

Death Penalty

Submitted by: The Advocates for Human Rights, Prisoners' Future Foundation, and the World Coalition Against the Death Penalty

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Summary: Eswatini has not executed anyone since 1983 and is classified as abolitionist in practice, but its laws continue to permit the death penalty for murder and treason. Courts have not imposed a new death sentence since 2016; one person remained on death row at the end of 2025. Eswatini has not implemented the recommendation it supported during its 2021 UPR to strengthen awareness-raising and public and parliamentary debate on the death penalty and to ratify the Second Optional Protocol to the ICCPR. Restrictions on civil society limit space for such debate, while the King's ultimate authority over the appointment and removal of judges and gaps in access to legal aid weaken safeguards for people charged with crimes that may carry the death penalty.

Eswatini retains the death penalty despite more than four decades without an execution.

- Eswatini last carried out an execution in 1983. Since then, courts have imposed 45 death sentences, and the King has commuted 44 of them to life imprisonment.
- Courts have not imposed a new death sentence since 2016. Amnesty International recorded no executions or death sentences in 2025, and one person remained under sentence of death at year-end.
- Eswatini's laws permit the death penalty for murder and for treason. Treason is defined broadly enough to include conduct that does not involve killing another person.
- In a pending quadruple-murder case, the Crown has stated that the accused could face a death sentence if convicted. The trial remains underway as of August 2026.

Eswatini has not advanced abolition or enabled meaningful public debate.

- In 2021, Eswatini supported a UPR recommendation to promote awareness-raising and public and parliamentary debate on the death penalty, work toward abolition, and ratify the Second Optional Protocol to the ICCPR.
- The government has not publicized any efforts to lead an awareness-raising campaign or formal public or parliamentary debate about the death penalty from a human rights perspective. Nor has it ratified OP2.
- Human rights defenders lack comprehensive legal protection, while sedition, anti-terrorism, and public-order laws may be used to restrict expression, association, and peaceful assembly.

Lack of judicial independence and gaps in legal aid weaken safeguards in capital cases.

- King Mswati III holds ultimate authority over the appointment and removal of judges, acting on advice from a Judicial Service Commission composed of royal appointees.
- Although the Constitution guarantees government-paid legal representation for people charged with capital crimes, in practice people face difficulties obtaining qualified legal assistance. Eswatini has no general law guaranteeing legal aid to people who cannot afford a lawyer.
- The constitutional right to government-paid legal representation in capital cases does not extend to post-conviction proceedings, including appeals and requests for commutation or clemency.

Recommendations

- **Abolish the death penalty and replace it with penalties that are fair, proportionate, and consistent with international human rights standards; and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.**
- **In collaboration with civil society organizations in Eswatini and the region, initiate an awareness-raising campaign on the death penalty, including public and parliamentary debates that highlight relevant human rights concerns and address misconceptions about the death penalty's deterrent effect.**
- **Adopt a comprehensive legal aid bill, with dedicated funding for free legal aid for all persons accused of crimes, prioritizing people charged with capital crimes; and ensure that every person charged with murder or any other potentially capital crime receives prompt and timely access to qualified legal counsel throughout the investigation, trial, appellate proceedings, and requests for commutation or clemency.**
- Pending abolition, institute a de jure moratorium on executions and commute all remaining death sentences to terms of imprisonment. For as long as the death penalty remains in law, amend the Criminal Procedure and Evidence Act and any other relevant legislation to prohibit courts from imposing it for any crime that does not involve an intentional killing committed by the defendant.
- Adopt a law to codify protections for human rights defenders and take further steps to create a safe and enabling environment for their work; and revise the Sedition and Subversive Activities Act, the Suppression of Terrorism Act, and the Public Order Act to align them with international human rights standards regarding freedom of expression, freedom of association, and the right to peaceful assembly.
- Take concrete measures to strengthen the independence of the judiciary and to prohibit the monarchy from influencing judicial proceedings.