

URGENT ACTION

TWO MEN SENTENCED TO TWO YEARS IN PRISON

On 25 July Bhekithemba Makhubu, editor of Swaziland's monthly news magazine *The Nation* and human rights lawyer Thulani Maseko were sentenced to two years in prison without the possibility of paying a fine.

The sentences were backdated to March when the men were arrested and detained under orders of the Chief Justice Michael Ramodibedi. *The Nation* magazine together with its publishers were fined R100,000 (approximately US\$9,500).

Bhekithemba Makhubu and Thulani Maseko had been convicted on 17 July on two charges of contempt of court in the High Court in Mbabane, Swaziland. The contempt of court charges arose from two articles published in *The Nation* magazine in February in which the convicted men had raised concerns about judicial independence and integrity in Swaziland. *The Nation* magazine and Swaziland Independent Publishers were also convicted, adding to the repressive consequences of the ruling.

During the trial, there was a clear conflict of interest as the presiding judge, Mpendulo Simelane, had been named in one of the articles. Also, prior to the judgment being handed down in court, the Minister of Justice reportedly had a meeting with the judge in his chambers.

Amnesty International considers Bhekithemba Makhubu and Thulani Maseko to be prisoners of conscience, arrested, detained and subjected to an unfair trial merely for exercising their right to freedom of expression.

Please write immediately in English or your own language:

- Expressing concern at the conviction of Bhekithemba Makhubu and Thulani Maseko on contempt of court charges after an unfair trial and the disproportionate sentence imposed;
- 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 8 SEPTEMBER 2014 TO:

Prime Minister

Dr Barnabas Sibusiso Dlamini
P.O. Box 395
Mbabane
Swaziland
Fax: +268 2404 3943

Salutation: Dear Prime Minister

His Majesty King Mswati III

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. This is the second update of UA 86/14. Further information:
<http://amnesty.org/en/library/info/AFR55/003/2014/en>

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ADDITIONAL INFORMATION

Thulani Maseko and Bhekithemba Makhubu were arrested in March 2014 after *The Nation* published two articles by Thulani Maseko and Bheki Makhubu in February, in which they raised concerns about judicial independence and political accountability in Swaziland. They were charged with contempt of court and remanded in custody after highly irregular legal proceedings. On 18 March Amnesty International condemned those proceedings as a violation of international human rights standards and with no basis in Swaziland's domestic law.

Despite the courageous ruling of Judge Mumcy Dlamini on 6 April which led to the brief release of the two men from custody, they were re-arrested, remanded back in custody on 10 April and then subjected to unfair trial proceedings on contempt of court charges culminating in the judgment from 17 July.

Bhekithemba Makhubu has already been 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 was heard on 30 May. The Supreme Court overturned the conviction on one count and upheld the conviction on the second count but overturned the sentence (which was either pay the equivalent of US\$45,000 within three days or serve two years imprisonment.) The Supreme Court substituted another sentence on this upheld conviction: (i) a fine of the equivalent of nearly US\$3,000 against *The Nation* magazine, payable within three months; (ii) a sentence of three months' imprisonment against Bheki Makhubu, suspended on condition that he is not convicted of a similar offence. Given the conditionality of the suspended sentence, the conviction on 17 July is particularly concerning.

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. He has not been brought to trial on these charges to date.

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

Name: Thulani Maseko (m), Bhekithemba Makhubu (m)
Gender m/f: m

And Michael Ramodibedi (m), Mumcy Dlamini (f), Mpendulo Simelane (m)
Gender m/f: both

Further information on UA: 86/14 Index: AFR 55/004/14 Issue Date: 28 July 2014

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