

ACTSA Briefing Paper

Swaziland

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Front cover photo: Swaziland's King Mswati III inspects the guard of honour. Front cover image of the film *Without the King*. [First Run Features]

Back cover photo: Orphans and vulnerable children playing in a township near Manzini. [ACTSA]

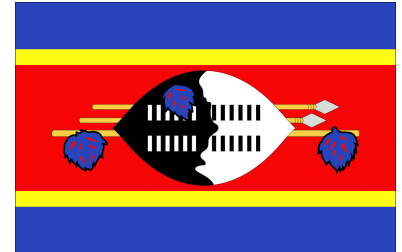
Map of Swaziland in Africa



“Swaziland is a beautiful country which is being savaged by the impact of poor governance and HIV/AIDS. We work so hard for this country yet our taxes are spent on the King and his wives rather than tackling poverty.”
Siphiwe Hlophe, Director of Swaziland for Positive Living (SWAPOL)

Introduction

At the hands of Africa's only absolute monarch, ten per cent of the 1.18 million population of Swaziland controls almost half the national wealth, while it is estimated that almost 70 per cent of the people live below the poverty line of US \$1.25 per day.¹ Social and economic problems are rooted in the world's most severe HIV/AIDS pandemic and years of persistently low economic growth have led to stubbornly high poverty. Thousands have lost their jobs as garment and sugar export industries have lost trading concessions.



The national flag of Swaziland

King Mswati III has a strong grip on the Government. On the throne since 1986, Mswati upholds the tradition of his father, King Sobhuza II, who reigned for almost 61 years. Sobhuza imposed a state of emergency in 1973, removing the constitution and banning political parties. With democratisation in neighbouring South Africa and Mozambique, Swaziland has been described as an island of dictatorship in a sea of democracy. A new constitution, signed by the King in 2005 and introduced in 2006, cemented his rule.

According to the 2009 Forbes list of the World's Richest Royals, King Mswati has an estimated personal fortune of US\$ 100 million, plus the two trusts of several billion US\$, which his father King Sobhuza II had established for the Swazi nation, and for which Mswati III is the trustee. Most of his subjects live in the countryside and follow traditional ways of life.

Swaziland is virtually homogenous, most of the population being of Swazi ethnicity. Economically, it relies on South Africa, which receives almost half of Swazi exports and supplies most of its imports. Many Swazis live in chronic poverty and food shortages are widespread. HIV/AIDS is taking a heavy toll with more than a quarter of the adult population believed to be infected with HIV. Life expectancy has plummeted to approximately 42 years.

People have been arrested, tortured and subjected to all forms of persecution, hence the exile of so many Swazis. Leading civil society organisations, including trade and students' unions, and outlawed political parties continue to speak out against the lack of democracy and equality in the country, calling for Swaziland to begin the process of democratisation.

Facts

- **Population:** 1.18 million (2009)
- **Major religion:** Christianity
- **Official languages:** siSwati, English
- **Capital city:** Mbabane
- **Currency:** Lilangeni
- **Adult Literacy rate:** 79.6 per cent
- **Life expectancy at birth (m/f):** 41/43 years
- **Probability of not surviving past 40:** 48 per cent
- **Under-five mortality rate (per 1,000 live births):** 84 (2008)
- **HIV prevalence (aged 15-49):** 26.1 per cent (2008).
- **Human Development Index:** 0.572/142nd worldwide (2007)
- **Freedom House Index (1= free, 7=not free):** Political rights: 7, Civil Liberties: 5; not free

Governance, democracy and accountability

Swaziland is the only absolute monarchy in Africa, with King Mswati III holding supreme executive, legislative and judicial powers. The King must approve and can veto legislation passed by parliament before it becomes law. Participatory democracy and respect for human rights are not provided for.

The Freedom House Report 2010 says Swaziland has the worst record on political rights in southern Africa; worse than Zimbabwe.

The ambiguous clause in the Constitution that promised ‘freedom of association,’ was explained away by Chief Gija Dlamini, the chair of the Swazi Elections and Boundaries Commission (EBC) as the freedom to join a soccer club, rather than to form a political party.

The Economist Intelligence Unit’s Index of Democracy 2008 ranks Swaziland 137th out of 165 places.² The document aims to list countries based on levels of democratic freedoms. Swaziland, in the report, is classified as an authoritarian state and its overall level of democratic freedom is scored at 3.04 out of ten. This is based on a review of its electoral processes, levels of pluralism, civil liberties enjoyed, the functioning of the government, the amount of public political participation and overall political culture.

The Mo Ibrahim Index on governance in Africa ranks Swaziland 45 out of 53 countries on Participation and Human right. In the southern Africa region only Zimbabwe is ranked lower in this category.³

Political Background

The Kingdom of Swaziland was a British protectorate from the 1880s until independence in 1968. The constitution was largely written by the British authority and guaranteed limited multi-party democracy, with the King having veto power and absolute rights over various sectors of governance including minerals and land. There was disdain for a constitution that was imposed by foreign powers and parliamentary elections were tainted by allegations of corruption by the traditional leaders.

The first post-independence elections were held in 1972, and while the King’s Imbokodvo National Movement party retained 75 per cent of the votes, the opposition party Ngwane National Liberatory Congress (NNLC) managed to gain three seats. As a response King Sobhuza , with the support of the apartheid regime in South Africa, passed a state of emergency decree on 12 April 1973 and dissolved parliament. The decree banned all political parties and opposition to the absolute monarch; restricted freedom of speech, association and assembly and vested all legislative, executive and judicial powers in the King. The constitution was suspended, and the opposition parties went ‘underground’.

A new non-party parliament, which was partly appointed by the King and partly chosen in indirect elections, was formed six years later. In 1983 the People’s United Democratic Movement (PUDEMO) was formed as a political party opposed to the status quo in Swaziland, with the goal of instilling a multi-party democracy. Since its conception, PUDEMO has been operating as an illegal movement. Following the death of King Sobhuza II in 1982, the country experienced a period of political shuffling in the interim Government led by a queen regent and the Liqoqo, the King’s former advisory council of traditional leaders. In April 1986, one of Sobhuza’s sons was crowned King Mswati III.

The 1968-1973 Constitution

Upon independence from the United Kingdom on 6 September 1968, Swaziland adopted a Westminster-type constitution. The structure of the Constitution consisted of three arms of Government - parliament, the executive and the judiciary. All the provisions supporting the separation of powers and the Bill of Rights were included in the 1968 Constitution. This Constitution was preceded by a 1967 Constitution under which national elections were held, under a multi-party system on the 20 April 1967. The power to make laws was bestowed on ‘the King-in-Parliament’. This was problematic because giving legislative authority to the office of the King impedes Parliament’s ability to exercise oversight over the activities of the Executive, whose head is the King.

After the declaration of the state of emergency in 1973, Parliament was dissolved and the constitution suspended, resulting in the King and his council of advisors effectively ruling by decree through the Tinkhundla system of traditional local Government. Even though Parliament was reinstated in 1979, it had become a non-party parliament with none of its members elected directly. It had very limited powers and its decisions could be overruled by the King at will.

“These elections are extraordinary from many others... [the restriction on political parties] infringes on the rights of those citizens wishing to participate in elections through political parties and does not meet regional and international standards.”

Mary Mugenyi, head of the Pan-African Parliament observation mission on the 2008 elections

2006 Constitution

The new constitution, which came into effect on 8 February 2006, confirmed most of the King's powers but provided for an independent judiciary. It introduced a Bill of Rights, which includes freedom of association, but does not allow parliamentary candidates to stand for election as members of political parties, only as individuals. It also maintains the executive role of the monarch.

System of Government

Swaziland has a House of Assembly of 65 members; 55 indirectly elected/selected under the *Tinkhundla* system and 10 appointed by the King. The more powerful Senate has 30 members, 20 appointed by the King and 10 by the House of Assembly. Only the Government can initiate legislation.

Tinkhundla system

Under the Tinkhundla system local chiefs who report directly to the King vet candidates who are nominated by show of hands, requiring 10 people to support them. Successfully nominated candidates then compete at popular elections at the chiefdom level. The winners of this first election round then go on to compete with the winners from other chiefdoms at Tinkhundla level, where the new Members of Parliament are chosen by the chiefs, not by popular vote. Chiefs are the custodians of traditional law and custom; they are responsible for the day-to-day running of their chiefdom.

The 2008 Elections

Swaziland held a parliamentary election on 19 September 2008. Civil society in Swaziland spoke out against the undemocratic nature of the national parliamentary elections asserting that the elections failed to comply with the Southern African Development Community's (SADC) principles and guidelines on democratic, free and fair elections. They demanded the immediate un-banning of political parties and the unconditional release of all political prisoners.

The SADC Observer Mission assessed that the elections had been “free and fair”, however, the Pan-African Parliament mission took a different view, asserting that the elections infringed on the people's basic democratic rights and did not meet regional or international standards.

A Commonwealth expert team observed the elections and concluded that the entire process was not credible. Commonwealth Secretary-General Kamalesh Sharma said that the team “raised concerns about the totality of the electoral process...in the current constitutional, legal and electoral framework.” The report noted serious concerns on the lack of separation of powers and the rule of law as well as the contradiction in the interpretation of the fundamental right of freedom of association and assembly.

Following the election there was a call from a newly-elected Swaziland Member of Parliament that political parties should be made legal in the Kingdom. Marwick Khumalo said the time had come for

SADC Principles for conducting democratic elections:

- Full participation of the citizens in the political process
- Freedom of association
- Political tolerance
- Regular intervals for elections as provided for by the respective National Constitutions
- Equal opportunity for all political parties to access the state media
- Equal opportunity to exercise the right to vote and be voted for
- Independence of the Judiciary and impartiality of the electoral institutions
- Voter education
- Acceptance and respect of the election results by political parties proclaimed to have been free and fair by the competent National Electoral Authorities in accordance with the law of the land
- Challenge of the election results as provided for in the law of the land

Swaziland to transform into a truly democratic state: *“These changes are necessitated more so by the fact that Swaziland, through the King, now chairs the SADC political, defence and security organ. We are also members of the African Union Peace and Security Council. By virtue of our membership there we are expected to conform to democratic principle.”*

Poverty and economic growth

The Swazi economy remains stagnant. Real Gross Domestic Product (GDP) growth has averaged just over two per cent since 2001. Per capita GDP growth is lagging behind other members of the Southern African Customs Union (SACU). The slow pace of economic reforms has worsened the investment climate, and the erosion of preferential treatment for Swaziland's exports of textile and sugar, combined with declining competitiveness and weak institutional capacity have further contributed to the weakened output performance. Years of persistently low growth have led to high poverty, inequality and unemployment, perpetuated by the fact that Swaziland has a high prevalence of HIV/AIDS.

Swaziland's economy is deeply integrated into the wider region. Its currency is tied to the South African Rand and until 2009, receipts from the Southern African Customs Union (SACU) revenue pool made up 60 per cent of Swaziland's national income. The country is now facing major budgetary problems and cutbacks on public spending, as its share in SACU revenues has been cut significantly during reforms.

Since the European Community began removing subsidies on sugar in 2007, Swaziland's exports of raw and processed sugar have declined steadily in value. As prices are set by the Sugar Protocol with the EU, the near 60 per cent increase in world sugar prices in 2009 to a 28-year high had little effect on the sector's performance. More significantly, customs receipts, the government's primary revenue source, were badly affected by a decline in Southern African Customs Union (SACU) trade.

Swaziland's economy grew by 2.4 per cent in 2008 before declining to an estimated 0.2 per cent in 2009. The current projections for 2010 and 2011 are that growth will rise to 2.2 per cent and 2.4 per cent respectively. However, this remains well below the 5 per cent government target to reduce poverty to 30 per cent by 2015, in line with the UN Millennium Development Goals. The worldwide recovery in oil prices is predicted to cause inflation to rise from 4.6 per cent in 2009 to 6.9 per cent in 2010 and further to 10.2 per cent in 2011.

Economic growth in Swaziland in the next two years will depend largely upon a continued recovery in the global economy and modest rises in oil and other commodity prices. Further, it is dependent on an upswing in workers' remittances, which currently stand at \$86 per capita per annum. Foreign direct investment must improve and a continuation in international aid is crucial in order to offset the predicted sluggish export performance.

Poverty and inequality

Swaziland is a low middle-income country with a per capita income of approximately US\$1350, over twice the sub-Saharan African average. However, the proportion of the population living at or below the poverty line of US \$1.25 per day is 69 per cent (of which 67 per cent are women and 33 per cent are men). Swaziland ranks 22nd in the 2010 UN ranking on economic inequality, which demonstrates the critical situation facing people there. In addition, the prevalence of HIV/AIDS means that the Swazi rural population labour force is no longer able to feed the country from what is otherwise good land.⁴ As Swaziland now needs to import or receive aid for more than half of its food requirements, and as food prices remain at a high level globally, poverty is becoming more entrenched.



A women's cooperative working their way out of poverty. [Gerry McCann]

The unemployment rate increased from 22 per cent in 1997 to 40 per cent in 2009 and among young people has often been twice as high. Government and private sector efforts to create new jobs have not been able to keep up with the loss of jobs arising from erosion in Swaziland's comparative advantages as an investment destination.

The poverty data shows significant feminisation of poverty in Swaziland. A closer look at the socio-economic development trend reveals weak macroeconomic performance, sluggish growth and poor social indicators. The budget deficit represents 4.8 per cent of GDP resulting in a decline of the Government's net foreign exchange reserves. This undermines the Government's ability to finance future development programmes. If this trend continues, it will be difficult to maintain macroeconomic stability.⁵

Trade and investment

From the mid 1980s, foreign investment in the manufacturing sector boosted economic growth rates. Beginning in mid 1985, the reduced value of the currency increased the competitiveness of Swazi exports and moderated the growth of imports. During the 1990s, the country often ran small trade deficits. South Africa and the European Union are major customers for Swazi exports.

Swaziland became eligible for the African Growth and Opportunity Act (AGOA) in 2000 and qualified for the apparel (clothing) provision in 2001, which created over 30,000 jobs, mostly for women, in Swaziland's textile and clothing industry. However, the industry suffered in 2005-2006, due to increased global competition as a result of the end of the Agreement on Textiles and Clothing (ATC) on January 1, 2005, and the strong Rand.⁶

Swaziland initialled an Interim Economic Partnership Agreement (EPA) with the European Union in 2008, including a WTO-compatible market access schedule and provisions on development co-operation and other issues. Government, civil society and trade analysts believe that it was a mistake to sign, yet it had no choice if it wished to gain from the (€650 million) European Development Fund. Swaziland should benefit from renegotiating its agreement before moving forward into the next phase of the two-stage negotiations for a comprehensive and final EPA.

Regional Links

Swaziland is a member of SADC, SACU and the Common Market for Eastern and Southern Africa (COMESA) and actively participates in these sub-regional organisations for both political and economic integration in the southern African sub-region. A high proportion of Swaziland's net annual revenue is derived from its membership of SACU. Since Swaziland is almost entirely surrounded by South Africa, and its currency the Lilangeni is pegged at parity with the South African Rand, fiscal and monetary policies are determined by the Reserve Bank of South Africa. This strengthens the currency, however, also increases Swaziland's vulnerability to external economic shocks. The main thrust of South-South cooperation in Swaziland is a focus on COMESA with little or no planning as a sugar producer to the changes in the Sugar Agreement of the World Trade Organisation (WTO).⁷

Donor support

Most of the aid that flows into Swaziland is bilateral. Major donors in Swaziland are the Republic of China, Taiwan and the European Union. On the whole external assistance to Swaziland has declined with donors changing their financing strategies and focusing on least developing countries and countries in transition.

The donor community has been noticeably quiet when it comes to the lack of democracy and constitutional and rights violations in Swaziland. For some, especially within the country, this is interpreted as donors condoning the current regime.

Regional position

Governments in southern Africa have long overlooked the situation in Swaziland. King Mswati III's rule was in 2008 legitimised by his election to chair the powerful SADC Troika on politics, defence and security. Neighbouring democracies have recently spoken out against Robert Mugabe's rule in Zimbabwe but appear reluctant to do the same for Swaziland. The Congress of South African Trade Unions has been the most vocal and instrumental advocate for change in Swaziland by constant critical statements and actions such as border blockades and goods boycotts.

International institutions' support and engagement

UK

Department for International Development (DFID) does not have a bilateral aid programme on Swaziland. This seems to be due to a) Swaziland being classified as a low middle income country b) its' size c) cost. It does support programmes in Swaziland through its regional programme including UNICEF's work on orphans and vulnerable children and social protection for children. It also supports HIV/AIDS work through the regional Behaviour Change Communication Programme. However, no bilateral programme means no direct support for Swaziland civil society organisations unless they can package their work as part of a regional i.e. more than one country programme⁸.

The UK Foreign and Commonwealth Office says it does support the case for multi-party democracy in Swaziland and takes up human rights concerns through both bilateral and multilateral means and during visits by the non-resident High Commissioner and Deputy High Commissioner who are based in Pretoria. In 2009 the Foreign and Commonwealth Office raised the issue of democratic reform in Swaziland for the first time in its Annual Report on Human Rights.

European Union (EU)

The EU, through its European Development Fund (EDF), supports the Government of Swaziland through a number of measures. Its country strategy paper is signed every 5 years and subsequently implemented. The current strategy focuses on support to education and training (€20 million); HIV/AIDS prevention and care (€2 million); gender equality (€1.4 million); trade support (€1.8 million). These are achieved through targeted programmes as well as by improving the capacity of relevant Ministries. The European Commission is also in regular political dialogue with the Government of Swaziland and underlines the necessity for the Government to adopt a pro-poor budget and to reallocate significant funds towards the social sectors.

Commonwealth

Swaziland joined the Commonwealth in 1968. Its support includes funding for HIV/AIDS education of young Swazis; providing judges for the High Court to improve the efficiency of the country's justice sector; a programme empowering women; and assisting to set up a national human rights commission to monitor and investigate human rights violations.

The Commonwealth was closely engaged with the development of the 2006 Constitution, including in the provision of technical expert advisers to the Swaziland Constitutional Drafting Commission. However, since the 2008 elections it has made recommendations for constitutional reform to ensure political pluralism is unequivocal.

United Nations (UN)

The current UN Development Framework (UNDAF) for Swaziland (2006-2010) identifies three programme priorities to be poverty eradication, HIV/AIDS and good governance and gender mainstreaming as well as basic social services. Each year UNDP, in consultation with its development partners, develops a work-plan which outlines the specific development projects to achieve its priorities.

International Financial Institutions (IFIs)

International Monetary Fund (IMF): Swaziland is a member of the IMF but has not drawn upon its loan facilities. The IMF Mission to Swaziland at the end of 2009 called on the Government to reduce its fiscal deficits, through cuts, taxation, shifting resources to social programs and encouraging economic growth.⁹

World Bank: In March 2008, an Interim Strategy Note (ISN) for Swaziland was drawn up by World Bank and Swazi Government officials for the period 2008-2010. This is the first World Bank strategy for Swaziland since 1994 and focuses on three key areas: (i) Fighting HIV/AIDS; (ii) Improving governance; and (iii) Increasing competitiveness. As of April 2010, there were no active projects in the portfolio.

"Once again, Swaziland rulers have demonstrated their authoritarian nature by this illegitimate and unacceptable harassment and arrest of a trade union leader in violation of fundamental rights enshrined in international law."

Guy Ryder, General Secretary, International Trade Union Confederation

Human and labour rights

The Government of Swaziland has been criticised repeatedly for its human rights record. Abuses reported in recent years include limitations on freedoms of expression and assembly as well as the arrest and detention, and in several cases murder and torture, of civic and political activists.

Human rights

Serious and persistent violations of labour and human rights occur regularly in Swaziland. The country is a signatory to the African Union Charter on Human Rights, however, such commitments are meaningless until the Government is willing to respect and strengthen the rule of law.

While the press is relatively free in that some criticism of the King can be found in the only private daily newspaper in the country, obstruction and harassment of journalists is increasing, with several stories being blocked by the State and critical articles from South African papers being banned.

Human rights abuses currently occurring in Swaziland:

- Inability of citizens to change their Government;
- Unlawful killings by security forces;
- Police use of torture, beatings, excessive force and impunity;
- Arbitrary arrests and lengthy pre-trial detention;
- Limits on freedom of speech and of the press;
- Restrictions on freedom of assembly and association;
- Prohibitions on political activity and harassment of political activists;
- Discrimination and violence against women;
- Child abuse and trafficking in persons.¹⁰

Women's Rights

Even though the constitution in 2005 promised gender equality, many laws and practices remain gender biased. Swazi women who marry men of different nationalities cannot transfer their citizenship to their spouses, even though Swazi men can do this. Despite the new constitution, old laws have remained on the statute books so that in many areas women are still treated as minors. To obtain bank loans, for example, many banks still insist that women must obtain a signature from their husbands. Women cannot own property under inheritance laws all marital property goes to the deceased husband's family. In the beginning of 2010, Swaziland's High Court ruled that some married women should legally be entitled to register property in their own name, which was celebrated as a small success by women and activists in the country. This was, however, reversed three months later by the Supreme Court.

'Suppression of Terrorism' legislation

The Suppression of Terrorism Act (STA) was signed into law in August 2008 and added to the Public Order Act of 1963. Its definitions of 'terrorist act', 'terrorist group' and 'terrorist individual' are so vague that any individual or organisation critical of the King and Government runs the risk of being persecuted as 'terrorist'. Courts of law have limited capacity to review these Government decisions and it is the defendants' task to prove that they are not terrorists.

Punishments are severe for 'terrorist groups' and their affiliates and 'giving support' to these groups has also become a criminal offence. The Act has given security forces vast powers to intimidate and interfere with the activities of civil society groups, making arbitrary arrests at protests and using excessive force against activists with impunity. Four political organisations, including PUDEMO and SWAYOCO, have been illegalised under the Act and their members are subjected to continued harassment.

In 2010 the government introduced the Public Services Bill which is pending authorisation. Trade unions in Swaziland and all over the world have expressed fears that this bill will severely infringe on public

“We are elated by the historic outpouring of ordinary people to say to the royal Government...enough!”

Andrew Simelane, Swaziland Federation of Trade Unions (SFTU) member

servants’ rights to be members of political organisations and voice political opinions publicly. If they were found to contravene these restrictions, they would immediately lose their jobs and risk criminal prosecution. The Bill violates several international conventions that Swaziland has ratified, including the UN Universal Declaration of Human Rights and the ILO Convention 87 on Freedom of Association.

Labour rights

The exact figure for Swaziland’s labour force varies from 90,000 – 300,000. This ambiguity is partly due to the employment of over a third of all working people being seasonal. There are limited opportunities for people to develop substantial self-employment.

Swazi law provides for the right to organise and join labour unions and to organise and bargain collectively. However, documented reports of Government and employer interference are widespread, especially in the garment sector. Workers’ and human rights violations are common. For example, during legal textile sector strikes there were numerous dismissals for simply taking strike action. Physical punishment is illegal, but employers are not sanctioned. Due to the pressure brought to bear by the international trade union movement there have been some improvements in labour legislation.

Swaziland has ratified all eight International Labour Organisation (ILO) conventions. In 1978 the Government ratified the principles of the ILO, but in 1996 the Government repealed the Industrial Relations Act which conformed to the ILO conventions with one that violates workers’ rights by curtailing union activity. The Act was amended in 2000 with the assistance of the ILO.

International Labour Organisation conference 2010

At the ILO conference in June 2010 the Committee strongly condemned the Swaziland Government and “noted with concern the continuing allegations concerning acts of brutality from the security forces against peaceful demonstrations, threats of dismissal against trade unionists, and the repeated arrests of union leaders.” A special paragraph was included in the Committee report, one of the strongest statements the ILO can make.

The trade union movement

The Swazi trade union movement plays a prominent role in the nation’s social and political spheres. This is due in part to political parties being banned. There are two federations operating in Swaziland: The Swaziland Federation of Trade Unions (SFTU) and the Swaziland Federation of Labour (SFL). In addition, the Swazi National Association of Teachers (SNAT) operates independently. Workers in all areas, including the public sector, can join unions, and 60-65 per cent of the private workforce is unionised.

Timeline of political persecution

1983- Birth of PUDEMO after mass uprisings at university of Swaziland against the removal of the then Queen regent by the Supreme Council of state.

1990- The first trial of PUDEMO leadership charged with high treason, the first such event in the political history of Swaziland.

1994- 67 PUDEMO activists were arrested for holding a peaceful rally at Nkhaba.

1996- SFTU leadership, including Secretary General, detained for organising a mass strike supported by mass borders blockade staged by the Congress of South African Trade Unions (COSATU).

2001- PUDEMO President arrested and charged with high treason again for leading a march organised by the SDA. He was eventually released in 2002.

2005- 14 PUDEMO activists were arrested and charged with malicious damage and high treason. There were widespread reports of abuse and torture.

2008- 10 senior trade union leaders were arrested for exercising their basic constitutional right to freedom of expression and the right to protest

2009- PUDEMO leader Mario Masuku was arrested on terrorism charges. He was acquitted after months in prison

2010- Sipho Jele died in police custody after being arrested for wearing a PUDEMO t-shirt

The main trade unions believe that multi-party democracy can co-exist alongside a monarchy that does not act above the law. The Congress of South African Trade Unions (COSATU) has been particularly active in its support for the Swazi trade union movement. It has carried out several blockades of the nation's border crossings in a show of solidarity.

Both the SFTU and SFL have raised serious concerns about the poor working practices that have accompanied the arrival of Taiwanese and Chinese textile factories in Swaziland. There is a sense that these companies have a certain level of impunity when it comes to rights in the workplace. They largely employ women, and strikes over pay in 2008 were crushed by police with tear-gas and rubber bullets. The armed-forces put pressure upon the strikers simply to return to work under the same conditions.

Trade unions have also worked to highlight the link between these new factories, the conditions they force people to work in, and the growing HIV/AIDS pandemic. The industrial town of Matsapha has seen a large influx of poor migrant female workers, who continue to be poorly paid and live in communal housing. The low wages make these young women susceptible to sexual advances in return for money. This can drive many young women into the sex trade and worsen the pandemic.

Trade unions have sought to provide information, increase awareness on HIV and in some cases provided counselling. They support workplace non discriminatory policies on HIV. The constraints are money, time and willingness by employers and government to involve and work with the unions.

The Swaziland Federation of Trade Unions (SFTU)

The SFTU is the largest labour federation and has led demands for democratisation. However, Government pressure, including the repeated arrest of former SFTU leader Jan Sithole, has greatly limited union operations. Membership of the SFTU has declined, currently standing at 65,000 (of which 38 per cent are women), owing to the mass redundancies and factory closures. Many companies folded or were relocated following the end of the Agreement on Textiles and Clothing (ATC). It has a close relationship with COSATU and is an affiliate of the ITUC¹¹.

ACTION: Since 1994 workers have organised several strikes incorporating demands for press freedom, political and trade union rights. In 1997 two major strikes, supported by COSATU, were held, in the February strike Swazi industry was bought to a standstill. During the 1997 general strike six demonstrators were shot and four union leaders were arrested and held in captivity for 26 days.

DEMANDS: The SFTU produced “The 27 Popular Demands” – including issues from basic human rights to conditions of the labour market. Because the demands cover such a wide range of issues and are broad, they have been criticised by some as not being a very effective tool for achieving structural change.

The Swaziland Federation of Labour (SFL)

The SFL was founded in 1994 when a faction moved away from the SFTU, membership is now approximately 20,000. According to both the SFL and COSATU, the union's move was never supposed to be permanent. Since the new federation was formed, it has been in an ongoing dialogue with the SFTU.

Civil society organisations

There are a range of civil society organisations in Swaziland as well as coalitions of organisations and activists that reach well beyond the Kingdom's borders. While freedom of association is granted by the constitution, violence, obstruction and intimidation by state



SFTU

ACTION: The Federation organises primarily in the finance, retail and manufacturing sector. The Federation concentrates on worker representation and provides a regular national platform for its affiliates. Whilst viewed as more conservative than the SFTU, the SFL also support the pro-democracy movement. SFL has entered into partnership with SFTU and other stand alone unions for the Swaziland Labour Academy and the Swaziland United Democratic Front.

DEMANDS: The demands of both SFTU and SFL are similar in terms of labour rights and multi-party democracy. The SFL lack some of the resources of the SFTU and operate from its financial union affiliate's offices. Therefore, they are demanding assistance with basic operations, legal action and union education.

security forces are rife and new laws, such as the Suppression of Terrorism Act, have often been used against activists.

Swaziland United Democratic Front (SUDF)

In February 2008, a coalition of pro-democracy interest groups formed the Swaziland United Democratic Front (SUDF). It is modelled on South Africa's UDF, a coalition of similar groups that spearheaded internal resistance to apartheid in the 1980s. The organisation campaigns against the Tinkhundla system and for a united and democratic electoral and governance system. It aims to achieve this through political education initiatives as well as mass mobilisation.

The SUDF is the second such initiative, with the Swaziland Democratic Alliance (SDA) in 1996 created as the first major initiative of this kind. The SUDF does face challenges, in terms of a lack of financial and operational resources. It is seeking to broaden its current membership and mobilise all the pro-democracy groups from within Swaziland and internationally. It also faces legal obstacles in terms of its constitution and the Suppression of Terrorism Act.

National Constitutional Assembly (NCA)

The NCA was formed in September 2003 and is a coalition body of wide ranging civil society organisations. It campaigned against the implementation without popular consultation of the new 2006 constitution; however attempts by the NCA to increase public participation were routinely ignored by the Government and High Court.

Swaziland National Union of Students

The Swaziland National Union of Students (SNUS) was formed in 1984 as a national umbrella organisation for student representation bodies of all tertiary education institutions. They have marched against the deterioration of the Swazi education system and cuts to education funding. Student leaders have been subject to harassment and victimisation through arrests and expulsions by state security forces and the tertiary education institutions.

Swaziland Positive Living (SWAPOL)

Swaziland Positive Living (SWAPOL) was founded in 2001 by five HIV positive women after experiencing stigma and discrimination from their in-laws, families and community members. The organisation has grown to a membership base of over 1,000 people and works in 30 rural HIV-affected communities. The organisation's work is focussed on improving the standard of living of people living with HIV as well as AIDS orphans and vulnerable children through communal food growing programmes, economic and personal empowerment, education and awareness and campaigning for rights.

40:40 celebrations met with anger

Some of the largest demonstrations in Swaziland's history took the shine off the twin celebrations to mark King Mswati III's 40th birthday and 40 years of the Kingdom's independence. At least 10,000 pro-democracy activists crowded the streets of Manzini, on 3 September 2008, before reassembling in Mbabane the following day.

The labour unions demanded a public accounting of the money spent on the '40-40' event. Although Swaziland's state-run television did not broadcast coverage of the demonstrations, some members of the Swazi press reported them. Local newspapers widely reprinted a list published by Forbes magazine, in which King Mswati was named one of the 15 richest royals in the world.

Political parties

PUDEMO and SWAYOCO

The People's United Democratic Front (PUDEMO) was formed as an opposition party in 1983 with the goal of achieving multi-party democracy in the Kingdom. As political parties are banned, PUDEMO has been operating illegally since its foundation and its leadership and members have been subject to repeated arrests and police violence (see case studies below). PUDEMO's youth league, the Swazi Youth Congress (SWAYOCO) is in a similar situation. PUDEMO and SWAYOCO seek to be a uniting force at the centre of a broad range of organisations, for example working with the Swazi United Democratic Front and the Swaziland Democracy Campaign.

Ngwane National Liberatory Congress (NNLC)

The NNLC was founded on 12 April 1963. It was established as a breakaway party from the Swaziland Progressive Party (SPP). It is viewed as smaller and more conservative than PUDEMO but shares many of the same broad objectives. In 2008, the two parties united with civic organisations and student groups to promote a boycott of the 2008 election¹².

International Solidarity

Swaziland Democracy Campaign (SDC)

The Swaziland Democracy Campaign (SDC) is a coalition founded by Swazi trade unions, civil society organisations and the Congress of South African Trade Unions (COSATU) in February 2010 in Johannesburg. A range of national and international organisations are involved, including trade unions, political parties, churches as well as youth and student organisations. SDC campaigns for civil rights and multi-party democracy in Swaziland and urges regional and international organs such as the Southern African Development Community (SADC) to put more pressure on the Swazi Government. Its launch in Swaziland in April 2010 was obstructed by the Swazi police force despite a court order granting the organisation the right to assemble peacefully

Swaziland Solidarity Network (SSN)

The SSN was formed in 1997 by South Africans and Swazis. It organises various activities including pickets, marches and delivery of petitions to Swazi embassies and to international organisations

Swaziland Vigil UK

The Swaziland Vigil in London was formed in 2010 by Swazi citizens in the UK and their supporters to raise the profile of Swaziland in the UK and campaign for democracy and respect for human rights. The Vigil meets weekly on Saturdays to protest outside the Swaziland High Commission in London.

Case Study 1: Mario Masuku – Unlawful detention and abuse of legislation against activists critical of the Government

Mario Masuku is President of Swaziland's biggest opposition party, PUDEMO. He was first arrested on a protest in October 2000 and charged with sedition and subversion. He was granted bail a month later, however under stringent conditions. As there was no progress towards a trial, Masuku decided to defy the bail conditions in September 2001, upon which he was re-arrested and put in solitary confinement at Matsapha High Security Prison. He remained in custody until August 2002 when his trial began and he was acquitted of all charges.

In November 2008, one day after the Government declared PUDEMO a terrorist organisation under the STA and raided the organisation's offices, Mario Masuku was arrested again. Police claimed to have found literature on weapon-making, but could not present any evidence. Knowing from experience that bail was likely to delay his trial even more, Mario Masuku decided to remain in custody and was moved to Matsapha High Security Prison. The imprisonment drew wide national and international attention, nevertheless, the judiciary took until September 2009 to begin his trial. He was acquitted of all charges on his first day of trial as the prosecution had no evidence for the charges.

Masuku's case is one prominent example of the plight of many political activists and organisations. The law is twisted and charges often fabricated, while arrestees remain under legal restrictions for months whilst legal proceedings do not progress.

The Abuja Declaration states that the allocation for health should be at least 15 per cent of the national budget. In Swaziland it is disheartening to learn that the state of Health in the country is unlikely to change much given the fact that the 2009/10 budget has only been given a slight increase to 13.7 per cent from the 10.5 per cent allocated in 2008/9.

Case Study 2 Siphon Jele – Human rights violations by law enforcement officials

Siphon Jele, an activist in PUDEMO died following his arrest at the annual Workers' Day celebrations on 1 May 2010 in Manzini, Swaziland. The event, which was organised by the SFTU and the Swaziland National Association of Teachers (SNAT) was disrupted by police. Jele was arrested under the Suppression of Terrorism Act after being found wearing a PUDEMO T-shirt. He was taken away for questioning by police who also searched his home. On Tuesday 4 May, whilst in police custody, he was found dead in his cell. Police have claimed that Jele committed suicide by hanging; but this has been rejected by opposition movements in the region as well as Siphon's family.

This scepticism was justified by an independent pathologist's report, which confirmed that his death was not suicide. It said Jele's body was found hanging in his cell, where there was nothing to stand on from which to hang himself. Furthermore, his body did not show any signs of a suicide attempt. The pathologist found signs of strangulation however.

Prison wardens claimed they had unravelled the details of the nature of Siphon Jele's death through his cell-mates, who confirmed he had hanged himself. However, the inquest has revealed that no such questioning of cell-mates took place. All cell-mates deny being interviewed by prison wardens.

Siphon Jele's funeral was disrupted by around 500 heavily armed police and had to be postponed until 22 May. The police destroyed several pictures of Jele, as well as removing a PUDEMO flag from the coffin, and then arrested and detained several of the mourners. PUDEMO leader Mario Masuku was arrested again at a road blockade after the second funeral on 22 May for supporting terrorism by allegedly shouting, "Viva PUDEMO, Viva SWAYOCO". He was allowed to leave the police station later that day, but told he would be summoned to court and charged under the Suppression of Terrorism Act.

HIV/AIDS

Swaziland is one of the countries hardest hit by the HIV/AIDS pandemic. Since the first AIDS cases were reported in the country in 1986, the disease has spread at an alarming rate. The general mode of HIV transmission remains heterosexual intercourse, with new infections occurring as a result of engagement in riskier sexual behaviour fuelled by social, economic and cultural factors. The Government estimates that only 20 per cent of people in the country know their HIV status. Traditional opinions link AIDS with sexual promiscuity, and often causes HIV positive people to be rejected by their families.¹³ Furthermore, there is little education or knowledge around prevention from mother to child transmission (PMTCT) and traditional healers compound the health care delivery inadequacies.

The immense scale of AIDS related illness and death has weakened governance capacities for service delivery, with serious impact on food security, economic growth and human development. AIDS undermines the capacities of individuals, families, communities and the state to fulfil their roles and responsibilities in civil society. Despite recent stabilisation, current trends must be reversed to ensure the longer term development of Swaziland as a prosperous country. Improvements must also be made to the number of HIV tests carried out. In 2008 only 139 people per 1000 had been tested. Further, the majority of testing centres remain focussed in urban areas, excluding large proportions of the population from accessing such services. Ignorance as to infection allows the virus to spread further.

Vulnerability to HIV infection continues to be high due to the combined effects of poverty, gender inequality and some harmful cultural practices. The drivers of the epidemic which include multiple

concurrent partnerships, intergenerational sex, low condom use, low HIV testing and disclosure levels, and high prevalence of untreated and undetected sexually transmitted infections, are yet to be fully strategically addressed.

Orphans and Vulnerable Children

One of the major impacts of HIV/AIDS on Swaziland is the increase in the number of orphans and vulnerable children (OVC). 48 per cent of the population is under the age of 18, with many children left in the care of grandparents and other extended family, if they have them. Otherwise, they may be left to fend for themselves; 15,000 children are in charge of their households today in Swaziland. In total the country has approximately 78,000 AIDS orphans and at current HIV prevalence rates this number is likely to increase further.

OVCs are marginalised in accessing social services, including education. However, the Government of Swaziland and development partners have made considerable efforts to mitigate the impact of the HIV/AIDS pandemic on OVCs by providing some education, food, health, psychosocial support and shelter programmes and it is encouraging that currently there is no major difference in

the level of school enrolment between orphans and non-orphans in Swaziland. The Government is attempting to address the situation of orphans through the development of its National Action Plan for Children. Despite these efforts, only 42 per cent of OVC reported to have received at least one type of support (2006/7 SDHS). There have been subsequent calls for aggressive approaches for expansion of interventions in this area.

Women

HIV/AIDS in Swaziland is feminised with women suffering the worst effects. 31 per cent of adult women have HIV compared to 20 per cent of men¹⁴. Swazi women are often economically totally dependent on the men in their family, meaning they are often unable to afford transport necessary to access treatment; this, alongside the low status of women in Swazi society means that cultural problems such as the inability to negotiate safe sex exaggerate this issue.

In Swaziland gender roles are taught at a young age, dictating that women and girls provide the bulk of the physical and emotional care and support to people within their households. Girls are often the first to be taken out of school to care for their ailing relatives. With the advent of HIV/AIDS women have increasingly been called upon to provide more support at the household level. Women's rights activists have noted with concern, the time and energy required to care for the sick while coping with the attendant loss of income that often accompanies AIDS as well as the proliferation of home-based care programmes that are reliant on female volunteers. This, in the most part, has been driven by the health system's inability to cope with the large numbers of people living with HIV/AIDS in Swaziland. The absence of support from the formal health services in terms of, palliative care by medical personnel and comprehensive VCT services amounts to an additional burden for women and girls.

Status of the pandemic in numbers (UNAIDS estimates)

- **190,000** people are living with HIV in Swaziland.
- **78,000** children have been orphaned as a result of HIV/AIDS.
- Adults aged 15 to 49 average prevalence rate: **26.1 per cent**
- HIV sufferers have a life expectancy of **32 years** compared with **57 years** for non-HIV sufferers.
- Highest prevalence rates among women aged 24-29 (**49 per cent**) and men aged 35-39 years (**45 per cent**) (2009)
- Percentage of young (15–24) people who correctly identify ways of preventing the sexual transmission of HIV and reject major misconceptions: **52.2 per cent** (2008)
- Estimated number of adults and children who died from AIDS in 2007: **10,000**
- **Only 20 per cent** of the population between 15-49 yrs know their HIV status.
- Pregnant women with HIV: **42 per cent** (2008).
- Domestic and international AIDS spending: **US \$43.6 million** in 2007.⁸

Mothers shouldering the burden of care

HIV/AIDS leaves many grandmothers to shoulder its burden. Evelyn Sikholiwe Simelani should be enjoying the benefits of her advanced years, but her daughter is bedridden, so Simelani must take care of two of her seven grandchildren.

“It is painful that in my old age I have to go back and raise children,” says Ms. Simelani. “I try to raise them in the best way possible.” Ms. Simelani earns some money for the family by working in a sharecrop garden owned by the local traditional leader but rarely enough to afford one meal a day.

“The impact today is shocking,” says researcher Alan Whiteside in a 2007 report on Swaziland. “Grandparents are masking the true extent of the [OVC] problem. In the long-term, the death of grandparents will leave thousands of children with no support structure.” Discussions with grandmothers reveal that they worry about the future and what will happen to their grandchildren when they die.

May 6 – 8 2010 saw the first African Grandmothers' Gathering, in Manzini May 6 – 8 2010 saw the first African Grandmothers' Gathering, in Manzini, organised by SWAPOL in conjunction with the Stephen Lewis Foundation. The event was characterised by a march of over 1,000 grandmothers through Manzini, discussion groups and celebrations of the vital role of African grandmother's have taken on in familial care. The event was an opportunity to share their experience as 'parents' of orphaned grandchildren, as caregivers and activists, and to articulate their priorities for action. Top of discussion agendas was care for HIV-positive grandchildren, food security and micro-credit financing as well as social security, violence against women and inheritance rights.

Addressing the pandemic

In 2003 the Government launched its strategy to provide free nationwide antiretroviral treatment (ARVs). By the end of 2009, just over 47,000 people were receiving ARV treatment. While the amount of available drugs still needs to increase, a lack of infrastructure and human resources is still a major problem for effective treatment. Despite recent national initiatives on testing, still less than 20 per cent of the general population between 15-49 years old know their status.

Government programmatic response

- Swaziland National AIDS Programme (SNAP) established in the Ministry of Health in 1989, aiming to raise awareness through Information, Education and Communication (IEC).
- In 1998, cabinet approved a National HIV/AIDS policy.
- In 1999, Mswati III declared HIV/AIDS a National Disaster.
- A Crisis Management and Technical Committee (CMTC) was constituted to develop a Multi-sectoral National HIV/AIDS Strategic Plan and Action Plan (NSP) covering the period 2000 - 2005
- The NSP outlined a multi-sectoral approach to the response to HIV/AIDS.¹³
- In 2009, the National Emergency Response Council on HIV & AIDS (NERCHA) and UNAIDS developed a new National Strategic Framework, continuing the multisectoral approach of the NSP and working in conjunction with new national policies on children and social development to mitigate the effects of the HIV pandemic.
- In 2009, a National Male Circumcision Policy was established aiming to reduce infection rates.

Issues with healthcare system delivery

- Lack of STI testing and treatment.
- Caregivers deplete their limited resources whilst taking care of people living with HIV/AIDS (PLWHA) and OVCs.
- The PLWHA do not have enough food to comply with requirements for taking ARVs.
- PLWHA are denied access to the treatment on the basis of geographical location.
- Poor follow-up results in non-compliance of patients.
- Inadequate supply of ARVs results in unplanned defaulting on the part of patients.
- Caregivers are not welcome at voluntary counselling and testing centres.
- There is a stigma attached to mobile clinic facilities.
- Much money is spent on travel when collecting ARVs.
- PLWHA's have multiple needs such that they require financial assistance.¹⁵

"We have been in a very dark tunnel for a long time but now, we hope that, with the assistance of the international community, we can see the light at the end of this tunnel. We need your support."¹³
Gugu Malindzisa, Deputy General Secretary, Swaziland Federation of Labour

Poverty & HIV treatment

Approximately 31 per cent of patients drop out of treatment in their first year on the medication⁸. There is concern that the high default rate may increase the number of people who develop drug resistance as a result of interrupting their treatment. Reasons why people stop taking their medication surround the vicious cycle of poverty and HIV in Swaziland: first people lose their jobs because they are too weak, and then they lack money to buy food – and if they find they do not have food, they do not take the medicine. Taking ARVs without food can increase the side effects of the medication. Most of the clinics distributing ARVs give patients food supplements provided by the World Food Programme, but family members can quickly consume the rations meant to help HIV-positive patients.

Future challenges

Poverty and the rising cost of transport have made decentralising ARV treatment an urgent priority – people living with HIV and AIDS should not be denied access to health services on the basis of geographical location. The Government target of having a health facility within seven kilometres of every rural settlement has been achieved. However, seven kilometres in mountainous Swaziland can still mean walks of several hours, so clinics remain inaccessible for patients too weak to walk, as public transport in rural areas is unreliable and often also unaffordable. This means that some patients only have irregular access to, or default completely on their ARV treatments. Another major difficulty is that most clinics do not have adequate technology (CD4 count machines) and are staffed solely by nurses, who cannot prescribe the medication, an issue in need of urgent attention. In addition, the traditional healers are not given the correct information about the disease from poorly trained medical staff. Two mobile clinics have been piloted by SWAPOL. The biggest challenge remains to get people to come forward for testing and treatment which can begin to confront the issue of social stigma and awareness of the disease. Yet, the financial commitments of the Government remain too inadequate for this to be realised.

ACTSA and its work on Swaziland

ACTSA takes its lead and position on Swaziland at the request and demand of its partner organisations in Swaziland and southern Africa. ACTSA is committed to continue to raise issues of democracy and rights abuses in Swaziland within the UK, Commonwealth and EU, as well as supporting initiatives to pressure the Government of Swaziland and its neighbours to act urgently.

Recommendations

The situation in Swaziland is a long standing one that has been ignored by the regional and wider international community for too long. Therefore, with the evidence gathered from this report, ACTSA supports the demands of trade unions and other civil society organisations in Swaziland and the region that call upon:

The Government of Swaziland to:

- Convene a democratically elected National Constitutional Forum to realise a democratic, people-led Constitution.
- Immediately un-ban all political parties and ensure that multi-party, democratic elections are introduced in line with the SADC principles and guidelines for democratic elections.
- Remove all laws that inhibit political activity and the unconditional drop of charges against all political prisoners and return of all political exiles.
- Ensure a free and independent media and judiciary, as well as ending corruption, cronyism and bribery.
- Ensure the fairer distribution of national wealth through pro-poor policies, programmes and public expenditure.
- Respect and implement the ILO mandates and conventions on labour standards working closely with the trade union movement.

Specifically on HIV/AIDS:

- Act upon the recommendations made by UNAIDS, to develop a Volunteer Charter, which sets out the rights and responsibilities of volunteers, NGOs, community members and Government departments that use the services of volunteers.
- Investigate mechanisms through which families affected by HIV/AIDS can access a standardised package of services and material support in order to guarantee food and sustained income.
- Expand male involvement in care and support at community level. Manage such programmes in a way that is likely to positively influence male attitudes and behaviours around sexual health and HIV transmission.
- Expand opportunities for economic empowerment for community-based volunteers providing care and support. These could be income generation activities linked to viable markets.

ACTSA further supports the demands of civil society in Swaziland and the region for the Southern African Development Community and African Union to:

- Publicly condemn the undemocratic regime in Swaziland, with particular reference to its signature to the SADC's principles and guidelines on democratic elections given the undemocratic nature of the 2008 parliamentary elections; and its signature to the AU's Charter on Human and People's Rights which it continues to violate.
- Work bilaterally and multilaterally to raise the issue of democracy, political infringements and repressive legislation: including the unconditional release of all politically motivated detentions, and press for the immediate establishment of a multi-party electoral system.

Based on the views expressed to us from partners in the region, ACTSA specifically calls on the UK Government, the Commonwealth, the European Union and other relevant international institutions to:

- Be more outspoken on Swaziland and publicly condemn the lack of democracy. The silence of the UK and EU on Swaziland is in sharp contrast to Zimbabwe and can appear as them condoning the situation.
- To work bi- and multi-laterally to raise the issue of democracy and rights in Swaziland internationally on a more regular and sustained basis, thus taking greater leadership and responsibility in the crisis.
- Not host or participate in royal visits with the monarchy of Swaziland until basic democratic measures are implemented.
- Recognise the trade union movement of Swaziland as a key development partner in designing and implementing policies and programmes that reduce poverty, inequality and marginalisation.
- Support Swazi and regional civil society including the trade union movement in their efforts to bring about democracy in Swaziland.
- Ensure financial institutions based in donor countries do not support the undemocratic Government of Swaziland.
- Renegotiate the initial EPA that Swaziland signed to ensure a pro-development alternative or agreement; ensuring that the European Commission refrains from pushing for the inclusion of services, investment, competition, Government procurement and intellectual property in EPAs and does not use the EDF as a vehicle to persuade Swaziland to sign or not renegotiate.
- ACTSA endorses the call from the region for targeted measures sometimes referred to as 'smart sanctions', including:
 - Ban on international travel for specific members of the royal family and government officials.
 - Refusal of study permits and other visa requirements for specific members of the royal family and government officials.
 - Ban on international investments and freezing of all assets (financial and physical) of, individual members of the royal family and government and of companies and organisations they own and control.
 - Cease arms sales and military including technical support to the undemocratic Swazi regime.

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ACTSA campaigns for justice, rights and development in solidarity with people in southern Africa.

