

ESWATINI 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Eswatini is an executive monarchy. King Mswati III and Queen Mother Ntfombi, the king's mother, rule as comonarchs and exercise varying levels of authority over the three branches of government. There is a bicameral parliament consisting of the Senate and House of Assembly, each composed of appointed and elected members. The king appoints the prime minister. Political power remains largely vested with the king and his traditional advisors. International observers concluded the 2018 parliamentary elections were procedurally credible, peaceful, and well managed.

The Royal Eswatini Police Service is responsible for maintaining internal security as well as migration and border crossing enforcement, and reports to the prime minister. The Umbutfo Eswatini Defense Force is responsible for external security but also has domestic security responsibilities, including protecting members of the royal family. The Umbutfo Eswatini Defense Force reports to the principal secretary of defense and the army commander. His Majesty's Correctional Services is responsible for the protection, incarceration, and rehabilitation of convicted persons and keeping order within corrective institutions. His Majesty's Correctional Services personnel sometimes work alongside police during demonstrations and other large events, such as national elections, that call for a larger complement of personnel. The king is the commander in chief of the Umbutfo Eswatini Defense Force, holds the position of minister of defense, and is the titular commissioner in chief of the Royal Eswatini Police Service and His Majesty's Correctional Service. Traditional chiefs supervise volunteer rural "community police," who have the authority to arrest suspects concerning minor offenses for trial by an inner council within the chiefdom. For serious offenses suspects are transferred to police for further investigation. Civilian authorities generally maintained effective control over the security forces. Members of the security forces committed some abuses.

Significant human rights issues included: cases of cruel, inhuman, or degrading treatment or punishment by the government; political prisoners or detainees; serious restrictions on free expression and the press; restrictions on political participation; and serious acts of corruption.

The government was inconsistent in its investigation, prosecution, and punishment of officials who committed human rights abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:**a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings. On June 9, however, prison guards allegedly beat and killed a 25-year-old inmate at the Sidwashini prison when the guards intervened in a gang-related fight among inmates. Several other prisoners were injured. The commissioner general of His Majesty's Correctional Services (HMCS) referred the case to the Royal Eswatini Police Service (REPS), where the investigation continued. To investigate whether security force killings were justifiable, civilian security forces (REPS and HMCS) refer cases to REPS for investigation and the Directorate of Public Prosecutions for prosecution. The military conducts its own internal investigations of military security force killings, followed by referrals for prosecution before military tribunals.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and law prohibit such practices, but there were occasional reports that government officials employed them. The law prohibits police from inflicting, instigating, or tolerating torture and other cruel, inhuman, or degrading treatment or punishment. It also establishes a disciplinary offense for officers who use violence or unnecessary force, or who intimidate prisoners or others with whom they have contact in the execution of their duties. In February, Bongani Kunene of Moyeni alleged that during an interrogation police beat him and placed a plastic bag over his head. During the year there were scattered reports of police brutality towards those alleged to have violated COVID lockdowns. In one pending case, a police officer was arrested and charged with attempted murder for shooting a teenager in the arm after having fired his weapon to disperse a group of teens who were contravening COVID regulations by playing soccer during the partial lockdown.

There were isolated reports throughout the country of cruel, inhuman, and degrading treatment by “community police”--untrained, volunteer security personnel who exist outside the country’s formal legal structures and are empowered by rural communities to act as vigilantes, patrolling against rural crimes such as cattle rustling. In November 2019 a group of community police severely beat five suspected thieves on their buttocks and paraded them naked through the street as punishment.

Impunity remained a concern but was not a significant problem in the security forces. The HMCS had strong internal mechanisms to investigate alleged wrongdoing and apply disciplinary measures. The reliability of such internal mechanisms within REPS and the military forces remained less clear, although members of these forces have been investigated, prosecuted, and convicted in recent years. Where impunity existed, it generally was attributable more to inefficiency than politicization or corruption, although the latter remained legitimate concerns. In recent years security forces have added training modules to help promote respect for human rights. In October the national commissioner of police publicly condemned police brutality and called on officers to refrain from cruel or degrading treatment.

Prison and Detention Center Conditions

Prison conditions varied and did not always meet international standards due to overcrowding and, in certain locations, facilities that required repair or modernization.

Physical Conditions: In September the HMCS reported a total prison population of 3,796, exceeding the prison system’s designed capacity by 958 inmates. Facilities were of mixed quality: some were old and dilapidated, while others such as the women’s prison were newer and well maintained. Prisoner-on-prisoner violence remained a concern due to increased gang activity among inmates as prison populations expanded and diversified. In June members of a prison gang attacked a group of prisoners in an effort to force them to join their ranks, resulting in a skirmish in which one inmate died, allegedly after a severe beating by prison guards (see section 1.a.).

Administration: Authorities conducted investigations of credible allegations of mistreatment and held prison officials accountable through appropriate disciplinary measures--primarily suspensions without pay. During the year the HMCS met quarterly with the Commission on Human Rights and Public Administration

Integrity (CHRP AI) to review prison conditions, individual cases, and prisoner needs (such as legal counsel).

Independent Monitoring: The government permitted monitoring of prison conditions by independent nongovernmental observers such as the International Committee of the Red Cross, the African Union, local nongovernmental organizations, and diplomatic missions. Independent monitoring groups generally received broad access to prison facilities and were able to conduct unchaperoned interviews of inmates and prison guards.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

The law requires warrants for arrests, except when police observe a crime being committed, believe a person is about to commit a crime, or conclude evidence would be lost if arrest is delayed. The law requires authorities to charge detainees with the violation of law within a reasonable time, usually within 48 hours of arrest or, in remote areas, as soon as a judicial officer is present to assume responsibility. Authorities sometimes failed to charge detainees within this time period, sometimes taking up to a week. There is a bail system, and suspects may request bail at their first appearance in court, except in serious cases such as those involving murder or rape charges. In general detainees could consult with lawyers of their choice, to whom they were generally allowed prompt access. Lawyers may be provided to indigent defendants at public expense in capital cases or if conviction of a crime is punishable by life imprisonment.

The director of public prosecutions has the legal authority to determine which court should hear a case. The director delegated this responsibility to public prosecutors. Persons convicted in the traditional courts may appeal to the High Court.

Arbitrary Arrest: In September the Supreme Court held that the arrest and five-week detention of robbery suspect Sibongiseni Khumalo had been unlawful because, shortly after the arrest, police realized that most or all of the allegedly stolen items they seized belonged, in fact, to the suspect. Nevertheless, the

government detained the suspect for more than five weeks, even after the suspect was granted bail on the second day of his detention but lacked sufficient funds to pay it. The Supreme Court concluded that the arrest and detention of the suspect had been unlawful and awarded him damages and costs.

Pretrial Detention: CHRPAI stated lengthy pretrial detention was common, with the majority of pretrial detainees incarcerated due to shortages of judges, prosecutors, and courtrooms; a weak case management and coordination system; and a lack of access to legal representation. As of December the 845 pretrial detainees was approximately 21 percent of the total prison and detainee population. A 2018 survey of detainees by CHRPAI concluded that 245 of them had been awaiting or undergoing trial for 12 or more months.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government with some limitations respected judicial independence and impartiality in nonpolitical criminal and civil cases not involving the royal family or government officials. The king appoints Supreme Court and High Court justices on the advice of the Judicial Service Commission, which is chaired by the chief justice and consists of other royal appointees.

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 that interprets the constitution have jurisdiction in matters concerning the Offices of the King or Queen Mother, the regency, chieftaincies, the Swati National Council (the king's advisory body), or the traditional regiments system. Unwritten traditional law and custom govern all these institutions. Traditional courts were unwilling to recognize many of the fundamental rights provided for in the constitution and instead relied on customary laws that often reduce or disregard these rights.

Most citizens who encountered the legal system did so through the 13 traditional courts. Each court has a presiding judicial officer appointed by the king. These courts adjudicate minor offenses and violations of traditional law and custom. Authorities generally respected and enforced traditional, as well as magistrate, High Court, and Supreme Court rulings.

Trial Procedures

The constitution and law generally provide for the right to a fair and public trial, and the judiciary generally enforced this right.

Defendants enjoy a presumption of innocence and the right to be informed of charges promptly, in detail, and with free interpretation if necessary. The constitution provides for the right to a fair public trial without undue delay, except when exclusion of the public is deemed necessary in the “interests of defense, public safety, public order, justice, public morality, the welfare of persons younger than 18, or the protection of the private lives of the persons concerned in the proceedings.” Although the judiciary generally enforced rights to a fair public trial, prolonged delays during trials in the magistrate courts and High Court were common. Court-appointed counsel is provided to indigent defendants at government expense with free assistance of an interpreter for any defendant who cannot understand or speak English or SiSwati, and conviction of the crime is punishable by death or life imprisonment. Defendants and their attorneys have access to relevant government-held evidence, generally obtained from the Public Prosecutor’s Office during pretrial consultations. Defendants have the right to adequate time and facilities to prepare a defense. Defendants may question witnesses against them and present witnesses and evidence on their own behalf. Defendants may not be compelled to testify or confess guilt. Defendants and prosecutors have the right of appeal up to the Supreme Court. The law extends the foregoing rights to all persons.

The traditional courts operate under traditional authorities, including local chiefs. In general chiefs preside over traditional courts as court presidents. Traditional courts hear both civil and minor criminal matters. By law traditional courts may only impose token monetary fines and no prison sentences longer than 12 months.

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, but some traditional laws and practices violate 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. Traditional law and custom provide for an appeals process, but the process is long and cumbersome. Under the constitution the High Court has review and appellate jurisdiction over matters decided in traditional courts. Judicial commissioners within the traditional legal system may adjudicate appeals themselves or refer appeals to a court within the civil judicial system on their own volition. Those

making or receiving an appeal also have the right to seek High Court review of traditional court decisions.

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

Political Prisoners and Detainees

There were two reports of persons detained in lengthy pretrial detention for criticism of the king. In May the government withdrew the sole remaining charge against activist Goodwill Sibiyi, who was arrested in May 2019 and charged with violating the law after having accused the king of embezzlement and lawlessness. The government dismissed one charge against Sibiyi in September 2019 and dismissed the remaining charge against him in May. Sibiyi was released on the same day the government dismissed his charge.

Also in May police arrested Ncamiso Ngcamphalala, the president of the political party Economic Freedom Fighters-Swaziland and charged him with violating a section of law that was ruled unconstitutional by the High Court in 2016. Although Ngcamphalala was released on bail in June, his charge remained pending.

Civil Judicial Procedures and Remedies

Individuals and organizations may seek civil remedies for human rights abuses, including appeal to international courts or bodies. Administrative remedies are also available under civil service rules and regulations.

f. Arbitrary or Unlawful 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.” There were isolated reports of unlawful interference by the government. The wife of a blogger wanted by police in connection with various alleged crimes claimed that police officers visited her home without a warrant, harassed her, and compelled her to accompany them to a police station for questioning regarding her

husband's whereabouts. The law requires police to obtain a warrant from a magistrate before searching homes or other premises, but officers with the rank of subinspector or higher have authority to conduct a search without a warrant if they believe delay might cause evidence to be lost.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution and law provide for freedom of expression, including for the press, but the government restricted this right, particularly with respect to press freedom and matters concerning the monarchy.

Freedom of Speech: In one case an activist was arrested for criticizing the king in a civil court case (see section 1.e, Political Prisoners and Detainees).

Freedom of Press and Media, Including Online Media: The law empowers the government to ban publications it deems “prejudicial or potentially prejudicial to the interests of defense, public safety, public order, public morality, or public health.”

Daily independent newspapers criticized government corruption and inefficiency but generally avoided criticizing the royal family. Independent online media and an independent monthly magazine were more likely to criticize the royal family as well as government. After the new government took office in November 2018, government officials became far more communicative, with official spokespersons appointed to every ministry, the launch of an official government Twitter page, and quarterly, on-the-record press briefings for all editors with the prime minister and other cabinet members.

Broadcast media remained under state control. Most persons obtained their news from radio broadcasts. Access to speak on national radio was generally limited to government officials, although the University of Eswatini, religious organizations, and the country's first community radio station have received radio licenses.

Violence and Harassment: Zweli Martin Dlamini, editor of *Swaziland News*, fled to South Africa after police harassed and allegedly physically abused him for criticizing the king. On at least one other occasion, editors of the two daily newspapers were pressured and threatened by senior government officials to refrain from printing articles that criticized the royal family for its lavish lifestyle

and spending practices. In one instance government officials admonished editors for having failed to defend the king when someone criticized the royal family's practices while in the editors' presence.

Censorship or Content Restrictions: Although journalists have become more willing to speak out against the government in recent years, criticism of the king was strongly discouraged by government and traditional leaders. Most journalists and broadcast media felt compelled to avoid criticizing the palace due to fear of reprisals, such as being professionally ostracized or losing paid government advertising. Self-censorship was widespread in relation to the king, but virtually nonexistent in relation to the government. Government officials and security personnel repeatedly made it clear that criticism of the king could result in serious consequences.

National Security: Although the country has no formal criminal libel or slander laws and has no laws forbidding criticism of the monarchy, the government prosecuted one individual for criticizing the king, using provisions of antiterrorism and other laws (see section 1.e, Political Prisoners and Detainees).

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution and law provide for the freedoms of peaceful assembly and association, and the government generally respected these rights.

Freedom of Peaceful Assembly

Several national demonstrations and community meetings and rallies occurred without incident, although such gatherings were far less widespread during the year in view of the COVID pandemic and health-related restrictions on large gatherings. In September police violated existing law by prohibiting a proposed

peaceful gathering by members of the political party SWADEPA. Throughout the year there were isolated reports of violence by both demonstrators and security forces, although there were no reports of serious injury or death.

Freedom of Association

The law provides for the right of freedom of association, and the government generally respected this right. Although several political parties competed in elections, the constitution requires candidates for public office to run as independents; their parties may not offer slates of candidates, so their affiliation does not appear on ballots. In 2019 the registrar of companies refused to register a lesbian, gay, bisexual, transgender, intersex (LGBTI) nongovernmental organization on the grounds the constitution and domestic laws do not protect against discrimination on the basis of sex or sexual orientation and prohibit same-sex relations. The LGBTI organization challenged the government's stance as being unconstitutional in a lawsuit that remained pending (see also section 6).

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

In-country Movement: By traditional law and custom, chiefs have the power to decide who may reside in their chiefdoms; evictions sometimes occurred due to internal conflicts, alleged criminal activity, or opposition to the chief.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection

and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Freedom of Movement: The government generally allowed freedom of internal movement for resettled refugees. Refugees could visit the neighboring countries of Mozambique and South Africa with ease.

Durable Solutions: The government permanently resettled refugees in the country. It allowed some refugees to compete for jobs and granted them work permits and temporary residence permits. The government also provided refugees with free transportation twice a week to buy and sell food in local markets. Refugees who live in the country more than five years are eligible for citizenship. The government conducted a psychological support program that provided counseling to refugees.

g. Stateless Persons

UNHCR figures from 2016 found only three stateless persons, who were descendants of refugees. The constitution does not provide for women to transmit citizenship except in cases of births out of wedlock. In 2019 in consultation with UNHCR, the government approved a national action plan to end statelessness, including by eliminating gender discrimination in the country's nationality laws and allowing women to transmit citizenship.

Section 3. Freedom to Participate in the Political Process

Political rights were restricted, although citizens could choose 59 of the 69 members of the House of Assembly in procedurally credible, periodic elections held by secret ballot.

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 69 members of the House of Assembly, 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.

Elections and Political Participation

Recent Elections: International observers described the 2018 parliamentary elections as credible, peaceful, and well managed. The system of nominations in the country organizes nominations for members of parliament by chiefdoms. Traditional chiefs convene nominating meetings for candidates to parliament and other offices and in a few cases confirm whether nominees are members of the chiefdom. Candidates for each chiefdom are then chosen in a primary election conducted by secret ballot. Although some chiefs may exercise influence through lobbying, there was little evidence their influence was widespread or decisive in the formation of electoral lists.

Political Parties and Political Participation: The constitution provides for freedom of association but does not address how political parties may operate, and there was no legal mechanism for them to contest elections. The constitution also requires that candidates for public office compete on their individual merit, which courts have interpreted as blocking competition based on political party affiliation.

Participation in the traditional sphere of governance and politics takes place predominantly 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 maintenance of law and order. Although local custom mandates that chieftaincy is hereditary, the constitution, while recognizing that chieftaincy is “usually hereditary and is regulated by Swati law and custom,” also states the king “may 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 the death and burial of chiefs.

Participation of Women and Members of Minority Groups: No laws limit participation of women and members of minority groups in the political process, and they did participate. The constitution provides for five of the king’s 10 appointed seats in the House of Assembly to be held by women and for the appointed members to represent “interests, including marginalized groups not already adequately represented in the House.” The king appointed only three women to the House of Assembly following the 2018 elections, in which only two women were elected. If, after an election, women constitute less than 30 percent of the total membership of parliament, the constitution and law require the House to elect four additional women, one from each region. The House complied with this requirement.

The king appoints 20 members of the 30-seat Senate, and the House of Assembly elects the other 10. The constitution requires that eight of the 20 members appointed by the king be women and that five of the 10 members elected by the House be women. The House of Assembly complied by electing five women to the Senate, but the king appointed only seven women.

Widows in mourning (for periods that may extend up to two years) were prevented from appearing in certain public places or being in proximity to the king or a chief's official residence. Widows were sometimes excluded from running for office or taking active public roles in their communities during those periods.

There were very few ethnic minorities in the country, and they were represented in government at a commensurate ratio.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and, in contrast with previous years, the government generally implemented the law effectively. There were isolated reports of government corruption during the year. Officials sometimes engaged in corrupt practices with impunity.

Corruption: Corruption continued to be a problem, most often involving personal relationships and bribes being used to secure government contracts on large capital projects. In contrast with previous years, prosecutors pursued corruption charges against several officials, including a prominent member of parliament, and a handful of senior current and former government officials. In March, Director of Social Welfare Moses Dlamini in the deputy prime minister's office was arrested and charged with corruption, sexual harassment, and indecent assault after allegedly demanding sexual favors from a female subordinate as a quid pro quo for approving her participation in a training course in South Africa. In May the director of public prosecutions enrolled eight additional corruption cases, including one alleging that a prominent member of parliament had misappropriated more than six million emalangeneni (\$360,000) of public funds.

There were credible reports that a person's relationship with government officials influenced the awarding of government contracts; the appointment, employment, and promotion of officials; recruitment into the security services; and school admissions. In contrast with previous years, authorities took action on some nepotism cases. In May, Thembinkosi Mamba, former principal secretary in the

Ministry of Justice, was charged with corruption for allegedly awarding a contract valued at more than one million emalangeni (\$60,000) to his fiancée.

Although parliament's Public Accounts Committee was limited in its authority to apply and enforce consequences except by drawing public attention to potential corruption, it continued to pursue investigations, particularly those related to public spending, and received broad media attention for its efforts.

Financial Disclosure: The constitution prohibits government officials from assuming positions in which their personal interests are likely to conflict with their official duties. The constitution requires appointed and elected officials to declare their assets and liabilities to CHRPAI. The commission is mandated to monitor and verify disclosures. There are criminal and administrative sanctions for noncompliance. Sanctions for failure to disclose assets and conflicts of interest include removal from office, disqualification from holding a public office for a period determined by a court, and confiscation of any property illegitimately acquired during tenure in office. According to the commission, the majority of those required to declare assets and liabilities did so, but the commission suspected underreporting in some cases. The commission did not make this information public.

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

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative but only sometimes responsive to their views.

Government Human Rights Bodies: CHRPAI is empowered by the constitution to investigate complaints of corruption, abuse of power, human rights abuses, and mismanagement of public administration. During the year CHRPAI investigated dozens of complaints, made findings of fact, appeared in court on behalf of aggrieved parties, issued recommendations to judicial and governmental bodies, and provided human rights training to law enforcement officers. Topics CHRPAI addressed included evictions, corporal punishment in schools, police torture, and prolonged detentions. CHRPAI increased cooperation and collaboration with the HMCS and REPS on human rights matters, including investigation of human rights abuses, and secured seconded staff from the HMCS and REPS to help it conduct human rights investigations.

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

Women

Rape and Domestic Violence: The law criminalizes domestic violence and rape, including rape of a spouse or intimate partner. The penalties for conviction of rape are up to 30 years' imprisonment for first offenders and up to 40 years' imprisonment for repeat offenders. The penalty for conviction of domestic violence is a substantial fine, up to 15 years' imprisonment, or both. Several convicted perpetrators received sentences of 10 to 20 years' imprisonment, and one man was sentenced in August to a total of 55 years' imprisonment after repeatedly raping his daughter and niece (30 years for rape and 25 for other offenses). In March prosecutors charged the director of the children's unit in the Deputy Prime Minister's Office, Lucky Ndlovu, with rape of a minor. Although men remained the primary perpetrators, women have also been arrested and convicted under the law.

Rape remained common, and domestic violence against women sometimes resulted in death. There were few social workers or other intermediaries to work with victims and witnesses to obtain evidence of rape and domestic violence.

Rural women who pursued prosecution for domestic violence in traditional courts often had no relief if family intervention failed, because traditional courts were less sympathetic to women and less likely than courts using Roman-Dutch-based law to convict men of spousal abuse.

Other Harmful Traditional Practices: Accusations of witchcraft were employed against women in family or community disputes that could lead to their being physically attacked, driven from their homes, or both.

Sexual Harassment: The law establishes broad protections against sexual harassment, with penalties if convicted of a monetary fine, 10 years' imprisonment, or both.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: Women occupied a subordinate role in society. The dualistic nature of the legal system complicated the protection of women's rights. Since

unwritten customary law and custom govern traditional marriage and certain matters of family law, women's rights often were unclear and changed according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody, property, and inheritance in the event of divorce or death.

In 2019 the High Court ruled common law "marital power" that formerly denied married women the right to act without their husband's consent in many instances is unconstitutional. The High Court in 2019 also struck down sections of the law that allowed marital power and spousal property rights to be governed by Swazi law and custom.

Women faced employment discrimination and were prevented from working in some industries (see section 7.d.). The constitution provides for equal access to land, and civil law provides for women to register and administer property, execute contracts, and enter into transactions in their own names.

Girls and women in rural areas faced discrimination by community elders and authority figures. Boys received preference in education. Although customary law considers children to belong to the father and his family if the couple divorce, custody of the children of unmarried parents typically remains with the mother, unless the father claims paternity. When the husband dies, tradition dictates the widow must stay at the residence of her husband's family in observance of a strict mourning period for one month. Media reported widows heading households sometimes became homeless and were forced to seek public assistance when the husband's family took control of the homestead. Women in mourning attire were generally not allowed to participate in public events and were barred from interacting with royalty or entering royal premises. In some cases the mourning period lasted up to two years. No similar mourning period applied to men.

Children

The law sets the age of majority at 18. It defines child abuse and imposes penalties for abuse; details children's legal rights and the responsibility of the state, in particular with respect to orphans and other vulnerable children; establishes structures and guidelines for restorative justice; defines child labor and exploitative child labor; and sets minimum wages for various types of child labor.

Birth Registration: Birth on the country's territory does not convey citizenship. Under the constitution children derive citizenship from the father, unless the birth occurs outside marriage and the father does not claim paternity, in which case the child acquires the mother's citizenship. If a Swati woman marries a foreign man, even if he is a naturalized Swati citizen, their children carry the father's birth citizenship.

The law mandates compulsory registration of births. According to the 2014 Multiple Indicator Cluster Survey, 50 percent of children younger than five were registered, and 30 percent had birth certificates. Lack of birth registration may result in denial of public services, including access to education.

Education: The law requires that parents provide for their children to complete primary school. Parents who do not send their children to school through completion of primary education were required to pay fines for noncompliance. Education was tuition-free through grade seven. The Office of the Deputy Prime Minister received an annual budget allocation to subsidize school fees for orphans and other vulnerable children (OVC) in both primary and secondary school. Seventy percent of children were classified as OVC and so had access to subsidized education through the secondary level.

Child Abuse: The law provides broad protections for children against abduction, sexual contact, and several other forms of abuse. The penalty for conviction of indecent treatment of children is up to 20 or 25 years' imprisonment, depending upon the age of the victim. Child abuse remained a serious problem, especially in poor and rural households, although authorities have increased prosecutions of such abuse.

Corporal punishment was banned in schools in 2015, and the last reported incident occurred in 2019.

Child, Early, and Forced Marriage: The legal age of marriage is 18 for both boys and girls, but with parental consent and approval from the minister of justice, girls may marry at 16. The government recognizes two types of marriage, civil marriage and marriage under traditional law. In March prosecutors charged director of the children's unit in the Deputy Prime Minister's Office Lucky Ndlovu with rape of a minor whom he attempted to marry when she was age 16. Prosecutors argued that the marriage was invalid since the minor lacked the legal capacity to consent.

Sexual Exploitation of Children: The law prohibits commercial sexual exploitation, sale, offering, and procuring of children for prostitution, and practices related to child pornography; conviction of these acts carries a substantial fine, up to 25 years' imprisonment, or both. Children were occasional victims of sex trafficking and commercial sexual exploitation. The law criminalizes "mistreatment, neglect, abandonment, or exposure of children to abuse" and imposes a statutory minimum of five years' imprisonment if convicted. Although the law sets the age of sexual consent at 16, a 2018 law provides for a penalty of up to 20 years' imprisonment for conviction of "maintaining a sexual relationship with a child," defined as a relationship that involves more than one sexual act with a person younger than 18. The government enforced the law effectively, charging at least 163 individuals between January and September, prosecuting dozens of individuals, and sentencing multiple perpetrators to jail for more than 50 years in the most egregious cases.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's Annual Report on International Parental Child Abduction at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

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 <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law protects the rights of persons with physical, sensory, intellectual, and mental disabilities, including their access to education, employment, health services, information, communications, buildings, transportation, the judicial system, and other state services. The law mandates access to health care for persons with disabilities and accessibility to buildings, transportation, information, communications, and public services.

The Deputy Prime Minister's Office is responsible for upholding the law and for protecting the rights of persons with disabilities. The government did not effectively enforce the law. Persons with disabilities complained of government neglect and a significantly lower rate of school attendance for children with disabilities. Little progress has been made to date in expanding accessibility and access to public services for persons with disabilities, although some newer government buildings, and those under construction, included various improvements for persons with disabilities, including access ramps. Public transportation was not easily accessible for persons with disabilities, and the government did not provide any alternative means of transport.

There were only minimal services provided for persons with disabilities, and there were no programs in place to promote the rights of persons with disabilities. There was one private school for students with hearing disabilities and one private special-education school for children with physical or mental disabilities. The hospital for persons with mental disabilities, located in Manzini, was overcrowded and understaffed.

By custom, persons with disabilities may not be in the presence of the king, because they are believed to bring "bad spirits." Persons with disabilities were sometimes neglected by families.

Members of National/Racial/Ethnic Minority Groups

Governmental and societal discrimination sometimes occurred against nonethnic Swatis, primarily persons of South Asian descent. Nonethnic Swatis sometimes experienced difficulty in obtaining official documents, including passports, and suffered from other forms of governmental and societal discrimination, such as delays in receiving building permits for houses, difficulties in applying for bank loans, and being required to obtain special permits or stamps to buy a car or house.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

While there are colonial-era common law prohibitions against sodomy, no penalties are specified, and there has never been an arrest or prosecution for consensual same-sex conduct. The law does not prohibit discrimination against LGBTI persons in housing, employment, nationality laws, and access to government services such as health care. Societal discrimination against LGBTI persons, although gradually lessening, remained a concern, and LGBTI persons

often concealed their sexual orientation and gender identity. LGBTI persons who were open regarding their sexual orientation and relationships faced censure and exclusion from the chieftdom-based patronage system. Some traditional, religious, and government officials criticized same-sex sexual conduct as neither morally Swati nor Christian. Despite these barriers, LGBTI persons conducted several well publicized public events during the year, including a virtual pride celebration and various organized dialogues, all of which occurred without incident. In contrast to prior years, the government invited outspoken LGBTI rights advocates to participate in government-hosted workshops and dialogues designed to improve public policy, promote inclusion, and develop better economic opportunities for the youth.

HIV and AIDS Social Stigma

Although HIV-related stigma and discrimination appeared to be in decline, discriminatory attitudes and prejudice against persons with HIV persisted. Individuals with HIV reported it was difficult or uncomfortable for them to disclose their HIV status and that frequently their status was revealed to others without their permission. The armed forces encouraged testing and did not discriminate against active military members testing positive. Persons who tested HIV-positive, however, were not recruited by the armed forces.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that workers, except for those in essential services, have the right to form and join independent unions, conduct legal strikes, and bargain collectively. The law places restrictions on these rights. The law provides for the registration of unions and federations but grants far-reaching powers to the labor commissioner with respect to determining eligibility for registration.

The constitution and law provide for the right to organize and bargain collectively, subject to various legal restrictions. The law gives employers discretion as to whether to recognize a labor organization as a collective employee representative if less than 50 percent of the employees are members of the organization. If an employer agrees to recognize the organization as the workers' representative, the law grants the employer the ability to set conditions for such recognition. The law provides for the registration of collective agreements by the Industrial Court. The court is empowered to refuse registration if an agreement conflicts with the law,

provides terms and conditions of employment less favorable to employees than those provided by any law, discriminates against any person, or requires membership or nonmembership in an organization as a condition for employment. The Conciliation, Mediation, and Arbitration Commission (CMAC) presides over resolution of all labor disputes.

Employees not engaged in “essential services” have the right to undertake peaceful protest actions to “promote or defend socioeconomic interests” of workers. The law defines “socioeconomic interest” as including “solutions to economic and social policy questions and problems that are of direct concern to the workers but shall not include matters of a purely political nature.” The law prohibits antiunion discrimination. Extensive provisions allow workers to seek redress for alleged wrongful dismissal, and courts have broad powers to award reinstatement and retroactive compensation.

Although the law permits strikes, the right to strike is strictly regulated, and the administrative requirements to register a legal strike made striking difficult. Strikes and lockouts are prohibited in essential services, and the minister’s power to modify the list of these essential services provides for broad prohibition of strikes in sectors not normally deemed essential, including postal services, telephone, telegraph, radio, and teaching. The procedure for announcing a protest action requires advance notice of at least seven 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 alternative dispute resolution mechanisms before CMAC are exhausted and a secret ballot of union members conducted. The commissioner of labor has the power to “intervene” in labor disputes before they are reported to the commission if there is reason to believe a dispute could have serious consequences for the employers, workers, or the economy if not resolved promptly.

The government generally enforced the law, although labor inspectors lacked authorization to assess penalties and had insufficient resources to enforce compliance.

In August the government and labor unions resolved a years-long dispute over annual cost-of-living adjustments to public-sector wages, signing a collective agreement to memorialize the settlement. Resolution of the case removed a major

irritant in government-labor relations. Most observers agreed the absence of public demonstrations was probably due to COVID-19 restrictions on gatherings.

To protect employee welfare and prevent exploitation, the government has legal restrictions on labor brokers who recruit domestically for foreign contracts of employment, but these were inconsistently enforced.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor and imposes penalties commensurate with similar crimes. Government did not enforce the law in all sectors. Forced labor occurred almost exclusively in the informal sector, where labor laws applied but were rarely enforced.

Forced labor, including forced child labor, takes place in the sectors of domestic work, agriculture, and market vending.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law does not prohibit all of the worst forms of child labor. The minimum age for employment is 15, for night work 16, and for hazardous employment 18. The Employment Act, however, does not extend minimum age protections to children working in domestic or agricultural work. The law also prohibits children younger than 18 from engaging in hazardous work in industrial undertakings, including mining, manufacturing, and electrical work, but these prohibitions do not address hazardous work in the agriculture sector. The law limits the number of night hours children may work on school days to six and the overall hours per week to 33.

The Ministry of Labor, the Office of the Deputy Prime Minister through the Department of Social Welfare, and REPS are responsible for enforcement of laws relating to child labor. The government did not effectively enforce laws combating child labor. The government did not dedicate sufficient resources to combat child labor, coordinate effectively among different sectors, or provide labor inspectors sufficient authority in the informal sector, where the majority of child labor took place.

Penalties for conviction of child labor violations were commensurate with those for similar laws.

Children were employed in the informal sector, particularly in domestic services and agricultural work such as livestock herding. This work might involve activities that put at risk their health and safety, such as working long hours, carrying heavy loads, being exposed to pesticides, and working alone in remote areas.

Child domestic servitude was also prevalent, disproportionately affecting girls. Such work could involve long hours of work and could expose children to physical and sexual exploitation by their employer. Children's exploitation in illicit activities was a problem. Children, particularly in rural areas, grew, manufactured, and sold cannabis.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

d. Discrimination with Respect to Employment and Occupation

The labor law prohibits discrimination in employment and occupation based on race, gender, language, HIV/AIDS or other communicable disease status, religion, political views, or social status. The law does not prohibit discrimination based on age, sexual orientation, and gender identity.

The government did not enforce the law consistently. Gender-based discrimination in employment and occupation occurred (see section 6). While women have constitutional rights to equal pay and treatment and may take jobs without the permission of a male relative, there were few effective measures protecting women from discrimination in hiring, particularly in the private sector. The average wage rates for men by skill category consistently exceeded those of women.

Persons with disabilities faced discrimination in hiring and access to work areas. The government did not effectively raise awareness of or enforce disability and employment law provisions. Openly LGBTI persons were subject to discrimination in employment and to social censure.

Migrant workers enjoy the same legal protections, wages, and working conditions as citizens but sometimes faced discrimination in employment due to societal prejudice against foreigners.

e. Acceptable Conditions of Work

There is no national minimum wage. The Ministry of Labor and Social Security sets wage scales for each industry. There is a legally mandated sliding scale of minimum wages depending on the type of work performed. Minimum wages are above the poverty line in all sectors.

There is a standard 48-hour workweek for most workers and a 72-hour workweek for security guards spread over a period of six days. The law requires all workers to have at least one day of rest per week and provides for premium pay for overtime. Most workers received paid annual leave and sick leave.

The government set appropriate safety standards for industrial operations and encouraged private companies to develop accident prevention programs. By law workers may remove themselves from situations that endanger their health or safety without jeopardy to their employment. Authorities did not effectively protect employees in this situation.

The Ministry of Labor and Social Security is responsible for enforcement of labor laws but did not effectively enforce them. The government did not dedicate sufficient resources to enforcement, resulting in constraints such as a lack of motor vehicles and inability to hire additional staff. The number of labor inspectors was insufficient to enforce the law, and while the labor commissioner's office conducted inspections in the formal sector, it did not conduct inspections in the informal sector.

Labor laws are applicable to the informal sector but were seldom enforced. Most workers were in the informal sector, but credible data on the proportion were not available. Workers in the informal sector, particularly foreign migrant workers, children, and women, risked facing hazardous and exploitative conditions. Minimum wage guidelines do not apply to the informal sector.

Public transportation workers complained that they were required to work 12 hours a day or more without overtime compensation and that they were not entitled to pensions and other benefits.

Credible data on workplace fatalities and accidents were not available.