

AMNESTY INTERNATIONAL PUBLIC STATEMENT

14 September 2018

index number: AFR 33/9100/2018

LESOTHO: SUSPENSION OF CHIEF JUSTICE UNDERMINES RULE OF LAW AND JUDICIAL INDEPENDENCE

King Letsie III suspended Chief Justice Nthomeng Majara on 12 September 2018 with immediate effect following a recommendation by Prime Minister Thomas Thabane.

The suspension of Majara by King Letsie III is considered to be politically motivated by civil society organisations in the country.

The Prime Minister's advice to suspend Majara goes against two high court orders. On 17 May, 2018, the court ruled that "the respondents (the Prime Minister, Minister of Law and Constitutional Affairs and 3 others) are interdicted and prevented from taking any or whatsoever measures against the applicant (Chief Justice Majara) in accordance with the Constitution pending finalisation of these proceedings; The first respondent (the Prime Minister) is prevented and interdicted from recommending to His Majesty the King suspension of the applicant (Chief Justice Majara) in terms of s121(7) of the Constitution pending a recusal application being brought by the respondents; and respondents are interdicted and prevented from taking any or whatsoever action against any judges of the High Court".

On 23 May 2018, the court issued another injunction prohibiting the government from removing Judge Majara pending the determination of a suit on the matter, which is set for hearing on 26 September 2018.

The suspension of Majara comes after persistent attacks on the judiciary, the office of the chief justice, the minister of justice, Attorney General and the Lesotho Law Society, by the authorities.

Amnesty International is concerned that the actions set a deeply worrying precedent in Lesotho. An independent judiciary is important to ensure a functioning administration of justice for everyone, and respect for human rights.

The suspension of the Chief Justice is a grave threat to judicial independence in Lesotho. The authorities must show restraint and respect human rights and the rule of law by immediately lifting Majara's suspension and reinstating her as Chief Justice. We urge the authorities to respect Lesotho's international, regional and national obligations relating to the independence and security of tenure of judges.

Background

In November 2017, Chief Justice Majara was approached by the Minister of Justice and Correctional Services, Dr Mahali Phamotse, requesting her to resign. She was told that the government no longer required her services and that it had no intention of continuing to work with her.

On 9 December 2017, the Minister of Law and Constitutional Affairs, Mr Lebohang Hlaele MP, made a public statement in which he accused the Chief Justice of political bias and corruption and threatened that she should resign or face impeachment.

In April 2018, CJ Majara was given a 'show cause letter' by Prime Minister Thomas Thabane, where she was asked to justify why she should not be impeached for an alleged misconduct.

On 19 June 2018, the government issued a statement saying its plan to remove Chief Justice Majara was aimed at restoring confidence in the judiciary.

The United Nations Basic Principles on the Independence of the Judiciary provide that any complaint made against a judge in his/her judicial and professional capacity shall be processed fairly and under an appropriate procedure. According to Rule 18, "Judges shall be subject to suspension or removal only for reasons of incapacity or behavior that renders them unfit to discharge their duties." Rule 20 provides that, "Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review."