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Swaziland: Amnesty International urges the government to ensure an effective and impartial inquiry into the death in custody of Sipho Jele

In a letter sent to the Prime Minister of Swaziland, Dr Barnabas S Dlamini, on 10 May, Amnesty International appealed to him to ensure that the inquest into the death of political activist Sipho Jele on or about 4 May 2010 is conducted fully, impartially and in an open manner.

Amnesty International welcomes the Prime Minister's decision announced on 6 May to appoint a coroner's inquiry under the 1954 Inquest Act into the circumstances of the death of Sipho Jele. The 35-year-old activist died in suspicious circumstances several days after his arrest by police under the Suppression of Terrorism Act (STA). The organization urges the Prime Minister to ensure that the coroner's inquiry is conducted in public, is accessible to witnesses whom the family may wish to call, receives full co-operation from all relevant organs of state and reports its findings publicly.

In its letter to the Prime Minister, Amnesty International notes a number of concerns about the circumstances and background to the arrest of Sipho Jele.

Mr Jele had been subjected to torture and other ill-treatment in police custody in the past. He was detained by police in December 2005 and subsequently charged with treason along with 15 others. Mr Jele alleged that while in custody he was beaten around the head causing long-term damage to his hearing, for which Amnesty International was able to obtain independent medical corroboration. He also alleged that he was subjected to suffocation torture while forcibly held down on a bench by six police officers at Sigodvweni police station. Some of his co-defendants made similar allegations of torture by the police.

The presiding High Court judge hearing their bail application in March 2006 was sufficiently concerned to call on the government to establish an independent inquiry into their claims. An inquiry was established under a single commissioner who subsequently reported his findings to the then Prime Minister. To Amnesty International's knowledge this inquiry report was never made public. Mr Jele and his co-defendants had still not been brought to trial on the treason charge by the time of his death.

In its letter to the Prime Minister, Amnesty International also expresses concern that at the time of his death Mr Jele had been remanded in custody on charges formulated under the STA. Reports indicate that he was charged in the High Court late on Monday 3 May with contraventions of Section 19(1)(a) of the STA. The grounds for these charges were that on the day of his arrest at a May Day rally he allegedly was wearing a t-shirt and possessed a membership card of an organization banned in November 2008 as a terrorist group under the provisions of the STA. It appears that he was not represented by a lawyer when he was arraigned on these charges in the High Court and remanded to Sidwashini Remand Centre pending trial.

In 2009 Amnesty International, together with the International Bar Association's Human Rights Institute, published a report criticising the STA as a flawed law which conflicts with Swaziland's human rights obligations.[1] While states have a duty to protect all those under its jurisdiction, including to prevent and protect against attacks on civilians, all anti-terrorism measures must be implemented in accordance with international human rights law. Analysis of the provisions of the STA showed that the basic definition of 'terrorist act' in the law did not meet the requirements of legality such as accessibility, precision and applicability to counter-terrorism alone. The offences in the Act were and still are defined so broadly that they place excessive restrictions on a wide range of human rights, including freedoms of expression, peaceful assembly and association.

Victims or relatives of victims of alleged human rights violations in Swaziland face enormous difficulties when they seek access to their internationally-recognized right to effective legal or other remedies and to reparations. To Amnesty International's knowledge, over the past two decades only two other coroners' inquests have been ordered by an incumbent Prime Minister into deaths in custody occurring under suspicious circumstances. One of these inquests, conducted by a magistrate in 2001 into the deaths of two young men, Edison Makhanya and Sibusiso Jele, failed to reach any conclusions about the circumstances behind and causes of their deaths. Despite the diligence of the presiding magistrate, the court was hampered by various forms of obstruction, including of access for the families' representatives to the post-mortem examinations and reports, incomplete and conflicting police evidence and serious delays in the completion of officially-conducted forensic tests.[2]

Amnesty International concludes its letter by appealing to the Prime Minister to ensure that the right to an effective remedy for the family of Sipho Jele is upheld and for any person found to be responsible for his death to be brought to justice.

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[1] *Suppression of Terrorism Act Undermines Human Rights in Swaziland* (http://www.amnesty.org/en/library/info/AFR55/001/2009/en)

[2] *Swaziland: Human rights at risk in a climate of political and legal uncertainty* (http://www.amnesty.org/en/library/info/AFR55/004/2004/en)