

INITIAL

REPORT OF THE
KINGDOM OF SWAZILAND

UNDER ARTICLE 62

OF THE AFRICAN CHARTER

ON HUMAN AND
PEOPLES' RIGHTS.

BRIEF HISTORY

1 The Kingdom of Swaziland is a small landlocked country bordered by South Africa on the North, West and Southern part, by Mozambique on the eastern part. Swaziland has a Monarch who is also Head of State. His Majesty Mswati III. He rules in consultation with Cabinet and a twoChamber Parliament made up of the Senate and House of Assembly. There are other advisory structures which handle and advise on matters of culture., tradition and custom or any other matters referred to them by the King.

2. The Kingdom of Swaziland is made up of four regions, administered by Regional Administrators and Regional Secretaries. The Central Government Ministries -are represented in the Regional Administrative structures. The smallest administrative structure is called the local Government constituency (Inkhundla) which forms an important link between regions and communities. There are 55 such Tinkhundla responsible for political and socioeconomic development, in the country each covers a number of chiefdoms.

3 The 1997 preliminary population census placed Swaziland's population at 965,859. It is predominantly a young population with 47% between the ages of 0-15 years. Fertility ratio is estimated to be 6:1 with a population growth of 2.7% per annum. The indigenous population speaks one language, SiSwati, but English is also widely spoken with both English and SiSwati being the official languages. Adult literacy is also high around 80.8% for males and 78.4% for females.

4. The Kingdom of Swaziland regained independence on the 6th September 1968 after 65 years of British rule as a protected state. The Nation's crest with the Lion on one side and elephant on the, other, represents the traditional dual Monarchy, in which the King and the Queen rule jointly. The Kingdom has always managed to keep its traditional government in place and to keep its own King, Queen and National Council as the heart and soul of its nation.

5. Five years after independence in 1968 King Sobhuza II, with the approval of the Parliament, revoked the Westminster based constitution that had been imposed on Swaziland by the British. With this repeal of the constitution, political parties were banned. In their place, Swaziland sought to design a political system that would safeguard the traditional political system while preparing the nation to work within a more universal government structure. That system, known as Tinkhundla provides for the election of parliamentary representatives by the people organised into constituencies with the traditional government playing a balancing role were the King and Queen retains political power.

A. Legal System.

1 The judiciary is independent and judicial powers are vested with a dual system, one based on western law and the other on Swazi law and custom. The Western judiciary consists of the Court of appeal, the High Court and the Magistrate's court all of which are independent. Local judges serve indefinitely on good behaviour. In the Magistrate Court accused are entitled to counsel/legal representation at their own expense while legal representation is provided pro deo in capital cases in the

High court. There are well defined procedures of appeals

to the Court of Appeal.

2. The Swazi Courts try cases where parties are ethnic Swazis and apply Swazi law and custom. There's no legal representation in these courts, dependants have the right to speak on their own behalf. Sentences are subject to review and to appeal to the High Court and Court of Appeal. The Public Prosecutor has a right to decide which court should hear a case. but in practice the police usually make that determination. Accused persons have the right to transfer their cases from the Swazi National Courts to the Magistrate's court.

B. CIVIL AND POLITICAL RIGHTS.

1. Citizens are able to exercise this right. The King appoints the Prime Minister and in consultation with the Prime Minister also appoints Cabinet, Senior Civil Servants and heads of government offices.
2. Citizens of Swaziland elect 55 members of the house of Assembly and His Majesty appoints 10 members to bring the number to 65. Municipal elections were held in August by secret ballot to select councils in the nine cities and towns across the country. About 70% of eligible voters registered to vote and voting proceeded without interference or intimidation.
3. Through a consultative process with the Swazi nation, His Majesty the King realized the need for political reform and as such in 1996 he appointed a 30 member Constitutional Review Commission with the purpose of reviewing the 1968 constitution, carrying out civil education and collect views from the citizens in the different constituencies.
4. The Constitutional review Commission has gone a long way

in carrying out its mandate by compiling a constitutional framework including portions of the 1968 constitution, the 1993 decree as currently amended and the 1992

Establishment of Parliament Order. These were made available to citizens in both official languages for purposes of a broader participation. NGO including church groups, labour unions are involved in trying to bring the constitutional process to all citizens.

C. DISCRIMINATION BASED ON RACE, SEX, DISABILITY LANGUAGE OR SOCIAL STATUS

(i) Measures to overcome racial discrimination,

In 1962 the Race Relations Act was enacted to prevent discrimination by any person against any other group or group of persons based on colour or race. The law requires a complainant to report to the District Commissioner/Regional Administrator. The District Administrator or Regional Administrator shall call all parties to a meeting in an effort to promote reconciliation. If reconciliation fails the Regional Administrator issues a certificate stating the same and the matter is then brought before a magistrate.

(ii) Employment Act of 1980,

This Act clearly states at section 29; "No employer shall, in any contract of employment between himself and an employee discriminate against any person or between employer on grounds of race, colour, religion, marital status, sex. national origin, tribal or clan extraction. political affiliation or social status.

The act clearly eradicates discrimination at the work place and the act makes it an offence and stipulates penalties thereto.

(iii) The Swaziland citizenship Act, 1992 was enacted to take

care of non-ethnic Swazi and it effected amendments to Certain sections of the 1982 citizenship Act. The 1982 act reads as follows:

Natural born citizens, "a person born, whether before or after the commencement of this Act and in or outside Swaziland is a citizen of Swaziland, if, according to customary law, he is by birth, a member of a Swazi community subsisting within the Kingdom of Swaziland".

(iv) In the new act states that natural-born citizens

"A person born whether before or after the commencement of this act whether in or outside Swaziland is a citizen of Swaziland by birth, 4 he is a descendant of an ancestor who is a citizen of Swaziland".

This act has put all Swazis at an equal footing.

(v) **WOMEN**

Violence against women although is of concern in other cultures, in Swaziland women have the right to charge husbands with assault under both the western and traditional legal systems. Women routinely execute contracts and enter into a variety of transactions in their own names. The Government of the Kingdom of Swaziland has committed itself extensively to various women's initiatives. The Ministry of Home Affairs coordinates Women's

issues. The Government established a task force to deal with domestic gender issues, and a series of workshops have been held to promote gender sensitisation.

Vi) Children.

The Government is equally concerned with the rights and welfare of children and numerous laws address children issues directly. The Kingdom of Swaziland is a State party to the Convention on the Rights of the Child and its initial report is almost ready for submission to the Committee on the Rights of Child, the implementing body of the Convention.

vii) People with Disabilities

Although there are presently no laws that protect the rights of the disabled, the Ministries concerned with their welfare continue to call for equal treatment of the disabled. A bill giving preferential treatment to disabled persons for building access and other needs, is now in its final stages and is to be tabled to Parliament soon.

viii) The **Right to Organize and Bargain Collectively.**

The Industrial Relations Act 1996 provides for the above and outlaws anti-union discrimination. Collective bargaining is widespread and more than 80% of the formal private sector is unionised. Employers are obliged to allow representatives of legally recognized union to conduct union activities on company premises. Unresolved disputes are referred to the Labour Commissioner and the Industrial Court if necessary.

ix Prohibition of forced Labour

The law prohibits forced Labour and it is not known to occur. The status of child labour practices and minimum age for employment is covered by the Employment Act of 1980 which prohibits the hiring of a child below the age of 15 years in an industrial undertaking, except in cases where only family members are employed in a firm, or in technical work at schools. Legislation also limits the number of hours that could be put in on school days and limits children's work hours to 6 per day or 33 per week.

ix) **Conditions of work**

There is a legally guaranteed sliding scale depending on the type of work. The minimum wages are "industry - based and are negotiated by representatives of workers, employers and government (tripartite). This is done in terms of the Wages Council Act. The Minimum wages generally provide a worker and family with a decent standard of living. The minimum wage does not mean the employer cannot pay more than the minimum amount, he can pay more but not less. There exists also numerous legislation geared toward the protection of worker's health and safety. The Labour Commissioner is empowered to conduct safety inspections as Government sets out safety standards for industrial operation and encourages private companies to develop accident prevention programmes.

D. Conclusion

1. The Kingdom of Swaziland is a State Party to a number of international instruments on human rights and is now engaged in the preparation of initial and periodic reports in respect of the Convention on the Rights of the Child and the Convention on the elimination of all forms of Racial Discrimination respectively. As stated above the Constitutional

Review Commission has also the task of reviewing certain pieces of legislation if and when they are repugnant to natural justice and to put them in line with international acceptable standards.

- 2 Swaziland is also at an advanced stage towards ratifying or acceding to the Covenant on Civil and political Rights, the Convention on Economic, Social and cultural Rights and the Convention on Elimination of all forms of Discrimination against women.

- 3 The Kingdom of Swaziland also welcomes recommendations And technical assistance from treaty monitoring bodies in the promotion of human rights and it is **hoped that the** African Commission on Human and Peoples Rights will pinpoint areas where it is believed much effort has to be applied in order to redress any given situation.

INVENTORY OF DOCUMENTS FILED

1. The Race Relations Act 1962
2. The Girls and Women's Protection Act 1920
3. The Criminal Procedure and Evidence Act 1938
4. The Employment Act 1980
5. Decree No.2 of 1996
6. Industrial Relations Act 1995
7. Prevention of Corruption Order 1993
8. Constitution of Swaziland 1968
9. 'The Current Constitutional Framework
10. A Simple Guide to the Constitutional Framework