

Communication 435/12 – Eyob B. Asemie v the Kingdom of Lesotho

Summary of the Complaint

1. The Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat), received a complaint on 18 December 2012 from **Eyob B. Asemie** (the Complainant) against the Kingdom of Lesotho (the Respondent State), State Party to the African Charter on Human and Peoples' Rights (the African Charter).¹
2. The Complainant submits that in 2003, because of his political views, he fled the Federal Democratic Republic of Ethiopia (Ethiopia) to seek asylum in the Respondent State.
3. He states that he was granted refugee status in the Respondent State in 2005, and was allowed to live with his family in the country.
4. The Complainant states that during his stay in the Respondent State he was able to acquire a number of businesses in the country. He adds that in 2010 he was granted Basotho citizenship, after he revoked his Ethiopian citizenship, in accordance with the law governing citizenship in the two countries. He alleges that the Principal Secretary (PS) of Home Affairs of the Respondent State did not invite him to the swearing in ceremony of new citizens in accordance with the provisions of the Lesotho Refugee Act. He avers that he challenged the actions of the PS in the High Court, which in its judgment of 13 September 2012, ordered the Minister of Home Affairs to swear him in as a citizen.
5. The Complainant submits that senior officials of the Respondent State have since harassed him and his family, and ignored the High Court orders. He further states that the High Court decision was appealed by the Ministry of

¹ Lesotho ratified the African Charter on Human and Peoples' Rights on 10 February 1992.

Home Affairs to the Court of Appeal, which overturned the decision of the High Court on 19 October 2012.

6. The Complainant states he was not in the Lesotho when the judgment of the Appeal Court was delivered as he had travelled to the Republic of South Africa (South Africa) on 14 October 2012 to meet officials at the United Nations High Commission for Refugees (UNHCR) to seek help regarding the intimidation he was facing in the Respondent State. He adds that following the Court of Appeal Judgment, he was refused entry into Lesotho, as the Respondent State had by then issued a declaration nullifying his citizenship status and revoking his passport.
7. He alleges that his wife, who was then eight (8) months pregnant, and his two (2) children were still in the Respondent State. He further states that his wife was refused a visa to South Africa for medical care because the Lesotho Government refused to give her a visa facilitating letter in accordance with the new policy in the Respondent State. He adds that his wife and children have been traumatised by the situation.
8. The Complainant states that the Respondent State has violated the provisions of the African Charter, and had rendered him a stateless person, as he had revoked his Ethiopian citizenship to attain Lesotho nationality.
9. In his Admissibility Submissions, sent to the Secretariat on 10 January 2014, the Complainant informs the Commission of new developments in the facts of the case. He avers that due to his status as a stateless person, he had applied for temporary asylum in South Africa.
10. The Complainant further avers that on 6 March 2014, while he was at Bloemfontein Hospital, in South Africa with his wife and children, waiting for his wife's turn to see her doctor after giving birth, they were all arrested and taken to Court for allegedly violating Immigration Act 13/2002. They were however released on 15,000 Rands bail each. He adds that the Department of

Home Affairs of South Africa withdrew the case against him after confirming that their papers were legal.

11. The Complainant submits that due to continuing harassment in South Africa by officials of the Respondent State, through a South African Immigration Officer named Mr. Breed, he and his family returned to Ethiopia on 29 March 2013, having obtained pardon from the Ethiopian Government.

12. The Complainant requested for provisional measures in accordance with Rule 98 (1) of the Rules of Procedure of the African Commission on Human and Peoples' Rights (the Commission) to prevent irreparable harm being done to him and his family.

Alleged violations of the Charter:

13. The Complainants allege violation of Articles 2, 5, 7, 14, 17 and 18 of the African Charter.

Prayers:

14. The Complainant requests the Commission to find the Respondent State in violation of the above-mentioned Articles of the African Charter and to issue Provisional Measures in accordance with Rule 98 of the African Commission's Rules of Procedure.

Procedure:

15. The Secretariat received the Complaint on 18 December 2012 and acknowledged receipt of the same on 19 December 2012.

16. The Commission considered the Complaint during its 13th Extra-Ordinary Session, held from 19 to 25 February 2013 in Banjul, The Gambia, and decided to be seized of it. It declined to grant the Complainant's request for Provisional Measures because it deemed that the circumstances of the case did not warrant Provisional Measures.

17. The Secretariat informed the Complainant of the seizure decision and requested it to forward its Admissibility Submissions by letter Ref. ACHPR/COMM/435/12/LES/664/13, dated 21 March 2013.
18. The Respondent State was informed of the seizure decision by Note Verbale Ref. ACHPR/COMM/435/12/LES/663/13, dated 13 May 2013.
19. The Secretariat again informed the Complainant of the seizure decision and requested it to forward its Admissibility Submissions via letter dated 10 June 2013 and the Respondent State via Note Verbale, also dated 10 June 2013.
20. After receiving information that the Complainant had never received any of the Secretariat's letters, a letter dated 2 October 2013 was transmitted to the Complainant's proper email address, with previous letters from the Secretariat as attachments.
21. By letter dated 29 November 2013, the Complainant acknowledged receipt of the Secretariat's letter dated 2 October 2013, and requested for extension of time to make his Submissions on Admissibility. The Secretariat granted the request for extension of time, by letter dated 12 December 2013 in accordance with Rule 113 (2) of the African Commission's Rules of Procedure. The Respondent State was also informed of the extension of time by Note Verbale dated 24 December 2013.
22. On 10 January 2014, the Complainant transmitted his Submissions on the Admissibility of the Communication, which was duly acknowledged by the Secretariat through letter dated 17 January 2014, and transmitted to the Respondent State the same day, for its Observations on the Submissions of the Complainant.
23. On 19 March 2014, the Respondent State forwarded its Observations on the Admissibility Submissions of the Complainant to the Secretariat, which was duly acknowledged by Note Verbale dated 25 March 2014, and transmitted to the Complainant also by letter dated 25 March 2014.

24. By letter transmitted via email on 14 April 2014, the Complainant informed the Secretariat of the re-appointment of Professor Michelo Hansungule from the Centre for Human Rights, University of Pretoria as his legal representative. The Complainant also requested for Provisional Measures in the same letter.
25. By letter dated 17 April 2014, the Secretariat acknowledged receipt of the Complainant's letter and informed him that his request for Provisional Measures has been brought to the attention of the Chairperson of the African Commission in accordance with Rule 98 (2) of the Commission's Rules of Procedure.
26. By email dated 30 April 2014, the Complainant forwarded his Response to the Observations of the Respondent State on Admissibility, which was hand-delivered to the delegation of the Respondent State on 6 May 2014 during the 55th Ordinary Session of the African Commission, held in Luanda, Angola.
27. By letter dated 11 May 2014, the Secretariat acknowledged receipt of his Response to the Observations of the Respondent State on Admissibility, and also informed him of the decision by the Chairperson of the African Commission to decline his request for Provisional Measures.
28. On 22 May 2014, the Secretariat received letter dated 20 May 2014 from the Complainant for information on why the Chairperson of the African Commission decided to decline his request for Provisional Measures. The Complainant also informed the Commission by letter of 15 May 2014 of the decision of the Lesotho Tax Tribunal and his inability to appeal the decision because of lack of means to pay his lawyers.

The Law on Admissibility

The Complainant's submissions on Admissibility

29. The Complainant in his submissions on Admissibility, only addresses one of the seven requirements under Article 56, namely Article 56 (5) on the exhaustion of local remedies. In the admissibility submissions.
30. The Complainant avers that following the refusal of the Ministry of Home Affairs and Public Safety to swear him in as a citizen of Lesotho, he petitioned the Office of the Ombudsman, who after hearing the various parties recommended he be sworn in within a month. The Ombudsman's recommendation was not adhered to and the Complainant subsequently brought an urgent motion before the High Court of Lesotho which in its Judgment, ordered among other things that he be sworn in.
31. The decision of the High Court of Lesotho was successfully appealed by the Ministry of Home Affairs before the Appeal Court which found that the Complainant had lied about his date of entry into Lesotho and was thus not qualified to be sworn in as a Citizen. Consequent upon the Court of Appeal Judgment, the Complainant's citizenship and passport were revoked and he was prohibited from entering the territory of Lesotho.²
32. The Complainant submits that whilst in South Africa and following the revocation of his passport and interdiction to enter Lesotho, he made an urgent application to the Lesotho High Court to curtail the efforts of the Lesotho Home Affairs Department from denying him and his family entry into Lesotho. According to the Complainant, a Court order in his favour, restraining the Respondents (Home Affairs officials) from denying him entry into Lesotho and directing them to deal with the issue of his expulsion in accordance with the law, was issued by the Court. He states that the judgement was however reserved and postponed till 13 February 2013. He states further that the High Court also made an order to the Department of

² The Complainant had insisted that he entered Lesotho in 2003 but the Court found from documents produced that he entered Lesotho in 2005 and had thus not resided for the mandatory period of five years which according to Lesotho law, would have qualified him for citizenship at the material time.

Home Affairs to reopen the border to the Complainant, which order they failed to comply with.

33. On the issue of the seizure of his property, the Complainant submits that he took the matter through his lawyers to the Tax Tribunal which heard the matter on 29 and 30 August 2013 and reserved its judgment, which was still pending at the time the present Communication was submitted. The Complainant states further that he was granted a Court Order on 22 November 2013, directing the Lesotho Revenue Authority to stop issuing notices to his tenants until the case was finalised. The order was successfully appealed and reversed by another Court on 4 December 2013. According to the Complainant, the reversal of the Court Order is ample proof that the Lesotho Government tampers with the local Courts.

The Respondent State's Submissions on Admissibility

34. The Respondent State contests the Admissibility of the Communication on two grounds, namely that it fails to comply with the requirements under Article 56 (3) and (5) of the Charter, respectively on the use of disparaging language and non-exhaustion of local remedies.
35. Concerning the use of disparaging language, the Respondent State posits that while it cannot be disputed that a Complainant has a right to articulate his grounds of complaint in a manner necessary to build their case, a Complainant should not write his Communication in disparaging or insulting language directed at the State concerned or its institutions. The Respondent State cites the following phrases from the Complainant's submissions which in its view, amount to disparaging language;

- i. *"surprisingly the second day after operation (on my wife), the harassment by Lesotho continued, one immigration Officer by the name of Mr. Breed presented himself to the maternity ward and reported that he is sent to arrest my wife while she was in a hospital bed."*

- ii. *“Just one day prior to their decision which was deliberately organised by Lesotho Government long arm using Mr Breed to organize the cancellation of my status in RSA..”*
- iii. *“Lesotho Government realised the implication an individual from RSA Immigration (Mr Breed) and fabricated a false story through a newspaper”*
- iv. *“they preferred to twist the arms of justice and reversed the order on the 4th of December 2013 by another Magistrate Court decision....This act clearly shows how Lesotho Government tampers with the local courts.*

36. The Respondent State submits that it is aware of the mechanisms it can use to effect arrest in a foreign state and that the Complainant does not furnish any proof to show that Lesotho has ever engaged anyone to harass him. It submits further that the Complainant's wife was in another state and it would be improper for the Complainant to assume that the Respondent State can have influence on how another country effects the due process of law. According to it, the above-cited phrases (i ii & iii) are serious allegations that tarnish the image of the Country.

37. The Respondent also submits with regards to the last cited phrase (iv above) that the imputation is that the Government of the Kingdom of Lesotho does not respect the principle of Separation of Powers. This implies according to it, that the Executive interferes with the decisions of the judiciary.

38. Regarding the requirement for Complainants to exhaust local remedies before approaching the Commission, the Respondent State recalls the Commission's decision in **Jawara v The Gambia** in which the Commission established the rationale for the exhaustion of the local remedies rule. It further recalls the remedies to be exhausted must be available, effective and sufficient to redress an alleged violation.

39. The Respondent State points out that the Complainant's allegation that he submitted his case to the local Courts but that the Government denied the

courts to address the case properly, in fact amount to the fact that there are available remedies in Lesotho.

40. The Respondent State points out that the Complainant was able to challenge the decision of the Principal Secretary of the Ministry of Home Affairs not to invite him for swearing in before the High Court which ordered the Minister of Home Affairs to swear him in. It also points out that the Complainant was granted an order of court in November 2013 directing the Lesotho Revenue Authority to stop issuing any notices to his tenants till finalization of the case.
41. The Respondent State points out further that the court orders mentioned above were successfully appealed against. According to the Respondent State, both the fact that the cases were appealed against through due process of law cannot render remedies ineffective. On the contrary, both cases showed that the Complainant had effective remedies which offered prospects of success and also proved sufficient because they were capable of redressing the Complainant's complaint.
42. The Respondent State argues that the Complainant's allegation that there were abundant remedies which he was denied by the Respondent State is fallacious. Citing **Zimbabwe Human Rights NGO Forum v Zimbabwe**, the Respondent State outlines that the Complainant has in his Communication cited instances where he approached the Courts in Lesotho but has in no instance alluded to any instances where he was impeded in his pursuit of remedies.
43. In view of the above, the Respondent State submits that the Complainant has failed to prove that he has exhausted all local remedies and urges the Commission to declare the Communication inadmissible.

Complainant's Response to the Respondent State's Submissions on Admissibility

44. Concerning the Respondent State's claim that some phrases in the complaint are without proof and amount to disparaging and insulting language, the

Complainant provide elements which according to him, is proof of the allegations contained in his statements and refutes the Respondent State's allegation that the language used in the complaint is disparaging or insulting.

45. The Complainant recalls the jurisprudence of the Commission on the use of disparaging language in several cases including **Samuel T Muzerengwa and 11 others v Zimbabwe**³, **Ilesanmi v Nigeria**⁴ and **Ligue Camerounaise des Droits de l'Homme v Cammeroon**⁵, in which the Commission had the opportunity to define the scope of what amounts to disparaging and insulting language under the Charter.
46. According to the Complainant, the Commission has in its jurisprudence, been mindful of the need to protect freedom of expression in a democratic society and has therefore been careful in invoking Article 56 (3) to deny Complainants their right to approach the Commission.
47. Concerning the Respondent State's assertion that the Complainant has failed to exhaust local remedies, he points out that **Jawara v The Gambia** relied on by the Respondent State applies **mutatis mutandis** to his case since the Complainant in that Communication was forced to flee the country for fear of his life and was unable to exhaust local remedies as a result. In such a case, the Complainant claims that where the Respondent State creates conditions which cause a complainant to flee the country, any remedies cannot be said to be available to the Complainant or even if they are, they cannot be considered to be effective. He states that Lesotho local remedies are neither available nor effective both in law and in fact because the Respondent State made it impossible for him to access them.
48. The Complainant accordingly argues that he cannot be required to exhaust local remedies when the very actions of the Respondent State left him without

³ Communication 306/05.

⁴ Communication 268/03

⁵ Communication 65/19

an opportunity to do so. He submits further that he vigorously tried on various occasions to pursue local remedies through his lawyers even after he was forced out of Lesotho until it became clear that he could no longer pursue the remedies even while the matters were still pending in Court purportedly because he was no longer able to pay his lawyers.

49. The Complainant goes on to cite the principle established in **Amnesty International & RADDHO v Zambia**⁶ to the effect that an individual expelled by the Respondent State from its jurisdiction without due process cannot be denied the right to access the Commission on account of non-exhaustion of local remedies because it is the very fact of expulsion and the manner in which it was executed which effectively denied the Complainant the right to pursue such remedies.

The Commission's Analysis on Admissibility

50. The present Communication was submitted in accordance with Article 55 of the African Charter under which the Commission is mandated to receive and consider "Communications other than those of State Parties". Communications submitted under Article 55 of the Charter must comply with the conditions laid down in Article 56 of the Charter in order for them to be admissible.
51. Article 56 of the African Charter outlines seven (7) conditions which must all be met for a Communication to be declared admissible. Failure to comply with one or several of these conditions renders the Communication inadmissible.⁷
52. The Communication was processed in terms of Rule 105 of the Commission's Rules of Procedure and both parties were duly accorded an opportunity to present their views on the admissibility of the Communication.

⁶ Communication 71/92

⁷ Communication 275/2003 - *Article 19 v. Eritrea* (2007), para 43.

53. From the submissions of the parties, the Commission notes that the sole contentious issue between them is with respect to the requirements in Article 56 (3) and (5) of the Charter. After carefully examining the Communication and the submissions of the parties, the Commission is of the view that Articles 56 (1), (2) (4) (6) and (7) raise no contentious issues and are satisfied. To this end, the Commission's analysis on admissibility will focus on the requirements contained in Article 56 (3) and (5) of the Charter.
54. Concerning the first requirement in dispute, namely Article 56 (3), the Respondent State submits that the Communication should be declared inadmissible because it is couched in disparaging and insulting language. The Respondent State has cited phrases from the Complainant's submissions (reproduced in paragraph 35 above) which it claims tarnishes the image of the Government of Lesotho. The Complainant claims that the language used is not disparaging and furnishes what he considers to be evidence of some of the allegations levied against the State.
55. The Commission recalls that the requirement Article 56(3) of the African Charter specifically stipulates that the Communication should not be written "in disparaging or insulting language directed against the State concerned and its institutions or to the African Union".
56. The Commission recalls further its decision in **Zimbabwe Lawyers for Human Right v Zimbabwe** in which it stated as follows:

"In determining whether a certain remark is disparaging or insulting and whether it has dampened the integrity of the judiciary, or any other state institution, the Commission has to satisfy itself whether the said remark or language is aimed at unlawfully and intentionally violating the dignity, reputation or integrity of a judicial officer or body and whether it is used in a manner calculated to pollute the minds of the public or any reasonable man to cast aspersions on and weaken public

confidence on the institution. The language must be aimed at undermining the integrity and status of the institution and bring it into disrepute''⁸

57. The Respondent State has outlined a number of phrases from the Complainant's submissions from which it draws inferences of disparagement, notably that the phrases are of a nature to tarnish the image of Lesotho and that there is an imputation of non-respect of the principle of separation of powers on the part of the Government of Lesotho. It is worthy to note that the Respondent State does not point out particular phrases that on the face of it are disparaging but it is the inferences that can be drawn from those phrases which it says are disparaging.

58. Although these inferences could lead one to conclude that the Complainant's statements are of a nature to tarnish the image of the state and its institutions, it is important to note that these are merely the Complainant's perceptions and honest opinion, cast in plain language, of the State and its institutions in the circumstances of his case.⁹ It is also important to note that a Communication alleging human rights violations by its very nature should be expected to contain allegations that reflect negatively on the State and its institutions.¹⁰

59. Also, while the Commission will be loath to declare a Communication inadmissible merely because the Respondent State is at odds with how it is perceived by a Complainant, it must make sure that the ordinary meaning of the words used are not in themselves disparaging. The language used by the Complainant must unequivocally demonstrate the intention of the Complainant to bring the State and its institution into disrepute as was the

⁸ Communication 293/04 – Zimbabwe Lawyers for Human Rights v Zimbabwe (2008) AHRLJ 120 (ACHPR 2008) para 51.

⁹ The Complainant has furnished elements of proof that informed this opinion; namely that the individual alleged to have harassed his family in South Africa presented a letter to them in Lesotho Government letterhead, that the Government failed in many instances to respect court orders in his favour and the fact that the Government issued directive to the revenue authority on a matter that was still pending before the court.

¹⁰ Frans Viljoen, International Human Rights Law in Africa (2012) 2nd Edition, pg 315.

case in **Ligue Camerounaise des Droits de l'Homme v Cameroon**¹¹, and **Ilesanmi v Nigeria**¹². This does not seem to be the case in the present Communication.

60. The Commission is mindful of the fact that the proscription of disparaging and insulting language is fundamental to diplomatic, courteous and respectful exchanges between parties appearing before it and the need to uphold the integrity of State institution, which are indispensable for the protection of human rights. However, a fine balance needs to be drawn between this proscription and the need to facilitate free expression. Where, as in the present case the Complainant uses language which conveys his perception of facts and presents evidence to justify that perception, the Commission cannot hold that such language is disparaging or insulting merely because inferences can be drawn from the language which reflects negatively on the state and its institutions.
61. In view of the above, the Commission considers that the language used by the Complainant is not disparaging and the requirement under Article 56 (3) is accordingly complied with.
62. Regarding the second contested issue, namely the exhaustion of local remedies under Article 56 (5) of the Charter, it is the Respondent State's view that the Complainant has failed to exhaust local remedies, which it says are available, effective and sufficient to remedy the violations complained of. The Complainant on the other hand points out that he has exhausted local remedies in view of the fact that he submitted his case to several courts. He also submits that because he was forced to flee the country, local remedies are neither available nor effective both in law and in fact because it was impossible for him to access them.

¹¹ Communication 65/92 – *Ligue Camerounaise des Droits de l'Homme v Cameroon* (1997) ACHPR 10th AR.

¹² *Opcit* at no 8.

63. The Commission recalls that Article 56 (5) of the Charter requires Complainants to exhaust all local remedies unless it is obvious that the procedure is unduly delayed. The Commission recalls further that it is well established in its jurisprudence that the local remedies required to be exhausted must be available, effective and sufficient to redress the alleged violation.
64. The concepts of availability, effectiveness and sufficiency of remedies has abundantly been dealt with in **Jawara v Gambia; Anuak Justice Council v Ethiopia, Egyptian Initiative for personal Right & Interights v Egypt** etc.¹³ The Commission recalls also that the remedies required to be exhausted must be sought from instances of a judicial nature and must not be discretionary.¹⁴ It is also noteworthy that the Complainant must take his case to the court of highest jurisdiction in the Respondent State before approaching the Commission.
65. What is at issue in the present Communication is whether remedies were available to the Complainant in the circumstances of his case. As outlined above, the Complainant maintains that because he was forced to flee from Lesotho, he cannot be required to exhaust local remedies because the Respondent State made it impossible for him to access the remedies by revoking his passport and denying him entry into Lesotho. To that end, the Complainant has maintained that his situation is akin to that of the Complainants in **Jawara v The Gambia and Amnesty International & RADDHO v Zambia**, and has urged the Commission to follow the precedents established in the said Communications.
66. To determine this issue, certain factual issues must be put in proper context. First, the Commission notes that contrary to the Complainant's claims, he did not flee Lesotho as such. From his own submissions, he travelled to South

¹³ Communication 147/95 , 149/96 – Dawda Jawara v The Gambia (2000) ACHPR; Communication 299/06 – Anuak Justice Council v Ethiopia (2003) ACHPR and Communication 334/06 – Egyptian Initiative for Personal Rights & Interights v Egypt (2011) ACHPR.

¹⁴ Communication 375/09 – Echaria v Kenya (2011) ACHPR.

Africa to lodge a complaint with the UNHCR about the harassment to which he was subjected in Lesotho. He clearly intended to come back to Lesotho but his passport was unfortunately revoked while he was still in South Africa.

67. Secondly, the Complainant has not cited any instances where he was prevented from availing himself of local remedies. No instances have been brought to the Commission's attention where the Complainant was not given a fair hearing by the Respondent State's courts. On the contrary and as outlined above in his submissions, he had unimpeded access to the Respondent State's courts which in many circumstances made Orders in his favour. Even while in South Africa, the Complainant was able to initiate court proceedings in the Respondent State without impediment through his lawyers, some of which were successful.
68. Thirdly, the Commission notes that the Complainant has not alleged that the revocation of his passport and citizenship did not follow due process.
69. The above serves to distinguish the present case from the **Jawara and RADDHO** cases in which the expulsion of the Complainants did not follow due process and the Complainants were not given any opportunity to challenge their expulsion from the Respondent State in court.
70. The Commission observes that the Submissions of both parties clearly demonstrate that local remedies were available. The Complainant was able to challenge the Permanent Secretary of Home Affairs's decision not to swear him in before the High Court of Lesotho which passed judgement on 13 September 2012 in his favour. When the High Court decision was reversed by the Court of Appeal and the Complainant's passport was revoked, he was able to successfully apply for an urgent order before the same High Court for an interdictioin order against the Department of Home Affairs. This order was also successfully appealed.
71. On the issue of the seizure of his property, the Complainant was able to successfully approach the Tax Tribunal which heard the case on 29 and 30

August 2013 and its judgment is still pending. He also successfully approached the High Court for an Order to restrain the Lesotho Revenue Authority from collecting rents from his tenant and the order was granted on 22 November 2013 and successfully appealed and reversed on 4 December 2013.

72. The above point to the fact that there were available and effective remedies which were sufficient to redress the alleged violations domestically. The Complainant had the opportunity to challenge the actions of the Lesotho government in court, which he successfully did. That the Government successfully appealed against the court orders cannot amount to a denial of justice because the same avenue of appeal was equally open to the Complainant and he failed to avail himself of it.
73. The successful appeal of these cases cannot also be construed as Government meddling with the local courts as the Complainant alleges just as unsuccessful domestic litigation cannot in all cases be construed to be evidence of lack of local remedies. That the Complainant was no longer in Lesotho is also of no consequence because it has been shown that he faced no impediment in initiating proceedings from abroad, some of which were still pending in court at the time the present Communication was submitted. It therefore appears that bringing the Communication before this Commission was premature as there were still available, effective and sufficient remedies which the Complainant could make use of. The Complainant's claim of indigence is also of no consequence given that some of the cases were still pending before domestic courts at the time the Communication was brought before the Commission.
74. It is therefore the Commission's view that the Complainant failed to exhaust local remedies.
1. In view of the above, the Commission decides:

- i. To declare the Communication inadmissible for failure to comply with Article 56 (5) of the Charter
- ii. To notify its decision to the parties in accordance with Rule 107 (3) of its Rules of Procedure.

Done in Kigali, Rwanda at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 - 29 July 2014

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