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Swaziland: Constitution Bill and rule of law "deal" fail to protect human rights

In a letter sent today to the Swazi Head of State, King Mswati III, Amnesty International reiterates its appeal to the Government of Swaziland to ensure that human rights are fully protected under the new Constitution which is being presented to Parliament on 27 October for debate.

The organization is concerned that the draft constitution bill will not protect the human rights of all Swazis.

The draft law reportedly is substantially the same as the version issued in 2003 which was strongly criticised by civil society organizations in Swaziland, as well as by Amnesty International and the International Bar Association, among others.

In its letter to King Mswati III, Amnesty International highlighted some of its previous public criticism of the draft constitution, including its:

- failure to protect fully the rights to freedom of conscience, belief, expression, opinion, peaceful assembly and association;
- failure to protect fully the right to life by, for instance, allowing law enforcement officials to use lethal force in situations where there is no threat to life posed to police or others;
- failure to include economic and social rights as rights enforceable by the courts;
- only partial protection of the rights of women, with for instance girls and young women not protected against forced marriage; and
- weak actual protection for the impartiality and independence of the judiciary, particularly regarding the selection, appointment, tenure and dismissal of judges.

These and other failures in the draft are in conflict with Swaziland's international and regional human rights obligations. If adopted, the constitution will be difficult to amend, in the context of an only partially elected parliament and the high threshold required for amending the constitution.

The restriction on written or oral submissions from organizations or quasi political groupings at every stage of the process from 1996 has left a wide range of civil society organizations and their constituencies feeling excluded from making a meaningful input.

In its letter to King Mswati III, Amnesty International also raised a number of other human rights concerns, in particular it appealed to the Government to implement its human rights treaty obligations by allowing the forcibly evicted families of KaMkhweli and Macetjeni to return to their homes. The organization

expressed concern that an agreement, which had been brokered by the Commonwealth and announced on 17 September 2004, intended to end a two-year 'rule of law' crisis in the country, allows the government to continue to violate the rights of the evicted families. This is despite the Court of Appeal ruling in the evictees' favour in 2002.

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For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566
Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

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