

Swaziland

Country:

Swaziland

Year:

2016

Freedom Status:

Not Free

Political Rights:

7

Civil Liberties:

5

Aggregate Score:

18

Freedom Rating:

6.0

Overview:

Swaziland continues to face widespread condemnation for restrictions on freedom of speech, media, trade unions, and political parties. At the start of 2015, the U.S. government stripped the country of its eligibility for trade benefits under the African Growth and Opportunity Act (AGOA) over its poor record on workers' rights; European countries have threatened similar action. However, some progress was registered in 2015, as a ban on the Trade Union Congress of Swaziland (TUCOSWA) was lifted in May, and leaders of the outlawed People's United Democratic Movement (PUDEMO) were released on bail in July, though they remain subject to restrictions while awaiting trial on sedition charges.

In June, the Supreme Court ordered the release of a human rights lawyer and a journalist who had been jailed the previous year in connection with articles criticizing the judiciary. The public prosecutor's office later stated that the two should not have been convicted.

According to the Joint UN Program on HIV/AIDS (UNAIDS), Swaziland has one of the world's highest rates of HIV infection, with 29 percent of Swazi residents between the ages of 15 and 49 living with the disease.

Political Rights and Civil Liberties:

Political Rights: 1 / 40 [Key]

A. Electoral Process: 0 / 12

King Mswati III of Swaziland is the last absolute monarch in Africa. Although the 2005 constitution removed the king's ability to rule by decree, the members of the bicameral parliament, all of whom serve five-year terms, cannot initiate legislation. Of the House of Assembly's 65 members, 55 are elected by popular vote within the *tinkhundla* system, which allows local chiefs to vet candidates; the king appoints the other 10 members. The king also appoints the prime minister from among the members of the House of Assembly, as well as 20 members of the 30-seat Senate, with the remainder selected by the House of Assembly. Traditional chiefs govern designated localities and typically report directly to the king.

Although the 2013 parliamentary elections were peaceful and saw significant turnover among members (at least 46 of the 55 elected members were new), international observers judged the polls to be neither free nor fair.

B. Political Pluralism and Participation: 1 / 16

According to the constitution, election to public office is based on individual merit rather than political parties. This, in effect, makes political parties illegal. However, political associations have organized, the two largest being PUDEMO and the Ngwane National Liberatory Congress (NNLC). Both PUDEMO and the NNLC boycotted the 2013 elections. In 2014, PUDEMO president Mario Masuku and Maxwell Dlamini, the head of the association's youth wing, were arrested for calling for the king's overthrow. They were released on bail in July 2015, but are subject to restrictions, including a prohibition on addressing public gatherings.

In September 2015, former Malawian president Bakili Muluzi brokered a meeting between the king and representatives from Swaziland's civil society, which were collectively known as the G15. By December 2015, the meeting had yet to take place.

The king's absolute power in Swaziland is doled out through traditional chiefs, who are in charge of the daily governance of their chiefdoms. While the positions are typically passed down from generation to generation within certain families, the constitution stipulates that the king can make appointments of his choice to the roles at any point.

Although the constitution allotted five of the House of Assembly's seats for representatives of "marginalized groups not already adequately represented in the House," there are practically no members of minority groups in the government, as most officials had some connection to the royal family.

C. Functioning of Government: 0 / 12

Elected members of parliament have no oversight or influence over setting government policy, making laws, or adjusting spending levels.

Corruption is a major problem. Areas most affected include public contracting, government appointments, and school admissions. While the country does have an Anti-Corruption Commission (ACC), all of its staff are appointed by the king. In 2015, the body's deputy head took the commission to court for unpaid wages; soon thereafter, she was suspended from her position and arrested on charges of corruption and obstruction.

There is no oversight of the king's budget, and audits are presented only to the king and a Royal Board of Trustees chaired by the minister of finance. Though some 63 percent of the population lives below the poverty line, the king continues to demand an enormous salary from state coffers.

Civil Liberties: 17 / 60

D. Freedom of Expression and Belief: 7 / 16 (+1)

Constitutional rights to free expression are severely restricted in practice and can be suspended by the king. Publishing criticism of the ruling family and any member of his government is banned, and both state-owned and independent newspapers have faced consequences for disseminating such material. In 2014, human rights lawyer Thulani Maseko and Bheki Makhubu, editor of the *Nation* magazine, were charged with contempt of court and sentenced to two years in prison after they published articles criticizing the judiciary. After 18 months behind bars, the Supreme Court in June 2015 overturned their convictions; the public prosecutor's office later stated that they should not have been convicted. Separately, civil society groups alleged that authorities took efforts to limit media coverage of an August 2015 accident, in which a number of young women on their way to the traditional Reed Dance event were killed in a vehicular collision. Police said 13 women were killed, but one civil society group said that the death toll may have been as high as 65.

About a quarter of the population has access to the internet; the government reportedly monitors online communications. Approximately 86 percent of the country has access to mobile technology, and many young people use social media to access more diverse views than what is generally found in Swaziland's traditional media outlets.

Freedom of religion is not explicitly protected under the constitution but is mostly respected in practice, although security forces have been accused of intimidating church leaders deemed sympathetic to prodemocracy movements.

Academic freedom is limited by prohibitions against criticizing the monarchy.

Private discussion is not free. Those who criticize the king risk losing benefits they might have acquired through traditional patronage systems. Undercover police offers are typically present at union, civil society, and arts events.

E. Associational and Organizational Rights: 2 / 12

The government restricts freedoms of assembly and association through the sweeping powers granted under the 2008 Suppression of Terrorism Act, which allows it to declare any organization a terrorist group. Police harassment and surveillance of civil society organizations continues, with numerous reports of illegal searches, arrests, and violent interrogations.

Swaziland has active labor unions, some of which have called for democratic reforms. Workers in most areas of the economy, with the exception of essential services such as police and health care, can join unions; however, government pressure and crackdowns on strikes have limited union operations. The Public Order Act continues to serve as a means of regulating and barring protest and industrial action; demonstrators routinely face violence and arrests by police. In an attempt to qualify for AGOA, Swaziland passed amendments to the Industrial Relations Act to permit registration of trade unions in late 2014. However, security personnel forcefully broke up a February 2015 meeting of TUCOSWA when discussions turned to democratic reforms. In March, security forces blocked TUCOSWA from electing members to its national executive committee. While TUCOSWA was finally able to register with the Swaziland Ministry of Labor and Social Security in May, police intimidation of its members has continued.

F. Rule of Law: 4 / 16 (-1)

The dual judicial system includes courts based on Roman-Dutch law and traditional courts using customary law. Although the judiciary is independent in most civil cases, the king holds ultimate judicial power and is immune from prosecution. Despite such immunity, King Mswati is currently being personally sued for \$1.5 million in a foreign court in connection with the financial collapse of a company running Swaziland's Ngwenya iron ore mine. According to the suit, the king allegedly took that amount from the company in order to buy artwork for his personal collection, and then later refused to repay the money.

The Law Society of Swaziland has accused the king of appointing judges in contravention of the constitution. In 2015, the International Commission of Jurists (ICJ) called for an overhaul of the Swazi legal system, saying the king exercised an inappropriate amount of influence over judicial appointment processes, thus undermining judicial independence.

Arbitrary arrests, although banned by the constitution, do take place, particularly ahead of planned public protests. Forced searches of homes and offices, as well as torture in interrogations, continue. Prisons are overcrowded, and inmates are subject to rape, beatings, and torture.

People with albinism are discriminated against and are susceptible to violent attacks. Discrimination against members of the LGBT (lesbian, gay, bisexual, and transgender) community is widespread, and many LGBT people hide their sexual orientation.

G. Personal Autonomy and Individual Rights: 4 / 16

Swazi residents are largely free to move throughout and exit the country. However, Swazi citizens from minority ethnic groups often face delays in obtaining passports and other citizenship documents, with political activists subject to additional barriers in procuring passports. Recent years have seen numerous residents forcibly evicted from their homes, often to make way for development projects.

The constitution grants women equal rights and legal status as adults, but these rights remain restricted in practice. Widows in particular face regular violations of their rights to property ownership, and face restrictions on their ability to appear in public while in mourning. In many cases, a widow is placed into a marriage with another male from the family of her deceased husband. While both the legal code and customary law provide some protection against gender-based violence, it is common and often tolerated with impunity. Human rights advocates have criticized the traditional Reed Dance for propagating forced marriages. In 2015 only four women served in the House of Assembly, down from nine in 2008.

According to the U.S. State Department's 2015 *Trafficking in Persons Report*, orphaned girls in Swaziland are particularly susceptible to sex trafficking or being forced into domestic labor, while young boys can be forced into agricultural labor and market vending. The report also noted some government progress in addressing human trafficking, with authorities having recently launched several investigations into suspected trafficking operations.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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