



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2010 Country Reports on Human Rights Practices](#) » [Africa](#) » [Swaziland](#)

2010 Human Rights Report: Swaziland

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

April 8, 2011

Swaziland is an absolute monarchy, and King Mswati III has ultimate authority over the cabinet, legislature, and judiciary. According to the 2007 census, the population was 1.02 million. There is 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 2008 did not meet international standards. The 2008 Suppression of Terrorism Act, used to silence dissent and ban certain political organizations, remained in effect. Security forces reported to civilian authorities.

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 transgender (LGBT) 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

There were reports that the government or its agents committed arbitrary or unlawful killings.

There was an ongoing inquest into the death of Sipho Jele, who died on May 4 while in custody at the Sidwashini correctional prison three days after police arrested him for wearing a T-shirt from the banned political group People's United Democratic Movement.

On January 5, police shot and killed three suspected robbers at the Sidvokodvo Valley Farm as they allegedly fled from police; the robbers were reportedly armed with a machete, hammer, and crow bar.

On March 10, members of the Royal Swaziland Police shot and killed an armed South African citizen suspected of robbing a shop in Mlumati; he reportedly was fleeing from the scene.

On April 15, in Manzini, police officers shot and killed suspected thief Siphon Kunene as he reportedly ran from them.

No action was taken in any of the 2009 or 2008 killings by security forces. Authorities claimed to have investigated these cases, but officers were either cleared of wrongdoing or results were not reported. No known action was taken against perpetrators.

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

For example, in March community policeman Mandla Mdluli reportedly killed Bhutana Simelane, who was apprehended for suspected robbery. Mdluli was arrested on March 22 for Simelane's death.

On April 4, residents and community police of New Village beat to death Siphephelo Dlamini, who was suspected of being a neighborhood criminal.

On July 10, in Mlawula rangers shot and killed Lucky Matsenjwa, who was suspected of poaching. Matsenjwa reportedly was unarmed.

Vigilante violence resulted in deaths.

For example, on June 22, a violent mob lured a man in Nhlanguano from his house and beat and burned him to death; the man was accused of cattle smuggling.

No action was taken, nor was any expected, against community police or civilians who participated in 2009 and 2008 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. Many cases of torture were investigated, but findings were not made public. 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, on February 9, police beat a woman who was eight months pregnant after she attempted to defend another vendor at the Mbabane bus rank.

On February 14, a suspected gun smuggler claimed police tied him to a tree, suffocated him with a tube, and shot him twice in the back.

On April 13, in Malkerns, police intervened at Valley Primary School after 10 emalangeni (approximately \$1.35) was reported stolen. Hoping that the culprit would confess, police required 49 elementary students to do up to 200 squats each.

The C
Affair
the U
Exter
cons:
polici

On June 2, police forcibly apprehended Patricia Dlodlu at her workplace, claiming that she had stolen a cell phone; at the police station, Dlodlu was stripped naked and locked in a room. Police later released Dlodlu and did not bring charges.

On June 13, in Matsapha, three soldiers severely beat Amado Dos Santos after he reportedly attempted to stop them from assaulting a woman; he sustained multiple injuries to the head and received 19 stitches.

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 2009 or 2008 abuse cases.

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

On January 10, community police forced a man to eat raw goat meat as punishment for allegedly killing a neighbor's goat.

On January 16, community police kidnapped and beat a man for allegedly stealing his employer's laptop computer; the community police were arrested following the incident.

For example, on February 16, Sanele Shongwe was accused of damaging the windows of a neighbor's house and was beaten by community police until he lost consciousness.

On March 6, community police in a semirural area punished two girls for disrespecting one of their mothers, making the girls hold beer bottles full of water for hours.

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

For example, on January 20, in Mathendele an armed mob estimated to number 70 persons attacked a woman after she had allegedly issued death threats to a 15-year-old boy.

On March 19, in Magele, a man was hospitalized after a mob attacked him because his dogs allegedly bit a child and a neighbor's goat.

On May 30, a man who was suspected of robbing three Msunduzi residents was paraded naked through the town, tied to a pole, and severely beaten; he was later hospitalized for his injuries.

No action was taken, nor was any expected, against the perpetrators of 2009 and 2008 mob violence.

Prison and Detention Center Conditions

Prisons and detention centers remained overcrowded, and conditions generally were poor. Prison guards 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.

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. During a bail application, a High Court judge expressed concern that at the Peak Piggs Correctional Services minors awaiting trial were sharing the same cells with adults.

The government did not permit independent monitoring of prison conditions by local human rights groups or the media. The 2009 Correctional Services annual report indicated that during the 2008-2009 fiscal year, there was a daily average of 2,700 inmates in 12 prison centers, including 550 women and 50 juveniles. In prisons women are held separately from men, and juveniles from adults; however, there were reports that women and men were detained together in jails after arrests, due to space constraints. Juveniles attend Correctional Services Schools. A total of 1,173 inmates were referred to government hospitals due to illness, and 14 inmates died while in detention due to illness.

Overcrowding in prison cells was a problem, exposing inmates and officers to diseases and life-threatening infections such as tuberculosis, HIV/AIDS, and hepatitis. There were allegations that sexual activity, including rape, takes place in prisons, and reports that detainees suffered from a shortage of food. The type of clothing prisoners wore was not well suited for winter, and there was not enough bedding, forcing detainees to sleep on floors. Prison structures were old, dilapidated, and in need of major rehabilitation and refurbishment.

On May 4, political prisoner Sipho Jele died in police custody (see section 1.a.).

Prisoners and detainees had reasonable access to visitors. Although prisoners were allowed to present their grievances or complaints, the grievances were censored and sometimes did not reach appropriate authorities. Christian inmates were permitted religious observance. Chaplains and independent pastors from various denominations were allowed to minister, but other religious groups, although not explicitly prohibited, experienced challenges in accessing inmates. Authorities investigated allegations of inhuman conditions and documented results of such investigations, but the reports were never made public. The government, through the minister of justice and constitutional affairs and a parliamentary portfolio committee, visited prison and detention centers during the year. Convicts had free movement in terms of performing outdoor chores and the opportunity to play different sports, but detainees were confined to the prison centers.

There were no public reports by independent monitoring groups during the year. The International Committee of the Red Cross requested to visit and monitor prisons and jails, but did not receive permission. International officials and nongovernmental organizations (NGOs) working on programs to fight HIV were permitted frequent entry to prisons and detention centers.

d. Arbitrary Arrest or Detention

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

For example, on February 10, a protest planned by University of Swaziland students was disrupted by police when they detained five leaders of the Swaziland National Union of Students (SNUS). After several hours, police released students in a remote area. Sicelo Vilane, a journalism student at Oxford College, was arrested for taking pictures of police detaining the SNUS leaders. After police discovered a membership card for the Swaziland Youth Congress (SWAYOCO), a banned political entity, Vilane was charged with terrorism. The charges were later dropped.

On April 12, police detained Motern Koefen, a consultant from Denmark working with the Foundation for Socioeconomic Justice, as he was on his way to a meeting with the Swaziland Chapter of the Global Democracy Campaign. Police subsequently released Koefen, who was not charged.

On May 1, police detained and arrested a number of political activists for participating in a May Day celebration, claiming they were not allowed to participate in the event hosted by the Swaziland Federation of Trade Unions (SFTU) and the Swaziland National Association of Teachers because they were not workers.

Role of the Police and Security Apparatus

The king is the commander in chief, holds the position of minister of defense, and is the commander of the police and the correctional services. He presides over a civilian principal secretary of defense and a commanding general. Approximately 40 percent of the government's workforce is allocated to security.

The Royal Swaziland Police Service (RSPS), under the authority of the prime minister, is responsible for maintaining internal security. The Umbutfo Swaziland Defense Force (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, members of 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 that included a human rights component 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 chiefdom for trial for minor offenses. For serious offenses, community police are required to apprehend suspects and transfer them to the RSPS for further investigation; however, this did not always occur and, in cases when it did, it often happened after suspects were subjected to severe beatings.

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; their families had access to them and were allowed to consult with lawyers of their choice. There is a functioning bail system, and suspects can request bail at their first appearance in court, except in the most serious cases such as murder and rape.

Police arbitrarily detained opposition members and demonstrators.

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 based on two systems: Roman-Dutch law and a system of traditional courts that follows traditional law and custom. 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 these institutions are 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 Director of Public Prosecutions has the legal authority to determine which court should hear a case, and public prosecutors have delegated responsibility; however, 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 violate 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 May 4, political prisoner Sipho Jele died while in police custody (see section 1.a.).

In September 2009 the High Court dismissed for insufficient evidence the terrorism and sedition case against political prisoner Mario Masuku, 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 2008 on terrorism and sedition charges. In 2009 the government denied Amnesty International, the Council of Swaziland Churches, the Swaziland Federation of Trade Unions, and a group of Danish students access to Masuku. The government allowed Masuku's family and attorneys to visit; however, Mandla Mkwanzazi, 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. Administrative remedies are available under civil service rules and regulations.

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.

Police conducted physical surveillance of members of labor unions, political groups, religious groups, and others. For example, on September 7, police entered the offices of the Foundation for Socioeconomic Justice and reportedly insulted and intimidated the staff, including Danish nationals who were visiting the foundation, and transported them to the police station. The Swazi nationals were kept in the van for the entire day, and the visiting nationals were escorted to the airport since they were leaving the country that day.

In 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.

On April 7, Royal Swaziland Police who claimed to be searching for stolen cattle and groceries raided the homestead of a traditional healer in Nhlanguano without the permission of the chief.

On June 4, police entered the home of Bheki Mbilini Dlamini, the regional chairperson of the Swaziland Nurses Association, and confiscated medicine, documents, and handcuffs; at the time of the raid, the police did not provide a search warrant.

On June 23, police raided the home of Barnes Dlamini, SFTU president. The search warrant in police possession specified the removal of any bomb-making materials, but during the raid, the police confiscated political literature.

During the week of June 19, police raided the homesteads of six PUDEMO members and two SWAYOCO members. The searches were allegedly conducted due to suspicion of the members' involvement in a series of bombings that had taken place in several homes and buildings around the country. Police confiscated a variety of PUDEMO documents including placards and a copy of the group's constitution.

The *Times of Swaziland Sunday* newspaper reported on June 27 that Norman Xaba, a member of PUDEMO, allegedly received a threat from police stating he would die within 20 days for his affiliation with that organization.

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. For example, Justice Minister Ndumiso resigned in August amidst allegations of a romantic relationship between the minister and King Mswati III's 12th wife, Queen Nothando Dube. Despite intense local and regional interest, no Swazi media outlet reported on why the minister resigned. Individuals and their family members 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.

Daily newspapers criticized government corruption and inefficiency, but generally avoided criticizing the royal family.

In December 2009 the attorney general told newspaper editors that promoting or giving support to terrorists remained a serious crime. In 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 February 12, during the official opening of parliament, photographers from the *Times of Swaziland* were harassed for taking pictures of the traditional marula brew that was kept in some offices in parliament. One of the journalists, Walter Dlamini, was detained by police and forced to delete the photographs before being able to attend the rest of the celebration.

On March 22, *Swazi Observer* newspaper editor Sifiso Dhlamini resigned after a Mbabane City Council board member advised him not to publish an article about former Mbabane City Council CEO Gideon Mhlongo; he later withdrew his resignation.

On September 6, a *Times of Swaziland* journalist was harassed and detained by police while covering a meeting organized by the Swaziland Democracy Campaign. Police confiscated his camera and briefly kept it at the Manzini police station.

On September 8, a female journalist from the *Swazi Observer* was harassed by paramilitary police for recording a riot scene during a workers' protest march.

During the year the Swaziland Broadcasting Information Services banned trade unions from airing announcements at radio stations unless they had permission from the police.

Defamation laws were used to restrict the press.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet cafes existed in cities, but most citizens lived in rural areas. An estimated 4.2 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 affected 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 28, police fired teargas canisters to disperse a group of students from the University of Swaziland who were marching to deliver a petition to the Ministry of Labor and Social Security regarding allowances. Four students were injured during the incident.

On February 20, police stopped the Vulamehlo Youth Brigade, a youth-led organization, from meeting at the Lutheran Development Services building, claiming the organization was illegal.

On March 20, police broke up a peaceful rally organized by the banned political entity SWAYOCO.

On April 10, police stopped approximately 50 persons from traveling to the kaShoba constituency to discuss the problem of violence by game park rangers against alleged poachers.

On April 16, police denied entrance to a meeting organized by the Swaziland Democracy Campaign for PUDEMO President Mario Masuku.

No action was taken against police who used excessive force on demonstrators or against security force members who forcibly dispersed demonstrations in 2009.

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 2008 affidavit, the former prime minister reiterated that political parties were banned, and in 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 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

For a description of religious freedom, please see the Department of State's 2010 *International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/rpt.

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.

Nonethnic 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

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 waited longer to apply, sometimes 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 remained banned. In August King Mswati III publicly reiterated his stance that the issue of political parties was previously discussed and concluded at the cattle byre, a setting like a traditional parliament or discussion forum where national issues are deliberated, and that the matter was closed. 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 members of parliament. 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 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 government in October 2008. International observers concluded that the elections did not meet international standards. Banned political parties were not allowed to register or sponsor candidates of their choice. Ballots were cast in

secrecy but could be traced by registration number to voters; some ballot boxes were not properly protected. Accusations of bribery were reported. There were widespread reports that citizens were advised if they did not register to vote, they would no longer receive government services.

In 2009 the High Court ruled that the SCCCCO 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 SCCCCO 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 constitution took effect, the 1973 decree that banned political parties lapsed; the constitution provides for freedom of association but does not address how political parties can operate, including how they can contest elections. 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.

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

In the early hours of June 17, police, armed with a warrant, searched the home of civil rights activist Musa Hlophe, coordinator of the SCCCCO, in search of bombs.

On September 6, police dispersed a meeting of political and labor activists organized by the Swaziland Democracy Campaign, and Swazi unions and opposition leaders reported that police searched their offices and harassed members who participated in the demonstration.

In August Sibusiso Mhlanga, a member of the banned political party PUDEMO's youth wing, SWAYOCO, was arrested, interrogated, and his house searched after he was apprehended making copies of an article from a South African newspaper detailing the arrest and resignation of a former justice minister. He was later charged with violating copyright law. His case was pending at year's end.

On May 1, Jan Sithole, former SFTU secretary general, and Musa Hlophe were detained for approximately 30 minutes at the South African control office at the OR Tambo Airport because South African authorities claimed the Swazi government had issued a security alert on the passports.

Participation in the traditional sphere of governance and politics is predominantly done through chiefdoms. Chiefs are custodians of traditional law and custom, report directly to the king, and are responsible for the day-to-day running of their chiefdoms and maintaining law and order. 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 in 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 to 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 2009 EBC Chairman Chief Gija Dlamini stated there was no space in parliament to seat female regional members and 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 appointed only seven female senators. 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 out of 20 ministerial positions.

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 emalangenani (six million dollars) in potential government revenue is lost each month due to corruption. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a serious problem.

Both RSPF and USDF personnel were susceptible to political pressure and corruption. The Anticorruption Commission (ACC), funded by the Ministry of Justice, has the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. During the year it recorded 148 complaints of corruption. Eighty-nine cases were authorized for investigation, and 27 were referred to other law enforcement agencies; five cases are currently in court and four are with the Director of Public Prosecutions awaiting commencement of prosecution; however, no ACC case had resulted in conviction by year's end. ACC commissioner H.M. Mtegha, a retired judge from Malawi, attributed the commission's ineffectiveness to lack of resources and training, inadequate staff, a shortage of judges, and the general backlog of cases in the court system.

Principals and teachers routinely demanded bribes to admit students.

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 25, the general manager and the senior mechanical engineer of the Central Transport Administration, Polycarp Dlamini and Mpumelelo Mamba, were arrested along with Sandile Dlamini, the manager of Protronics Networking Corporation, and Industrial Court judge Sifiso Nsibande, on charges of money laundering since 2005. The four men were released on a 50,000 emalangenani (\$6,760) bail, and the cases had not progressed in the courts by year's end.

On June 2, police arrested Qhawe Mamba, the owner of television station Channel Swazi, for his alleged involvement in a pyramid scheme in 2008. His case was still pending in court at year's end.

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. In December 2009 the prime minister and members of his cabinet declared their assets to the commission, and other high-ranking officials declared their assets by March 11. The commission has not made these reports public, and it is unclear whether it is required to do so.

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 active groups were the Swaziland Action Group Against Abuse, Lawyers for Human Rights of Swaziland, Women and Law in Southern Africa, the Council of Swaziland Churches, and the Roman Catholic Church. 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.

In June 2009 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 2009 May 1 celebrations, Maseko reportedly expressed support for the two "freedom fighters" who died in 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 2009 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 government generally cooperated with international organizations and permitted visits by UN representatives. In February Michel Sidibe, Executive Director of UNAIDS, visited the country.

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 2009 RSPS Annual Report, 624 rape cases were reported in 2009. 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. Domestic violence is illegal; however, police efforts to combat the crime were inadequate. 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 with 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.

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. There were 161 such teacher-pupil cases investigated during the year; 10 involved principals of schools.

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. There was wide access to contraception, 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. The 2009 UNFPA State of the World Population Report indicated that the country's maternal mortality ratio is 390 per 100,000 live births; the proportion of maternal deaths due to HIV is 75 percent.

Women occupy a subordinate role in society. The dualistic nature of the legal system complicates 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 are unclear and change according to where and by whom they were interpreted. Couples often marry in both civil and traditional ceremonies, creating problems in determining which set of rules apply 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 conflict 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.

On February 23, the Swazi High Court overturned section 16(3) of the Deeds Registry Act, which prohibited women from registering property in their own names. On May 28, the Supreme Court upheld the High Court's ruling that the law was

unconstitutional and stated that parliament needed to enact appropriate legislation within 12 months. Pending such legislation, the Supreme Court ruled that women should continue to register property jointly with their husbands.

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 divorces. Children born out of wedlock are viewed as belonging to the mother, unless the father claims the children. 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 may lose 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 girls and women between 15 and 49 years of age were widows, half of whom had been dispossessed of property.

During the 2008 national elections in Nhlangano, 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 had not completely complied. The government claimed it could not afford to enact free primary education immediately; however, after a 2009 lawsuit brought by the Ex-Miners' Association to obtain free primary education on behalf of the country's children, the government began to implement the mandate gradually. During the year the government provided tuition, fees, and books for first and second grade students. The Deputy Prime Minister's Office received an annual budget allocation to pay school fees for OVCs in primary and secondary school; however, some schools continued to complain of delayed payment and expelled OVCs for nonpayment of fees. Individual schools sometimes needed to raise supplemental money for building maintenance, including of teachers' housing. Rural families favored 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 2008 that focused on girls between the ages of 13 and 24 found that one out of three girls and young women in the country suffered some form of sexual abuse as a child, and that one in four experienced physical violence; approximately three in 10 had survived emotional abuse. Most sexual assaults of girls occurred at home, and fewer than half of sexual assaults were reported. Children with disabilities,

children out of school, and orphans were at particular risk. Punishment for child abuse was minimal, and even perpetrators of abuse that resulted in death were generally fined no more than 200 emalangi (\$27).

Corporal punishment by teachers and principals is legal and routinely practiced. School regulations state a teacher can administer a maximum of four strokes with a stick on the buttocks to a student younger than 16 years old, and six strokes to students older than 16 years old; however, teachers often exceeded these limits with impunity.

On February 18, a teacher whipped a primary school student for talking in class. Police did not arrest the teacher.

On April 6, in Ezulwini, a high school teacher whipped five pupils on their buttocks and hands for failing a Siswati test. The number of lashes was determined by how poorly they did on the exam; one of the students received 39 lashes.

On April 17, police arrested the teacher who beat a girl for not spreading her legs fully during physical education exercises last year. The teacher was arrested and granted bail, but the Teaching Service Commission subsequently suspended him from teaching.

In March 2009 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 years old for both men and women. However, with parental consent and approval from the minister of justice, girls can marry at the age of 16. The government recognizes two types of marriage: civil marriage and marriage under traditional law and custom. Traditional marriages can be with girls as young as 14 years old. 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 26 percent among persons between 15 and 49 years of age.

In 2009 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 under traditional rites.

Minors were reportedly victims of prostitution and trafficking. Children are victims of commercial sexual exploitation at truck stops, bars, and brothels.

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 a fine of 100 emalangi (\$13.50). The law sets the age of sexual consent at 16 years old 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 a fine of 1,000 emalangi (\$135).

During the year the number of street children in Mbabane and Manzini continued to grow. A large and increasing number of HIV/AIDS orphans were cared for by 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.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

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

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* 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. The deputy prime minister is responsible for upholding the law. 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. Public transport was not user friendly to disabled persons, and the government does not provide any means of alternative accessible transport.

The Deputy Prime Minister's Office and its Social Welfare section are responsible for protecting the rights of persons with disabilities.

In 2008 a visually impaired man was appointed as a senator, marking the first time a person with disabilities served in parliament. In August the government purchased computer equipment, which included a text scanner, Braille printer, control panel unit tower, keyboard, and speakers to assist the senator to perform his parliamentary duties.

There is one school for the deaf and one special education 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, located in Manzini, was overcrowded and understaffed.

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 LGBT community was prevalent, and LGBT persons generally concealed their sexual preferences. Colonial-era legislation against sodomy remains on the books; however, it has not been used to arrest homosexual persons. 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. Some gay and lesbian Swazis told the UNAIDS executive director they were often turned away at HIV testing clinics because of their sexual orientation. Societal discrimination exists against gays and lesbians; however, there were no reported legal cases during the year. It is difficult to know the extent of employment discrimination based on sexual orientation because victims are not likely to come forward, and most gays and lesbians are not open about their sexual orientation.

Other Societal Violence or Discrimination

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

Examples of discrimination during the year included the case of a cook at Lavumisa Primary School who, on January 26, was fired after superiors found she was HIV-positive.

On February 11, an eight-year-old girl was dismissed from class by her teacher, who alleged she was HIV-positive.

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.

The law permits strikes; however, logistical requirements to register a legal strike makes striking difficult in practice. Employees who are not engaged in essential services are allowed to participate in peaceful protest action to promote their socioeconomic interests.

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. Police restricted protest actions and searched union headquarters and personal residences of union members for banned materials.

On September 6, police dispersed a meeting of political and labor activists, detaining and later releasing members of civil society, banned political groups, labor unions from Swaziland and South Africa, and a local journalist. Among those held by police were Secretary General of the Swaziland Federation of Labor, Vincent Ncongwane; Swaziland Youth Congress President, Wandile Dlodlu; Deputy President of UDEMO, Sikhumbuzo Phakathi; General Secretary of the Swaziland National Association of Nurses, Sibusiso Lushaba; head of the SCCCCO, Musa Hlophe; and Open Society Initiative for Southern Africa Country Manager Muzi Masuku. Police detained five South African trade unionists, including Congress of South African Trade Unions (COSATU) Deputy International Relations Secretary Zanele Mathebula, and its Head of Campaigns, George Mahlangu, and expelled them across the South African border.

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; 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 domestic servitude, agricultural labor, and market vending. Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

d. Prohibition of Child Labor and Minimum Age for Employment

The constitution and the Employment Act 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 years old 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 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.

In agriculture children pick cotton, harvest sugarcane, and herd livestock. This work may involve activities that put at risk their health and safety, such as using dangerous machinery and tools, carrying heavy loads, applying harmful pesticides, and working alone in remote areas.

Child domestic service is also believed to be prevalent. Such work can involve long hours of work and may expose children to physical and sexual exploitation by their employer.

Children also work as porters, bus attendants, taxi conductors, and street vendors. Children working on the streets risk a variety of dangers, such as severe weather and automobile accidents; they also may be vulnerable to exploitation by criminals. Other children are reported to work 14-hour days in textile factories.

Children's exploitation in illicit activities is a problem. Children serve alcohol in liquor outlets and grow, manufacture, and sell drugs. Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

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. The Ministry of Enterprise and Employment, the Department of Social Welfare under the Deputy Prime Minister's Office, and the police services are the federal agencies designated to enforce child labor laws. The government supports programs to promote access to schooling. Free primary schooling is offered in grades one and two. Through the Office of the Deputy Prime Minister, the government pays school fees for orphans and vulnerable children to provide additional social support and keep these children from engaging in child labor.

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 4.5 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 12 hours a day or more without any overtime compensation. It was not clear whether there were specific exceptions for female workers. Although policies exist regarding maternity leave, women often believe they are compelled to keep working from economic need, which sometimes resulted in giving birth in unsafe environments, for example, on the way to work. 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 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 shortages 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.

[Back to Top](#)