



# 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 "*

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**Agenda Item 6**

## **ICJ Oral Intervention on the Adoption of the Outcome Document of the Universal Periodic Review of Swaziland**

15 March 2012

*Check against delivery*

Madam President,

Swaziland's judicial crisis in 2011 exposed a serious risk to the independence of the judiciary and the rule of law. Although the Constitution upholds the doctrine of the separation of powers, forces within the judiciary and the executive have persistently interfered with the independence of the judiciary.

In June 2011, the Chief Justice issued a practice directive banning litigants from suing the King, and thereby ousting the jurisdiction of the courts to hear cases against the King and restricting access to justice for the Swazi people in cases involving a monarchy that maintains and exercises enormous political power and authority. Later in August 2011, the Chief Justice and the Judicial Service Commission suspended and thereafter dismissed Justice Thomas Masuku, a High Court judge well known for applying international human rights and rule of law principles in his judgments. Justice Masuku was dismissed on charges without any legal basis and in a procedure that failed to meet international fair trial standards and general principles of law. The case was conducted with the Chief Justice sitting as complainant, prosecutor and judge; and with local, regional and international observers denied access to the hearing.

Masuku's dismissal has led to months of judicial crisis in which Swazi lawyers have boycotted the courts, calling for the removal of the Chief Justice based on an official complaint launched against him. Despite this breakdown of professional trust between the judiciary and the legal profession, there has been no indication by the Chief Justice, nor the State, of a willingness to address the concerns raised.

The events in this crisis go against the undertakings of the Kingdom of Swaziland under the UPR. The International Commission of Jurists therefore requests the Kingdom of Swaziland to act to ensure the protection of human rights, the rule of law and judicial independence in Swaziland.

I thank you.

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