

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the right to education; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.**

REFERENCE: AL Education (1998-11) G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)  
SWZ 3/2012

20 September 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right to education; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 17/3, 16/4, 15/21, and 16/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **excessive use of force against student protesters**.

According to the information received:

On 16 August 2012, about 100 students gathered in the campus of the University of Swaziland in Mbabane and attempted to march to the Ministry of Labour and Social Security to deliver a petition calling on the Government to pay all tuition fees and scholarships for Government-sponsored students. The march was reportedly stopped by heavily-armed police forces of the Royal Swaziland Police (RSP).

It is alleged that Mr. Sibusiso Dlamini, chairperson of Kwaluseni Campus of the University's Students' Representative Council (SRC), was assaulted by more than 10 police officers using batons. Reportedly some students reacted by throwing stones at police officers in an attempt to rescue Mr. Dlamini. It is reported that police officers then used rubber bullets to disperse the protesters. It is alleged that Mr. Sibusiso Dlamini sustained head injuries after he was assaulted with the batons. Two other students, Mr. Nkosinathi Methula and Mr. Brian Sangweni, who were reportedly shot with rubber bullets, suffered severe head injuries.

According to the information received, Mr. Bonginkhosi Dlamini, one of the student leaders, was also arrested during the protest. He was reportedly released a few hours later without charge.

On 4 September 2012, three hundred students reportedly attempted to march to the Ministry of Education in Mbabane, but they were stopped by members of the RSP. Reportedly, police officers chased students along the main street of Mbabane and beat them with batons.

It is further indicated that these student protests follow similar demonstrations organized by civil servants and teachers to demand better work conditions and salary increases over the past two years. It is alleged that many of these protests were met with excessive force by police officers, including against pupils who joined the teachers' strike.

Serious concerns are expressed that the aforementioned allegations of excessive use of force against peaceful protesters could be related to their legitimate exercise of their fundamental freedoms of peaceful assembly and of expression. Concerns are further expressed about the alleged repeated use of excessive force during peaceful assemblies.

While we do not wish to prejudge the accuracy of these allegations, we would like to recall article 21 of the International Covenant on Civil and Political Rights (ICCPR), which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others."

We would also like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that "Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and

fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; and
- article 12 paragraphs 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

With regard to youth defenders taking part in demonstrations, we would like to refer to the 2007 report to the General Assembly of the Special Representative of the Secretary-General on the situation on human rights defenders in which she recommends to “take steps to create a conducive environment that allows children and young adults to associate and express views on matters affecting them as well as on broader human rights issues. Student protests have a high educational value as they are among the first experiences of public participation and human rights defense of students. Ensuring a conducive environment for student protests is a social investment in addition to a legal obligation” (A/62/225, paragraph 101 b)

We would also like to make reference to article 19 of the ICCPR, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

We would further like to refer your Excellency’s Government to article 26 of the Universal Declaration of Human Rights, which provides for everyone’s right to education. This right is further specified in articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and in articles 28 and 29 of the Convention on the Rights of the Child, both of which your Excellency’s

Government has ratified. In particular, we would like to underline that article 13 of ICESCR establishes that: “2. (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education” and “2. (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.”

As it is our responsibility under the mandates provided to us by the Human Rights Council to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Sibusiso Dlamini, Mr. Bonginkhosi Dlamini, Mr. Nkosinathi Methula and Mr. Brian Sangweni?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case.
4. Please provide the full details of the legal basis for the use of force during the peaceful demonstrations that took place on 16 August and on 4 September.
5. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please indicate the legal basis for the arrest of Mr. Bonginkhosi Dlamini and how this decision complies with international human rights standards related to freedom of peaceful assembly and of expression.
7. Please indicate what measures have been taken to ensure that the legitimate right to meet and assembly peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.
8. Please indicate what measures have been taken to respond to the protesters’ demands for the realization of their right to education; and, in particular, what measures have been adopted to ensure that students receive their scholarships and working conditions for teachers are improved.

We would appreciate a response within sixty days. The response from Your Excellency’s Government will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned

person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Kishore Singh  
Special Rapporteur on the right to education  
Frank La Rue

Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and  
of association

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders