



LAW SOCIETY
OF SOUTH AFRICA

Acting Prime Minister of Eswatini, Themba Masuku

SADC Troika
South Africa's Naledi Pandor;
Botswana's Lemogang Kwape; and
Zimbabwe's Frederick Shava

**OPEN LETTER TO ACTING PRIME MINISTER OF ESWATINI AND THE SADC
TROIKA**

The Law Society of South Africa (LSSA) calls on the SADC Troika's meeting with the Acting Prime Minister of Eswatini, Themba Masuku, to ensure that meaningful engagements are held with the country's civil society and pro-democracy movements.

The LSSA has engaged with its legal counterparts in Eswatini and is dismayed at the reports emanating from a country that has denied access to information, banned the internet, and threatened lawyers who represent the protestors.

The legal profession has been under continued threat and detention for the past few years, which has now increased under the mass protest movement for democracy.

In this regard, we call on the South African Government, which continues to assist the Monarch King Mswati and the pseudo-Parliament to stay in power to make meaningful changes in South Africa's foreign policy. We must hold South African businesses in Eswatini who are in partnership with the Monarch's business interests and others as recently brought to the fore by the banning of the internet by the South African mobile service provider to account. The company's statement that this is in line with their human rights policy is, in reality, the opposite.

The LSSA calls for restraint from all parties to ensure that innocent lives are not continued to be lost.

Real peace and stability are found through meaningful change and commitment towards a democratic and equitable society founded on the principles of democracy, with free and fair participation in the economy.

Lawyers in Swaziland cannot freely represent their clients in fear of their lives and detention. The courts are denying bail and are perceived to be dictated to by the Parliament and the Monarch. Lawyers as judicial officers are being persecuted by the same courts that should protect them and the victims of abuse of power.

The central demand of the people is for the democratisation of the country's economy and polity.

It is shameful that in this day and age (and in support of our brothers in Eswatini and many living in our country), political parties have been banned since 1973.

Two-thirds of the Upper House members of this Parliament and over 10% of the Lower House members are directly appointed by the King, whilst the Chiefs, under the Monarch, contest for the balance of seats in Parliament.

The people of Eswatini have been failed by both the Monarch and Parliament; clearly, the system of government has failed its people.

As upholding the rule of law is a fundamental mission of the LSSA, we have to place some of the tenets of the rule of law on record.

Accountability: All citizens and society, including the government, are accountable under the law.

Just laws: The laws are clear, publicised, stable, evenly applied and protect fundamental rights, especially human rights. The laws also provide for access to information and the rights to peacefully protests.

Open government: The laws must be administered and enforced to be accessible, fair, and efficient.

Accessible and impartial dispute resolution: Justice is delivered timely by a competent, ethical, and independent judiciary.

Evident failings include:

Freedom of assembly and association. Fundamental labour rights, due process of the law and rights of the accused are effectively guaranteed.

The public's right to have access to independent and impartial courts.

The right to information and civic participation.

Failure of fundamental human rights, including everyday experiences of society, including access to primary public services.

The shooting of protestors with live ammunition.

Broadly speaking the rule of law is generally defined as:

'The Effective rule of law reduces corruption, combats poverty and disease, and protects people from injustices large and small. It is the foundation for communities of justice, opportunity, and peace — underpinning development, accountable government, and respect for fundamental rights. Traditionally, the rule of law has been viewed as the domain of lawyers and judges. But everyday issues of safety, rights, justice, and governance affect us all; everyone is a stakeholder in the rule of law.'

The LSSA believes the above should be used as guidelines by the Troika in dealing with their effort to bring peace in Eswatini, protect lives and property, and assist in setting the framework towards achieving the above goals. This is driven by ensuring democracy for the benefit of the people and the country to take their rightful place in Southern Africa and the African continent.

The LSSA will distribute this letter to its international partners, including the International Bar Association (IBA), The Pan African Lawyers Union (PALU) and the Commonwealth Lawyers Association (CLA), to champion the rights of the people and practitioners in Eswatini in the international structures and their respective stakeholders.

Kind regards

Electronically signed 9/7/21

LSSA President's subcommittee

Mr Jan van Rensburg (President), Ms Mabaeng Lenyai (VP) and Mr Mvuzo Notyesi (VP)

Email: LSSA@LSSA.org.za Tel: (012) 366 8800