

**UNIVERSITY OF ESWATINI**

**FACULTY OF HUMANITIES**

**DEPARTMENT OF JOURNALISM AND MASS COMMUNICATION**

**2018/2019 EXAMINATION QUESTION PAPER: RESIT**

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**TITLE OF COURSE: ONLINE JOURNALISM**

**COURSE CODE: JMC 349**

**TIME ALLOWED: THREE (3) HOURS**

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**INSTRUCTIONS**

1. Answer all questions in Section A and any other two from Section B.
2. Each question in Section B carries twenty (20) marks.
3. In your own interest, you are encouraged to write legibly.
4. Poor spellings and grammar will be penalised.
5. The first word in your Headlines and News Intros must be in CAPITAL LETTERS.

## Section A

### Question One

Carefully read the report in Annexure One (1) attached and answer the following questions.

- (a) Identify three possible story angles. [3]
- (b) From the three angles identified above, choose one and write a headline suitable for an online publication. [5]
- (c) Write a sub-headline suitable for an online publication for the story. [2]
- (d) Write a 200 word long news story (use the inverted pyramid structure). [20]
- (e) Compose a tweet for the story. [5]
- (f) Compose a post for your Facebook page. [5]

## Section B

### Question Two

Outline and explain how the following could be used as news sources. Which journalism techniques can be used to evaluate and verify each of these? In your answer, provide relevant and practical examples.

- Emails [2]
- listservs and forums [2]
- Search engines [2]
- Social media sites [2]
- Directories [2]
- News groups [2]
- Databases [2]
- Specialised sources [2]
- Wikis [2]
- Online journalism sites [2]

### Question Three

- (a) Discuss the following types of audience participation in the online journalism process.
  - Sources [2]
  - User feedback [2]
  - Citizen journalism [2]
  - User-generated content [2]
  - Crowdsourcing [2]

(b) Discuss how mobile devices enhance the practice of online journalism.  
[10]

**Question Four**

(a) Discuss the following legal concepts and aspects as they relate to the practice of online journalism. Your answer should provide best practices.

- Obscenity and Indecency [5]
- Copyright [5]

(b) Discuss the following ethical concepts and aspects as they relate to the practice of online journalism. Your answer should provide best practices.

- Linking [5]
- Publishing secret information [5]



# **“THEY DON'T SEE US AS PEOPLE”**

SECURITY OF TENURE AND FORCED EVICTIONS IN ESWATINI

AMNESTY  
INTERNATIONAL



# EXECUTIVE SUMMARY

When Amnesty International arrived in the Emphetseni farming area in the Malkerns town in Eswatini (formerly known as Swaziland) one week after the homestead demolitions of 9 April 2018, children's shoes, school books, wires from mattresses, shattered glass and window frames were strewn about. Some of the affected families were still rummaging through the rubble, uncovering the doors to the homes they once knew. At least 61 people, including 30 children, became homeless after these demolitions. Many of them also lost their possessions and access to the land which they cultivated for subsistence.

Discussing two emblematic cases, this report reveals how the human rights violation of forced evictions is rooted in Eswatini's land governance system which fails to provide at least hundreds of people with a minimum degree of security of tenure. The report also highlights the failure of the Eswatini government to abide by its international, regional and national legal obligations, especially the obligation to guarantee the right to adequate housing.

## METHODOLOGY

Amnesty International conducted research in Eswatini in March 2017, November 2017 and April 2018. The latter visit followed demolitions which had taken place a week earlier. Amnesty International interviewed a diverse range of stakeholders, including 80 people who have been affected by forced evictions, and people living under threat of eviction.

This report focuses on Nokwane and the Malkerns because recent evictions have taken place in these areas. Amnesty International interviewed 15 people from at least 19 homesteads who had been forcibly evicted from their homes in Nokwane in 2014, following a government initiative to develop a Royal Science and Technology Park. In the Malkerns, Amnesty International interviewed a further 15 people following their forced evictions on 9 April 2018, as well as three whose homes were demolished in November 2016.

In addition, we met the Commission on Human Rights, as well as government representatives who included the Ministry of Economic Planning and Development, the Ministry of Natural Resources and Energy, and the Attorney General.

## LAND GOVERNANCE

Eswatini has a complex land governance system, inextricably tied to the history and political economy of the country. Towards the end of the 19<sup>th</sup> century, Eswatini's fertile land and mineral wealth made it an attractive and lucrative destination for investors. An influx of European and South African migrants meant there was a high demand for land. As a result, the then King Mbandzeni granted concessions - initially understood by Swazis as temporary land grants - to migrants. In exchange, the holders of what is described as "concession land" paid rent, which eventually became the country's primary source of revenue between 1886 and 1894. The high influx of migrants into Eswatini, and the granting of concessions to them, was a source of tension between the migrants and the local population. The legacy of this conflict persists in Eswatini today with protracted disputes over ownership of land throughout the country.

The Constitution of 2006 formally recognizes a dual land tenure system. The King holds more than half of the land, called Swazi Nation Land (SNL), "in trust" for the Swazi people. The remainder is privately owned Title-deed Land (TDL).

The system of trust with regard to SNL operates as a patronage relationship, whereby the King allocates SNL to the Swazi people indirectly through local chiefs. Through a process known as "*kukhonta*" in Siswati, the national language, residents may access SNL which then leads to a tributary relationship between the person to whom the land is allotted and the chief. In exchange for access to the SNL, the resident pays customary fees in the form of livestock, and must pledge allegiance to the chief; this may require tribute labour, or other communal activities. There are no official written records of this land allocation – size and to whom it is allocated – and nor is there any other form of formal security of tenure in this arrangement. Under customary law, chiefs have the power to allocate as well as to banish people from land.

Title-deed Land (TDL) is privately held land that was previously given to private parties in concession. While TDL holders have security of tenure, much of that land is occupied by subsistence farmers whose tenure status is unclear.

Following evictions of these farm dwellers in the 1950s and 60s, the government in 1967 introduced the Farm Dwellers Act to regulate relations between farm owners and occupants. The Act, however, only protects those who have a formal written agreement with the farm owner and officially recognizes them as "farm dwellers". The Act excludes protection for everyone else who finds themselves living on privately-owned land with a verbal agreement, as was the tradition with a current or previous land owner, and authorities consider these occupants as "squatters" who lack any minimum degree of security of tenure.

Eswatini began developing a National Land Policy in 1999, which has not yet been finalized. The 2006 Constitution stipulates that the state shall "endeavour to settle the land issue and the issue of land concessions expeditiously so as to enhance economic development and the unity of the Swazi people." However, many land policy issues remain unresolved. Following the adoption of the Constitution, a new draft Land Policy was introduced in 2009. In this document, the Eswatini government acknowledges the insecurity of all tenure types as an issue to be addressed.

In 2013 a Draft Land Bill was introduced which expressly repeals 19 archaic pieces of legislation, the oldest of which dates back to 1904. While steps had been taken to finalize both the Draft Land Policy and the Draft Land Bill, neither had been passed by the time Parliament was dissolved in June 2018 for the national elections scheduled for September 2018.

Delays in legal and policy reform has meant that the Eswatini government is yet to take the necessary steps to ensure security of tenure and protection of right to adequate housing, thus leaving hundreds of people vulnerable to forced evictions.

## **EVICTIONS WITHOUT DUE PROCESS IN THE MALKERNS AND NOKWANE**

This report documents two emblematic cases of forced evictions in Eswatini. In both the Malkerns and Nokwane, the affected residents were largely subsistence farmers and casual labourers who claimed to have been living on the land for several years, if not decades. Family members were buried there. In both cases, some of the families claimed to have been allocated the land by a chief through the process of *kukhonta*, and others said that they had a verbal agreement with a previous owner of the land to live there. In both cases, the residents went through a protracted court process, which ultimately ended in their evictions and the demolition of their homes as they were unable to provide any formal proof of security of tenure. At least 60 people in the Malkerns and at least 180 people in Nokwane were rendered homeless as a result.

International human rights standards are unequivocal: protection from forced evictions is available to all, even to those without a legally recognized right to the house or land that they occupy. Further, the UN Committee on Economic, Social and Cultural Rights in its General Comment 7 stresses that even when an eviction is considered justified, "it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with the general principles of reasonableness and proportionality". According to international human rights law as outlined in General Comment 7, the threshold for lawful evictions includes seven elements: genuine consultation; adequate and reasonable notice; information on the proposed eviction; government officials to be present during evictions; evictions not to take place in bad weather or during the night; provision of legal remedies; and provision of legal aid. The Committee also emphasizes in General Comment 7 that no one should be rendered homeless or vulnerable to other human rights violations as a result of an eviction.

The responsibility for ensuring that forced evictions do not take place lies with the state. Where forced evictions are carried out by actors other than the state, for example private individuals or companies, the authorities have a duty to protect the affected people and intervene to prevent forced evictions. The duty of the Eswatini state to protect people from forced evictions also includes ensuring that human rights safeguards are in place regardless of whether the evictions have been ordered by a public or private body.

The duty to engage in genuine consultations, provide adequate notice and ensure that no one is left homeless as a result of an eviction also lies with the Eswatini state.

Based on Amnesty International's findings, the Eswatini government failed to ensure genuine consultation with affected people on alternatives to eviction and adequate and reasonable notice for affected people prior to the evictions. It also failed to provide alternative accommodation and compensation. The authorities failed to follow due process in carrying out the evictions in both the Malkerns and Nokwane. The resulting homelessness impacted not only the right to adequate housing, but a wide range of interrelated rights including the right to education, access to livelihoods and food security. The government therefore failed to meet the threshold of lawful evictions.

## THE MALKERNS

On 9 April 2018, at least 61 people in the Emphetseni farming area in the Malkerns town were forcibly evicted by the Deputy Sheriff of the Mbabane High Court along with 20 armed police and bulldozers and in the presence of members of private company Umbane Limited. Those removed from their land included 33 children and comprised three generations living in four homesteads. Their homes were then demolished. Each homestead consisted of a single mother, some of whom had short-term seasonal contract jobs. The families were subsistence farmers. People in each homestead said that they had been living on the land since 1956. According to the affected families, at least 40 graves of family members are situated on the homesteads.

In 1997, private agricultural company Umbane Limited bought the title-deed to the land in question from another private company, Usuthu Pulp Limited. Four homesteads comprising 15 families were living on the land at the time of the purchase and contestation over rights began then. The new owners and the occupants of the land approached the courts to resolve the issue.

The company alleges that the families were "squatters". However, the affected residents dispute that they were living on the land illegally, claiming that their forefathers had acquired it from the chief through the traditional *kukhonta* process decades previously. Consequently, in 2011 the company initiated a lawsuit for the residents' eviction. However, in a judgment delivered on 13 February 2013 the High Court denied the eviction order on the basis that the occupants had settled on the land in 1957 and were therefore entitled to the common law principle of acquisitive prescription which states that continuous habitation may result in a statutory claim to land through title. However, unsatisfied with this outcome, the company appealed the judgment at the Supreme Court. Umbane Limited thereby secured an eviction order against the 15 families living in the four homesteads.

Since the Supreme Court's ruling, the community said they had been seeking remedy through traditional dispute resolution structures, including by presenting their case to the King's Advisory Council. The families told Amnesty International they believed the matter was still pending at the Royal Council at the time the demolitions and evictions took place. Although the families had been living under the threat of evictions for almost two decades, the demolitions happened without warning. This lack of adequate notice violates the Eswatini government's regional and international human rights obligations.

Sicelo Dlamini, who has since died, told Amnesty International that the demolition was a shock. "The people came and found us unprepared," he said, "They didn't alert us they were coming." Without any alternative land or housing, the affected families were left homeless. In the words of Lungile Khumalo who lost her home in the Malkerns: "The problem is we have nowhere to go. We are leaving our grandparents there in the graves. Now we are just scattered. Our children, our brothers. We don't have land now." As with all the affected families, Lungile's extended family were not offered alternative accommodation and have been separated following the forced eviction from their one homestead. Lungile now lives in a rented flat. Her cousin, with whom she shared a home in the Malkerns, now lives in a hostel and is separated from her children.

Another resident, Gavin Khumalo, also rendered homeless after the eviction, showed Amnesty International the chicken shed he was living in, approximately 2km from his previous home.

The April 2018 forced eviction is not the first. On 5 October 2016, one homestead in the Malkerns was demolished by a private company after the residents were forcibly evicted. Following the court order for the eviction, the authorities failed to ensure that due process requirements were followed in carrying it out, resulting in residents made homeless. Amnesty International is aware of at least three other neighbouring homesteads in the Malkerns region who live in constant fear of imminent eviction by a private company.

## NOKWANE

Nokwane is situated some 15km east of Manzini town, in the Manzini region in the centre-west of Eswatini. Once known for its pineapple plantations, Nokwane is today a 159 hectares construction site of the Royal Science and Technology Park (RSTP), a government-led development initiative, inaugurated in April 2018. The Ministry of Information, Communication and Technology (MICT) secured a court order for eviction, and the area's residents were then forcibly evicted by a delegation including MICT government officials and the police. At least 19 homesteads were demolished, impacting at least 180 people between September and October 2014.

At the root of the matter was a dispute between the occupants of the land and the Eswatini government, which resulted in a protracted legal process. In December 2014 the High Court ruled that the land was SNL: the King owns the property in trust for the Swazi nation and allocated it to the government through the MICT for the construction of the RSTP. According to the MICT, in correspondence with Amnesty International in 2017, the Ministry of Housing owned the land before 2006 and embarked on a township development programme; apportioned plots were sold to owners who built temporary structures. However, the government later decided to instead use the land for the construction of the Royal Science and Technology Park, and claim to have provided alternative accommodation and full compensation to the owners of the plots, who the MICT said "unintentionally created an opportunistic appetite for squatters in their vacant plots". The government referred to the 19 affected families in Nokwane as "illegal squatters". This account did not match the affected families' version. At least five people interviewed told Amnesty International they were born on the land, which their parents acquired through the traditional *kukhonta* process under which they were allocated the land by their chief. The government's version, that the affected families only arrived after 2006 when the temporary structures were allegedly built by the owners of the subdivided plots, is not only inconsistent with the account of the affected families but is also in contrast to satellite imagery sourced by Amnesty International.

This imagery reveals that over 100 structures were present in the area designated as the RSTP between 20 October 2002 and 14 July 2015. From February 2015, the structures are missing. The imagery also shows excavators and bulldozers demolishing structures in 2014.

International human rights standards are very clear: protection from forced evictions and the application of safeguards against forced evictions apply to everyone, regardless of whether their occupation of the land or the house in question is legally recognized.

In addition, the MICT claims in correspondence with Amnesty International in 2017 to have offered alternative land to the "illegal squatters" which they say was refused. Once again, this was disputed by the families, who told Amnesty International that they attended meetings where government representatives gave them inconsistent information about who would be affected by the construction. Five of the affected residents said they were promised alternative land on which to *khukhonta*, which they did not receive. Although the government representatives did meet with the community on at least two instances, all the affected families interviewed said that inconsistent information on the number of affected people and compensation had been provided to them regarding their forced eviction. As such, they did not receive full, accurate and timely information in order to facilitate their meaningful participation. Some people told Amnesty International that in the meetings between government representatives and affected families they were simply provided with information stating that their houses were to be demolished – there was no opportunity given to raise concerns and comments. The meetings therefore did not meet the threshold of genuine consultation, in line with Eswatini's international human rights law obligations. Amnesty International wrote to the government asking for details of the number of meetings and information shared, but to date no information has been provided.

Affected families told Amnesty International that at least 19 homesteads were located on the disputed land. Of those, they said that five were situated within the RSTP boundaries and 14 outside. Initially, affected families said only those living within the boundaries of the RSTP were told they would be affected by the development. In the end, however, all 19 homesteads - at least 180 people - located within and outside the boundaries were forcibly evicted. The authorities did not provide the affected families with alternative accommodation and their eviction left them homeless, in violation of Eswatini's international and regional human rights obligations.

The Attorney General gave the residents two days' notification of the upcoming evictions and demolitions. They appealed to the court, which ruled within two days that the evictions and demolitions could go ahead. The evictions took place on the following day. This falls short of what is considered adequate notice for evictions under international human rights law.



Nomathemba was working as a cleaner when her mother called around 11am telling her to come home. She told Amnesty International that by the time she arrived, the house had been demolished:

**"When our home was demolished, I didn't feel like I have human rights. They don't see us as people, [they] left us out in the open like we were animals or something to be thrown away."**

Nomathemba's elderly mother was alone when the bulldozers arrived and was not able to remove all the family's belongings from the house. Nomathemba tried to salvage what remained in the rubble but the children's school uniforms, clothes, dishes and documents were destroyed. Nomathemba recalled that there was a light drizzle that night as she, her mother and five children slept outside.

The forced evictions in Nokwane had a deep and lasting impact on the residents: A woman who was forcibly evicted in October 2014 along with her four children and grandson and left to find her own alternative accommodation, told Amnesty International that she has been waiting for a chief to allocate them land for more than three years. After she obtained financial assistance from a local church group in order to offer a cow to the chief, and also after visiting the chief on numerous occasions and cooking for the chief's council, she is still waiting to be allocated land.

Another woman who was forcibly evicted from Nokwane in October 2014 shared a similar view. She told Amnesty International there were not many alternatives available to the family after their home was demolished:

**"It's very difficult as a woman to *kukhonta* [the traditional process of acquiring land through paying allegiance to a chief]. You need a male. Otherwise you won't be able to get land, or be heard."**

## LEGAL FRAMEWORK

Although the Eswatini Constitution does not explicitly include a provision for the right to adequate housing, Section 19(2) of the Constitution prohibits arbitrary deprivation of property and eviction from land without fair and adequate compensation. Despite this provision, however, Amnesty International found that people's experiences reveal that they are not being protected, indicating a disconnect between policy and practice.

The Eswatini government is obligated under a range of international and regional human rights laws to respect, protect and fulfil the right to adequate housing. While the Constitution does not contain provision for the right to adequate housing, the state is still bound by this obligation, which arises from its ratification of a number of treaties. These include the African Charter on Human and People's Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Rights of the Child (CRC); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR).

Article 11 of the ICESCR guarantees the right to adequate housing.

The Committee on Economic, Social and Cultural Rights (the monitoring body set up under the ICESCR) advocates a broad interpretation of the right to adequate housing "as the right to live somewhere in security, peace and dignity." The concept of adequacy of housing is given critical importance and the Committee has outlined certain key factors to determine adequacy: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.

As a State party to the ICESCR, Eswatini is bound by a duty to ensure that forced evictions do not occur. The protection guaranteed in international human rights law is accorded to all, regardless of whether they own or occupy the land from which they are being evicted.

Under international human rights law, evictions may only be carried out as a last resort, once all other feasible alternatives to eviction have been explored and appropriate procedural protections are in place. Governments must also ensure that no one is rendered homeless or vulnerable to the violation of other human rights as a consequence of eviction. Adequate alternative housing and compensation for all losses - pecuniary and non-pecuniary - must be made available to those affected prior to eviction. The duty to ensure all these safeguards against forced evictions rests with the Eswatini state.

## **CONCLUSION AND RECOMMENDATIONS**

By failing to put in place adequate safeguards against forced evictions as required by Eswatini's international legal obligations, the government has violated the human rights of all those affected in the Malkerns and Nokwane evictions.

The underlying structural causes identified in this report which generate insecurity of tenure, including the opaque land governance and tenure systems, and the disconnect between policy and practice, must be addressed to put an end to forced evictions. Until then, people living in Eswatini continue to live at risk of forced evictions.

The report concludes with recommendations to the Prime Minister, the Attorney General and the Minister of Justice, as well as to the Ministry of Natural Resources and Energy, and the Ministry of Information, Communications and Technology.

### **KEY RECOMMENDATIONS INCLUDE:**

- The Prime Minister to declare a nationwide moratorium on all evictions until adequate legal and procedural safeguards are in place to ensure that all evictions comply with international and regional human rights standards. This should include a public announcement and immediate measures that the government should take to ensure that those under threat of eviction are protected.
- The Prime Minister to immediately provide reparations for forcibly evicted families in the Malkerns and Nokwane. Such reparation should include adequate alternative housing for those rendered homeless, rehabilitation, compensation for all losses and guarantees of non-repetition.
- Immediately after national elections the Attorney General to begin the process of drafting legislation which explicitly prohibits forced evictions in all circumstances and sets out safeguards that must be strictly followed before any eviction is carried out. This law should be in strict compliance with Eswatini's Constitution and international and regional human rights law and standards, including in respect of the provision of effective remedies. Linked to this process, the Attorney General should expedite the finalization of the land policy and bill and ensure they are compatible with international human rights obligations arising from the right to adequate housing.