



18 July 2014

Press statement

FREEDOM OF EXPRESSION UNDER ATTACK IN SWAZILAND AS HIGH COURT CONVICTS ACTIVISTS ON CONTEMPT OF COURT CHARGES

THE Southern Africa Human Rights Defenders Network (SAHRDN) is greatly disturbed by the conviction of two human rights defenders (HRDs) - **Thulani Maseko** and **Bheki Makhubu** on 17 July 2014.

Maseko and **Makhubu** were arraigned before the High Court of Swaziland following their arrest on 17 March 2014 and 18 March 2014 respectively, facing charges of contempt of court. The trial of the two HRDs was finalized on 4 July 2014. In the ruling delivered on 17 July 2014, **Justice Mpendulo Simelani** rejected the evidence and case authorities cited by **Maseko** and **Makhubu** in their defence cases. **Justice Mpendulo Simelani** referred to the Constitution of Swaziland and said that the right to freedom of expression was not absolute but limited and proceeded to convict the two who are now awaiting sentence, at a date to be set by **Justice Mpendulo Simelani**.

The SAHRDN restates the well-founded and recognised position that the freedom of expression, and in particular freedom of the media and press, is critical to maintaining an open and democratic society. The SAHRDN is of the considered view that in convicting the two for allegedly authoring articles critical of actions of the judiciary, by narrowly reading and interpreting the right to freedom of expression in the Swazi Constitution, **Justice Mpendulo Simelani**, has exhibited the stark intolerance of the judiciary to criticism and impacted negatively on the perception of the ability of judicial officers to protect all citizens equally and without fear or favour. These developments in Swaziland have exposed the judiciary and made a mockery to the state of democracy in Swaziland, SADC and indeed Africa as a whole. As one of the arms of government, the Swazi judiciary is expected to protect the fundamental rights of citizens and not contribute to their violation through court decisions.

The conviction of **Masuku** and **Makhubu** if allowed to stand, will set a very bad precedent for the Swazi legal system as well as the Southern Africa region as a whole.

The SAHRDN urges the Swazi judiciary to protect rights of citizens and not contribute to violation by exercising its role of placing checks and balances on the other two arms of the state objectively. Freedom of expression is a fundamental right, that is guaranteed in regional

instruments particularly the African Charter on Human and People's Rights, and the International Covenant on Civil and Political Rights to which Swaziland is a state party.

SAHRDN;

- Calls for the immediate cessation of targeting of HRDs exercising their fundamental rights, including the right to freedom of expression;
- Calls for the opening up of democratic space and respect for the fundamental freedom of expression, freedom of the press and associated media and other freedoms vital for the maintenance of democracy and participation by ordinary citizens in the affairs of their country;
- Encourages continued regional and international action in solidarity with **Masuku** and **Makhubu**, all legitimate HRDs and people of Swaziland to ensure the repressive activities of the state are brought to an end as a matter of urgency.

-ENDS-

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