



**Kingdom of ESWATINI (formerly Swaziland)  
Stakeholder Report for the United Nations Universal Periodic Review**

**Submitted by The Advocates for Human Rights,**  
a non-governmental organization in special consultative status  
and  
**The World Coalition Against the Death Penalty**

for the 39th Session of the Working Group on the Universal Periodic Review  
October-November 2021

Submitted 25 March 2021

Founded in 1983, **The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**The World Coalition Against the Death Penalty**, an alliance of more than 160 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

## I. EXECUTIVE SUMMARY

1. This report addresses the Kingdom of Eswatini's compliance with human rights obligations with regard to the death penalty. Eswatini has had a *de facto* moratorium on executions since 1983.<sup>1</sup> Since then, 45 people have been sentenced to death, and 44 of those death sentences have been commuted to life imprisonment.<sup>2</sup> Eswatini courts have not handed down new death sentences since 2016, but one individual remained on death row as of the end of 2019.<sup>3</sup> The death penalty remains on the books as a possible punishment for both murder and treason; unlike a conviction for murder, a conviction for treason allows imposition of the death penalty even if the defendant has not committed an intentional killing. Moreover, law enforcement continues to use torture, which is not specifically criminalized, as an investigative tool. This report recommends that Eswatini abolish the death penalty, ratify relevant human rights treaties, amend laws to criminalize and punish torture, adopt a zero-tolerance policy regarding torture, publicize investigations of deaths resulting from torture in prison, and increase the transparency of the criminal justice system for death penalty-related cases, including public reporting of information regarding (a) imprisonments, (b) access to counsel for those who cannot afford private counsel, and (c) treatment of persons on death row.

## II. BACKGROUND AND FRAMEWORK

### A. The 2016 Universal Periodic Review of Eswatini (formerly Swaziland)

2. During its second-cycle Universal Periodic Review in 2016, Eswatini received 16 recommendations specifically related to the death penalty (see items 1 through 3 below) and 25 recommendations in other related areas (4 through 7 below). Eswatini noted these recommendations. Eswatini also received several other recommendations that touch upon issues relevant to the death penalty and either did not accept them or accepted them but made little progress in implementing these recommendations.

1. *Ratify the Second Optional Protocol of the ICCPR*

#### **Status of Implementation: Not Accepted, Not Implemented**

3. Eswatini received 10 recommendations to ratify, or consider ratifying, the ICCPR-OP2.<sup>4</sup> Eswatini did not accept or implement the recommendation of Namibia to consider ratifying the ICCPR-OP2 or the recommendations of Uruguay, Germany, Montenegro, Panama, Portugal, Mexico, Belgium, or Norway to ratify the ICCPR-OP2.<sup>5</sup>

2. *Abolish the death penalty or institute a de jure moratorium*

#### **Status of Implementation: Not Accepted, Not Implemented**

4. Eswatini received three recommendations, from Portugal, Australia and France, to institute a formal moratorium on the death penalty; one recommendation from Italy to consider establishing a de jure moratorium on capital executions with a view to fully abolishing the death penalty, and one recommendation from Slovenia to abolish the death penalty.<sup>6</sup> Eswatini did not accept or implement these recommendations.<sup>7</sup>

3. *Undertake all the necessary legislative and constitutional reforms to abolish the death penalty*

**Status of Implementation: Not Accepted, Not Implemented**

5. Eswatini received a recommendation from Mexico to undertake all the necessary legislative and constitutional reforms in order to abolish the death penalty.<sup>8</sup> Eswatini did not accept or implement this recommendation.<sup>9</sup>

4. *Improve prison conditions and treatment of people in detention*

**Status of Implementation: Accepted, Partially Implemented**

6. Eswatini received recommendations from Angola and Canada to improve prison conditions and a recommendation from Cuba to ensure that human rights training is carried out more systematically and made available to all relevant interested parties, including prison staff.<sup>10</sup> Eswatini accepted the recommendations to improve prison conditions,<sup>11</sup> but prison conditions and treatment of prisoners continue to be problematic.

5. *Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment*

**Status of Implementation: Accepted, Not Implemented**

7. Eswatini received 10 recommendations, from Kenya, Uruguay, Honduras, Guatemala, Czech Republic, South Africa, Slovenia, Denmark, Togo and France<sup>12</sup> to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. Although Eswatini accepted these recommendations in 2016, it has not yet ratified the Optional Protocol.<sup>13</sup>

6. *Adopt specific legislation criminalizing torture*

**Status of Implementation: Not Accepted, Not Implemented**

8. Eswatini received recommendations from Brazil and Togo to criminalize torture, with Togo also recommending impartial and effective investigations related to allegations of torture and punishment of the perpetrators of acts of torture.<sup>14</sup> Eswatini rejected this recommendation,<sup>15</sup> stating its current law was broad enough to prohibit and prosecute perpetrators of torture.

7. *Amend the country's Suppression of Terrorism Act (STA) and withdraw charges against human rights defenders and political opponents.*

**Status of Implementation: Accepted, Partially Implemented**

9. Eswatini received recommendations from Canada, the Czech Republic, Germany, Italy, Mexico, Norway, Spain, the United Kingdom, the United States, and the United Kingdom to review, amend, or repeal the Suppression of Terrorism Act (STA), in whole or in part. The STA allows police to use torture on persons perceived to be political dissidents.<sup>16</sup> Norway also recommended withdrawal of all criminal charges brought against human rights defenders and political opponents.<sup>17</sup> Eswatini accepted this recommendation and indicated it has implemented these recommendations by adopting legislation, effective August 8, 2017, amending the definition of "terrorist act," limiting the definition to the use

of force or threat of force to achieve political objectives,<sup>18</sup> but this measure has not served to protect human rights defenders.

## **B. Domestic Legal Framework**

10. In Eswatini, executive authority is vested in the monarchy—King Mswati III and Queen Ntombi Tfwala—and is exercised through a dual system of government.<sup>19</sup> Although the Constitution provides for three separate branches of government—the executive, legislature, and judiciary—under Eswatini’s law and custom, all powers are vested in the monarchy. Eswatini’s prime minister is supposed to exercise executive authority, but in reality, King Mswati holds supreme executive power and controls the judiciary,<sup>20</sup> as the King holds ultimate authority over the appointment and removal of judges, acting on advice from the Judicial Service Commission, which is made up of royal appointees.<sup>21</sup> The King also appoints 20 members of the 30-member senate, 10 members of the 66-member house of assembly, and approves (or vetoes) all legislation passed by parliament.
11. The Royal Eswatini Police Service (REPS) is responsible for maintaining internal security as well as migration and border-crossing enforcement.<sup>22</sup> The Umbutfo Eswatini Defense Force (UEDF) is responsible for external security but also has domestic security responsibilities (e.g., protecting members of the royal family).<sup>23</sup> His Majesty’s Correctional Services (HMCS) is responsible for the “protection, incarceration, and rehabilitation” of convicted persons and keeping order within the HMCS institutions.<sup>24</sup>
12. Article 14(1) of the country’s Constitution enshrines “respect for life” as a fundamental right. Under Article 15, titled “Protection of right to life,” no one may be “deprived of life intentionally save in the execution of the sentence of a court in respect of a criminal offence under the law of Swaziland.” Article 15(2) further states that the death penalty shall not be mandatory.<sup>25</sup>
13. Eswatini retains the death penalty, with the Criminal Procedure and Evidence Act of 1938 permitting the use of the death penalty for individuals convicted of murder or treason.<sup>26</sup> Treason is defined broadly by the Constitution as “acting by violent or unlawful means against the Constitution or aiding or abetting one who does.”<sup>27</sup>
14. The Constitution prohibits the mandatory death penalty.<sup>28</sup> The Criminal Procedure and Evidence Act specifically provides that individuals convicted of murder may receive a sentence other than the death penalty if there are extenuating circumstances, but the Act does not require the court to consider such circumstances.<sup>29</sup> The Swaziland Criminal Procedure and Evidence Act specifies that the method of execution is hanging.<sup>30</sup>
15. Certain categories of offenders are statutorily excluded from the death penalty. The Criminal Procedure and Evidence Act prohibits the execution of pregnant women,<sup>31</sup> juvenile offenders,<sup>32</sup> and “the insane.” Individuals who are under age 18 at the time of the crime cannot be sentenced to death.<sup>33</sup> The Criminal Procedure and Evidence Act also stipulates that a pregnant woman may not be sentenced to death and shall instead receive imprisonment with hard labor.<sup>34</sup> “Insanity” at the time of the offense can preclude or limit criminal liability, and the accused can be given a mental evaluation at some point during the investigation of a crime to evaluate whether the person is eligible for this exemption.<sup>35</sup>
16. According to Article 78 of the Constitution, the King may grant a pardon, commutation, respite, or remittal. The Constitution provides that the King “shall act on the advice of a

Committee on the Prerogative of Mercy . . . ” which includes two members of the King’s Advisory Council, the Attorney-General, the Minister of Justice, and a health expert. After a person is convicted in a civilian court for a capital offense, the Committee must obtain a report regarding the case or case record from the trial court (or judiciary) and may consider other information in determining whether to advise the King to exercise the prerogative of mercy.<sup>36</sup> The Criminal Procedure and Evidence Act also states that the King may commute or remit any sentence or grant a pardon.<sup>37</sup>

17. The Constitution guarantees all defendants facing the death penalty not only a right to legal representation at the expense of the government but also the right to be informed of the nature of the charge, the right to be given sufficient time and facilities to prepare a defense, the right to call defense witnesses and cross-examine the prosecution’s witness, and the right to the free assistance of an interpreter if necessary.<sup>38</sup> These rights do not extend to post-conviction representation.

### **III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS**

#### **Right or area 2.1. Acceptance of international norms**

18. The Constitution mandates that in its dealings with other nations generally, Eswatini shall promote respect for international law and treaty obligations and shall “actively participate in international and regional organizations that stand for peace and for the well-being and progress of humanity.”<sup>39</sup> Furthermore, Eswatini shall “endeavour to uphold the principles, aims and ideals” of the United Nations, the African Union and other international organizations to which it belongs.<sup>40</sup>
19. After the 2016 Universal Periodic Review, however, Eswatini indicated that it was not yet ready to accept recommendations to accede to the Second Optional Protocol to the ICCPR and abolish the death penalty.<sup>41</sup> It also indicated it would accede to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, in accordance with its domestic processes, prior to Eswatini’s third UPR, but has yet failed to do so.
20. After voting in favor of U.N. General Assembly’s Resolution calling for a global moratorium on the use of the death penalty in 2016,<sup>42</sup> the government was absent from the vote in 2018<sup>43</sup> and abstained in 2020.<sup>44</sup>

#### **Right or area 12.5. Prohibition of torture and cruel, inhuman or degrading treatment**

21. Even though Eswatini is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, torture, including torture by prison officials, still occurs.
22. During the 2016 UPR, the country indicated that Section 57 of the Constitution specifically prohibits law enforcement officers from committing torture and other forms of cruel, inhuman or degrading treatment or punishment and further indicated that the prohibition was incorporated into a police bill going through the legislative process.

23. The 2018 Police Service Act prohibits police from inflicting, instigating, or tolerating torture and other cruel, inhuman, or degrading treatment or punishment.<sup>45</sup> It also establishes a disciplinary offense for officers who use violence or unnecessary force or who intimidate people in detention or others with whom they have contact in the execution of their duties.<sup>46</sup> During 2019, two officers were charged with homicide in relation to their alleged roles in the 2015 death of a person during an interrogation.<sup>47</sup> Three additional officers were investigated for torture in response to a referral from the Commission on Human Rights and Public Administration Integrity.<sup>48</sup>
24. People suspected of committing criminal offenses are subject to torture and other forms of police violence. For example, on two separate occasions, in July 2018 and July 2019, police shot and killed an individual suspected of serious criminal conduct. On the earlier occasion, the suspect, who was supposedly trying to escape, was shot multiple times before drawing a gun.<sup>49</sup> On the latter occasion, the circumstances leading to the shooting were not described in the press, except to say that the suspect died from a single gunshot.<sup>50</sup> On July 1, 2019, two escapees from the Big Bend Correctional Facility were shot to death by a consortium of local police and police from Big Bend. According to press reports, the escapees were shot escaping from a rondavel in which they were hiding, after police set the rondavel on fire.<sup>51</sup>

#### **Right or area 12.6. Conditions of detention**

25. Prison conditions vary and do not always meet international standards due to overcrowding and, in certain locations, facilities that required repair or modernization. In September 2019, the HMCS reported a total prison population of 3,776, exceeding the prison system's designed capacity by 938 inmates.<sup>52</sup> One person reported sharing a prison cell with 35 to 40 other prisoners.<sup>53</sup> He reported that, when sleeping, there were only about 30 centimeters between each person because of the crowded conditions and that the cells had no furniture besides sleeping mats.<sup>54</sup> Further, he reported that the prison was unheated and therefore very cold in the winter.<sup>55</sup>
26. Facilities are of mixed quality: some are old and dilapidated; others, such as the women's prison, are newer and well maintained.<sup>56</sup> Eswatini's corrections department, His Majesty's Correctional Services, self-reported that its budget was inadequate.<sup>57</sup> Violence among people in detention remains a concern due to increased gang activity as prison populations have expanded and diversified in recent years.<sup>58</sup>
27. Authorities continue to receive credible allegations of mistreatment of people in detention by prison officials into 2019.<sup>59</sup> Some prison officials found to be engaging in this behavior were suspended without pay.<sup>60</sup>
28. During 2019, the HMCS signed a memorandum of understanding with the Commission on Human Rights and Public Administration Integrity (CHRP AI), a governmental institution that is empowered by the Constitution to investigate, in part, alleged violations of fundamental rights and freedoms.<sup>61</sup> Pursuant to the MOU, HMCS met quarterly with CHRP AI to review prison conditions, individual cases, and the needs of people in detention (such as legal counsel).<sup>62</sup>

### **Right or area 15.1. Administration of justice & fair trial**

29. Although the judiciary displays a degree of independence in some cases, the King holds ultimate authority over the appointment and removal of judges, acting on advice from the Judicial Service Commission, which is made up of royal appointees.<sup>63</sup> Thus, the King can influence the judicial decision-making process, including pressuring the judiciary to qualify as treason conduct that involves criticism of the monarchy, thereby resulting in a potential death sentence.
30. The law requires authorities to make charging decisions 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.<sup>64</sup> Authorities sometimes fail to issue charges within this time period, sometimes taking up to one week.<sup>65</sup>
31. CHRPAI reports that lengthy pretrial detention was common, with some individuals remaining in custody almost three years without trial.<sup>66</sup> CHRPAI's March 2018 survey identified 245 persons in pretrial detention for 12 or more months.<sup>67</sup> CHRPAI noted the majority of the 2016 pretrial detainees remained incarcerated due to shortages of judges, prosecutors, and court rooms; a weak case management and coordination system; and lack of access to legal representation.<sup>68</sup>
32. Access to counsel continues to be a challenge. While the Constitution provides for free, court-appointed counsel for indigent defendants facing death penalty charges and free interpreters for any defendant who cannot understand or speak English or siSwati,<sup>69</sup> information about access to counsel is not available publicly, and thus it is unclear if individuals facing the death penalty are indeed afforded these rights, or if convicted individuals continue to have access to counsel during the appeals or pardon petition process.
33. According to available reports, Eswatini courts handed down no new death sentences from 2016 to 2019, but one individual remained on death row as of the end of 2019.<sup>70</sup> There is a lack of transparency as to the treatment of this individual in prison and the conditions of his confinement. In response to an inquiry by the Eswatini Observer, a news publication, regarding the person's well-being, the Commissioner General reportedly stated only that "correctional officers are obliged to comply with security details in relation to offenders, as well as ensuring that all inmates are treated with respect due to their inherent dignity and value as human beings and that their human rights be upheld at all times."<sup>71</sup>

### **Right or area 36. Human rights defenders**

34. There was one report of a person detained in lengthy pretrial detention for criticism of the King.<sup>72</sup> In May 2019, activist Goodwill Sibiyi filed an application in civil court accusing the King of embezzlement and lawlessness and demanded that the King be arrested.<sup>73</sup> Authorities instead arrested Sibiyi and charged him with belonging to a terrorist group and with violating a section of the Sedition and Subversive Activities (SSA) Act that had been ruled unconstitutional in 2016 by the High Court.<sup>74</sup> In September 2019, the High Court ruled the government could not charge someone under a section of law that had been

declared unconstitutional, following which the government dismissed the SSA charge but still did not release Sibiya, who remained in prison for a year awaiting trial on a Suppression of Terrorism Act charge. Authorities ultimately dropped that charge.<sup>75</sup>

35. In its response to the second UPR in 2016, Eswatini maintained that a bill passed in the House of Assembly amends the definition of “terrorist act” for purposes of the Suppression of Terrorism Act to limit prohibited conduct to the use of force or threat of force to achieve political objectives. Sibiya was nonetheless charged under the Act in 2019 for conduct well short of the use of force or threats thereof, indicating that this definitional change has provided little protection to human rights advocates in the country.

#### **IV. RECOMMENDATIONS**

36. This stakeholder report suggests the following recommendations for the Kingdom of Eswatini:
- Abolish the death penalty and replace it with a sentence that is fair, proportionate, and in compliance with international human rights standards.
  - Immediately impose a formal moratorium on the death penalty, both prospectively and with regard to the person currently on death row.
  - To the extent the death penalty is not abolished, amend the criminal law to ensure that the death penalty is available as a penalty only for crimes in which the defendant committed an intentional killing.
  - Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to Convention Against Torture.
  - Prohibit courts from considering evidence obtained through torture or other forms of cruel, inhuman, or degrading treatment.
  - Ensure that officials at the highest level publicly condemn torture by state agents and adopt a more rigorous policies and procedures regarding torture, including, a zero-tolerance policy; conducting investigations of reports of deaths related to torture; criminalizing torture by law enforcement and others; publicizing deaths by torture, including by publicizing coroner’s reports of such deaths; requiring training for state agents to avoid the use of torture; imposing appropriate disciplinary actions for violations of the ban, beyond suspension, including immediate, temporary action upon accusation and immediate termination of employment for verified acts of torture in the line of duty, all in addition to criminal punishment for engaging in acts of torture.
  - Provide all officials responsible for carrying out arrests and conducting interrogations with comprehensive training on international human rights standards governing use of force and torture.
  - Ensure that the Commission on Human Rights and Public Administration Integrity has unfettered access to all places of detention at all times and ensure that His Majesty’s Correctional Services carries out the Commission’s recommendations regarding detention conditions and detention practices in a timely and thorough manner.

- Increase the transparency of the criminal justice system, including collecting and publicly releasing case by case data on all charges of death-eligible crimes, the exact crime charged, date of arrest and date of charge, demographic information about the accused (including ethnicity), the evidentiary basis for the charge, identity of counsel and whether counsel was appointed or retained, whether the accused was afforded an opportunity to challenge their detention (including access to bail), trial dates, outcome of criminal proceedings, status of any appeals, requests for pardon or commutation, or similar relief, location of detention for any person under sentence of death, how long the person has been under a death sentence, and whether the accused had access to counsel at all stages of criminal proceedings.
- Regularly publish information about the provision of court-appointed counsel for indigent defendants at risk of being sentenced to death, including the number of persons receiving such counsel, the names of the attorneys representing those persons, and the funding provided to the defense team to mount an effective defense.
- Take concrete measures to strengthen the independence of the judiciary and to prohibit the monarchy from influencing judicial proceedings.
- Develop systems to provide for the release of most suspects prior to trial, and enlist international assistance to build the capacity of the criminal legal system to handle cases swiftly and fairly, prioritizing cases involving people in prolonged pretrial detention, so as to reduce the pretrial population in detention facilities.
- Release any person charged under the Sedition and Subversive Activities Act or the Suppression of Terrorism Act for conduct involving the exercise of the right to freedom of expression or opinion.
- Ensure that all human rights defenders are free to express criticism of authorities and the monarchy, consistent with the country's obligations under the International Covenant on Civil and Political Rights.

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<sup>1</sup> Amnesty Intl., *Death Sentences and Executions in 2019*, p. 47, Apr. 4, 2020, available at <https://www.justice.gov/file/1272316/download>.

<sup>2</sup> Amnesty Intl., *Death Sentences and Executions in 2019*, p. 47, Apr. 4, 2020, available at <https://www.justice.gov/file/1272316/download>.

<sup>3</sup> Amnesty Intl., *Death Sentences and Executions in 2019*, p. 47, Apr. 4, 2020, available at <https://www.justice.gov/file/1272316/download>.

<sup>4</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (July 13, 2016), U.N. Doc. A/HRC/33/14, ¶¶ 109.1, 109.2, 109.3, 109.4, 109.5, 109.6, 109.7, and 109.8.

<sup>5</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (Sept. 21, 2016), U.N. Doc. A/HRC/33/12/Add.1, ¶3.

<sup>6</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (July 13, 2016), U.N. Doc. A/HRC/33/14, ¶¶ 109.6, 109.8, 109.37, 109.38, and 109.39.

<sup>7</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (Sept. 21, 2016), U.N. Doc. A/HRC/33/12/Add.1, ¶11.

<sup>8</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (July 13, 2016), U.N. Doc. A/HRC/33/14, ¶ 109.7.

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- <sup>9</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (Sept. 21, 2016), U.N. Doc. A/HRC/33/12/Add.1, ¶11.
- <sup>10</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (July 13, 2016), U.N. Doc. A/HRC/33/14, ¶ 107.14, 109.47 and 109.48.
- <sup>11</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (Sept. 21, 2016), U.N. Doc. A/HRC/33/12/Add.1, ¶18.
- <sup>12</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (July 13, 2016), U.N. Doc. A/HRC/33/14, ¶¶ 109.13, 109.14 and 109.15.
- <sup>13</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (Sept. 21, 2016), U.N. Doc. A/HRC/33/12/Add.1, ¶5.
- <sup>14</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (July 13, 2016), U.N. Doc. A/HRC/33/14, ¶¶ 109.45 and 109.46.
- <sup>15</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (Sept. 21, 2016), U.N. Doc. A/HRC/33/12/Add.1, ¶16.
- <sup>16</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (July 13, 2016), U.N. Doc. A/HRC/33/14, ¶¶ 107.56, 107.57, 107.58, 108.6, 108.7, 109.66, 109.67, 109.68 and 110.14
- <sup>17</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (July 13, 2016), U.N. Doc. A/HRC/33/14, ¶ 110.14.
- <sup>18</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (Sept. 21, 2016), U.N. Doc. A/HRC/33/12/Add.1, ¶31.
- <sup>19</sup> United States Department of State, 2019 *Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>20</sup> Human Rights Watch, *World Report 2017 - Swaziland*, 12 January 2017, available at: <https://www.refworld.org/docid/587b581ac.html>.
- <sup>21</sup> Freedom House, *Freedom in the World 2020: Eswatini*. Also available online at <https://freedomhouse.org/country/eswatini/freedom-world/2020>.
- <sup>22</sup> United States Department of State, 2019 *Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>23</sup> United States Department of State, 2019 *Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>24</sup> United States Department of State, 2019 *Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>25</sup> The Constitution of the Kingdom of Swaziland, arts. 14(1)(a), 15(1), 15(2), Act No. 1 of 2005, Jul. 26, 2005.
- <sup>26</sup> Swaziland Criminal Procedure and Evidence Act, art. 296(1), Act No. 67/1398, Jan. 1, 1939, as amended through to 2004.
- <sup>27</sup> The Constitution of the Kingdom of Swaziland, art. 2(3), Act No. 1 of 2005, Jul. 26, 2005.
- <sup>28</sup> The Constitution of the Kingdom of Swaziland, art. 15(2), Act No. 1 of 2005, Jul. 26, 2005.
- <sup>29</sup> Swaziland Criminal Procedure and Evidence Act, art. 296(1), Act No. 67/1398, Jan. 1, 1939, as amended through to 2004.
- <sup>30</sup> Swaziland Criminal Procedure and Evidence Act, art. 297, Act No. 67/1398, Jan. 1, 1939, as amended through to 2004.

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- <sup>31</sup> Status, Declarations, and Reservations, ICCPR, 999 U.N.T.S. 171, Dec. 16, 1966, [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en), last accessed Feb. 18, 2021.
- <sup>32</sup> Status, Declarations, and Reservations, ICCPR, 999 U.N.T.S. 171, Dec. 16, 1966, [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en), last accessed Feb. 18, 2021.
- <sup>33</sup> Swaziland Criminal Procedure and Evidence Act, art. 296(1), Act No. 67/1398, Jan. 1, 1939, as amended through to 2004.
- <sup>34</sup> Swaziland Criminal Procedure and Evidence Act, art. 298(1), Act No. 67/1398, Jan. 1, 1939, as amended through to 2004.
- <sup>35</sup> *Rex v. Velaphi Simon Magagula*, Crim. Case No. 49/97, Swaziland High Court, Dec. 9, 1998.
- <sup>36</sup> The Constitution of the Kingdom of Swaziland, art. 78, Act No. 1 of 2005, Jul. 26, 2005.
- <sup>37</sup> Swaziland Criminal Procedure and Evidence Act, arts. 329, 330, Act No. 67/1398, Jan. 1, 1939, as amended through to 2004.
- <sup>38</sup> The Constitution of the Kingdom of Swaziland, art. 21(2), Act No. 1 of 2005, Jul. 26, 2005.
- <sup>39</sup> The Constitution of the Kingdom of Swaziland, art. 61(2), Act No. 1 of 2005, Jul. 26, 2005.
- <sup>40</sup> The Constitution of the Kingdom of Swaziland, art. 236(1)(d), Act No. 1 of 2005, Jul. 26, 2005.
- <sup>41</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Swaziland*, (Sept. 21, 2016), U.N. Doc. A/HRC/33/12/Add.1, ¶3.
- <sup>42</sup> Amnesty Intl., *Abolition of the Death Penalty in Africa*, A 50/1162/2019, p. 37, 2, available at <https://www.amnesty.org/download/Documents/ACT5011622019ENGLISH.PDF>.
- <sup>43</sup> U.N.G.A., Item 74(b) A/73/589/Add.2 Draft Resolution XIII Moratorium on the use of the death penalty, 55th plenary meeting, <http://papersmart.unmeetings.org/media2/20306241/item-74-b-a-73-589-add2-draft-resolution-xiii.pdf>, Dec. 17, 2018.
- <sup>44</sup> U.N.G.A., 75th Session, 46<sup>th</sup> Plenary Meeting, GA/12304 Dec. 16, 2020, available at <https://www.un.org/press/en/2020/ga12304.doc.htm>. On December 16, 2020, during the 75<sup>th</sup> Session, when the UN moved to adopt committee resolutions, the representative of Eswatini speaking in explanation of vote stated that during the action on the draft titled “Moratorium on the use of the death penalty,” her delegation erroneously voted in favour of the draft. Explaining that Eswatini should have abstained, she abstained from the vote during the formal adoption.
- <sup>45</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>46</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>47</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>48</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>49</sup> Kwanele Sibiyi, *Cops Shoot, Kill Wanted Murder Suspect (32)*, Times Of Swaziland, 1 July 2019, available at <http://www.times.co.sz/news/124230-cops-shoot-kill-wanted-murder-suspect-32.html>
- <sup>50</sup> Kwanele Sibiyi, *Cops Shoot, Kill Wanted Murder Suspect (32)*, Times Of Swaziland, 1 July 2019, available at <http://www.times.co.sz/news/124230-cops-shoot-kill-wanted-murder-suspect-32.html>
- <sup>51</sup> Khulekani Nene, *2 Escaped Inmates Shot Dead by Police*, Times Of Swaziland, 1 July 2019, available at <Http://Www.Times.Co.Sz/News/124232-2-Escaped-Inmates-Shot-Dead-By-Police.Html>

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- <sup>52</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>53</sup> Prison Insider, *Swaziland: "A Day In Prison Feels Like Many,"* 18 April 2019, <https://www.prison-insider.com/en/articles/swaziland-un-jour-en-prison-pese-si-lourd>.
- <sup>54</sup> Prison Insider, *Swaziland: "A Day In Prison Feels Like Many,"* 18 April 2019, <https://www.prison-insider.com/en/articles/swaziland-un-jour-en-prison-pese-si-lourd>.
- <sup>55</sup> Prison Insider, *Swaziland: "A Day In Prison Feels Like Many,"* 18 April 2019, <https://www.prison-insider.com/en/articles/swaziland-un-jour-en-prison-pese-si-lourd>.
- <sup>56</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>; Eswatini Ministry of Justice and Constitutional Affairs, Annual Performance Report for the Financial Year 2018/9, p. 48. Also available online at <http://www.gov.sz/images/justice/ADMINISTRATION/Annual-Performance-Report-2018-final.pdf>.
- <sup>57</sup> Eswatini Ministry of Justice and Constitutional Affairs, Annual Performance Report for the Financial Year 2018/9, p. 43. Also available online at <http://www.gov.sz/images/justice/ADMINISTRATION/Annual-Performance-Report-2018-final.pdf>.
- <sup>58</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>59</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>60</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>61</sup> Eswatini Ministry of Justice and Constitutional Affairs, Human Rights. Available online at <http://www.gov.sz/index.php/ministries-departments/ministry-of-justice/human-rights>.
- <sup>62</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>63</sup> Freedom House, *Freedom in the World 2020: Eswatini*. Also available online at <https://freedomhouse.org/country/eswatini/freedom-world/2020>.
- <sup>64</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>65</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>66</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.
- <sup>67</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.

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<sup>68</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.

<sup>69</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.

<sup>70</sup> Amnesty Intl., *Death Sentences and Executions in 2019*, p. 47, Apr. 4, 2020, available at <https://www.justice.gov/file/1272316/download>.

<sup>71</sup> Eswatini Observer, *No Family Visits for Convict David Simelane*, Bodwa Mbingo (October 19, 2019). Also available online at <http://new.observer.org.sz/details.php?id=10550>.

<sup>72</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.

<sup>73</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.

<sup>74</sup> United States Department of State, *2019 Country Reports on Human Rights Practices: Eswatini*, Bureau of Democracy, Human Rights and Labor (2019). Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/eswatini/>.

<sup>75</sup> Mail & Guardian, *How Eswatini Silences Opposition Activists*, Nimrod Mabuza (August 27, 2020). Also available online at <https://mg.co.za/africa/2020-08-27-how-eswatini-silences-opposition-activists/>.