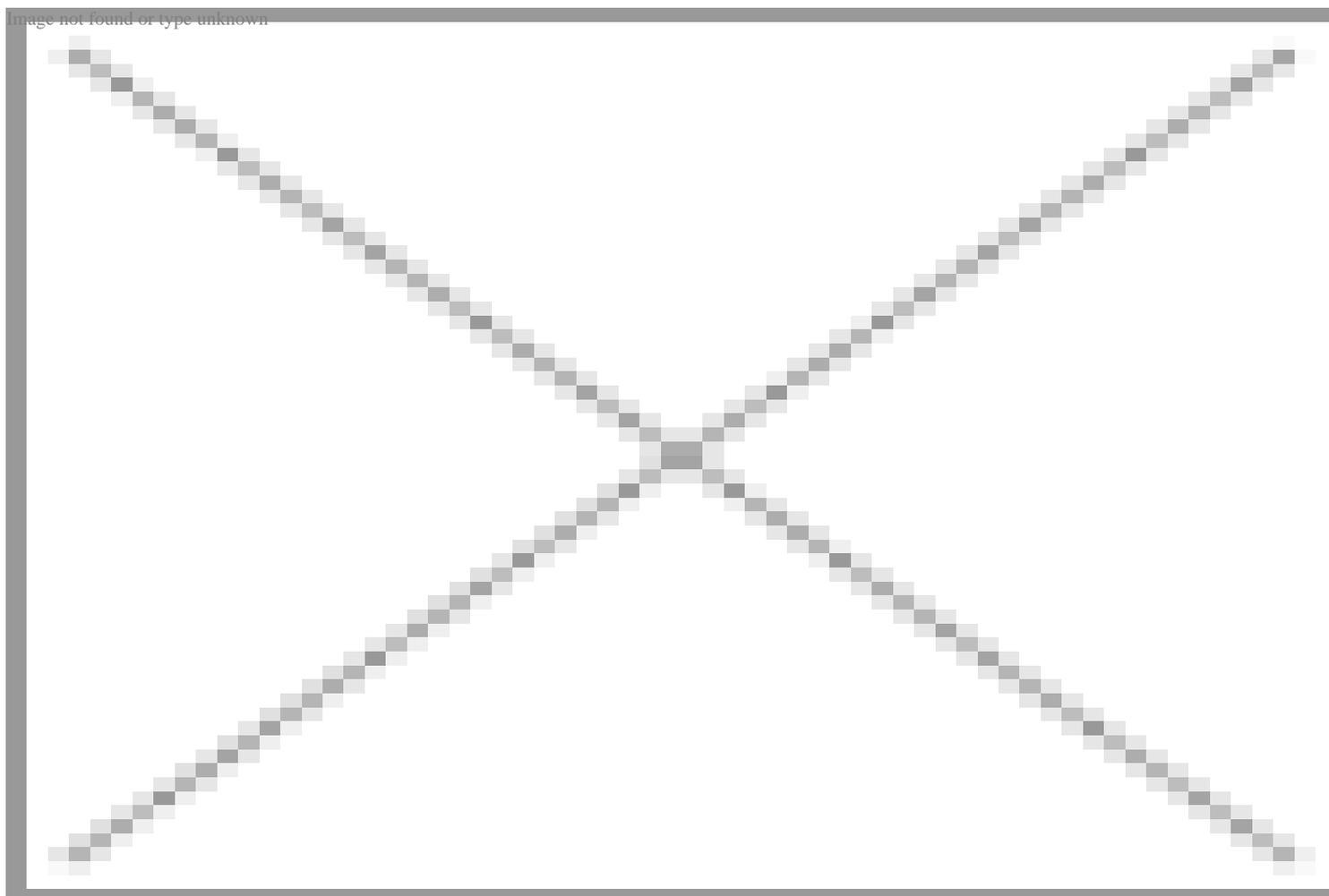


Sep
20
2018

The eight allegations against Lesotho's Chief Justice Nthomeng Majara, and their context

By Carmel Rickard

LIKE the former president of Lesotho's highest court, the Chief Justice may be seen as a victim of the clash between two competing political interest groups: there is now an established pattern in terms of which one party or interest group makes a top judicial appointment and then, when the other grouping gets into power, it seeks to get rid of that jurist and put its own candidate in place. But while this may be the reasoning behind the drive to get rid of top judges, what are the public reasons given by the Maseru government for wanting to suspend and investigate the present Chief Justice?



[1]

AFTER it was voted into power the present Maseru government removed the president of the court of appeal, appointed by the previous government, and sought to replace him with Kananelo Mosito, the disgraced former head of the appeal court. However, earlier this year a full bench of judges declared the

government acted unlawfully in removing the constitutionally appointed new head of the appeal court, SA Judge Robert Nugent. The court also found the re-appointment of Mosito was unlawful. Since then the court of appeal has effectively ceased to operate in Lesotho.

Some might also argue that the removal of Mosito – he resigned after a tribunal found evidence of gross misbehavior relating to tax payments and failures of leadership – was the result of similar political efforts to remove a jurist whose appointment was unpalatable to the government at the time.

So what are the reasons given by the present government for wanting to remove Chief Justice Nthomeng Majara?

According to Judge Majara and her supporters, the government wants her gone because it prefers a pliant and politically-sympathetic Chief Justice and is angry with her because the courts, under her leadership, found against the re-instatement of Mosito.

However, the official reasons given by the government are contained in a three-page document dated 27 April 2018. This list of eight complaints was sent to the Chief Justice for her information and comment.

In brief, the eight grounds for an investigation are the following:

- The Chief Justice is said not to have presided over contested matters in court for two years, despite a backlog of cases.
- She is said not to have taken action against judges who are behind in delivering their judgments.
- She is alleged to have failed to “definitively deal with the issue of suspension of the Registrar of the high court”.
- As Chief Justice she had a “verbal spat” with the Minister of Law and Constitutional Affairs and this allegedly put the judiciary “into disrepute”.
- She is said not to have dealt with allegations of her own misconduct in relation to renting an official residence from a judicial colleague, whereas she should have facilitated an inquiry by recusing herself from the Judicial Service Commission and allowing the matter to be investigated.
- She should not have engaged “private legal practitioners” to represent herself as Chief Justice without the permission of the Attorney-General.
- She is said to have made international trips while neglecting her court duties.
- She has not written judgments in the last year.

In the light of these allegations, she was invited to make representations to the government about why the King should not be approached to suspend her and establish an investigation into her behaviour.

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