



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2009 Country Reports on Human Rights Practices](#) » [Africa](#) » [Swaziland](#)

2009 Human Rights Report: Swaziland

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2009 Country Reports on Human Rights Practices](#)

March 11, 2010

Swaziland is an absolute monarchy, and King Mswati III has ultimate authority over the cabinet, legislature, and judiciary. The population was approximately 1.02 million, according to the 2007 census. There was a prime minister and a partially elected parliament, but political power remained largely with the king and his traditional advisors, the most influential of whom remained the queen mother. International observers concluded that parliamentary elections held in September 2008 did not meet international standards. The 2008 Suppression of Terrorism Act to silence dissent and ban certain political organizations remained in effect. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces committed abuses

Human rights problems included inability of citizens to change their government; extrajudicial killings by security forces; mob killings; police use of torture, beatings, and excessive force on detainees; police impunity; arbitrary arrests and lengthy pretrial detention; arbitrary interference with privacy and home; restrictions on freedoms of speech and press and harassment of journalists; restrictions on freedoms of assembly, association, and movement; prohibitions on political activity and harassment of political activists; discrimination and violence against women; child abuse; trafficking in persons; societal discrimination against members of the lesbian, gay, bisexual, and transsexual community; discrimination against mixed-race and white citizens; harassment of labor leaders; restrictions on worker rights; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government and its agents did not commit any politically motivated killings; however, security force members committed extrajudicial killings and were responsible for several deaths during apprehension. Authorities claimed to have investigated cases, but officers were either cleared of wrongdoing, or results were not reported. No known action was taken against perpetrators.

On June 13, in Big Bend, members of the Royal Swaziland Police Service (RSPS) shot and killed Mjomane Msibi, a suspected drug dealer who reportedly tried to evade arrest.

On May 12, police shot and killed Sibusiso German Matsebula, a suspect in the killing of Sibusiso Mashaya.

On August 10, Umbutfo Swaziland Defense Force (USDF) soldiers patrolling in the Shiselweni region along the border with South Africa shot and killed Sonnboy Mthandeni Mamba, who was allegedly trying to smuggle a car into the country.

The C
Affair
the U
Exter
const
polici

No action was taken against security force members responsible for the following 2008 killings: the January police killing of a suspected thief; the March and April killings of suspected car smugglers by USDF soldiers; and the killing of a suspected poacher in his home by the general manager of Mkhaya Private Game Reserve, who was accompanied by three police officers.

No action was taken in any of the 2007 killings perpetrated by security forces.

During the year there were reports of killings by community police, volunteers with arrest authority under the supervision of a chief.

For example, on February 28, community police in Mahwalala attacked and killed a man with bush knives and machetes; the victim had allegedly beaten a security guard.

On July 1, community police and residents of Mpolonjeni beat to death Sibusiso Mtsetfwa, who was suspected of killing his girlfriend.

There were numerous reports of mob killings during the year. On February 12, the *Times of Swaziland* newspaper reported that a mob of seven Mhlahini residents in the Shiselweni region attacked and killed a man who was allegedly stealing bags of cement from the Sibovu Primary School. The matter was pending at the High Court at year's end.

On March 4, a mob attacked and killed a traditional healer from the Shiselweni region with bush knives and stones. The mob reportedly pushed the healer, who was suspected of stealing cattle to fund his sister's dowry, into his car, which they sprinkled with gasoline and set on fire.

No action was taken, nor was any expected, against persons who participated in 2008 and 2007 killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices; however, the provision prohibiting law enforcement officials from engaging in torture is located in the "policy" section of the constitution and is not enforceable in any court or tribunal. The law does not specifically prohibit such practices. Security officials who engage in such practices may be punished, but no punishments were reported during the year, and only one case was investigated. Security officers reportedly used torture during interrogation, assaulted citizens, and used excessive force in carrying out their duties. Reported practices included beatings and temporary suffocation using a rubber tube tied around the face, nose, and mouth, or plastic bags around the head.

For example, Kuseni Hlophe alleged that police officers in January temporarily suffocated him with a rubber tube during interrogation to coerce a confession of murder.

In a May 5 High Court appearance, theft suspect Sibusiso Mdluli alleged that police officers beat him with machine guns, revolvers, and sticks and refused his request for medical attention.

In a July court appearance, suspects Thabo October Dlamini, Nganono Sabelo Manyatsi, Bheki Dlamini, Thulasizwe Ndlovu, and Sidumo Sikhondze alleged that five police officers based at the Mbabane police station had beaten them with

a crowbar and temporarily suffocated them with a plastic bag. The presiding officer in the case ordered the police to take the five suspects to the hospital before taking them back to custody.

On September 4, police reportedly detained and tortured the head of the banned political group Swaziland Youth Congress (SWAYOCO) (see section 3).

Police forcibly dispersed demonstrators, resulting in injuries (see section 2.b.).

No actions were taken, nor were any expected, against security force members responsible for 2007 abuse cases.

Despite numerous requests from civic organizations, the special commission's investigative report into the alleged 2005 torture of 17 political organization members had not been released by year's end; the report was submitted to the Prime Minister's Office in 2007.

There were credible reports of excessive force by community police during the year.

For example, on February 12, the *Times of Swaziland* newspaper reported that Mbhuleni community police officers tied a man of Mozambican origin with a chain and severely whipped him for allegedly taking payments from local residents for furniture that he did not deliver.

No action was taken against community police responsible for the following 2008 abuse cases: the April beating in detention of a 16-year-old girl; the August beating of five homeless children; or the September beating of Sifiso Vilakati.

Mob violence continued, and persons accused of rape were often severely beaten by community members.

On July 9, an angry mob in Nhlanguano assaulted Sikhumbuzo Dlamini of Mhlabeni for allegedly stealing a two-kilo package of chicken.

No action was taken, nor was any expected, against the perpetrators of 2008 and 2007 mob violence.

Prison and Detention Center Conditions

Government prisons and detention centers remained overcrowded, and conditions generally were poor. According to the 2006-07 annual report issued by the Ministry of Justice, there were 2,829 prisoners in 12 correctional centers. Prison guards tortured and abused prisoners with impunity. The Swaziland Coalition of Concerned Civic Organizations (SCCCO) reported that physical punishment of prisoners and detainees was an accepted part of the culture and not viewed as a human rights problem.

Rape and consensual sex between prisoners contributed to the spread of HIV/AIDS. Correctional facilities had prevention programs and medical clinics, and prisoners were offered free HIV/AIDS testing, counseling, and antiretroviral treatment.

At Mawelawela, the only female detention facility, detainees were not held separately from convicts. Several children lived with their mothers in the facility. Female juveniles were also held in the women's correctional facility, although they slept in different quarters.

The government did not permit independent monitoring of prison conditions by local human rights groups or the media. International officials and NGOs working on programs to fight HIV infection were permitted frequent entry to prisons and detention centers. The government generally cooperated with international organizations and permitted visits by UN representatives; however, it denied Amnesty International (AI) and other groups access to a political prisoner (see section 1.e.).

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, police arbitrarily arrested and detained numerous persons.

Role of the Police and Security Apparatus

The king is the commander in chief and holds the position of minister of defense. He presides over a civilian principal secretary of defense and a commanding general.

The Royal Swaziland Police Service (RSPS), under the authority of the prime minister, is responsible for maintaining internal security. The USDF, which reports to the defense minister, is responsible for external security but also has domestic security responsibilities, including protecting members of the royal family. The principal secretary of defense and the army commander are responsible for day-to-day USDF operations. The RSPS and the USDF were generally professional, despite inadequate resources and bureaucratic inefficiency; however, both forces were susceptible to political pressure and corruption. The government generally failed to prosecute or otherwise discipline security officers accused of abuses. No independent body had the authority to investigate police abuses. An internal RSPS complaints and discipline unit investigated reports of police abuse but did not release results of its findings to the public. Some officers attended training programs outside the country.

Traditional chiefs supervise volunteer rural "community police," who have the authority to arrest suspects and bring them before an inner council within the chieftom for trial. Traditional chiefs are required to hand over cases of serious crimes to the RSPS for further investigation; however, this did not always occur.

Arrest Procedures and Treatment While in Detention

The law requires warrants for arrests, except when police observe a crime being committed, believe that a person is about to commit a crime, or conclude that evidence will be lost if arrest is delayed. Detainees may consult with a lawyer of their choice, but the government pays for defense counsel only in cases in which the potential penalty is death or life imprisonment. Detainees must be charged with the violation of a statute within a reasonable time, usually within 48 hours of arrest, or, in remote areas, as soon as the judicial officer appears; however, arresting authorities did not always charge detainees within that period. In general, detainees were promptly informed of the charges against them, and their families had access to them. There is a functioning bail system, and suspects can request bail at their first appearance in court, except in serious cases such as murder and rape.

Police arbitrarily detained opposition members and demonstrators, one of whom was charged under the 2008 Suppression of Terrorism Act (see sections 2.b. and 3).

Lengthy pretrial detention was common. In 2007 the International Center for Prison Studies found that 31 percent of the prison population consisted of pretrial detainees. Judicial inefficiency and staff shortages contributed to the problem, as did the police practice of prolonging detention to collect evidence and prevent detainees from influencing witnesses. In some cases persons were exonerated after years of repeated remands requested by police.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, the king, on recommendation of the Judicial Services Commission, appoints the judiciary, limiting judicial independence. Judicial powers are vested in two systems: one based on Roman-Dutch law, and the other based on a system of traditional courts that follows traditional law and custom. The Roman-Dutch judiciary consists of the Supreme Court, the High Court, and magistrate courts.

The Supreme Court, which is primarily composed of foreign-born judges but includes two Swazis, has appellate and supervisory jurisdiction over the High Court and magistrate courts. Some observers believed foreign justices increased the judiciary's credibility and independence, while others believed that reliance on foreign professionals undermined the development of a strong national base of professional justices. Neither the Supreme Court nor the High Court, which interprets the constitution, has jurisdiction in matters concerning the office of the king or queen mother, the regency, chieftaincies, the Swazi National Council, or the traditional regiments system, all of which were governed by traditional law and custom (see section 2.a.).

Most citizens who encountered the legal system did so through the 13 traditional courts. Each has a president appointed by the king. Authorities may bring citizens to these courts for minor offenses and violations of traditional law and custom.

The public prosecutor has the legal authority to determine which court should hear a case, but police usually made the determination. Persons convicted in the traditional courts may appeal to the High Court. Prolonged delays during trials in the magistrate courts and High Court were common.

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

Trial Procedures

The constitution provides for the right to a fair public trial, except when exclusion of the public is necessary in the "interests of defense, public safety, public order, justice, public morality, the welfare of persons under the age of 18 years, or the protection of the private lives of the persons concerned in the proceedings." The judiciary generally enforced this right in practice. Defendants enjoy a presumption of innocence, but juries are not used. Court-appointed counsel is provided at government expense in capital cases or if the crime is punishable by life imprisonment. Otherwise, defendants in superior and magistrate courts may hire counsel at their own expense. Defendants can question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to relevant government-held evidence, generally obtained during pretrial consultations with the Public Prosecutor's Office. Defendants and prosecutors have the right of appeal, up to the Supreme Court.

The traditional courts serve the chiefs, who are appointed by the king, and have limited civil and criminal jurisdiction. They are authorized to impose fines of up to 100 emalangeni (\$13.50) and prison sentences of up to 12 months. Traditional courts are empowered to administer customary law only "insofar as it is not repugnant to natural justice or morality" or inconsistent with the provisions of any civil law in force; however, some traditional laws and practices violated civil laws and international treaties signed by the country, particularly those involving women's and children's rights. Defendants in traditional courts are not permitted formal legal counsel but may speak on their own behalf, call witnesses, and be assisted by informal advisors. Sentences are subject to review by traditional authorities and can be appealed to the High Court.

Political Prisoners and Detainees

On September 21, the High Court dismissed for insufficient evidence the terrorism and sedition case against political prisoner Mario Masuku, the leader of the People's United Democratic Movement of Swaziland (PUDEMO). Masuku, who had declined bail to pressure the government to bring his case to trial, had been detained since November 2008 on terrorism and sedition charges. During the year the government denied access to Masuku to AI, the Council of Swaziland Churches, the Swaziland Federation of Trade Unions, and a group of Danish students. The government allowed Masuku's family and attorneys to visit; however, Mandla Mkwanazi, one of Masuku's legal advisors, claimed he was forced to consult with his client over a fence and in a general visitation room without attorney-client privacy.

Civil Judicial Procedures and Remedies

The judiciary, which has limited independence, tries civil as well as criminal cases, including suits for damages against government agents.

f. Arbitrary 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"; however, the government did not always respect these prohibitions and broadly construed exceptions to the law. The law requires police to obtain a warrant from a magistrate before searching homes or other premises; however, police officers with the rank of subinspector or higher have the authority to conduct a search without a warrant if they believe that delay might cause evidence to be lost.

During the year the army conducted random checks for illegal immigrants, weapons, stolen vehicles, and evidence of other criminal activities through roadblocks and searches in homes. Police also entered homes and businesses without judicial authorization, including the home of Mario Masuku (see section 1.e.).

Police conducted physical surveillance of members of labor unions, political groups, religious groups, and others. For example, on May 11, police searched offices of the Foundation for Socioeconomic Justice and seized items. On June 12, mourners at the funeral of alleged bomber M.J. Dlamini complained of police surveillance. Comfort Mabuza of the nongovernmental organization (NGO) Media Institute in Southern Africa reported he was followed by police throughout the year.

In November 2008 the government issued an official declaration designating PUDEMO, the Swaziland Solidarity Network (SSN), SWAYOCO, and the Swaziland People's Liberation Army (UMBANE) as "specified entities" under the 2008 Suppression of Terrorism Act. Persons who abetted, aided, sympathized with, sheltered, or provided logistical support to these organizations were subject to arrest and prison terms of 25 years to life.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, but the king may waive these rights at his discretion, and the government restricted these rights during the year. Although no law bans criticism of the monarchy, the prime minister and other officials warned journalists that publishing such criticism could be construed as an act of sedition or treason, and media organizations were threatened with closure for criticizing the monarchy. The law empowers the government to ban publications if they are deemed "prejudicial or potentially prejudicial to the interests of defense, public safety, public order, public morality, or public health." Most journalists practiced self-censorship.

The king may suspend the constitutional right to free expression at his discretion, and the government severely restricted freedom of expression, especially regarding political issues or the royal family. Individuals--and family members of individuals--who criticized the monarchy risked exclusion from the traditional regiments (chiefdom-based groupings of Swazi males dedicated to serving the king) patronage system that distributed scholarships, land, and other benefits. Traditional chiefs were obliged to punish offenders when matters were brought to their attention. During the year the prime minister warned journalists against making statements that could be interpreted as seditious.

During the year the foreign minister criticized foreign diplomats for speaking publicly about political matters and warned that they were not to interfere in the internal affairs of the country.

There were two daily newspapers, the independent *Times of Swaziland* and the *Swazi Observer*, which was owned by the king's investment company, Tibiyo Taka Ngwane. Both newspapers criticized government corruption and inefficiency but generally avoided criticizing the royal family. The Ministry of Public Service and Information periodically published the *Swaziland Today* newspaper. Private companies and church groups owned several newsletters and magazines.

In November 2008 the attorney general warned that journalists who criticized the government could be viewed as supporting terrorists and arrested under the Suppression of Terrorism Act (see section 2.b.). Journalists continued to be threatened, harassed, and assaulted during the year.

For example, on January 12, after being pressured by police and government authorities, former cabinet minister and *Times of Swaziland* columnist Mfomfo Nkambule publicly apologized to the king for a series of articles that criticized the monarchy. Prime Minister Sibusiso Dlamini had threatened to charge Mfomfo Nkambule and other media commentators under the 2008 Suppression of Terrorism Act. Nkambule, who at one point had been ordered to buy between four and six cows as a fine to appease the king, reported in his newspaper column that failure to pay the fine could result in the eviction of his family from their homestead. On April 27, the *Times of Swaziland* stopped publishing Nkambule's articles.

Journalists were called to the offices of the king, prime minister, and senate subcommittee for their reporting on political events or the royal family.

For example, on May 12, a senate subcommittee summoned *Times of Swaziland* editor Mbongeni Mbingo and other journalists for reporting about a verbal exchange between Senate President Gelane Zwane and Senator Ndileka Dlamini. Senators advised journalists that internal parliamentary discussions were private and raised the possibility of charging journalists with contempt of parliament.

On June 30, at the George Tums Hotel in Manzini, organizers of an HIV/AIDS workshop ejected journalists covering the event after members of parliament (MPs) complained of the press presence. Parliamentarians cited an incident in which an MP was publicly embarrassed after papers headlined his statement that HIV/AIDS patients should be branded on their buttocks.

In August Prime Minister Dlamini reportedly threatened to close media outlets if they reported on an August royal trip abroad; there was no domestic coverage of the event. In August 2008 USDF soldiers assaulted *Times of Swaziland* journalists who were at the airport to cover the return of nine of the king's wives and their entourage from a lavish shopping spree abroad; soldiers also seized the journalists' cameras.

Journalists received anonymous telephone calls advising them not to pursue particular stories, and many of them complied. For example, freelance journalist and *Times of Swaziland* columnist Vusi Sibisi reported that he stopped writing after being told that a warrant for his arrest had been issued due to his articles that criticized the government and the monarchy.

Unlike in previous years, defamation laws were not used to restrict the press.

In March 2008 Speaker of the House Guduza, a brother of the king, sued the *Times of Swaziland* for two million emalangeni (\$270,000) for articles it published about his involvement with a company that allegedly illegally imported cigarettes worth 17 million emalangeni (approximately \$2.3 million). The case had not gone to trial by year's end.

In February 2008 the High Court awarded MP Marwick Khumalo a default judgment of 120,000 emalangeni (\$16,200); in July 2007 Khumalo had sued Bheki Makhubu, the editor of the private *Nation* magazine, for defamation after Makhubu wrote an article accusing Khumalo of corruption. However, on February 22, the High Court granted the *Nation* magazine an order for stay of execution, and the case remained pending at year's end.

The March 2007 defamation suit filed by MP Maqhawe Mavuso against the *Swazi Observer* newspaper remained pending at year's end; the *Observer* had included Mavuso's name in an article about an alleged assault.

There was one government-owned radio station and one independent radio station that broadcast religious programs and public information programs on issues such as HIV/AIDS; however, the government generally restricted media content, especially on government television and radio. There was one privately owned television station; however, the owner's mother was a daughter of the previous king, Sobhuza II, and the station's reporting favored the monarchy. The government-owned Swaziland Television Authority and radio stations were the most influential media in reaching the public, but neither generally broadcast news about antigovernment demonstrations or criticism by "progressives." Government broadcast facilities retransmitted some Voice of America and BBC news programs in their entirety.

Consumers freely purchased and used satellite dishes to receive signals and programming from independent South African and other international service providers.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet cafes existed in larger urban areas, but most citizens lived in rural areas. An estimated 4.1 percent of inhabitants used the Internet, according to International Telecommunication Union statistics for 2008.

Academic Freedom and Cultural Events

Restrictions on political gatherings and the practice of self-censorship restricted academic freedom by limiting academic meetings, writings, and discussion on political topics. There were no government restrictions on cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly; however, the government severely restricted this right during the year. The law requires police consent to hold political meetings, marches, or demonstrations in a public place. Authorities continued to withhold permission for meetings sponsored by groups such as the Congress of South African Trade Unions on grounds that they were not in the national interest or would "compromise peace, security, and stability of the country."

For example, on January 31, the city council of Manzini refused to give permission to the unregistered African United Democratic Party to hold a rally at Freedom Square to demand political reform.

On July 12, police stopped SWAYOCO, one of the four groups declared a "specified entity" under the Suppression of Terrorism Act, from holding a political meeting at the Caritas Center in Manzini. Police briefly detained four members of the organization for questioning.

On July 30, the Tshaneni police station commander told foreign students visiting from the political science department of the University of Kwazulu Natal to stop holding meetings or discussions while in the country.

Police attacked and forcibly dispersed demonstrators, although unlike in the previous year, there were no reports that police arrested union members and legal strikers. No action was taken against police who used excessive force on demonstrators.

On February 28, police used teargas to disperse SWAYOCO members, six of whom were arrested and later released for proceeding with a banned rally; four demonstrators were injured.

On March 2, at the Kwaluseni Campus of the University of Swaziland, police fired teargas canisters to disperse university students protesting the introduction of a new school schedule.

On September 21, at Matsapha Prison, correctional officers beat journalists and members of PUDEMO and SWAYOCO, who were waiting for the release of political prisoner Mario Masuku (see section 1.e.). Two SWAYOCO members were seriously injured.

No action was taken against security force members who forcibly dispersed demonstrations in 2008.

Freedom of Association

The constitution provides for freedom of association, but the government severely restricted this right during the year. The constitution does not address the formation or role of political parties, and a 2006 High Court appeal to the 1973 ban on political parties had not been heard by year's end. However, in a September 2008 affidavit, the former prime minister reiterated that political parties were banned, and in November 2008 Prime Minister Dlamini issued an official declaration designating PUDEMO, SWAYOCO, the SSN, and UMBANE as "specified entities" under the Suppression of Terrorism Act. The act, which was first used following the September 2008 detonation of a bomb near one of King Mswati's palaces, provides that persons or groups found associating with any of the four illegal groups can be sentenced to prison terms of 25 years to life. According to the attorney general, persons or groups that abet, aid, sympathize with, shelter, or provide logistical support to these organizations invite the "wrath of the law."

The government harassed and detained opposition members and conducted surveillance on members of labor unions, political groups, and groups considered potentially political (see sections 1.f. and 3).

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

New religious groups or churches are expected to register with the government, and there were no reports that any groups were denied registration during the year.

Government permission was required for the construction of new religious buildings. Non-Christian groups sometimes experienced minor delays in obtaining permits from the government. The government-owned television and radio stations did not permit non-Christian religious groups to broadcast, although news of events in the Muslim world, such as Ramadan, did appear.

Societal Abuses and Discrimination

Relations between religious groups were generally amicable, although church-related land disputes and rivalry between branches of some sects resulted in occasional violence. There were no developments in the 2008 case involving fighting between rival church groups that resulted in two deaths.

The Jewish community comprised less than 1 percent of the population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. It also states that provisions of law and custom, which impose restrictions on the freedom of any person to reside in the country, shall not contravene the freedom granted by the constitution.

By traditional law and custom, chiefs have power to decide who lives in the chiefdom, and evictions due to internal conflicts, alleged criminal activity, or opposition to the chief occurred.

Non-ethnic Swazis sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the country's history when mixed race and white persons were not considered legitimate citizens.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and minimal assistance to refugees and asylum seekers.

The government accepted refugees for permanent resettlement, allowed them to compete for jobs, and granted them work permits and temporary residence permits without discrimination. The government also provided refugees with free transportation twice a week to buy food in local markets and to earn a living. Refugees who lived in the country more than five years qualified for citizenship; however, most refugees applied after extended periods of time in the country, including more than 10 years, due to lack of information regarding their immigration status.

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

Citizens could not change their government peacefully, and political parties were banned. The king retains ultimate executive and legislative authority; parliament has limited authority. Legislation passed by parliament requires the king's consent to become law. Under the constitution, the king selects the prime minister, the cabinet, two-thirds of the Senate, 10 of 65 members of the House, many senior civil servants, 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 MPs. The constitution states that the king is required to consult with others (usually a traditional council) before exercising a major decision; however, he is not required to accept their advice.

Following the September 2008 detonation of a bomb near the king's residence, Prime Minister Dlamini issued a declaration designating PUDEMO, SWAYOCO, the SSN, and UMBANE as "specified entities" under the Suppression of Terrorism Act (see section 2.b.). Persons found associating with any of the organizations faced prison terms of 25 years to life.

Elections and Political Participation

In September 2008 parliamentary elections were held, the first since the constitution went into effect in 2006; the king appointed a new government in October 2008. International observers concluded that the elections did not meet

international standards. Political parties were not allowed to register or sponsor candidates. Ballots were cast in secrecy but could be traced by registration number back to voters, and some ballot boxes were not properly protected.

Accusations of bribery were reported. There were widespread reports that citizens were advised that if they did not register to vote, they would no longer receive government services.

During the year the High Court ruled that the SCCCO did not have legal standing to sue the Electoral and Boundaries Commission (EBC), which draws district boundaries, commissions civic education and voter registration programs, and publishes postelection reports. In 2008 the SCCCO sued the EBC on the grounds that its five members--all of whom were chosen by the king--did not meet the constitutional requirements for independence, diversity, and relevant qualifications.

When the new constitution took effect, the 1973 decree that banned political parties lapsed; the constitution provides for freedom of association but does not address political parties. In 2006 the minister of justice and constitutional affairs stated that political organizations could hold meetings at "tinkhundla" (local government) centers if they obtained permission from the regional administrator and allowed a police officer to attend the meeting. However, political and civic organizations reported problems with traditional authorities when they requested permission to meet.

The constitution also states that candidates for public office must compete on their individual merit, thereby blocking competition based on political party affiliation.

On September 4, police reportedly detained and tortured Wandile Dlodlu, head of the banned political group SWAYOCO, for allegedly making seditious statements during a border blockade sponsored by a South African labor union. Dlodlu claimed police also questioned him about a plot to smuggle weapons and explosives into the country to bomb buildings and kill influential politicians and royalty. Police reportedly took Dlodlu to a forest, threatened him with death, and over a period of approximately two hours used plastic bags to temporarily suffocate him during interrogation. According to reliable sources, police had no information tying Dlodlu to the plot and did not follow up on weapons locations Dlodlu provided under torture, even though one location was within two miles of the police station. Dlodlu subsequently recanted his statements. An investigation was ongoing at year's end.

The government harassed and arrested opposition members and raided the offices of opposition groups.

On May 9, in the Malkerns area, police raided the houses of Samson and Sabelo Ndlangamandla and seized materials relating to banned political entities PUDEMO and SWAYOCO.

On May 11, in Manzini, police raided the offices of the Foundation for Socioeconomic Justice and confiscated PUDEMO t-shirts, a digital video of a PUDEMO meeting, and a program for the May worker's day celebration.

Chiefs are custodians of traditional law and custom and are responsible for the day-to-day running of their chiefdoms and for maintaining law and order. Chiefs act as overseers or guardians of families within the communities. They are an integral part of society and traditionally report directly to the king. Local custom mandates that chieftaincy is hereditary. However, the constitution, while recognizing that chieftaincy is "usually hereditary and is regulated by Swazi law and custom," also states that the king "can appoint any person to be chief over any area." As a result, many chieftaincies were nonhereditary appointments, which provoked land disputes, especially at the time of burials.

The constitution provides that 55 of the 65 seats of the House of Assembly be popularly contested and that the king appoint the remaining 10 members. Five of the 10 must be women, and the other five must represent "interests, including marginalized groups not already adequately represented in the House." In 2008 the king appointed two women in the House of Assembly, instead of the required five, a constitutional violation that was not rectified during the year. The constitution also provides for an additional woman from each of the four regions if women do not constitute a third of the total members, nominated by the elected house members from each region, but the House had not nominated these

members by year's end. In December EBC chairman Chief Gija Dlamini stated that there was no space in parliament to seat female regional members and that the constitutional requirement could not be fulfilled until parliament was physically expanded.

The king appoints 20 members of the 30-seat Senate, and the House of Assembly elects the other 10. The constitution provides that at least eight of the king's nominees and five of the House of Assembly's nominees to the Senate be women. While House members elected the required five female members, the king had appointed only seven female senators, rather than the eight required. The king had not rectified this constitutional violation by year's end. Women held 20 percent, rather than the mandatory 30 percent, of parliamentary seats. The king appointed five women as cabinet ministers.

Widows in mourning (for periods that can vary from one to three years) were prevented from appearing in certain public places or in close proximity to the king. As a result, widows were effectively excluded from voting or running for office during those periods.

There were almost no ethnic minorities in the government. The constitution provides that other appointees should represent "interests, including marginalized groups not already adequately represented in the House." However, most officials were from the royal Dlamini family or connected with royalty.

Section 4 Official Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There was a widespread public perception of corruption in the executive and legislative branches of government and a general consensus that the government was doing little to combat it. The Coordinating Assembly for Nongovernmental Organizations estimated that 45 million emalangeni (\$6 million) in potential government revenue is lost each month due to corruption. The World Bank's most recent Worldwide Governance Indicators reflect that corruption was a serious problem.

The Anticorruption Commission (ACC), which is funded by the Ministry of Justice and was officially launched in September 2008, has the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. During the year it received 20 to 30 cases each month; however, no ACC case had resulted in conviction by year's end. ACC commissioner Justice H.M. Mtegha attributed the commission's ineffectiveness to lack of training, inadequate staff, shortage of judges in the judiciary, and the general backlog of cases in the court system.

Credible reports continued that business contracts, government appointments, military recruitment, and school admissions were awarded on the basis of the owners' relationship with government officials. Authorities rarely took action when incidents of nepotism were reported.

For example, on May 16, the media reported that despite numerous reports to police, including the identity of the embezzler, no arrests were made in the embezzlement of 150,000 emalangeni (\$20,300) at Hlathikhulu Government Hospital.

During the year the director of public prosecutions dropped the corruption case against government official Maswazi Shongwe and Senator Thandi Maziya, who were arrested and charged with fraud in February 2008. No reason was provided.

According to April 2008 media reports, Clifford Mamba, the principal secretary of the Ministry of Foreign Affairs and Trade, testified before parliament's Public Accounts Committee that Prince David, the former minister of justice and constitutional affairs, simultaneously received a salary as cabinet minister and as the country's ambassador to Denmark. The Ministry of

Foreign Affairs asked the Attorney General's Office to intervene after Prince David refused to reimburse the government more than 430,000 emalangeni (\$58,100); however, no action had been taken by year's end.

The nine suspects released on bail in 2007, including the former principal secretary of the minister of finance and other individuals closely associated with the king, were still awaiting trial at year's end for spending 50 million emalangeni (\$6.7 million) on a business training exercise for which the government had allocated only 10 million emalangeni (\$1.3 million).

The constitution prohibits government officials from assuming positions in which their personal interest is likely to conflict with their official duties. These officials are required to declare their assets and liabilities to the Integrity Commission within six months of its establishment; however, the Integrity Commission is under the Commission on Human Rights and Public Administration, which had not been established until September. In December news organizations reported that the prime minister declared his assets to the commission; however no other officials had declared their assets and liabilities by year's end.

There is no law permitting public access to government documents, and public documents were difficult to access.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials were rarely responsive to their views. Among the active groups were the Swaziland Action Group Against Abuse, Lawyers for Human Rights of Swaziland, and Women and Law in Southern Africa. Human rights groups spoke out on a number of occasions, criticizing the lack of accountability and transparency in the government.

The constitution provides for the independence of human rights NGOs; however, this provision falls within the "policy" section, which cannot be enforced in any court or tribunal.

On June 3, police arrested on sedition charges Thulani Maseko, the coordinator for the local NGO Human Rights Swaziland and one of the lawyers for political prisoner Mario Masuku. During May 1 celebrations, Maseko reportedly expressed support for the two "freedom fighters" who died in September 2008 when a bomb in their car prematurely detonated under the Lozitha bridge near the royal palace. Authorities later released Maseko on bail, and his case remained pending at year's end.

In September the government established the Commission on Human Rights and Public Administration; the commission is precluded from investigating any matter "relating to the exercise of any royal prerogative by the Crown." The constitution provides that the commission be established no later than 2007.

The government generally cooperated with international organizations and permitted visits by UN representatives; however, it denied AI and other groups access to a political prisoner (see section 1.e.).

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, disability, age, ethnicity, religion, political opinion, or social status; however, the government did not consistently enforce the law.

Women

The law criminalizes rape, including spousal rape; however, rape was common, and the government did not always enforce the law effectively. According to the 2008 RSPS Annual Report, 770 rape cases were reported in 2008. Many men

regarded rape as a minor offense, despite it being against the law. A sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. The maximum sentence for aggravated rape is 15 years; however, the acquittal rate for rape was high, and sentences were generally lenient.

Domestic violence against women, particularly wife beating, was common and sometimes resulted in death. According to a survey conducted in 2008 by the government's Central Statistics Office, 60 percent of men believed it was acceptable to beat their wives, and 18 percent of females between 13 and 44 years old had contemplated suicide, primarily as a result of domestic violence. The special police units established in 2008 for domestic violence, child abuse, and sexual abuse reported an increase in cases received during the year, compared to cases reported to the police previously.

Women have the right to charge their husbands with assault under both the Roman-Dutch and traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Penalties for men found guilty of assault not involving rape against a woman depended on the court's discretion. Rural women often had no relief if family intervention did not succeed because traditional courts were unsympathetic to "unruly" or "disobedient" women and were less likely than modern courts to convict men of spousal abuse. The Roman-Dutch legal system often gave light sentences in cases of abuse against women. The NGO Swaziland Action Group Against Abuse has hotlines and shelters to assist victims of abuse.

Prostitution is illegal but prevalent. Enforcement of laws against prostitution was inconsistent, particularly near industrial sites and military bases.

Legal provisions against sexual harassment were vague, and government enforcement was ineffective; no cases have been brought to court. There were frequent reports of sexual harassment, most often of female students by teachers. Numerous teachers and some principals were fired during the year for inappropriate sexual conduct with students, who were threatened with poor grades if they did not provide sexual favors to teachers.

The government upheld the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Access to contraception was broad, including at public restrooms, clinics, and workplaces throughout the country. Women were equally diagnosed and treated for sexually transmitted infections, including HIV. Skilled attendance during childbirth, including essential obstetric and postpartum care, was limited in rural areas.

Women occupied a subordinate role in society. The dualistic nature of the legal system complicated the issue of women's rights. Since unwritten law and custom govern traditional marriage and matters of inheritance and family law, women's rights often were unclear and changed according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody, property, and inheritance in the event of divorce or death.

The constitution provides that women can open bank accounts, obtain passports, and take jobs without the permission of a male relative; however, these constitutional rights often conflicted with customary law, which classifies women as minors. Women routinely executed contracts and entered into a variety of transactions in their own names; however, banks still refused personal loans to women without a male guarantor. The constitution provides for equal access to land; however, customary law forbids women from registering property in their own names. The law requires equal pay for equal work; however, the average wage rates for men by skill category usually exceeded those of women. Several existing acts reportedly require amendments to bring them into line with the constitution, including the Marriage Act, the Administration of Estates Act, and the Deeds Registry Act.

During the year female attorney Mary-Joyce Doo Aphane sued the government to compel it to overturn Section 16(3) of the Deeds Registry Act, which prohibits women from registering property in their own names. Arguing that the Deeds Registry Act interfered with constitutional provisions for female equality, Aphane noted that despite constitutional provisions voiding laws in conflict with constitutional clauses, no such laws had been amended or suspended by year's end.

In traditional marriages a man may take more than one wife. A man who marries a woman under civil law may not legally have more than one wife, although in practice this restriction was sometimes ignored. Traditional marriages consider children to belong to the father and his family if the couple divorce. Children born out of wedlock are viewed as belonging to the mother unless the father claims the child. Inheritances are passed to and through male children only. Traditional authorities still exercise the right to fine women for wearing pants.

The constitution states that "a woman shall not be compelled to undergo or uphold any custom to which she is in conscience opposed"; however, adherents of traditional family practices may treat a woman as an outcast if she refuses to undergo the mourning rite, and a widow who does not participate risks losing her home and inheritance. When the husband dies, his widow must remain in strict mourning for one month, during which time she cannot leave the house, and the husband's family can move into the homestead and take control of its operations. In some cases the mourning period can last for years. During the year the media reported that widows and children heading households sometimes became homeless as a result of the custom and were forced to seek public assistance, a development exacerbated by the country's high rate of HIV/AIDS. The 2006-07 Demographic and Health Survey found that 6 percent of women between 15 and 49 years of age were widows, half of whom had been dispossessed of property.

In 2008 Nhlngano election officials refused to allow widows in mourning to register to vote.

Children

Under the constitution, children derive citizenship from the father, unless the birth occurred outside marriage and the father does not claim the child, in which case the baby acquires the mother's citizenship. A foreign woman who marries a citizen can become a citizen by lodging a declaration with the proper authorities. If a Swazi woman marries a foreign man, however, even if he has become a naturalized citizen, their children are assumed to carry the father's birth citizenship. Birth registration is not automatic, and lack of birth registration can result in denial of public services.

Government efforts to protect children's rights and welfare were inadequate, due in part to the growing number of orphans and vulnerable children (OVC), which made up an estimated 10 percent of the population.

Despite a constitutional mandate that children be provided free primary education by 2009, the government did not provide free, compulsory education for children. The government paid textbook costs for first through seventh grade students, while the student paid varying school fees and contributed to the building fund. Students were sent home if their families did not pay school fees. However, during the year the Ex-Miners' Association sued the government to obtain free primary education on behalf of the country's children, and on March 25, the court ruled in favor of the association. As a result, the government began registering first and second grade students for the 2010 term and is required to pay all tuition, fees, and books for those grades. The Ex-Miners' Association filed a second suit during the year after the government announced its plan to implement free education gradually; the government claimed it could not afford to implement free primary education immediately.

The Ministry of Education received an annual budget allocation to pay school fees for OVCs in primary and high school; however, some schools continued to complain of delayed payment and expelled OVCs for nonpayment of fees. Supplemental money sometimes had to be raised for building maintenance, including teachers' housing. Rural families

avored boys over girls if they could not send all their children to school. Principals and teachers routinely demanded bribes to admit students.

Child abuse, including rape of children and incest, was a serious problem, but the crime was rarely reported, the government seldom punished perpetrators of abuse, and penalties seldom matched the crime. Many children became HIV positive as a result of rape. A study released by the UN Children's Fund in April 2008 found that one in three women in the country has suffered some form of sexual abuse as a child and that one in four experienced physical violence. Most sexual assaults of girls occurred at home, and fewer than half of sexual assaults were reported. Disabled children, children out of school, and orphans were at particular risk. Punishment for child abuse was minimal, and even the perpetrators of abuse that resulted in death were generally fined no more than 200 emalangeneni (\$27).

Corporal punishment by teachers and principals is legal and routinely practiced. School regulations state that a teacher can administer a maximum of four strokes on the buttocks to a student younger than 16, and six strokes for students older than 16; however, teachers often exceeded this limit with impunity. For example, on February 4, a teacher beat a girl for not spreading her legs fully during physical education exercises, reportedly causing the girl permanent kidney damage. On February 9, the media reported that the head teacher and the mathematics teacher at Velebantfu High School gave a 15-year-old pupil 20 lashes, 10 on each buttock, as punishment for missing morning studies and not doing his mathematics homework. Authorities made no arrests in either case.

On March 7, the *Swazi Observer* reported that a nine-year-old pupil of Kuhlankeni Primary School died as a result of a severe beating administered by a teacher. A commission of inquiry was established to investigate the case; however, no action had been taken against the teacher by year's end.

The legal age of marriage is 18 for both men and women. However, with parental consent and approval from the minister of justice, girls can marry at age 16. The government recognized two types of marriage: civil marriage and marriage under traditional law and custom. Traditional marriages can be with girls as young as 14. Critics of the royal family said the king's many wives and young fiancées, some of whom were 16 years old, set a poor example in a country with an HIV/AIDS prevalence of 42 percent among persons between 15 and 49 years of age.

During the year there were reports of forced marriages involving underage girls. For example, on January 2, a 16-year-old pupil from Ekuvinjelweni was taken to a homestead where she was married by force in traditional rites to Enock Mncina. On July 12, a 16-year-old pupil from Magojela was forced to enter into a traditional marriage with Samuel Dladla of Gege.

There were reports that girls, particularly OVCs, worked as prostitutes. There is no law that specifically prohibits child prostitution. Penalties for child pornography are six months' imprisonment and/or a fine of 100 emalangeneni (\$13.50). The law sets the age of sexual consent at 16 years and prohibits the sexual exploitation of children less than 16 years of age, which is considered statutory rape. The penalty for statutory rape is six years' imprisonment and/or a fine of 1,000 emalangeneni (\$133).

With the help of local communities, police during the year closed two brothels in Mbhuleni, where 35 girls from seven to 14 years old were trading sex for meals or alcohol provided by their pimps or clients.

During the year the numbers of street children in Mbabane and Manzini continued to grow. A large and increasing number of HIV/AIDS orphans were cared for by aging relatives or neighbors, or they struggled to survive in child-headed households. Some lost their property to adult relatives. Various governmental, international, and religious organizations and NGOs provided some assistance to HIV/AIDS orphans.

With more than 10 percent of households headed by children, UNICEF supported school feeding programs, operated a number of neighborhood care points, and provided nutritional support to children weakened by AIDS.

Trafficking in Persons

On November 10, the king assented to the People Trafficking and People Smuggling (Prohibition) Act, which prohibits trafficking in persons and became law in December, when it was published in the government gazette; however, Swaziland was a source, destination, and transit country for women and children trafficked for the purpose of commercial sexual exploitation, domestic servitude, and forced labor in agriculture.

Swazi girls, especially orphans, were trafficked for commercial sexual exploitation and domestic servitude in Mbabane and Manzini, as well as to South Africa and Mozambique. Swazi boys were trafficked for forced labor in commercial agriculture and market vending. Some Swazi women were forced into prostitution in South Africa and Mozambique after voluntarily migrating there to look for work. Chinese organized crime units trafficked victims from Swaziland to hubs in Johannesburg, South Africa, where they were distributed locally or sent to be exploited overseas. Traffickers forced Mozambican women into prostitution in Swaziland, or transited the country with their victims to South Africa. Mozambican boys migrated to Swaziland to wash cars, herd livestock, and work as porters; some later became victims of trafficking.

The new law provides a penalty of up to 25 years' imprisonment for convicted traffickers, who also are required to pay a fine to the victim in an amount determined by the court; the penalty for profiting from exploiting a trafficking victim is up to 15 years' imprisonment and a fine of up to 800,000 emalangenani (\$106,000).

There were no known investigations or prosecutions of trafficking cases during the year.

No government agency is specifically responsible for combating trafficking in persons or maintaining records distinguishing trafficked persons from other illegal immigrants or refugees. However, in July the prime minister appointed a taskforce made up of officials from various ministries as well as representatives from NGOs and the UN to develop and begin implementation of a national strategy to fight human trafficking. The antitrafficking taskforce reviewed legislation, developed an action plan, and began documenting cases of human trafficking. In August the government began a campaign to raise public awareness of the issue.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The constitution provides protection for persons with disabilities, but does not differentiate between physical and mental disabilities, and requires parliament to enact relevant implementing legislation. However, parliament had not passed laws to prohibit discrimination against persons with disabilities in employment or to provide access to health care or other state services by year's end. Persons with disabilities have complained of government neglect. There are no laws that mandate accessibility for persons with disabilities to buildings, transportation, or government services, although government buildings under construction included some improvements for those with disabilities, including access ramps.

There is one school for the deaf and one special educational alternative school for children with physical or mental disabilities. Only 25 percent of adults with disabilities were employed, mostly in the private sector, according to a 2006 study conducted by the Ministry of Health and Social Welfare. In 2006 the minister for Enterprise and Employment found that of 10,600 visually impaired persons in the country, only three were employed. Despite the former minister's 2006 pledge to introduce a bill compelling employers to create specific jobs for the visually impaired, no bill had been introduced by year's end. The hospital for persons with mental disabilities in Manzini was overcrowded and understaffed.

In October 2008 a visually impaired man was appointed as a senator, marking the first time a person with disabilities served in parliament.

National/Racial/Ethnic Minorities

The constitution forbids discrimination on the grounds of race, color, ethnic origin, tribe, or birth; however, governmental and societal discrimination was practiced against non-ethnic Swazis, generally white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population was non-ethnic Swazi. Non-ethnic Swazis experienced difficulty in obtaining official documents, including passports, and suffered from other forms of governmental and societal discrimination, such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Societal discrimination against the lesbian, gay, bisexual, and transgender community (LGBT) was prevalent, and LGBT persons generally concealed their sexual preferences. Gays and lesbians who were open about their sexual orientation and relationships faced censure and exclusion from the chieftom-based patronage system, which could result in eviction from one's home. Chiefs, pastors, and members of government criticized homosexual conduct as neither Swazi nor Christian.

Other Societal Violence or Discrimination

There was a social stigma associated with being HIV positive, which discouraged persons from being tested. Nevertheless, there were often long lines of persons waiting to be tested during prevention campaigns, especially among the young. The military encouraged testing and did not discriminate against those testing positive.

On July 5, in Lomahasha, a man assaulted his HIV-positive sister for using a family toilet, which the man believed would result in other family members becoming infected.

Section 7 Worker Rights

a. The Right of Association

The constitution and law provide that workers have the right to form and join associations of their choice, including trade unions, without previous authorization or excessive requirements, and workers exercised this right in practice, with some exceptions. Employees in essential services, which included police and security forces, correctional services, firefighting, health, and many civil service positions, may not form unions. Unions must represent at least 50 percent of employees in a work place to be automatically recognized; otherwise, recognition is left to the discretion of employers. Approximately 80 percent of the formal private sector was unionized. The law allows unions to conduct their activities without government interference.

In May the government forced the Swaziland Association of Government Secretaries to cancel its May 19 meeting. The government justified its action by noting that the association had not been officially recognized, was not unionized, and could not collectively bargain; the association responded that it could not make progress in those areas unless it was allowed to meet.

The law does not specifically permit strikes, but it allows employees who are not engaged in essential services to participate in peaceful protest action to promote their socioeconomic interests.

Unlike in the previous year, there were no reports that police detained union leaders; however, government officials intimidated union leaders. For example, on May 6, police officers searched the house of Alex Fakudze, president of the Swaziland Manufacturing and Allied Workers Union, for copies of comments he made during the May 1 celebration.

The procedure for announcing a protest action requires advance notice of at least 14 days. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts. When disputes arose with civil servant unions, the government often intervened to reduce the chances of a protest action, which may not be called legally until all avenues of negotiation have been exhausted and a secret ballot of union members has been conducted.

Unlike in the previous year, there were no reports that police detained, shot, beat, or used tear gas against persons engaged in labor protests; however, police restricted protest actions. For example, on February 2, at Sibetsamoya, approximately 25 armed police officers were deployed to Chuan Yi paper factory to ensure that 28 employees who had engaged in a legal protest action returned to work.

There were no reports that union leaders were ordered to surrender their travel documents after attending meetings abroad.

b. The Right to Organize and Bargain Collectively

The constitution and law provide for the right to organize and bargain collectively, and the government generally respected this right in practice. However, employer interference with representatives of workers' councils trying to negotiate rules and conditions of work contributed to the failure of some trade unions to negotiate or promote collective bargaining agreements.

The law prohibits antiunion discrimination; however, such discrimination continued to occur. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee, as well as fine the employer. Union leaders made credible charges that private sector management in various industries dismissed workers for union activity, but no cases were pursued through the courts. Other concerns identified by unions were undefined hours of work and pay days, assaults on workers by supervisors, surveillance by hired security officers of trade union activity, both at the workplace and outside, and the use of workers' councils stacked with employer-picked representatives to prevent genuine worker representation. Allegations of antiunion discrimination were most common in the mostly foreign-owned garment sector.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred. The Swaziland Federation of Trade Unions characterized the 1998 Administrative Order as a form of forced labor, noting that it reinforced the tradition of residents performing uncompensated tasks for chiefs, who could penalize those who did not participate. Victims of forced labor included women and children forced into commercial sexual exploitation, domestic servitude, agricultural labor, and market vending.

d. Prohibition of Child Labor and Minimum Age for Employment

The constitution and law prohibit child labor; however, such laws were not always enforced, especially outside the formal work sector, and child labor was a problem. The law prohibits hiring a child younger than 15 in an industrial undertaking, except in cases where only family members were employed in the firm, or in technical schools where children worked under supervision. However, children joined the workforce early to survive or support their families. The law limits the number of night hours that children may work on school days to six and the overall hours per week to 33.

Employment of children in the formal sector was not common, but children were found doing unpaid labor and often exposed to harsh conditions of work. In rural areas, children below the minimum age frequently worked in the agricultural

sector, particularly in the eastern cotton-growing region, and as domestic laborers and herder boys. Children reportedly worked in towns as traders, hawkers, porters, car wash attendants, and bus attendants. Minors were reportedly victims of prostitution and trafficking.

The Ministry of Labor and Social Security was responsible for enforcement, but no officials were specifically designated to deal with child labor, and the ministry's effectiveness was limited.

e. Acceptable Conditions of Work

The Ministry of Labor and Social Security sets wage scales for each industry. There was a legally mandated sliding scale of minimum wages depending on the type of work performed. The minimum monthly wage for a domestic worker was approximately 300 emalangeni (\$40), for an unskilled worker 420 emalangeni (\$57), and for a skilled worker 600 emalangeni (\$81). In July the government agreed to a 12 percent civil service pay increase across the board, which was backdated to April. These minimum wages did not provide a decent standard of living for a worker and family. Migrant workers were not covered under minimum wage laws. Wage arrears, particularly in the garment industry, were a problem. The minimum wage laws did not apply to the informal sector, where most workers were employed.

There was a standard 48-hour workweek for most workers and a 72-hour workweek for security guards; however, public transport workers complained that they were required to work for 12 hours a day or more without any overtime compensation. The law permits all workers at least one day of rest per week and provides for premium pay for overtime. Most workers received a minimum of 12 days of annual leave. Workers receive 14 days of sick leave with full pay and 14 days with half pay after three months of continuous service; these provisions apply only once per calendar year. No sick leave is granted if an injury results from an employee's own negligence or misconduct. These standards do not apply to foreign and migrant workers. The labor commissioner conducted inspections in the formal sector, and the ministry had filed suits for labor violations against three companies by year's end.

The constitution calls on parliament to enact new laws to protect a worker's right to satisfactory, safe, and healthy employment conditions; however, parliament had not enacted any such laws by year's end. The law provides for some protection of workers' health and safety. The government set safety standards for industrial operations and encouraged private companies to develop accident prevention programs; however, the Labor Commissioner's Office conducted few safety inspections because of staffing deficiencies and an alleged desire not to "scare off foreign investors." Workers have no legal right to remove themselves from dangerous workplaces without jeopardizing their continued employment, and collective bargaining agreements do not address the matter.

There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal, and these provisions frequently were invoked during the year.