

ESWATINI 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Eswatini is an absolute monarchy. King Mswati III and Queen Mother Ntfombi, the king's mother, rule as co-monarchs and exercise ultimate authority over the cabinet, legislature, and judiciary. 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 remained largely vested with the king and his traditional advisors. International observers concluded the 2018 parliamentary elections were free and fair.

Under the constitution, the king is the commander-in-chief of the defense force and commissioner-in-chief of police and correctional services. 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 has domestic security responsibilities, including protecting members of the royal family, and it reports to the chief defense officer and the army commander. Traditional chiefs appointed by the king select and supervise volunteer rural “community police,” agents of the government who have the authority to arrest suspects accused of minor offenses for trial by an inner council within the chieftdom. Civilian authorities generally maintained effective control over the security forces. There were reports that members of the security forces committed numerous abuses.

Significant human rights issues included credible reports of: unlawful or arbitrary killings, including extrajudicial killings; cruel, inhuman, or degrading treatment or punishment by the government; political detainees; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious restrictions on freedom of expression and media, including censorship; substantial interference with the freedom of peaceful assembly; restrictions on freedom of movement and residence within the territory of a state; serious and unreasonable restrictions on political participation; serious government restrictions on or harassment of domestic human rights organizations; 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 engaged in government corruption.

Unidentified opposition elements claimed credit for inspiring and conducting violent crimes throughout the country, including killings of police. The government referred to members of these groups as “terrorists” and investigated their activities. There were two arrests with prosecutions pending at year’s end.

Section 1. Respect for the Integrity of the Person

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

There were reports that the government or its agents committed extrajudicial killings. Civilian security forces refer cases to police for investigation into whether security force killings were justified, 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 August media reported that a group of six “community police” members, along with other local citizens, were involved in a narcotics-related killing of Nkosingphile Manana. The six were questioned by police and released without charge. The law allows police and game wardens to shoot and kill poachers. On October 23, game wardens shot and killed Sanele Vilakati, who was suspected of poaching near the Hlane Royal National Park.

At year’s end, there was no evidence the government acted on any of the remedial recommendations contained in a Commission of Human Rights and Public Accountability (CHRPA) report regarding 2021 civil unrest. The report documented 46 confirmed deaths and 245 confirmed injured during the unrest. The commission stated it found human rights abuses were perpetrated during the unrest and concluded that, in responding to unrest, security forces used lethal force indiscriminately on protesters and members of the public who were not part of the protests.

In 2021, law student Thabani Nkomonye died in a car accident under

circumstances that called the police response into question. Acting Prime Minister Themba Masuku called for an inquest into the matter; a report was completed in July, shared with the victim's family, and highlights were disseminated in a press event. The findings did not find police culpability, but recommended action to improve police professionalism.

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, and Other Related Abuses

The law prohibits security forces from inflicting, instigating, or tolerating torture and other forms of 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. There were numerous credible reports that security forces employed such practices. On February 25, police shot and wounded three persons who had assembled outside the High Court to protest an ongoing case involving two opposition parliamentarians. On April 3, police shot and wounded a high school student in Siteki on his way home from a party. In May during a protest organized by the Swaziland Union of Students, Umbutfo Eswatini Defence Force personnel reportedly beat and kicked the group's president, Colani Maseku, causing injuries that required hospitalization. Media and political activists reported prison officials subjected two detained opposition members of parliament, Mduduzi Bacede Mabuza and Mthandeni Dube, to beatings and inhuman treatment while in government custody on charges of sedition, terrorism, and murder stemming from their alleged roles in 2021 civil unrest (see section 2.e.). On September 23, the two detained parliamentarians required medical treatment for injuries sustained during an unannounced search of their cells for unauthorized items. The commissioner of His Majesty's Correctional Services (HMCS) initiated an internal investigation through a panel composed of HMCS officers to determine the facts of this incident, but the panel's findings were not released at year's end.

There were media reports of cruel, inhuman, and degrading treatment by

community police. In August, seven community police members were arrested but released without charge after reportedly assaulting a group of individuals who confessed to stealing goats in Luve.

Impunity was a problem in the security forces. The police service, the military, and the HMCS had internal mechanisms to investigate alleged wrongdoing and apply disciplinary measures. The integrity of such internal mechanisms, however, remained unclear. Where impunity existed, it generally was attributable more to lack of training and professionalism than politicization or corruption, although the latter remained legitimate concerns. Security forces received training to help promote respect for human rights.

Prison and Detention Center Conditions

Prison conditions varied depending on location, and some facilities were overcrowded and required repair or modernization.

Abusive Physical Conditions: In September the HMCS reported a total prison population of 3,405 inmates, exceeding the prison system's designed capacity by 567 inmates, with 834 pretrial detainees. Facilities were of mixed quality: some were old and dilapidated, while others such as the women's prison and a new dormitory opened during the year at a medium security prison in Matsapha were considered well-maintained facilities. Primary problems included overcrowding, comingling of populations, decaying of some facilities, and substantial lack of dietary nutrition, health services equipment, and supplies. Pretrial detainees were commonly held with convicted prisoners. Prisoner-on-prisoner violence remained a concern due to gang activity among inmates. Prison mental health facilities lacked basic rehabilitation and recreational services. Because the HMCS had no secure medical facility, sick inmates were treated alongside non-inmate patients at local hospitals.

Administration: Authorities investigated allegations of mistreatment and held prison officials accountable through appropriate disciplinary measures, primarily suspensions without pay. The HMCS met with the 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 organization (NGO) observers 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. 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 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 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.

Pretrial Detention: The 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 system, and a lack of access to pro bono legal representation. At year's end, 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 2021 civil unrest.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, but civil society alleged 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 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 over traditional law, there was sometimes no clear delineation of jurisdiction between the two legal systems and 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.

Most citizens who encountered the legal system did so through one of 13 traditional courts that adjudicate civil and minor criminal matters along with abuses of traditional law and custom. In general, chiefs preside over traditional courts. Traditional courts did not recognize many of the fundamental rights provided for in the constitution, particularly those involving women's and children's rights, and record keeping of traditional court proceedings was limited. By law, traditional courts may only impose token fines and no prison sentences longer than 12 months; in certain cases, however, traditional courts exceeded their authority when imposing fines. Authorities generally respected and enforced traditional and civil court rulings.

Trial Procedures

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 magistrate courts and the High Court were common. Defendants and their attorneys sometimes lacked access to relevant

government-held evidence such as postmortem reports and ballistic evidence. Defendants sometimes lacked the right to adequate time and facilities to prepare a defense, particularly during previous civil unrest when many arrested for looting and other alleged crimes were rushed through speedy trials in traditional courts. The ongoing prosecution of two detained members of parliament drew concerns of the International Parliamentary Union, which sent a retired judge from Botswana to observe the trial (see section 1.c.).

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 violated civil laws. 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 have authority to either adjudicate appeals themselves or refer them to the civil legal system.

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 evidence.

Political Prisoners and Detainees

There was one report of political detainees. In July 2021, opposition members of parliament Dube and Mabuza were arrested and a third parliamentarian, Mduduzi Simelane, went into hiding and was declared a fugitive. The two detainees requested but were denied bail three times and were still being held without bail as their trial continued at year’s end (see sections 1.c. and 2.e.). Numerous civil society representatives, including chairperson of the Multi-Stakeholder Forum Thulani Maseko, repeatedly alleged the two were held as political detainees. Proreform Political Party Association (PPA) members and the transport workers union effectively shut down nationwide movement for two days in November and again in December to protest government treatment of the two parliamentarians.

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.

Property Seizure and Restitution

Forced evictions, instigated by landowners who took steps to regain land with the support of traditional authorities, threatened the right to adequate housing of hundreds of families. Amnesty International reported that marginalized groups such as widows or households headed by children or women were the most affected and the most likely to have insufficient means to challenge evictions.

According to Freedom House, women faced enormous challenges to retain and exercise their rights to land as guaranteed by the constitution (see section 6, Women). Those under threat of imminent eviction were particularly disadvantaged by a deeply flawed land governance system, according to Amnesty International, as legal challenges to evictions filed by residents were continually shuffled between ministries, chiefdoms, and courts, thus delaying justice. In July and September, communities in Velezizweni and Ntondozi, respectively, were threatened with eviction, reportedly affecting 130 families.

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 with privacy by the government. PPA president Sibongile Mazibuko alleged police conducted a warrantless search of her home in July. She further alleged they damaged her home, confiscated electronic equipment, and verbally abused her and her daughter

before leaving. Sive Siyinqaba National Movement chairperson Musa Nkambule alleged that police conducted a warrantless raid at his house on August 17.

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 to report on matters regarding the monarchy.

Freedom of Expression: Civil society tension remained high since 2021 unrest, resulting in reports of citizens, businesses, and even government officials and parliamentarians not exercising their right to free speech in fear of direct and indirect retaliation by the government, and fear of targeting by unidentified opposition elements that claimed responsibility for violent actions.

Censorship or Content Restrictions 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.” Although journalists have spoken out against the government in recent years, criticism of the king was discouraged by government and traditional leaders. According to an October report by the Campaign for Free Expression and the Inhlase Center for Investigative Journalism, a widespread culture of self-censorship existed among journalists, especially regarding reporting related to the king and the royal family. Most journalists and broadcast media avoided criticizing the palace due to fear of reprisals such as being professionally ostracized or losing paid government advertising in their outlets. One independent monthly magazine that covered sociopolitical topics reportedly lost advertising revenue from a parastatal after it published criticism of the royal family. Self-censorship only applied to matters regarding the palace and was virtually nonexistent in relation to the government, which media frequently criticized. Daily independent newspapers routinely criticized government corruption and inefficiency but avoided criticizing the royal

family. Government regulators reportedly monitored broadcast content of a student-run radio station to ensure it did not report on sensitive topics.

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 and used provisions of antiterrorism and other laws to restrict civil liberties on national security grounds.

Internet Freedom

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

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 the right to freedom of peaceful assembly on some occasions.

Freedom of Peaceful Assembly

There were reports of requests for public gatherings that were approved but later denied by security forces, or simply ignored altogether by authorities. Police used the law to deny citizens the right to assemble, on public safety grounds, in at least two cases even after municipalities gave their approval. On February 25, police shot and wounded three persons who had assembled to protest the arrest of two members of parliament (see section 1.c.). During a June 18 political opposition meeting on private property at Pigg's Peak, police broke up the gathering, confiscated participants' cell phones, and questioned those present, all without a warrant or observing other due process procedures.

Apart from these high-profile incidents, authorities generally allowed demonstrations, community meetings, and rallies, including marches to deliver petitions. In several small protests, security services permitted demonstrations to occur with or even without formal request approval and allowed them to continue until participants engaged in violent activities such as rock throwing. In one

unapproved demonstration, security services permitted a protest march to continue until it neared police headquarters, at which point police used tear gas and a water cannon to disperse the marchers. In June 2021, acting Prime Minister Masuku announced the suspension of the delivery of petitions and protests, citing COVID-19 regulations and abuses of the law, an edict that remained formally in effect at year's end.

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, but the government did not respect all these related rights.

In-country Movement: The ability to move freely and safely around the country became more restrictive. The government cited targeted shootings of security service personnel by unidentified opposition elements to justify increased security operations, including police checkpoints and random searches. 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. Women and Law in Southern Africa, a regional NGO, reported that traditional chiefs regulated movement and residence within their communities and generally denied access to groups advocating for human rights or democratic reforms.

e. 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, 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 functioning system for providing protection

to refugees, although there was a significant backlog of refugee status determination cases leading to asylum applicants lacking benefits for an extended waiting period. According to CHRPA reports, the refugee program faced problems with unaccompanied juvenile refugees residing with the wider population in overcrowded shelter conditions. Children of asylum seekers were not permitted to attend free primary and secondary school without paying fees. The birth of a child born to unwed asylum seekers could only be registered by the mother, thus increasing the risk of statelessness.

Employment: The government granted refugees temporary residence permits and allowed them to apply for jobs, but refugees reported difficulties obtaining work permits outside of the subsistence agriculture sector. Refugees who gained employment as French language teachers in public schools reported difficulties renewing their work permits.

Durable Solutions: Refugees who lived in the country more than five years were eligible for citizenship but, due to a processing backlog, many refugees had to wait more than a decade to obtain citizenship. The government permitted refugees to integrate locally in the country.

f. Status and Treatment of Internally Displaced Persons

Not applicable.

g. Stateless Persons

UNHCR figures from 2016, the most recent available data, 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, including education, due to lack of citizenship documentation, including children of refugees born in the country. The constitution does not provide for women to transmit citizenship to their children, except in cases of births out of wedlock. Low levels of birth registration also contributed to increased risks of statelessness (see section 6, Children). There were reports from the Office of the Commissioner of Refugees that statelessness was increasing due to the combined effects of COVID-19 and a worsening

economy, with reports of stateless persons hiding in forests as a preferred alternative to living without legal status in communities, leading the Ministry of Home Affairs to begin mobile registration exercises in June.

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.

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: Parliamentary by-elections took place in August, and international observers such as the Southern African Development Community, the EU, and the United Nations credited the government with conducting a free and fair process within the framework of the constitution. International observers described the 2018 parliamentary elections, the country's last national election, as credible, free, and fair.

Political Parties and Political Participation: The constitution provides for freedom of association but does not address how political parties may operate, and there is 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 interpreted as blocking competition based on political party affiliation. Candidates for parliamentary elections were not chosen by secret ballot but rather by a public show of hands among community members at a special gathering held for this purpose. Democracy advocates, including the Swaziland Human Rights Watch, contended this traditional practice was counter to democratic principles and served to intimidate would-be candidates. The practice was nevertheless codified in the electoral laws through a process conducted by the

Elections and Boundaries Commission.

Participation in the traditional sphere of governance and politics took place predominantly through chiefdoms. Chiefs were custodians of traditional law and custom, reported directly to the king, and were 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 of chiefs.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did participate.

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, however, and Freedom House and other anticorruption watchdogs reported that implicated officials often enjoyed impunity. Public frustration regarding unchecked corruption was one factor among many that fueled arson and attacks on property against businesses and security services, reportedly by unidentified opposition elements.

Freedom House reported the government Anti-Corruption Commission was perceived as ineffective, with civil society groups accusing it of only pursuing politically motivated cases and serving the interests of the prime minister. Although the parliamentary Public Accounts Commission (PAC) 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.

Corruption: The PAC reported in December that the government lost

approximately \$5.5 million per month due to corruption in government ministries and departments, representing a doubling in losses attributed to corruption over the past year. In an audit of the Ministry of Education, the PAC found that school officials had misappropriated funds.

Reports of alleged corruption most often involved abuse of personal relationships and bribes to secure government contracts on large capital projects. There were reports that a person's relationship with government officials influenced the awarding of government contracts; the appointment and promotion of officials; recruitment into the security services; and school admissions. The government's National Development Plan cited corruption as a primary factor impeding the rule of law and development. Although the government initiated several corruption investigations, there were no reports of prosecutions or convictions for corruption.

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 with international human rights organizations but took an increasingly hard line with domestic human rights advocates.

Following unprecedented civil unrest and alleged abuses in 2021, the king expressed commitment to convene a national dialogue but took no action, and the government was nonresponsive to proreform civil society groups that called for dialogue. Citing national security concerns, the government narrowed the space for civil society, thus setting the stage for further unrest as evidenced by a nationwide shutdown of transport services in November and December. The Southern African Development Community Troika Organ for Peace, Defense, and Security engaged with the king and the government, and in December stated that a framework for national dialogue would be announced in February 2023.

Government Human Rights Bodies: The 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 the CHRPA as both effective and independent. During the year, the CHRPA investigated complaints, opened new investigations, 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. In July the CHRPA commissioner was elevated with a royal appointment as a High Court judge, and a replacement had not been named at year's end.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalizes domestic violence and rape for both men and women, 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, and several convicted perpetrators received lengthy sentences. Although men remained the primary perpetrators, women have also been arrested and convicted under the rape and domestic violence laws. The government generally enforced the rape law effectively, although NGOs and health officials stated that many rapes went unreported and gender-based violence remained a problem.

Few social workers or other intermediaries were available 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 generally less sympathetic to women and less likely than civil courts using Roman-Dutch-based law to convict men of spousal abuse.

Other Forms of Gender-based Violence: The law classifies witchcraft, sorcery, and the practice of voodoo as punishable offenses under the Witchcraft Act of

1889, although many such practices remained among popular Swazi customary and traditional healing rituals. Accusations of witchcraft against women in family or community disputes led to them being physically attacked, driven from their homes, or both. For example, on March 14 a mob of more than 100 persons accused, insulted, assaulted, and took hostage an elderly woman after community members alleged that she was practicing witchcraft.

Sexual Harassment: The law establishes broad protections against sexual harassment, with penalties if convicted of a 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, 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. The human papillomavirus vaccine was available to women and girls, but it was a 4-valent version instead of the more effective 9-valent version available in larger markets.

Travel and movement restrictions due to civil 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 to 49 used a modern method of contraception during the year. The government provided emergency contraception and postexposure HIV prophylaxis to survivors of sexual assault.

According to the World Health Organization, the maternal mortality ratio was 437 deaths per 100,000 live births. A general pattern of late presentation for first antenatal care visits resulted in late identification of high-risk pregnancies. Lack of equipment and medications, limited training, and few specialist obstetricians further worsened maternal and neonatal health outcomes.

There were reports that girls, particularly in rural areas, missed school on occasion due to lack of sanitary products. The government's National Development Plan

noted a rise in teen pregnancies, especially among poor households. Government officials announced pregnant pupils were welcome to attend public schools, but some private religious schools did not allow pregnant girls to attend.

Discrimination: The country's 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. 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, and the High Court also struck down sections of the law that allowed marital power and spousal property rights to be governed by traditional law and custom.

Women continued to occupy a subordinate role in society. Even women in elected positions reported facing systemic discrimination. A member of parliament who advocated for a declaration that gender-based violence was a national disaster reported she was effectively punished in parliament for her comments. Polygamy was practiced under traditional custom, creating unequal relationships for women, according to Amnesty International, with most decision-making power vested in the male partner and his family. Polygamy was not permitted in civil marriages. 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. 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. Women, however, faced discrimination in exercising customary land tenure rights (see section 1.e., Property Seizure and Restitution). Women also encountered employment discrimination (see section 7.d.).

Girls and women in rural areas faced discrimination by community elders and authority figures. Although customary law considers children to belong to the father and his family if the couple divorce, custody of the children of unwed parents typically remained with the mother unless the father claimed paternity. When a husband died, tradition dictated the widow must stay inside the residence

of her husband's family in observance of a strict mourning period for one month, although in some cases the mourning period lasted up to two years. No similar mourning period applied to men. Media reported widows and their dependents sometimes became homeless and were forced to seek public assistance after the husband's family took control of their homestead. Women in mourning attire were generally not allowed to mix freely in public or participate in public events and were barred from interacting with royalty or entering royal premises.

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 at times encountered difficulty 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 could 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; 70 percent of children were so classified and thus had access to subsidized education. There were no reports of significant differences between boys and girls in enrollment, attendance, or school completion (see also section 6, Women, Reproductive Rights).

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 25 years' imprisonment, depending upon the age of the survivor. Although the government generally enforced the law effectively and increased the number of prosecutions, child abuse remained a serious problem, especially in poor and rural households.

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 excessive corporal punishment in schools.

Child, Early, and Forced Marriage: The government recognizes two types of marriage, civil marriage and marriage under uncoded traditional law. The legal age for civil marriage is 18 for both boys and girls, but girls may marry at 16 with parental consent and approval from the minister of justice. Because uncoded traditional marriage law does not provide for a specific minimum age in marriage approval, it is open to abuse and child marriage was reported to be practiced in some communities.

Sexual Exploitation of Children: The law prohibits commercial sexual exploitation, human trafficking, and practices related to child pornography. Although the government generally enforced the law effectively, some children were 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 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. At least one perpetrator of child sexual exploitation was identified, prosecuted, and convicted, and a second case was pending at year's end.

Antisemitism

The Jewish community was very small, and there were no reports of antisemitic acts.

Trafficking in Persons

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

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: Colonial-era common law prohibits sodomy, but no penalties are specified. There were no reported arrests or prosecutions for consensual same-sex conduct.

Violence against LGBTQI+ Persons: There was one unconfirmed media report of a September attack by transport drivers against a gay couple at a Mbabane bus station. Police reported they became aware of the incident only after it was reported by media. A recent study by a regional research group that included the national NGO Rock of Hope found that 60 percent of lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) respondents reported having experienced violence in their lifetime and that one in four lesbians reported sexual violence in 2021.

Discrimination: The law does not prohibit discrimination against LGBTQI+ persons in housing, employment, nationality laws, or access to government services such as health care. Societal discrimination against LGBTQI+ persons 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

chiefdom-based patronage system. Some traditional, religious, and government officials criticized same-sex sexual conduct as immoral. LGBTQI+ persons faced discrimination and were subjected to ridicule based on their sexual orientation, particularly when seeking employment and healthcare services in hospitals and clinics (see section 7.d.).

Availability of Legal Gender Recognition: The government did not permit individuals to change their gender identity marker on legal and identifying documents to bring them into alignment with their gender identity.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: There was an unconfirmed media report in June that members of the LGBTQI+ community were forced into heterosexual marriages. There were no reports of “corrective” rape.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: In April the High Court upheld a 2019 decision by the Registrar of Companies in the Ministry of Commerce to deny the application of national NGO Eswatini Gender and Sexual Minorities to register as a civil society organization, ruling that registration would violate the law because same-sex marriages were not permitted in the country, even while allowing that no person should be discriminated against because of their sexual identity. A celebration of Pride Month was allowed to take place in Mbabane.

Persons with Disabilities

Persons with disabilities could not 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 enforce these provisions effectively.

Little progress was made 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 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 of children with disabilities. Children with disabilities were placed in schools with children without disabilities, but children with disabilities sometimes failed to receive adequate support due to a 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 were not permitted to be in the presence of the king because they were believed to bring “bad spirits.” Persons with disabilities were sometimes neglected by families and kept indoors, thus denying their freedom of movement.

Other Societal Violence or Discrimination

In June Doctors without Borders and the African Child Policy Forum reported an increase in witchcraft accusations and ritual abuse against persons with albinism, resulting in physical and psychological violence. According to the Director of the NGO Stuky Foundation, persons with albinism continued to live in fear of being killed for ritual purposes. The deputy prime minister reportedly made it a priority to protect persons with albinism.

Although discriminatory attitudes and prejudice against persons with HIV persisted, the country’s 2019 HIV Stigma Index Report, the most recent data available, 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 were 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.

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 or those employed in export processing zones, have the right to form and join independent unions, conduct legal strikes, and bargain collectively. The law places restrictions on the exercise of labor rights. The law provides for the registration of unions and federations but grants far-reaching powers to the labor commissioner in determining eligibility for registration. The law requires trade unions to hold a general meeting once a year, during which all decisions must be made. The law limits union membership to workers who are current on their union dues. Only union members may participate in union elections.

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. The law requires unions to provide a 21-day notice to the commissioner, indicating their intention to strike. The commissioner is charged with organizing a strike ballot, and the law requires unions to satisfy a legislatively prescribed quorum (majority) of members before a strike can move forward. Following the strike ballot, the law imposes a two-day waiting period before the strike action can begin. 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 law further prohibits trade unions from participating in political strikes, which is punishable by deregistration. The law gives the labor minister authority to declare a strike illegal.

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, 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 the CMAC has exhausted all alternative dispute resolution mechanisms and a secret ballot of union members has been 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. A 1998 administrative order law permits compulsory labor in cultivation, soil conservation works, and the construction and maintenance of roads.

Government did not enforce laws against forced or compulsory labor effectively and did not have a robust inspection program. Forced labor, including forced child labor, took place in the sectors of domestic work, commercial sex, 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

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 law generally prohibits discrimination in public service employment but does not explicitly prohibit discrimination in the appointment, mobility, and termination of employment in the private sector.

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 workers 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. The potential to empower women and achieve gender equality were selection criteria for project consideration in the government master plan for economic recovery.

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. LGBTQI+ persons who were open regarding their sexual orientation faced discrimination in employment and 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.

There were credible reports that the use of labor brokers resulted in reports of labor discrimination against workers, particularly in the forestry and sugar industries.

e. Acceptable Conditions of Work

Wage and Hour Laws: There is no national minimum wage. The Ministry of Labour 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.

Occupational Safety and Health: The government set appropriate occupational safety and health (OSH) 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.

Wage, Hour, and OSH Enforcement: The government did not effectively enforce occupational wage, safety, and health laws. 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. Penalties were commensurate with those for similar violations but were seldom applied.

The Ministry of Labour 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.

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Informal Sector: Labor laws are applicable to the informal sector but were seldom enforced. The law also excludes some informal workers from the national pension system.

Most workers were in the informal sector, but reliable 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 did not apply to the informal sector.