

SWAZILAND

EXECUTIVE SUMMARY

Swaziland is an absolute monarchy. King Mswati III and Queen Mother Ntombi, the king's mother who rules as his co-monarch, have ultimate authority over the cabinet, legislature, and judiciary. There is a prime minister and partially elected parliament, but political power remained largely with the king and his traditional advisors. International observers concluded that parliamentary elections held in 2008 did not meet international standards. Security forces reported to civilian authorities.

In 2011 citizens remained unable to change their government. The three main human rights abuses were police use of excessive force, including use of torture and beatings; a breakdown of the judiciary system and judicial independence; and discrimination and abuse of women and children.

Other significant human rights problems included extrajudicial killings by security forces; arbitrary arrests and lengthy pretrial detention; arbitrary interference with privacy and home; restrictions on freedom of speech, assembly, and association; prohibitions on political activity and harassment of political activists; trafficking in persons; societal discrimination against members of the lesbian, gay, bisexual, and transgender (LGBT) community; harassment of labor leaders; restrictions on worker rights; child labor; and mob violence.

In general, perpetrators acted with impunity, and the government took few or no steps to prosecute or punish officials who committed abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

During the year there were several reports that the government or its agents committed arbitrary or unlawful killings. On May 17 the *Times of Swaziland* reported that members of the Royal Swaziland Police Service (RSPS) shot and killed Mathendele Mantfonsi in a remote forest in the Lomahasha area, near the Mozambique border, where he was tending his marijuana field. Police argued the shooting was in self defense as Mantfonsi attempted to resist arrest after being caught engaging in illegal activity. According to the RSPS, investigations in the

case have been completed and the report will be sent to the Directorate of Public Prosecutions (DPP).

On January 29, Mbongeni Masuku was dragged from his car by police officers and shot in the head. RSPS spokesperson Superintendent Wendy Hleta told reporters that Masuku was resisting arrest. Masuku's family, present at the time of the shooting, said Masuku knew the police officers and had been threatened by them. According to the RSPS, the case remained under active investigation.

On March 4, authorities announced the results of the investigation of the death of Siphso Jele, who died in May 2010 while in custody at Sidwashini Prison. A government-appointed coroner stated Jele's death was a suicide. Civil society groups questioned the validity of the finding and impartiality of the coroner, a former police officer. Jele died in police custody three days after being arrested for wearing a T-shirt from the banned political group People's United Democratic Movement of Swaziland (PUDEMO).

According to the RSPS, cases of unlawful killing were investigated in line with the policy of investigating a case if a complaint is received, and referred to the Director of Public Prosecutions as appropriate. At year's end several cases were under investigation, but no officers had been prosecuted.

During the year there were reports of killings by community police, who are volunteers with arrest authority operating under the supervision of chiefs in rural areas and of local civil authorities in urban centers.

For example, on June 18, community police reportedly tortured and eventually killed Mxolisi Masuku, whom they accused of housebreaking and poultry theft. Masuku was allegedly a well-known member of a local gang notorious for causing trouble in the community. After the killing, community police burned Masuku's body.

Authorities had begun to take some action against community police who commit abuses.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices; however, the provision prohibiting law enforcement officials from engaging in torture is located in the “policy” section of the constitution and is not enforceable in any court or tribunal. The law does not specifically prohibit such practices. Security officials who engage in such practices may be punished, and some officers were brought to court on charges, but no convictions or punishments were reported during the year. Many cases of torture were investigated, but findings were not made public. Security officers reportedly used torture during interrogation, assaulted citizens, and used excessive force in carrying out their duties. Reported practices included beatings and temporary suffocation using a rubber tube tied around the face, nose, and mouth, or plastic bags over the head.

On January 1, police beat an 18-year-old pregnant woman who had been brought to a police station by her father on suspicion that she had aborted an earlier pregnancy. According to the victim, who was interviewed by the Center for Human Rights and Development, a Swazi nongovernmental organization (NGO), she was forced to undress in front of a male police officer and then two officers, one male and one female, assaulted her with a knife. The victim claimed that, during the incident, one officer sat on her stomach while the other covered her face with a plastic bag. According to the RSPS, investigation continued at year’s end.

On March 9, 12 high school students were called individually into the school’s staff room, where they were allegedly beaten by police with the approval, and in the presence, of school officials. The students were being investigated on suspicion they were ringleaders of a school boycott that had taken place the previous week. Students suffered injuries during the interrogation and sought medical assistance from Mkhuzweni Health Center.

On September 7, police assaulted Swazi activists, including prominent members of local labor unions, after a rally in Siteki. Civil society activists sustained injuries when police forcibly disbanded the public gathering to prevent members of the Congress of South African Trade Unions from addressing the crowd.

Police forcibly dispersed demonstrators, resulting in injuries (see section 2.b.).

According to the RSPS, abuse cases were investigated in line with the policy of investigating a case if a complaint is received, and referred to the director of public

prosecutions as appropriate. At year's end several cases were under investigation, but no officers had been prosecuted.

There were credible reports of use of excessive force by community police during the year.

For example, on March 23, during an investigation of a house break-in and theft, community police of Mahlanya tortured Ndumiso Dlamini. Dlamini was told to remove his clothes and had his head submerged in water during interrogation.

On July 29, community police brutally beat Kitso Dlamini until he lost consciousness. After the beating, Dlamini suffered memory loss and at year's end, still often spoke incoherently.

In some cases, authorities took action against community police who committed abuses. Three community police officers--George Simelane, Sibusiso Mnisi, and Sikhumbuzo Dube--were sentenced to 15 months in prison after assaulting a burglar, Vusi Mavuso, in Manzini. A local magistrate sentenced the three, saying they did not have a right to beat the victim but only to apprehend a suspect and turn the individual over to the RSPS. In October the RSPS offered a three-day workshop to educate community police as to their roles and responsibilities in preventing crime and apprehending suspects. Community police were trained on how to apprehend suspects and warned against using excessive force.

Prison and Detention Center Conditions

Prison and detention center conditions varied. Some facilities were overcrowded with generally poor living conditions, while other facilities were modern, and prisoners there were treated professionally.

The government permitted limited independent monitoring of prison conditions by local human rights groups. Media were not allowed inside prisons. Statistics released by the Correctional Services in May revealed there were an estimated 3,000 inmates and an additional 764 awaiting trial. Female inmates constituted 2.6 percent of the adult prison population and male inmates 97.4 percent. Correctional Services provided free formal education to juveniles while in jail, along with instruction in various trade skills to adult inmates. Inmates also engaged in agriculture and animal husbandry projects.

In prisons women were held separately from men and juveniles from adults; however, there were reports that women and men were detained together in jails after arrest, due to space constraints. Juveniles attend Correctional Services schools. The Correctional Services bureau was short staffed, with one warder per approximately 30 inmates. Correctional Services was also in need of psychologists, nutritionists, dieticians, and social workers to provide appropriate care and counseling for inmates.

Overcrowding in some prisons was a problem, exposing inmates and officers to diseases and infections such as tuberculosis, HIV/AIDS, and hepatitis. There were allegations of rape in prisons. Facilities were of mixed quality. While some were old and dilapidated, others were newer and well maintained. Independent monitoring groups found it difficult to secure access to prison facilities during the year, and none issued public reports during the year. International officials and NGOs working on programs to fight HIV were permitted entry to prisons and detention centers, although sometimes with difficulty.

Prisoners and detainees had reasonable access to visitors. Christian inmates were permitted religious observance. Chaplains and independent pastors from various denominations were allowed to minister, but other religious groups, although not explicitly prohibited, generally could not access inmates. Authorities investigated allegations of inhuman conditions and documented results of such investigations, but the reports were never made public. Ministry of Justice officials visited prison and detention centers during the year.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, police arbitrarily arrested and detained numerous persons.

For example, on May 14, approximately 10 union members from the Swaziland National Union of Teachers (SNAT), the Swaziland Federation of Trade Unions (SFTU), and the Swaziland Federation of Labor (SFL) were detained by armed police after holding a union meeting. The police declared the meeting illegal because no permission was sought from their office to hold such a meeting; however, there is no such legal requirement.

In the days leading up to the “April 12 Uprising”-- several days of planned protest actions by unions, teachers, students, and political parties-- police used heavy-handed intimidation tactics, including arbitrary searches and detentions. For

example, on April 12, police picked up several activists gathered in a square in Manzini and took them to a local police station for questioning. Following the questioning, police loaded them into two military trucks and deposited them in a remote rural area.

Role of the Police and Security Apparatus

The king is the commander in chief of the Umbutfo Swaziland Defense Force (USDF), holds the position of minister of defense, and is the commander of the police and Correctional Services. He presides over a civilian principal secretary of defense and a commanding general. Approximately 40 percent of the government's workforce was assigned to security.

The RSPS, under the authority of the prime minister, is responsible for maintaining internal security. The USDF, which reports to the king in his capacity as defense minister, is responsible for external security but also has domestic security responsibilities, including protecting members of the royal family and patrolling the borders. The principal secretary of defense and the army commander are responsible for day-to-day USDF operations. The Correctional Services are responsible for the protection, holding, and rehabilitation of convicted persons and keeping order within Correctional Services' institutions. However, they also routinely worked alongside police during protests and demonstrations. The RSPS, USDF, and Correctional Services were generally professional; however, members of all three forces were susceptible to political pressure and corruption. The government generally failed to prosecute or otherwise discipline security officers accused of abuses.

No independent body had the authority to investigate police abuses. An internal RSPS complaints and discipline unit investigated reports of police abuse but did not release its findings to the public. When specifically approached for information on abuses, RSPS officials were cooperative. Police academy training for new recruits included human rights components in line with regional standards. Some officers attended additional training programs that included a human rights component.

Traditional chiefs supervise volunteer rural "community police," who have the authority to arrest suspects and bring them before an inner council within the chieftdom for trial for minor offenses. For serious offenses, community police are required to apprehend suspects and transfer them to the RSPS for further

investigation; however, this did not always occur and, when it did, it often happened after suspects were subjected to ill treatment.

Arrest Procedures and Treatment While in Detention

The law requires warrants for arrests, except when police observe a crime being committed, believe that a person is about to commit a crime, or conclude that evidence will be lost if arrest is delayed. Detainees may consult with a lawyer of their choice, but the government pays for defense counsel only in cases in which the potential penalty is death or life imprisonment. Detainees must be charged with the violation of a statute within a reasonable time, usually within 48 hours of arrest or, in remote areas, as soon as the judicial officer appears. However, arresting authorities did not always charge detainees within the prescribed period. In general, detainees were informed promptly of the charges against them; their families had access to them and were allowed to consult with lawyers of their choice. There is a functioning bail system, and suspects can request bail at their first appearance in court, except in the most serious cases such as murder and rape.

Lengthy pretrial detention was common. As of May pretrial detainees constituted an estimated 20 percent of the prison population. A judicial crisis beginning in July exacerbated the problem (see section 1.e.). Judicial inefficiency and staff shortages also contributed to the problem, as did the police practice of prolonging detention to collect evidence and prevent detainees from influencing witnesses.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, the king, on recommendation of the Judicial Services Commission, appoints the judiciary, limiting judicial independence. Judicial powers are based on two systems: Roman-Dutch law and a system of traditional courts that follows traditional law and custom. Neither the Supreme Court nor the High Court, which interprets the constitution, has jurisdiction in matters concerning the office of the king or queen mother, the regency, chieftaincies, the Swazi National Council, or the traditional regiments system. All of these institutions are governed by traditional law and custom (see section 2.a.).

Most citizens who encountered the legal system did so through the 13 traditional courts. Each has a president appointed by the king. Authorities may bring citizens to these courts for minor offenses and violations of traditional law and custom.

Traditional courts are not supposed to try cases involving non-Swazis, but in practice did hear cases involving nationals of other countries.

The director of public prosecutions has the legal authority to determine which court should hear a case, and public prosecutors have delegated responsibility; however, police usually made the determination and often took cases not properly investigated to these traditional courts because the standard of evidence required for conviction was not as high as in the western-style courts. Persons convicted in the traditional courts may appeal to the High Court. Prolonged delays during trials in the magistrate courts and High Court were common.

Military courts are not allowed to try civilians and do not provide the same rights as civil criminal courts. For example, military courts may use confessions obtained under duress as evidence and may convict defendants on the basis of hearsay.

Chief Justice Michael Ramodibedi, a Lesotho national, sparked the onset of a judicial crisis when, on June 28, he unilaterally suspended High Court Judge Thomas Masuku, accusing him of a dozen instances of misconduct, including insulting the king in a judicial opinion. Ramodibedi's initiation of disciplinary action over a judicial opinion offered by a colleague immediately called into question the judiciary's independence. The chief justice further undermined judicial independence when, in collusion with the court registrar, he began interfering with court administration. In protest of the chief justice's actions, the kingdom's lawyers filed complaints against him and initiated a boycott of the courts. Members of the International Commission of Jurists visited the kingdom and, in a series of public and private meetings, decried Ramodibedi's actions as unconstitutional and demonstrating a lack of judicial independence. Prime Minister Barnabas Sibusiso Dlamini supported Ramodibedi throughout the crisis.

Even though he acted outside his constitutional authority in unilaterally suspending Masuku, in August the chief justice held a disciplinary hearing for Masuku in which he acted as plaintiff, prosecutor, and judge. Although the constitution stipulates that, if a chief justice is party to a disciplinary action, he must recuse himself from that case, Ramodibedi presided over the hearing. He refused Masuku's requests that the hearing be public and he be allowed to present oral evidence or call witnesses. In a September 27 legal notice, King Mswati III fired Masuku for "serious misbehavior."

Trial Procedures

The constitution provides for the right to a fair public trial, except when exclusion of the public is necessary in the “interests of defense, public safety, public order, justice, public morality, the welfare of persons under the age of 18, or the protection of the private lives of the persons concerned in the proceedings.” The judiciary generally enforced this right in practice. Defendants enjoy a presumption of innocence, but juries are not used. Court-appointed counsel is provided at government expense in capital cases or if the crime is punishable by life imprisonment. Otherwise, defendants in superior and magistrate courts may hire counsel at their own expense. Defendants can question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to relevant government-held evidence, generally obtained during pretrial consultations with the Public Prosecutor’s Office. Defendants and prosecutors have the right of appeal up to the Supreme Court.

In September, while the kingdom’s attorneys were boycotting courts, Chief Justice Ramodibedi ordered magistrates to hear cases in the absence of counsel. In one case before the Industrial Court, Ramodibedi dismissed an appeal when attorneys for neither side appeared.

The traditional courts serve the chiefs, who are appointed by the king, and have limited civil and criminal jurisdiction. They are authorized to impose fines of up to 240 emalangeni (\$34.50) and prison sentences of up to 12 months. However, there were reported cases in which traditional courts exceeded their legal jurisdiction in passing sentences on accused persons.

Traditional courts are empowered to administer customary law only “insofar as it is not repugnant to natural justice or morality” or inconsistent with the provisions of any civil law in force; however, some traditional laws and practices do not comply with civil laws, particularly those involving women’s and children’s rights. Defendants in traditional courts are not permitted formal legal counsel but may speak on their own behalf, call witnesses, and be assisted by informal advisors. Sentences are subject to review by traditional authorities and can be appealed to the High Court.

Political Prisoners and Detainees

On March 4, authorities stated the death of political prisoner Siphon Jele, who died while in custody, was a suicide; however, civil society groups claimed the finding

was not impartial (see section 1.a.). There were no reports of other political prisoners during the year.

Civil Judicial Procedures and Remedies

The judiciary tries civil as well as criminal cases, including suits for damages against government agents. Administrative remedies are available under civil service rules and regulations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions except “in the interest of defense, public safety, public order, public morality, public health, town and country planning, use of mineral resources, and development of land in the public benefit”; however, the government did not always respect these prohibitions and broadly construed exceptions to the law. The law requires police to obtain a warrant from a magistrate before searching homes or other premises; however, police officers with the rank of subinspector or higher have the authority to conduct a search without a warrant if they believe delay might cause evidence to be lost.

During the year police conducted random checks for irregular immigrants, weapons, stolen vehicles, and evidence of other criminal activities through roadblocks and searches in homes. Police also entered homes and businesses and conducted searches without judicial authorization.

Police conducted physical surveillance of members of labor unions, political groups, religious groups, and others. For example, on April 13, police escorted Muzi Mhlanga, secretary general of the SNAT, to his house, detained him there for seven hours, and confiscated his cell phone. On April 14, as he was leaving the country for a meeting in Zimbabwe, officers escorted him from Mbabane to Matsapha to ensure he did not communicate with any of the SNAT leadership.

In 2008 the government designated PUDEMO, the Swaziland Solidarity Network (SSN), SWAYOCO, and the Swaziland People’s Liberation Army (UMBANE) as “specified entities” under the 2008 Suppression of Terrorism Act. Persons who abetted, aided, sympathized with, sheltered, or provided logistical support to these organizations are subject to arrest and prison terms of 25 years to life.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution provides for freedom of speech and press, but the king may deny these rights at his discretion, and the government restricted these rights during the year. Although no law bans criticism of the monarchy, the prime minister and other officials warned journalists that publishing such criticism could be construed as an act of sedition or treason, and media organizations were threatened with closure for criticizing the monarchy. The law empowers the government to ban publications if they are deemed “prejudicial or potentially prejudicial to the interests of defense, public safety, public order, public morality, or public health.” Most journalists practiced self-censorship.

The broadcast media remains firmly in state control. There are two state-owned radio stations and one private station, owned by a Christian group. The majority of Swazis get their news from radio broadcasts. There are two Swazi television stations, one of which is state owned. Despite invitations issued by the existing regulator for parties to apply for licenses, no new licenses have been awarded. The content of broadcasts is censored as evidenced by the stations’ refusal to broadcast anything that is perceived as critical of government or the monarchy. The king may suspend the constitutional right to free expression at his discretion, and the government severely restricted freedom of expression, especially regarding political issues or the royal family. Individuals and their family members who criticized the monarchy risked exclusion from the traditional regiments’ (chiefdom-based groupings of males dedicated to serving the king) patronage system that distributed scholarships, land, and other benefits.

Swazi officials discouraged press freedom in public statements.

For example, on June 13, Prime Minister Dlamini told the media to stop broadcasting or writing about a land scandal in which he and five cabinet ministers were implicated. After a months-long debate over the sale of government land to the six ministers, at steeply “discounted” prices, the king pronounced the matter closed and said no one should speak of it further. Reiterating the monarch’s pronouncement, the prime minister said that media should cease covering the scandal; the media complied.

On September 15, during the last day of a series of meetings aimed at promoting national dialogue, King Mswati III asked local journalists why they always

reported negatively on issues in the country and accused media of being “part of the problem” instead of offering solutions. According to the state-owned *Swazi Observer*, the king said he expects the media to “change its ways and come out of this dialogue with a new will to support national initiatives.”

Daily newspapers criticized government corruption and inefficiency but generally avoided criticizing the royal family.

Violence and Harassment: Journalists continued to be harassed during the year. For example, on June 22, police detained one journalist for nine and a half hours, searched his home, and accused him of possessing “highly seditious” documents--downloads from a blog by a British academic that discussed royal expenditures. The journalist, who works for a South African newspaper and is one of very few Swazi reporters who openly criticizes the government and the monarch, indicated that the police, who were in possession of a search warrant, took down his passport number and told him not to leave the country.

Internet Freedom

There were no official government restrictions on access to the Internet. For the most part, individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Nevertheless, there were reports that the government monitored e-mail, Facebook, and Internet chat rooms, and that police were bugging certain individuals’ telephones.

Academic Freedom and Cultural Events

Restrictions on political gatherings and the practice of self-censorship affected academic freedom by limiting academic meetings, writings, and discussion on political topics. For example, professors at the University of Swaziland were requested by university administration to prevent certain academicians from speaking at workshops to which they had been invited. The professors objected on grounds of academic freedom but were forced to alter the program.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly; however, the government severely restricted this right during the year. The law requires police consent and a

permit from the municipal council to hold political meetings, marches, or demonstrations in a public place. Authorities routinely attempted to prevent meetings and demonstrations by withholding consent or taking civil society leaders to court. On several occasions, the Industrial Court upheld the right to freedom of assembly and allowed demonstrations to take place. However, when demonstrations did take place, Swazi security officials were deployed in force, on occasion outnumbering protesters.

From September 5-9, civil society groups representing labor unions, students, teachers, school administration, and political parties held protest marches in urban areas around the country. The government attempted to prevent the marches by taking labor unions to court. The Industrial Court, however, upheld the right to freedom of assembly, and the protest action proceeded. During the first two days marchers adhered to agreed-upon routes, and security forces acted with restraint. On the third day, however, violence erupted in Mbabane when protesters threw bottles at police and corrections officers, who used tear gas to disperse the crowd and beat several students with batons.

In the days leading up to the “April 12 uprising” -- a series of planned demonstrations in commemoration of the day, in 1973, that King Sobhuza II announced the decree that abrogated the independence constitution and banned political parties--police, correctional services officers, and soldiers established roadblocks throughout the country, and security forces detained numerous activists in an attempt to prevent the demonstration. On April 12 and 13, soldiers used excessive force, tear gas, water cannons, preventive detentions, roadblocks, house searches, curfews, and physical intimidation to quash the protests.

Freedom of Association

The constitution provides for freedom of association, but the government severely restricted this right during the year. The constitution does not address the formation or role of political parties, and a 2006 High Court appeal of the 1973 ban on political parties had not been heard by year's end. However, in a 2008 affidavit, the former prime minister reiterated that political parties were banned, and in 2008 Prime Minister Dlamini designated PUDEMO, SWAYOCO, the SSN, and UMBANE as “specified entities” under the Suppression of Terrorism Act. The act provides that persons found associating with any of the four illegal groups can be sentenced to prison terms of 25 years to life. According to the attorney general, persons or groups that abet, aid, sympathize with, shelter, or provide logistical support to these organizations invite the “wrath of the law.”

The government harassed and detained opposition members and conducted surveillance on members of labor unions, political groups, and groups considered potentially political (see sections 1.f. and 3).

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. It also states that provisions of law and custom, which impose restrictions on the freedom of any person to reside in the country, shall not contravene the freedom granted by the constitution.

By traditional law and custom, chiefs have power to decide who lives in their chiefdoms, and evictions due to internal conflicts, alleged criminal activity, or opposition to the chief occurred.

Nonethnic Swazis sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the country's history when mixed race and white persons were not considered legitimate citizens.

Protection of Refugees

Access to Asylum: Laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and minimal assistance to refugees and asylum seekers. Swaziland hosted an estimated 800 refugees, the majority from the Great Lakes region of Africa and Somalia.

Durable Solutions: The government accepted refugees for permanent resettlement, allowed them to compete for jobs, and granted them work permits and temporary

residence permits without discrimination. The government also provided refugees with free transportation twice a week to buy food in local markets and to earn a living. Refugees who lived in the country more than five years qualified for citizenship; however, most refugees waited longer to apply, sometimes more than 10 years, due to lack of data regarding their immigration status.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens could not change their government peacefully, and political parties remained unable to register, to contest elections, or otherwise participate in the formation of a government. In February the attorney general, Majahenkaba Dlamini, dismissed claims that parties were “banned.” He said that the 1973 decree that banned political parties is superseded by the kingdom’s constitution, and that political parties can exist because no law specifically bans their existence. The king retains ultimate executive and legislative authority; parliament has limited authority. Legislation passed by parliament requires the king’s consent to become law. Under the constitution, the king selects the prime minister, the cabinet, two-thirds of the senate, 10 of 65 members of the house, many senior civil servants, the chief justice and other justices of the superior courts, members of commissions established by the constitution, and the heads of government offices. On the advice of the prime minister, the king appoints the cabinet from among members of parliament. Although the constitution requires the king to consult with others (usually a traditional council) before making a major decision, he is not required to accept their advice.

Elections and Political Participation

Recent Elections: In September 2008 parliamentary elections were held, the first since the constitution went into effect in 2006; the king appointed a government in October 2008. International observers concluded the elections did not meet international standards. Political parties were not allowed to register or sponsor candidates of their choice. Ballots were cast in secrecy but could be traced by registration number to voters; some ballot boxes were not properly protected. Accusations of bribery were reported. There were widespread reports that citizens were advised if they did not register to vote, they would no longer receive government services.

During the year the Elections and Boundaries Commission (EBC), whose mandate is to “ensure that elections are properly managed on behalf of the electorate,”

began preparations for the next round of elections, scheduled to be held in 2013. According to the EBC chairman, Chief Gija S.G. Dlamini, the commission was reviewing draft legislation to update existing electoral laws.

Political Parties: According to the government, when the current constitution took effect, the 1973 decree that banned political parties lapsed. The constitution provides for freedom of association but does not address how political parties can operate, including how they can contest elections. In 2006 the minister of justice and constitutional affairs stated political organizations could hold meetings at “tinkhundla” (local government) centers if they obtained permission from the regional administrator and allowed a police officer to attend the meeting. However, political and civic organizations reported traditional authorities often denied them permission to meet.

The constitution also states that candidates for public office must compete on their individual merit, thereby effectively blocking competition based on political party affiliation.

The government harassed and detained opposition members.

For example, on April 12 and 13, Mario Masuku, leader of the banned political party PUDEMO, was detained in his home to prevent his participation in demonstrations planned to commemorate the day on which, in 1973, King Sobhuza II issued the decree banning the operation of political parties.

Participation in the traditional sphere of governance and politics is predominantly done through chiefdoms. Chiefs are custodians of traditional law and custom, report directly to the king, and are responsible for the day-to-day running of their chiefdoms and maintaining law and order. Local custom mandates that chieftaincy is hereditary. However, the constitution, while recognizing that chieftaincy is “usually hereditary and is regulated by Swazi law and custom,” also states that the king “can appoint any person to be chief over any area.” As a result, many chieftaincies were nonhereditary appointments, a fact that provoked land disputes, especially at the time of burials.

Participation of Women and Minorities: The constitution provides that 55 of the 65 seats in the House of Assembly be popularly contested and that the king appoint the remaining 10 members. Five of the 10 must be women, and the other five must represent “interests, including marginalized groups not already adequately represented in the house.” In 2008 the king appointed two women to the House of

Assembly, instead of the required five, a constitutional violation that was not rectified during the year. The constitution also provides for an additional woman from each of the four regions if women do not constitute a third of the total members nominated by the elected house members from each region. The house had not nominated these members by year's end.

The king appoints 20 members of the 30-seat Senate, and the House of Assembly elects the other 10. The constitution provides that at least eight of the king's nominees and five of the House of Assembly's nominees to the Senate be women. While house members elected the required five female members, the king appointed only seven female senators. The king had not rectified this constitutional violation by year's end. Women held 20 percent, rather than the mandatory 30 percent, of parliamentary seats. The king appointed five women as cabinet ministers out of 20 ministerial positions.

Widows in mourning (for periods that can vary from one to three years) were prevented from appearing in certain public places or from being in close proximity to the king. As a result, widows were effectively excluded from voting or running for office during those periods.

There were almost no ethnic minority members in the government. The constitution provides that other appointees should represent "interests, including marginalized groups not already adequately represented in the House." However, most officials were from the royal Dlamini family or connected with royalty.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There was a widespread public perception of corruption in the executive and legislative branches of government and a general consensus that the government was doing little to combat it.

In October Minister of Finance Majozi Sithole reiterated his earlier statement that an estimated 80 million emalangeni (\$11.52 million) in potential government revenue was lost each month due to corruption. The Anticorruption Commission, funded by the Ministry of Justice, is charged with fighting corruption by carrying out education and prevention programs as well as by investigating cases. It has the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. During the year it recorded 249 complaints of

corruption. After completing investigations, the ACC referred 18 cases to the director of public prosecutions, two of which resulted in convictions. Several cases were pending in the court system, and two cases were dismissed for lack of evidence.

The ACC conducted dozens of sensitization workshops and meetings around the country, provided educational materials for schools, and appeared on numerous radio and television shows. One ACC representative acknowledged a widespread public perception that the ACC is ineffective and described the commission as being in “start up” mode despite being established in 2008; a fact largely attributable to a lack of financial and human resources and the general backlog of cases in the court system.

Principals and teachers routinely demanded bribes to admit students.

Credible reports continued that business contracts, government appointments, military recruitment, and school admissions were awarded on the basis of a person’s relationship with government officials. Authorities rarely took action when incidents of nepotism were reported.

For example, on September 18, the *Times of Swaziland* reported that the Ministry of Tinkhundla (Local Administration) entered into a deal for three million emalangeni (\$432,276) to lease office equipment that should have cost approximately one million emalangeni (\$144,092). The minister of tinkhundla reportedly violated procurement regulations when he unilaterally awarded the contract for office supplies without the approval of the Tender Board, a statutory body responsible for approval of government procurement. The prime minister promised to institute a forensic investigation of all tenders issued by the Ministry of Tinkhundla. By the end of the year, the investigation had been completed but the report awaited review and adoption by Parliament.

In May 2010 the general manager and the senior mechanical engineer of the Central Transport Administration, Polycarp Dlamini and Mpumelelo Mamba, were arrested along with Sandile Dlamini, the manager of Protronics Networking Corporation, and Industrial Court judge Sifiso Nsibande, on charges of fraud. The four men were released on 50,000 emalangeni (\$7,204) bail each. On November 28, Dlamini pled guilty to and was convicted of defrauding the Swazi government of more than 12 million emalangeni (\$1.7 million) and, at year’s end, awaited sentencing.

The constitution prohibits government officials from assuming positions in which their personal interest is likely to conflict with their official duties. These officials are required to declare their assets and liabilities to the Commission on Human Rights and Public Administration. According to the commission, the majority of those required to declare assets and liabilities did so. The commission suspected underreporting in a number of cases. The commission has not made this information public.

There is no law permitting public access to government documents, and public documents were difficult to access.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials rarely were responsive to their views. Human rights groups spoke out on a number of occasions, criticizing the lack of accountability and transparency in the government.

The constitution provides for the independence of human rights NGOs; however, this provision falls within the “policy” section, which cannot be enforced in any court or tribunal.

UN and Other International Bodies: The government generally cooperated with international organizations and permitted visits by UN representatives. However, in May the government did not meet with visiting officials from international NGO Human Rights Watch (HRW). Staff from HRW were told that officials were busy and not in a position to meet with them.

Government Human Rights Bodies: In 2009 the government established the Commission on Human Rights and Public Administration. Since its establishment, the commission has received 26 complaints, seven of which it resolved – mainly through alternative dispute resolution. Nineteen complaints remained pending. The commission remained nearly powerless due to lack of funding and enabling legislation. The commission consisted of one commissioner and five deputy commissioners, although one of the deputies has been acting commissioner since September 14. It had no full-time staff. The commission is precluded from investigating any matter “relating to the exercise of any royal prerogative by the Crown.” A number of local NGOs, including Women and Law in Southern Africa,

expressed concerns regarding the location of the commission's offices within the vicinity of royal residences--an area which women in mourning attire and in pants may not enter, according to custom and tradition.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, age, ethnicity, religion, political opinion, or social status; however, the government did not consistently enforce the law.

Women

Rape and Domestic Violence: The law criminalizes rape; however, no law specifically addresses spousal rape. Rape was common, and the government did not always enforce the law effectively. According to the Swaziland Action Group Against Abuse (SWAGAA), one in three Swazi women between the ages of 13 and 24 has been the victim of sexual violence. Many men regarded rape as a minor offense. According to the 2010 RSPS Annual Report, 617 rape cases were reported in 2010, but there were no data available on the number of prosecutions, convictions, or punishment. The number of reported cases is likely far lower than the number of actual cases. A sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. The maximum sentence for aggravated rape is 15 years; however, the acquittal rate for rape was high, and sentences were generally lenient.

In November 2010 Minister of Sports, Youth, and Culture Hlob'sile Ndlovu reportedly said during a parliamentary session that when women say "do not touch me," they actually mean "touch me further." When called upon to retract her statement, the minister refused.

Domestic violence against women, particularly wife beating, was common and sometimes resulted in death. Domestic violence is illegal; however, police efforts to combat the crime were inadequate. According to a 2008 survey by the government's Central Statistics Office, 60 percent of men believed it was acceptable to beat their wives, and 18 percent of females between 13 and 44 years old had contemplated suicide, primarily as a result of domestic violence. The special police units established in 2008 for domestic violence, child abuse, and sexual abuse reported an increase in cases received during the year; however, there were no data available on the number of cases, prosecutions, convictions, or punishments.

Women have the right to charge their husbands with assault under both the Roman-Dutch and traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Penalties for men found guilty of assault not involving rape against a woman depended on the court's discretion. Rural women often had no relief if family intervention did not succeed, because traditional courts were unsympathetic to "unruly" or "disobedient" women and were less likely than modern courts, which use Roman-Dutch-based law, to convict men of spousal abuse. The Roman-Dutch legal system often gave light sentences in cases of conviction for abuse against women. SWAGAA has hotlines and shelters to assist victims of abuse.

Sexual Harassment: Legal provisions against sexual harassment were vague, and government enforcement was ineffective; no cases have ever been brought to court. There were frequent reports of sexual harassment, most often of female students by teachers. Numerous teachers and some principals were fired during the year for inappropriate sexual conduct with students. Some teachers threatened students with poor grades if they did not provide sexual favors to them.

Reproductive Rights: The government upheld the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. There was wide access to contraception, including at public restrooms, clinics, and workplaces throughout the country. Women were equally diagnosed and treated for sexually transmitted infections. Skilled attendance during childbirth, including essential obstetric and postpartum care, was estimated at 69 percent but was limited in rural areas. A 2011 UN Fund for Population report indicated the maternal mortality rate was 420 per 100,000 live births; the proportion of maternal deaths due to HIV/AIDS was 75 percent in 2008. An estimated 47 percent of girls and women ages 15-49 used a modern method of contraception in 2010.

Discrimination: Women occupy a subordinate role in society. The dualistic nature of the legal system complicates the issue of women's rights. Since unwritten law and custom govern traditional marriage and matters of inheritance and family law, women's rights often are unclear and change according to where and by whom they were interpreted. Couples often marry in both civil and traditional ceremonies, creating problems in determining which set of rules apply to the marriage and to subsequent questions of child custody, property, and inheritance in the event of divorce or death.

The constitution provides that women can open bank accounts, obtain passports, and take jobs without the permission of a male relative; however, these constitutional rights often conflict with customary law, which classifies women as minors. Women routinely executed contracts and entered into a variety of transactions in their own names; however, banks still refused personal loans to women without a male guarantor. The constitution provides for equal access to land; however, customary law forbids women from registering property in their own names. The law requires equal pay for equal work; however, the average wage rates for men by skill category usually exceeded those of women.

In February 2010 the High Court overturned section 16(3) of the Deeds Registry Act, which prohibited women from registering property in their own names. In May 2010 the Supreme Court amended the High Court's ruling but maintained its finding that the law was unconstitutional and stated parliament needed to enact appropriate legislation within 12 months. Pending such legislation, the Supreme Court ruled that women should continue to register property jointly with their husbands. At year's end the law remained unchanged.

In traditional marriages a man may take more than one wife. A man who marries a woman under civil law may not legally have more than one wife, although in practice this restriction was sometimes ignored. Traditional marriages consider children to belong to the father and his family if the couple divorces. Children born out of wedlock are viewed as belonging to the mother, unless the father claims the children. Inheritances are passed to and through male children only. Traditional authorities still exercised the right to fine women for wearing pants in their constituencies.

The constitution states that "a woman shall not be compelled to undergo or uphold any custom to which she is in conscience opposed"; however, adherents of traditional family practices may treat a woman as an outcast if she refuses to undergo the mourning rite, and a widow who does not participate may lose her home and inheritance. When the husband dies, tradition dictates that the widow must remain at her husband's family's residence in observance of a strict mourning period for one month, during which time she cannot leave the house, and the husband's family can move into the homestead and take control of its operations. In some cases the mourning period can last three years. During the year the media reported that widows and children heading households sometimes became homeless as a result of the custom and were forced to seek public assistance.

Women in mourning attire generally were not allowed to participate in public events and were barred from interacting with royalty or entering royal premises.

In November 2010 a woman was assaulted by a group of men identifying themselves as members of the "water party," a group of men who are commissioned by royalty to traverse the country ahead of the annual *incwala* ceremony, after she refused to pay a fine for wearing slacks.

Children

Under the constitution, children derive citizenship from the father, unless the birth occurred outside marriage and the father does not claim the child, in which case the baby acquires the mother's citizenship. A foreign woman who marries a citizen can become a citizen by lodging a declaration with the proper authorities. If a Swazi woman marries a foreign man, however, even if he has become a naturalized citizen, their children are assumed to carry the father's birth citizenship.

Birth Registration: Birth registration is not automatic, and lack of birth registration can result in denial of public services.

Government efforts to protect children's rights and welfare were inadequate, due in part to the growing number of orphans and vulnerable children (OVC), which made up an estimated 16 percent of the population.

Education: Despite a constitutional mandate that children be provided tuition-free primary education by 2009, the government had not completely complied. In addition students' families must pay for uniforms and other supplies. The government claimed it could not afford to enact tuition-free primary education immediately; however, after a 2009 lawsuit brought by the Ex-Miners' Association to obtain the benefit on behalf of the country's children, the government began to implement the mandate gradually and offered tuition-free primary education through grade three. The Office of the Deputy Prime Minister received an annual budget allocation to pay school fees for OVCs in primary and secondary school; however, some schools continued to complain of delayed payment and expelled OVCs for nonpayment of fees. Individual schools sometimes needed to raise supplemental money for building maintenance, including of teachers' housing. Rural families favored boys over girls if they could not send all their children to school. Principals and teachers routinely demanded bribes to admit students.

Child Abuse: Child abuse, including rape of children and incest, was a serious problem, but the crime was rarely reported, the government seldom punished perpetrators of abuse, and penalties seldom matched the crime. Many children became HIV positive as a result of rape. Most sexual assaults on girls occurred at home; fewer than half of sexual assaults were reported. Children with disabilities, children out of school, and orphans were at particular risk. According to a recent report by the Swaziland Violence Surveillance System, at least 2,619 children were reported abused from January to June this year. Punishment for child abuse was minimal, and even perpetrators of abuse that resulted in death were generally fined no more than 200 emalangeni (\$29).

On September 12, NGOs Family Life Association of Swaziland (FLAS) and Save the Children raised concerns about virginity testing for young girls. In the lead-up to the Umhlanga, or Reed Dance, an annual celebration in which tens of thousands of girls pay homage to the queen mother and celebrate chastity, an organization called Liphupho Lendlovu reportedly conducted virginity testing on more than 40 girls. In a joint statement, FLAS and Save the Children called the practice, "humiliating, degrading, and a gross violation of the fundamental rights of children and girls to privacy and bodily integrity." Liphupho Lendlovu called this year's testing a pilot program and vowed to continue the testing next year.

Corporal punishment by teachers and principals is legal and routinely practiced. School regulations state a teacher can administer a maximum of four strokes with a stick on the buttocks to a student younger than age 16, and six strokes to students older than 16; however, teachers often exceeded these limits with impunity.

At the end of March pupils at Mpofo High School boycotted classes in protest of what they viewed as excessive corporal punishment. On March 31, students told the *Swazi Observer* they are made to lie on a bench and strip naked from the waist down so that blows can be administered to the bare flesh.

Child Marriage: The legal age of marriage is 18 for both men and women. However, with parental consent and approval from the minister of justice, girls can marry at the age of 16. The government recognizes two types of marriage: civil marriage and marriage under traditional law and custom. Traditional marriages can be with girls as young as 13. Critics of the royal family said the king's many wives and young fiancées, some of whom were 16 years old, set a poor example in a country with an HIV/AIDS prevalence rate of 26 percent among persons between 15 and 49 years of age.

On August 17, the *Swazi Observer* reported that on August 12, an 18-year-old girl from Herefords, in the Hhohho Region, was forced to enter into a customary “kuteka” marriage with a high school teacher.

Sexual Exploitation of Children: Minors were victims of prostitution and trafficking, and girls, particularly OVCs, were victims of commercial sexual exploitation, including at truck stops and in bars and brothels.

No law specifically prohibits child prostitution. Penalties for child pornography are six months’ imprisonment and a fine of 100 emalangeneni (\$14.50). The law sets the age of sexual consent at 16 and prohibits the sexual exploitation of children under age 18, which is considered statutory rape. The penalty for statutory rape is six years’ imprisonment and a fine of 1,000 emalangeneni (\$145). During the year the number of street children in Mbabane and Manzini continued to grow. A large and increasing number of HIV/AIDS orphans were cared for by relatives or neighbors, or they struggled to survive in child-headed households. Some lost their property to adult relatives. Various governmental, international, and religious organizations and NGOs provided some assistance to HIV/AIDS orphans. However, the government failed to pay school fees for orphans and vulnerable children, resulting in protest marches and petitions from school principals against the government.

With more than 4,000 child-headed households in the kingdom, UNICEF supported school feeding programs, operated a number of neighborhood care points, and provided nutritional support to children weakened by AIDS.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The Jewish community is very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution provides for the rights of persons with disabilities, but it does not differentiate between physical and mental disabilities and requires parliament to enact relevant implementing legislation, which parliament has not done.

Parliament had not passed laws to prohibit discrimination against persons with disabilities in employment or to provide access to health care or other state services by year's end. Persons with disabilities complained of government neglect. No law mandates accessibility for persons with disabilities to buildings, transportation, or government services, although government buildings under construction included some improvements for those with disabilities, including access ramps. Public transportation was not user friendly for disabled persons, and the government does not provide any means of alternative accessible transport.

The Office of the Deputy Prime Minister and its Department of Social Welfare are responsible for protecting the rights of persons with disabilities.

On February 11, the *Swazi Observer* reported that police officers turned away Shadrack Nyaka, a person with disabilities who had come to register a charge of assault against his landlord. According to police, Nyaka was turned away because he could not speak, and police could not understand him since there are no sign language experts in the police stations.

There is one school for the deaf and one special education alternative school for children with physical or mental disabilities. Only 25 percent of adults with disabilities were employed, mostly in the private sector, according to a 2006 study conducted by the Ministry of Health and Social Welfare. The hospital for persons with mental disabilities, located in Manzini, was overcrowded and understaffed.

National/Racial/Ethnic Minorities

The constitution forbids discrimination on the grounds of race, color, ethnic origin, tribe, or birth; however, governmental and societal discrimination was practiced against nonethnic Swazis, generally white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population was nonethnic Swazi. Nonethnic Swazis experienced difficulty in obtaining official documents, including passports, and suffered from other forms of governmental and societal discrimination, such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Societal discrimination against the LGBT community was prevalent, and LGBT persons generally concealed their sexual orientation and gender identity. Colonial-era legislation against sodomy remains on the books; however, it has not been used to arrest gay men. Gay men and lesbians who were open about their sexual orientation and relationships faced censure and exclusion from the chiefdom-based patronage system, which could result in eviction from one's home. Chiefs, pastors, and members of government criticized same-sex sexual conduct as neither Swazi nor Christian. Societal discrimination exists against gay men and lesbians, and LGBT advocacy organizations had trouble registering with the government. One such organization, House of Pride, was affiliated with another organization dealing with HIV/AIDS. It is difficult to know the extent of employment discrimination based on sexual orientation because victims are not likely to come forward, and most gay men and lesbians are not open about their sexual orientation.

Other Societal Violence or Discrimination

Vigilante violence continued and in some cases resulted in deaths.

For example, on February 9, two men stabbed a woman suspected of witchcraft, two days after a "prophet" hired by the community had claimed she was responsible for killing some members of the community through "muti" or witchcraft.

On April 19, a mob demolished a house in Malkerns, alleging their son was a gangster and had been terrorizing the area, committing crimes including murder and robbery.

There was social stigma associated with being HIV positive, a fact that discouraged persons from being tested. Nevertheless, there were often long lines, especially of young persons, waiting to be tested during prevention campaigns. The armed forces encouraged testing and did not discriminate against those testing positive.

On February 15, at the Mbabane Government Hospital, an HIV-positive woman lost her baby during childbirth after being neglected by nurses claiming that her complaints of labor pains were as a result of her HIV status.

There was social stigma attached to albinism. Several people with albinism stated they were discriminated against, called names, and were at risk of being killed for ritual purposes. The government condemned such acts but took no further action.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution and law provide that workers have the right to form and join independent unions, conduct legal strikes, and bargain collectively. However, these rights are either restricted or strictly regulated. The Industrial Relations Act of 2000 as amended governs employee and employer organizations. The law explicitly provides for the registration of unions and federations but grants far-reaching powers to the labor commissioner with respect to determining eligibility for registration. Unions must represent at least 50 percent of employees in a work place to be automatically recognized; otherwise, recognition is left to the discretion of employers. Unions and federations are prohibited from carrying out political activities or activities that may be interpreted as political. Employees in essential services, which included police and security forces, correctional services, firefighting, health, and many civil service positions, may not form unions. There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal.

The law allows unions to conduct their activities without government interference, and prohibits antiunion discrimination. However, the 1973 Decree/State of Emergency Proclamation and the 1963 Public Order Act were reportedly used to interfere with trade unions' affairs or to repress trade unions' lawful and peaceful activities during the year.

The law permits strikes; however, the right to strike was strictly regulated. Strikes and lock-outs are prohibited in essential services, while the minister has the power to modify the list of these essential services, which provides for broad prohibition on strikes in nonessential sectors, including posts, telephone, telegraph, radio, and teaching. The logistical requirements involved in registering a legal strike makes striking difficult in practice. The procedure for announcing a protest action requires advance notice of at least 14 days. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts. When disputes arose with civil servant unions, the government often intervened to reduce the chances of a protest action, which may not be called legally until all avenues of negotiation have been exhausted and a

secret ballot of union members has been conducted. The law imposes disproportionately harsh sanctions for damages caused by strike actions. For example, the trade union faces civil liability and criminal liability for any damage caused and other “unlawful behavior” during strikes.

The constitution and law provide for the right to organize and bargain collectively; however, the right is subject to various legal restrictions. The law requires that for a union to be authorized to exercise collective bargaining rights, it must first represent more than 50 percent of the workers. The law provides for the registration of collective agreements by the Industrial Tribunal, which is empowered to refuse registration if the agreements do not take into account the instructions on wages and wage levels published by the government. The Industrial Relations Act (as amended) confers on the commissioner of labor or labor inspectors the power to “intervene” in labor disputes before being reported to the commission, if there is reason to believe that they could have serious consequences for the employers, the workers, or the economy if not resolved promptly.

The government did not effectively enforce these laws. In practice workers who attempted to exercise the rights to organize and bargain collectively faced difficulties or risks due to a harsh legal environment imposed by many provisions in the labor and the security laws. Correctional Services staff continued to be denied the right to collective bargaining, and there were reportedly problems in the banking sector with respect to such right. There were reports of acts of antiunion discrimination in the textile sector.

Government interference in union affairs has consistently been an issue under examination by the International Labor Organization (ILO), particularly those unions in the public service. The International Trade Union Confederation reported that trade union activities continued to be repressed in Swaziland. Repeated arbitrary arrests, intimidation, and beatings were reportedly used to silence activists. Union leaders and members of the SFTU were arrested several times during the year.

In the days leading up to the “April 12 Uprising”--several days of planned protest actions by unions, teachers, students, and political parties--police used heavy-handed intimidation tactics, including arbitrary searches and detentions. On April 12, police picked up several activists gathered in a square in Manzini and took them to a local police station for questioning. Following the questioning, police loaded them into two military trucks and deposited them in a remote rural area.

On May 14, police briefly detained approximately 10 union members from the SNAT, SFTU, and SFL unions after the detainees held a union meeting in Siteki. The police declared the meeting illegal because no permission was sought from their office to hold such a meeting; however, there is no such legal requirement.

On September 19 and 20, commuters including pupils in Mbabane and Manzini were left stranded when transport operators, including drivers and their assistants, engaged in strike action. In Manzini the demonstration turned violent with protesters burning tires and throwing stones at police. Some businesses were forced to close. According to the RSPS, during the skirmish 10 police officers were seriously injured.

On October 31, labor organizations decided not to proceed with a planned protest related to the country's ongoing judicial and fiscal crises when the kingdom's Industrial Court ruled they needed first to work through the national Labor Advisory Board. Having agreed to postpone the protest marches, labor instead organized a prayer vigil for the same evening at a local primary school. When unionists arrived at the school, they were turned away by local authorities and told that they would not be allowed to use the school as they had not secured prior permission to use the premises. The labor leadership moved the gathering to a local church but were met there by Swazi police who said that they could not allow the vigil to take place.

During the year there were allegations that employers used labor brokers to hire individuals on contracts to avoid hiring those who would normally be entitled to collective bargaining rights. There are no laws governing the operation of labor brokers.

Antiunion discrimination continued to occur. Workers frequently invoked the antiunion discrimination and reinstatement provisions during the year. Employer interference with representatives of workers' councils trying to negotiate rules and conditions of work contributed to the failure of some trade unions to negotiate or promote collective bargaining agreements.

In the case of unfair dismissal, the court can order reinstatement and compensation for the employee, as well as fine the employer. Union leaders made credible charges that private sector management in various industries dismissed workers for union activity, but no cases were pursued through the courts. Other concerns identified by unions were undefined hours of work and pay days; assaults on

workers by supervisors; surveillance by hired security officers of trade union activity, both at the workplace and outside; and the use of workers' councils stacked with employer-picked representatives to prevent genuine worker representation. Allegations of antiunion discrimination were most common in the mostly foreign-owned textile and apparel industry.

b. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced or compulsory labor; however, there were reports that such practices occurred. The ILO and the SFTU characterized the 1998 Administrative Order, Act No. 6 as a form of forced labor, noting that it reinforced the tradition of residents performing uncompensated tasks for chiefs, who could penalize those who did not participate. Although the High Court had declared the order null and void, the government did not officially repeal it as recommended by the ILO, stating the order was automatically overridden by the constitution. Victims of forced labor included women and children forced into domestic servitude, agricultural labor, herding livestock, portering, and market vending.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The constitution and the Employment Act prohibit child labor; however, such laws were not effectively enforced, especially outside the formal work sector, and child labor was a problem. The law prohibits hiring a child younger than age 15 in an industrial undertaking, except in cases where only family members were employed in the firm, or in technical schools where children worked under supervision. However, children joined the workforce early to survive or support their families. The law limits the number of night hours children may work on school days to six and the overall hours per week to 33.

Employment of children in the formal sector was not common, but children were found doing unpaid labor and often exposed to harsh conditions of work. In agriculture children pick cotton, harvest sugarcane, and herd livestock. This work may involve activities that put at risk their health and safety, such as using dangerous machinery and tools, carrying heavy loads, applying harmful pesticides, and working alone in remote areas.

Child domestic servitude was also believed to be prevalent. Such work can involve long hours of work and may expose children to physical and sexual exploitation by their employer.

Children also work as porters, bus attendants, taxi conductors, and street vendors. Children working on the streets risk a variety of dangers, such as severe weather and automobile accidents; they also may be vulnerable to exploitation by criminals. Other children reportedly worked 14-hour days in textile factories.

Children's exploitation in illicit activities was a problem. Children served alcohol in liquor outlets and grow, manufacture, and sell drugs.

The Ministry of Labor, the Office of the Deputy Prime Minister through the National Children's Coordination Unit and Department of Social Welfare, and the RSPS are responsible for enforcement of laws relating to child labor. The government's effectiveness in combating child labor was limited, however, due to a lack of baseline information about the scope of the problem and a lack of dedicated resources for identifying and punishing violators. Through the Office of the Deputy Prime Minister, the government pays school fees for orphans and vulnerable children to provide additional social support and keep these children from engaging in child labor.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The Ministry of Labor and Social Security sets wage scales for each industry. There was a legally mandated sliding scale of minimum wages depending on the type of work performed. The minimum monthly wage for a domestic worker was approximately 531.6 emalangeni (\$76.50), for an unskilled worker 420 emalangeni (\$60.50), and for a skilled worker 600 emalangeni (\$86.50). An estimated 69 percent of the population lives below the poverty line of 57 emalangeni (\$7.80) and 104 emalangeni (\$14.32) per month for rural and urban areas respectively.

There was a standard 48-hour workweek for most workers and a 72-hour workweek for security guards; however, public transportation workers complained that they were required to work 12 hours a day or more without any overtime compensation. It was not clear whether there were specific exceptions for female workers. The law permits all workers at least one day of rest per week and

provides for premium pay for overtime. Most workers received a minimum of 12 days of annual leave. Workers receive 14 days of sick leave with full pay and 14 days with half pay after three months of continuous service; these provisions apply only once per calendar year. No sick leave is granted if an injury results from an employee's own negligence or misconduct.

The law provides for some protection of workers' health and safety. The government set safety standards for industrial operations and encouraged private companies to develop accident prevention programs. Workers have no legal right to remove themselves from dangerous workplaces without jeopardizing their continued employment, and collective bargaining agreements do not address the matter. All workers in the formal sector, including migrant workers, are covered by the wage law.

The labor commissioner conducted inspections in the formal sector but was hampered, by budgetary constraints, to meet its goals in terms of number of inspections and to fully enforce standards in all sectors.

Wage arrears, particularly in the garment industry, were a problem. The minimum wage laws did not apply to the informal sector, where many workers were employed.

Although policies exist regarding maternity leave, women often believe they are compelled to keep working from economic need, which sometimes resulted in giving birth in unsafe environments, for example, on the way to work.

The Labor Commissioner's Office conducted few safety inspections because of staffing shortages.

The Ministry of Health revealed that HIV/AIDS prevalence among female factory workers led to staffing shortages. As all standards are voluntary and there is no centralized quality assurance function, there were no credible records to identify sectors in which violation of the OSH standards occurred.

According to the *Times of Swaziland*, preliminary findings of a study of workers in Matsapha found 50 percent to be HIV positive. Female workers complained they felt obligated to engage in risky sexual behavior--mostly having multiple, concurrent partners who provide extra cash or in-kind assistance.