

# 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 chiefdom. 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.





















































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.