

## After court allows them to vote in 2021, PF promises...



Inmates at Chimbokaila Prisons listen to Home Affairs minister Stephen Kampyongo - Picture by Tenson Mkhala

By Mirriam Chabala

Home Affairs Minister Stephen Kampyongo says government will soon start paying inmates a given monthly allowance to enable them save money for settling down when they are released from prison. And Justice Minister Given Lubinda says remand detainees are the worst in the transformation process of inmates in correctional facilities as compared to convicts because they are detained without being tried.

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# SALARIES FOR INMATES

## We'll also allow opposition to campaign in prison - Chato

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By Mirriam Chabala

Paramount chief Gawa Undi of the Chewa people of Zambia's Eastern Province, Malawi and Mozambique, has invited UPND leader Hakainde Hichilema to attend the 2017 traditional ceremony.

Confirming the invitation in an interview, UPND spokesperson Charles Kakoma said Hichilema had received the official invitation, but declined to confirm if and when the opposition leader would travel. "He has been officially invited but we can not yet confirm his attendance because it becomes difficult when the PF starts to put

# Gawa invites HH to Kulamba

conditions to the Royal Highness' invitation. HH is being invited by nearly every traditional ceremony, and he is a free citizen to attend, so is Chishimba Kambwili or any other citizen," said Kakoma.

"There attendance at any traditional ceremony is not aimed at causing confusion but just to appreciate other cultures. So we don't understand the PF worry

and why they are panicking. If HH is applauded and they are booed, it's because of their own

governance and conduct. For our President, attending the traditional ceremony would be

a way of relaxing. He can enjoy some form of tourism, but we need to look at security concerns

also because this government doesn't seem to be comfortable being with HH at same function."

## We don't need an angel in State House, but a listener, says Laura Miti

By Mirriam Chabala

Alliance for Community Action executive director Laura Miti says Zambians do not need "Angel Gabriel" in State House but someone who does not cross the lines.

And Political Science lecturer Lee Habasonda says democracy is an illusion in Zambia because even a stupid law can pass in Parliament when introduced by the President.

Meanwhile, Dickson Jere says police are abusing the public order Act.

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Police in Lusaka prevent Pastor Kangwa Chileshe from accessing the Cathedral of the Holy Cross - Picture by Tenson Mkhala

## Move by Police to cancel HH prayers shocks UPND

By Joseph Mwenda

UPND national chairperson Mutale Nalumango says the move by the Zambia police to stop thanksgiving prayers in a Christian Nation is an

evil act which is beyond imagination. In a statement, Nalumango said the UPND had accepted an invitation for interdenominational prayers following the peaceful release of

Hakainde Hichilema from prison, but observed that the PF government had gone too far in curtailing people's freedoms and rights.

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## Lungu assures citizens "all HIV test results will be kept confidential"

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# Police nab woman for setting ablaze daughter



Police Spokesperson Esther Mwata Katongo - Picture by Joseph Mwenda

*By Diggers Reporter*

Police in Lusaka have arrested a 29-year-old woman for setting ablaze her 12-year-old daughter using Kerosene.

This is according to a statement issued by Police Spokesperson Esther Mwaata Katongo.

"We have arrested a 29 year old woman identified as Prudence Phiri of unmarked house number in Lusaka's Old Kanyama Compound for allegedly setting on fire her 12 years old biological daughter using Kerosene. The suspect was apprehended by concerned members of the public who later surrendered her to Police. This happened on 24th August, 2017 at about 17:00 hours in Old Kanyama Compound," Katongo stated.

"The victim sustained multiple burns on the body and was rushed to Kanyama Hospital for medical attention while the suspect is detained in police custody."

Meanwhile, Katongo stated that one person died while five others sustained serious injuries in an accident in Nyimba District of Eastern Province yesterday.

"Meanwhile, one person died while five others sustained serious injuries in an accident which happened yesterday 24th August, 2017 around 1100 hours at Chamilala area in Nyimba District of Eastern Province on Great East road. The accident happened when the driver of a Toyota Allion bearing a Malawian registration number II9955 failed to keep to his lane and in the process collided with the Scania Marcopolo bus registration number ABE 5435 which was being driven by Chaisa Phiri aged 58 of John Lenge Compound also of Bells Transport in Lusaka. One passenger on the bus identified as Charles Banda of Garden Compound in Lusaka sustained head injuries and died on the way to Chamilala rural Health center while another passenger sustained serious injuries," stated Katongo.

"The driver of the Allion identified as Manala Bulaya Jeke a Malawian national and his three passengers sustained serious injuries and are admitted to Nyimba District Hospital. The body of the deceased is in Nyimba District Hospital mortuary awaiting postmortem. In a related development, an unidentified male pedestrian aged between 30 and 35 died on the spot after he was hit by a motor vehicle Scania Bus registration number ABE 5891 which was being driven by Joseph Chiwanga of Kabwe's Lukanga township in an accident which happened yesterday, 24th August, 2017 at about 01 10 hours on Ndola-Kitwe road. The accident happened when the pedestrian was crossing the road hence was hit by the oncoming motor vehicle. The body is in Kitwe General Hospital mortuary."

## Judge withdraws case against tailor who stole her chitenge

*By Mukosha Funga*

Court of Appeal judge Catherine Makungu has withdrawn a case in which a Congolese tailor allegedly stole a six meter chitenge material valued at K350 from her.

This is in a matter in which Andrew Choma, an Intercity based tailor, was facing one count of theft of a chitenge material.

When the case came up for trial, a public prosecutor informed magistrate Austine Mubita that the matter be withdrawn under section 88 of the Criminal Procedure Code Cap 88 of the Laws of Zambia.

In a notice for leave to withdraw the case addressed to the principal state advocate Gamariel Zimba, public prosecutor Sitwala informed the National Prosecutions Authority that the judge had decided to withdraw the matter as the accused had pleaded with her to resolve the matter outside court.

Magistrate Mubita granted the application to withdraw the case and subsequently discharged Choma.

According to facts before

court, judge Makungu gave three pieces of six-metre material to the tailor, paid K600 for labour, and asked him to sew two suits and a dress.

After a few days, Judge Makungu went to check

on her material and found Choma ironing one of her chitenge pieces with a woman who said she loved it so much and she would take it to South Africa, not knowing the owner was around.

However, at the time of collecting, judge Makungu was only given one suit and a dress as the tailor claimed that the other material had been stolen prompting her to report the matter to police.

## Opposition will also be allowed to campaign in prison - Chato

*By Mirriam Chabala*

Zambia Correctional Services (ZCS) Commissioner General Percy Chato says opposition political parties will also be granted access to prison facilities in order to sell their manifesto to inmates.

Speaking in an interview with News Diggers at Lusaka Central Correctional Facility yesterday, Chato welcomed the Constitutional Court's decision to allow inmates to vote and said that the service would work with the Electoral Commission of Zambia (ECZ) on how campaigns would be conducted in the facilities.

"We welcome the decision of the Constitutional Court because we believe as a Correctional service that even though prisoners are deprived of their liberty, they have also got some rights they are supposed to enjoy. So it's a positive development that now they will be enjoying their rights to vote. Then in terms of the administration of how we are going to run it. So we

will study that decision and then put in place adequate regulations as Correctional service to ensure that there is law and order when that time of campaign comes," Chato said.

"Of course we will have to work with the Electoral Commission of Zambia (ECZ) and all the political parties in the country on how the campaigns will be conducted in our correctional facilities because the prisons are very sensitive places and we can't just allow anyone who presents themselves to us as politicians and have come to campaign. We will need to have the correct number of political parties in the country and then put regulations to see to it that the facilities are secured when campaigns are conducted. Otherwise I do not think any politician will be denied access to the Correctional facilities because the courts already made ruling to the effect that inmates will now be voting. So everyone will be allowed to campaign but that will

be done in an orderly manner. How the voting will be conducted is yet to be established. All in all, we have welcomed the move as a service."

And Chato expressed confidence that the relocation of Lusaka Correctional Facility to Mwembeshi Correctional facility under construction in Central Province would reduce Tuberculosis and other related infections among inmates.

"Definitely, the holding capacity of this prison (Lusaka Prison) is at least 250 but the new facility that is under construction in Mwembeshi will accommodate a population of 8800. So if we have to move this population then we won't congest that place because we will need 500 more to reach the optimum accommodation levels. And the new facilities will also come with clinics and therefore, we will be in the best position to offer the health services on top of offering the good accommodation and a conducive environment. Indeed the issues

of man power have been with us for a long time with a population of about 21000 against the staff establishment of 3300, you would find that there are these issues of challenges in the management and treatment of our inmates," said Chato.

"But I wish to report that we have a new establishment which was approved last year in December and all we are waiting for is the treasury authority to employ the staff in order for us to reach optimal levels and as we employ, I think we will also consider those who are specialized in the provision of medical services because provision of health services to inmates is enshrined in the prisons Act of care. We do believe as a service that prison health is public health and therefore, there is this collaboration with the Ministry of Health where they provide us with medicine and you find that most of these clinics will also stock medicines for us and we get our stocks from there."

# We don't need an angel in State House but a listener – Laura Miti



Voice of America presenter Shaka Ssali speaks to Alliance for Community Action Director Laura Miti during a talk on the state of democracy which was held at the University of Zambia August 25, 2017 picture by Tenson Mkhala

## From front page

Speaking at a public discussion moderated by Voice of America presenter Shaka Ssali at the University of Zambia (UNZA) yesterday, Miti said Zambia needed citizens who could

fight for their rights.

"I heard Dickson speak, for example, about how we need the right people in offices, the kind of people who understand democracy. No! We don't! [But] we need a general public that

demands those in power not to encroach on their space. The problem in Zambia is that we seem to imagine that we'll get an angel Gabriel in State House – we don't want a good President, we want a humble President, we want

a Christian President [but] we don't need any of those. We can have a devil in State House but we need to have people who can say being a devil is yours but you cannot cross this line," Miti said. "So, the democratic space in

Zambia has died not so much because of power holders but because of right holders. It is our inability to demand and protect our space; let's take the University of Zambia, for example; this University is going to be unbundled into colleges but I have not heard any student ask 'at what point was that decision made?' The first [time] we heard about it was that it was in a 10-hour Cabinet meeting [and] in that 10-hour Cabinet meeting, they came out with mandatory HIV testing, they came out with unbundling [UNZA]. [But] who sat in that Cabinet meeting who understood anything about how a university runs? It was left to the Minister of Information Kampamba Mulenga to tell us about it! She is not particularly articulate [and] she didn't seem to understand what she was saying to us. The academia has not asked questions, the university has not asked questions. When I was at this university, we were two in a room [but] right now I hear from students that they are five, seven in a room... [But] I always wonder; why is that the university students have not raised that as an issue?"

houses to cover them.

And Habasonda said democracy was an illusion in Zambia.

"Participation or inclusion in this country is for people who are in power and those who support them. President Lungu can make a decision today and even if it is very stupid it will pass because he has people behind him and are backing him. So if you are a critic and maybe your son is looking for a job, they will not give it to him even if he is qualified because you don't support them," said Habasonda.

"Democracy will remain an illusion in Zambia if we don't fight because it's like if you don't support them when they are campaigning then they will not even look at you or greet you when they win. But since Amos Chanda, the Presidential assistant is here, let us advice him directly, please can you begin to involve everyone in matters to do with the nation because no matter how educated we might be, our ethnicity and tribal manner in which we do things will continue killing our democracy, if we don't put a stop to it."

Meanwhile, Jere, who was Rupiah Banda's press aide, observed that police were abusing the public order act.

"There is nothing wrong with the public order act in itself but we have problems with our police when it comes to the implementation of the act. The Courts clearly ruled that the they were doing away with police permits because the process of obtaining it was long and so what is there now is the police notification where you have to notify the police when holding an event but it's like our police are still considering the notification as permission, so that is why we are having good all these problems," said Jere.

And UNZASU vice-president Piyo Ndhlovu said Zambians are no longer living in a democracy because no one was allowed to say or do anything against the government.

"We are no longer living in a democracy especially us as students. The democracy being talked about is just on paper because right now we don't have the right to express ourselves even when the Constitution is very about our rights. We can't speak out even when our allowances have not been paid because we fear being arrested, So that democracy being talked about is just a formality and it is only paper. People are not free to do anything that does not agree with the current government," said Ndhlovu.

## Kampyongo promises salaries to prisoners

### From front page

This came to light when the two ministers visited correctional facilities in Lusaka district as they concluded their countrywide tour of prisons.

Speaking when he met inmates at Lusaka Central Correctional facility, Kampyongo disclosed that government would start paying prisoners as a way of empowering them for the hard work they do.

"The law provides for the payment of any citizen who renders a service to the country. And with the revision of the law, prisoners will now start getting an allowance for all the work they do while in incarceration so that they can have somewhere to start from when they are released. Because currently the money they are getting is a k1 in the old currency which means when re based to the new currency that money only amounts to a 1 ngwee which is as good as nothing," said Kampyongo.

The minister also said convict in Lusaka Central Prison would be relocated to Mwembeshi to leave room for remand detainees.

"Lusaka prisoners will soon be relocated to Mwembeshi Correctional Facility so that we can have a lot of space to accommodate everyone because currently we have situations where remandees and convicts are being kept in the same facilities which is not supposed to be the

case. The Correctional Facility in Kamwala initially was supposed to be accommodating remand inmates but because of the problems of overcrowding, we have all sorts of people in that facility including juveniles. But this will soon be a thing of the past because we as government have taken it upon ourselves to deal with the challenges of overcrowding physically," said Kampyongo.

And Justice Minister Given Lubinda said remand inmates were the most dangerous people in Correctional facilities because they were being kept there without determining the fate of their cases.

"We have come here because we have our people incarcerated in here. We are not happy with the way you are being kept and we have been working around improving your conditions. But I must also say that it is not safe for convicts and remand detainees to be kept in the same place because remandees have not been tried and they have not even started the process of reformation and they might be a danger in prison and they are actually the worst in these facilities," said Lubinda

Lubinda also expressed happiness that the Act to repeal the Prisoners Act to replace it with the Correctional Act had been presented to his Ministry. The prisoners were also given time to express their

concerns and complaints to the two Ministers through a representative Thomas Kalambatila, a former teacher facing a life sentence.

"We are very happy to receive you honourable Ministers, it is a rare opportunity for us that you would take time off your busy schedule to come and be with us. We as prisoners have been facing a lot of challenges honourable Ministers in terms of delays in the court cases. Sometimes the authorities take a very long time to commit us to courts to be tried and even when they do, some prisoners do not even have proper representation because they neither have lawyers nor relatives. Then the issue of keeping juveniles here with order people is not good for the young children especially that most of them have not even been taken to court so it can be very bad for their growing up," he said.

Kalambatila also appealed to government to empower prisoners with money and if possible open an account for them so that well wishers could be depositing their contributions.

"We are also appealing to government through you to help us by empowering us especially women prisoners with some money so that when we are released we can go home with something, if possible, you can open up an account in the name of the Correctional Facility so

that well wishers can also be contributing something. And her Honour the Vice President can also empower the women through government's 'women empowerment scheme,'" said Kalambatila.

Meanwhile, Head of Cooperation for the European Union Gianluca Azzoni said the visit by two ministers to correctional facilities in the country would help in increasing awareness of the challenges affecting inmates.

"We are anticipating that the visits by the honourable ministers to the correctional facilities would help with the identification of potential remedies to the problems that currently affect the provision of quality correctional services to the inmates," said Azzoni.

The countrywide tour of correctional facilities in the country was undertaken with support from the European Union and the federal Republic of Germany under the programme for Legal Empowerment and Enhanced Justice Delivery (PLEED), implemented through the Germany Development Cooperation.

The two Ministers were accompanied by Correctional Facilities Commissioner General Percy Chato, officials from the Judiciary, the delegation from the European Union and Lusaka Correctional Facility officer in Charge Superintendent Misheck Sakala.

# Lungu assures citizens “all HIV test results will be kept confidential”

By Sipilisiwe Ncube

President Edgar Lungu has assured Zambians that no law of confidentiality will be broken during the mandatory HIV testing as results will remain a secret between the person tested and the medical practitioner. In a statement posted on his Facebook page, President Lungu said he had noted privacy concerns raised by people over the mandatory HIV testing.

“I have been reading comments regarding the Mandatory HIV Testing, Counselling and Treatment. I noted that most of you were concerned about privacy to your results. Let me urge you not to worry over the newly introduced policy because there will be strict confidentiality. Individuals’ privacy is guaranteed because the results would remain between you and the health practitioner. Be assured that no law of confidentiality will be broken in the policy to conduct mandatory HIV Testing, Counselling and Treatment tests,” said President Lungu.



President Lungu checking his blood pressure when he announced the mandatory HIV testing policy on August 15, 2017

“I further wonder why some people are lamenting that their human rights are being violated when my government is concerned about their welfare. We are doing this for the benefit of our nation and the future of our children. To those who will be found to be positive, you will be treated so that your lives can be prolonged. No stigmatization will be tolerated,” said President Lungu.

By Sipilisiwe Ncube and Mukosha Funga

Renowned HIV activist Dr Manase Phiri says as government embarks on an ambitious path of testing everyone and putting those with HIV on ART treatment, there is need to look for domestic sources of funding so that it can be sustained once donors pull out.

And Dr Phiri says President Edgar Lungu cannot close debate about mandatory HIV testing because there is need for further clarifications.

Meanwhile, Dr Phiri says it is highly discriminatory to make statements that no one has the right to take someone else’s life by infecting them with HIV.

Speaking when he phoned in during 5FM’s ‘The Burning Issue’ program yesterday, Dr Phiri observed that the money used for testing and treating HIV was all from donors.

“We have so many other things that we need to sort out, this political leadership in our country, they say they want to know the exact people who are positive so we can put them on treatment. That money for treatment, that money for testing is not our money. What if Donald Trump says ‘no more HIV money to Zambia’ where will people go? What are we going to do? So alongside what we are talking about, we need to be talking about domestic financing, how are we going to raise money so

## Depending on donor funds for mandatory HIV testing is dangerous - Manase Phiri

that we are able to pay for every Zambian who is on treatment? It must be now. We don’t talk about HIV in our prisons, we don’t even allow condoms in prisons. What about adolescent reproductive health? We have 16,000 girls getting out of school because they are pregnant, how many of those are catching HIV? It is a calamity for the nation, but we don’t seem to worry as a nation, we just keep debating about compulsory,” Dr Phiri said.

And Dr Phiri said there was need for more debates on the mandatory testing policy because there were many unanswered questions.

“And what I am hearing about this mandatory testing, or compulsory testing now by the Minister and by other people is that we are talking about routine testing, and that I support totally. Mandatory testing, compulsory testing is almost punitive and the Doctors there describes to you what happens in some countries. Just by being somebody from Zambia, from Africa, you can’t enter the country, if it is positive, they will not allow you to go to Australia because it is mandatory, it is compulsory testing,” Dr Phiri said.

“But where the President

said ‘this is it and no debate’ and here we are debating. I mean he couldn’t close the chapter like that and it’s better if it needed clarification and if indeed people wanted to take him to court, they could have and they still can if he is insisting that this is mandatory testing where police are going to wait by the door if you refuse to test, they push you in, it means you have committed a crime. There are people who were getting ready to seek court action because it sounded punitive; it sounded like a punishment for people who were going to refuse to test.” Meanwhile, Dr Phiri said it was discriminatory to state that no one had the right to take someone else’s life by infecting them with HIV.

“But what am hearing, what we are talking about now is routine testing and we need to make that very clear because as the Dr says, it has that option that if somebody doesn’t want to be tested, they can say so but with guidelines from the government or from the Ministry of what then do we do with that person because of the way it has gone out to the public and social media of a person who is being bundled by police because he apparently refused to

test,” he said.

“So what will happen to people if they refuse to test if indeed it’s mandatory? And I think we need to get clarification on this. We don’t need to be emotional about this, we need to sit as a country together ourselves as activists and pure doctors and politicians who are making these pronouncements, we need to be sure that we are all speaking the same language. I have worked in HIV since the very early 1980s and I am yet to meet one person who is proud to be HIV positive, who deliberately becomes infected, it’s something that is dreaded. So we must stop stigmatizing and discriminating by saying nobody has the right to infect anybody, nobody has the right to kill. We know that already and even the people with HIV know that.” He also said President Edgar Lungu should have led by example by publicly testing for HIV after the launch instead of his team only flashing pictures where he was checking his blood pressure levels.

“It [the mandatory testing pronouncement] does [make me happy] in a small way. It is the first time that a Head of State has made a pronouncement regarding

how we are going to deal with this epidemic from that level but unfortunately, the leadership in leading by example did not happen. I was so amazed that the pictures that were on social media, in our newspapers were of the President having his blood pressure checked, he wasn’t launching a blood pressure problem. He was launching a testing and counseling and treatment program. How much impact would it have had if he had tested with whoever in his Cabinet there?” Dr Phiri asked.

He also warned that counselors could not be trusted to maintain confidentiality like doctors. “The way we have been testing for HIV, the people in the frontlines are not doctors, the majority of them are lay counselors so they may not be as bound by medical ethics as we would like and it is something that we should bear in mind. If we are going to go in this new way, who will be in the front lines? Will it be doctors or nurses or are we still going to use counselors who are going to say ‘look, you have tested positive now I am going to connect you to treatment,’” he said.

Dr Phiri further said there was need for innovative

ways of persuading more men to test for HIV.

“And also, this confusion, why we are talking about this, I think it is a nomenclature; mandatory vs compulsory vs routine. What my good president of the ZMA has been describing is routine testing with an option to opt out. And it didn’t always happen, the idea was if a woman becomes pregnant and comes to the antenatal clinic and they are going to take blood from her for all the other tests that we do, they will take for HIV as well unless she said ‘no, I don’t want this’. So she gives consent and as it was explained that yes it has worked wonderfully,” said Dr Phiri.

“Men don’t go for testing, they don’t go for medical examinations, men are culprits. Even when they are tested and are put on treatment, more men are dying because they are not complying with the treatment. So what we need are innovative ways of persuading more men to test, of fining men in places where they are and where they feel it is safe to test them rather than anybody coming to the clinic to be tested, we are not going to win this battle like that.”

By Sipilisiwe Ncube

Rainbow party president Wynter Kabimba says it is unfortunate that some Cabinet Ministers are involved in the illegal cutting down and exportation of Mukula tree.

Speaking when he featured on 'Environmental chat' programme on Live radio, Kabimba also said the PF government is fond of making pronouncements which lack follow-up action.

"You cut down a small tree in London or in Washington DC, you will go to jail or you will have to pay a sum of US\$3,000. And here we are allowing foreigners to come and cut down the Mukula tree and take it out to go and make profit. Sadly, even some of our Minister are involved in that saga. So how can such a Minister formulate good policy? A Minister who is in collaboration with a foreign businessman whom he know very well as Minister of this government that they are doing a de-service," Kabimba said.

"They are plundering the resources of his/her country, and they have become business partners in order to make a profit by degrading the environment, by decimating the Mukula tree and hence bequeathing nothing to his or her children. How can a Minister like that be a responsible public officer? He/she cant! He is the problem that you have. There are others that have been able to offer bribes including some foreigners have been told 'you can get your Mukula tree' we know about this. This is what is creating a problem in our country, corruption, bribery by those that are in government."

Asked to comment on how far the 7th National Development Plan which was recently launched by government had integrated the green issues in Zambia, Kabimba said he had not read the plan because it was merely one of the pronouncements by government which lacked follow ups.

"I must confess that I have not read the 7th National Development Plan. I didn't see what the 6th Development Plan did, and what the 5th one did, and what

# Ministers involved in illegal Mukula trade – Kabimba



Rainbow party president Wynter Kabimba

the 4th did. So really its academic to read the 7th one. Because I know that there is no political will, that is important. Because I know that these are pronouncements made by the government without any follow up

action. So it is one thing to make a pronouncement, dish out the document and another thing to be serious about the implementation of what is in that document. What is missing is action not words. Words

tool much, we have got the words, but action, Kafwako, zero. Political will is predicated on nationalism and patriotism. You cant have political will where those in authority are not patriotic, and are

not nationalistic," said Kabimba.

"For example it is lack of patriotism for any Minister or government official to partner with a foreigner to decimate our natural resources. Capitalism is about

consumerism. You cannot have capital where you have no consumers and vice versa. So this is insatiable appetite to consume, to accumulate; which is not in line with environmental protection."

## 'Banning' prayers in a Christian nation is shocking, evil – Mutale Nalumango

From front page

"We wish to condemn in the strongest possible term, the action by the Zambia Police to cancel a prayer service which had been organized by a consortium of Churches, to thank God that the UPND president Hakainde Hichilema had been released from incarceration peacefully," Nalumango said.

"We were therefore totally taken aback this morning (yesterday) to be informed by the convenor of the thanks giving service, that the Police had ordered him not to go ahead with the function and that the Anglican Cathedral of the Holy Cross, had been surrounded and sealed

off by heavily armed mounted officers and others with dogs."

She wondered how the much talked about dialogue between President Edgar Lungu and Hichilema would be fruitful of the government was not allowing freedom to worship.

"We find this unacceptable, evil, provocative, utterly disturbing and going beyond the pale. Zambians have been hearing songs of dialogue and peace, but we wonder whether this kind of behaviour by the PF, particularly by Mr Edgar Chagwa Lungu promotes the nobility of the spirit of dialogue and reconciliation. Does it mean we will again

require the intervention of the Commonwealth and Gen Obasanjo to be granted back our freedom to worship? We will not accept the usual explanation that Mr Lungu is not responsible from the above action. Mr Edgar Chagwa Lungu is in charge of all his officials, he calls the shots, appoints them and the buck therefore stops right with him," Nalumango said.

"There's nothing that is legalistically criminal that should stop people from their desires to fellowship with their God, especially in a Nation that is a Christian Nation, a norm the PF have been loudly hailing whenever it suits

them. People all over the World have been allowed to practice their religions and worshiping their God on warships, in active war zones, including prisons. How therefore can irreconcilable politics of sheer hate and anger cause us to be prevented from worshipping God, by Police dogs, teargas and batons?"

She warned Home Affairs Minister Stephen Kampyongo to stop interfering with God's desires for His people.

"We wish to advise the Home Affairs Minister Mr Steven Kampyongo, that his conscience should trouble him over orders from his office, that bars innocent citizen

from fellowshiping with their God, because of rules made by man. For even Paharaoh claimed sovereignty of laws, but God's divine desire to be worshipped by His people outstrips rules made by Kings and rulers of the earth, at a cost to those that fight Him," said Nalumango.

"We end by quoting this scripture to Mr Edgar Chagwa Lungu who we understand is on holiday in Mfuwe.

Psalm 133:1 'Behold, how good and how pleasant it is for brethren to dwell together in unity!...to go up to the House of God in company, and with delight to join together in acts of worship'"

# Juldan Motors founder July Danobo loses shareholding case to step son, daughter

By Mukosha Funga

The Lusaka High Court has ruled that Juldan Motors founder July Danobo's step son is a bonafide majority shareholder of the company.

In this matter, July, the 2nd Plaintiff, had dragged his stepson Nasser Ibrahim, 1st Defendant and Olypa Danobo; his daughter, 2nd Defendant, to court asking it to declare that their shares in Juldan Motors were invalid and fraudulently obtained.

According to the statement of claim, July incorporated Juldan Motors on August 19, 2004 and invited Ibrahim and Raymond Danobo, his biological son, to be directors and shareholders in the company.

"At incorporation, the company issued 2,000,000 shares wherein the 2nd Plaintiff held 1,960,000 shares while the 1st defendant and Raymond Danobo each held 20,000 shares. The shareholders were supposed to pay for the shares which had a nominal value of K1 at the time," the judgment read.

"The 1st Defendant took advantage of the 2nd Plaintiff who is neither literate nor conversant with the modalities of the Patents and Companies Registration Agency (PACRA), and made him sign a Notice of Change of Directors (Form 45) and a resolution. The 2nd Plaintiff states that he thought that the documents were on the change of mandate of Directors of the company, when in fact not. Further, he was not aware or conscious of the true nature of the documents or the effect of appending his signature. In short, he was misled by the 1st Defendant and had no intention of removing Raymond Danobo as director. The 2nd Plaintiff states that by the same resolution, the 2nd Defendant was allotted 12,500 shares in the company under false representation. The Plaintiffs further state that the 1st Defendant by fraud and misrepresentation increased



his shareholding from 20,000 shares to 25,000 shares when the share capital of the company remained at the initial 2,000,000 shares. The share capital later increased shares and the allotment of shares on the 2nd Defendant were invalid. There was no increase in the share capital and subsequent allotment to support the transactions."

July further stated that Juldan Motors lost colossal sums of money under Ibrahim's management which was believed to have financed his lifestyle.

July, who was being represented by Humphrey Ndhlovu of HH Ndhlovu and Company and Jonas Zimba and N. Botha of Messrs Makebi & Advocates also wanted an order reinstating Raymond as director and

shareholder as well as an order compelling Ibrahim to surrender all shares he holds in Juldan Motors and to account for all the money he allegedly embezzled.

But in his defense, Ibrahim who was being represented by Kieth Mweemba, Shadreck Mbewe and Michelle Mwiinga of Messrs Keith Mweemba Advocates and Gilbert Phiri of PNP Advocates, denied allegations that the 1st Defendant fraudulently caused the removal of Raymond from the directors.

Ibrahim also denied July's alleged illiteracy and unfamiliarity with the modalities of PACRA when he successfully incorporated Juldan Motors and also questioned some transactions made by the 2nd Defendant.

"The 1st Defendant states that the 2nd Plaintiff without his

agreement as a co-signatory to the Kwacha Account No. 62280343098 and Rand Account Number 62342526441 both held at the Industrial Branch of the First National Bank Limited (FNB), mysteriously transferred huge sums of money to unknown parallel accounts that the 2nd Plaintiff secretly set up without the concurrence of the Defendants. Further, without the authority of the Defendants he has caused the daily and other periodical cashing from the buses of the company to be banked in secret accounts set up without company approval. He has further unilaterally or arbitrarily transferred staff out of the company's office in Johannesburg, South Africa and replaced them with unknown individuals," read the judgment.

"Using about K2,800,000 of the

company's money and without authority, the 2nd Plaintiff purchased the former Bread of Life Church property along Chinyunyu Road in Emmasdale on Plot No. 136 where double storey blocks of flats were constructed. The Certificate of Title is not drawn to the company's name. Further, the 2nd Plaintiff registered about seven busses purchased from company funds in Raymond Danobo's name instead of the company."

The defendants therefore sought an order that they were bonafide directors and shareholders in Juldan Motors, an order that they be paid directors' remuneration for their services which had been unreasonably held by July, among other things.

According to the judgment, July admitted that Raymond willfully pulled out of the company and transferred his shares to Olypa.

"PW1 (July) went on to state that Raymond Danobo transferred 500,000 shares to Olypa Danobo. After the share transfers, Nasser Ibrahim became the majority shareholder of the company. PW1 stated that he did not produce audited accounts of the company to enable the court to determine the loss. Further, the statement of claim did not disclose the sum of money alleged to have been stolen or embezzled. PW1 stated that he did not adduce proof of Nasser Ibrahim's businesses not lifestyle," read the judgment.

In his defense, Ibrahim denied stealing money from the company saying all withdrawals he had made had been authorized by July's trustee Arthur Kazhila.

Ibrahim also told the court that July chased him from the company in 2013 when the later discovered that he was supporting his biological paternal grandfather.

"DW1 testified that PW1 told him that he was concerned that he was a foreign national and could not hold majority shares in the company. Accordingly, PW1 transferred more shares to

DW1 because he trusted him. He also stated that he desired to hand over the company to one of his children. DW1 went to state that sometimes in 2013, as he was routinely counting money at his office, PW1 rebuked him for supporting his sick biological paternal grandfather and disowned him. PW1 cut all ties with him and chased him from the company," read the judgment.

Ibrahim also testified that he remained a shareholder in the company but never collected any dividends since 2013.

Judge Maria Mapani-Kawimbe ruled that July had failed to prove that the transfer of shares to Ibrahim was fraudulently done or that the later embezzled funds from the company.

She also ruled that Ibrahim and Olypa were bonafide directors and shareholders in the company.

"All in all, I hold that the Plaintiffs have failed to prove their claims against the defendants and I accordingly dismiss their action. On the other hand, I find favor in the defendants counterclaim and hold as follows: I declare that the defendants are bonafide shareholders and directors in the Plaintiff Company with DW1 holding 25,000,000 shares and Olypa Sibongile Danobo holding 12,500,000 shares, I order the plaintiff company to pay the defendants their remuneration and dividends upon assessment and I award them interest thereon," ruled Judge Mapani-Kawimbe on August 9, 2017.

"PW1 must render an account of the Company's income from the date that the Defendants were excluded from the date that the Defendants were excluded from the Company up to the date of the final reconciliation. This must be done without further recourse to court. Before I conclude, I wish to state that the issues regarding the Plaintiff Company accounts held at First National Bank are the subject to Cause No. 2015/HP/1139. I will therefore not make any pronouncement on the issues."

## Students sue Northrise University for illegally offering nursing course

By Mukosha Funga

Five students have sued Northrise University in the Solwezi High Court for enrolling them and training them in a nursing programme which the institution was not authorized to give.

Nimrod Mulenga, Nchimunya Mwila, Lucy Kintakwa, Evelyn Mulenga and Mirriam Kangwa are demanding damages for negligence, fraudulent misrepresentation, breach of contract and a refund of all monies paid to Northrise University as school fees. In a statement of claim filed on Tuesday, the students cited Northrise University Vice Chancellor Moffat Zimba, Deputy Vice Chancellor Doreen Zimba and Council Chairman Steve Hilyard as 1st, 2nd and 3rd respondents respectively.

"The Plaintiffs shall aver at trial that by advertising to the public and calling for enrollment, the Defendants represented to the Plaintiffs and the public that the said Northrise University was duly registered to train nurses and award them with the required certification upon completion. The Plaintiffs will aver at trial that after learning about the nursing program through the various massive media campaigns done by the Defendants and the goodwill and reputation of Mary Begg Community Clinic and First Quantam Minerals Limited, they decided to enter into a contract with the Defendant wherein they were to pay fees; attend lectures and meet the various other curriculum requirements and the Defendant would in turn award them with a degree in nursing at the end of the study period," read the statement of claim.

The students stated that some of them enrolled for the said program in January 2015 whilst others enrolled in February 2016.

"The Plaintiffs shall aver that on or about 5th May, 2017 after having attended various successive semesters under the nursing program, they received letters to the effect that the nursing program that they had enrolled for was no longer being offered by the Defendant on the pretext that the Defendant wanted to establish an ultramodern nursing school in Ndola. The Plaintiffs shall aver at trial that after further inquiry into the issue they came to learn that Northrise University was not registered with the General Council of Nurses (GNC) as required by Section 18 of the Nurses and Midwives Act No 31 of 1997 and thus did not have the requisite authorization to operate a private nursing college. The Plaintiffs shall aver at trial that this came as a shock to them as they had been made to pay a mandatory non refundable GNC indexing fee of K280 at the commencement of the programme," read the statement of claim.

Mulenga and others further told the court that they had spent about K65,000 each on transport, accommodation and food for the duration of their studies which turned out to be illegal.

"The Plaintiffs shall aver at trial that they will be made to spend the above expenses again at another institution where they would have to do the program afresh and incur the same expenses that they had spent while with Northrise University...the Defendants have caused delay in time the Plaintiffs ought to have completed their education and started earning an income," read the statement of claim.

The students are also claiming punitive damages, interests of the sums found due and costs incidental to the action.

We admire the talent of editors at Zambia Daily Mail, Times of Zambia and Zambia National Broadcasting Corporation because to launder the actions of the current PF government requires an extraordinary set of skills. Our friends at government funded media organisations seem to be so proficient at what they do – showing how perfect this government is and how much it has allowed democracy to flourish. They deserve respect.

We are striving to remain a balanced and objective media house in Zambia with no political inclination whatsoever – giving a platform to critics to rebuke the government and providing an avenue for the ruling party to “set the record straight”. We don’t believe that ever since President Edgar Lungu came into power, there is not a single thing he has done right, so we would like the public to hear that good side of his leadership. It has not been easy. Of course there are many sober politicians in PF, honest and clean leaders serving in this government. But we must admit that finding areas where the PF government remains scandal-free is as hard as finding dust under the seabed – you can claim it exists but no one will believe you.

On August 24, 2017, the Zambia Police command cancelled a planned prayer meeting by a church organisation meant to thank God for allowing the peaceful release of UPND leader Hakainde Hichilema from prison. They did not stop there – an armed police battalion was sent to seal off the

# Power and the dumb, dumber, dumbest

News Diggers!

Ear to the ground

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Anglican Cathedral of the Holy Cross venue and threatened to arrest anyone who dared to pass on the church premises, never mind entering the building.

When we heard this development, we felt that there must have been an exaggeration somewhere because no sane government would do such a stupid thing. We were convinced that Pastor Kangwa Chileshe was just seeking unnecessary attention, and we saw the need for the government to set the record straight. So we called the Lusaka Province Police Commissioner to get the correct position in order for us to balance the complaint from UPND with a reasonable explanation from the Police command.

“Yes we have cancelled them (the prayer meeting) because they did not inform us that they will have such

a meeting. That was going to be an illegal gathering because they did not inform the police that they would have such a gathering,” said commissioner Nelson Phiri.

As far as Mr Nelson Phiri was concerned, this was a very wise response. He was probably feeling proud that he had perfectly represented the government and Police command in a clever way.

But to a journalist, how do you report such news without making those in government appear foolish? How do we manage to convince our readers that the people they voted for are still in charge of their faculties? How do our friends at public media institutions do it; because this is the kind of news that if you report accurately brands you an enemy of the State.

We challenge

Commissioner Phiri today to look into his files and see if he will find any records of his predecessors granting any Church organisation in Lusaka a permit to conduct prayers inside their church buildings. How does it make sense for Mr Commissioner to say it is illegal to worship God without permission, in a Christian nation for that matter? This is indeed beyond bizarre. So Lungu and HH must dialogue, but no dialogue with God? Who are these people? Are we still under the leadership of a humble President, a God fearing Head of State? We don’t know.

What we know is that a picture of police officers on horses, with German Shepard dogs manning the entrance of a church, preventing citizens from going in to worship their God, would not be believed anywhere in the world.

Not even Hollywood filmmakers have ever before contrived such an imagination in a movie to portray the wrath of a dictator. For all his barbaric actions, Idi Amin of Uganda did not go that far, neither did the Apartheid regime in South Africa.

As a matter of fact, Yoweri Museveni and Robert Mugabe must be watching in awe over what is happening in Zambia. They must be astonished and wondering where President Edgar Lungu and his advisors are getting such colonial ideas. Police permit for a church service? Where on earth? Which law was Commissioner Phiri following?

And that is not even all the scandal there was in one day over this matter. Another government official in the name of Religious Affairs Minister

jumped from her boredom to justify her pay cheque. Rev Godfridah Sumaili overruled the decision by the police command – taking over the powers and responsibility of the Minister of Home Affairs. Surely, if our government leaders were practicing for *Chipantepante* Olympics somewhere, we would rest assured of our country scooping all gold, silver and bronze.

We are not schooled in politics, but we can confidently deduce that the PF has no qualified political strategists. If they have, then their strategists have no strategy. We say this because at one point, we thought President Lungu timed the announcement of the mandatory HIV testing to coincide with the release of Mr Hichilema so as to overshadow the opposition leader, to divert people’s attention, to subdue public anger around the treason case. Somehow, it worked; the treason case was forgotten overnight and the accused were no longer in the news.

There came Mr Nelson Phiri, launching Hichilema back into the news with a bang. Next he is invited to attend Kulamba in Katete and the PF starts complaining. Where is the political strategy here? While President Lungu is relaxing and probably wetting his throat on vacation in Mfuwe, his political appointees back in Lusaka are securing a permanent slot in the “stranger than fiction” category of world newspapers. Indeed, power in Zambia has gone to the dumb dumber, dumbest.

By Muna Ndulo

## INTRODUCTION

There have been many questions raised by a number of people notably Laura Miti, Mike Mulogoti and Charles Milupi about the role the DPP is playing in prosecutions in the Zambian criminal justice system. I would like to address the concerns raised. The DPP’s handling of the cases of *People v. Hakainde and Others* and the *People v. Mwaliteta* and others raise serious concerns as to whether the DPP office is discharging its constitutional responsibility in criminal prosecutions in Zambia. I take the two cases to illustrate that the DPPs office is either playing politics or is incompetent. Either situation, would be sad for Zambia. An argument has been made by the President and others that it was up to the courts to decide whether the two cases should go on or not. This argument is disingenuous, Zambia is not a civil law system where judges bring indictments. In Zambia prosecutions are initiated by the police which belongs to the executive and are authorized by the DPP which constitutionally is an independent office. The office of the DPP bears responsibility for certifying that the evidence presented by the police supports a criminal charge or indictment. The courts do not exercise control over the institution or continuation

# Prof Ndulo on Zambian Judiciary

of criminal proceedings, save where it is necessary to prevent an abuse or to ensure fair trial (*Maxwell v. R*, 1995). The courts cannot be blamed for an indictment. They can only be blamed for bad judgments. In this article, I would like to show that no properly trained lawyer let alone a DPP who had applied his or her mind to the law and facts concerning the Hakainde case and the Mwaliteta case would have authorized the indictments, and drawn such incompetently drafted charges (in the case of the Hakainde the charge sheet even contains elementary grammatical mistakes). And yet on more than one occasion the DPP affirmed these indictments. In contrast, the DPP used her powers to take over and stop the cases of contempt by private prosecutors against Godfridah Sumaili, Minister of Religious Affairs, and Amos Chanda, Special Advisor (press) to the President. In my view, the DPP by repeatedly sanctioning prosecutions which no impartial judge properly directed in accordance with the law could reasonably be satisfied beyond reasonable doubt that the individuals who were being prosecuted had committed criminal offenses, failed in her

responsibility and in the process undermined the judicial system in Zambia. Additionally, she violated the human rights of the accused persons (in the cases of Hakainde and Mwaliteta) and violated international standards and guidelines for prosecutors. The fair, independent and impartial administration of justice requires prosecutors to be held accountable should they not fulfill their functions in accordance with their professional duties. The DPP must be held accountable. Constitutional office holders are accountable to the constitution. They must do their job and not play politics.

The DPP is a fundamental gatekeeper to the sacred temple of justice in any democratic society. This is because, the office of the Public Prosecutor has since evolved from its odious past – as a willing cudgel in the hands of feudal authoritarians – to its modern position; as not only the defender of the ethos of society via criminal prosecution, but also as firm protector of the integrity of the criminal justice system. The office has also developed to become a bulwark, protecting the citizens from the whimsical and capricious use or employment of the criminal

justice system to oppress them. This is because, it has become axiomatic that justice is the primary reason of organized societal living. To deny this is to create a Hobbesian state of nature where life is “nasty, short and brutish.” “Take away justice and what are societies but organized brigandage.”

By the same reason, law is a tool of justice – a framework through which every member of society is accorded due self-worth, dignity and fundamental freedoms. Law therefore, is not an end in itself but a means through which justice is guaranteed to “all manner of persons, without fear or favor, affection or ill-will.” The New South Wales, Australia, Guidelines for Prosecutors describes a prosecutor as a “Minister of Justice”. The Guidelines state that the prosecutor’s principal role is to assist the court to arrive at the truth and to do justice between the community and the accused according to law and the dictates of fairness. A prosecutor is not entitled to act as if he or she is representing private interests in litigation. A prosecutor represents the community and not an individual or political party. A prosecutor should act independently yet in the general

public interest. The “public interest” is to be understood in that context as an historical continuum acknowledging debts to previous generations and obligations to future generations.

There is hardly any oath of office for Public Prosecutors in the common law tradition – which Zambia is a co-heir – which does not have one version of this solemn clause or otherwise. Justice therefore has many branches – including but not limited to equity, fairness, due process and insulation from arbitrary use of state powers. Essentially, it protects citizens – particularly the vulnerable – from abuse which is inherent in unbridled use of state powers. It allocates and regulates powers thus forestalling the crude appropriation of the coercive instrumentalities of state.

In the same vein, crime and punishment are subsisting attributes of law and society. Thus, the socio-political health of any nation can be measured by an evaluation of the structures that govern crime and punishment in that society – the criminal justice system. This is hardly surprising, considering that tyranny thrives in societies with weak

and pliable criminal justice systems. Therefore, justice is the first casualty of tyranny and ‘democratic dictatorship’ is justice. For instance, under the Apartheid system, all that was needed to make the free movement of blacks and other persons of color criminal, was to just make a pronouncement to that effect and even justify it as of ‘good neighborliness’ or ‘law and order’.

Continues on page 8



**Muna Ndulo is a Professor of Law Cornell University Law School and Director of the Berger International Studies Program and Institute for African Development at Cornell University**

# ...Prof Ndulo on Zambian Judiciary

## From page 7

In democratic dictatorships, all that is needed is to invoke powers of emergency – which are only preserved for extreme situations to preserve the life of the state – at the flimsiest excuse. By so doing, the state effectively suspends the full panoply of due process and other human right guarantees which the citizens are entitled to. This is extremely manifest in societies where there is a clear executive capture of the other organs of government – the legislature and the judiciary.

Evidently, the Directors of Public Prosecutions – as important personnel in the criminal justice system – hold what can be called a ‘power of life and death.’ They can cause the incarceration of citizens by merely framing charges against them. Such citizens may even face the prospect of death depending on the charges which it pleases the Prosecutor to put on them. The extent of the damage that can be done is even more far-reaching when one considers that a citizen once charged will go through the process of (pre-trial detention and) judicial trial even if such a citizen is merely challenging the validity of the charges against him. What this means is that the powers of the Public Prosecutor may be wrongly used with devastating consequences not only to the liberty of citizens but also to democracy. The chilling effect of potential spurious charges by the DPP on citizens can destroy their ability to demand accountability from state authorities. The experience traumatizes citizens and leaves them bankrupt as a result of huge legal costs incurred in fighting the spurious charges. Indeed, the weakness or dysfunctionality of any criminal justice system is a calamity to citizens as shown in the plight of HH in which Magistrate Greenwell Malupani ruled in April that the treason charge against him was incompetent and lacked specifics on the planned overt act to commit treason. This decision by the Court showed that the Office of the DPP had failed in its responsibility to protect a citizen and compounded the failure by not dropping the case at this stage. In the case of Mwaliteta, Judge Bowa in his well-reasoned and articulated judgement ruled that the Prosecution had not established a case sufficiently to warrant the Court to put the accused on their defence; the evidence presented did not meet the charge of aggravated robbery that the office of the Prosecutor had authorized. The accused persons were not even at the scene of the crime, their alibis were not investigated. They arrived at the scene of the crime after the alleged crime. The police linked them to the crime because they parked near a police car and looked suspicious when they arrived at the scene of the alleged robbery. And yet the accused persons had spent over a year in prison under inhuman conditions. In both the Hachilema and Mwaliteta cases the accused were deliberately slapped with

non-bailable offences to keep them in jail. Such miscarriages of justice are due to the failure of the office of the DPP to do justice as the gatekeeper of the criminal justice system. Instead the Courts are left to do the job of the DPP’s office, thus undermining their role and overburdening them with cases that should not have come before them in the first place and unnecessarily overcrowding already overcrowded prisons.

It is this understanding of the linkages between law, justice and criminal justice that led to reforms in many democracies – particularly the establishment and insulation of the office of the Director of Public Prosecutions from the many influences of men of Power. Thus, the office of the DPP, is not only there to prosecute criminal behavior, but also to protect the citizen from the illicit exercise of coercive powers of state.

## OFFICE AND FUNCTIONS OF THE DPP UNDER THE ZAMBIAN CONSTITUTION

Section 180 of the Zambian Constitution Amendment Act 2016, created the Office of the Director of Public Prosecutions. By the distinct Provisions of that same section, the DPP though appointed by the President subject to the ratification by the Parliament is not an officer in the Presidency. In other words, she is not the President’s steward. The stewardship inherent in that office is to the Zambian people. Thus, the Office of the DPP enjoys a special status and only a person qualified to be a judge can be appointed to be the Director of Public Prosecutions under the relevant laws in Zambia. She is not only the Chief Prosecutor for the whole Zambian nation, she is also the Head of the National Prosecution Authority. The DPP has the power to institute criminal proceedings on behalf of the state and to determine prosecution policy. He or she must issue and enforce policy directives to be observed in the prosecution process and has the power to review a decision whether to prosecute or not. The powers and duties are extensive and their proper exercise and performance is crucial to attainment of criminal justice in the country and the attainment of an effective criminal justice system is in turn vital to our democracy. It is therefore a position of immense public trust and responsibility, hence, the office is protected in such a manner that the occupant of that office can only be removed by the detailed and cumbersome process of removing a judge. By the further provisions of Section 180(4) of the Zambian Constitution Amendment Act 2016, the DPP may “institute and undertake criminal proceedings against a person before a court, other than a court martial for an offence alleged to have been committed by that person”. The DPP also has powers and the function to “take over and continue criminal proceedings

instituted or undertaken by another person or authority; and discontinue at any stage before judgement is delivered, criminal proceedings instituted or undertaken by the DPP or any other person or authority.” Indeed, she can perform any of these duties either directly or through officers in her office. Significantly, section 180(7) of the Zambian Constitution Amendment Act 2016, provides unequivocally that “the DPP shall not be subject to the direction or control of a person or an authority in the performance of the functions of that office, except that the DPP shall have regard to the public interest, administration of justice, the integrity of the judicial system and the need to prevent and avoid abuse of the legal process.”

The obvious import of these provisions, is to grant autonomy and full agency to the DPP so that the holder of that Office may pursue justice vigorously, unhindered by self-interest and animated only by the finest interests of the public. I argue that this interest of the public is simply justice, due process and respect for fundamental rights of citizens. Any other thing added to should only be to enhance the foregoing values rather than derogate, diminish or indeed out-rightly destroy them. The DPP therefore is an authority unto herself whose motivation to frame charges, prosecute or refrain from prosecuting any alleged criminal offence must be informed by the duty to do substantial justice. Little wonder then, why the framers of the law strengthened the position of the DPP by providing that she can only be removed in the same manner that a judge is removed from office – Sections 182(3) and 144 of the Zambia Constitution Amendment Act 2016. This autonomy of authority granted to the DPP is further founded on section 6 of the Prosecutions Authority Act (Law number 34 of 2010). In view of these powers, and functions vested in the office of the Director of Public Prosecutions, it is clear that the DPP enjoys an elevated public service position under the extant Zambian laws. It is therefore imperative, that particular attention is paid to this special public office as it is a crucial gatekeeper to the temple of justice.

## THE UNITED NATIONS GUIDING PRINCIPLES FOR PUBLIC PROSECUTORS AND COMPARATIVE EXPERIENCES AROUND THE GLOBE.

According to the UN Special Rapporteur on the Independence of Judges and Lawyers, “Prosecutors are the essential agents of the administration of justice, and as such should respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.” Prosecutors also play a key role in protecting society from a culture of impunity and function as gate keepers to the

judiciary.

Despite the central role of prosecutors, it is noticeable that often they are not the center of attention in the administration of criminal justice. Often, the police, the courts and sometime the defense counsel gets the full public glare and scrutiny. Thus, the prosecutor who is the lynchpin in the entire criminal justice architecture is left to enjoy the comfort of anonymity while accused persons are slammed with frivolous charges and incarcerated pending trial. Sometimes, the period of awaiting trial surpasses the period of time the accused would have served in prison custody if (they were) he was tried expeditiously and convicted. This is particularly so for petty offences usually committed by ordinary citizens – who often may not have the wherewithal to secure effective legal representation. These and many more concerns led the United Nations Congress on the Prevention of Crime and Treatment of Offenders to adopt “the Havana” Guidelines. The Guidelines are aimed at “assisting member states in their task of securing and promoting the effectiveness, impartiality and fairness of prosecutors in criminal proceedings”. They also seeks to ensure that governments take these guidelines “into consideration within the framework of national legislations.” They therefore emphasize that “it is essential that the prosecutors have sufficient independence or autonomy to take their decisions regardless of any outside pressure, in particular from the Executive power of the state.” They state further that, where such pressures can be and are brought, the Prosecutor will not be able to protect the interest of justice, will not be able to respect the rule of law or human right and will be powerless to deal effectively with cases of corruption or abuse of state power.”

Summarily, the Havana Guidelines emphasize(s) that Prosecutors shall:

i. At all material times maintain the honor and dignity of their

profession;

ii. Always conduct themselves professionally, in accordance with the law and the rules and ethics of their profession;

iii. At all times exercise the highest standards of integrity and care;

iv. Keep themselves well informed and abreast of relevant legal development;

v. Strive to be and be seen to be consistent, independent and impartial;

vi. Always protect an accused person’s right to fair trial and in particular ensure that evidence favorable to the accused is disclosed in accordance with the law or the requirements of a fair trial;

vii. Always serve and protect public interest;

viii. Respect, protect and uphold the Universal Concept of human dignity and human rights; and

ix. Act with objectivity.

These cannons are abundantly acknowledged by the Zambian Public Prosecution Authority Act, although their practical effect on the National Prosecution Authority is not visible. Other similar instruments have been adopted in the Region. For instance, South Africa has since adopted “An Ethical Code of Conduct for Members of the National Prosecuting Authority.” The code is anchored firmly on integrity, impartiality, diligence, and professionalism as the foundations of public prosecutions. The abundance of the cannons and the wide adoption of same by many democratic countries is indicative of the fact that fair, effective and impartial public prosecution is indispensable in any democratic society.

## GENERAL COMMENTS AND CONCLUSIONS

Undoubtedly, the Director of Public Prosecutions is a remarkable gatekeeper of justice in any democratic society. The powers of the office of the DPP are enormous and can give a crushing blow to human rights and democracy if improperly exercised. This makes the need to safeguard that office and use its powers in the best interest of the public indispensable.

All prosecutorial decisions must be made against the backdrop of the requirements of domestic law and procedure and a constant and unwavering appreciation of fundamental human rights. Prosecutions ought to be initiated or continued only where two conditions are satisfied: (a) the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction-evidence test and (b) the prosecution is required in the public interest-the public interest test.

Zambian democracy presently is on trial. There is what one may call a creeping self-appropriation of the coercive powers of state by state authorities. In that unholy expropriation of the people’s right to respect of their rights and fundamental freedoms, the Parliament and the Judiciary appear to have been totally emasculated. The largely present impotence – of the Judiciary and the Parliament – is telling and many a citizen have lost interest in seeking justice before the courts or expecting the lame duck parliamentarians to act in the interest of the public. Amidst this trying time, the DPP holds a lot of powers and should courageously refuse to become a willing tool of repression, oppression and egregious violation of the fundamental freedoms of citizens. To do otherwise would be to turn the office into a thing of ridicule and office of public persecution. The reckless framing of charges and use of the same to put “perceived enemies” of the state out of circulation is an injustice that stinks. Democratic societies thrive on competitive ideas and politics; they would die otherwise. It is unbearable when such trumped up charges bear the seal of the DPP whose oath of office demands that she does justice to all manner of persons, without fear or favor, affection or ill-will. The DPP stands on the threshold of history at this period of moral crises for the Zambian People – she cannot afford to stay aloof or feign ignorance or indifference. Indifference to evil is a greater evil.



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The heir to the Samsung business empire, which includes the world's biggest smartphone maker, was sentenced Friday to five years in prison for bribery and other offences in connection with the scandal that brought down South Korean president Park Geun-Hye.

Lee Jae-Yong's penalty could leave the giant firm rudderless for years and hamper its ability to make key investment decisions.

The vice-chairman of Samsung Electronics, 49, arrived at Seoul Central District Court on a justice ministry bus handcuffed, bound with white rope around his dark jacket, and carrying an envelope of documents.

Lee was found guilty of bribery, embezzlement, perjury and other charges centred on payments and promises by Samsung totalling 43.3 billion won (around \$40 million) to Park's secret confidante Choi Soon-Sil.

The court found the money was in return for policy favours including government support for Lee's hereditary succession at the group, after his father was left bedridden by a heart attack in 2014.

The defence had denied the charges, saying Samsung was pressured by Park to make the donations under duress -- and that Lee was not aware of them and did not approve them. Four other top Samsung executives were also convicted and received sentences of up to four years.

Lee's lawyers said he would appeal.

The demonstrators who mounted giant candlelit protests against Park last year also targeted Lee and other chiefs of the chaebols, as the family-controlled conglomerates that dominate Asia's fourth-largest economy are known.

South Korea's GDP is still growing but social and economic frustrations have mounted over the benefits not being equally shared.

Around 800 riot police were deployed around the court to prevent possible clashes between rival sets of demonstrators, Yonhap said.

It was deluged with hundreds of applications for the 30 seats in courtroom 417 available to members of the public, which were allocated by lottery.

Park's own trial began in the same room in May, and it also saw Lee's father Lee Kun-Hee convicted of tax and other offences in 2008, receiving a suspended sentence.

- 'Ruling family' -

The verdict could add impetus to new President Moon Jae-In's campaign

# Samsung heir Lee Jae-yong gets five-year sentence



Samsung heir Lee Jae-Yong faces multiple charges including bribery, embezzlement and perjury

pledges to reform the chaebols.

The firms have long had murky connections with political authorities in South Korea, and past trials of their leaders have often ended with light or suspended sentences, with courts citing their contributions to the economy.

The Lee clan directly owns about five percent of Samsung Electronics shares, but maintains its grip on the wider group through a byzantine web of cross-ownership stakes involving dozens of companies.

The court said Park was aware that Lee wanted state approval for a controversial merger of two Samsung units in 2015, seen as a key step to ensuring his accession.

The deal was opposed by shareholders who said it wilfully undervalued shares of one of the firms. But it eventually went through after the national pension fund a major Samsung shareholder approved it.

Analysts differ on the potential impact of the verdict and sentence on Samsung.

Lee has been Samsung's de facto leader since his father fell ill, but his lawyers and ex-members of the former elite Future Strategy Office (FSO), which dictated the vast group's overall direction and major

business decisions, sought to portray him as naive and inexperienced.

"Samsung will not be doomed without Jay Lee," said Geoffrey Cain, the author of a forthcoming book on the group. "It's up to the specialists to make their own decisions."

Samsung appears to have

been unaffected by Lee's absence so far -- he was detained in custody in February with flagship subsidiary Samsung Electronics making record profits on the back of strong demand for its memory chips.

But Chung Sun-Sup, the head of corporate analysis

firm chaebol.com, said major chaebol decisions on large-scale acquisitions or investments "are often endorsed by the patriarch of a ruling family", and with Lee in prison the firm "may move more slowly than before".

Its shares have soared in recent months, but were

down 1.05 percent on Friday afternoon after the verdict.

The ruling is seen as a strong indicator of the likely outcome in Park's trial, as some of the charges against the ousted head of state her are inextricably linked to the accusations Lee faced. *AFP*

## Thai ex-PM Yingluck skips court, arrest warrant issued

Thailand's ex-prime minister Yingluck Shinawatra missed a court appearance in a negligence trial on Friday that could have seen her jailed, prompting the Supreme Court to issue an arrest warrant and the kingdom's junta to step up border controls.

Thousands of supporters -- outnumbered by security forces -- waited from dawn for a glimpse of Thailand's first female prime minister, but she did not show, prompting fevered speculation that she may have joined her billionaire brother Thaksin in self-exile.

"Her lawyer said she is sick and asked to delay the ruling... the court does not believe she is sick... and has decided to issue an arrest warrant," fearing she may flee the country, lead judge Cheep Chulamon told the court, rescheduling the verdict to September 27.

Thailand is deeply divided



Yingluck, seen here at a July court appearance, is a divisive figure in Thailand adored by the rural poor but detested by the royalist military elite

between the Shinawatras and their political base, which is mainly drawn from the rural poor, and a royalist army-aligned elite, who loathe the clan and refuse to cede power to democratic governments. Yingluck's government was removed by a military coup in 2014.

If convicted for negligence over a flagship rice subsidy policy, she faces up to 10 years in prison and a life ban from politics.

"I just learned that she did not show up (at court)," junta chief Prayut Chan-O-Cha told reporters.

"I have ordered border checkpoints to be stepped

up," he said, including local and major routes out of the country.

Mystery over Yingluck's whereabouts was compounded by a parade of lawyers who brushed off suggestions that she has already fled the country possibly to Singapore. *AFP*

# Taylor Swift releases apparent Kanye diss song 'Look what you made me do'



Taylor Swift's new song "Look What You Made Me Do" from 'Reputation' appears to comment on singer's long feud with Kanye West.

Taylor Swift is not ready to make nice on "Look What You Made Me Do," the biting lead single of her highly anticipated sixth album, Reputation. Jack Antonoff, who worked with Swift on her last album, 1989, co-wrote and co-produced the dance-pop song, which includes an interpolation of Right Said Fred's "I'm Too Sexy." Musically, "Look" is a continuation of the pop direction Swift definitively began on her 2014 LP. She also carried over the antagonistic persona from the vengeful hit single, "Bad Blood." "I don't like your little games/ I don't like your tilted stage," Swift viciously sings. "The role you made me play: of the fool/ No, I don't like you."

Later, Swift uses an effect that approximates singing through a phone. "The old Taylor can't come to the phone right now," she says. "Why? 'Cause she's dead."

While not mentioning Kanye West by name, the song's lyrics alongside the phone voice appear to reference her long, public feud with the rapper. The beef was revived last year after West's song "Famous" included the lyric: "I feel like me and Taylor might still have sex/ Why? I made that bitch famous." West's accompanying video feature Swift's likeness naked in bed with other naked celebrities. Swift denounced the lyrics when the song

and video were released. Months later, West's wife Kim Kardashian leaked video and audio of West and Swift's phone conversation, seemingly confirming that Swift knew about and approved of West's lyrics in private.

Prior to "Famous," Swift and West made amends both publicly and privately following their initial rumble at the 2009 MTV Video Music Awards where West hijacked the stage during Swift's acceptance speech for Best Female Video to say that Beyoncé should have won. The gaffe was so shocking, even President Barack Obama weighed in, calling West "a jackass" for interrupting the singer. Swift's Speak Now ballad "Innocent" is about that event. "I think a lot of people expected me to write a song about [West]," she told MTV at the time. "But, for me, it was important to write a song to him."

Since wrapping her 1989 world tour at the end of 2015, Swift took on more background roles in music. She co-wrote Little Big Town's "Better Man" and Calvin Harris' "This Is What You Came For," which features Rihanna on lead vocals. She also collaborated with Zayn Malik on the hit song "I Don't Wanna Live Forever," from the Fifty Shades Darker soundtrack.

Reputation will be released on November 10th and

is available for pre-order. Swift has partnered with Target to release two 72-page magazines alongside the album that will include

"personal poetry and photos, artwork by Taylor, handwritten lyrics, exclusive poster" and photos from the "Look What You Made Me

Do" video shoot.

While the singer-songwriter has yet to reveal specific tour dates, she also announced a partnership with

Ticketmaster Verified Fan, a new program that attempts to block scalpers and bots from obtaining tickets. *Yahoo News*

## In Japan, robot-for-hire programmed to perform Buddhist funeral rites

A Japanese company has introduced a new role for SoftBank's humanoid robot "Pepper" - a Buddhist priest for hire at funerals.

Chanting sutras in a computerized voice while tapping a drum, the robot was on display on Wednesday at a funeral industry fair - the Life Ending Industry Expo - in Tokyo.

Nissei Eco Co., an unlisted plastic molding maker, wrote the chanting software for "Pepper", which was introduced by SoftBank Group Corp. in 2014.

With Japan's population ageing and shrinking, many Buddhist priests receive less financial support from their communities, prompting some to find part-time work outside their temple duties, said Michio Inamura, Nissei's executive adviser. The funeral robot could step in when a priest was



A 'robot priest' wearing a Buddhist robe chants sutras as it beats a wooden fish during its demonstration at Life Ending Industry EXPO 2017 in Tokyo, Japan August 23, 2017.

not available, he said. It also cost less at 50,000 yen (about \$450) per funeral compared to more than 240,000 yen (\$2,200) for a

human priest.

Buddhist priest Tetsugi Matsuo said he came to the expo to see if Pepper could "impart the 'heart' aspect

to a machine because I believe that the 'heart' is the foundation of religion."

The robot has not yet been hired for a funeral. *Reuters*

# Farah signs off illustrious track career with 5000m Diamond League victory



Mo Farah signed off his phenomenal track career with a narrow victory in the men's 5000 metres at the Diamond League final in Zurich on Friday. Farah will switch his focus to the roads and bowed out in triumphant fashion by edging out Paul Chelimo and Muktar Edris, the Ethiopian who denied him a triple-double at the IAAF World Championships this month, in a time of 13 minutes and 6.05 seconds. The 34-year-old established himself as one of the all-time greatest long-distance runners by completing the 5000m and 10,000m double-double at Rio 2016, becoming just the second man to achieve the feat. Farah won four Olympic golds and six world titles during his illustrious careers and dug in for one last victory in Switzerland. The Brit led into the final lap and held off a push from Yomif Kejelcha down the back straight to retain his advantage into the final curve. Edris looked set to pip Farah at the line but stumbled as he bent forward in search of victory, losing out to Chelimo and ending up tangled with Kejelcha on

the deck. Chijindu Ujah won the men's 100m with a season's best 9.97secs, world champion Justin Gatlin coming fourth behind Ben Youssef Meite and Ronnie Baker, and Isaac Makwala put some of his World Championship frustration behind him with victory in a 400m race that did not include Wayde van Niekerk. The Botswanan celebrated with press-ups as he did following his 200m time trial in London having initially been denied his place in the heats due to illness. Neither Dafne Schippers nor Elaine Thompson could stop Shaunae Miller-Uibo triumphing in the women's 200m in 21.88s, while Caster Semenya successfully defended her 800m Diamond Trophy and Sally Pearson's magnificent resurgence continued with 100m hurdles glory. After seven successive triumphs, pole vault star Renaud Lavillenie was dethroned by world champion Sam Kendricks, while Ruth Jebet was less than three seconds shy of her world record as she won the 3000m steeplechase in 8:55.29. *Yahoo Sports*

## LeBron James lashes out at jersey-burning Celtics fans

Cleveland superstar LeBron James lashed out on Thursday at Boston Celtics fans who burned their Isaiah Thomas jerseys after the point guard was traded to the Cavaliers.

"The burning of the jersey thing is getting ridiculous now! The man was traded. What do u not understand?" James said in the first of a string of tweets, noting also that Thomas had shown tremendous heart when playing for the Celtics, suiting up for the playoffs in the wake of his sister Chyna's death in a car accident.

The tweet from one fan of a video showing him putting a match to his Thomas jersey prompted the response from James and others.

Celtics Boston fans, aware that it was Celtics management rather than Other Thomas who were responsible for the blockbuster trade that brought Cavs star Kyrie Irving to Boston in exchange for Thomas and Jae Crowder, tweeted pictures of their No. 4 Thomas jerseys with thank-notes to the popular player.

ing. James has reason to be sensitive to the subject of jersey burn-When he opted to depart Cleveland for Miami in 2010 -- infamously saying he was taking his talents to South Beach -- myriad fans torched their James jerseys.

Cavs like Thomas, James was a free agent at the time, and on Un - Thursday he also defended Gordon Hayward, the former Utah star who signed with the Celtics as a free agent this year, to the dismay of Jazz fans.

James noted that Hayward "decided to do what's best for him and family".

"(He) put in the work, got better, became an All-Star, etc!!" James tweeted. "If these guys weren't good, u guys would be the first to say 'get them up out of here.' Man beat it!

"When 'we' decide to do what (is) best for us it's 'cow-

ard-ly, 'traitor,' etc., b u t when it's on the other side it's 'business' huh? Ooh ok," James added. "Man do what u feel is best for your profession, love, family, happiness..." *Yahoo Sports*

ard-ly, 'traitor,' etc., b u t when it's on the other side it's 'business' huh? Ooh ok," James added. "Man do what u feel is best for your profession, love, family, happiness..." *Yahoo Sports*



## U-20 coach joins senior Chipolopolo bench

*From front page* Zambia will host Algeria on September 2 in Lusaka and play the final leg in Blida on September 5. "I would like to announce the inclusion of Mr Beston Chambeshi to the team," FAZ general secretary Ponga Liwewe said. "This is an addition to the team that is already existing to the senior national team that includes Aggrey Chiyangi and Dabid Chilufya."

Ponga added that Chambeshi's status as Under-20 coach remains unchanged despite joining the senior setup as a deputy to Wedson Nyirenda. Meanwhile, Ponga disclosed that Zambia will fly to Algeria on a charter flight immediately after the match. "The team will travel to Algeria on the 2nd of September just after the game," Ponga said.

"I am sure you are aware that the commitment to play the second leg is on the 5th (of September), so to avoid long delays that are caused by commercial travel, the team shall travel by charter." Meanwhile, Zambia head into next week's qualifiers 3rd in Group B tied on 1 point with Algeria after two rounds played. Nigeria and Cameroon are 1st and 2nd on two points and six points respectively.



# PLAYERS NOT PAID FOR COSAFA, CHAN GAMES

*By Diggers Reporter*

Chipolopolo players are still owed bonuses from their 2017 COSAFA Cup tournament outing including two CHAN qualifying matches.

A FAZ official told News Diggers! that the players are still owed bonus for the home and away first round qualifier against Swaziland on July 12 away and July 22 at that Chipolopolo won 7-0 on aggregate.

“Yes it’s true but we have not paid dues for the CHAN home and away game against Bafana Bafana in August,” said the official.

And one of the Chipolopolo players confirmed the development.

“We have been told that all our outstanding bonuses from the team’s participation in the 2017 COSAFA Cup will be drawn from the prize money that has yet to come from COSAFA,” he said.

Zambia lost 3-1 to Zimbabwe in the COSAFA Cup final played on July 9 in Rustenburg.



## City of Lusaka fires coach Chilombo

*By Joseph Mwenda*

City of Lusaka Football Club has fired its coaches Hector Chilombo and Davy Musole. Club communications manager Alex Basopo Njovu told News Diggers! through a statement that the speration was by mutual consent.

“We would like to sincerely thank the duo for their services rendered to the club and wish them success in their

future endeavours,” Basopo stated.

“Italian coaches, Roberto Landi and Peppe Macca, who were engaged early this month will remain in charge of the team as it fights to avoid relegation.”

Chilombo signed a six-month performance- based contract in May with City Yamoto.

He replaced veteran coach Elijah Chikwanda.

## U-20 coach joins Sr Chipolopolo bench

*By Joseph Mwenda*

Zambia Under-20 coach has joined the Chipolopolo bench as assistant coach.

The 2017 U20 AFCON and 2016 COSAFA U20 Cup winning coach will be part of the bench for next week’s 2018 FIFA World Cup Group B doubleheader against Algeria.

*Continues on page 11*

