

## **Statement on the suspension of the Chief Justice of the Kingdom of Lesotho**

1. The Democratic Governance and Rights Unit (DGRU) is deeply concerned about recent events in the Kingdom of Lesotho which have resulted in the suspension of the Honourable Chief Justice Nthomeng Majara, in violation of the Constitution and a court order.
2. The Kingdom of Lesotho is a member of the Commonwealth and subscribes to the Latimer House principles, of which Principle IV states that: *“An independent, impartial, honest and competent Judiciary is integral to upholding the rule of law, engendering public confidence and dispensing justice”*. In order to protect judges so that they can carry out their functions impartially and without fear or favour, the Latimer House Principle IV further states that *“Judges should be subject to suspension or removal only for reasons of incapacity or misbehaviour that clearly renders them unfit to discharge their duties”*
3. The DGRU notes that section 121 (3) of the Constitution of the Kingdom of Lesotho prescribes that:

*“The Chief Justice and any other judge of the High Court may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section”*
4. The procedures for suspending a Chief Justice are set out from section 121 (4)-(7). They are as follows: (a) If the Prime Minister represents to the King that the question of removing the Chief Justice ought to be investigated, the King shall establish an independent and impartial tribunal to investigate the allegations made against the Chief Justice (b) while the tribunal is investigating the allegations, the King may (on the advice of the Prime Minister) suspend the Chief Justice. At each of these stages, the Chief Justice is entitled to challenge the legality of the action taken against him or her.
5. The DGRU notes that there is a constitutional application filed by Chief Justice Nthomeng Majara, challenging the legality of the decision by the Prime Minister to advise the King to suspend the Chief Justice and set up a tribunal to investigate her.



The matter is yet to be heard and finalised. The DGRU also notes that there is an existing court order, issued by Honourable Justice Lekale and that paragraph 1.3 of the order states that:

*“The first respondent [the Prime Minister] is prevented and interdicted from recommending to His Majesty the King suspension of the applicant [the Chief Justice] in terms of section 121 (7) of the Constitution pending a recusal application to be brought by the respondents”*

6. The suspension of the Chief Justice has therefore, been done in violation of an existing court interdict. In view of the above, the DGRU calls upon the Government of Lesotho to respect the rule of law specifically by:
  - a) Obeying the court order which interdicts the suspension of the Chief Justice until her constitutional application is decided upon.
  - b) Strictly following the procedures set out in section 121 of the Constitution relating to the process which must be followed when making a decision to suspend or remove a Chief Justice.
  - c) Adhering to Latimer House Principle IV which states that *“Disciplinary proceedings that might lead to the removal of a judicial officer should include appropriate safeguards to ensure fairness.”*

Kind regards



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