

# ESWATINI 2021 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Eswatini is a monarchy with limited democratic checks on the king's power. King Mswati III and Queen Mother Ntfombi, the king's mother, rule as comonarchs and exercise ultimate 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. 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 Defence Force also has domestic security responsibilities, including protecting members of the royal family. The Umbutfo Eswatini Defence Force reports to the chief defense officer 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 Defence 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 Services. Traditional chiefs supervise volunteer rural "community police," who have the authority to arrest suspects who commit minor offenses for trial by an inner council within the chieftdom. For serious offenses suspects are transferred to police for further investigation. Civilian authorities generally maintained effective control over the security forces. There were credible reports that members of the security forces committed some abuses.

In late June and early July, the country experienced unprecedented civil unrest following the banning of petition deliveries, resulting in dozens of deaths and

hundreds of injuries. The unrest was marked by violence, looting, arson, and large-scale destruction of property. In October civil unrest again sparked protests, resulting in at least one death and dozens of injuries. During the unrest, the military was deployed to restore order, and the government disrupted internet service. The government acknowledged that there were 34 fatalities from civil unrest in late June and early July, but other groups reported much higher numbers. There were credible reports that security forces used excessive force responding to unrest.

Significant human rights issues included credible reports of: unlawful or arbitrary killings by the government; cruel, inhuman, or degrading treatment or punishment by the government; political detainees; serious problems with the independence of the judiciary; serious restrictions on free expression and media, including an allegation of violence against foreign journalists; serious restrictions on internet freedom; substantial interference with the freedom of peaceful assembly; restrictions on freedom of movement; serious and unreasonable restrictions on political participation; and the existence of the worst forms of child labor.

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

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were several reports that the government or its agents committed arbitrary or unlawful killings during periods of unrest. Civilian security forces including the Royal Eswatini Police Service (REPS) and His Majesty's Correctional Services (HMCS) refer cases to REPS for investigation into whether security force killings were justifiable, and to the Directorate of Public Prosecutions for prosecution. The military conducts its own investigations of defense force killings, followed by referrals for prosecution before military tribunals.

In May law student Thabani Nkomonye died allegedly from a car accident.

Although police investigated the crash site, his body was not found until days after the accident, prompting concerns that REPS was responsible for his death. Acting Prime Minister Themba Masuku called for an inquest into the circumstances surrounding the student's death; this was pending as of year's end.

During the civil unrest in late June and early July, according to media reports and civil society, security and police forces killed dozens of persons. In July the national commissioner of the police stated that 34 individuals lost their lives during the unrest, but civil society organizations reported higher numbers of deaths. In October the Commission on Human Rights and Public Administration (CHRPA), a semiautonomous government body, released a preliminary assessment specifically reviewing events on June 28-29. CHRPA verified 46 deaths due to the unrest, although the report stated that "this figure does not rule out the possibility of more deaths," citing swift funerals and the possibility of unregistered deaths. CHRPA also verified that a total of 245 persons sustained gunshot injuries, including 17 children, 17 women, and two elderly persons. The Commission could not verify if injuries were the result of rubber bullets or live rounds of ammunition. CHRPA's assessment stated that lethal force was used indiscriminately on protesters and members of the public who were not engaged in protests, as demonstrated by the death of children and women and the injuries sustained by victims on the upper body, such as head, abdomen, and spinal area.

Internal investigations by REPS and the military were still pending as of year's end. The government maintained that security forces took appropriate measures to restore law and order. In September Sizwe Shoulder, who lost his mother during the unrest, allegedly due to complications after she was beaten by soldiers, initiated court proceedings against Prime Minister Cleopas Dlamini, alleging that his mother was deprived of her right to life.

On October 20, at least one person was killed, and 80 others were wounded by security forces during a second round of unrest, according to media reports and civil society. In addition, media and witnesses reported that police stopped two buses carrying protesters and deployed tear gas inside the buses. Those on the bus could be seen in video footage jumping from the bus windows as oncoming cars swerved to avoid them. Gun shots could also be heard in the video footage, and protesters alleged that police shot at them with rubber bullets as they ran to escape

the tear gas. At least one protester was shot with a rubber bullet in the face, according to local media.

## **b. Disappearance**

There were no credible reports of disappearances by or on behalf of government authorities. Some citizens, however, alleged that they were prevented from filing missing persons reports for relatives who disappeared during the civil unrest.

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

There were numerous reports that security forces employed such practices. 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. During the year there were several reports of police brutality towards those alleged to have violated curfews that were imposed during the unrest and continued under the auspices of COVID-19 responses. According to media and civil society, security forces beat citizens on the buttocks and elsewhere for breaking curfew. There was also a report that soldiers forced a group of boys to eat raw meat they were preparing to cook. According to media reports the boys were within the confines of their homestead but were gathered after curfew. There were numerous reports of police brutality during drug raids in Lavumisa and Hosea, including one report in August of a pregnant woman who was beaten badly by police and subsequently miscarried. Thomas Nhlanhla Tsabedze, whose leg was amputated after being shot in the June unrest, sued the government after police officers in August allegedly kicked his amputated leg stump repeatedly until the stiches broke open. In October 60 workers from the Swaziland Agricultural and Plantation Workers Union claimed that soldiers stopped them from traveling to a planned protest march, beat them, and forced them to roll in the mud.

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 September a community police officer allegedly shot a man in the leg. REPS reported they initiated an investigation into the matter.

Impunity was a problem in the security forces. HMCS, REPS, and the military had internal mechanisms to investigate alleged wrongdoing and apply disciplinary measures. The reliability of such internal mechanisms, however, remained unclear, although members of these forces have been investigated, prosecuted, and convicted. Where impunity existed, it generally was attributable more to inefficiency than politicization or corruption, although the latter remained legitimate concerns. Security forces employed training modules to help promote respect for human rights.

### **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 HMCS reported a total prison population of 3,362, exceeding the prison system's designed capacity by 524 inmates. Of those in prison, 804 were awaiting trial. 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 gang activity among inmates.

**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 HMCS met with CHRPA as needed 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, with some limitations.

#### **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. There were reports that the government failed to observe 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 an offense 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:** Civil society contacts reported numerous accounts of arbitrary arrests of citizens during the civil unrest in June and July, alleging that security forces arrested individuals who had not committed any crimes but were simply near areas with protest and looting activity. According to the national commissioner of the police, authorities arrested 697 citizens for various acts of looting, vandalism, and arson during the unrest.

In August arrest warrants were issued for three members of parliament (MPs), Mduzuzi Simelane, Mduzuzi Mabuza Bacede, and Mthandeni Dube. Authorities subsequently arrested Bacede and Dube and charged them with sedition and

murder, allegedly for their roles in the civil unrest. Simelane remained a fugitive. As of year's end, the arrested MPs were denied bail and appealed this denial to the Supreme Court. Some contacts reported concerns that the arrest of the MPs was politically motivated.

**Pretrial Detention:** CHRPA stated that lengthy pretrial detention was common, with most 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 year's end, the 804 pretrial detainees comprised approximately 24 percent of the total prison and detainee population. There were no reports of pretrial detention equaling or exceeding the maximum sentence for the alleged crime. Civil society groups reported exorbitant bail fees for pretrial detainees held in connection with the civil unrest.

#### **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, but the government often failed to respect judicial independence. The king appoints Supreme Court and High Court justices. According to the constitution, these appointments are made with the advice of the Judicial Service Commission, which is chaired by the chief justice and consists of other royal appointees, but civil society groups alleged that the king made judicial appointments without consultations.

Judicial powers are based on a dual legal system: Roman-Dutch law, and a system of traditional courts that follows traditional law and custom. Although a 2018 High Court ruling determined that the constitution is the law of the land and takes precedence when there is a conflict between traditional law and the constitution, there was sometimes no clear delineation of jurisdiction between the two legal systems. This gray area allowed for judicial discretion and alleged government interference. Neither the Supreme Court nor the High Court, which interpret 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 did not recognize many of the fundamental rights provided for in the constitution and record keeping of traditional court proceedings was limited.

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 abuses 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, but there were reports that the judiciary failed to enforce 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 an open, 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 most 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. Free interpreters are provided for any defendant who cannot understand or speak English or SiSwati if conviction of the crime is punishable by death or life imprisonment. Defendants and their attorneys sometimes lacked access to relevant government-held evidence, such as postmortem reports and ballistic evidence. Government evidence was generally obtained from the Public Prosecutor’s Office during pretrial consultations. Defendants sometimes lacked the right to adequate time and facilities to prepare a defense, particularly during the height of the unrest when many arrested for looting and other alleged crimes were rushed through speedy trials in the traditional courts. 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 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; in certain cases, however, the traditional courts exceeded their authority when imposing monetary fines.

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 was long and cumbersome. According to 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 was one report of political detainees. In July MPs Dube and Bacede, who had been supportive of political reforms, were arrested and a third MP, Simelane, was in hiding and considered a fugitive (see Section 1.d.). The defendants were denied bail on multiple occasions and appealed to the Supreme Court but were still being held without bail at year’s end and their trial, which began in November, was still 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.” 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. There were reports of unlawful interference by the government. In June, July, and October the government disrupted internet services and social media platforms (see section 2.a., internet freedom). After the unrest and looting in late June there were widespread reports of security forces entering homes and demanding receipts for any expensive items such as mattresses or televisions. In August several families in Nhlngano alleged that their homes were entered without judicial or appropriate authorization during drug raids.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

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

**Freedom of Expression for Members of the Press and Other 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.

Broadcast media remained largely under state control. Most persons obtained their news from radio broadcasts. Access to speak on national radio was generally limited to government officials. In April the University of Eswatini opened a student-run radio station which broadcast to a small area near its campus, but COVID-19, civil unrest, and intermittent school closures disrupted broadcasting efforts.

**Violence and Harassment:** During the civil unrest, the Media Institute of Southern Africa reported security forces injured two journalists. On June 30, authorities tear-gassed journalist Andile Langwelya of the privately owned weekly *Independent News*. On July 4, two journalists with the South African news website *New Frame*, South African Magnificent Mndebele and local national Cebelihle Mbuyisa, reported that they were detained and abused by security forces for covering civil unrest in June and July. The journalists reported they were arrested, taken to a police station, beaten, and threatened with suffocation when police placed plastic bags over their heads. They were released the same day and treated at a local hospital after lawyers for *New Frame* intervened. In July the Information, Communications, & Technology (ICT) Ministry requested all journalists in the country register their personal contact details in a state-run database. After questions regarding the rationale for the request were raised, the government dropped enforcement.

**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 believed they were 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. In late 2020 Mbongeni Mbingo, the managing editor of the daily newspaper *The Eswatini Observer* was suspended, allegedly for not defending the king, but he was reinstated to his position in November after being absolved of any wrongdoing. In one example of blatant intimidation, ICT Minister Princess Sikhanyiso Sikhanyisoso summoned editors to a private meeting where,

according to the press, she questioned their patriotism and accused them of “burning the country” for reporting on the political unrest.

**National Security:** Although the country has no formal criminal libel or slander laws and has no laws forbidding criticism of the monarchy, the government was sensitive to comments criticizing the king, using provisions of antiterrorism and other laws.

### **Internet Freedom**

The government severely restricted access to the internet over the course of several weeks following the civil unrest. During the height of the unrest in late June and early July the government ordered internet service providers to cease operations. Internet access and cellular data were shut down completely for approximately one week. When internet service providers were allowed to resume service, they were instructed to block social media applications and websites for another few weeks. In July, August, and October the government subsequently orchestrated intermittent internet outages and social media blockages prior to planned demonstrations or protests.

### **Academic Freedom and Cultural Events**

There were some reports of government restrictions on academic freedom and cultural events. In August Eswatini Broadcasting Information Service broadcasters were allegedly issued a directive to cease playing any music from two gospel singers who were also MPs who supported calls for democratic reforms. There were reports of attempts to influence academic appointments based on political views.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of peaceful assembly and association, but the government failed to respect these rights on some occasions.

### **Freedom of Peaceful Assembly**

Several national demonstrations and community meetings and rallies occurred without incident, including marches to deliver petitions. On June 24, however,

acting Prime Minister Themba Masuku announced the suspension of the delivery of petitions and protests, citing COVID-19 regulations and abuses of the law. The acting prime minister's statement noted that the "full might of the law" would come to anyone who violated this order, and that there would be "zero tolerance" for those who disregard the law. National Commissioner of the Police William Dlamani stated "this is war" when describing the need to ban petition deliveries. In July Minister of Housing and Urban Development Prince Simelane declared that security forces would "fight fire with fire." On October 21, he announced that cities and towns in the country should cease approving requests for gatherings and protests.

### **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; parties may not offer slates of candidates, a candidate's affiliation does not appear on ballots.

### **c. Freedom of Religion**

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

### **d. Freedom of Movement and the Right to Leave the Country**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. Following unrest in the summer the government instituted restrictive curfews from dusk to dawn. After the unrest and violence subsided, curfews remained in place under the auspices of COVID-19 responses, but there were reports that the government maintained curfews in response to the unrest and continued acts of arson. On December 10, the curfews were lifted. During the height of unrest in June and July, Airlink, the sole commercial air provider in the country, suspended flights for several days but the airport remained operational.

**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, or asylum seekers, as well as 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.

**Durable Solutions:** The government permitted refugees to integrate locally in the country. It allowed some refugees to apply for jobs and granted them work permits and temporary residence permits. Refugees who live in the country more than five years are eligible for citizenship.

### **g. Stateless Persons**

UNHCR figures from 2016 recorded only three stateless persons who were descendants of refugees. The actual number of stateless persons, however, was likely higher. There were reports of children being unable to access services due to lack of citizenship documentation. The constitution does not provide for women to transmit citizenship to their children, except in cases of births out of wedlock, or to their spouse. Low levels of birth registration also contributed to increased risks of statelessness (see section 6, Children, Birth Registration).

## **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 country organized nominations for members of parliament by local constituencies, or *tinkhundla*. Traditional chiefs convened nominating meetings for candidates to parliament and other offices and in a few cases confirmed whether nominees were members of the chiefdom. Candidates for each chiefdom were then chosen in a primary election conducted by secret ballot. Although some chiefs may have exercised 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 or appear on a ballot. 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 allows the king to “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 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. Throughout the year several school principals were convicted for



misappropriation of school 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. 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.

## **Section 5. Governmental Posture Towards 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:** CHRPA is empowered by the constitution to investigate complaints of corruption, abuse of power, human rights abuses, and mismanagement of public administration. Local observers regarded CHRPA as both effective and independent. During the year CHRPA investigated 156 complaints, made findings of fact, appeared in court on behalf of aggrieved parties, issued recommendations to judicial and governmental bodies, and provided training on human rights to law enforcement officers. In October CHRPA presented a preliminary report on the civil unrest. According to the report, which focused solely on the events of June 28-29, 46 persons lost their lives and 245 individuals sustained gunshot wounds, a higher number than the government's official statements on the unrest. The report was completed with technical and financial support from UNICEF, the UN Development Program, and the Office of the UN High Commissioner for Human Rights, and in collaboration with civil society partners. The assessment was presented to parliamentary committees and provided a platform for the government to conduct further investigations.

## Section 6. Discrimination and Societal Abuses

### 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 fine, up to 15 years' imprisonment, or both. Several convicted perpetrators received lengthy sentences. Although men remained the primary perpetrators, women have also been arrested and convicted under the law.

Rape remained common, and domestic violence against women has resulted in deaths. There were few social workers or other intermediaries to work with survivors and witnesses to obtain evidence of rape and domestic violence. There were reports that survivors faced intimidation, stigmatization, and violence from authorities, relatives, and perpetrators when attempting to report rape and domestic violence to police or other authorities.

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. The government generally enforced this law effectively.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization by government authorities. Some individuals, however, particularly young women, often lacked the information and means to support their reproductive health. Cervical cancer screenings and precancer treatment programs were available to women living with HIV. Human papillomavirus vaccines were

not available to girls in the country due to its high cost and a lack of government funding. There were reports that girls, particularly in rural areas, missed school on occasion due to lack of sanitary products. According to anecdotal reports, teenage pregnancy greatly increased during the year due to school closures from COVID-19 and civil unrest. Government officials announced pregnant pupils were welcome to attend public schools, but some private religious institutions did not allow pregnant girls to attend.

Travel and movement restrictions due to the unrest and COVID-19 created barriers that impeded access to sexual and reproductive health services. In general, there was wide access to contraception, including in health facilities, retail stores, public restrooms, and workplaces throughout the country, and most persons had access to reproductive health and contraception information. The UN Population Division estimated 68 percent of girls and women ages 15-49 used a modern method of contraception during the year.

According to the World Health Organization, the maternal mortality ratio was 437 deaths per 100,000 live births. This high ratio resulted from a host of factors, one of which was the quality of medical care, but others were patient-dependent factors such as not seeking antenatal care, late presentation to facilities, and home deliveries.

The government provided emergency contraception and postexposure HIV prophylaxis to survivors of gender-based violence.

**Discrimination:** Women occupied a subordinate role in society. The dual 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

was 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 law and custom.

Women faced employment discrimination. The constitution provides for equal access to land, and civil law provides for women to register and administer property, execute contracts, and enter 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 and their dependents sometimes became homeless and were forced to seek public assistance after 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. The mourning period may last up to two years. No similar mourning period applied to men.

## **Systemic Racial or Ethnic Violence and Discrimination**

Under the constitution all persons are equal before the law. Discrimination based on gender, race, color, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion, age, or disability is prohibited.

Governmental and societal discrimination sometimes occurred against ethnic minorities, primarily persons of South Asian descent, but not on a systemic basis. These persons sometimes had trouble 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.

## Children

**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 woman marries a foreign man, even if he is a naturalized citizen, their children carry the father's birth citizenship.

The law mandates compulsory registration of births, but data on compliance was unavailable. 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 in both primary and secondary school. Seventy percent of children were classified as orphans or vulnerable children and so had access to subsidized education through the secondary level. There were no reports of significant differences between boys and girls in enrollment, attendance, or school completion.

**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 of imprisonment, depending upon the age of the survivor. Child abuse remained a serious problem, especially in poor and rural households, although authorities have increased prosecutions of such abuse.

The Ministry of Education released a circular banning corporal punishment in schools in 2015, but this has not been codified in legislation. Laws permit corporal punishment and provide specific guidelines on the number of strokes by infraction after a medical doctor has cleared the student to receive corporal punishment. There were multiple media and civil society reports of corporal punishment in schools, some of which were quite grave.

**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.

**Sexual Exploitation of Children:** The law prohibits commercial sexual exploitation, human trafficking, and practices related to child pornography. Children were survivors 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 outlaws “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 generally enforced the law effectively.

**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 was 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**

Persons with disabilities could access education, health services, public buildings, and transportation on an equal basis with others. 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 buildings for persons with disabilities, but such regulations were rarely enforced, and public awareness of them remained minimal.

The Office of the Deputy Prime Minister is responsible for upholding the law and for protecting the rights of persons with disabilities. The government did not effectively enforce the law. 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. The government did not provide information and communication in accessible formats.

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. Persons with disabilities complained of government neglect and a significantly lower rate of school attendance for children with disabilities. Children with disabilities were mainstreamed in schools with children without disabilities, but children with disabilities sometimes failed to receive adequate support due to the lack of teachers with training in special education. 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.

## **HIV and AIDS Social Stigma**

Although discriminatory attitudes and prejudice against persons with HIV persisted, the country’s 2019 HIV Stigma Index Report suggested declining HIV-related stigma and discrimination. 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. Persons living with HIV are

ineligible for armed forces recruitment; the military, however, encouraged active members to test for HIV and did not discriminate against those testing positive. Effective treatment for persons living with HIV was widely available across the country, and public messaging was oriented towards that of wellness through HIV testing and treatment, rather than campaigns that might increase fear and stigma.

## **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 lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) persons in housing, employment, nationality laws, and access to government services such as health care. Societal discrimination against LGBTQI+ persons, although gradually lessening, remained a concern, and LGBTQI+ persons often concealed their sexual orientation and gender identity. LGBTQI+ persons who were open regarding their sexual orientation and relationships faced censure and exclusion from the chieftom-based patronage system. Some traditional, religious, and government officials criticized same-sex sexual conduct as neither morally Swati nor Christian. In June LGBTQI+ persons conducted a virtual pride celebration without incident.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides that workers, except for those designated as providing essential services, have the right to form and join independent unions, conduct legal strikes, and bargain collectively. The law places restrictions on labor 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. Workers in export processing zones are not allowed to form trade unions but are not prohibited from joining existing labor groups.

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 interests" 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. The law does not require reinstatement of workers fired for union activity but allows workers to seek judicial 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. Trade unions complained that the right to strike was further improperly limited by a 2017 Industrial Court of Appeal ruling in favor of an employer who hired replacement workers to replace striking workers. The government stated the law did not allow an employer to hire replacement workers during a strike but has not enforced the law.

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 and for workers who participate in illegal strikes. 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 did not enforce the law in all sectors, and labor inspectors lacked authorization to assess penalties or enforce compliance. Penalties were not commensurate with those for similar violations.

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 serious crimes. Government did not enforce the law effectively and did not have a robust inspection program. Forced labor occurred almost exclusively in the informal sector, where labor laws applied but were rarely enforced.

Forced labor, including forced child labor, took place in the sectors of domestic work, sex work, agriculture, and market vending. There were reports that some citizens, particularly those from rural areas, were required to participate in traditional cultural events for the royal family, such as during the *incwala*, or harvest ceremony. These events often include an element of agricultural labor, such as clearing the king’s fields.

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 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 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 crimes, such as kidnapping.

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 expose children to physical and sexual exploitation by their employer. Child exploitation in illicit activities was a problem. Particularly in rural areas, children grew 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 and 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 enforced this law inconsistently. Due to complications from COVID-19 and civil unrest, complaints regarding workplace discrimination were limited. The government mechanisms to record complaints were inadequate and most were unaware of such mechanisms or their legal rights.

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 LGBTQI+ 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**

**Wage and Hour Laws:** 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 in the formal economy received paid annual leave and sick leave.

The Ministry of Labor and Social Security is responsible for enforcement of wage and hour laws but did not effectively enforce them. The government did not prioritize 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. 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.

**Occupational Safety and Health:** The government set appropriate safety standards for industrial operations and encouraged private companies to develop accident prevention programs. Inspectors have the authority to make unannounced visits and levy sanctions. 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 government did not effectively enforce safety and health laws. The number of inspectors was inadequate to enforce compliance and there was no enforcement in the informal sector. There were reports of unsafe working conditions in the agricultural industry, particularly at sugar companies with large milling operations. There were also reports of safety and health violations in the informal sector in painting businesses including car spray-painting. Nurses protested in October concerning a lack of critical medications to provide their patients and protective gear such as face masks. Penalties were commensurate with those for similar violations but were seldom applied.

**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. No inspections were conducted in the informal sector and violations were common. Minimum wage guidelines do not apply to the informal

sector.