

## **TRANSPARENCY INTERNATIONAL ZAMBIA STATEMENT ON THE MUTEMBO NCHITO SC TRIBUNAL**

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The Mutembo Nchito Tribunal commences its sittings in the next few days and as Transparency International Zambia, we wish to underscore a number of points pertaining to the work of this Tribunal.

1. We wish to reiterate our position that the setting up of a Tribunal is welcome as it will provide an opportunity to all those with allegations of impropriety and criminal conduct of Mr. Mutembo Nchito in his role as Director of Public Prosecution, to come forward and justify their claims. Similarly, the Tribunal should provide Mr. Nchito an opportunity to defend himself. This is the way it should be in a civilized and democratic society unlike the attempts we witnessed in the last few weeks where some people wanted to hound out the DPP from office using any means possible. It is important that due process is followed even when such a process is not politically convenient. The PF Government should do everything possible to ensure that laid down procedures in addressing concerns about the conduct of a Constitutional Office holder, such as the DPP, are followed to protect the integrity and confidence in constitutional offices.
2. The incidents of the past few weeks leading up to the constitution of a Tribunal were a source of concern and a threat to the independence of the judiciary. It is our considered view that the Judiciary should be insulated from political attacks and threats from political cadres. It was unbelievable to see senior party officials of the ruling Party, with impunity, attacking a High Court judge for delivering a verdict which was considered unfavorable to the ruling party. It is our sincere hope that we will not witness similar attacks or threats on the Tribunal.
3. We recognize that the Tribunal comprises three retired Chief Justices and it is our very high expectation that this Tribunal will discharge its functions in a credible, transparent and impartial manner. We wish to caution that Tribunal members should resist the temptations of using this platform to settle political scores. Further, the Tribunal in its conduct should not only be seen to be independent but should be independent in the way it carries out this important mandate. We have had Tribunals in the past which have fallen short of acceptable standards of independence and the Mutembo Nchito Tribunal should raise the bar in terms of professionalism and probity considering that it is composed of people who have been at the helm of the judicature in the past. The conduct of the Tribunal, will to a large extent determine the final outcome.
4. It is imperative therefore that the sittings of the Tribunal are open to the public. There is no justification whatsoever for the Tribunal to hold sittings in camera when the matters before it, are of a public nature. We are made to understand that it is an ordinary member of the public who has moved this Tribunal and as such, it will be counter productive for the Tribunal, on their own volition, to decide to hold sittings in camera. We categorically demand

that the Tribunal sittings should be open to all interested members of the public.

5. We are worried that a few days before the commencement of the Tribunal sitting, there is no public announcement of the charges that have been leveled against Mutembo Nchito. While we have seen the Terms of Reference for the Tribunal, it is our considered view that specific charges should be brought against Mutembo Nchito. Given the urgency with which President Lungu acted in setting up the Tribunal, we would have thought that these charges were already drawn up. It is such acts of omission which will dilute the seriousness that people will attach to the Tribunal. It is also shocking that President Lungu proceeded to suspend Mutembo Nchito before the charges were drawn up and without the benefit of a thorough investigation of the allegations. What is worrying is that essentially, President Lungu and those that complained against Mutembo Nchito have found him guilty of the offences alleged and now the Tribunal's only task is to determine whether he should be removed from office of DPP. This is unfortunate precedent which should not be allowed in this country.