

SWAZILAND 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Swaziland is an absolute monarchy. King Mswati III and Queen Mother Ntombi, the king's mother who rules as his co-monarch, have ultimate authority over the cabinet, legislature, and judiciary. There are a parliament consisting of appointed and elected members and a prime minister, but political power remained largely with the king and his traditional advisors. International observers concluded the September parliamentary elections did not meet international standards. Authorities failed at times to maintain effective control over the security forces. Security forces committed human rights abuses.

Swazi citizens remained unable to change their government. The three main human rights abuses were police use of excessive force, including use of torture, beatings, and unlawful killings; restrictions on freedoms of association, assembly, and speech; and discrimination against and abuse of women and children.

Other human rights problems included arbitrary arrests and lengthy pretrial detention; arbitrary interference with privacy and home; prohibitions on political activity and harassment of political activists; trafficking in persons; societal discrimination against members of the lesbian, gay, bisexual, and transgender (LGBT) community and persons with albinism; mob violence; harassment of labor leaders; child labor; and restrictions on worker rights.

In general, perpetrators acted with impunity, and the government took few or no steps to prosecute or punish officials who committed abuses.

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

a. Arbitrary or Unlawful Deprivation of Life

During the year there were reports the government or its agents committed arbitrary or unlawful killings. Police investigated unlawful killings and referred cases to the Directorate of Public Prosecutions as appropriate.

A total of 33 cases of unlawful shooting and assault were reported during the year. For example, on March 21, the *Times of Swaziland* reported that Royal Swaziland Police Service (RSPS) officers shot and killed Thokozani Mngometulu while he was exiting a car at his residence in the town of Dlakadla. The *Times of*

Swaziland, the *Swazi Observer*, and the regional press reported police shot Mngometulu twice at close range. Police claimed he was on a wanted list for possessing an unlicensed firearm and for threatening to shoot a person.

The *Times of Swaziland* reported that on June 17 game rangers at the Mkhaya Nature Reserve shot four armed poachers without warning. One died due to injuries.

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. Security officials who engage in such practices may be punished, and some officers were brought to court on charges, but no convictions or punishments were reported during the year. Police stated that they investigated allegations of torture cited by Amnesty International, but their findings were not made public. Security officers used excessive force in carrying out their duties. These practices led to death in at least one case.

According to the RSPS, police investigate complaints of police abuse and unlawful killings, and refer cases to the Directorate of Public Prosecutions as appropriate. At year's end the RSPS reported several cases of police abuse were under investigation but provided no details on the nature of the abuses. There were no reports of prosecution during the year.

There were credible reports of use of excessive force by community police during the year. On June 21, the *Times of Swaziland* reported that Mathendele community police beat Masotsha Mazibuko. Mazibuko, a homeless person, was on the community police wanted list as a public nuisance.

Prison and Detention Center Conditions

Prison and detention center conditions were uneven. Overcrowding in some prisons was a problem, exposing inmates and corrections officers to diseases and infections such as tuberculosis, HIV/AIDS, and hepatitis. Sexual violence, including rape, allegedly took place in prisons.

Physical Conditions: Statistics released by His Majesty's Correctional Services (HMCS) in January indicated there were 3,280 sentenced inmates, which exceeded the prison system's holding capacity by 442 inmates. As of May there were 619 pretrial detainees. Female inmates constituted 2.6 percent of the adult prison population. Women and men were detained together at police stations after arrest due to space constraints. Pretrial detainees and convicted prisoners were held separately. Juveniles were held separately from adults in pretrial detention. In prisons women were held separately from men, and juveniles from adults.

Although authorities provided potable water and food to prisoners, pretrial detainees depended on family members or friends to provide food. Facilities were of mixed quality. While some were old and dilapidated, others were newer and well maintained.

The HMCS provided free formal education to juvenile inmates. Adult inmates received training in agriculture, animal husbandry, construction, electrical work, plumbing, welding, tailoring, weaving, upholstery, and other trade skills.

Administration: The HMCS kept adequate records, updated daily, on prisoners. Convicts who committed minor offenses had free movement in terms of performing outdoor chores and playing sports. There were no provisions for alternative sentencing of nonviolent offenders. The HMCS used a committee structure, through its legal department, to receive and process complaints from inmates, the public, and the HMCS staff. Authorities claimed to have investigated allegations of inhuman conditions and documented results of such investigations, but the reports were never made public. Prisoners and detainees had reasonable access to visitors. Christian inmates could observe their religious practices, and authorities generally allowed religious leaders to minister. The government did not specifically prohibit non-Christian inmates from religious observance.

Independent Monitoring: The government permitted very limited monitoring of prison conditions. Independent monitoring groups found it difficult to access prison facilities during the year, and none issued public reports during the year. Authorities permitted international officials and nongovernmental organizations (NGOs) working on programs to fight HIV entry to prisons and detention centers, although sometimes with difficulty. Authorities generally did not allow journalists inside prisons.

d. Arbitrary Arrest or Detention

Although the constitution and law prohibit arbitrary arrest and detention, police arbitrarily arrested and detained numerous persons, primarily to prevent their participation in public protests. For example, on March 18, police detained four members of the youth empowerment NGO Luvasti and questioned them about their political activities. According to newspaper reports on the incident, police allegedly placed plastic bags over the heads of two of the detainees, Dibanisa Motsa and Zenzele Nkosi, in order to extract information from them and then released them without charge.

Role of the Police and Security Apparatus

The king is the commander in chief of the Umbutfo Swaziland Defense Force (USDF), holds the position of minister of defense, and is the commander of the RSPS and the HMCS. He presides over a civilian principal secretary of defense and a commanding general. Approximately 35 percent of the government's workforce were assigned to security-related functions.

The RSPS is responsible for maintaining internal security. The USDF is responsible for external security but also has domestic security responsibilities, including protecting members of the royal family. The prime minister oversees the RSPS, and the principal secretary of defense and the army commander are responsible for day-to-day USDF operations. The HMCS is responsible for the protection, incarceration, and rehabilitation of convicted persons and keeping order within HMCS institutions. HMCS personnel, however, routinely worked alongside police during protests and demonstrations. While the conduct of the RSPS, the USDF, and the HMCS was generally professional, members of all three forces were susceptible to political pressure and corruption. There were few prosecutions or disciplinary actions taken against security officers accused of abuses.

There is no independent body with authority to investigate police abuses. An internal RSPS complaints and discipline unit investigated reports of police abuse but did not release its findings to the public. Police academy training for new recruits included human rights components in line with regional standards. Some officers also attended additional training programs that included a human rights component. Traditional chiefs supervised volunteer rural "community police," who had the authority to arrest suspects and bring them before an inner council within the chieftdom for trial for minor offenses.

Arrest Procedures and Treatment of Detainees

The law requires warrants for arrests, except when police observe a crime being committed, believe a person is about to commit a crime, or conclude that evidence would be lost if arrest is delayed. Authorities must charge detainees with the violation of a statute within a reasonable time, usually within 48 hours of arrest or, in remote areas, as soon as a judicial officer is present to assume responsibility. Authorities did not always charge detainees according to these norms. In general detainees could consult with lawyers of their choice and were generally allowed prompt access. Lawyers may be provided to indigent defendants at public expense in capital cases or if a crime is punishable by life imprisonment. There is a functioning bail system, and suspects may request bail at their first appearance in court, except in the most serious cases such as murder and rape. In politically motivated prosecutions, bail was often set at inordinately high levels. There were no reports of detainees held incommunicado or under house arrest.

Pretrial Detention: Lengthy pretrial detention was common. As of May there were 619 pretrial detainees, an estimated 18 percent of the prison population. Judicial inefficiency and staff shortages also contributed to the problem, as did the police's practice of prolonging detention to collect evidence and prevent detainees from influencing witnesses. There were instances where the length of detention equaled or exceeded the sentence for the alleged crime.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, but the king's power to appoint the judiciary on recommendation of the Judicial Services Commission limits 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. Traditional law and custom govern all of these institutions.

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. Traditional courts are not supposed to try cases involving non-Swazis but in fact did so. Authorities generally respected court rulings.

The director of public prosecutions has the legal authority to determine which court should hear a case, and has delegated this responsibility to public prosecutors. In fact police usually made the determination and often took cases not properly investigated to these traditional courts because the standard of evidence required for conviction was not as high as in the western-style courts. 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 based on hearsay.

In April the Lawyers for Human Rights of Swaziland filed a complaint with the African Commission on Human and Peoples Rights (ACHPR) alleging the country lacked an independent judiciary and asking the ACHPR to compel reinstatement of High Court judge Thomas Masuku, whom Chief Justice Michael Ramodibedi unilaterally suspended in 2011. The complaint alleged Masuku's removal from office was in violation of Articles 1 (mutual obligations), 7 (right to fair trial), and 26 (independence of the courts) of the African Charter on Human and Peoples Rights. In a letter dated July 28, the ACHPR accepted the complaint, finding that it "reveals prima facie violation of the African Charter."

Trial Procedures

Defendants enjoy a presumption of innocence. They enjoy the right to be informed of charges promptly, in detail, and in a language the defendant understands. The constitution provides for the right to a fair public trial without undue delay, except when exclusion of the public is deemed necessary in the "interests of defense, public safety, public order, justice, public morality, the welfare of persons 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. There is no trial by jury. Court-appointed counsel is provided to indigent defendants at government expense in capital cases or if the crime is punishable by life imprisonment.

Defendants and their attorneys have access to relevant government-held evidence, generally obtained during pretrial consultations from the Public Prosecutor's Office. Prosecutors have discretion to withhold information they deem privileged or not relevant to the case. Defense lawyers reported not having access to state evidence in politically sensitive cases. Defendants have the right to adequate time and facilities to prepare a defense. Defendants may question witnesses against them and present witnesses and evidence on their own behalf. Defendants may not

be compelled to testify or confess guilt. Defendants and prosecutors have the right of appeal up to the Supreme Court. The law generally extends the above rights to all citizens.

The traditional courts operate under traditional authorities, including local chiefs. In general, chiefs preside over traditional courts as court presidents. Traditional courts hear both civil and minor criminal matters. Although the courts are authorized to impose fines up to 240 emalangeni (\$24) and prison sentences of up to 12 months, there were reported cases in which traditional courts imposed sentences exceeding these limits.

Traditional courts are empowered to administer customary law only “insofar as it is not repugnant to natural justice or morality” or inconsistent with the provisions of any civil law in force, but some traditional laws and practices violate civil laws, 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. Traditional law and custom provide for an appeals process. Judicial commissioners within the traditional legal system may adjudicate appeals or refer appeals to a court within the civil judicial system on their own volition or if desired by plaintiffs or defendants.

Political Prisoners and Detainees

There were no reports of long-term political prisoners during the year. In at least two instances, alleged politically motivated anticorruption cases involved lengthy pretrial detention and excessively high bail.

Civil Judicial Procedures and Remedies

The judiciary tries civil as well as criminal cases, including suits for damages against government agents. Administrative remedies are available under civil service rules and regulations. The government respected domestic court decisions. Individuals and organizations may seek civil remedies for human rights violations, including appeal to international courts or bodies.

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.” 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, but police officers with the rank of subinspector or higher have authority to conduct a search without a warrant if they believe delay might cause evidence to be lost. During the year police conducted random checks for irregular immigrants, weapons, stolen vehicles, and evidence of other criminal activities through roadblocks and searches in homes. Police entered homes and businesses and conducted searches without judicial authorization. They conducted physical surveillance of members of labor unions, political groups, religious groups, and others. For example, on September 5, police detained labor union and opposition political party members for planning a series of independence-day-related activities including a protest march, a graffiti campaign in support of multiparty democracy, a labor meeting, and a youth jobs summit. Among those detained was a well known South African labor leader, Jay Naidoo, who was in the country to meet with workers regarding labor conditions. There were reports the government monitored e-mail, Facebook, and internet chat rooms, and police bugged certain individuals’ telephones. On November 15, police halted a private viewing of a film critical of the king. There were no arrests, but police briefly detained the proprietor of the studio where the film was viewed.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, but the king may deny these rights at his discretion, and the government restricted these rights during the year. Officials impeded press freedom. Although no law bans criticism of the monarchy, the prime minister and other officials warned journalists that the government could construe publishing such criticism as an act of sedition or treason, and authorities threatened media organizations with closure for criticizing the monarchy.

Freedom of Speech: 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 who criticized the monarchy risked exclusion from the traditional regiments’ (chiefdom-based groupings of men dedicated to serving the king) patronage system that distributed scholarships, land, and other benefits. This would also prejudice the interests of their family members. On April 17, a court held the editor of

Nation Magazine, Bheki Makhubu, in contempt of court for articles he wrote critical of the judiciary and the chief justice in particular. The court imposed a fine of 200,000 emalangen (20,000) or two year's imprisonment. Makhubu paid the fine and appealed. No date was set for the appeal to be heard by year's end.

Press Freedoms: The law empowers the government to ban publications if it deems them "prejudicial or potentially prejudicial to the interests of defense, public safety, public order, public morality, or public health." Most journalists practiced self-censorship.

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

Police confiscated from newspaper distributors copies of the September 22 edition of the *Sunday Sun*, a South African newspaper generally available in the country, because it contained an article describing the king's 18-year-old fiancée in a negative light.

The broadcast media remained firmly under state control. There were two state-owned radio stations and one private station owned by a Christian group. Most people got their news from radio broadcasts. There were two Swazi television stations, one of which was state-owned. Despite invitations issued by the media regulatory authority for parties to apply for licenses, no new licenses were awarded. Stations practiced self-censorship. For example, they refused to broadcast anything perceived as critical of the government or the monarchy.

Two editors at the *Swazi Observer*, Alec Lushaba and Thulani Thwala, suspended in July 2012 by the then managing director Alpheous Nxumalo for writing "negative" articles about the king, were reinstated in March.

Violence and Harassment: Journalists continued to be harassed during the year. For example, the *Times of Swaziland* reported that the president of the Senate, after insulting two South African journalists at a January 17 meeting to discuss the official opening of parliament, warned national journalists that anyone who reported the incident would be denied access to parliament.

On September 28, police responded to a peaceful protest over parliamentary election results in the Gege Constituency with considerable force. Police threatened journalists present at gunpoint and attempted to confiscate their photographic equipment.

Internet Freedom

There were no official government restrictions on access to the internet. For the most part, individuals and groups could engage in the peaceful expression of views via the internet, including by e-mail. Nevertheless, there were reports the government monitored e-mail, Facebook, and internet chat rooms, and that police tapped certain individuals' telephones. According to the International Telecommunication Union, 20.8 percent of the population used the internet in 2012.

On September 22, a traditional court sentenced a woman to five months in prison or a fine of 200 emalangeneni (\$20) for attempting to add a friend on Facebook who was of higher social standing. The traditional court did not reveal the basis for the conviction, since customary law is based on oral tradition and traditional courts generally do not provide public explanations.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Although the constitution provides for freedom of assembly, the government severely restricted this right. The law requires police consent and a permit from the municipal council to hold political meetings, marches, or demonstrations in a public place. These permits were rarely granted. In rural areas chiefs controlled access to public spaces.

The government harassed and detained opposition members and conducted surveillance on members of labor unions, political groups, and groups considered potentially political. Authorities routinely attempted to prevent meetings and demonstrations by withholding consent or taking civil society leaders to court. On several occasions during the year, the Industrial Court upheld the right to freedom of assembly and allowed demonstrations to take place. When demonstrations did

take place, security officials were deployed in force, on occasion outnumbering protesters. Political activists claimed their telephone calls were monitored by authorities. The government harassed and detained opposition members and conducted surveillance on members of labor unions, political groups, and groups considered potentially political.

For example, on April 12, police used force to prevent a panel discussion at the Great Alpha restaurant in Manzini on the anniversary of the 1973 decree that overturned the country's constitution and vested all power in the king.

On February 16, police prevented a Swaziland United Democratic Front prayer meeting from taking place at the Manzini Cathedral Church. Police alleged that the meeting was aimed at developing strategies to disrupt the national elections. On April 20, police prevented the Swaziland Diaspora Platform from holding an event at the Tums George Hotel to discuss elections. During the week leading up to the country's September 6 independence day celebrations, police detained numerous members of opposition political parties and labor groups, and prevented the International Trade Union Confederation (ITUC) from holding an event on labor conditions at the Tums George Hotel in Manzini. Police set up roadblocks on the major entry and exit points of the two major cities, Manzini and Mbabane, to prevent opposition political party and labor group supporters from entering them.

Freedom of Association

The constitution provides for freedom of association, but the government restricted this right. The constitution does not address the formation or role of political parties. It states that individual merit shall be the basis for election or appointment to public office. While officials argue the 1973 ban on political parties is no longer valid, because the constitution replaced and superseded it, there are no legal mechanisms for parties to register or contest elections.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/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. It also states that provisions of law and custom that impose restrictions on the freedom of any person to reside in the country shall not contravene the freedom granted by the constitution.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

Foreign Travel: 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.

On September 6, police detained at the border with South Africa Mario Masuku, president of the banned People's United Democratic Movement (PUDEMO) party, and Bonginkhosi Ntshangase and prohibited them from leaving the country.

Protection of Refugees

Access to Asylum: Laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. 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 UNHCR and other humanitarian organizations in providing protection and minimal assistance to refugees and asylum seekers. The country hosted an estimated 800 refugees, the majority from the Great Lakes Region and Somalia.

Durable Solutions: During the year the government accepted approximately 71 refugees for permanent resettlement. It allowed some to compete for jobs, and granted them work permits and temporary residence permits. The government also provided refugees with free transportation twice a week to buy and sell food in local markets. Refugees who lived in the country more than five years were

eligible for citizenship, but many waited longer to acquire citizenship, sometimes more than 10 years, due to bureaucratic inefficiency and onerous requirements that delayed the process.

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 unable to register, contest elections, or otherwise participate in the formation of a government. The king is an absolute monarch with ultimate decision-making authority. PUDEMO is banned. The Elections and Boundaries Commission (EBC) did not permit candidates of other political parties to register under the names of their parties. 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.

Elections and Political Participation

Recent Elections: In September peaceful and generally well managed parliamentary elections were held, the second time since the constitution went into effect in 2006. The king appointed a government in October. International observers concluded the elections did not meet international standards. Political parties could not register or sponsor candidates of their choice.

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

Political Parties: The government harassed and detained opposition members and openly stated that it did not want political parties in the country. The constitution provides for freedom of association but does not address how political parties may operate. While political parties exist, there is no legal mechanism under which political parties may register or contest elections. The constitution also states that candidates for public office must compete on their individual merit, thereby effectively blocking competition based on political party affiliation. For example,

the EBC denied participation in parliamentary elections to two members of the Ngwane National Liberatory Congress party, who then filed an application with the High Court to compel the EBC to register them. The case was pending at year's end.

On April 19, police stopped a rally organized by the Swaziland Youth Congress, a youth wing of PUDEMO. Police arrested Mfanawenkhosi Mtshali and Derrick Nkambule and charged them with sedition for carrying a banner calling for a boycott of the national elections.

Participation in the traditional sphere of governance and politics takes place predominantly 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 maintenance of law and order. Although local custom mandates that chieftaincy is hereditary, the constitution, while recognizing that chieftaincy is "usually hereditary and is regulated by Swazi law and custom," also states that the king "may appoint any person to be chief over any area." As a result many chieftaincies were nonhereditary appointments, a fact that provoked land disputes, especially at the time of burials.

Participation of Women and Minorities: 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. The constitution provides for five of the 10 to be women, and that the other five represent "interests, including marginalized groups not already adequately represented in the house." In addition, the constitution stipulates that if less than 30 percent of assembly membership is women, four additional women shall be selected on a regional basis. The king appointed only three women to the House of Assembly following the elections, and, although less than 30 percent of its members were women, the assembly did not elect four additional women.

The king appoints 20 members of the 30-seat Senate, and the House of Assembly elects the other 10. The constitution provides that eight of the 20 members appointed by the king be women and that five of the 10 members elected by the assembly be women. Following the elections, the king filled five of the eight designated seats with women, while the assembly met its constitutional provision by sending five women to the Senate.

Widows in mourning (for periods that may vary from one to three years) were prevented from appearing in certain public places or being in close proximity to the

king. As a result, widows were excluded from voting or running for office during those periods.

There were almost no ethnic minority members in the government. Many officials were from the royal Dlamini family or connected with royalty.

Section 4. Corruption and Lack of Government Transparency

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively. 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 consensus that the government did little to combat it.

Corruption: School principals and teachers routinely demanded bribes to admit students, and immigration and customs officials did so to issue government documents.

Credible reports continued that business contracts, government appointments, military recruitment, and school admissions were awarded based on a person's relationship with government officials. Authorities rarely took action on reported incidents of nepotism.

On June 5, the *Swazi Observer* reported that an immigration officer demanded a bribe of "roasted meat" from an applicant who requested urgent issuance of a personal identification number. On August 27, a court convicted an outgoing member of parliament of fraud and forgery and sentenced him to five years' imprisonment. The conviction was under appeal at year's end.

The Anticorruption Commission (ACC), funded by the Ministry of Justice, is charged with fighting corruption by carrying out education and prevention programs as well as by investigating cases. On the enforcement side, it has the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. During the year the ACC conducted 64 full corruption investigations of which it referred 42 to the director of public prosecutions. The ACC conceded that it made little progress in curbing corruption. Swazis continued to refer to Minister of Finance Majozi Sithole's 2011 statement that corruption resulted in a monthly loss of an estimated 80 emalangenzi million (\$8 million) in potential government revenue.

On the prevention and education side, the ACC conducted dozens of sensitization workshops and meetings around the country, provided educational materials for schools, and made presentations on numerous radio and television shows. ACC representatives acknowledged a widespread public perception that the ACC was ineffective and asserted that the commission--established in 2008--remained in “startup” mode largely because of a lack of financial and human resources and the general backlog of cases in the court system.

Whistleblower Protection: While the law requires public and private employees to report illegal acts, such as the solicitation of bribes or other corrupt acts, it does not protect whistleblowers from retaliation.

Financial Disclosure: The constitution prohibits government officials from assuming positions in which their personal interests are likely to conflict with their official duties. The constitution requires appointed and elected officials to declare their assets and liabilities to the Commission on Public Administration and Human Rights. The commission is mandated to monitor and verify disclosures. There are criminal and administrative sanctions for noncompliance. Sanctions for failure to disclose assets and conflicts of interests include removal from office, disqualification from holding a public office for a period determined by a court, and confiscation of any property illegitimately acquired during tenure in office. According to the commission, the majority of those required to declare assets and liabilities did so, but the commission suspected underreporting in some cases. The commission did not make this information public.

Public Access to Information: Although the Ministry of Finance provided access to budget documents on its website, no law permits public access to government documents, and public documents were generally 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. 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, the Center for Human Rights and Development, Human Rights Watch, 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.

While the constitution provides for the independence of human rights NGOs, this provision falls within the “policy” section which no court or tribunal enforces.

UN and Other International Bodies: The government generally cooperated with international organizations and permitted visits by UN representatives.

Government Human Rights Bodies: Since the government established the Commission on Human Rights and Public Administration in 2009, the commission has received 56 complaints. It deemed most complaints misdirected--mainly consisting of labor problems and chieftaincy disputes--and referred them to the appropriate judicial or governmental body. By the end of 2012, 18 remained pending before the commission. The commission was nearly powerless due to lack of funding and enabling legislation. The commission consisted of one acting commissioner (who has been acting since 2010) and four deputy commissioners. It had no full-time staff or secretariat. Therefore, management and administration fell to the deputy commissioners. The commission is precluded from investigating any matter “relating to the exercise of any royal prerogative by the Crown.” Local NGOs expressed concern regarding the location of the commission’s offices near royal residences, an area which custom and tradition prohibit women in mourning attire or wearing pants from entering.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

Rape and Domestic Violence: The law criminalizes rape, but no law specifically addresses spousal rape. Rape was common, and the government did not always enforce the law effectively. According to the Swaziland Action Group Against Abuse (SWAGAA), one in three girls and women between the ages of 13 and 24 has been the victim of sexual violence. Although legally defined as a crime, many men regarded rape as a minor offense. According to the 2012 RSPS Annual Report, 499 rape cases were reported that year. There were no data available on the number of prosecutions, convictions, or punishment measures taken. The

number of reported cases is likely far lower than the actual number of cases. 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 in prison, but the acquittal rate for rape was high, and sentences were generally lenient. Prosecutors reported difficulty obtaining the evidence required to bring rape and domestic violence cases to trial because witnesses feared testifying against accused rapists. There were few social workers or other intermediaries to work with victims and witnesses in order to obtain evidence.

Domestic violence, if charged as assault, is illegal. No legislation or law deals specifically with domestic violence and sexual abuse. Domestic violence against women, particularly wife beating, was common and sometimes resulted in death. Police efforts to combat the crime were inadequate. In 2012 a bill addressing domestic violence and sexual abuse passed in the House of Assembly but had yet to be approved by the king at year's end.

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, which use Roman-Dutch-based law, to convict men of spousal abuse. The Roman-Dutch legal system often gave light sentences in cases of conviction for abuse against women. The SWAGAA operated hotlines and worked with private shelters to assist victims of abuse.

Sexual Harassment: Legal provisions against sexual harassment were vague, and government enforcement was ineffective. No cases have ever been brought to court. There were frequent reports of sexual harassment, most often of female students by teachers. During the year authorities either fired or suspended numerous teachers and some principals for inappropriate sexual conduct with students. Some teachers threatened students with poor grades if they did not provide sexual favors to them.

Reproductive Rights: 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 in public restrooms, clinics, and workplaces throughout the country.

Women and men had equal access to diagnosis and treatment of HIV and other sexually transmitted infections. Ninety-seven percent of women had access to prenatal care, 82 percent of births were attended by skilled personnel, and 69 percent of mothers received obstetric and postpartum care overall. Access to care was lower in rural than in urban areas. A 2012 UN report indicated the maternal mortality rate was 320 deaths per 100,000 live births in 2010, and 67 percent of them were indirectly AIDS-related. An estimated 63 percent of girls and women between the ages of 15 to 49 used a modern method of contraception in 2010. According to the Swaziland Multiple Indicator Cluster Survey of 2010 (MICS), three-quarters of all maternal deaths occurred during delivery and in the immediate postpartum period.

Discrimination: Women occupy a subordinate role in society. The dualistic nature of the legal system complicated the problem 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 changed according to where and by whom they are interpreted. Couples often marry in both civil and traditional ceremonies, creating problems in determining which set of rules apply to the marriage and to subsequent questions of child custody, property, and inheritance in the event of divorce or death.

Girls and women face discrimination in rural areas by community elders and authority figures who give preference to boys in education. Women face employment discrimination, and, despite a constitutional right to equal treatment, there are few measures in effect protecting women from discrimination in hiring, particularly in the private sector. While the constitution provides that women may open bank accounts, obtain passports, and take jobs without the permission of a male relative, these constitutional rights often conflict with customary law, which classifies women as minors. Although women routinely executed contracts and entered into a variety of transactions in their own names, banks refused personal loans to married women without a male guarantor. The constitution provides for equal access to land. Civil law provides for women to register and administer property, but most people were unaware of this right, and customary law forbids women from registering property in their own names. The law requires equal pay for equal work, but the average wage rates for men by skill category usually exceeded those of women.

Legal experts acknowledged that some civil law is inconsistent with the constitutional stipulation that “women have the right to equal treatment with men and that right shall include equal opportunities in political, economic, and social activities.” For example, civil law defines married women as subordinate to their husbands.

Traditional customary law allows a man to take more than one wife. A man who marries a woman under civil law may not legally have more than one wife, although 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 paternity. Inheritances are passed to and through male children only. Traditional authorities still exercised the right to fine women for wearing pants in their constituencies.

Although the constitution states that “a woman shall not be compelled to undergo or uphold any custom to which she is in conscience opposed,” adherents of traditional family practices might treat a woman as an outcast if she refused to undergo the mourning rite, and a widow who did not participate might lose her home and inheritance. When the husband dies, tradition dictates that the widow must stay at her husband’s family’s residence in observance of a strict mourning period for one month, during which time she may not leave the house, and the husband’s family may move into the homestead and take control of its operations. During the year the media reported that widows and children heading households sometimes became homeless when the husband’s family took control of the homestead and were forced to seek public assistance. Women in mourning attire are generally not allowed to participate in public events and are barred from interacting with royalty or entering royal premises. In some cases the mourning period may last up to three years.

Children

Among other things, the 2012 Children’s Protection and Welfare Act fixes the age of majority at 18; defines child abuse and imposes penalties for abuse; details children’s legal rights and the responsibility of the state, in particular with respect to orphans and other vulnerable children (OVC); establishes structures and guidelines for restorative justice; defines child labor and exploitative child labor; and sets minimum wages for various types of child labor. During the year the government began implementing the law in partnership with international organizations such as the UN Children’s Fund (UNICEF) and Save the Children.

Birth Registration: Under the constitution children derive citizenship from the father, unless the birth occurred outside marriage and the father does not claim paternity, in which case the baby acquires the mother's citizenship. A foreign woman who marries a citizen may become a citizen by lodging a declaration with the proper authorities. If a Swazi woman marries a foreign man, however, even if he is a naturalized Swazi citizen, their children are assumed to carry the father's birth citizenship.

The law mandates compulsory registration of births. According to the MICS, 50 percent of children less than five years of age were registered and 30 percent had birth certificates. Lack of birth registration may result in denial of public services. For example, a child needs a birth certificate in order to enter school or to obtain a passport.

Education: The government did not completely comply with a constitutional mandate that children be provided tuition-free primary education by 2009. It claimed it could not afford to enact tuition-free primary education immediately. After a lawsuit brought by the Ex-Miners' Association in 2009, the government began to implement the mandate gradually and offered tuition-free primary education through grade five. In addition students' families must pay for uniforms and other supplies. The Office of the Deputy Prime Minister received an annual budget allocation to pay school fees for OVC in primary and secondary school, but some schools complained of delayed payment and expelled OVCs if the office had not provided payment. Schools sometimes raised supplemental private funding for building maintenance, including 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: 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. According to UNICEF approximately one in three young women experienced some form of sexual violence as a child, nearly one in four experienced physical violence, and approximately three in 10 experienced emotional abuse. According to the MICS, 12 percent of children were subjected to "severe physical punishment." Children with disabilities, children out of school, and orphans were at particular risk. According to a 2012 report released by the National Children's Coordination Unit in the Office of the Deputy Prime Minister, there were 4,556 reported cases of abuse between January and June 2011.

Corporal punishment by teachers and principals is legal and routinely practiced. School regulations state a teacher may 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. Teachers often exceeded these limits with impunity.

On March 27, the *Times of Swaziland* reported that a 17-year-old Form I pupil quit school after receiving 22 strokes from her teacher. On June 24, a teacher at Mhlatane High School was reported to police for allegedly lashing a Form V female pupil for truancy. The teacher administered four strokes on the hand and 15 strokes on the buttocks. The beating was so severe the pupil could not sit properly and had difficulty walking.

Forced and Early Marriage: The legal age of marriage is 18 years for both boys and girls, but, with parental consent and approval from the minister of justice, girls may marry at 16. The government recognizes two types of marriage, civil marriage and marriage under traditional law and custom. Under traditional law marriages are permitted for girls as young as 13. Although the deputy prime minister has spoken out against this practice, civil law was generally not enforced to prevent it. According to the Children's Protection and Welfare Act, however, "A child has the right to refuse to be compelled to undergo or uphold any custom or practices that are likely to negatively affect the child's life, health, welfare, dignity or physical, emotional, psychological, mental, and intellectual development." According to the MICS, 10.9 percent of girls and 1.7 percent of boys married before the age of 18.

Sexual Exploitation of Children: Girls were victims of sex trafficking. Particularly OVC were victims of commercial sexual exploitation at truck stops and in bars and brothels. The Children's Protection and Welfare Act includes a specific provision criminalizing "ill-treatment, neglect, abandonment, or exposure of children to abuse." Offenders convicted under these provisions are liable to imprisonment for a term of not less than five years, while persons convicted of violating the child labor provisions of the law are liable to a fine of no less than 15,000 emalangeneni (\$1,500), a prison term of not less than two years, or both. Provisions of earlier law address child prostitution as "defilement of a ward" or "unlawful carnal connection with a girl," and pornography under "obscene publications." The law sets the age of sexual consent at 16. The penalties for statutory rape and prostituting a girl are up to six years' imprisonment, up to 24 lashes with a whip, and a fine of 1,000 emalangeneni (\$100). Penalties for child

pornography are up to six months' imprisonment and a fine of 100 emalangen (100 emalangeni) (\$10).

Relatives or neighbors cared for a large and increasing number of HIV/AIDS orphans, or the children struggled to survive in child-headed households. Some lost their property to adult relatives. Various governmental, international, and religious organizations and NGOs assisted HIV/AIDS orphans, but the government's failure to pay school fees on time for orphans and vulnerable children resulted in expulsion of orphans from schools.

With more than 45 percent of children orphaned or vulnerable, international development organizations including UNICEF, the World Food Program, and the Global Fund supported school feeding programs, operated a number of neighborhood care points, and provided nutritional support to children weakened by AIDS.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The Jewish community is very small, 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/j/tip.

Persons with Disabilities

The constitution provides for the rights of persons with disabilities but does not differentiate between physical, sensory, intellectual, and mental disabilities and requires parliament to enact relevant implementing legislation, which parliament has not done. The Office of the Deputy Prime Minister is responsible for upholding the law and for protecting the rights of persons with disabilities. Parliament, however, did not by year's end pass laws to prohibit discrimination against persons with disabilities in employment or to provide access to health care or other state services. Persons with disabilities complained of government neglect. No laws mandate accessibility for persons with disabilities to buildings,

transportation (including air travel), information, communications, or public services, although government buildings under construction included some improvements for persons with disabilities, including access ramps. Public transportation was not accessible for persons with disabilities, and the government did not provide any means of alternative accessible transport.

During the year the Federation of the Disabled in Swaziland expressed its disappointment that sign language interpreters were not made available during important national events including the official opening of parliament. A Nhlanguano businessman with disabilities was denied a royal audience because he had one leg and was therefore unable to kneel before the king as required by custom. Polling stations for the elections were not uniformly accessible to persons with disabilities.

There is one school for the deaf and one special education alternative school for children with physical or mental disabilities. 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, but governmental and societal discrimination was practiced against nonethnic Swazis, generally white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population was nonethnic Swazi. Nonethnic 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

While colonial-era legislation against sodomy remains on the books, it has not been used to arrest gay men and lesbians. Societal discrimination against LGBT persons was prevalent, and LGBT persons generally concealed their sexual orientation and gender identity. Gay men and lesbians who were open about their sexual orientation and relationships faced censure and exclusion from the chieftdom-based patronage system, which could result in eviction from one's home. Chiefs, pastors, and members of government criticized same-sex sexual conduct as

neither Swazi nor Christian. LGBT advocacy organizations had trouble registering with the government. One such organization, House of Pride, is under the umbrella of another organization dealing with HIV/AIDS. It was difficult to determine the extent of employment discrimination based on sexual orientation because victims were not likely to come forward, and most gay men and lesbians were not open about their sexual orientation.

On August 17, the *Times of Swaziland* reported community police forcibly evicted two gay boys from Ezulwini because of suspicions of their sexual orientation. The newspaper alleged that community members had seen them engaging in sexual acts.

Other Societal Violence or Discrimination

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

The June 1 edition of the *Times of Swaziland* reported that an 11-year old boy dropped out of school after he was ridiculed and discriminated against by his teachers and fellow pupils for being HIV-positive.

There was social stigma attached to albinism. Several persons with albinism stated they were discriminated against, called names, and were at risk of being killed for ritual purposes. The government condemned such acts but took no further action.

Belief in witchcraft was common, and those accused of witchcraft were at risk of being assaulted or killed.

Vigilante violence continued and in some cases resulted in deaths. For example, on November 18, a mob of 40 Sitsatsaweni residents hacked to death transport operator Sabelo Matsenjwa for allegedly stealing cattle.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The laws provide that workers have the right to form and join independent unions, conduct legal strikes, and bargain collectively. These rights were not uniformly

applied, however, since provisions of other laws restricting freedom of assembly and association might abrogate them. The laws explicitly provide for the registration of unions and federations but grant far-reaching powers to the labor commissioner with respect to determining eligibility for registration. 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. According to the Industrial Relations Act of 2000, as amended, employees who are not engaged in “essential services” have the right to undertake peaceful protest actions to “promote or defend socio-economic interests” of workers. The Act, however, defines “socio-economic interest” as including “solutions to economic and social policy questions and problems which are of direct concern to the workers but shall not include matters of a purely political nature.” Employees in essential services, which included police and security forces, the HMCS, firefighters, health-care providers, and many civil service positions, may not form unions. Extensive provisions allow workers to seek redress for alleged wrongful dismissal.

While the laws allow unions to conduct their activities without government interference, and prohibit antiunion discrimination, certain laws allow broad government discretion to intervene in and interfere with unions’ activities.

Although the law permits strikes, the right to strike is strictly regulated. Strikes and lockouts are prohibited in essential services, while the minister’s power to modify the list of these essential services provides for broad prohibition of strikes in nonessential sectors, including posts, telephone, telegraph, radio, and teaching. 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. The law imposes disproportionately harsh sanctions for damages caused by strike actions. For example, the trade union faces civil liability and criminal liability for any damage caused and other “unlawful behavior” during strikes.

The constitution and law provide for the right to organize and bargain collectively, subject to various legal restrictions. The law gives employers discretion as to whether or not to recognize a labor organization as a collective employee representative if less than 50 percent of the employees are members of the organization. In a case where an employer agrees to recognize the organization as

the workers' representative, the law grants the employer the ability to set conditions for such recognition. The law provides for the registration of collective agreements by the Industrial Court, which is empowered to refuse registration if an agreement conflicts with the Industrial Relations Act or any other law, provides terms and conditions of employment less favorable to employees than those provided by any law, discriminates against any person, or requires membership or nonmembership in an organization as a condition for employment. The law also provides for the establishment of a conciliation, mediation, and arbitration commission for dispute resolution but confers on the commissioner of labor the power to "intervene" in labor disputes before they are reported to the commission, if there is reason to believe that a dispute could have serious consequences for the employers, workers, or the economy if not resolved promptly.

The government did not effectively enforce these laws. While generally protected by law, freedom of association and the right to collective bargaining were not consistently respected. The government perceived some unions as political opposition and therefore restricted their rights. In certain cases, workers who attempted to exercise the rights to organize and bargain collectively faced difficulties or risks due to a harsh legal environment imposed by provisions in the labor and the security laws. HMCS staff continued to be denied the right to collective bargaining. While the government controlled no worker organizations, it may prohibit trade unions and other worker organizations from engaging in certain activities when those activities are deemed "political" in nature. In addition, the logistical requirements involved in registering a legal strike made striking difficult.

Government interference in union affairs has consistently been a problem under examination by the International Labor Organization (ILO), particularly concerning public service unions.

At issue was continued government action to disrupt or repress trade unions' lawful and peaceful activities. The government continued to use certain laws, including the 2008 Suppression of Terrorism Act and the 1963 Public Order Act, to interfere in trade unions' affairs--in particular, gatherings or other activities that were viewed as "political."

The ITUC reported trade union activities continued to be repressed and that arbitrary arrests, detentions, intimidation, and physical violence were used to silence activists. For example, the ITUC reported that in March police violently stopped a prayer meeting of the Trade Union Congress of Swaziland (TUCOSWA)

basing their action on the Public Order Act. Police, carrying batons, took control of the Caritas Center and stopped the commemoration prayer.

On April 11, police summoned four activists who were scheduled to speak at a panel discussion organized by the Swaziland United Democratic Front in Manzini related to the anniversary of the 1973 Decree. Police told them to “postpone” the panel discussion. When the organizer and panelists insisted on holding the panel discussion, approximately 40 police officers, including officers in full riot gear, removed them from the steps and shoved all onlookers from the area.

On May 1, during the worker’s day celebration, police raided the head offices of TUCOSWA and arrested the president and first deputy secretary general of the labor federation. They placed five members of TUCOSWA under house arrest in a bid to disturb the May Day celebrations and stated TUCOSWA did not have legal status as a federation since the government delisted it in spring--less than two months after its registration.

On September 5, police picked up two leaders of the Swaziland Democratic Nurses Union for questioning. They told the leaders that union members were under strict police surveillance. On September 6, police prevented participants in a Global Inquiry panel from entering the Tums George Hotel in Manzini stating they were executing an order from the head of government and further ordered facilitators from the ITUC to leave the country immediately. On September 6, police at Motshane stopped a group of members of the Swaziland National Association of Teachers and the secretary general of TUCOSWA and barred them from leaving the country to attend a meeting of the Congress of South African Trade Unions in South Africa.

In April 2012 the government deregistered the newly formed TUCOSWA labor federation. Just weeks after the labor commissioner signed TUCOSWA’s certificate of registration and the minister of labor and social security recognized it, the attorney general declared that TUCOSWA had been “erroneously registered” under the Industrial Relations Act, which governs all labor-related activity. Despite the fact that labor federations have operated in the country for decades, the attorney general argued that the law actually provided only for the registration of “organizations” and not “federations.” Government officials removed TUCOSWA from the list of registered organizations in the country but promised to amend the Industrial Relations Act to provide for the registration of federations. The deregistration occurred just days after TUCOSWA announced it would support a boycott of legislative elections. The Ministry of Labor drafted an amendment to

the Industrial Relations Act allowing for the registration of federations, ostensibly to mollify the ILO and other international observers, but at year's end parliament had not passed the amendment.

On September 6, when an ITUC delegation visited the country in the weeks following the deregistration of TUCOSWA, the minister of labor and social security warned workers that local unions could not invite ITUC trade unionists from other countries without permission from the government.

During the year there were allegations that employers used labor brokers to hire individuals on contracts to avoid hiring those who would normally be entitled to collective bargaining rights. No laws govern the operation of labor brokers. Reports suggested labor brokers fraudulently recruited and charged Swazi nationals excessive fees for work in South African mines--a means often used to facilitate forced labor.

Other concerns identified by unions were undefined hours of work and pay days; assaults on workers by supervisors; surveillance of trade union activity by hired security officers, both at the workplace and outside; and the use of workers' councils stacked with employer-picked representatives to prevent genuine worker representation.

b. Prohibition of Forced or Compulsory Labor

The law prohibits most forms of forced or compulsory labor, but the law also requires residents to perform uncompensated tasks for chiefs, who could penalize those who did not participate. Although the High Court had declared that order null and void, the government did not officially repeal it as recommended by the ILO, stating the constitution automatically overrode the order.

Forced or compulsory labor practices reportedly occurred. Victims of forced labor included women and children forced into domestic servitude, agricultural labor, herding livestock, portering, and market vending. Swazi chiefs may coerce children and adults--through threats and intimidation--to work for the king.

Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The laws prohibit child labor. The minimum age for employment is 15 years and the minimum age for employment in night work is 16 years. The law also prohibits children from engaging in any form of hazardous employment and defines work as “hazardous when it poses a danger to the morals, health, safety, and development of a person.” The law also limits the number of night hours children may work on school days to six and the overall hours per week to 33.

Such laws were effectively enforced in the formal sector. The Ministry of Labor, the Office of the Deputy Prime Minister through the National Children’s Coordination Unit and Department of Social Welfare, and the RSPS are responsible for enforcement of laws relating to child labor. The government’s effectiveness in combating child labor was limited due to a lack of baseline information about the scope of the problem and a lack of dedicated resources for identifying and punishing violators. The government supported programs to promote access to schooling. Tuition-free primary schooling was offered from grade one through grade five, but parents had to pay for books and other expenses. Through the Office of the Deputy Prime Minister, the government paid school fees for OVC to provide additional social support and keep these children from engaging in child labor.

In the informal sector children continued to be employed, particularly in agricultural pursuits. In agriculture children picked cotton, harvest sugarcane, and herd livestock. This work might 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. Children also worked as porters, bus attendants, taxi conductors, and street vendors. Children working on the streets risked a variety of dangers, such as severe weather and automobile accidents; they also were vulnerable to exploitation by criminals.

Child domestic servitude was also believed to be prevalent. Such work could involve long hours of work and could expose children to physical and sexual exploitation by their employer. Children’s exploitation in illicit activities was a problem. Children served alcohol in liquor outlets and grew, manufactured, and sold drugs.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

There is no national minimum wage. 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. For example, the minimum monthly wage was 531 emalangeneni (\$53) for a domestic worker, 657 emalangeneni (\$66) for a semi skilled worker in the handcraft industry, 713 emalangeneni (\$71) for a skilled worker in the handcraft industry, 528 emalangeneni (\$53) for a semiskilled worker in the forestry industry, and 656 emalangeneni (\$66) for a skilled worker in forestry industry. All workers in the formal sector, including migrant workers, are covered by the wage laws. Approximately 60 percent of the population lived below the poverty lines of 57 emalangeneni (\$6) and 104 emalangeneni (\$10) per month for rural and urban areas, respectively.

There was a standard 48-hour workweek for most workers and a 72-hour workweek for security guards. It was not clear whether there were specific exceptions for female workers. 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.

Expectant mothers in all professions are entitled by law to twelve weeks maternity leave, of which two weeks are at full pay. For three months after resuming work, mothers are entitled to one paid additional hour per day for nursing.

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. Workers have no legal right to remove themselves from dangerous workplaces without jeopardizing their continued employment, and collective bargaining agreements did not address the matter.

The constitution calls on parliament to enact new laws to protect a worker's right to satisfactory, safe, and healthy employment conditions, but parliament did not enact any such laws by year's end. The Ministry of Labor and Social Security is responsible for enforcement of labor laws but faced significant resource challenges, including a lack of motor vehicles and inability to hire additional staff. There were only some 20 labor inspectors serving the entire country and, while the labor commissioner's office did conduct inspections in the formal sector, it did not have the resources to conduct inspections in the informal sector. The government

also undertook an initial review of the status of labor brokers, in response to growing complaints that the lack of regulation of labor brokers facilitated the exploitation of workers. The labor minister spoke out repeatedly on the subject and the government reviewed existing portions of the labor law, which could be amended to regulate brokers. The government continued to enforce its Occupational Safety and Health Act, which lays out the rights and responsibilities of employers, employees, and the government with respect to occupational health and safety. In September the global union federation Building and Wood Worker's International, in conjunction with the government and unionists, launched a campaign to increase awareness of health and safety standards.

Wage arrears, particularly in the garment industry, were a problem. In general, working conditions in the industry were good, although workers complained that wages were low and that procedures for getting sick leave approved were cumbersome in some factories. The minimum monthly wage for a skilled employee in the industry--including sewing machinists and quality checkers--was emalangeni 1,128 (\$113). Minimum wage laws did not apply to the informal sector, where many workers were employed.

The garment sector also has a standard 48-hour workweek, but workers alleged that working overtime was compulsory because they had to meet unattainable daily and monthly production quotas.

Public transportation workers complained they were required to work 12 hours a day or more without any overtime compensation and that they were not entitled to pensions and other benefits. The country's nurses engaged in strikes and work slowdowns during the year to advocate for higher wages and to protest what they considered unsafe working conditions in local hospitals and clinics. Some facilities lacked proper ventilation systems, water, and sanitation supplies.

Although policies exist regarding maternity leave, women often believed they were compelled to keep working from economic need, which sometimes resulted in giving birth in unsafe environments, for example, on the way to work. In the garment sector, which primarily employed women, female workers and their unions alleged that workers were not allowed to use their maternity leave with the certainty that their right to return to work would be respected.

Workers in the informal sector, particularly foreign migrant workers, children, and women, risked facing hazardous and exploitative conditions. Credible data on

workplace fatalities and accidents were not available. A significant number of workers were in the informal sector, but credible data were not available.