



# INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

"Dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights"

Johannesburg, 10<sup>th</sup> June 2009

## *ICJ calls for the Release of Advocate Thulani Maseko*

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The International Commission of Jurists (ICJ) expresses its serious concern about the detention and prosecution of Mr Thulani Maseko, a prominent human rights lawyer from Swaziland, arrested on 3 June and currently in police detention. The ICJ considers that the deprivation of liberty of Mr. Maseko constitutes arbitrary detention and his prosecution constitutes an attack against his fundamental freedom of expression. The ICJ calls upon the competent authorities to take immediate action for the unconditional liberation of Mr Maseko and an end to his prosecution.

Mr. Maseko was charged on 4 June with subversive activities under section 5 of the Sedition and Subversive Activities Act (the Sedition Act). Mr Maseko is accused of allegedly expressing the view that 'Mr Dlamini and Govender died for the liberation of Swaziland'. The two men lost their lives on 21 September 2008 in a mysterious incident that Swaziland police portrayed as an attempt terrorist attack.

The ICJ is concerned about the constitutionality and conformity with Swaziland human rights commitments of the Sedition Act, under which Mr Maseko was charged. The Sedition Act contains excessively broad and vague criminal provisions, which seriously undermine the principle of legality of the crimes and open the door to criminalise legitimate and genuine exercises of the right to freedom of expression, guaranteed by article 24 of the Swaziland constitution, article 9 of the African Charter on Human and Peoples' Rights and article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which the Kingdom of Swaziland is a State Party. The ICJ strongly believes that a criminal Act as broad and blurred as the Sedition Act significantly erodes the right to freedom of expression and fails to meet the 'reasonableness' test required by the Swaziland constitution and international human rights standards.

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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The ICJ therefore calls upon the competent authorities to take immediate action for the unconditional release of Mr Maseko. The ICJ further urges Swaziland judicial and law enforcement officials to comply with all fair trial and detention standards Mr Maseko is entitled to under the Swaziland Constitution, the African Charter and the ICCPR. Furthermore, the ICJ calls for effective action to be taken in order to challenge the Sedition Act, which blatantly erodes the principle of legality of crimes and the fundamental right to freedom of expression.

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