



STATEMENT 6 June 2014

CENTRE FOR HUMAN RIGHTS AT THE UNIVERSITY OF PRETORIA CALLS FOR THE ACQUITTAL AND IMMEDIATE RELEASE OF THULANI RUDOLF MASEKO AND BHEKI MAKHUBU

The Centre for Human Rights expresses dismay at the arrest of Messrs Thulani Maseko and Bheki Makhubu, by the Royal Swaziland Police Service on 17 and 18 March 2014, and their continued detention. Mr Maseko is a Swazi human rights lawyer and graduate of the Centre's Master's programme in Human Rights and Democratisation in Africa; Mr Bheki Makhubu is the editor of the *New Nation* magazine.

According to news reports, Mr Maseko is charged with "scandalising the judiciary and contempt of court". Mr Maseko's arrest arises out of his exercise of freedom of expression through newspaper articles that he has authored, including articles critical of the continued retention of Mr Michael Ramodibedi, the man who ordered Mr Maseko's arrest, as Chief Justice of Swaziland. It should be noted that the Chief Justice resigned from the Judiciary of Lesotho amidst impeachment charges on 22 April 2014.

The Centre for Human Rights regards these charges as orchestrated measures to shut down the voice of democracy even in violation of the Constitution of Swaziland.

This is not the first time Mr Maseko has been arrested and detained for exercising his right to freedom of expression. In 2009 he was arrested, detained and charged with subversive activities. However, his trial was never brought to finality. Our concern is that his arrest and detention is aimed more at intimidating him and others, than at instituting a case against him that will withstand a fair and open trial before an impartial and independent judge. In his statement of 5 June 2014, Mr Thulani Maseko stated that '[f]rom the very first day we appeared before this Court, we entertained a reasonable apprehension that this Court has not brought an impartial and unprejudiced mind to the resolution of the matter. We have been ambushed from day one, right to the end.'

The Centre for Human Rights is particularly concerned:

- that the two detainees have been denied access to a lawyer;
- that, when they were brought before the same Chief Justice, the proceedings were held in chambers and therefore closed to the public;
- that the refusal to grant them bail has resulted in the continued detention of Messrs Maseko and Makhubu, for what is arguably a relatively minor offence, even if proven by the state.



Swaziland's national and international obligations include:

- The Swaziland Constitution (of 2005), provides for the rights of persons deprived of their personal liberty (in article 16): legal representation of their choice, trial without delay, and unconditional release under reasonable conditions.
- Swaziland is a state party to the African Charter on Human and Peoples' Rights (African Charter), which guarantees the right to a fair trial.
- The African Commission on Human and Peoples' Rights, the African Union monitoring body over the Charter, has indicated that the right to be released on bail, the right to counsel and to a public trial are all guaranteed as part of article 7 of the Charter.

Mr Maseko is a graduate of the Master of Laws (LLM) degree in Human Rights and Democratisation in Africa (2005) from the Centre for Human Rights, University of Pretoria, South Africa. Since completing his studies, Mr Maseko has distinguished himself as a committed advocate for human rights and democratisation in Swaziland. In 2011 he received the Vera Chirwa Award, in recognition of his unwavering support for human rights and democratisation efforts in Swaziland.

Mr Maseko has the full support of the Alumni Association of the Master's in Human Rights and Democratisation in Africa. These 401 women and men are active across the full spectrum of human rights professionals in Africa, from grassroots, through civil society, the civil service (including cabinet), the Police, Military and judiciary, national legislature, academia, and to the African Union and the United Nations. This new generation of African human rights lawyers represent the values of excellence and *ubuntu* and work together to engender a culture of respect for human rights and fundamental freedoms across the African continent.

The Centre for Human Rights calls on the government of Swaziland to abide by its international human rights obligations, under the African Charter and other international instruments, and:

- ensure immediate and unhindered access of the two men to legal counsel;
- allow the two detainees to argue for their release on bail without delay, which should be considered on reasonable and judicial grounds;
- ensure that any further proceedings take place in public; and
- refrain from instituting prosecutions merely with the purpose of intimidation persons critical of the government, or to stifle free expression.
- Review its Constitution to create an enabling environment for democratic governance.

Noting that the verdict on the charges is due in the upcoming days, the Centre for Human Rights strongly calls on the Swaziland Judiciary to acquit both Mr Thulani Maseko and Mr Bheki Makhubu on all charges.

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