



Swaziland

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Swaziland is governed as a modified traditional monarchy with executive, legislative, and limited judicial powers ultimately vested in the King (Mswati III). The King rules according to unwritten law and custom, in conjunction with a partially elected parliament and an accompanying structure of published laws and implementing agencies. Despite a professed intention to alter the current system, the steps taken by the King toward reform have resulted in little progress. Parliamentary and municipal elections were held in 1998 and introduced increased representative government; however, political power continues to rest largely with the King and his circle of traditional advisors, including the Queen Mother. The 1968 Constitution was suspended by the present King's father in 1973. Based upon the 1973 decree, the King has the authority to issue decrees that carry the force of law, and exercised this authority with the introduction of the 1998 Administrative Order. The 1973 decree also bans political parties, meetings, and processions except in local "Tinkhundla" administrative centers or as authorized by the police. There are public demands to lift the 1973 decree. The judiciary is generally independent; however, the King has certain judicial powers. In addition, the judiciary's independence was occasionally challenged by individuals in high positions, including the Minister of Justice and Constitutional Affairs and the traditional governor of the royal family, who have made attempts to influence or overturn some court decisions. The Chief Justice of the High Court (a South African citizen appointed by the King) has resisted pressure to yield any powers to those outside the judiciary.

Both the Umbutfo Swaziland Defense Force and the Royal Swaziland Police operate under civilian control and are responsible for external and internal security. Some communities, questioning the ability of National Police to deal with enforcement at the community level, have formed community police. Reports of conflicts between national and community police have subsided. Members of both the National Police and the community police committed some human rights abuses.

Swaziland has a free market economy, with relatively little government intervention. The majority of citizens are engaged in subsistence agriculture, although a relatively diversified industrial sector now accounts for the largest component of the formal economy. The economy relies heavily on the export sector, especially on the wood pulp, soft drink concentrate, and sugar industries, which are composed primarily of large firms with mostly foreign ownership. The country depends heavily on South Africa from which it receives almost all of its imports and to which it sends the majority of its exports. A quasi-parastatal organization established by royal charter maintains large investments in major sectors of the economy, including industry, agriculture, and services. This parastatal normally requires partnership with foreign investors and international development agencies.

The Government's human rights record was generally poor, and there continued to be serious human rights problems. Citizens still are not able to change their government. Police continued to torture and beat some suspects. The Government generally failed to prosecute or otherwise discipline officers who committed abuses. Prison conditions meet minimum international standards; however, government remand centers are overcrowded. The Government continued to use a nonbailable offense provision. The Government infringed on citizen's privacy rights. The Government continued to limit freedom of speech and of the press, restraints continued on news coverage by government-owned broadcast houses, and all media practiced some self-censorship, although journalists spoke out on key issues. There has been slow progress in the drafting of a media policy to replace the proposed media council bill. The Government restricted freedom of assembly and association and retained prohibitions on political activity, although numerous political groupings operated openly and voiced opinions critical of the Government, which received prominent press coverage. However, the police on occasion harassed political activists. Police forcibly dispersed a community prayer service alleged to be a political activity. There are some limits on freedom of movement. Legal and cultural discrimination and violence against women, as well as abuse of children, remained problems. Some societal

discrimination against mixed race and white citizens persisted. The Government restricted workers' rights. In June the King signed the Industrial Relations Act 2000 (IRA) into law and it became effective on August 25; the act was amended in November, and the amended act remedies many of the inequities in the 1996 labor law.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings by government agents. Three bombings took place between August and November 1998, apparently timed to coincide with major state events; one of the bombings killed one person. Although a previously unknown group claimed responsibility for the bombings, the existence of the group was unconfirmed and the perpetrators remained unidentified and their motives unknown.

b. Disappearance

There were no reports of politically motivated disappearances.

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

There were credible reports by criminal defendants that the security forces used torture during interrogation. Police sometimes beat criminal suspects and occasionally used the "tube" style of interrogation, in which police suffocate suspects through the use of a rubber tube around the face and mouth. The Government generally failed to prosecute or otherwise discipline police officers for such abuses. An internal complaints and discipline unit investigates reports of human rights abuses by the police, but no independent body has the authority to investigate police abuses. However, courts have invalidated confessions induced through physical abuse; for example, in September 1998, the High Court awarded a former prisoner approximately \$7,000 (42,000 emalangen) in damages for cruel and unusual punishment suffered while incarcerated in 1992-94.

On September 9, police used force to disperse worshippers, injuring more than 60 persons (see Section 2.c.).

Overcrowding and generally poor prison conditions were alleviated markedly through the opening of new institutions including a modern correctional facility for women. In 1998 foreign diplomats and representatives of international agencies toured the prisons, including maximum-security institutions, and reported favorably on improved medical care, nutrition, sanitation, and vocational training. The use of nonbailable provisions led to less favorable conditions, including continued overcrowding in government remand centers where suspects are held during pretrial detention and often are released for time served after being sentenced (see Section 1.d.). Women and juveniles are held in separate prison facilities.

The Government routinely has permitted prison visits by diplomats, journalists, human rights monitors, and representatives of international organizations, and some prison visits by journalists and political figures occurred during the year.

d. Arbitrary Arrest, Detention, or Exile

The law requires warrants for arrests in most circumstances, except when police observe a crime being committed or have reason to believe that a suspect may flee. Detainees may consult with a lawyer of their choice and must be charged with the violation of a statute within a reasonable time, usually 48 hours, or, in remote areas, as soon as the judicial officer appears. The authorities generally respected these rights in practice.

In September police detained without charges two members of the banned political party SWAYOCO for a few hours after they raided the home of opposition leader Zodwa Mkhonta (see Section 2.b.).

On November 10, the president of the banned political party PUDEMO, Masuku, was arrested on charges of sedition; on November 15 he was released on bail, and his trial was pending at year's end.

In September 1999, an editor of an independent newspaper was arrested for criminal defamation after reporting that the King's latest fiancée was a high-school dropout (see Section 2.a.).

The Government continued to limit the provisions for bail for crimes appearing in the Nonbailable Offenses Order, which became effective in 1993 and was strengthened by Parliament in 1994. The Order currently lists 11 offenses. The mere charge of the underlying offense, without any evidentiary showing that the suspect is involved, is sufficient to employ the nonbailable provision. The Minister of Justice may amend the list by his own executive act.

In November there were reports that the Government was considering reinstating the practice of detaining persons for up to 2 months without formal charges, a policy that had been used in the country under the predecessor to King Mswati III; however, the Government denied these reports, and such a policy was not implemented by year's end.

The Government does not use forced exile. There are no barriers to prevent the return of dissidents.

e. Denial of Fair Public Trial

The judiciary is generally independent; however, the King has certain judicial powers. In addition, the judiciary's independence was occasionally challenged by individuals in high positions, including the Minister of Justice and Constitutional Affairs and the traditional governor of the royal family, who have made attempts to influence or overturn some court decisions. The Chief Justice of the High Court (a South African citizen appointed by the King) has resisted pressure to yield any powers to those outside the judiciary. However, the Government ignored a ruling on September 5 by the Chief Justice that prohibited the eviction of two Swazi chiefs. On October 5, the Chief Justice rescinded the injunction against the eviction after the Attorney General gave him an affidavit stating that the King had decreed the evictions and that the High Court had no jurisdiction over the case (see Section 3). The case was appealed to the Court of Appeals, which ruled on December 14 that the Chief Justice's original ruling was correct.

Judicial powers are vested in a dual system, one independent and based on Western law, the other based on a system of national courts that follows unwritten traditional law and custom. In treason and sedition cases, the King can circumvent the regular judiciary by appointing a special tribunal, which may adopt rules and procedures different from those applied in the High Court; however, this power was used last in 1987.

The Western judiciary consists of the Court of Appeals (composed entirely of expatriate, usually South African, judges), the High Court, and magistrate courts, all of which are independent of executive and military control and free from intimidation from outside forces. The expatriate judges, often distinguished members of their respective bars, serve on the basis of 2-year renewable contracts. Local judges serve indefinitely on good behavior. In magistrate courts, defendants are entitled to counsel at their own expense. Court-appointed counsel is provided in capital cases or when difficult points of law are at issue. There are well-defined appeal procedures up to the Court of Appeals, the highest judicial body. A lack of an independent court budget, lack of trained manpower, inadequate levels of salary remuneration, and managing case work remain problems for the judiciary.

Most citizens who encounter the legal system do so through the traditional courts. The authorities may bring ethnic Swazis to these courts for minor offenses and violations of traditional law and custom. In traditional courts, defendants are not permitted formal legal counsel but may speak on their own behalf and be assisted by informal advisers. Sentences are subject to review by traditional authorities and can be appealed to the High Court and the Court of Appeals. The public prosecutor legally has the authority to determine which court should hear a case, but in practice the police usually make the determination. Accused persons have the right to transfer their cases from the traditional courts. Delays in trials are common.

In November 1998, the King issued an administrative order that strengthened the judicial powers of traditional chiefs appointed by the King. The order provides for chiefs' courts with limited civil and criminal jurisdiction and authorizes the imposition of fines up to approximately \$50 (300 emalangeni), and prison sentences of up to 3 months. Accused persons are required to appear in person without representation by a legal practitioner or advocate. However, chiefs' courts only are empowered to administer customary law "insofar as it is not repugnant to natural justice or morality," or inconsistent with the provisions of any law in force. The order provides that defendants may appeal decisions of the chief's court to regional appeal courts and to the higher courts of appeal. Appeals in criminal matters can be taken to the Judicial Commissioner as a last resort, and the High Court is the court of last resort for civil matters. Human rights organizations and the press expressed serious concern over issuance of the 1998 administrative order.

There were no reports of political prisoners.

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

The law requires a warrant from a magistrate before police may search homes or other premises, and police generally respect this requirement in practice; however, police officers with the rank of subinspector or higher have the right to conduct a search without a warrant if they believe that evidence might be lost through the delay in obtaining a warrant. Searches without warrants occur occasionally.

There were occurrences of physical surveillance by the police on members of labor unions and banned political groups.

On October 13, the Operation Support Service Unit (OSSU) of the Royal Swaziland Police (RSP) and the Umbutfo Swaziland Defense Force (USDF) evicted from their residences and relocated two Swazi chiefs, members of their families, and supporters who opposed the imposition of a prince in the chiefs' positions. Reportedly 200 villagers who were supporters of the chiefs were scattered throughout the country; some were moved to an open field where they sought temporary shelter unsuccessfully. Some families were allowed to return to their residences after apologizing to Prince Maguga and recognizing him as their chief.

There were reports that in September police entered a private home and arrested two SWAYOCO members (see Section 2.b.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Government limits freedom of speech and of the press through a continuing formal ban on political parties and occasional harassment of journalists. The Government also has discouraged critical news coverage of the royal family, and journalists practice self-censorship in regard to the immediate royal family and national security policy.

During the October 13 eviction of two Swazi chiefs from their residences by the Government, some journalists were harassed, and a Swazi television journalist was arrested and detained for 4 hours after the police confiscated his tape recording and accused him of operating as an informant for a foreign government (see Sections 1.f. and 3).

In September 1999, an editor of an independent newspaper was arrested for criminal defamation after reporting that the King's latest fiancée, now one of his wives, was a high-school dropout. After being released on bail, the editor was fired from his job. In response to the scandal, the Ministry of Public Service drafted antidefamation statutes, which were pending approval by the Attorney General and Parliament in 1999; however, there was no further action on them during the year. In February the authorities closed the Government-owned newspaper, Swazi Observer, due to alleged financial problems; many observers considered this a final response to the negative press reports regarding the King's fiancée. Some observers also considered the newspaper closure to be a response to the refusal of the newspaper to reveal the sources of several stories, including a report on the police raid of a SWAYOCO meeting (see Section 2.b.).

In general both government-owned and independent newspapers covered a wide variety of sensitive topics and criticized government corruption, inefficiency, and waste, frequently using harsh invectives. However, the Government uses the same media to rebut such allegations. With some exceptions, the Government continued to withhold its advertising from the country's only independently-owned daily newspaper. The Prime Minister's office distributes a free weekly circular reporting on government policy and activities.

The Government has a monopoly over television and radio programming. There are two government-owned radio stations. There is one independent station, but it only broadcasts religious programs. The government-owned television and radio stations—the most influential media in reaching the public—generally followed official policy positions. Government broadcast facilities retransmit Voice of America and British Broadcasting Corporation news programs in their entirety.

Private companies and church groups own several newsletters, magazines, and one radio station that broadcasts throughout the region, but these generally avoid political controversy. The Christian Broadcasting Company radio station is allowed to operate despite the fact that it is government policy not to permit private broadcasters to operate in the country.

The practice of self-censorship and the prohibition of political gatherings limit academic freedom.

b. Freedom of Peaceful Assembly and Association

The Government restricts freedom of assembly. King Sobhuza's 1973 decree prohibits meetings of a political nature, processions, or demonstrations in any public place without the consent of the Commissioner of Police. The authorities did not routinely grant permission to hold such meetings, and on at least one occasion in September, police disrupted meetings organized by pro-democracy activists under the authority of the 1973 decree. There were also reports that police raided a gathering of SWAYOCO members and beat and arrested two SWAYOCO members in September (see Section 1.d.).

Several traditional forums exist for the expression of opinion, including community meetings, national councils, and direct dialog with area chiefs. However, these local channels are not meant as a vehicle for political change; they often depend on the whims of leaders and are not consistently effective channels for expressing political dissent. In addition there was a report that a chief threatened to evict families from ancestral land if they included members of a banned political party.

On October 23, members of the Swaziland Federation of Trade Unions (SFTU) and the Swaziland National Association of Teachers (SNAT) marched to the Prime Minister's office to present a petition denouncing the eviction of two chiefs from their residences (see Sections 1.f. and 3). On October 24, students from the University of Swaziland and William Pitcher Teachers' College, along with opposition leaders, also marched to present a petition regarding the evictions but were denied entry by police in riot gear and blockades. After several hours, the police threatened forcible removal, and the protesters dispersed. It was reported that at least 18 students were injured (see Sections 1.c and 3).

The Government restricts freedom of association. King Sobhuza's 1973 decree prohibits political parties.

c. Freedom of Religion

There are no formal constitutional provisions for freedom of religion; however, the Government generally respects freedom of religion in practice. Followers of all religious faiths are generally free to worship without government interference or restriction; however, police cancelled two prayer meetings on August 26 and September 3 on the grounds that they had political overtones. In addition, on September 9, police used force to disperse a community prayer service just as an opposition leader rose to address the meeting. Two individuals were wounded by rubber bullets and 60 persons were treated for minor injuries that occurred after police fired tear gas canisters into the crowd.

New religious groups or churches are expected to register with the Government upon organizing in the country. Government permission is required for the construction of new religious buildings. Non-Christian groups sometimes experience minor delays in obtaining permits from the Government.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens may travel and work freely within the country; however, under traditional law, a married woman requires her husband's permission to apply for a passport, and an unmarried woman requires the permission of a close male relative. A citizenship law passed in 1992 removed several ambiguities relating to citizenship and nominally enabled nonethnic Swazis to obtain passports and citizenship documents. However, individuals seeking these documents sometimes experienced lengthy processing delays, in part due to occasional prejudice that mixed-race and white Swazis are not real Swazis. Political dissenters often have their citizenship questioned and can experience difficulty in obtaining travel documents.

The Government treats several thousand ethnic Swazis living across the border with South Africa as virtually indistinguishable from local Swazis and routinely grants them travel and citizenship documents.

The law includes provisions for the granting of refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates fully with the UN High Commissioner for Refugees (UNHCR), as well as the various nongovernmental organizations (NGO's) involved in the care of refugees. According to the UNHCR, there are an estimated 1,000 refugees in the country, the majority coming from the Great Lakes region and Angola. The issue of provision of first asylum has not arisen in recent years.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens are not able to exercise this right. The King retains ultimate executive and legislative authority, and

political parties are prohibited. Passage of legislation by Parliament requires the King's assent to become law, which he is not obliged to give. When Parliament is not in session, the King may legislate by decree under his residual emergency powers. The King chooses the Prime Minister and, in consultation with the Prime Minister, also chooses the Cabinet, many senior civil servants, and the heads of government offices.

Citizens elect most members of the lower house of parliament. Parliamentary elections were held by secret ballot in October 1998 for 53 of the 55 elected seats in the 65-seat lower house (the King appoints the remaining 10 members), and a by-election was held in December 1998 for 1 of the 2 remaining constituencies. The final remaining constituency held its by-election in October 1999. The continuing ban on political parties and restrictions on political activity prompted some political groupings and trade unions to call for a boycott of the 1998 elections by their members. Members of the Swaziland Federation of Trade Unions (SFTU) who participated in the electoral process were threatened with disciplinary measures by the labor federation. Election officials reported that approximately 200,000 of the 400,000 eligible citizens registered for the parliamentary elections, and that approximately 120,000 citizens voted, although critics questioned that figure.

There was no formal international observer presence during the 1998 elections, but there was intensive coverage by local and foreign media, and resident diplomats were granted accreditation to observe the proceedings freely. Candidates or their representatives also were allowed to monitor the elections. Election procedures generally were carried out in an orderly fashion. However, the decision to open polling stations for further voting a week after the election because of torrential rains led to irregularities, including persons being found with multiple copies of registration certificates. Alleged irregularities led to legal challenges in four constituencies, and the High Court overturned the result in one constituency as a result. Opposition political groupings remained highly critical of the entire electoral process, due to the continuing formal ban on organized political party activity.

In the days leading up to the 1998 elections, the police searched dozens of homes, including those of trade union leaders and opposition political figures ostensibly in response to some of the bombing incidents that occurred between August and November 1998 (see Section 1.a.). No one was arrested or detained.

As provided under law, the House of Assembly nominated 10 members from the public at large to serve in the upper house or Senate. The King appointed the additional 20 Senate members. The Cabinet of Ministers, sworn in on November 20, 1998, included only three elected Members of Parliament, with the balance drawn from appointed members of the House and Senate.

Elections were held by secret ballot without major difficulties in August 1998 to select new municipal councils in 11 cities and towns across the country. Approximately 70 percent of all eligible voters registered to vote, but only 22 percent of registered voters actually cast ballots. Citizens voted largely without interference or intimidation, except for scattered incidents in Mbabane where representatives of PUDEMO opposed to participation in the election attempted to deter voting activities.

Pressure has been building for several years to modernize the political system, and both the King and the Government recognize that there is a need for political reform, including the drafting of a new constitution and, specifically, a bill of rights. In 1996 the King appointed a 30-member Constitutional Review Commission (CRC), with the stated purpose of examining the suspended 1968 Constitution, carrying out civic education, determining citizens' wishes regarding a future system of government, and making appropriate recommendations on a new constitution. The CRC compiled a constitutional framework, including portions of the 1968 Constitution still in force, the 1973 decree as currently amended, and the 1992 Establishment of Parliament Order. The CRC distributed this framework nationwide as a starting point for discussion. However, the CRC made very limited progress due to members resigning to protest the Commission's terms of reference, and multiple internal disputes. At year's end, the CRC had 22 members after four members resigned and four died during the year. Observers criticized the independence of the CRC because the majority of its members are traditionalists. In addition the Government prohibited media coverage and group submissions. In October, after several extensions of its deadline, the CRC submitted a draft report to the King; however, the report was not released to the public by year's end, and it is not scheduled for release until 2001.

On at least one occasion in September police disrupted meetings held by pro-democracy activists, and in February police raided a SWAYOCO meeting (see Section 2.b.).

On October 13, the Operation Support Service Unit (OSSU) of the Royal Swaziland Police (RSP) and the Umbutfo Swaziland Defense Force (USDF) evicted from their residences and relocated two Swazi chiefs, members of their families and supporters. Although the Chief Justice issued a ruling against the eviction order on September 5, the Chief Justice subsequently rescinded it after the Attorney General presented an affidavit stating that the King had decreed the evictions (see Sections 1.e., 1.f., 2.a., and 2.b). The case was appealed

to the Court of Appeals, which ruled on December 14 that the Chief Justice's original ruling was correct. The two chiefs and some of their supporters sought asylum in a neighboring country. The 1998 Administrative Order was cited by the Minister of Home Affairs as a justification for ousting the two chieftains and imposing upon the communities Prince Maguga Dlamini of the royal family as the new chief despite the fact that custom implies that chieftancy is hereditary. Several communities organized prayer meetings where they questioned the validity of the order.

Human rights organizations, church groups, labor unions, and other NGO's conducted their own active programs of constitutional and human rights civic education. In May the National Democratic Institute, in conjunction with the country's Council of Churches, organized a 3-day constitutional conference that was well-supported and well-received by these groups as well as the Government.

Women generally have full legal rights to participate in the political process; however, women are underrepresented in the Government and politics. There are 4 women in the 65-member House of Assembly formed after the October 1998 elections, 4 women in the 30-seat Senate, and 2 women among the 16 ministers in the Cabinet. A woman serves as Secretary to the Cabinet and the head of the civil service. Three women serve as principal secretaries, the most senior civil service rank in the ministries. There are 3 women on the 30-person Constitutional Review Commission. However, in accordance with societal practice, widows in mourning (for periods that can vary from 6 months to 3 years) are prevented from appearing in certain public places and from being near the King and, as a result, can be excluded from voting or running for office.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government permits domestic human rights groups to operate. Human rights groups often have spoken out on a number of occasions, criticizing the lack of accountability and transparency in government circles. There were no visits by international human rights organizations, although foreign diplomats and local representatives of international agencies were invited to tour correctional facilities (see Section 1.c.). The Government solicited and obtained expert assistance from the International Labor Organization (ILO) in 1997 to form a tripartite committee charged with redrafting national industrial relations legislation, and in October requested the assistance of the ILO to bring the 2000 IRA into conformity with international labor standards (see Section 6). In November an ILO team traveled to the country to provide technical assistance in drafting a final, amended version of the 2000 IRA.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The 1980 Employment Act forbids employers to discriminate on the basis of race, religion, sex, or political affiliation. Under the act, employees may bring suit against employers for discrimination, and there also are provisions for criminal prosecutions; however, there is no record of any suits or prosecutions. The act reportedly has been used on occasion to bring moral suasion to bear against employers. Legal and cultural discrimination against women remains a problem. Mixed race citizens sometimes experience societal discrimination.

Women

Violence against women, particularly wife beating, is frequent, despite traditional strictures against this practice. Women have the right to charge their husbands with assault under both the Western and the traditional legal systems, and urban women frequently do so, usually in extreme cases when intervention by extended family members fails to end such violence. Rural women often have no alternative but to suffer in silence if family intervention does not succeed, because the traditional courts can be unsympathetic to "unruly" or "disobedient" women and are less likely than the modern courts to convict men for wife beating. Rape is also common and is regarded by many men as a minor offense, while women are inhibited from reporting such crimes by a sense of shame and helplessness, especially when incest is involved. Even in the modern courts, sentences frequently amount to no more than several months in jail, a fine, or both. The Legal Code provides some legal protection from sexual harassment, but its provisions are vague and largely ineffective. Several NGO's provide support for victims of abuse or discrimination.

Women occupy a subordinate role in society. In both civil and traditional marriages, wives are treated as minors legally, although those who marry under civil law may be accorded the legal status of adults, if stipulated in a signed prenuptial agreement. A woman generally requires her husband's permission to borrow money, open a bank account, obtain a passport, leave the country, gain access to land, and, in some cases, take a job. An unmarried woman requires a close male relative's permission to obtain a passport (see Section 2.d). Despite the 1980 Employment Act that required equal pay for equal work, men's average wage rates by skill category usually exceed those of women.

The dualistic nature of the legal system complicates the issue of women's rights. Since traditional marriage is governed by uncodified law and custom, women's rights often are unclear and change according to where and by whom they are interpreted. Couples often marry in both civil and traditional ceremonies, creating problems in determining which set of rules applies to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death. In traditional marriages, a man may take more than one wife. A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes is ignored. Traditional marriages consider children to belong to the father and to his family if the couple divorces. Children born out of wedlock are viewed as belonging to the mother. Under the 1992 Citizenship Act, a woman does not pass citizenship automatically to her children. Inheritances are passed through male children only.

Changing socioeconomic conditions, urbanization, and the increasing prominence of female leaders in government and civic organizations are breaking down barriers to equality. Women routinely execute contracts and enter into a variety of transactions in their own names. The Government has committed itself to various women's initiatives, and the Ministry of Home Affairs coordinates women's issues. For example, the Government established a task force to address domestic gender issues and has held workshops for journalists in 1998 on gender sensitivity, while the Ministry of Education has launched an initiative to promote gender sensitization of school curriculums.

Children

The Government is concerned with the rights and welfare of children, and a number of laws directly address children's issues. The Government does not provide free, compulsory education for children. The Government pays teachers' salaries while student fees pay for books and the buildings' fund. Supplemental money sometimes must be raised for building upkeep, including teachers' housing. However, the country has a 99 percent primary school enrollment rate. A government task force educates the public on children's issues.

Child abuse is a problem. Children convicted of crimes sometimes are caned as punishment. There is a growing number of street children in Mbabane and Manzini. The law provides protection to children under 16 years from sexual exploitation and sets the age of sexual consent at 16 years (see Section 6.d.); however, female children sometimes suffer sexual abuse, including by family members.

People with Disabilities

The Ministry of Home Affairs has called for equal treatment of the disabled; however, there are no laws that protect the rights of the disabled or that mandate accessibility for the disabled to buildings, transportation, or government services. A government task force was established in 1997 to address issues affecting persons with disabilities, and in December 1998 the Minister of Health and Social Welfare announced that a bill giving preferential treatment to disabled persons for building access and other needs was in the final stages of preparation for submission to the Parliament. The bill has yet to be introduced in Parliament; however, all new government buildings under construction include improvements for the disabled, including accessibility ramps.

Section 6 Worker Rights

a. The Right of Association

The 1996 IRA permitted workers in all elements of the economy, including the public sector, to join unions and allowed unions to associate freely in the context of traditional trade union concerns; however, it imposed criminal penalties for union activity outside core union concerns, specifically on social or political issues, and provided that the Government could suspend or close down unions that focused too much on such noncore labor matters. It prohibited trade union federations (but not individual unions) or their officers from engaging in any act that "causes or incites" the slowdown or cessation of work or economic activity, or from acting in any way that might be construed as a "restraint of trade," with 5 years' imprisonment the maximum penalty for such violations. Employers faced equivalent penalties for unauthorized lockouts. The 1996 IRA confined unions and employer organizations to single industries, and did not permit organization across economic and industrial sectors, contrary to ILO Convention 87. On August 25, the Industrial Relations Act, signed into law in June by King Mswati III, came into effect and replaced the 1996 Industrial Relations Act. It was expected that the new act would improve many of the past inequities in the 1996 labor law and bring the country into full conformity with international labor conventions. The act had been endorsed by employees and employers, and passed both houses of Parliament; however, the Swaziland National Council (SNC), an appointed body of traditional advisors to the King, made several amendments to the legislation which Parliament then approved, before the King signed the act that inhibit the right of association. However, the Government, with technical assistance from the ILO, revised the controversial amendments in the act, and the amended act was passed by

Parliament and signed by the King in November. The final, amended 2000 IRA remedies many of the inequities of the 1996 IRA and provides that an employee who is not engaged in an essential service has the right to participate in a peaceful protest action to promote socio-economic interests.

The main trade union federation is the Swaziland Federation of Trade Unions (SFTU). A second trade union federation is the Swaziland Federation of Labor, which broke away from the SFTU in 1993 and gained formal recognition from the Government in 1994.

Unions are free to draw up their own constitutions within the framework of the 2000 IRA, as under the 1996 IRA. The 2000 act specifies a number of provisions that must be addressed in a constitution, including the election of officers by secret ballot. The Labor Commissioner must approve the union constitution, and can strike out or amend provisions that violate the law. The Government may suspend unions that fail to maintain proper registration with the Labor Commissioner without recourse to judicial review (under the 1996 act it could dissolve such unions). There is no collusion between the Government and business in relation to worker rights. The Labor Commissioner may reinstate unions quickly, once they have met all the legal requirements of the 2000 act.

The 2000 IRA, like the 1996 IRA, details the steps to be followed when disputes arise, including the definition of a legal or illegal strike. The final, amended 2000 IRA shortened the notice that an organization or federation is required to give before it commences a protest action from 3 weeks to 2 weeks. The act empowers the Government to mediate employment disputes and grievances through the Labor Advisory Board. When disputes arise, the Government often intervenes to try to reduce the chances of a strike, which may not be called legally until all avenues of negotiation have been exhausted, and a secret ballot of union members has been conducted. The 2000 law prohibits strikes in "essential" services, which include police and security forces, correctional services, fire fighting, health, and many civil service positions. The 1996 law had included other occupations such as electricity, water, sanitation, telephone, telegraph, and broadcasting under the "essential services" category.

In recent years, there have been a number of strikes, usually over wages and benefits, or the dismissal of fellow workers. Approximately 32 state television employees were dismissed in November 1999 after striking for higher wages and better working conditions. On September 14, the Minister of Public Service and Information ordered the reinstatement of the employees; however, on September 20 he withdrew the order, citing lack of jurisdiction over the matter. On September 28 and 29, the SFTU and Swaziland Federation of Labor (SFL) called a nationwide strike to protest the controversial clauses in the 2000 IRA; however, a last minute court order declared the strike illegal and discouraged many workers from participating. There were reports that riot police and soldiers were dispatched to the potential strike site and set up road blocks between the town of Manzini and the capital. Unionists alleged that police shot at a group of workers in Manzini, but there were no reports of arrests or injuries.

Although the Government maintained that all outstanding issues already had been addressed, the SFTU continued to press for action on the 27 demands it presented in 1994, including calls for fundamental political change. These demands addressed a wide range of issues, including recognition of affirmative action, a national uniform minimum wage, an end to discrimination against women, the provision of better housing for workers, inclusion of worker representatives in constitutional discussions, and the lifting of the 1973 Decree that suspended the Constitution and outlawed political parties.

The ILO Committee of Experts (COE) had noted discrepancies between the 1996 IRA and ILO Convention 87 on Freedom of Association and ILO Convention 98 on the right to organize and bargain collectively. The COE concerns included the powers accorded government officials to control union activity and the strictures on the ability of workers to form unions and associate with other unions at home and abroad. Although the COE was expected to highlight any discrepancies between the 2000 IRA and the ILO conventions at its November-December meeting, the Government's revisions of the act in November, with ILO assistance, precluded that review.

b. The Right to Organize and Bargain Collectively

The 2000 IRA, like the 1996 IRA, provides for the right to organize and bargain collectively and outlaws antiunion discrimination. Collective bargaining is widespread; approximately 80 percent of the formal private sector is unionized. The law obliges employers to recognize a union when it achieves over 50 percent membership among employees. Employers must allow representatives of legally recognized unions to conduct union activities on company time. The Industrial Court may refuse to register collective bargaining agreements in the event of nonobservance of any requirement of the 2000 IRA. The 1996 IRA prohibited trade union federations or their officers, but not individual unions, from inciting any slowdown of work or economic activity or acting in any way that might be construed as a restraint of trade. It provided equivalent penalties to

employers in the case of unauthorized lockouts. The 2000 IRA entitles works councils, which are to be established in factories with 25 or more employees in the absence of a trade union, to negotiate terms and conditions of work, wages, and welfare.

Disputes were referred to the Labor Commissioner and the Industrial Court, if necessary. Although many employers resisted recognition and forced the issue to the Industrial Court, the Court generally ruled in favor of the unions in these cases. In the case of unfair dismissal, the court could order reinstatement and compensation for the employee, as well as fine the employer. Union leaders made credible charges that management in various industries dismissed workers for union activity. The Government sometimes instigated such dismissals. The 2000 act provides for disputes to be referred to the Conciliation, Mediation, and Arbitration Committee (CMAC). The Deputy Labor Commissioner chairs the CMAC.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor, including by children, and the Government generally enforces this prohibition effectively; however, the SFTU cited the 1998 Administrative Order as a form of forced labor, because it reinforces the tradition of residents doing traditional tasks for chiefs and allows the chiefs to fine their subjects for failing to carry out the manual labor.

d. Status of Child Labor Practices and Minimum Age for Employment

The 1980 Employment Act prohibits the hiring of a child below the age of 15 in an industrial undertaking, except in cases where only family members are employed in the firm, or in technical schools where children are working under the supervision of a teacher or other authorized person. Legislation limits the number of night hours that can be worked on schooldays, and limits children's work-hours overall to 6 per day or 33 per week. Employment of children in the formal sector is not customary; however, children below the minimum age frequently are employed in the agricultural sector, particularly in the eastern cotton-growing region. Children also are employed as domestic workers, and as herd boys in rural areas. The Ministry of Labor is responsible for enforcement, but its effectiveness is limited by personnel shortages. The law prohibits prostitution and child pornography. The age of protection against sexual exploitation and the age of sexual consent is 16 years; however, there were reports that Mozambican girls worked as prostitutes in the country.

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e. Acceptable Conditions of Work

There is a legally mandated sliding scale of minimum wages depending on the type of work performed. These minimum wages generally provide a worker and family with a decent standard of living. The minimum monthly wage for a domestic worker is approximately \$30 (180 emalangeni), for an unskilled worker \$47 (280 emalangeni), and for a skilled worker \$75 (450 emalangeni).

Labor, management, and government representatives have negotiated a maximum 48-hour workweek in the industrial sector, except for security guards who work up to six 12-hour shifts per week. The Employment Act and the Wages Act entitle all workers to 1 day of rest per week. Most workers receive a minimum of 12 days annual leave. The Labor Commissioner enforces standards in the formal sector. There are extensive provisions allowing workers to seek redress for alleged wrongful dismissal; these provisions frequently are brought into play. There also are penalties for employers who conduct unauthorized lockouts.

Extensive legislation protects worker health and safety. The Government sets safety standards for industrial operations, and it encourages private companies to develop accident prevention programs. Recent growth in industrial production has necessitated more government action on safety issues. However, the Labor Commissioner's office has conducted few safety inspections in recent years because of staffing deficiencies. Workers have no formal statutory rights to remove themselves from dangerous work places without jeopardizing their jobs; nor do any collective bargaining agreements address the matter.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, although there are laws prohibiting procurement, including by coercion and within and across borders, for the purposes of prostitution, and, unlike in the previous year, there were no reports that women and children were trafficked for sexual exploitation during the year.

[End.]