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Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1

Swaziland*

The present report is a summary of 12 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to United Nations translation services.

I. Background and framework

A. Scope of international obligations

1. Action for Southern Africa (ACTSA), CIVICUS, Joint submission 1 (JS1), Joint submission 2 (JS2) and Joint submission 4 (JS4) stated that Swaziland ratified major international and regional human rights instruments.² ACTSA indicated that limited progress had been made on implementation and recommended Swaziland become a party to all outstanding international human rights treaties, particularly, the Optional Protocol to the Convention Against Torture, the First Optional Protocol to the International Covenant on Civil and Political Rights, and the Optional Protocol to Convention on the Elimination of All Forms of Discrimination Against Women.³

B. Constitutional and legislative framework

2. The Swaziland Commission on Human Rights and Public Administration (SCHRPA) indicated that the Constitution provided for a dual legal system, recognising both, principles of Swazi customary law and principles and rules of the Roman Dutch Common Law.⁴

3. JS1 stated that the 2005 Constitution restored fundamental protection and contained a Bill of Rights in Chapter III.⁵ JS4 indicated that this Bill did not contain social and economic rights and only referred to them in the Directive Principles of State policy, which were not justiciable.⁶ ACTSA noted that many statutory and customary laws which govern the everyday lives of Swazi people were not in harmony with the human rights protection that the Constitution prescribed.⁷ ACTSA observed that Swaziland had received considerable financial assistance and resource augmentation to its recent law reform programme, including from the EU, the UN and the Commonwealth, and that over one hundred bills awaited passage through parliament.⁸

4. Amnesty International (AI) stated that, with a few exceptions, the rulings by the High Court and the Supreme Court of Appeal on constitutional issues had not substantially advanced the protection of the rights at risk.⁹

5. ACTSA stated that under the 2005 Constitution the King of the Kingdom of Swaziland was no longer permitted by law to rule by decree or to dissolve parliament at will. The Constitution however confirmed his monopoly on power, such that in practice, people's enjoyment of their political rights was limited.¹⁰

6. JS1 reported that the 1973 King's Proclamation, which had been the supreme law for 33 years, was supposed to automatically fall away upon coming into force of the 2005 Constitution, but should have been abolished by a legal instrument. JS1 stated that in practical terms the Proclamation still existed as there was indirectly heavy reliance on it by the government.¹¹

C. Institutional and human rights infrastructure

7. JS4 stated that the Commission on Human Rights and Public Administration (SCHRPA) was established in 2009, but had maintained an invisible existence and had been very silent in the face of ongoing human rights violations by State agents and non-State actors.¹² JS4 indicated that the Commission's mandate was unclear, as parliament had not enacted legislation to fully operationalize it.¹³ JS4 reported that SCHRPA offices were

located within a traditional compound regulated by customary law, which was enforced by members of the military, who guard the main entrance thus excluding certain members of society from accessing it.¹⁴ JS4 observed that matters done under royal prerogative were constitutionally excluded from the Commission's jurisdiction, such as property grabbing and forced evictions.¹⁵

8. JS3 acknowledged the establishment of the National Children's Coordination Unit (NCCU) and the important role it had played in improving children's rights. It however noted that NCCU was underfunded and that its mandate was not clear, including in terms of data collection.¹⁶

9. JS4 stated that Swaziland had to be commended for establishing the Anti-Corruption Commission (ACC). However, evidence on the ground showed that this commission was fast losing credibility, as it dealt with corruption cases selectively. The independence of the Commission was also in doubt, given the interference of the Prime Minister in its dealings.¹⁷ JS1 further noted that currently the public and even parliament had no say on royal spending; neither did they have access to information on funds allocated to the royal family. The King's Office which was responsible for the affairs and welfare of the royal family was not audited.¹⁸

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

Cooperation with treaty bodies

10. AI noted that Swaziland had a poor record of reporting on the implementation of its international human rights treaty obligations.¹⁹ JS1 recommended that Swaziland take its reporting obligations under the various international instruments seriously and report accordingly.²⁰

B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

11. SCHRPA indicated that the Constitution did not include marital status and sexual orientation as a ground of non-discrimination.²¹

12. JS2 reported that Swaziland was a patriarchal society, heavily steeped in custom and religion. In terms of Swazi customary law, a woman was a perpetual minor, moving from the guardianship of her father as a child to that of her husband as a wife.²² SCHRPA stated that the Constitution contained an equality clause and provided for equal treatment between men and women and noted that that Swaziland adopted a National Gender Policy in 2010 to achieve gender balance.²³ JS2 clarified that Section 28 of the Constitution basically provided that women's rights shall be respected, subject to the availability of resources.²⁴ JS2 recommended that Swaziland establish a law reform commission to evaluate and review the laws that undermine women's rights and ensure that discriminatory and invasive customary laws are abrogated.²⁵

13. JS2 stated that women could not freely express their views, not even on issues affecting them, largely because of the social perception that men were there to decide on their fate.²⁶

14. JS2 reported that in terms of customary law, which regulates access to communal land, women's access to such land was limited.²⁷ CHR, JS2 and ACTSA further reported that Section 16(3) of the Deeds Registry Act denied women the right to register property in their own name, and that while in February 2010, Swaziland's Supreme Court upheld that this provision was unconstitutional, parliament had still not passed legislation to correct this invalidity.²⁸ CHR added that application of this invalidity was limited to couples married under civil law.²⁹ JS2 recommended that Swaziland amend laws to enable women to access land.³⁰

15. JS2 stated that while Section 34 of the Constitution protected the rights of spouses to inherit from their partners, there were conflicting theories of when the contract of marriage was actually concluded under customary law.³¹ JS2 therefore recommended that Swaziland adopt legislative and other measures to eliminate uncertainty of the status of women married under custom.³² JS2 reported that a large number of Swazi women married under customary law did not have marriage certificates, often creating problems once the husband died.³³ JS2 further reported that Swaziland still adhered to the rule of primogeniture, which resulted in women being disposed of their property.³⁴

16. JS2 reported that there was a lack of equal opportunity at the work place that allowed women to take high paying jobs. No women were heading government parastatals.³⁵ They were not allowed into traditional positions like being chiefs or even being a leader of the country. The judiciary also lacked women representation.³⁶

17. JS2 reported that, although the Constitution clearly outlawed the status of illegitimacy of children born out of wedlock, customarily this determination still existed.³⁷ JS3 recommended that Swaziland take legislative and other measures to abolish the status of illegitimacy under custom and in practice.³⁸

2. Right to life, liberty and security of the person

18. JS1 noted that Section 15 of the Constitution stated that a person shall not be deprived of the right to life, rather than providing that "a person has a right to life".³⁹ AI mentioned that, under Section 15(4) of the Constitution, lethal force could potentially be used in a range of circumstances.⁴⁰ JS1 noted that Swaziland had not abolished the death penalty.⁴¹

19. JS3 reported cases of alleged killings of individuals by the police,⁴² and recommended that Swaziland establish commissions of inquiry into all deaths in the hands of the State police, the army, correctional services, and game rangers.⁴³ JS1 recommended that Swaziland make public all findings of past and future inquests emanating from deaths in police custody.⁴⁴

20. JS1 further reported that there were cases where citizens were shot by the conservation police (game rangers), who are immune from prosecution in terms of the Game Act 1991 for killing any person they suspect of having poached.⁴⁵ JS4 indicated that persons acting on the instruction of a game ranger also enjoyed this immunity.⁴⁶ JS1 recommended that Swaziland amend the Game Act.⁴⁷

21. Noting that the use of torture or inhuman or degrading treatment and punishment was prohibited under the Constitution, AI recommended that Swaziland enact legislation which specifically defined and criminalized torture.⁴⁸ JS1 reported that there had been constant violations of these provisions mainly by the State police and community police, notably against member of progressive movements calling for political plurality and democracy.⁴⁹ AI and JS4 furthermore referred to comments made by the Prime Minister on 8 September 2010 that torture could be considered as a form of punishment in certain circumstances.⁵⁰ JS2 indicated that the police force also torture women⁵¹ and JS3 added that children also suffer as a result of State sponsored torture and provided examples of such

cases.⁵² JSI stated that there had been no prosecution by the State of any of its agents accused of torture⁵³ and CIVICUS indicated that victims of police violence had no recourse to an independent body which could look into allegations of torture.⁵⁴ JS3 recommended that Swaziland take measures to investigate and prosecute members of the security forces who violate human rights.⁵⁵

22. JS1 reported that while Section 16 of the Constitution provided for the protection of the right to personal liberty, people were frequently detained without any charges.⁵⁶

23. JS1 and JS2 noted that women had been fined, assaulted and harassed by members of a customary party, the *water party*, for various reasons, ranging from not covering their heads to wearing slacks.⁵⁷ JS1 recommended that Swaziland desist from granting immunity to the *water party* and further embark on a law reform exercise to identify customs which offend the Constitution.⁵⁸

24. JS2 reported that there was a high rate of domestic violence against women and that the State had not come up with mechanisms to curb it.⁵⁹ JS2 stated that police did not take such matters seriously, as they were said to be family issues that needed to be dealt with at the family level.⁶⁰ JS2 reported that these violent tendencies were further fuelled by statements by State agents, including by judges and provided examples.⁶¹ JS2 reported that the Sexual Offences Bill sought to curb sexual offences such as domestic violence, rape, sexual harassment, and marital rape, but had remained in draft form for more than four years.⁶² JS2 recommended that Swaziland finalise the Sexual Offences Bill and criminalize wilful transmission of HIV/AIDS.⁶³

25. JS3 indicated that sexual violation of children occurred on a daily basis. Apart from a child friendly section of the High Court, Swaziland did not have specialist courts or specially trained personnel to deal with such cases.⁶⁴

26. SCHRPA stated that the People Trafficking and People Smuggling Act was passed in 2010.⁶⁵ JS3 however observed that the State still had to engage in civic education for the public to understand what human trafficking is.⁶⁶

27. SCHRPA indicated that Swaziland developed the Action Programme on the Elimination of Child labour (APEC) 2008–2012.⁶⁷

28. SCHRPA reported that, in response to an emerging trend in the violation of the rights and freedoms of people living with albinism, Swaziland had established a protection programme.⁶⁸

29. SCHRPA stated that corporal punishment was lawful and traditionally accepted and widely practiced in the family, schools and other settings.⁶⁹ The Global Initiative to End All Corporal Punishment of Children (GIEACPC), JS1 and JS3 stated that the Constitution provided that a child should not be subjected to abuse or torture or other cruel, inhuman and degrading treatment or punishment subject to lawful and moderate chastisement for purposes of correction.⁷⁰ JS1 added that schools were empowered by The Education Rules No. 49 of 1977 to administer corporal punishment on pupils.⁷¹ JS3 provided examples of ill-treatment of children in schools.⁷² GIEACPC added that corporal punishment was lawful as a sentence for crime and in alternative care settings⁷³ and urged Swaziland to enact legislation to prohibit corporal punishment in all settings.⁷⁴

3. Administration of justice, including impunity, and the rule of law

30. JS1 reported that although the Constitution provided that the judiciary shall be independent, it was appointed by the King after consultation with the Judicial Service Commission (JSC) which was also appointed by him. Moreover, some judges had been side-lined from hearing particular cases with no clear explanation.⁷⁵

31. JS1 stated that the Supreme Court bench was comprised entirely of foreign judges, and no local judge was allowed to sit. Swaziland had not had a Swazi chief justice, allowing the holder of this Office to be employed on contract, and therefore without security of tenure. Moreover, junior judges heard civil matters, relegating senior judges to criminal matters, targeting those who espoused progressive disposition or human rights based assessment. As a result, no civil matter filed by civil society that challenged the constitution had succeeded.⁷⁶

32. JS1 stated that customary law matters were mostly adjudicated at community level where the chief through his inner council presided over such matters. In addition to a lack of legal training, thus creating some elements of judicial unfairness, JS1 noted that there was no legal instrument authorizing chiefs' courts, that legal representation of the accused person was denied under customary law, that in some communities people were tried under customary law despite having appeared in a court of law for the same offence, and that people who had either been convicted of a crime or even acquitted by a court of law were not welcome back to their communities and subjected to double jeopardy either through fines by the chiefs' courts or orders of eviction. The non-codification of customary law made it difficult to understand the grounds upon which decisions of customary courts were reached and there were no written judgments. Finally, JS1 noted that there were no clear avenues of appealing or seeking a review of a decision of the chiefs' courts.⁷⁷

33. JS3 reported that whilst legally it was the chief public prosecutor who ought to determine which cases were sent to which court, over the years a practice had emerged where police officers unilaterally made this determination.⁷⁸

34. JS3 stated that Swaziland did not have a legal aid scheme and that the State was only legally bound to provide counsel where the crime alleged was likely to attract a sentence of capital punishment.⁷⁹

35. JS1 recommended that Swaziland embark on human rights training for all police officers and law enforcement agents.⁸⁰

4. Right to privacy, marriage and family life

36. JS2 stated that men were allowed to marry more than one wife under custom and that the customs of the levirate union and the sororate wife were still protected and practiced.⁸¹

37. JS2 reported that there were two forms of marriage recognised by Swazi law, namely the civil rite marriage and marriage under Swazi customary law,⁸² and that the 1964 Marriage Act violated the rights of women who were married under civil rite, as it provided that the consequences of marriage should be governed by the common law, subject to the marital power of the husband.⁸³

38. SCHRPA indicated that there was no definition of what "marriageable age" was, either in the Constitution or any subsequent legislation.⁸⁴ JS2 and JS3 reported that in accordance to Swazi customary law majority for marital purposes was reached upon puberty, resulting in girls as young as 13 years to be married.⁸⁵ JS2 recommended that Swaziland harmonise the age of majority in the different statutes and customs in order to curb early marriages.⁸⁶

39. JS2 noted that due to the high poverty rate, young women were forcefully married for the payment of the bride price (*lobola*).⁸⁷ Moreover, unless *lobola* was paid, the woman could not claim to be legally married.⁸⁸

40. JS2 and JS3 reported that children could only acquire citizenship from their fathers, the only exceptions being cases where the mother was a Swazi citizen and the father a foreigner and the father had denounced the child.⁸⁹

41. JS3 indicated that Swaziland did not have specialised maintenance courts with well-trained officers to deal with cases where claims were made for the maintenance and welfare of children.⁹⁰

42. SCHRPA and JS5 indicated that sexual contact between male persons was still criminalized under the common law as sodomy.⁹¹ JS5 indicated that Swaziland planned to include prohibitions of all male homosexual acts and lesbian acts in its revision of the Sexual Offences laws.⁹² JS2 reported that there was no legislation recognising lesbian, gay, bi-sexual, transgendered and inter-sexed people (LGBTIs) or protecting the right to sexual orientation and that LGBTIs were discriminated and condemned openly. Homosexual people could not marry under the Marriage Act and homosexual partners could not adopt children.⁹³ The House of our Hope (HOOP) provided examples of discrimination against LGBTIs occurring in various settings.⁹⁴

5. Freedom of movement

43. JS1 reported that although the Constitution provided that a person should not be arbitrarily deprived of freedom of movement, Section 26 (6) allowed for the deprivation of the right to freedom of movement when it is done under Swazi Law and Custom. Moreover, certain individuals viewed as dissidents were barred from moving freely in certain areas.⁹⁵

44. JS2 also reported that women were not allowed to visit some public places during the period of mourning and that this effectively meant that they cannot participate in governance issues at the local level.⁹⁶

6. Freedom of religion or belief, expression, association and peaceful assembly and right to participate in public and political life

45. JS1 reported that Section 23 of the Constitution provided for the right to freedom of conscience or religion.⁹⁷ JS3 indicated, however, that the State media houses only allowed Christian programmes to be aired on radio and television and that religious studies in schools were also limited to Christian theology and only Christian clubs were allowed in schools.⁹⁸

46. JS1 stated that while Section 24 of the Constitution provided for freedom of expression, the anti-terrorism law was used to silence dissenting entities and proscribe them as terrorist groups. Citizens who openly criticized the State had their privacy violated either through raids or interception of their communications.⁹⁹

47. JS4 indicated that the Constitution did not provide for the right to or right of access to information,¹⁰⁰ and that Swaziland continued to muzzle free expression by media houses. There were two State-owned radio stations and one private station and only one television station, owned by the State.¹⁰¹ JS4 reported on attempts frustrated by the State to operate private radio stations.¹⁰² JS4 recommended that Swaziland facilitate establishment of privately owned media houses by removing current legislative and procedural barriers.¹⁰³

48. JS4 stated that journalist's work was also limited by a number of laws, notably the 1938 Sedition and Subversive Activities Act.¹⁰⁴ JS1 reported that journalists were threatened for reporting on matters perceived to place the State in bad light and referred to statements recently uttered by a senior Prince to the effect that journalists who report negatively about the country and royalty would die. The government clampdown on the media had led to self-censorship within the country's media houses. Furthermore, the State invoked customary law to deny citizens the right to freely express themselves.¹⁰⁵

49. JS1 reported that while the freedom of association was protected by Section 26 of the Constitution, there was a contradiction with later provisions.¹⁰⁶ JS1 stated that political groupings remained banned since 1973, and those who had attempted to unban themselves

were proscribed as terrorist entities through the anti-terror law of 2008.¹⁰⁷ JS1 added that a Bill apparently aimed at facilitating the registration of political parties and social formations had been in the pipeline since it was announced by the Attorney-General in 2010.¹⁰⁸ JS1 also reported that, in February 2011, the Attorney General issued a statement to that effect that political parties were allowed or could exist, save that they could not form a government.¹⁰⁹ JS1 recommended that Swaziland abrogate the 1973 King's Proclamation to the Nation and enact a law to facilitate registration of political parties.¹¹⁰ ACTSA reported that the proposed Public Services Bill, drafted in 2009, would prevent public officers from holding an office in or being visibly associated with a political formation or organisation.¹¹¹ ACTSA recommended that Swaziland immediately un-ban all political parties and ensure that multi-party, democratic elections are introduced; and abandon the Public Services Bill.¹¹²

50. JS1 stated that registration of human rights organizations was frustrated by the State, through deliberately delaying the process.¹¹³ JS1 added that it had become common for human rights and pro-democracy NGOs to be raided by state police, that their property was either confiscated or destroyed and that human rights defenders were harassed, assaulted, tortured and their privacy violated.¹¹⁴ JS3 also stated that vocal citizens, human rights defenders, unionists and members of political parties were targeted by the State and provided examples.¹¹⁵

51. JS3 and JS4 reported that civil society organizations were denied access to rural communities under chiefs.¹¹⁶ JS4 recommended that Swaziland develop a programme that would create space for civil society in the promotion of human rights and stop the current clampdown on civil society operations.¹¹⁷

52. JS3 added that a number of political activists and human rights defenders had been accused by the State of committing certain offences. Although most were set free on bail, they remained perpetually with the awaiting trial status.¹¹⁸ JS1 reported that people's groupings were denied freedom of assembly as to hold public meetings, as permission from the state police authorities had to be obtained first.¹¹⁹

53. JS4 indicated that, in recent years, the State had continued to forcefully and unlawfully disrupt workers' marches, rallies and celebrations without just cause. Use of violence against workers and protestors had become a norm.¹²⁰ JS4 provided examples of arbitrary arrests and detention of persons by the police during marches before releasing them without charge.¹²¹ Several stakeholder submissions described the case of Siphon Jele who was arrested by State police during workers' day celebrations in Manzini in May 2010 for wearing a T-shirt with a logo of a banned political group, the Peoples' United Democratic Movement (PUDEMO) and was later found dead in custody.¹²² JS4 reported that a commission of enquiry was set up by the government, which concluded that he killed himself.¹²³ JS4 and JS1 stated that there were concerns with the coroner appointed to lead the inquest, especially regarding her impartiality, as she was a former police officer.¹²⁴

54. JS3 reported that Swaziland had been refusing to recognise the Swaziland National Union of Students (SNUS) which seeks to advance the welfare and interests of all students at all levels countrywide. SNUS had been trying to register without success since 2006.¹²⁵

55. JS1 noted that an Electoral and Boundaries Commission (EBC), as provided for in the Constitution, was established in 2007 and immediately embarked on preparations for the 2008 elections and thereafter facilitated civic or voter education exercise in preparations for the 2013 elections. However, JS1 highlighted the fact that EBC was appointed by the King and that the qualifications of the commissioners were questionable.¹²⁶ Furthermore, the 2008 elections EBC report was released two years later and as at the date of submission of JS1's report, was still not available to the general public.¹²⁷

56. JS1 noted that the *iNgwenyama* (the king in his customary capacity) may appoint any person to be chief over any area, while prior to the constitution, this had been a hereditary office. JS1 stated that this amounted to an imposition of a leader to the people, and led to chieftaincy disputes and social unrest.¹²⁸

57. JS2 stated that women were under-represented in decision-making positions. Despite the fact that the current percentage of women in parliament was 23 per cent, Section 86(1), which provided for the election of four additional women, if the number of women in parliament did not reach 30 per cent, was not used.¹²⁹ JS2 also reported that the current Cabinet team was composed of only four women out of the seventeen ministers.¹³⁰

58. JS3 stated that the representatives of the youth parliament, initiated in 2010, were not elected but rather handpicked from schools and was not representative of all the sectors of the youth.¹³¹ JS3 recommended that Swaziland ensure that the youth parliament was participatory and involved both in and out of school youth.¹³²

7. Right to work and to just and favourable conditions of work

59. JS4 indicated that Swaziland had to be commended for the positive action in addressing most of the recommendations of the International Labour Organisation (ILO). However, it still needed to address the Public Order Act of 1963 and its far reaching consequences, including to ensure that personnel employed by the State under His Majesty's Correctional Services be allowed to unionize.¹³³

60. JS4 reported that labour laws granted rights of inspection of work premises to specified State agents to ensure that workers operate in safe and healthy conditions. However, there was no clear strategy or plan on the State's part on how such inspections were to happen, leading to a number of companies subjecting workers to sub-standard working conditions.¹³⁴ Furthermore, despite attempts to set minimum wages via legislation and the Constitution, workers continued to be subjected to exploitation and underpayment.¹³⁵

61. JS4 reported that, in spite legal provisions, women who work mostly in the low income bracket were denied maternity and sick leave by some of their employers.¹³⁶

8. Right to social security and to an adequate standard of living

62. SCHRPA reported that Swaziland developed the National Social Development Policy aimed at improving the quality of life and human wellbeing of all Swazis through the provision of appropriate and sustainable social services, with special focus on older persons and children.¹³⁷

63. JS4 reported that, in recent years, and especially in 2010, several big industries closed down. Coupled with the high HIV/AIDS prevalence rate, unemployment and poverty, the overall effect of this is to deny Swazis enjoyment of their socio-economic rights.¹³⁸ JS3 also reported that the same factors had created what have come to be known as Orphaned and Vulnerable Children (OVC). In most instances, OVC were forced to drop out of school and find employment to sustain themselves and their siblings. Their vulnerability exposed them to exploitation of all kinds, including sexual exploitation.¹³⁹

64. JS4 indicated that the health system was in disarray.¹⁴⁰ CHR stated that, although the government had taken steps to facilitate access to healthcare services to its citizens, its efforts were insufficient,¹⁴¹ and recommended that Swaziland allocate 15 per cent of its annual budget to the health sector.¹⁴²

65. CHR stated that Swaziland had a very high HIV/AIDS prevalence rate and that people living with HIV/AIDS faced stigma and discrimination.¹⁴³ JS2 reported that women carried the brunt of HIV/AIDS and poverty, as 69 per cent of the population lived below the

poverty line.¹⁴⁴ ACTSA recommended that Swaziland make an enhanced commitment to primary prevention of HIV/AIDS and dual infection with Tuberculosis.¹⁴⁵ CHR recommended that Swaziland design and implement advocacy campaigns aimed at discouraging cultural practices which encourage the spread of HIV/AIDS.¹⁴⁶

66. JS3 reported that the Deputy Prime Minister's Office had over the years intervened in cases where parents refused to take their children to hospital citing religious beliefs.¹⁴⁷

67. JS2 stated that sexual, health and reproductive rights of women were not respected, neither were they protected nor promoted.¹⁴⁸ JS2 stated that the Constitution did not permit the termination of pregnancy except in defined circumstances and that consequently the mortality rate of both women and children was escalating.¹⁴⁹

68. JS1 reported that Section 19 of the Constitution guaranteed the right to property, but that the land tenure system left citizens open to arbitrary deprivation. JS1 reported that people were arbitrarily evicted without compensation and outside any judicial process, and added that evictions were also used as punishment against vocal citizens. JS1 added that Section 211 of the Constitution provided that Swazi Nation Land (tribal land) could only be used for domestic purposes, which made the operation of businesses on such land unconstitutional.¹⁵⁰

69. JS4 stated that the Constitution did not expressly provide for the right to a clean environment, and instead placed a duty on every citizen to promote the protection of the environment.¹⁵¹

9. Right to education and to participate in the cultural life of the community

70. JS3 stated that Swaziland did not show commitment in implementing the constitutional provision according to which every Swazi child should have access to free primary education. After civil society engaged in litigation, Swaziland promised to provide mobile classrooms, but these had not been delivered in a systematic manner.¹⁵² ACTSA recommended that Swaziland honour its constitutional commitment to universal access to free primary schooling.¹⁵³

71. JS3 noted that Orphaned and Vulnerable Children did not always benefit from a school fund run by the government due to misadministration of that fund.¹⁵⁴

72. JS3 stated that education beyond primary level was not easily accessible.¹⁵⁵ JS4 reported that Swaziland intended implementing a new scholarship policy, which contains clauses that are likely to negatively impact upon the ability of students to access tertiary education.¹⁵⁶

10. Minorities and indigenous peoples

73. JS1 noted the State's tendency to view every Swazi citizen as belonging to the ethnic Swazi tribe. When cultural activities and rituals were carried on, people who did not wish to participate in those activities were fined by traditional chiefs. This failed to take into account the ethnic diversities within the Swazi nation, and the different religious beliefs.¹⁵⁷

11. Human rights and counter-terrorism

74. CHR stated that the definition of terrorism provided by section 2 of the Suppression of Terrorism Act (STA) was broad and imprecise and suppressed freedom of opinion, expression, association and assembly. This was intensified by section 19(2) of the Act which shifted the onus of proof to the accused.¹⁵⁸ CIVICUS reported that STA had also been used to monitor and survey the activities of civil society including telephone calls and

meetings.¹⁵⁹ JS1 recommended that Swaziland amend unconstitutional provisions of the Suppression of Terrorism Act of 2008.¹⁶⁰

75. JS1 reported that arbitrary searches were conducted by the armed forces in the name of curbing terrorism and that people were dispossessed of their belongings during these searches. JS1 added that these unlawful searches targeted vocal citizens and human rights defenders.¹⁶¹

III. Achievements, best practices, challenges and constraints

N/A

IV. Key national priorities, initiatives and commitments

N/A

V. Capacity-building and technical assistance

N/A

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil society

| | |
|---------|---|
| ACTSA | Action for Southern Africa, London, United Kingdom of Great Britain and Northern Ireland; |
| AI | Amnesty International, London, United Kingdom of Great Britain and Northern Ireland*; |
| CHR | Centre for Human Rights – University of Pretoria, Pretoria, South Africa; |
| CIVICUS | World Alliance for Citizen Participation, Johannesburg, South Africa*; |
| GIEACPC | Global Initiative to End All Corporal Punishment of Children, London, United Kingdom of Great Britain and Northern Ireland; |
| HOOP | House of our Pride, Mbabane, Swaziland; |
| JS1 | Joint Submission 1: prepared by the Swaziland Coalition of Concerned Civil Society Organizations (SCCCO), the Council of Swaziland Churches (CSC) and Citizen Empowerment Centre (CEC), Swaziland; |
| JS2 | Joint Submission 2: The Swaziland Positive Living (SWAPOL) leading a coalition comprised of: The Swaziland Young Women’s Network (SYWN) Swaziland; Women and Law in Southern Africa (WLSA); and the Foundation for Socio Economic Justice (FSEJ); Swaziland; |
| JS3 | Joint Submission 3: coordinated by Save the Children Fund (SC) with the participation of Swaziland Youth in Action (SYA) and Swaziland Youth Empowerment (Luvatsi) and consultation of our House of our Pride (HOOP); Swaziland; |
| JS4 | Joint Submission 4: The Centre for Human Rights and Development (CHR) leading a coalition comprised of: Swaziland Federation of Labour (SFL); Swaziland Federation of Trade Unions (SFTU); Swaziland National Association of Teachers (SNAT); the Media Workers’ Union of Swaziland (MWUSWA); the Coalition of Informal Economy Associations of Swaziland (CEIAS); Swaziland; |

JS5 Joint Submission 5: ARC International (ARC-I); International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA); ILGA-Europe*; Brussels, Belgium.

National human rights institution

SCHRPCA The Swaziland Commission on Human Rights and Public Administration, Swaziland.

- 2 ACTSA, para. 21; CIVICUS, para. 1.3; JS1, p. 1; JS2, para. 4; JS4, para. 2.
- 3 ACTSA, para. 21 and p. 5.
- 4 SCHRPCA, para. 1.3; see also JS3, para. 2.
- 5 JS1, para. 3; see also SCHRPCA, para. 1.3.
- 6 JS4, para. 3.1; see also ACTSA, para. 5; AI, p. 1.
- 7 ACTSA, para. 5.
- 8 ACTSA, para. 23; see also AI, p. 2.
- 9 AI, p. 1.
- 10 ACTSA, para. 1.
- 11 JS1, p. 9; see also JS2, para. 6; JS4, para. 10.4.
- 12 JS4, para. 6.
- 13 JS4, para. 6; see also AI, p. 1.
- 14 JS4, para. 6.
- 15 JS4, paras. 6 and 10.8; see also AI, p. 5.
- 16 JS3, para. 2.
- 17 JS4, para. 5.
- 18 JS1, para. 3.9.
- 19 AI, p. 1.
- 20 JS1, p. 9.
- 21 SCHRPCA, para. 2.2.1; see also AI, p. 1.
- 22 JS2, paras. 3–4.
- 23 SCHRPCA, para. 1.3.
- 24 JS2, para. 8.
- 25 JS2, paras. 17(a) and 17(h); see also ACTSA, p. 5; AI, p. 5.
- 26 JS2, para. 10.
- 27 JS2, para. 6.2.
- 28 CHR, para. 7; JS2, para. 6.2; ACTSA, para. 8; see also SCHRPCA, para. 2.2.3; AI, p. 2.
- 29 CHR, paras. 7–8.
- 30 JS2, para. 17(n); see also CHR, p. 5.
- 31 JS2, para. 6.2.
- 32 JS2, para. 17(l).
- 33 JS2, para. 13.
- 34 JS2, para. 6.2.
- 35 JS2, para. 4.
- 36 JS2, para. 6.11.
- 37 JS2, para. 13; see also JS3, para. 4.
- 38 JS3, para. 16.1.
- 39 JS1, para. 3.1.
- 40 AI, p. 3.
- 41 JS1, para. 3.1; see also SCHRPCA, para. 2.2.2.
- 42 JS3, para. 5.3; see also JS1 para. 5.
- 43 JS3, para. 16.12.
- 44 JS1, para. 6.
- 45 JS1, para. 5; see also AI, p. 3; JS3, para. 5.3; JS4, para. 7.
- 46 JS4, para. 7.
- 47 JS1, p. 9; see also JS3, para. 16.11; JS4, para. 10.6.
- 48 AI, p. 3 and p. 5.
- 49 JS1, para. 5.
- 50 AI, pp. 4–5; JS4, para. 3.3.
- 51 JS2, para. 15.

- 52 JS3, para. 5.3.
53 JS1, para. 5.
54 CIVICUS, para. 3.1.
55 JS3, para. 16.4; see also AI, p. 5; CIVICUS, paras. 4.3–4.4.
56 JS1, para. 3.10.
57 JS1, para. 3.3; JS2, para. 12.
58 JS1, p. 9.
59 JS2, paras. 5 and 15; see also ACTSA, para. 9; CHR, paras. 4–6.
60 JS2, para. 5.
61 JS2, paras. 5 and 9; see also JS3, para. 11.1.
62 JS2, para. 14; see also AI, p. 2; SCHRPA, para. 2.2.2.
63 JS2, para. 17(b).
64 JS3, para. 13.
65 SCHRPA, para. 2.2.2.
66 JS3, para. 14.
67 SCHRPA, para. 2.2.5.
68 SCHRPA, para. 2.2.6.
69 SCHRPA, para. 2.2.2.
70 GIEACPC; para. 1.1; JS1, para. 5.1; JS3, para. 5; see also SCHRPA, para. 2.2.2.
71 JS1, paras. 5 and 5.1; see also GIEACPC, para. 1.2.
72 JS3, paras. 5.1–5.2.
73 GIEACPC, para. 1.4.
74 GIEACPC, p. 1; see also JS3, para. 16.3.
75 JS1, para. 3.11.
76 JS1, para. 3.11.
77 JS1, para. 3.14; see also JS3, para. 10.
78 JS3, para. 10.
79 JS3, para. 10.
80 JS1, p. 9; see also JS3, para. 16.5.
81 JS2, para. 11.
82 JS2, para. 13.
83 JS2, para. 6.1; see also AI, p. 2.
84 SCHRPA, para. 2.2.3.
85 JS2, para. 6.1.1; JS3, para. 11; see also ACTSA, para. 9; AI, p. 2; SCHRPA, para. 2.2.3.
86 JS3, para. 16.7; see also JS2, para. 17(j).
87 JS2, para. 6.1.1.
88 JS2, para. 13.
89 JS2, para. 7; JS3, para. 4.1; see also SCHRPA, para. 2.2.1.
90 JS3, para. 10.
91 SCHRPA, para. 2.2.1; JS5, p. 1; see also HOOP, p. 2.
92 JS5, p. 1.
93 JS2, para. 16.
94 HOOP, pp. 1–2.
95 JS1, para. 3.5.
96 JS2, paras. 5 and 6.11.
97 JS1, para. 3.3.
98 JS3, para. 12.
99 JS1, para. 3.7; see also CIVICUS, paras. 2.1.2; 2.1.4 and 2.2.3.
100 JS4, para. 4.1.
101 JS4, para. 4; see also CIVICUS, para. 2.2.3.
102 JS4, para. 4.
103 JS4, para. 10.7; see also CHR, p. 5.
104 JS4, para. 4; see also AI, p. 2; CHR, paras. 18–20.
105 JS1, para. 3.7; see also JS4, paras. 4 and 4.2.
106 JS1, paras. 3.2. and 3.2.1; see also SCHRPA, para. 2.2.4.
107 JS1, paras. 3.2 and 3.2.1; see also CIVICUS, para. 2.3.2.

- 108 JS1, para. 3.2.
109 JS1, para. 3.2.1; see also CHR, para. 24.
110 JS1, p. 9; see also JS2, para. 6; JS4, para. 10.4.
111 ACTSA, para. 14.
112 ACTSA, p. 5.
113 JS1, para. 3.13.
114 JS1, para. 3.13.
115 JS3, pp. 4–5; see also ACTSA, para. 15; CHR, para. 20.
116 JS3, para. 14; JS4, para. 7.
117 JS4, para. 10.3.
118 JS3, p. 5; see also AI, p. 4; CIVICUS, para. 2.1.5.
119 JS1, para. 3.2.1.
120 JS4, para. 3.3; see also ACTSA, para. 12; AI, p. 4; CHR, para. 22; CIVICUS, paras. 2.3.3–2.3.4.
121 JS4, para. 3.3.
122 AI, p. 5; ACTSA, para. 16; CIVICUS, para. 3.2; JS1, para. 3.1; JS4, para. 3.3; SCHRPA, para. 2.2.2.
123 JS4, para. 3.3.
124 JS4, para. 3.3; JS1, para. 3.1.
125 JS3, para. 7.
126 JS1, para. 3.8.
127 JS1, para. 3.8.
128 JS1, para. 4.
129 JS2, para. 4; see also SCHRPA, para. 2.2.4.
130 JS2, para. 4.
131 JS3, para. 6.
132 JS3, para. 16.8.
133 JS4, para. 3.3.
134 JS4, para. 3.3.
135 JS4, para. 3.3.
136 JS4, para. 3.3.
137 SCHRPA, para. 2.2.7.
138 JS4, para. 3.2.
139 JS3, para. 8.
140 JS4, para. 9.
141 CHR, para. 11.
142 CHR, p. 5.
143 CHR, paras. 11 and 13.
144 JS2, para. 5; see also ACTSA, para. 6; AI, pp. 3–4.
145 ACTSA, p. 5.
146 CHR, p. 5.
147 JS3, para. 12.
148 JS2, para. 5.
149 JS2, para. 14.
150 JS1, para. 3.4.
151 JS4, para. 7.
152 JS3, para. 9; see also ACTSA, paras. 18–19; JS4, para. 8.
153 ACTSA, p. 5.
154 JS3, para. 9; see also JS4, para. 8.
155 JS3, para. 9.
156 JS4, para. 8.
157 JS1, para. 3.3; see also JS2, para. 12; JS4, para. 6.
158 CHR, paras. 16–17; see also ACTSA, para. 13; AI, pp. 2–3; CIVICUS, para. 2.1.1.
159 CIVICUS, para. 2.2.5.
160 JS1, p. 9; see also ACTSA, p. 5; AI, p. 5; CIVICUS, para. 4.2.
161 JS1, para. 3.5.