



The Law Society of
Upper Canada

Barreau
du Haut-Canada

April 28, 2014

King Mswati III, King of Swaziland, Head of State
and Chief of Arm Forces
Royal Palace
Mbabane, Swaziland

Your Excellency:

Re: Arrest and detention of Thulani Rudolf Maseko

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the arrest and detention of human rights lawyer Thulani Rudolf Maseko. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

On March 17, 2014, Thulani Rudolf Maseko, a human rights lawyer, was arrested on charges of “scandalizing the judiciary” and “contempt of court” following the publication of articles criticizing the judicial system.

Thulani Rudolf Maseko was expected to appear in open court for indictment proceedings on March 18, 2014. Instead, he appeared in a private hearing that was held in Chief Justice Ramodibedi’s chambers. Following this private hearing, he was remanded into custody until his bail hearing on March 25, 2014.

On March 26, 2014, High Court Judge Mpendulo Simelane dismissed Thulani Rudolf Maseko’s application requesting that he be released on his own recognizance and be duly served with a summons to appear before the court. His lawyer argued that the High Court of Swaziland is not a remand court and that the *Criminal Procedure and Evidence Act* is clear that all remands must be made by a magistrate. However, the High Court remanded Thulani Rudolf Maseko into custody.

On April 6, 2014, High Court Judge Mumcy Dlamini set aside the charges and warrant of arrest and that was issued by Chief Justice Michael Ramodibedi against Thulani Rudolf Maseko and Thulani Rudolf Maseko was released. However, recent reports indicate that Thulani Rudolf Maseko was re-arrested on April 9, 2014 and is being detained in the provisional detention centre of Sidwashini, Mbabane.

Office of the Treasurer

Osgoode Hall
130 Queen Street West
Toronto, Ontario
M5H 2N6

Tel 416-947-3415
Fax 416-947-7609

We are concerned that when Thulani Rudolf Maseko was taken into police custody, he was denied access to legal counsel. Equally concerning is that the indictment proceeding, which is usually held in open court was, was held in closed proceedings in the chambers of Chief Justice Ramodibedi.

The Law Society is deeply concerned about situations where lawyers are targeted in the legitimate exercise of their duties. International human rights instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* state that respect for human rights is essential to advancing the rule of law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states “governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.” Article 18 states “lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.”

The Law Society urges the government of Swaziland to:

- a. guarantee all the procedural rights that should be accorded to Thulani Rudolf Maseko and other human rights defenders in Swaziland;
- b. guarantee in all circumstances the physical and psychological integrity of Thulani Rudolf Maseko;
- c. put an end to all acts of harassment against Thulani Rudolf Maseko and other human rights defenders in Swaziland;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Thomas G. Conway
Treasurer

**The Law Society of Upper Canada is the governing body for 46,200 lawyers and 6,200 paralegals in the Province of Ontario, Canada. The Treasurer is the head of the Law Society. The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.*

copy: Prime Minister Barnabas Sibusiso Dlamini
Office of the Prime Minister / Cabinet Offices, Hospital Hill
P.O. Box 395
Mbabane, Swaziland

Mr. Majahenkhaba Dlamini, Attorney General
P.O. Box 578 Mbabane, Swaziland