

## ESWATINI (formerly-SWAZILAND)

### COUNTRY BRIEF

# Eswatini (formerly Swaziland)

## CSOs' assessment of the follow-up actions of the State party in implementing the UN Human Rights Committee's Concluding Observations on Civil and Political Rights.

Report prepared by the NGOs COSPE, SALC (Southern Africa Litigation Centre) and FSEJ (Foundation of Socio Economic Justice), with the support of CCPR (Civil and Political Rights Centre), in partnership with a Civil and Political Rights' Cluster of civil society organizations and validated on a National Civil Society Workshop held on the 04/10/2018.

The **UN Human Rights Committee** (the Committee) assessed Eswatini's compliance with the ICCPR during its 120<sup>th</sup> Session in **July 2017**. Following the review process, the Committee issued Concluding Observations (CCPR/C/SWZ/CO/1) providing guidance on how to further the implementation of the Covenant. This country brief provides a summary of the perceptions of Eswatini civil society organisations (CSO's) in relation to the State's implementation of recommendations issued by the Committee. The key recommendations for which the Committee requested an update one year after the review are highlighted below. A separate section provides insights on Eswatini CSO's perceptions about the State's approach to the implementation of the Concluding Observations with specific mention of the 3 priority recommendations the State was meant to address within a year.

**Paragraph 55** of the Concluding Observations states that *“the State party is requested to provide, within one year of the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 27 (violence against women), 45 (freedom of expression, assembly and association) and 53 (participation in public affairs and corruption) above”*.

**Violence against women**

**Paragraph 27:** *“The Committee is concerned at reports of widespread violence against women and children, in particular pervasive sexual violence, including rape and marital rape, and that relevant officials lack specific training on gender-based violence. It is also concerned at the lack of adequate legislation to protect women against violence and notes in this regard the delay in enacting the sexual offences and domestic violence bill. It is further concerned that the national strategy and action plan to end violence (2013-2018) has not yet been implemented (arts. 3, 6, 7 and 24).”*

Recommendation by the Committee in paragraph 27	Actions taken by the State party since the adoption of the Concluding Observations and current situation (CSO's perceptions)
Promptly adopt legislation to effectively criminalize and combat sexual offences and domestic violence	The King assented to the <b>Sexual Offence and Domestic Violence Act No. 15 of 2018 (SODV)</b> that was gazetted on 16 July 2018 and entered in force on the 1 August 2018. The SODV Act brings important changes, including broadening the definition of rape to make it gender-neutral, and broadening the definition of ‘sexual penetration’. There <b>are concerns regarding some amendments that were made to the Bill prior to its enactment</b> , which limit the extent to which the law explicitly recognises and criminalises particular forms of abuse. Stalking (part II.10) has been renamed “ <b>unlawful stalking</b> ” and excludes cases of “acceptable courting”, while <b>abduction</b> (Part V. 42) is limited to children, thus excluding adult women. The Act further fails to explicitly mention <b>marital rape</b> among the unlawful acts (Part II.3) and the definition of “domestic violence” (Part XII), although section 151 does state that marital relationships shall not constitute a defence to any of the offences in the Act. There are <b>concerns regarding the coexistence of the Act with traditional laws and customs</b> that might prevent a woman from reporting if she was raped by her husband, abducted, or stalked with the intention of marry. This is particularly crucial considering the high incidence of these episodes. The National Surveillance System of Violence (NSSV) report of 2016 (Government of Eswatini) indicated that 71% of the reported cases of physical and sexual violence happened at home, and 16% of the perpetrators of sexual and physical violence are husbands. These statistics include only those cases reported to the police, and is likely underestimated considering the barriers to reporting to the police and the traditional culture, which requires a submissive attitude, by a wife towards her husband.
Provide relevant actors in the police, public prosecution and judiciary with training on sexual and gender-based violence and on evidence-gathering for such cases	<b>Training sessions</b> on the SODV Act have reportedly been carried out for public prosecutors and magistrates under the Deputy Prime Minister’s (DPM) Office and for police officers, including their Domestic Violence and Protection Units, through the DPM’s Office (Gender Unit and Family Affairs Department). However, there remains a need for additional training to reach all the police officers and ongoing training of judicial officers. There is also a need for specific training of medical services personnel and social welfare officers to properly gather evidence of sexual violence, to testify during trials, and to protect victims. Gender-based violence service providers and referral mechanisms, such as paralegals, have not yet been included in the training on the new law.
Strengthen its efforts to raise the awareness of the wider public to the adverse impact of sexual and gender-based violence and encourage reporting, inter alia by systematically informing women and children of their	<b>Awareness campaigns</b> on the impact of sexual and gender-based violence have been occasionally promoted by the State through radio and TV and they have been carried out by civil society to the extent of their resources and capacity to reach out, especially in rural and remote areas. <b>Reporting of GBV remains inadequate.</b> Women and girls based in rural areas face a number of barriers to report domestic violence and rapes such as: long distances to the nearest police points; fear of stigma; fear of media exposure of the victim’s identity; risk of harassment at family level; lack of effective punishment for these crimes; ignorance of reporting mechanisms; holding the view that the violence was insignificant; and lack of shelters and protection systems. First

<p>rights and of the existing legal avenues through which they can receive protection</p>	<p>respondents to whom sexual and gender-based violence is reported at community level meet challenges to reach reference institutions due to the distance from the communities and to guarantee the safety of the survivor until they reach the nearest police station to report the crime. The NSSV, which is a national mechanism of collecting, collating, analysing and disseminating data/statistics on the reported cases of GBV from all stakeholders, reports 6016 cases of violence from the period of January to June 2017. The reporting of incidences of violence shows a constant increase from 2014, but still does not reflect the real picture. According to the <i>National Study on the Drivers of Violence Against Children in Swaziland of 2016</i> (DPM's Office), 1 in 3 girls experience some form of sexual violence before the age of 18 years. It is estimated that for every girl who has experienced sexual violence and is known to Social Welfare Services, there are another 400 girls who have never received help after experiencing sexual violence. Moreover 48% of women between the ages of 13-24 years reported having experienced some form of sexual violence (rape, threat of rape, unwanted touching or groping), and 25% of them have experienced physical violence. The NSSV Report of 2017, in acknowledging limitations in the gathering of data on violence, stipulated the following considerations that still apply:</p> <ul style="list-style-type: none"> <li>• Reported cases of individual incidence of violence data should be gathered and followed up with response services to victims/survivors;</li> <li>• Services or referrals must be available to victims/survivors of violence if data is going to be gathered from them;</li> <li>• The confidentiality of victim/survivors must be protected, and survivors must formally consent for their information to be shared;</li> <li>• Violence incidence intake forms should not be shared outside of the context of referral; and</li> <li>• Violence data sharing protocols or agreements should be in place between organizations that share violence-related data, which explains how data is shared, with whom, and for what purposes.</li> </ul>
<p>Ensure that all cases of sexual and gender-based violence are thoroughly investigated, that perpetrators are prosecuted and, if convicted, are punished with appropriate sanctions, and that victims receive reparation</p>	<p>The SODV Act of 2018 represents a <b>legislative framework</b> that, if correctly enforced, will allow investigation, prosecution and appropriate punishment of GBV cases. It has to be acknowledged that since its enforcement, the law has been cited by judges in Magistrates' courts. The first court case involving a person charged under the SODV Act of 2018 was reported in the local newspaper, Swazi Observer, on 25 September 2018, <a href="https://www.pressreader.com/swaziland/swazi-observer/20180925/281771335113820">https://www.pressreader.com/swaziland/swazi-observer/20180925/281771335113820</a>. The man, who appeared before the Siteki Magistrate's Court, was accused of sexually abusing a minor child and was charged in terms of Section 3(1) as read with Sub-section 8(a) of the new Act. Concerns were raised about the appropriateness of the choice of the court hearing the case, which resulted in the perpetrator being fined lower than the more serious penalties the High Court would have imposed. This reinforces the <b>need of specialized courts with relevant experience and training</b> as indicated in the SODV Act. Moreover, the SODV Act of 2018 do not provide positive changes for some discriminated and vulnerable group in accessing justice. Although <b>sex work</b> itself is not criminalized, activities relating to sex work are criminalized, Sex workers have limited access to justice when they have been physically or sexually abused. Moreover, the continued criminalization of <b>consensual sodomy</b> under common law could risk that a person convicted for consensual sex is listed in the new National Register for sexual offenders (Part X of SODV Act).</p>
<p>Ensure that victims have access to effective remedies and means of protection, including to an adequate number of psychological and</p>	<p><b>Protection orders</b> are included in the SODV Act of 2018 and the Act includes a wide definition for domestic violence and domestic relationships and criminalizes the act of domestic violence (Part XIII-XVIII). However, there are no provisions in the SODV Act for other remedies, reparation measures or support services. The Act only introduces an obligation on police and prosecutors to refer victims to support services and to inform them about the availability of post-exposure prophylaxis for HIV.</p>

<p>educational centres, and that other support services, such as accommodation or shelters, are available in all parts of the country</p>	<p>Some limited provisions are made available by the State to the victims (medical treatment, transport to hospital), but <b>there is still a need for comprehensive response structures</b> to be put in place for the protection of survivors of sexual and gender-based violence, including safe houses (there is only one for children), psychosocial counselling and education centres, decentralised and prompt referral mechanisms at community level, and measures to support the economic independence of the survivors. The absence of an efficient and comprehensive response system and effective measures of protection and support has a direct negative impact on the victims themselves, as often the women do not have an alternative than to return to the household where the perpetrators of the crimes are. For this reason, official statistics do not include their cases, and reflect lower figures than what there are. The Department of Social Welfare, under the Deputy Prime Minister’s office, is not sufficiently staffed. Ministries are not involved in the formulation of their own budgets. The State should refer to the SADC Gender Responsive Guidelines to ensure comprehensive and adequate remedies for survivors of sexual and gender-based violence are adequately budgeted for, <a href="https://www.sadc.int/files/8914/4681/2781/SADC_GUIDELINES_ON_GENDER_RESPONSIVE_BUDGETING.pdf">https://www.sadc.int/files/8914/4681/2781/SADC_GUIDELINES_ON_GENDER_RESPONSIVE_BUDGETING.pdf</a>.</p>
---	--

### **Freedom of expression, assembly and association**

**Paragraph 45:** “The Committee is concerned at reports of attacks on journalists, political opponents, human rights defenders and trade unionists, and reports that proposed amendments to the Public Order Act will severely restrict freedom of expression, assembly and association, impose cumbersome requirements for obtaining permits before holding a meeting or hosting an activity and give law enforcement officers discretionary powers to interrupt meetings. It is also concerned at reports that a monitor should be present during public meetings. The Committee is concerned at reports that trade union leaders have been kept in preventive detention to prevent them from engaging in legitimate trade union activities (arts. 19, 21 and 22).”

<p><b>Recommendation by the Committee in paragraph 45</b></p>	<p><b>Actions taken by the State party since the adoption of the Concluding Observations/ current situation (CSO’s perceptions)</b></p>
<p>Prevent and redress attacks on human rights defenders and other social activists</p>	<p>Following the July 2017 review, limitations to the rights to assembly, association and freedom of expression of <b>human rights defenders</b> were reported:</p> <ul style="list-style-type: none"> <li>• On 8 September 2017, police did not allow the Swaziland United Democratic Front (SUDF) to assemble in a private property that was hired for the purpose, <a href="https://allafrica.com/stories/201709120881.html">https://allafrica.com/stories/201709120881.html</a>.</li> <li>• On 24 October 2017, police arrested and detained 9 students of the Swazi Christian University after they participated in a protest demanding scholarships and service delivery for students; <a href="https://www.facebook.com/permalink.php?story_fbid=1329328007193606&amp;id=599906160135798&amp;_tn=K-R">https://www.facebook.com/permalink.php?story_fbid=1329328007193606&amp;id=599906160135798&amp;_tn=K-R</a></li> <li>• In December 2017, the government closed the Independent Swaziland Shopping Newspaper for not following requirements of the Books and Newspapers Act, shortly after having published an article on corruption, <a href="https://swazimedia.blogspot.com/2017/12/swazi-govt-forces-newspaper-to-close.html">https://swazimedia.blogspot.com/2017/12/swazi-govt-forces-newspaper-to-close.html</a>, <a href="https://swazimedia.blogspot.com/2018/01/editor-flees-after-death-threat.html">https://swazimedia.blogspot.com/2018/01/editor-flees-after-death-threat.html</a>.</li> </ul>

- On 1 February 2018, a magistrate issued a subpoena for an editor and photojournalist from the Swazi Observer to testify in relation to photos they had taken during a protest, <https://www.pressreader.com/swaziland/swazi-observer/20180111/281500751649292>.
- On 7 February 2018, correctional services officers confronted and tried to grab the camera of a journalist after he took a photo of their convoy, <https://www.pressreader.com/swaziland/swazi-observer/20180207/281509341637546>.
- On 12 February 2018, the journalist Ambrose Zwane, Coordinator of the Swaziland Multimedia Community Network, was denied participation on a TV show focussing on World Radio Day on account of his political opinions. On the same day, he was also banned from being interviewed on a radio programme sponsored by UNESCO, "Letisematseni".
- On 11 May 2018, SUDF and other activists prevented from crossing the border to South Africa to join a march demanding the release of political prisoners, <https://www.pressreader.com/swaziland/observer-onsaturday/20180512/281509341827236>
- On 29 June 2018, a march by TUCOSWA members challenging increases in taxes and basic utilities, and forced evictions, was diverted and stopped by police. Protesters were sprayed with water cannons when they tried to march to the DPM's Office, and four protesters were seriously injured, <http://new.observer.org.sz/details.php?id=5696>
- On 24 August 2018, the Swaziland National Association of Teachers (SNAT) held a mass meeting at the SNAT Centre to discuss the zero-increment in salaries offered by the State. According to a petition delivered to the US Embassy by SNAT and as reported in newspaper, "all of a sudden the Police opened fire on unarmed teachers wherein one of them (Willy Dlamini) was wounded". Another teacher, Maxwell Myeni, reportedly approached and attempted to stop the police who were aiming guns with live rounds at teachers. He was arrested the following day for "attacking the police officer holding a gun with live rounds", <https://www.pressreader.com/swaziland/swazi-observer/20180830/281767040092131>.
- On 28 August 2018, a second teacher was arrested for failing to comply with police orders. He was coming from the magistrate's court in Manzini after the bail hearing of Maxwell Musa Myeni, <https://www.pressreader.com/swaziland/swazi-observer/20180830/281805694797795>.
- On 29 August 2018, nurses peacefully marching under the banner of Swaziland Democratic Nurses Union (SWADNU) to deliver a petition were blocked by police and tasered, <https://theworldnews.net/sz-news/cops-electro-shock-marching-nurses>.
- On 30 August 2018, a Times of Swaziland Journalist was assaulted for taking pictures of the Eswatini royal police force confronting with protestors. He was forced to delete the photos, <http://zimbabwe.misa.org/2018/09/05/misa-zimbabwe-regional-solidarity-statement-third-eswatini-journalist-assaulted-this-year/>, <https://www.pressreader.com/swaziland/swazi-observer/20180911/281792809920787>, <http://www.panos.org.zm/index.php/2018/09/06/panos-condemns-attack-on-journalist-in-eswatini/>
- Workers from different unions under the banner of TUCOSWA embarked on a planned strike scheduled from 18 to 20 September 2018 in four towns on the country, namely Mbabane, Manzini, Siteki and Nhlanguano. The marchers had confrontations with the police in Manzini and were violently attacked, with 6 seriously injured, <http://www.times.co.sz/news/120211-5-injured-as-protesters-police-clash.html> <https://www.ituc-csi.org/eswatini-police-brutally-attack>. On 19 September 2018, the National Police Commissioner decided to stop the marches on the basis of the Public Order Act of 2017.

	<ul style="list-style-type: none"> <li>• On 21 September 2018, on the evening of national elections, at Sigwe Inkundla under the Manzini Region, the Royal Police responded with force against community members who were protesting about the electoral process, <a href="https://allafrica.com/stories/201809220089.html">https://allafrica.com/stories/201809220089.html</a>.</li> <li>• On 23 September 2018, the Attorney General's Office took the Swaziland National Union of Teacher to the Industrial court to interdict a strike that was scheduled from 25 to 27 September 2018. The judgment read from the Industrial Court Judge reported: "The strike proposed by SNAT, though lawful, is deferred to November 23, to give the new government a chance to deal with the demands of SNAT. Should it become necessary for SNAT to commence a strike action, we shall give the new government new dates after November 23" <a href="http://new.observer.org.sz/details.php?id=6795">http://new.observer.org.sz/details.php?id=6795</a>. This limitation of the rights of unions to protest is a concern.</li> </ul>
Adopt legislation to ensure that any restriction on the exercise of freedom of expression, assembly and association complies with the strict requirements in the Covenant.	<p>The <b>Public Order Act</b> No. 12 of 2017 replaced the Public Order Act No. 17 of 1963 and has been commended as a positive step towards ensuring the rights to freedom of expression, association and assembly. It appears however, that the Act is being implemented with <b>cumbersome requirements</b> to obtain permission before holding a meeting/activity and <b>de facto restrictions</b> with regards to obtaining authorisation to march in central routes and to access public buildings, i.e. to deliver petitions, especially for specific groups that are perceived as more confrontational (e.g. trade unions, political associations). The power of the police to intervene in a gathering in cases of danger to public order or safety, can lead to abuse if not clearly regulated, and there are concerns on the <b>proportionality of the use of violence</b> by the police. The police sometimes create measures in addition to the provisions in the Act, which limit the freedom of assembly, such as requesting to change last minute the authorised routes, requesting names of marshals before allowing a march to continue as planned, and unexpectedly visiting leaders at home during evening/night. Civil society organisations have tried to challenge in court the decisions of the Police but without succeeding so far. When the Public Order Act was used to prohibit protests planned by TUCOSWA for September 2018, TUCOSWA urgently approached the court. The case was due to be heard as an urgent application, but the time allocated to hear the case defeated the urgency, <a href="https://allafrica.com/stories/201809210158.html">https://allafrica.com/stories/201809210158.html</a>. An application seeking to review the National Commissioner of Police's decision to prohibit the protest will be heard in November 2018 (<i>Trade Union Congress of Swaziland v National Commissioner of Police, High Court Civil Case No. 1572/2018</i>).</p> <p>Positive steps are represented by the <b>Public Service Act No. 37 of 2018</b>, gazetted on 23 March 2018, which makes it a disciplinary offence to use violence or unnecessary force or to intimidate the persons with whom the officer may be in contact with the in execution of his/her duty. However, the legislation has also been criticised by National Public Services and Allied Workers Union (NAPSAWU) and other CSOs on the basis that it would make it 'an offence for a public officer to hold an office in or be visibly associated with a political formation or organisation'. This can lead to civil servants who are elected as leaders in political association or declare their affiliation to be relieved of their duties and refused employment. Moreover, the <b>Police Services Act</b> No. 22 of 2018 makes it a disciplinary offence for officers to use unnecessary force. Torture or other cruel, inhuman and degrading treatment is explicitly prohibited.</p> <p>While the Swaziland Broadcasting Bill 2016 is still under review, as positive step the <b>Broadcasting Guidelines 2017</b>, in line with the Swaziland Communications Commission Act No. 10 of 2013, was approved by Parliament in 2018. It is expected that this will lead to the issuing of Broadcasting Licenses by the end of 2018. However, the fees required for the application and registration of radios might make it difficult for community radio stations to apply. Some community radio stations have also expressed</p>



	<p>concern about the potential controlling of broadcasting content through conditions that will accompany the issuing of licences. These concerns are based on their experiences with temporary (one-day) broadcasting licenses, where the regulating authority analysed the contents and refused live programmes. The Guidelines in Section 6.2 (8) mention that political parties or offices actively engaged in politics or associations shall not be eligible for licences. In Section 7.1 is stated that a licensee shall maintain impartiality concerning “political or industrial controversy or current public policy”.</p> <p>According to the <i>Assessment of Media Development in the country 2017</i> (based on UNESCO’s media development indicators and prepared by MISA Swaziland), the <b>media landscape</b> has not significantly changed and there are <b>strong limitations to the freedom of expression</b>. Among the 12 recommendations of the report, the adoption of legislation to ensure freedom of expression is still a priority: “1. The government should repeal all pieces of legislation restricting media freedom to comply with Section 24 of the Constitution... 2. The Constitution should be amended to provide for the right to access information to be consistent with Article 19 (2) of ICCPR, Article 1.2 of the UNESCO Constitution and Article 9 of the African Charter on Human and People’s Rights...3. Criminal defamation should be completely removed from the Swaziland statute books. 4. The prohibitive cash bond required from media entrepreneurs should be abolished from the Books and Newspapers Act to encourage media development...7. Government should prioritise the safety of journalists and protect media workers from threats, intimidation, harassment, physical assault and imprisonment in line with Target/Indicator 16.10.1 of the UN Sustainable Development Goals”.</p> <p>A positive development in the last year has been the launch of a second mobile network operator, Swazi Mobile, thus expanding the media space, but the ownership and control on the only major radio and television stations are still very strict. Concerning the press media, where the situation is slightly more diverse and plural, the <b>private newspaper Swaziland Shopping was forced to close down</b> and there is still <b>concerns about the media capture</b>, due to a mix of censorship and self-censorship that compromises the role of the media as a watchdog against corruption and bad governance.</p>
<p>The State party should take all measures necessary to protect the rights to freedom of expression, association and peaceful assembly and ensure that police officials, judges and prosecutors receive adequate training regarding such protection.</p>	<p>This report highlights several examples of cases where State officials failed to protect the rights to freedom of expression, association and peaceful assembly. To this end, the Committee’s recommendation remains relevant and the State should be encouraged to take steps to provide the necessary <b>training and operational regulations</b> regarding such protection. The recent cases concerning strikes and marches indicate a clear need to train police, judicial officers and prosecutors on the new Police Services Act and Public Order Act and how to fulfil their duties without violating or restricting those rights. Training can assist to improve law enforcement but political will and <b>the State’s commitment to protect and promote the right to peaceful assembly have to be more clearly expressed</b> to avoid misinterpretation, abuses and a climate of repression and control.</p>

### Participation in public affairs and corruption

**Paragraph 53:** “The Committee is concerned that the concentration of power in the King, which, inter alia, gives him excessive powers of appointment over the Government, Parliament and the judiciary, is incompatible with article 25 of the Covenant. It is also concerned that the elections held in the State party in 2013 did not comply with international standards for free and fair elections, and that political parties as such are unable to register, contest elections, field candidates or otherwise participate in the formation of a Government. It is further concerned that neither the Elections and Boundaries Commission nor the Anti-Corruption Commission are adequately independent, impartial or effective (arts. 19, 21, 22 and 25).”

<p><b>Recommendation by the Committee in paragraph 53</b></p> <p><b>The State party should bring its constitutional framework into compliance with the Covenant, including with article 25, inter alia by:</b></p>	<p><b>Actions taken by the State party since the adoption of the Concluding Observations/ current situation (CSO's perceptions)</b></p>
<p>Fostering a culture of political pluralism, ensuring freedom of genuine and pluralistic political debate, and allowing the registration of opposition political parties, including to contest elections, field candidates and participate in the formation of government</p>	<p>There is no evidence of changes in the promotion of a culture of pluralism in the political space, as the country remains <b>hostile to registration of political parties</b>.</p> <p>The 2005 Constitution introduced significant reforms, yet continues to ensure that the <b>King maintains far more power than the electorate</b>, making it very difficult for the electorate to hold parliament accountable. The King personally appoints the Prime Minister, the cabinet and two-thirds of members of the Senate. The Constitution provides for the right to freedom of association. However, section 79 of the Constitution has been interpreted to exclude political parties from the electoral process, although individual members of political parties are able to contest the elections in their personal capacities. The 2005 Constitution has replaced the <b>King's 1973 Decree</b>, as also affirmed by the State Delegation who attended the Human Rights Committee' session in 2017 on ICCPR, but this pronouncement is still not clear in the country, leaving to misinterpretations of public officers and not clarity in the legal framework. Lack of political opposition in parliament means that there are <b>limited checks on the powers of the executive</b>. Lack of opposition also heightens possibilities that key legislative decisions, including decisions relating to the need to improve human rights, are taken with little debate. Eswatini is signatory of the African Charter on Democracy, Elections and Governance, while have not yet ratified it, and the SADC Elections Protocol, which have not been adhered to. It has also to be noted that 7 out of 10 of the members appointed by the King in the 2018 elections are his siblings.</p> <p>Even though political parties are not allowed to contest elections, political organisations have tried to challenge the government to allow at least individual candidates to express their affiliation to political parties during the election campaigning period in order to promote steps towards political plurality. On 20 July 2018, the High Court of Eswatini dismissed an application brought by SWADEPA for an interim order allowing individual candidates to express their affiliation to political parties during the election campaign period. The case <i>Shabangu and Others v Elections and Boundaries Commission and Others (805/2018) [2018] SZHC 169 (31 July 2018)</i> was dismissed by the High Court on technical grounds. The decision was appealed to the Supreme Court, where it was once again dismissed in August 2018.</p>
<p>Undertaking a constitutional reform process with the objective of devolving power to democratically elected branches of government, and guaranteeing the right of every citizen to take part in the conduct of public affairs and have access to public service on general terms of equality</p>	<p>There is not a constitutional reform process in place and there is <b>no evidence of a significant devolution of powers</b>. For example, in April 2018, the King unilaterally changed the country's name to Eswatini. The Legal Notice, which enforces the name change, has since been challenged in court on the basis that the King exceeded his prerogative and constitutional powers (<i>Institute for Democracy and Leadership and Another v Swaziland Government and Another, High Court Case No. 996/2018</i>).</p> <p>In terms of <b>gender equality</b> in the participation and representation of women in public and decision-making structures there are still serious challenges despite the recent enactment of the Election of Women into the House of Assembly Act No. 9 of 2018, as a measure to eventually cope with the lack of fulfilment of the constitutional quota of women in Parliament. In the</p>



	<p>recent elections, only 13.2% of candidates were women. Of these, only 2 women were elected in Parliament and the others were represented at the local government levels. The 30% of quota for women foreseen in the Constitution was also not reached adding the members of House of Assembly and the Senate appointed by the King (3 women in the House of Assembly and 7 into the Senate were appointed) with even a decrease in the women representation from the 2013 elections. <b>No structural programmes are in place to remove the cultural and economic barriers that prevent women from equal participation and representation.</b> Women in Law Southern Africa(WLSA) Eswatini's Baseline Survey 2018 on <i>"Breaking Barriers: Enhancing Swazi Women's Participation and Representation in Decision Making"</i> records that barriers on women participation and inclusion include gender stereotypes, cultural and traditional beliefs, restrictions based on educational qualifications, and lack of preparation for political activity. Actually, a major obstacle for women was and will continue to be finances for campaigns due to their underrepresentation in the economic sphere. As result, the Article 3 of the National strategy and action plan to end violence (2013-2018) on non-discrimination in the enjoyment of civil and political rights remain substantially not yet implemented.</p>
Guaranteeing free and fair elections	<p>The country's National Elections took place in September 2018. <b>The legitimacy and credibility of the elections was significantly hampered by the design of the constitutional powers and electoral mechanisms.</b> Voter turnout has been significantly lower than previous years, with only 28% of those eligible, voting in the first round of the elections. Report on the second round has not been realised.</p> <p>The local observer mission, led by Eswatini Elections Support Network (EESN) that operated under coordination of CANGO – Coordinating Assembly of Non-Governmental Organisations, analysed the time of opening polling stations, the environment outside and inside the polling centre, the accessibility to polling stations, orderliness, voting procedures, counting and the announcements of results. The Network observed that the environment was relatively peaceful in all the polling stations, except Hillside polling in the Manzini station where violence took place outside the polling station. Accessibility of polling stations to people living with disabilities remains a consistent challenge. Only 28 polling stations had the necessary ramps for people living with disabilities, <a href="https://cangoswaziland.files.wordpress.com/2018/09/2018-secondary-elections-report.pdf">https://cangoswaziland.files.wordpress.com/2018/09/2018-secondary-elections-report.pdf</a>.</p> <p>The SADC Organ on Politics, Defence and Security Cooperation which constituted the SADC Election Observation Mission (SEOM) in acknowledging Eswatini election were conducted successfully in a peaceful environment The and in declaring the elections "credible" in its preliminary statement, expressed also concerns that there were areas that needed improvement, namely on women representation, media and electoral dispute resolution. The observer mission recommended that: (i) Voter Registration - the Mission encouraged the EBC and the Government to amend the Voter Registration Act to enable continuous voter registration; (ii) Women's participation in political and electoral processes: there is need to continue to promote gender parity in political and electoral processes in order to enhance the equal participation of women; (iii) Polling Stations and Polling Station-Based Counting of Votes: the Mission advises the EBC and Government to implement Polling Station-based counting of ballot papers in order to enhance electoral security and transparency, <a href="https://www.sadc.int/files/7915/3771/6210/SEOM_-_Eswatini_-_Final_Interim_Statement_-_23_SEP_2018_-_2018_General_Elections.pdf">https://www.sadc.int/files/7915/3771/6210/SEOM -Eswatini - Final Interim Statement- 23 SEP 2018 - 2018 General Elections.pdf</a>.</p>

	<p>The African Union Election Observation Missions(AUEOM) in presenting a summary of its key observations and findings of the electoral process, noted also that the elections were held in a fair peaceful environment and presented the following recommendations while awaiting the full report to be released in 3 months' time: 1) Encourages the Government of Eswatini to consider reviewing the 1973 decree and allow for the formation, registration and participation of political parties in elections in accordance with the provisions of the 2005 Constitution, and in compliance with the country's international commitment. 2) The EBC to consider reviewing the transporting of ballots from the polling stations to central counting locations to ensure transparency, credibility and efficiency of the counting 3 process. The best practice is to count ballots at polling station level immediately after voting. 3) While applauding relevant electoral stakeholders in Eswatini for ensuring that a large number of women participate in the electoral process as polling staff and voters, the Mission encourages them to promote women's participating and gender equality in elected office. The AUEOM concludes that, despite the prevailing constitutional and political environment, which proscribes political parties from participating in the electoral process, the elections were peaceful and well managed by the EBC."</p> <p><a href="https://au.int/sites/default/files/pressreleases/34893-pr-preliminary_statement_of_the_aueom_to_the_kingdom_eswatini.pdf">https://au.int/sites/default/files/pressreleases/34893-pr-preliminary_statement_of_the_aueom_to_the_kingdom_eswatini.pdf</a>.  <a href="https://www.theafricanprogressiveeconomist.com/eswatini-election-au-demands-creation-of-political-parties/news-desk/">https://www.theafricanprogressiveeconomist.com/eswatini-election-au-demands-creation-of-political-parties/news-desk/</a>. <a href="http://apanews.net/index.php/en/news/eswatini-elections-marred-by-violence/">http://apanews.net/index.php/en/news/eswatini-elections-marred-by-violence/</a></p>
<p>Ensuring the independence and effectiveness of the bodies in charge of elections and anti-corruption.</p>	<p>A criticism by civil society is that many commissions , such as the EBC, are heavily reliant on the State for financial resources and the appointment procedure makes the independence of the Committees' members questionable.</p> <p><b>Anti-corruption measures have not been enforced.</b> When a person wants to start a business or is interested in being appointed in prominent positions, he or she is currently supposed to pay homage to the King (e.g. cows, money or kind of donations). Candidates in the elections have reportedly distributed favours and money to their constituency members and it is a common practice to offer cash to the new MPs to promote the appointment of Senators.</p> <p>Eswatini passed the Prevention of Corruption Act in 2007, which established the Anti-Corruption Commission (ACC). The ACC has the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. On 16 March 2018 in the House of Assembly, members of parliament suspended the budget of the Anti-Corruption Commission (ACC) because they said that the organisation was itself corrupt, <a href="https://allafrica.com/stories/201803220198.html">https://allafrica.com/stories/201803220198.html</a>. That same month, another story was published in the newspapers on the ACC having its budget reduced, <a href="https://www.pressreader.com/swaziland/sunday-observer/20180304/281754154823487">https://www.pressreader.com/swaziland/sunday-observer/20180304/281754154823487</a></p>