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<http://www.rsf.org/swaziland-detained-journalist-appears-in-04-04-2014,46092.html>

Africa - Swaziland

Free at last

Judicial authorities recognize illegality of the arrest

8 April 2014

Reporters Without Borders welcomes yesterday's decision by high court judge Mumcy Dlamini to quash an arrest order for **Bheki Makhubu**, the editor of *The Nation*, and **Thulani Maseko**, a human rights lawyer who writes for the political monthly.

Held since 18 March at the behest of Chief Justice Michael Ramodibedi on a contempt of court charge for criticizing the Chief Justice, the two men were freed immediately.

Their release was the result of an application by the two defendants disputing the legality of their detention. In her ruling, Judge Dlamini said the arrest warrant was illegal because it had not followed procedure and because it was issued by a court under the authority of one of the parties to the case.

"In my considered view, the Chief Justice would not have issued the warrant of arrest had the above been brought to his attention," she said.

04/04/2014 Detained journalist appears in court in leg irons Reporters Without Borders is appalled by the inhuman and degrading treatment of **Bheki Makhubu**, the editor of *The Nation*, an independent news monthly, who has been held for the past two weeks on a contempt of court charge for criticizing Chief Justice Michael Ramodibedi.

Makhubu was brought into court in leg irons on 1 April on the grounds that he represented a "security risk."

When relatives said they did not understand why he was seen as a security risk, government spokesperson Sanele Mngotmetulu Nxumalo replied mysteriously: "It is one of the things that remain a secret. Security is very secretive. Therefore, if I can disclose to you when, how, why and to who we use leg irons, that could compromise our security. Security is very important to us."

Makhubu and **Thulani Maseko**, a human rights lawyer who writes opinion pieces for the magazine, have been detained since 18 March without being given a date for their trial.

"This humiliation compounds the iniquitous treatment that this journalist has received since his arrest," said Cléa Kahn-Sriber, the head of the Reporters Without Borders Africa desk.

"Bringing Makhubu into court in shackles like a dangerous maniac is outrageous, not to speak of the illegality of an arrest warrant issued by the plaintiff, the chief justice, and the closed-door hearing that has resulted in their being detained for more than ten days.

"The authorities must put an immediate stop to this degrading treatment, which violates the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Swaziland ratified in 2004.

"The authorities must also, as a matter of urgency, correct the judicial abuses we have seen in this case, in which the judge in charge, Mpendulo Simelane, is himself criticized in the articles for which the two defendants are being prosecuted. If he does not recuse himself at the hearing scheduled for 9 April, he could find himself being plaintiff, witness and judge all at the same time

"This grotesque situation is, paradoxically, evidence of the judicial system's lack of independence and professionalism that *The Nation* criticized."

Kahn-Sriber added: "In all, this situation clearly shows that a concern for justice is farthest from the minds of these judges. What is going on here is a desire to crush the spirit of journalistic investigation and impose a state of totalitarian fear."

When Makhubu and Maseko appeared in court this morning, they lodged a complaint against the chief justice and the government, challenging the constitutionality of their arrest. The US ambassador attended the hearing, showing her support for the two defendants.

During the 1 April hearing, Judge Simelane refused to recuse himself, postponed a hearing on his competence until 9 April, and ordered that the two defendants remain in detention.

A local media expert told Reporters Without Borders: "You have the impression that the court is making things up as it goes along. This makes it very difficult for journalists to cover the hearings. Furthermore, the threat of a contempt of court charge has a deterrent effect on the media, which are scared of being prosecuted."

Africa's only absolute monarchy, Swaziland is ranked 156th out of 180 countries in the [2014 Reporters Without Borders press freedom index](#).

Photo: Bheki Makhubu, Inforrm
Slideshow: Roi Mswati III (The Guardian)

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