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Swaziland: Judges' stand supports human rights

Amnesty International welcomes the position taken yesterday by the judges of Swaziland's Court of Appeal that the Government must comply with its rulings or they will not resume their duties. As of 10 November 2004, the Government had failed to implement an important ruling of the Court of Appeal two years previously, obliging them to allow forcibly evicted families to return to their homes.

Amnesty International has repeatedly condemned the forcible evictions as human rights violations.

The Government's failure to implement the court's ruling seems also to have breached the spirit of a recent agreement, brokered by the Commonwealth and announced on 17 September 2004, to ensure the restoration of the rule of law.

In the agreement, the Government declared that it "hereby and without qualification undertakes to be bound and to carry out the orders of the Courts of the Kingdom". The judges, who had resigned in protest at the Government's refusal in 2002 to implement two key rulings, returned to Swaziland this week in the belief that their judgments had been followed.

In October, Amnesty International wrote to the Swaziland Head of State, King Mswati III, to express concern that the September agreement made an exception of the case involving the evicted families of KaMkhweli and Macetjeni, on the grounds that it intended to apply for a "stay of execution of the orders issued". In late September, the police prevented members of the evicted families from returning to their homes, stating that their instructions from Government had not changed.

In its letter to King Mswati III, Amnesty International emphasised that his Government is in breach of its international human rights treaty obligations in continuing to prevent the evictees from returning to their homes. Whatever it intended to do in a future application in court, the Government of Swaziland and its agents are obliged both by the ruling of the Court of Appeal in 2002 and the country's human rights treaty obligations to allow the evictees to return to their homes with immediate effect. The evictees also have an internationally recognized right to redress, including financial compensation.

Background

The Court of Appeal judges, all of them retired South African judges, resigned in November 2002 in protest at the then Prime Minister Sibusiso Dlamini's refusal to implement two rulings, in cases affecting the rights of families who had been forcibly evicted for political reasons from their homes in 2000 and the rights of suspects to apply for bail in certain cases. In the latter case, the Government appears to have

complied with the Court of Appeal ruling by releasing some 29 pre-trial prisoners who had been detained unlawfully since 2002.

In July 2004, Amnesty International stated in a public report that the Government of Swaziland had breached its obligations under the African Charter on Human and Peoples' Rights and the United Nations Convention on the Rights of the Child through the following actions: the forced evictions carried out in October 2000; the dispossession or destruction of the families' properties; the continuing threats of force to prevent their return; the effect of these actions on the victims' rights to livelihood, shelter, education and health; and the denial of an effective remedy to redress these violations.

The continuing denial to the evictees of their human rights in 2004 has also placed the Government in breach of its obligations under three other human rights treaties which the country ratified this year - - the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Public Document

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