

**THE IMPLICATION OF REMOVING SECTION 37 FROM THE ANTI-
CORRUPTION COMMISSION (ACC) ACT No. 42 OF 1996**

BY

PATRICK BANDA

THE IMPLICATION OF REMOVING SECTION 37 FROM THE ANTI-CORRUPTION COMMISSION (ACC) ACT No. 42 OF 1996

BY

PATRICK BANDA

**COMPUTER NUMBER
(25053914)**

Being a Directed Research Essay submitted to the University of Zambia Law Faculty in
Partial fulfillment of the requirements for the award of the Bachelor of Laws(LLB)
Degree

DECLARATION

I, PATRICK BANDA do hereby declare that this Directed Research Essay is my genuine work and to the best of my knowledge, information and belief, no similar piece of work has previously been produced at the University of Zambia or any other Institution for the award of the Bachelor of Laws Degree. All other works in this essay have been duly acknowledged. No part of this work may be reproduced or copied in any manner without prior authorisation in writing of the author.

.....

Candidate's signature

THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW

I recommend that the Directed Research Essay prepared under my supervision by:

PATRICK BANDA
(Computer No. 25053914)

Entitled:

THE IMPLICATION OF REMOVING SECTION 37 FROM THE ANTI-CORRUPTION COMMISSION (ACC) ACT No. 42 OF 1996

Be accepted for examination. I have checked it carefully and I am satisfied that it fulfills the requirements pertaining to format as laid down in regulations governing Directed Research Essays.

.....
MUMBA MALILA (SC)

.....
Date

ABSTRACT

The study's main objective is to assess whether government could be justified for having repealed the Law on abuse of office which was provided for under the abrogated Anti-Corruption Commission Act No. 42 of 1996.

Before the repeal of the law in November, 2010, Governments' intentions were preceded by a lot of public debate. Most members of the public, civil society organisations and opposition political parties felt that Governments' move was not legitimate because the law which was targeted for repeal was said to have proved its efficacy in fighting corruption.

Government, however, was of the view that the said law was a duplication of other already existing laws in other statutes, for instance, that it was adequately provided for under the Penal Code, Cap. 87 of the laws of Zambia. Furthermore, Government was of the view that Section 37 of the repealed Anti Corruption Commission Act No. 42 of 1996 was in contravention with the Zambia Republican Constitution.

In repealing the Act, Government claimed that it was set to harmonise the anti-corruption laws with international instruments and standards.

This study has reviewed that for lack of political will to fight the corruption scourge, most African governments have resorted to diluting laws which appear to be effective in the fight. This is because the laws on abuse of office make leaders to answer for their wrongs once they leave office. Most leaders can not resist the temptation of helping themselves from state coffers, hence, would do everything to unmake good laws which would haunt them.

This paper concludes that Government's reasons for repealing the law on abuse of office where not justified.

Dedication

This study is dedicated to my children Neria, Patrick (Jr), Manasseh and Kalonga, for their sacrifice and unwavering support throughout my studies, and for the encouragement they have given me despite their being of tender age. To my wife and my extended family, particularly my siblings and my mother and late father, I will forever remain indebted to you for your unfailing understanding even when things were very difficult.

Acknowledgements

I wish at this point in time, to acknowledge the unwavering support rendered to me by different people during my study as listed below:

Mr Mumba Malila, State Counsel, former Attorney General of Zambia and Lecturer in the School of Law at the University of Zambia, for his invaluable supervision during the study and. I was overjoyed when he gave me a go ahead after presenting my research topic.

Sincere thanks go to Mr Reuben Lifuka, Mr Goodwell Lungu, President and Executive Director of Transparency International Zambia (TIZ), respectively, and their staff for allowing me to use their Information Library. My gratitude also go to the personnel of the Media Institute of Southern Africa, Zambian chapter, Mr. Daniel Sikazwe, Chairperson, Ms Jane Chirwa DaSilva, Information Research Officer, and indeed other staff for affording me room in their information Library.

Special thanks also go to Ms Paula Mwale, Mr Tennieson Nyangu, Mrs Doris Kapumba, Mr Alexander Kafwata, Ms Claire Musonda, Mrs Tembi Mtine, my former club mate Elsie Simpamba, all of the National Assembly of Zambia, for their various material support.

Furthermore, it has really been difficult to do such a tedious research and attending to demands of the workplace at the same time. Therefore, my gratitude also go to my supervisors and workmates also at the National Assembly of Zambia, Ms Hilda Kazela, Mr Edward Sindazi, Mr Collins Ngozi, Mr Ronald Sambo, Miss Lomiwe Zulu, Mrs Media Mweele and last but not least, Mr Francis Tanganyika.

Table of Statutes

Penal Code, Cap, 146 Of the laws of Zambia

Corrupt Practices Act, No. 4 of 1980

Public Interest Disclosure (Protection of Whistle Blowers) Act No. 4 of 2010

Forfeiture of Proceeds of Crime Act, No. 19 of 2010

Criminal Procedure Code, Cap.88 of the laws of Zambia

Electoral Act, No. 12 of 1996

Table of Contents	Page
Research Topic.....	ii
Declaration.....	iii
Supervisor’s Approval.....	iv
Abstract.....	v
Acknowledgements.....	vi
Dedication.....	vii
Table of Statutes.....	viii
Contents.....	ix

CHAPTER ONE

1.0	INTRODUCTION.....	1
-----	-------------------	---

CHAPTER TWO

2.0	Zambia’s Corruption Fight since Independence	8
2.1	The Genesis of Anti-Corruption Fight.....	9
2.2	Anti-Corruption Legislation during the Second Republic	11
2.2.1	The Frederick Chiluba era.....	11
2.2.2	The Levy Mwanawasa era.....	13