

Friday, 30th January 2026

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ZAMBIA'S JUDICIARY COLLUDING WITH THE EXECUTIVE TO UNDERMINE DEMOCRACY AND RULE OF LAW IN ZAMBIA

I'm Amb. Emmanuel Mwamba, Member of the Central Committee, Chairperson of the Information and Publicity and Presidential Aspirant in the Opposition political Party, the Patriotic Front party.

We acknowledge you as a professional body uniting legal practitioners and bar associations in Africa, dedicated to the rule of law, human rights, and socio-economic progress.

Zambia is a peaceful and democratic State and has been an example to Africa and the world for its practice of democracy and the rule of law especially as demonstrated by peaceful handover of power where the Opposition have won elections as witnessed in 1991, 2011 and 2021.

Nevertheless, this record has faced significant risks since 2021.

Various international organisations have produced concerning reports or commentary that Zambia is facing a severe shrinking democratic space, erosion of independence wings of government such as Parliament and the Judiciary and the hijack by State House and the Executive, of democratic institutions such as the Electoral Commission of Zambia and the weaponization of law enforcement agencies.

Reports from the Amnesty International, Human Right), have, the United Nations Human Rights Council, the United States Country Report and local institutions in Zambia such as Law Association of Zambia (LAZ), civil society groupings such as the Non-Governmental and Community based Organisations (NGOCC) and a consortium of NGOs, Church Mother Bodies such as the Council of Catholic Bishops (ZCCB), the Council of Churches in Zambia (CCZ) and the Evangelical Fellowship of Zambia (EFZ), have confirmed these fears and attacks against democracy and the rule of law.

We therefore wish to bring to your attention deep concerns on the conduct of the Judiciary currently headed by Chief Justice of the Republic of Zambia, Dr. Mumba Malila SC.

The Government of President Hakainde Hichilema has been engaged in clear schemes to destroy democracy and the rule of law in Zambia.

President Hichilema changed the Republican Constitution without following legal procedures, as the constitutional bill had been rejected by the Constitution Court. President Hichilema has passed extremely repressive laws such as the Cyber Security and Cyber Crimes Acts which have abandoned the objective of fighting cyber crimes and provide cyber security but have focused on speech and expression offences provisions that have restricted freedom of expression, freedom of speech and freedom of the media for citizens.

President Hichilema's government has also harassed, arrested, jailed, tortured, and violated human rights of his members of the Opposition and critics.

His government has been engaged in stealing, killing and destroying then largest political party, the Patriotic Front, by illegally changing Office bearers of the Party, installing stooges and proceeded to proscribe the Party from participating in elections, other political activities and banning the wearing or donning of its paraphernalia.

Attempts to seek Justice by civic and political actors such as the Law of Zambia, Chapter One Foundation, OASIS Forum, the Patriotic Front from both the Zambia Police and the Judiciary have been met by active denialism and collusion and where relief has been granted it has been mere tokenism. Further, the bias is so glaring.

Every time this occurs, the Judiciary's role in settling legal disputes and safeguarding the Constitution—while guaranteeing that justice is administered fairly, objectively, and impartially—is greatly weakened and diminished.

Take for example the schemes driven by State House to steal, kill and destroy the largest political party in Zambia, the Patriotic Front, it started with the action by hosting an illegal

Conference, illegal change of Office Bearers at the Registrar of Societies supervised by the Permanent Secretary Home Affairs, Dickson Matembo, and illegal changes at Parliament where the Leader of the Opposition in Parliament and Opposition Chief from the Patriotic Front from the Patriotic Front were removed and replaced by persons that the party had disciplined and were now acting as stooges of the ruling party UPND and State House.

Attempts to seek Justice and restore the legal status of the Party, the legal standing of the Office Bearers of the Party and the reinstatement of the Leader of the Opposition and Chief Whip in Parliament from the Judiciary and its courts of law, were met by open schemes intended to undermine, impede and subvert Justice.

The judges used legal delays and strategies intended to prolong the proceedings, giving a strategic advantage to those stooges placed within the Patriotic Front. The Judges participated in clear abuse of the process, in dilatory tactics and in many cases obstructed Justice.

Beginning in 2022, Chief Justice Dr. Mumba Malila received a considerable number of complaints. We held meetings with Dr. Mumba Malila to formally express concerns about these schemes.

As years passed , it became clear that the Chief Justice was in fact, part of the larger schemes to ensure that the Patriotic Front and the Judiciary role was complicit in achieving this goal so that the Patriotic Front would not appear on the ballot and would not participate in the 2026 General Elections.

Further, Dr. Malila SC caused the transfer of Magistrates in subordinate courts where numerous cases of political opponents of the ruling UPND where being handled. Individuals from a particular region of the country have been placed to handle these cases that has seen the jailing and refusal of right to appeal, or granting of bail pending appeal have occurred.

The Secretary General of the Patriotic Front, Hon. Raphael Nakacinda was jailed for offences related to speech and his advocacy as a central figure in the Party and has been denied pending appeal.

BARRING FORMER PRESIDENT EDGAR LUNGU TO CONTEST THE 2026 GENERAL ELECTION

The case in which Zambia's Sixth President had returned to active politics and was set to participate as a challenger to President Hakainde Hichilema brought a severe attack to the Judiciary.

State House sought a UPND youth, who had posted several pictures of himself with senior Cabinet Ministers, State House and senior Government officials brought a petition to Constitutional Court.

The case is cited as Michelo Chizombe v. Edgar Chagwa Lungu and Others 2023/CCZ/0021

First, President Hakainde Hichilema, without cause, dismissed three Constitutional Court judges—Justice Annie Sitali, Justice Mungeni Mulenga, and Justice Palan Mulonda as he feared that there wishes to bar the late President would not pass. State House used the flimsy excuse and unashamed reason that the 3 judges made favourable rulings on Lungu's eligibility and Hichilema's electoral Petition.

State House used Michelo Chizombe who filed a Petition on 9th October, 2023. In his Petition, he alleged the following contraventions of the Constitution of Zambia as amended by the Constitution of Zambia (Amendment) Act No. 2 of 2016 (the

Constitution) on the part of Edgar Chagwa Lungu, the 1st Respondent and the Electoral Commission of Zambia, the 2nd Respondent.

He alleged that President Edgar Lungu contravened the Constitution when he participated in the August 2021 presidential elections, and that the Electoral Commission of Zambia contravened the Constitution when it firstly accepted the 1st Respondent's nomination secondly, by putting the 1st Respondent on the presidential ballot paper for the August, 2021 presidential elections and lastly by enabling him to participate in the

August 2021 presidential elections.

Since 2017, this type of question and petition had been rejected several times before by the same court.

The Constitutional Court's decision was another joke shamelessly yielding to State House demands on former President Edgar Lungu's eligibility to contest future presidential elections.

The Court ruled Lungu ineligible, based on the application of Article 35 of the Constitution of Zambia, which was in force during his first term.

This ruling immediately impacted the 2026 presidential elections and reshaped opposition politics.

The ridiculous decision for the apex court to depart from its own precedents, and the Court's reasoning regarding Lungu's eligibility in the 2021 elections, arguing that his ineligibility should have applied even then as well, without disrupting the election outcome, became a laughable joke.

The theft of the 2026 General Elections was set in high gear by excluding one of the main contender.

CONCERNS ABOUT THE THREAT TO HOLDING CREDIBLE, DEMOCRATIC, FREE AND FAIR ELECTIONS

Recently, during the annual meeting to meet the Diplomatic Corp accredited to the Republic of Zambia President Hakainde Hichilema allayed the fears that the country would not have democratic, free, and fair general elections.

To ensure that Zambia holds genuinely democratic, free, and fair elections, it is crucial to urgently resolve several important challenges.

1. Full Participation: President Hichilema must abandon his plans to steal, kill, and destroy the Patriotic Front and the Opposition parties in general. He should allow the Party to participate in the upcoming election.
2. The country witnessed schemes that have denied citizens to participate fully in the political process during the preparation of the voters' register to prepare for the general elections due in August 2026. We witnessed clear voter suppression schemes and tactics employed in areas where the ruling UPND party is not popular, that occurred during the issuance of both national identity cards, the National Registration Card by the Ministry of Home Affairs and the Department of National Registration and Voters' Cards issuance exercise conducted by the Electoral Commission of Zambia (ECZ).
3. Fundamental Freedoms: Repeal sections of the Cyber Security and Security Acts that have criminalized speech and criticism. Additionally, President Hichilema has taken steps to bring back seditious laws that were previously implemented in the 1980s.
1. Refusing to repeal the Public Order Act and other restrictive laws has deprived citizens of their rights to association, expression, assembly, and movement.

4. Political Tolerance: President Hichilema is the most intolerant leader ever and has jailed more people on speech offences than any President before. He has maintained environment where diverse political views are restricted, violated or stopped.
5. Equal Access to the Public Media: ZNBC, which draws operation funding from the public purse is exclusively a media outlet for the UPND. It does not cover all political parties with equal opportunity. Despite the ZNBC Act providing for an independent board ratified by Parliament, the work of both the Board and Management is interfered with by State House. We have witnessed the revocation of the Board advertised, approved, and recruited Director General by State House.
6. Impartial Institutions: There are concerns about ruling party members holding key positions in the Electoral Management Body. Public campaigns and lobby to replace them with impartial, objective, and fair individuals who can be recruited or appointed to these positions have so far failed. The presence of ECZ Board Chairperson, Mrs. Mwangala Zaloumis SC, Mr. McDonald Chipenzi, and the Chief Electoral Officer, Mr. Brown Kasaro and Director of ICT, Dr. Collins Chinyama Kachaka have compromised the independence and impartiality of electoral management body, and their presence elicits fear of what would.
7. The Judiciary have been extensively complicit in jailing political opponents, refusing them the fundamental right to appeal, and have engaged in schemes to facilitate the theft of Zambia's largest political party. In our view, if Chief Justice Mumba Malila SC, had any thread of credibility and integrity left, he would have resigned in light of the severe attacks on Democracy and the Rule of Law and the active complicit role of the Judiciary in the process.
8. Voter Education: it was noted that during both the voter registration and NRC issuance exercises, a deliberate plot was engaged in denying the electorate information and no aggressive awareness programs were implemented to ensure that the voters to be were well-informed of the exercise in the areas.

We therefore request you to take keen interest in the matters because if not attended, threaten the peace, security and stability of the country and have rolled back the remarkable gains that Zambia has made in building democratic tenets and being a shining example to Africa.

Yours faithfully,

Amb. Emmanuel Mwamba

Chairperson of Information and Publicity

Member of the Central Committee

PATRIOTIC FRONT