

URGENT ACTION

TWO MEN RE-DETAINED FOR CRITICAL ARTICLES

On 9 April respected magazine editor, Bhekithemba Makhubu, and human rights lawyer, Thulani Maseko, were re-detained in Swaziland after irregular court proceedings against them. The two had been released from custody on 6 April after a high court judge overturned their previous arrests and detentions as unlawful. They had spent 20 days in detention for criticising a powerful public official.

Human rights lawyer **Thulani Maseko** and **Bhekithemba Makhubu**, editor of Swaziland's monthly news magazine *The Nation*, were arrested by police on 17 and 18 March respectively, after Chief Justice Michael Ramodibedi issued arrest warrants in response to two articles published in *The Nation*. The articles by Bhekithemba Makhubu and Thulani Maseko in the February and March editions of the magazine raised concerns about judicial independence and integrity in Swaziland. Both men were charged with criminal contempt of court. The warrants used to arrest them were defective and the two men were remanded into prison after a summary proceeding in the Chief Justice's chambers. Their lawyers were not permitted to make any submissions. Normal criminal procedure dictates the men should have appeared before a magistrate and have the opportunity to apply for bail.

On 6 April, after protracted battles in the High Court by lawyers seeking their release, High Court judge, Mumcy Dlamini ruled that their arrest and thereby their detention was unlawful. Later that day they were released from Sidwashini Remand Prison in Mbabane after 20 days in custody. Almost immediately there were reports that the Chief Justice, who is appointed by the Head of State, King Mswati III, was preparing new warrants for arrest. On 7 April he lodged an appeal against Judge Dlamini's ruling. On 9 April another High Court judge, Mpendulo Simelane, issued an order for their arrest. He allegedly has a conflict of interest in the case. They were arrested and detained by police that night. On 10 April the police brought them to the High Court where Judge Simelane ordered them to be remanded to Sidwashini prison, where they are currently held. The judge told the accused and their lawyers that the trial against them on criminal contempt charges would begin on 14 April.

There is no legal basis under domestic law and procedure for any of the actions taken by the Chief Justice or Judge Simelane.

Please write immediately in English or your own language:

- Expressing concern at the repeated arbitrary arrests, unlawful detentions following unlawful proceedings against Bhekithemba Makhubu and Thulani Maseko;
- Calling for their immediate and unconditional release as Amnesty International considers them to be prisoners of conscience;
- Calling on the authorities to protect, respect and fulfil the right of freedom of expression and to cease all harassment, intimidation and unlawful legal proceedings against human rights defenders.

PLEASE SEND APPEALS BEFORE 23 MAY 2014 TO:

Minister Sibusiso Shongwe
Ministry of Justice and Constitutional Affairs
P.O. Box 924
Mbabane, Swaziland
Fax: +268 404 3533
Email: ps@justice.gov.sz
Salutation: Dear Minister

His Majesty King Mswati III
King of Swaziland
Office of the King
Lozitha Palace
PO Box 1
Kwaluseni
Swaziland
Salutation: Your Majesty

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

Thulani Maseko and Bhekithemba Makhubu were arrested after the independent magazine published a report questioning the detention of a government vehicle inspector who was detained for a week without being charged. The magazine criticised the arrest as an abuse of authority. Authorities claimed the articles interfered with the court proceedings and charged them with contempt of court.

Bhekithemba Makhubu is still facing an onerous legal process, following his conviction last year in Swaziland's High Court on two counts of criminal contempt of court in connection with the publication of two articles questioning the independence of the country's judiciary. Amnesty International had condemned the ruling which had been immediately followed by a shocking sentence of two year's imprisonment, if the editor failed to pay a fine equivalent to nearly US\$45,000 within three days. The sentence was averted when his lawyers managed to file appeal documents before that deadline. His appeal against his conviction and sentence has still not been heard.

Thulani Maseko, an activist with Lawyers for Human Rights Swaziland, has also faced repressive charges under Swaziland's Sedition and Subversive Activities Act brought against him 2009, for which he has never been brought to trial.

The detention of and proceedings against Thulani Maseko and Bhekithemba Makhubu also violate international human rights standards.

Name: Thulani Maseko (m), Bhekithemba Makhubu (m), Michael Ramodibedi (m), Mumcy Dlamini (f), Mpendulo Simelane (m)

Gender m/f: both

UA: 86/14 Index: AFR 55/001/14 Issue Date: 11 April 2014

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