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SWAZILAND: Attacks on Rule of Law Continue

The Centre for the Independence of Judges and Lawyers (CIJL) of the International Commission of Jurists (ICJ) today expressed its deep regret at the unabashed disrespect for the rule of law and the erosion of the integrity of the legal system in Swaziland.

The CIJL/ICJ is disappointed to learn that King Maswati reportedly told worshippers at an Easter service on 19 April that "Although the whole world is preaching democracy, it does not mean we have to follow them." He added, "Democracy is not good for us because God gave us our own way of doing things."

Swaziland has been besieged by resignations of judges and protests by lawyers. Most recently, Chief Justice Stanley Sapire of the High Court resigned from his position. The Chief Justice can only be replaced by an appellate court judge, however, this is impossible as all such judges resigned *en masse* in November 2002. Other recent developments which undermine the justice system include the move to demote Justice Thomas Masuku; threats to deport the President of the Law Society, Mr. Paul Shilubane, on grounds that he holds dual citizenship; and recent protests by members of the Law Society.

"We are extremely concerned that these latest developments have brought the justice system in Swaziland to a halt," said Linda Besharaty-Movaed, CIJL/ICJ Legal Advisor. "King Mswati is ruling as if he has a mandate from heaven. He has virtually destroyed any semblance of respect and protection for the judiciary and the rule of law" she added.

The dysfunctional nature of the justice system in Swaziland is largely the result of the country's ambiguous constitutional order. Although the Constitution of 1968 was repealed by a proclamation of the King in 1973, numerous subsequent decrees have created an environment of legal uncertainty. Further compounding this problem, was the formation of a shadowy body referred to as the "Thursday Committee" which has largely usurped the powers of the Judicial Services Commission, the constitutional body charged with overseeing the administration of the judiciary. The CIJL/ICJ sent a fact-finding mission to Swaziland in January to gather information on the role of the judiciary and legal profession. A report will be issued shortly.

The lack of a clear separation of powers, stemming from an environment of constitutional uncertainty severely undermines the administration of justice in Swaziland and violates international human rights standards such as the *UN Principles on the Independence of the Judiciary*.

For more information, please contact Linda Besharaty-Movaed, Legal Advisor, at 41-22-979-3800.

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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