

SWAZILAND 2016 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Swaziland is an absolute monarchy. King Mswati III and Queen Mother Ntombi, the king's mother, rule as co-monarchs and exercise ultimate authority over the cabinet, legislature, and judiciary. There is a parliament consisting of appointed and elected members and a prime minister appointed by the king, but political power remained largely with the king and his traditional advisors. International observers concluded the 2013 parliamentary elections did not meet international standards.

Civilian authorities failed at times to maintain effective control over the security forces.

The principal human rights concerns are that citizens do not have the ability to choose their government in free and fair periodic elections held by secret ballot; police use of excessive force, including torture, beatings, and unlawful killings; restrictions on freedoms of speech, assembly, and association; and discrimination against and abuse of women and children.

Other human rights problems included arbitrary killings; 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, transgender, and intersex community and persons with albinism; mob violence; harassment of labor leaders; child labor; and restrictions on worker rights.

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

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

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, but there was no evidence suggesting the state prosecuted perpetrators.

For example, on July 29 in Matsetsa, a Royal Swaziland Police Service (RSPS) officer shot and killed Thokozani Mngometulu, who was on a police wanted list for a series of rapes. He was unarmed and reportedly shot while fleeing to avoid arrest.

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.

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

There were credible reports of use of excessive force by community police and security forces during the year. For example, on June 7, Maphiveni community police assaulted and stripped Victor Mdluli naked for defying the traditional leadership by ignoring a summons to appear before them. Mdluli sustained injuries to his upper body and his left arm. The incident was investigated and four community police suspects were charged with assault. Prosecution of the case was pending at year's end.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening due to food shortages, gross overcrowding, physical abuse, and inadequate sanitary conditions and medical care. Overcrowding in some prisons exposed inmates and corrections officers to diseases such as tuberculosis, HIV/AIDS, and hepatitis. Sexual violence, including rape, reportedly took place in prisons.

Physical Conditions: Statistics released by His Majesty's Correctional Services (HMCS) in February indicated there were 3,500 sentenced inmates, which exceeded the prison system's holding capacity by 662 inmates. A majority of offenders were young persons. Women and men were detained together at police stations after arrest due to space constraints.

Some prisoners died while incarcerated, both during police investigation and during pretrial detention.

Although authorities provided potable water and food to pretrial detainees and convicted prisoners, sanitation, lighting and medical care were inadequate. Pretrial detainees depended on family members or friends to provide food. Facilities were of mixed quality; some were old and dilapidated, others such as the women's prison were newer and well maintained.

The *Swazi Observer* newspaper and international nongovernmental organization (NGO) Save the Children reported juvenile prisoners faced inhuman and degrading treatment at the juvenile centers, including physical assault and strip searches of female juvenile prisoners.

Political prisoners were isolated from the general prison population and denied recreational opportunities.

Administration: Authorities allowed visitors inside prisons with the permission of the commissioner general of correctional services. The HMCS used a committee structure through its legal department to receive and process complaints from inmates, the public, and HMCS staff. Authorities claimed to have investigated allegations of inhuman conditions and documented results of such investigations, but no reports were made public.

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. The government routinely denied prison access to local human rights organizations. Authorities permitted international officials and NGOs working on programs to fight HIV to enter prisons and detention centers, although sometimes with difficulty.

Authorities generally did not allow journalists or other visitors inside prisons without permission from the commissioner general of correctional services.

Several international NGOs attempted to obtain permission without response from the commissioner.

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.

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 workforce was assigned to security-related functions.

The RSPS is responsible for maintaining internal security as well as migration and border crossing enforcement. 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 oversight. 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, USDF, and HMCS was generally professional, members of all three forces were susceptible to political pressure and corruption.

Traditional chiefs supervised volunteer rural “community police,” who have the authority to arrest suspects concerning minor offenses for trial by an inner council within the chiefdom. For serious offenses, suspects were handed over to the RSPS for further investigations.

Impunity was a problem. Although there were mechanisms to investigate and punish abuse and corruption, there were few prosecutions or disciplinary actions taken against security officers accused of abuses. The internal RSPS complaints and discipline unit investigated reports of police abuse and corruption but did not release its findings to the public. In most cases the RSPS transferred police officers found responsible for violations to other offices or departments within the police system. Police academy training for recruits included human rights

components in line with regional standards. Some officers also attended additional training programs that included a human rights component.

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 evidence would be lost if arrest is delayed. The law requires authorities to 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. There is a bail system, and suspects may request bail at their first appearance in court, except in serious cases such as murder or rape. In politically motivated prosecutions, bail was often set at inordinately high levels. In general detainees could consult with lawyers of their choice, to whom they 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 were reports of detainees held incommunicado.

Pretrial Detention: Lengthy pretrial detention was common, particularly in politically sensitive cases. 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 if released. There were instances in which the length of detention equaled or exceeded the sentence for the alleged crime.

Detainee's Ability to Challenge Lawfulness of Detention before a Court:

Individuals who are arrested or detained are entitled to challenge in court the legal basis of their detention and obtain release and compensation if found to have been unlawfully detained.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, but the king's power to appoint all members of the judiciary negates judicial independence. The judiciary was generally impartial in nonpolitical criminal and civil cases not involving the royal family or government officials. In cases involving high-level government officials or royal family members, outcomes in favor of these individuals were predetermined. In cases involving government policy, however, the High Court sometimes exercised independence. In September, for example,

High Court judges found several sections of Swaziland's Suppression of Terrorism Act (STA) and the Sedition and Subversive Activities Act (SSAA) unconstitutional, a ruling contrary to the government's position.

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. Courts were unwilling to recognize many of the fundamental rights provided for in the constitution and instead relied on antiquated civil laws, which often reduce or disregard these rights. The chief justice, who is appointed by the king, must approve the short-term contracts of Supreme Court judges, most of whom were foreigners, who hear appeals twice yearly.

Most citizens who encountered the legal system did so through the 13 traditional courts. Each court has a presiding judicial officer called a president appointed by the king. These courts adjudicate minor offenses and violations of traditional law and custom. By law traditional courts are not to try cases involving non-Swazis but in fact did so. Authorities generally respected traditional court rulings.

The director of public prosecutions has the legal authority to determine which court should hear a case. The director delegated this responsibility to public prosecutors. Rather than refer a case to the director, police often referred cases not properly investigated to one of the traditional courts because the standard of evidence required for conviction was not as high as in the civil judicial system. 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.

Trial Procedures

Defendants enjoy a presumption of innocence. A defendant enjoys the right to be informed of charges promptly, in detail, and with free interpretation if necessary. 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 age 18, or the protection of the private lives of the persons concerned in the proceedings.” Aside from these exceptions and political cases, the judiciary generally enforced this right. 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 foregoing 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 by law the courts may not impose fines above 240 emalangeni (\$16) and prison sentences above 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, but the process is long and cumbersome. 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 political prisoners or detainees during the year. In prior years politically motivated cases often involved lengthy pretrial detention and excessively high bail with stringent conditions. It was common practice in these

cases to release prisoners on bail without setting a trial date, which involved travel restrictions and a time-consuming and sometimes costly requirement to report frequently at police stations. In some cases the government did not file charges or waited many years to do so.

For example, in 2014 the government charged Thulani Maseko, a human rights lawyer, and Bheki Makhubu, editor of the only independent magazine in the country, *The Nation*, with contempt of court for criticizing the judiciary. After a lengthy and irregular trial, they were convicted and sentenced to serve two years in prison. Maseko appealed the sentence and conviction. In June 2015 the Supreme Court ruled that Makhubu and Maseko were wrongfully convicted, and both were acquitted and released. Maseko and Makhubu filed a suit against the government for wrongful arrest that was pending at year's end.

Maseko was also charged with sedition stemming from statements criticizing the country's governance, and Makhubu was charged with "scandalizing the court" for an article he wrote. Maseko's sedition trial remained suspended at the request of the crown to await resolution of a challenge to the constitutionality of the STA and the SSAA upon which the charges were based. On September 16, the High Court ruled that sections of the STA and the SSAA were unconstitutional (see section 1.e.).

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.

Property Restitution

On February 10, the RSPS evicted 22 farmers and their families from their homes. The eviction fulfilled a 2014 court order for the farmers to vacate property belonging to the Royal Swaziland Sugar Corporation. The farmers had cultivated sugarcane on the land for decades under a royal concession granted by former king Sobhuza II. This complex case culminated with the 2014 High Court order requiring the farmers to vacate the land. During the February eviction, the deputy sheriff, escorted by RSPS officers, ordered the farmers to return the keys to the

staff compounds and forbade them from entering the premises again. No restitution or compensation was provided to the farmers.

f. Arbitrary or Unlawful 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. Members of civil society and prodemocracy groups reported the government monitored e-mail, Facebook, and internet chat rooms, and police monitored certain individuals’ telephones. Individuals who criticized the monarchy risked exclusion from the patronage system of the traditional regiments (chiefdom-based groupings of men dedicated to serving the king) that distributed scholarships, land, and other benefits. Both undercover and uniformed police officers appeared at labor union, civil society, arts, and business functions. Police also monitored prodemocracy events in South Africa. On February 6, officers from Bhunya Police Station entered the home of a human rights lawyer and stopped a private social gathering that included several human rights lawyers. The police claimed the gathering was in fact a political meeting.

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. Antiterrorism, sedition, and public order legislation also severely restrict constitutional rights. Officials impeded press freedom. Although no law bans

criticism of the monarchy, the prime minister and other officials cautioned journalists against publishing such criticism with veiled threats of newspaper closure or job loss.

Freedom of Speech and Expression: The law severely restricts free speech and gives police wide discretion to detain persons for lengthy terms without trial or public hearing. Those convicted of sedition may be sentenced to up to 20 years in prison.

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 patronage system of the traditional regiments (see section 1.f). This exclusion could also be applied to their family members.

William Mkhalihi, an 82-year-old man from Vuvulane who strongly criticized the king over royal land holdings and lack of land rights for the people during the People's Parliament (Sibaya) gathering in August, was reportedly arrested and charged under the Public Order Act and with questionable charges of theft.

Press and Media 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. Journalists expressed fear of judicial reprisals for their reporting on some High Court cases and matters involving the monarchy.

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

The broadcast media remained firmly under state control. Most persons obtained their news from radio broadcasts. A controversial ministerial decree prohibiting members of parliament from speaking on the radio was apparently lifted. Although the government claimed the decree had never been enforced, there was no instance in which a member of parliament violated it. Despite invitations issued by the media regulatory authority for parties to apply for licenses, no licenses were awarded. Stations practiced self-censorship and refused to broadcast anything perceived as critical of the government or the monarchy.

Censorship or Content Restrictions: Media practiced self-censorship due to fear of reprisals such as losing paid government advertising if their reporting were

perceived as critical of the government, particularly the monarchy. According to civil society activists, letters to the editor critical of government or the monarchy were sometimes altered or not published.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content. There were credible reports that the government monitored private online communications without appropriate legal authority. In the Private and Cabinet First Quarter Report of 2015, the government press office stated that authorities monitored internet blogs, e-mail, and social networks such as Facebook, Twitter, and internet chat rooms. An anonymous online site, Swazileaks, which criticized extravagant royal family spending, was inactive during the year, possibly due to government pressure. According to the International Telecommunication Union, 30.4 percent of the population used the internet in 2015.

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. At the University of Swaziland, political research documents may be obtained only upon special request. There were no government restrictions on cultural events. The government withdrew a history book from the school curriculum because it discussed the People's United Democratic Movement, a proscribed political entity.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Although the constitution provides for freedom of assembly, the government often 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. Unlike in prior years, these permits generally were granted. Rallies during the Southern African Development Community Summit, however, were actively discouraged. Marches were directed away from high-traffic areas. Chiefs prohibited political rallies in rural areas.

The government harassed opposition members and conducted surveillance on members of labor unions, political groups, and groups considered potentially

political. Authorities attempted to prevent meetings and demonstrations by withholding consent. When demonstrations took place, security officials were deployed in force, on occasion outnumbering protesters. Political activists alleged authorities monitored their telephone calls.

On February 22, during a student protest at the University of Swaziland, the Operational Support Services Unit, a paramilitary branch of the RSPS, drove an armored vehicle at high speed into a crowd of hundreds of unarmed protesters. A second-year student, Ayanda Mkhwanazi, was severely injured and left disabled as a result of the incident. The government initiated an investigation into the case; no findings were released by year's end.

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 argued the constitution replaced and superseded the 1973 decree that banned political parties, there were no legal mechanisms for parties to register or contest elections. Several prodemocracy groups have been declared terrorist organizations due to statements calling for disbanding the government system and alleged connections to a bombing campaign in the mid-2000s.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

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

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation and the government generally respected these rights. It also states 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 refugees, asylum seekers, and other persons of concern. By traditional law and custom, chiefs have the power to decide who may reside in their chiefdoms; evictions occurred due to internal conflicts, alleged criminal activity, or opposition to the chief.

Foreign Travel: Nonethnic Swazi citizens sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the country's history of not treating mixed-race and white persons as "legitimate" citizens. In addition, political activists and their families often had difficulty obtaining passports.

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 UNHCR and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers. The country hosted an estimated 1,000 refugees, the majority from the African Great Lakes region and Somalia.

Durable Solutions: The government permanently resettled refugees in the country. It allowed some refugees 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. The government continued to implement a psychological support program that provided counseling to refugees. Refugees could visit the neighboring countries of Mozambique and South Africa with ease.

Section 3. Freedom to Participate in the Political Process

Civil and political rights were severely restricted. Citizens did not have the ability to choose their government in free and fair periodic elections held by secret ballot, and political parties remained unable to register, contest elections, or otherwise participate in formation of a government. The king is an absolute monarch with ultimate decision-making authority. Some prodemocracy organizations were

banned. There is no legal mechanism by which political parties may compete in elections. The Elections and Boundaries Commission (EBC) did not permit candidates of 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 2013 peaceful and generally well-managed parliamentary elections took place, the second time since the constitution went into effect in 2006, and the king appointed a government. 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 citizens were advised that if they did not register to vote, they would no longer receive government services.

Political Parties and Political Participation: The government harassed and detained opposition members and openly stated 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 and contest elections. While political parties existed, there was no legal mechanism for them to register or contest elections. The constitution also states 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 the 2013 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 registrar of the High Court refused to put the matter on the docket.

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 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 the passing and burial of chiefs.

Participation of Women and Minorities: The constitution provides for 55 of the 65 seats in the House of Assembly to be popularly contested and for the king to appoint the remaining 10 members. The constitution provides for five of the 10 to be women and for the other five to 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 members are 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, in which only one woman was elected, and although less than 30 percent of its members were women, the assembly did not select four additional women. Civil society, members of parliament, and women’s advocacy organizations urged the assembly to fulfill this constitutional requirement.

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 House of Assembly named 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 proximity to the king or a chief’s official residence. As a result widows were excluded from voting or running for office or taking active public roles in their communities during those periods. For example, in August widows or those in mourning were not permitted to participate in the People’s Parliament gathering.

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

Section 4. Corruption and Lack of Transparency in Government

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.

The Anticorruption Commission (ACC), funded by the Ministry of Justice, is charged with fighting corruption and conducting education and prevention programs. The ACC has the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. The ACC conceded it made little progress in curbing corruption and fulfilling its mandate because of insufficient funding. Central Bank Governor Majozi Sithole stated corruption continued to be prevalent and resulted in a monthly loss estimated at 80 million emalangeni (\$5.4 million) in potential government revenue.

In prevention and education efforts, 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 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.

Corruption: School principals and teachers routinely demanded bribes to admit students, and immigration and customs officials did so to issue government documents. They also committed fraud. For example, in October the *Swazi Observer* reported that a teacher forged a school head's signature to steal funds from the school's bank account.

Credible reports continued that a person's relationship with government officials influenced the awarding of government road construction and other contracts; the appointment, employment, and promotion of officials; recruitment into the security services; and school admissions. Authorities rarely took action on reported incidents of nepotism.

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 interest 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: No law provides for public access to government documents. The Ministry of Finance, however, provided limited access to budget documents on its website.

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. The government monitored groups considered potentially political (see section 2.b.).

While the constitution provides for the independence of human rights NGOs, it does not provide for judicial enforcement to protect NGO independence.

Government Human Rights Bodies: The Commission on Human Rights and Public Administration received complaints and referred them to the appropriate judicial or governmental body. The commission was nearly powerless due to lack of funding and enabling legislation. The commission consisted of one acting commissioner (who had been acting since 2010) and four deputy commissioners. Management and administration were handled by its secretariat. 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 where custom and tradition prohibit access to women in mourning attire or wearing pants.

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

Women

Rape and Domestic Violence: The law criminalizes rape, but no law specifically addresses spousal rape. Rape was common, and the government rarely enforced the law effectively. According to the Swaziland Action Group against Abuse

(SWAGAA), one in three girls and women between ages 13 and 24 had been a victim of sexual violence. Although rape is legally defined as a crime, many men regarded it as a minor offense. The number of reported cases was likely far lower than the actual number of cases, as many cases were dealt with at the family level. A sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. The maximum sentence for conviction of 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 try rape and domestic violence cases 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.

No legislation or law deals specifically with domestic violence and sexual abuse. If charged as assault, however, domestic violence is illegal. Domestic violence against women, particularly wife beating, was common and sometimes resulted in death. Police efforts to combat the crime were inadequate. Despite civil society efforts to advance legislation, versions of a domestic violence bill have languished in parliament for the past seven years.

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 courts using 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. 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 trial. There were frequent reports of sexual harassment, most often of female students by teachers. During the year the Teaching Service Commission suspended and fired several male teachers for sexual harassment of female students, but none were prosecuted. Some teachers threatened female students with poor grades if they did not submit to the teachers' sexual advances.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children, free from discrimination, coercion, or violence, but they often lacked the information and means to do so. There was wide access to contraception, including in public restrooms, clinics, and workplaces throughout the country. The UN Population Division estimated 62.6 percent of girls and women ages 15-49 used a modern method of contraception in 2015. According to the World Health Organization, the maternal mortality ratio was 389 deaths per 100,000 live births in 2015. This high ratio was attributed to the poor quality of medical care available in the country, particularly in rural areas.

The 2014 UN *Trends in Maternal Mortality* report estimated the maternal mortality rate at 310 deaths per 100,000 live births in 2013; 19 percent of these deaths were AIDS related. According to the *Swaziland Multiple Indicator Cluster Survey* (MICS) of 2010, three-quarters of all maternal deaths occurred during delivery and in the immediate postpartum period.

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

Girls and women faced discrimination in rural areas by community elders and authority figures, who gave preference to boys in education. Women faced employment discrimination (see section 7.d.). 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 conflicted with customary law, which classifies women as minors. Both traditional and Roman-Dutch civil law recognize women as dependents of their husbands or fathers. Although women routinely executed contracts and entered into a variety of transactions in their own names, banks often refused personal loans to married women without a male guarantor. The constitution provides for equal access to land and civil law provides for women to register and administer property. Most persons were unaware of this right, however, and customary law forbids women from registering property in their own names.

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.

Customary law and tradition allow a man to have 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 of unmarried parents remain with the mother, unless the father claims paternity. Inheritances pass to and through male children only.

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 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. Media reported that widows heading households sometimes became homeless and were forced to seek public assistance when the husband’s family took control of the homestead. Women who had jobs sometimes lost them due to absence from work during the extended mourning period. Women in mourning attire were generally not allowed to participate in public events and were barred from interacting with royalty or entering royal premises. In some cases the mourning period lasted up to three years. Traditional authorities exercised the right to fine women for wearing trousers at a chief’s kraal or at royal residences.

Children

The 2012 Children’s Protection and Welfare Act sets the age of majority at 18. It 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; establishes structures and guidelines for restorative justice; defines child labor and exploitative child labor; and sets minimum wages for various types of child labor. At year’s end, the government had not implemented most of the law’s provisions.

Birth Registration: Under the constitution, children derive citizenship from the father, unless the birth occurs outside marriage and the father does not claim paternity, in which case the child acquires the mother's citizenship. A foreign woman who marries a citizen may become a citizen by filing an application with the Citizen Board of the Ministry of Home Affairs. If a Swazi woman marries a foreign man, however, even if he is a naturalized Swazi citizen, their children carry the father's birth citizenship and have no legal claim to the mother's Swazi citizenship.

The law mandates compulsory registration of births. According to the MICS, 50 percent of children under age five 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 to enter school or obtain a passport.

Education: The constitution does not state that education is compulsory, but regulations provide for fining parents who do not have their children attend school. Primary education was tuition-free through grade seven, but students' families continued to pay for uniforms and supplies. The Office of the Deputy Prime Minister received an annual budget allocation to pay school fees for orphans and other vulnerable children in primary and secondary school, but some schools expelled such children if the office did not provide funding. 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. If reported, perpetrators were seldom prosecuted, and when prosecuted and convicted, sentences seldom matched the maximum penalties allowable. According to the UN Children's Fund (UNICEF), approximately one in three young women experienced some form of sexual violence as a child, three in 10 experienced emotional abuse, and nearly one in four experienced physical violence. According to the MICS, 12 percent of children were subjected to "severe physical punishment." Children with disabilities, children not in school, and orphans were at particular risk. Some families kept their children with disabilities out of public view.

On June 20, the *Times of Swaziland* newspaper reported that a teacher, Charity Hullet, removed her stepson's trousers and sat him on a burning hotplate to punish

him. She was arrested and charged with violation of the Children's Protection and Welfare Act. She was prosecuted, convicted, and sentenced to five years in prison. Corporal punishment by teachers and principals is legal and routinely practiced. School rules and regulations allow a teacher to administer up to four strokes with a stick on the buttocks to a student under age 16, and up to six strokes to students age 16 and older. Teachers often exceeded these limits with impunity. In 2015 the Ministry of Education and Training introduced less severe disciplinary standards--the minister warned that teachers who beat pupils would be held accountable for such abuses. Despite this policy change, there were no reports of teachers being punished and the abuses continued.

On August 4, the *Times of Swaziland* reported that a Siyendle Primary School teacher severely whipped a grade two student. Authorities did not discipline or charge the teacher with any offense.

Early and Forced 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. Under traditional law marriages are permitted for girls as young as 13. Although the deputy prime minister criticized 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 a 2015 UNICEF report on child marriage in the country, 1 percent of adolescent girls are married before age 15 and 7 percent are married before age 18. The majority of these girls bear children before age 18.

Sexual Exploitation of Children: Girls were victims of sex trafficking. Orphans and other vulnerable children 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 "mistreatment, 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 not less than 15,000 emalangenis (\$1,011), a prison term of not less than two years, or both. Provisions of older law address child prostitution as "defilement of a ward" or "unlawful carnal connection with a girl," and pornography under "obscene publications." Statutory law sets the age of sexual consent at 16, while

criminal law states that a girl under age 14 may not consent to sexual intercourse. The penalties for conviction of statutory rape and prostituting a girl are from six to 25 years' imprisonment, up to 24 lashes with a whip, and a fine of 1,000 emalangeni (\$67). Penalties for child pornography are up to six months' imprisonment and a fine of 100 emalangeni (\$6.74). The People Trafficking and People Smuggling (Prohibition) Act prescribes up to 25 years' imprisonment for conviction of trafficking, including the prostitution of children.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

The Jewish community is very small, and there were no known reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

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. No laws prohibit discrimination against persons with disabilities in employment. Persons with disabilities complained of government neglect. No laws mandate access to health care for persons with disabilities or accessibility to buildings, transportation (including air travel), information, communications, or public services. Government buildings under construction included some improvements for persons with disabilities, including access ramps. Public transportation was not easily accessible for persons with disabilities, and the government did not provide any alternative means of transport.

There were only minimal services provided for persons with disabilities, and there were no programs in place to promote the rights of persons with disabilities. There was one private school for deaf students and one private special-education school for children with physical or mental disabilities. The hospital for persons with mental disabilities, located in Manzini, was overcrowded and understaffed.

By custom persons with disabilities may not be in the presence of the king, as they are believed to bring “bad spirits.”

National/Racial/Ethnic Minorities

Governmental and societal discrimination was practiced against nonethnic Swazis, generally persons of Caucasian or Asian descent 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 bank loans.

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

While colonial-era legislation against sodomy remains on the books, no penalties are specified, and there were no arrests. The government asserted that same-sex relationships and acts were illegal but did not prosecute any cases during the year. Societal discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons was prevalent, and LGBTI persons generally concealed their sexual orientation and gender identity. For example, the director of the LGBTI NGO Rock of Hope confirmed a March 2015 newspaper report that Kaylo Glover, a young lesbian, was axed to death in Nhlanguano by a man who objected to her lesbianism. LGBTI persons who were open regarding 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 government officials criticized same-sex sexual conduct as neither morally Swazi nor Christian. LGBTI advocacy organizations had trouble registering with the government. One such organization, House of Pride, was under the umbrella of another organization that dealt with HIV/AIDS. It was difficult to determine the extent of employment discrimination based on sexual orientation or gender identity

because victims were not likely to come forward, and most LGBTI persons were not open regarding their sexual orientation or gender identity.

HIV and AIDS Social Stigma

The People Living with HIV Stigma Index (2011) indicated that, of a study sample of 1,233 persons, 18 percent believed their HIV-positive status caused persons to gossip about them; 7 percent were insulted or harassed; and 3 percent were assaulted. Experience of internal stigma included: 25 percent had low self-esteem, 24 percent felt shame, 17 percent felt guilt, 14 percent felt isolation, and 7 percent had suicidal thoughts.

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 active military members testing positive. Persons who test HIV positive, however, were not recruited by the armed forces because military authorities claimed that they would not be able to withstand strenuous training.

Other Societal Violence or Discrimination

There was social stigma attached to albinism. Several persons with albinism stated they were subject to discrimination, called names, and 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. On February 28, residents of Ezindwendweni burned the house of a 70-year-old woman accused of practicing witchcraft.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that workers, except for those in essential services, 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 often abrogated them. On June 1, three workers were injured during a clash when police dispersed striking workers. One of the injured, Gladys Dlamini, suffered a serious eye injury

after allegedly being hit with a baton. The laws 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 workplace and submit their constitutions to be automatically recognized.

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 to recognize a labor organization as a collective employee representative if less than 50 percent of the employees are members of the organization. If 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. The court is empowered to refuse registration if an agreement conflicts with the Industrial Relations Act (IRA) 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. It 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 a dispute could have serious consequences for the employers, workers, or the economy if not resolved promptly.

According to the IRA, as amended, employees not engaged in "essential services" have the right to undertake peaceful protest actions to "promote or defend socioeconomic interests" of workers. The act, however, defines "socioeconomic interest" as including "solutions to economic and social policy questions and problems that are of direct concern to the workers but shall not include matters of a purely political nature." Extensive provisions allow workers to seek redress for alleged wrongful dismissal, but it does not require reinstatement for workers fired for union activity. 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 postal services, 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 are exhausted and a secret ballot of union members conducted.

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. For example, on September 22, the public-sector union was unable to deliver a petition to the Office of the Prime Minister because the RSPS withdrew its permission to use a previously specified route for the intended march.

The government did not effectively enforce laws pertaining to union organization. Freedom of association and the right to collective bargaining were not consistently respected. The government perceived some unions to be 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 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 addition the logistical requirements to register a legal strike made striking difficult.

Government interference in union affairs has 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 historically used certain laws, including the 2008 STA and the 1963 Public Order Act, to interfere in trade unions' affairs--in particular, gatherings or other activities that were viewed as "political in nature."

The International Trade Union Confederation also reported trade union activities continued to be repressed and that arbitrary arrests and detentions, intimidation, and physical violence were used to silence activists.

The IRA was amended to allow for the registration of federations and became law in 2014, after the king's assent. Federations must submit their constitutions to the government and apply for registration.

In 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 TUCOSWA had been “erroneously registered” under the IRA, which governs all labor-related activity. Despite the fact that labor federations have operated in the country for decades, the attorney general argued the law 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 IRA 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 IRA allowing for the registration of federations, ostensibly to mollify the ILO and other international observers. In 2014 the king assented to an amendment to the law, after its passage by parliament. TUCOSWA was registered in May 2015, three weeks before the ILO conference in Geneva. The Amalgamated Trade Union of Swaziland (ATUSWA), comprised of first-level trade unions across varied sectors (i.e., textile and apparel, mining, quarrying, general manufacturing, metal workers and engineering, retail, hospitality and catering), was finally registered on May 9 after a lengthy struggle to be recognized by government. ATUSWA is an affiliate of TUCOSWA and its registration was finalized in an attempt by government to meet certain benchmarks set out by the ILO ahead of its June conference.

There were allegations 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. 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 it also exempts “communal services” from the definition of forced labor, referencing services that benefit the community and are uncompensated. This allows the king and chiefs to require residents to perform such services in their communities, and customarily chiefs may penalize those who do not participate. The government did not effectively enforce the applicable law.

The labor code punishes forced labor by a maximum of one year's imprisonment, a fine of 3,000 emalangeni (\$202), or both. These penalties were considered sufficient to deter violations in cases when the law was enforced. Customary law has no stipulated sentences but provides for fines that range from a few hundred to several thousand emalangeni.

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

Also see the Department of State *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The laws prohibit child labor. The minimum age for employment is 15, and the minimum age for employment in night work is 16. The law also prohibits children under age 18 from engaging in hazardous work in industrial undertakings, including mining, manufacturing, and electrical work, but these prohibitions do not address hazardous work in the agriculture sector. The law limits the number of night hours children may work on school days to six and the overall hours per week to 33.

The Ministry of Labor, the Office of the Deputy Prime Minister through the Department of Social Welfare, and the RSPS are responsible for enforcement of laws relating to child labor. The government did not effectively enforce laws combating child labor due to a lack of baseline information regarding the scope of the problem and a lack of dedicated resources for identifying and punishing violators.

Penalties for conviction of violations of the worst forms of child labor include a fine of 100,000 emalangeni (\$6,739) or five years' imprisonment for a first offense, and 10 years' imprisonment with no option for a fine for repeated offenses. Authorities, however, did not enforce the law.

In the informal sector, children continued to be employed, particularly in agricultural pursuits. In agriculture children picked cotton, harvested sugarcane, and herded 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, particularly in rural areas, served alcohol in liquor outlets and grew, manufactured, and sold illegal drugs.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The labor law prohibits discrimination in employment and occupation based on race, gender, language, HIV-positive status or other communicable diseases, religion, political views, or social status, but the law is silent on discrimination in employment and occupation based on disability, age, and sexual orientation or gender identity, and the government, in general, did not effectively enforce the law. One official stated that she was not promoted because she had albinism and by year's end the complaint had yet to be considered.

Gender-based discrimination in employment and occupation occurred (see section 6). While women have constitutional rights to equal treatment and may take jobs without the permission of a male relative, and the law requires equal pay for equal work, there were few measures in effect protecting women from discrimination in hiring, particularly in the private sector. Despite the law, the average wage rates for men by skill category usually exceeded those of women.

Disabled persons faced discrimination in hiring and access to work areas. Openly LGBTI persons were subject to discrimination in employment and social censure.

Migrant workers enjoy the same legal protections, wages, and working conditions as citizens but still faced discrimination in employment due to societal prejudice against foreigners.

e. 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 emalangeni (\$36) for a domestic worker, 1,137 emalangeni (\$77) for a preschool teacher, 768 emalangeni (\$52) for a semiskilled worker in the forestry industry, and 1,060 emalangeni (\$71) for a skilled worker in the forestry industry. All workers in the formal sector, including migrant workers, are covered by the wage laws. Approximately 63 percent of the population lived below the poverty line.

There was a standard 48-hour workweek for most workers and a 72-hour workweek for security guards spread over a period of six days. It was not clear whether there were specific exceptions for female workers. The law requires all workers have 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 with full pay. 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.

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.

In March the *Times of Swaziland* reported two separate incidents occurring in the same company; an employee had his left hand cut off, and a worker lost her thumb because she was forced to operate a machine she was not familiar with. The Ministry of Labor deployed a team of investigators to determine what led to the workers' injuries, but no findings were made public.

The government inconsistently enforced the 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.

The constitution calls on parliament to enact laws to protect a worker's right to satisfactory, safe, and healthy employment conditions, but parliament did not enact any such laws during the year. 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 an estimated 20 labor inspectors serving the entire country, and

while the labor commissioner's office conducted 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 their lack of regulation facilitated the exploitation of workers.

Wage arrears, particularly in the garment industry, were a problem. Working conditions in the industry generally 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 1,488 emalangenani (\$100). Minimum wage guidelines did not apply to the informal sector, where many workers were employed.

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

Public transportation workers complained they were required to work 12 hours a day or more without overtime compensation and that they were not entitled to pensions and other benefits. 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 hospitals and clinics. Some facilities lacked proper ventilation systems, water, and sanitation supplies.

Although policies existed 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 they were very hesitant to use their maternity leave due to uncertainty that their right to return to work would be respected.

Labor laws applied to the informal sector but were seldom enforced. Most workers were in the informal sector, but credible data were not available. 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.

Per the Occupational Safety and Health Act of 2001, workers may remove themselves from situations that endanger their health or safety without jeopardy to

their employment. Authorities did not effectively protect employees in this situation.