioners. Section 6 of the Act only requires such appointments to be done by the President in accordance with section 207 of the Constitution. The latter provision also contains no criteria for an appointment. It is plainly illogical to define stringent requirements for the appointment of the National Head of the Directorate for Priority Crime Investigation ("DPCI"), and not to do the same for the National Commissioner and Provincial Commissioners. The absence of any criteria in this regard may lead to difficulties in maintaining that a rational decision was taken by the President in making such an appointment if the appointment is contested. The rule of law requires that decisions be rational – meaning that "the means chosen to achieve a particular purpose must reasonably be capable of achieving that purpose".[2] The absolute absence of any legislative criteria for the appointment of South Africa's most senior police officers creates the potential for the unnecessary or unjustifiable contestation of such appointments.

2.3 Criteria for appointments have been found to be "objective and constituted essential jurisdictional facts" guiding appointments[3] with reference to both the National Director of Public Prosecution and the National Head of the DPCI[4]. This allows for a clear legal standard in contestation around those appointments.

2.4 The HSF therefore submits that the standard that is in place for the National Head of the DPCI should be replicated for the National Commissioner and Provincial Commissioners in section 6 of the SAPS Act.

2.5 In addition, it is submitted that a panel should be constituted as an essential part of the nomination process for the appointment of the National Commissioner. Such a panel

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[2] *Minister of Constitutional Development v South African Restructuring and Insolvency Practitioners Association* [2018] ZACC 20.

[3] *Ntlemeza v Helen Suzman Foundation* [2017] ZASCA 93.

[4] *Democratic Alliance v President of South Africa* [2012] ZACC 24.

would consist of persons from SAPS and a variety of other institutions (with a wide range of policing experience) to interview the candidates, to consider their respective merits and to make a recommendation to the President. This should be a transparent process. As an example, we can refer to the process used to appoint the current head of the National Prosecuting Authority.

3. Extension of the period of service of the National Commissioner and Provincial Commissioners

3.1 Section 7(2)(a) allows for the extension of the term of office of the National Commissioner by the President, while section 7(2)(b) allows the National Commissioner to extend the term of office of Provincial Commissioners.

3.2 The Constitutional Court held in *Glenister v the President,*[5] in relation to the National Head of the DPCI, that an extension of the term of office was "inimical to the adequacy of the independence" of the DPCI.[6] This was confirmed by the Court in the *Helen Suzman Foundation Judgment*.[7] It is by now settled law that a renewal or an extension of the term of office of posts that have a political sensitivity, are unlawful, as they hold the danger of improper conduct on the part of the parties concerned, in order to obtain such extensions or renewals.[8]

3.3 The HSF therefore submits that section 7(2) of the Act should be amended to make provision for a fixed term of office, with no possibility of extensions or renewals.

4. Removal of the National Commissioner

4.1 The amendments in section 22 of the Bill to section 17DA of the Act (removing the provisions relating to provisional suspension) were ordered in the *Helen Suzman Foundation Judgment.* As a result, the National Assembly, through the remaining provisions of section 17DA, takes a central part in any process for removing the head of the DPCI. This is important in protecting the DPCI's independence and ensuring accountability and transparency in any removal process.

4.2 However, the process set out in sections 8 and 9 of the Act for the removal of the National Commissioner or Provincial Commissioners of SAPS do not have similar provisions and safeguards. The National Assembly has no role to play in this process.

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[5] Helen Suzman Foundation Judgment above n 1.
[6] Id at para 18
[7] Id at para 81.
[8] Corruption Watch NPC and Others v President of the Republic of South Africa and Others [2018] ZACC 23

It is suggested that the procedure applicable to the National Head of the DPCI is replicated in the case of the National Commissioner and Provincial Commissioners. Similar to the case of the appointment of the National Head of the DPCI (as set out above), it is inconceivable that the latter's removal is subject to approval by the National Assembly, whilst there is no such requirement in the case of the National Commissioner or Provincial Commissioners.

4.3 It is imperative, in order to enhance oversight and protect the independence of South African law enforcement, that this change is made.

5. Omitted subsection letter

5.1 In section 12(d) of the Bill, the section does not refer to the section in the SAPS Act by means of the correct subsection.

5.2 The section reads: "by the substitution of subsection (7) of the following subsection".

5.3 The section should be amended to read: "by the substitution of subsection (7)**(c)** of the following subsection" (emphasis added).

6. Redundant provision in section 17K of the SAPS Act

6.1 Section 17K(9) of the SAPS Act requires the Minister for Safety and Security ("Minister") to report to Parliament on the appointment of the National Head of the DPCI.

6.2 This provision appears to be redundant, as more specific provision is made for the Minister to report to Parliament on the appointment of the National Head in section 17CA(3) of the Act. The HSF, therefore, recommends the deletion of section 17K(9).

7. **The appointment and disciplinary procedure for the office manager of the retired judge, who is in control of the DPCI complaints mechanism**

7.1 The Bill seeks to introduces new provisions into section 17(L) of the SAPS Act providing for an office manager in the office of the retired judge, who is in control of the complaints mechanism relating to the DPCI. The HSF welcomes this, as it bolsters the independence of the office of the retired judge.

7.2 The new sections 17(L)(6)(A) and 17(L)(6)(B) of the Bill will provide for the appointment of an office manager. The retired judge is empowered to identify a candidate for appointment, but it is the Secretary of the Secretariat who appoints the office manager.

These provisions are similar to those governing the appointment of the Chief Executive Officer of the Judicial Inspectorate for Correctional Services ("Judicial Inspectorate") in the Correctional Services Act 111 of 1998 ("CSA").

7.3 The appointment powers in relation to that position were the subject of legal proceedings in *Sonke Gender Justice NPR v President of the Republic of South Africa.*[9] In that case the Western Cape High Court held that "[t]he power to identify the CEO, and to consider his or her qualifications and experience, lies with the Inspecting Judge. The National Commissioner is obliged to appoint the person so identified. No discretion is afforded to the National Commissioner in this regard."[10] This judgment held that this was the case as the CEO was intended to be independent of the Department of Correctional Services. Were the National Commissioner to have any input into the appointment process, this would not just impact on the actual independence of the institution but also on its perceived independence. This would undermine public confidence in the Judicial Inspectorate.

7.4 The High Court judgment was not appealed on this point. The HSF contends that the above interpretation of the CSA is equally applicable to the provisions in the Bill governing appointment of the office manager – the court's reasoning applies with equal force here. The HSF, therefore, recommends that wording is added in the Bill in order to recognise this position and clarify that the same principles apply with regards to the appointment of the office manager. The Bill should specify that the Secretary *must* appoint the candidate identified by the retired judge.

7.5 With regards to the removal of the office manager, section 27(d)(6)(D) of the Bill would allow for complaints of misconduct against the office manager to be referred to the Secretary of the Secretariat. A similar provision with regards to the Chief Executive Officer of the Judicial Inspectorate was challenged in the *Sonke Gender Justice* case. The Western Cape High Court held that the provision was inadequate to ensure sufficient independence of the Judicial Inspectorate.[11]

7.6 This declaration of invalidity has been referred to the Constitutional Court for confirmation, with the ruling currently awaited.

7.7 The HSF recognises that it may be possible to distinguish the two positions in this regard. If so, the HSF suggests that the grounds on which this is done are made clear. If

[9] *Sonke Gender Justice NPC v President of the Republic of South Africa* [2019] ZAWCHC 117.
[10] Id at para 4.
[11] Id at para 48-53.

not, the relevant section must be altered to ensure compliance with the decision in *Sonke Gender Justice*.

8. **Reporting powers of the retired judge**

8.1 Section 17L(6) of the SAPS Act requires the retired judge to report the outcome of any investigation or referral to the Minister.

8.2 The HSF contends that this does not provide sufficient independence from the executive arm of the State and does not promote sufficient transparency and accountability. It is therefore recommended that the SAPS Act be amended to ensure that the retired judge reports these findings to the Parliamentary Committee on Police in addition to the Minister.

8.3 This would mirror the situation with regards to the inspecting judge in the Judicial Inspectorate found in section 90(3) of the CSA – where the inspecting judge is required to submit a report to the Minister as well as the Parliamentary Committee on Correctional Services.

9. Effectiveness of the DPCI Complaints Mechanism

9.1 Section 17(L)(4)(b) of the SAPS Act allows for the retired judge to receive complaints from any member of the DPCI of "improper influence or interference, whether of a political or other nature", relating to an investigation ("Complaints Mechanism"). Sub-section 10 provides that the National Head of the DPCI "[m]ay request the retired judge to investigate complaints or allegations relating to investigations by the [DPCI] or alleged interference with such investigations".

9.2 The HSF contends that members of the DPCI (including the National Head) may not be willing to make such complaints to the retired judge, especially involving high-level political interference, if the judge's sole power is to report the outcome to the Minister. This is particularly so where the Minister may be the subject of the investigation. This severely hampers the effectiveness of the Complaints Mechanism.

9.3 In addition, the HSF is of the view that insufficient provision is made in the SAPS Act for openness and transparency in the Complaints Mechanism. There is no requirement in the Act that the outcome of investigations or referrals be open to the public. In fact, it is not even required that the outcome be communicated to the complainant (not even where the complainant is the National Head of the DPCI in terms of section 17L(10)). The HSF recommends that the SAPS Act be amended to ensure that all reports should be open to

the public, unless there is a compelling reason for them to remain confidential and that the outcome of any investigation following a complaint be communicated to the complainant. The HSF believes that this would ensure openness and transparency and lead to a greater perception of independence on the part of the public.

10. Impact on municipal government

10.1 The HSF is concerned by the impact of the Bill's proposed amendments on municipal government policing powers.

10.2 The first concern is section 64EC of the Bill, which requires that those law enforcement officers and inspectors employed by a municipal council who are appointed as peace officers be integrated into a municipal police force. This must be done within three months.

10.3 This is concerning, as the training requirements for officers in a municipal police service are understandably extensive. This would impose a burden on municipalities to re-train officers in other areas of law enforcement that would be unattainable for those metropolitan municipalities, that operate police services, within the allotted timeframe.

10.4 It is submitted that this may clash with section 51(4) of the Constitution[12] as it would impede a municipality's ability to exercise its powers or functions.

10.5 The HSF therefore recommends that this section be removed. If it is not removed, the HSF submits that the time period be extended and that the Secretariat take greater steps to consult the Metropolitan municipalities concerned on a reasonable timeframe for this, as well as the resources required.

10.6 The HSF is also concerned about section 59(C)(5) of the Bill. The amendment to section 64L of the Act allows for the Minister, in consultation with the relevant Member of the Executive Council ("MEC") to set a timeframe in which a non-compliant municipal police service must meet national requirements. If they fail to meet this, the municipal police force can be dissolved by the Minister and MEC.

10.7 The HSF is concerned with this in light of the onerous requirements in section 64EC, as well as the extensive powers for the Minister and the MEC to "repeal the establishment" of the force. The HSF submits that the Bill should be amended to ensure full and proper consultation between the Minister, MEC and the municipality to work to remedy the issues

[12] The Constitution of the Republic of South Africa, 1996

with the municipal police service. In addition, sufficient safeguards must be included to ensure that the establishment of the force is only repealed as a matter of last resort.

Section C: Comments on the Gatherings Act

1. Introduction

1.1 The SAPS Amendment Bill is intended to serve as a comprehensive revision to align the legislation governing policing in South Africa with the Constitution. The legislation being amended includes the Gatherings Act – the legislation that facilitates the exercise of the right to freedom of assembly.[13]

1.2 The HSF recognises the work of the Committee to align the Gatherings Act with the Constitution and the Constitutional Court's judgment in *Mlungwana*.[14]The Constitutional Court has on numerous occasions recognised the importance of this right.[15] In *Garvis*, the Court said:

> "The right to freedom of assembly is central to our constitutional democracy. It exists primarily to give a voice to the powerless. This includes groups that do not have political or economic power, and other vulnerable persons. It provides an outlet for their frustrations. This right will, in many cases, be the only mechanism available to them to express their legitimate concerns. Indeed, it is one of the principal means by which ordinary people can meaningfully contribute to the constitutional objective of advancing human rights and freedoms. This is only too evident from the brutal denial of this right and all the consequences flowing therefrom under apartheid. In assessing the nature and importance of the right, we cannot therefore ignore its foundational relevance to the exercise and achievement of all other rights."[16]

1.3 However, there are a number of issues in the Gatherings Act that preclude it from effectively facilitating the exercise of the right to freedom of assembly. As the Gatherings Act was enacted before the adoption of the interim Constitution, and the

[13] Section 17 of the Constitution affords everyone the right to assemble, demonstrate, picket and present petitions, provided they do so peacefully and unarmed.
[14] *Mlungwana v S* [2018] ZACC 45; 2019 (1) BCLR 88 (CC); 2019 (1) SACR 429 (CC).
[15] *South African Transport and Allied Workers Union v Garvas* [2012] ZACC 13; 2012 (8) BCLR 840 (CC); [2012] 10 BLLR 959 (CC); (2012) 33 ILJ 1593 (CC); 2013 (1) SA 83 (CC) (*Garvis*) at paras 61-3; and *Mlungwana* above n 14 at paras 61-71.
[16] *Garvis* id at para 61.

enshrinement of a constitutional right to freedom of assembly, the HSF is of the view that the Gatherings Act is in need of comprehensive review and amendment.

2. Inadequate definitions

2.1 The Gatherings Act defines the terms "demonstration" and "gathering" in section 1.[17] These are operative terms in that the level of regulation turns on whether a protest constitutes a demonstration or gathering in terms of the Act – most importantly, the notification requirements in the Act only apply to gatherings. However, despite the important role played by these terms, they are defined in a confusing manner in the Act.

2.2 The definition of "gathering" in the Act is too vague. Gathering is defined with reference to the terms "assembly", "concourse" or "procession", which are not themselves defined in the Act. A reasonable person would not be able to determine from the definition of "gathering" in the Act whether a protest constitutes a gathering requiring notice to be given.[18] This is contrary to the rule of law, which requires that rules are stated in a clear and accessible manner.[19]

2.3 In addition, the definition of "gathering" in the Act includes every grouping of 15 or more people intended to "mobilize or demonstrate support for or opposition to the views, principles, policy, actions or omissions of any person or body of persons or institution". The definition is accordingly very broad, as recognised by the Constitutional Court in *Mlungwana*.[20]

2.4 Given that the planning of a "gathering" is the trigger for the onerous notice requirements in the Act, the definition of "gathering" must be more carefully tailored to the

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[17] Demonstration is defined in the Gatherings Act as:

> "[A]ny demonstration by one or more persons, but not more than 15 persons, for or against any person, cause, action or failure to take action".

Gathering is defined as:

> "[A]ny assembly, concourse or procession of more than 15 persons in or on any public road as defined in the Road Traffic Act, 1989 (Act No. 29 of 1989), or any other public place or premises wholly or partly open to the air—
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> > (a) at which the principles, policy, actions or failure to act of any government, political party or political organization, whether or not that party or organization is registered in terms of any applicable law, are discussed, attacked, criticized, promoted or propagated; or
> > (b) held to form pressure groups, to hand over petitions to any person, or to mobilize or demonstrate support for or opposition to the views, principles, policy, actions or omissions of any person or body of persons or institution, including any government, administration or governmental institution".

[18] Woolman 'Freedom of Assembly' in Woolman et al (eds) *Constitutional Law of South Africa* Service 6 (2014) at 23.

[19] *Dawood v Minister of Home Affairs; Shalabi v Minister of Home Affairs; Thomas v Minister of Home Affairs* [2000] ZACC 8; 2000 (3) SA 936; 2000 (8) BCLR 837 at para 47; cited in Woolman id at 23.

[20] *Mlungwana* above n 14 at paras 84-5.

purpose of the notification requirements. As explained in *Mlungwana*, the purpose of notification is to ensure peaceful protests – giving adequate notice allows the police to effectively monitor gatherings and properly plan for the deployment of police to avert violent protests.[21] The distinction between a gathering and a demonstration in the Act – and the need to provide notice or not – turns on the number 15. However, the selection of the number of 15 persons appears to be entirely arbitrary. As the Constitutional Court said in Mlungwana, "[t]here appears to be no intrinsic magic in the number 15".[22] There is no link between disruptive protest and the number 15.

2.5 The HSF contends that the definition of "gathering" is overbroad in that the onerous notification requirements appear to be imposed on any grouping of more than 15 people even where there is little chance of disruptive protest and little need for police deployment.[23] The HSF, therefore, recommends amending the definitions in the Act so that notice will only be required when a protest is likely to be disruptive or when police deployment will be necessary.[24] This may be achieved by limiting the definition of "gathering" to an assembly of a much larger number of people. Although the use of any number of people as a trigger for notice requirements may seem arbitrary, a larger number will yield a definition that is more closely connected to the purpose of averting disruptive protest. It may also be achieved by limiting notice requirements to certain types of gatherings, which will need to be clearly spelled out in the legislation.

2.6 In addition, the terms used in the Act do not cohere with the terms used in section 17 of the Constitution. Section 17 of the Constitution enshrines rights to "assemble", "demonstrate", "picket" and "present petitions".[25] The disjuncture between the language used in the Act and that used in the Constitution is a result of the Act's pre-constitutional enactment.[26] The HSF recommends that the Committee align the language used in the Act with that used in the Constitution.

3. Criminalisation unjustifiably limiting the right to freedom of assembly

3.1 In *Mlungwana*, the Constitutional Court was confronted with a challenge to section 12(1)(a) of the Gatherings Act, which criminalises the failure to give notice of a gathering.

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[21] Id at para 74.
[22] Id at para 93. However, the Court said that it need not be detained by this issue, as it was not pertinent to the case.
[23] Woolman, above n 18 at 23, provides the example of a church convocation in a park as a grouping which appears to fall within the ambit of "gathering" as defined in the Act – triggering the notification requirements.
[24] See the suggestion made in *Mlungwana* above n 14 at para 96(f).
[25] Section 17 of the Constitution.
[26] Omar 'The Regulation of Gatherings Act – a hindrance to the right to protest?' (2017) *South African Crime Quarterly* 21 at 25-6.

The Court held that the criminalisation of the failure to give notice unjustifiably infringed the right to freedom of assembly. The Court highlighted that criminalisation has a serious chilling effect on the exercise of the right to freedom of assembly:

> "[C]riminalisation has a 'calamitous effect' on those caught within its wide net. The possibility of arrest and its aftermath, even without conviction, is a real 'spectre' for those seeking to exercise their section 17 right. If convicted, those concerned face punishment, moral stigma, and a criminal record for at least ten years. All of these deleterious consequences of criminalisation severely discourage and thus limit the exercise of the section 17 right."[27]

3.2 The Court accordingly held that the provision was inconsistent with the Constitution and declared it invalid. The Bill seeks to rectify this defect in the Gatherings Act by deleting section 12(1)(a).[28] While the HSF commends this, the HSF has grave doubts about the constitutionality of various provisions in section 12(1) in light of the Constitutional Court's judgment in *Mlungwana*.

3.3 Section 12(1)(b) criminalises the failure to attend a relevant meeting called by the responsible officer for negotiations regarding the amendment of notices and the imposition of conditions. Section 12(1)(c) further criminalises the contravention of or failure to comply with the provisions in the Act regarding the conduct of a gathering[29] – this covers a variety of requirements that are placed on the conduct of gatherings, including obligations imposed on conveners to appoint marshalls and to take steps to inform participants and marshalls of conditions to which the gathering is subject. Section 12(1)(d) criminalises generally the contravention or failure to comply with the contents of a notice or the conditions to which a gathering is subject, if done knowingly, while section 12(1)(f) criminalises the contravention of or failure to comply with conditions imposed in terms of specific sections of the Act, if done knowingly. Section 12(1)(h) criminalises the contravention of or failure to comply with the notice requirements in respect of the postponement, delay or cancellation of a gathering.

3.4 The criminalisation of the contravention of or failure to comply with the requirements in the Gatherings Act concerning meetings, notices and conditions clearly limits the right to freedom of assembly. These requirements serve the important purpose of ensuring peaceful protests and avoiding disruptive protests that may infringe the constitutional rights

[27] *Mlungwana* above n 14 at paras 87-8.
[28] Section 78 of the Bill.
[29] These provisions are contained in section 8 of the Act.

of others. However, if the reasoning of the Constitutional Court in *Mlungwana* is followed, it does not appear that the limitation of the right to freedom of assembly can be justified under section 36 of the Constitution (which deals with the limitation of rights). In this regard, the HSF highlights the severity of the infringement of the right – the serious chilling effect of criminalisation – and the availability of an array of less restrictive means to achieve the purpose sought to be achieved by the limitation.[30] For instance, less restrictive means would include the imposition of administrative fines (at least initially) and enhanced civil liability for convenors of gatherings.

3.5 The HSF urges the Committee to review all the provisions in section 12(1), to delete the provisions that unjustifiably limit the right to freedom of assembly and to attempt to place obligations on the convenors and participants in a manner which does not unjustifiably limit the right to freedom of assembly.

4. Prohibition of a gathering for failure to comply with the notice requirement

4.1 Section 3(2) of the Gatherings Act provides that if "notice is given less than 48 hours before the commencement of the gathering, the responsible officer may by notice to the convener prohibit the gathering". This gives the responsible officer an almost unfettered and inappropriate discretion to prohibit a gathering. The only requirement for prohibition is that notice was given less than 48 hours before the gathering. No consideration of the impact of the gathering on public order is required. This provision has, accordingly, been widely criticised.[31]

4.2 The Bill seeks to amend section 3(2) by qualifying the discretion of the responsible officer to prohibit a gathering where notice is given less than 48 hours before a gathering. The Bill provides that the responsible officer may prohibit a gathering in these circumstances "if upon information at the disposal of the responsible officer, the gathering may lead to the disruption of traffic and endangering the lives of the public or members of the police".[32]

4.3 While the HSF commends the qualification of the responsible officer's discretion, the HSF has concerns about the manner in which this provision will be implemented. The HSF accordingly recommends the imposition of a requirement that reasons for the decision to prohibit the gathering be given similar to the requirement for prohibition in

[30] See the list of suggestions in *Mlungwana* above n 14 at para 96.
[31] Omar above n 26 at 27.
[32] Section 75(c) of the Bill.

terms of section 5(3) of the Gatherings Act. This will facilitate review and / or appeal of the decision to prohibit a gathering.

5. Failure to require training

5.1 There have long been serious concerns surrounding the implementation of the Gatherings Act. The Gatherings Act, however, contains no provisions requiring that those persons responsible for its implementation – responsible officers and authorised members – undergo any form of training. Given the importance of the proper implementation of the provisions of the Gatherings Act to facilitate the exercise of the right to freedom of assembly, the HSF submits that the Gatherings Act should be amended to impose training requirements.