

JOINT UNIVERSAL PERIODIC REVIEW SUBMISSION SWAZILAND

The Council of Swaziland Churches leading a coalition of members of civil society.

1. Methodology

This report has been prepared by a coalition of civil society organizations in Swaziland comprised of the following: The Swaziland Coalition of Concerned Civic Society Organisations (SCCCO), Council of Swaziland Churches (CSC), Citizen Empowerment Centre (CEC).

2. Executive summary

In this submission, the coalition tables this report based on Swaziland's domestic constitutional provisions as well as its obligations under various United Nations and regional instruments it has signed, and either ratified or acceded to. These include: International Covenant on Civil and Political Rights, International Covenant on Economic Social and Cultural Rights, Universal Declaration of Human Rights, Convention on the Elimination of All Forms of Discrimination Against Women, Convention Against Torture, and Other Cruel, Inhumane and Degrading Treatment or Punishment, African Charter on Human and Peoples' Rights.

3. Civil and political sector

In 2005, the State of Swaziland adopted a constitution, ending 32 years of rule by royal decree, during which time the Bill of Rights was non-existent. The new Constitution restored fundamental protections whilst asserting its supremacy over any other law or conduct in conflict with it. The Bill of Rights is contained in Chapter III. Through section 14(1) of the same constitution, the State of Swaziland reassured its citizens that these fundamental rights and freedoms are enshrined and guaranteed. Further, through section 58 of the Constitution Swaziland commits herself to certain political objectives, which unfortunately cannot be enforced.ⁱ

3.1 The right to life

The right to life is couched in negative terms as a prohibition of the deprivation of life, rather than a positive right to life (section 15 Swaziland Constitution). The relevant constitutional provision states that a person shall not be deprived of the right to life, rather than providing that 'a person has a right to life'. Subsequent qualification of the right to life encourages State agents such as police and the army to arbitrarily take away the lives of humans with impunity.ⁱⁱ This is made possible by the State's inclination to protect its armed personnel and to keep findings of inquests confidential and away from public reach. Illustrative in this sense is the case of one Mathousand Ngubane, who died in police custody in 2004. The inquiry into his death was completed in 2007, but to this day remains a highly guarded secret by the State. Research on this subject proved that the document is not released or availed to the public and is treated as highly confidential.

In May 2010, political activist Sipho Jele was arrested by State police during workers' day celebrations in Manzini for wearing a t-shirt with a logo of a banned political group, the Peoples' United Democratic Movement (PUDEMO). Jele was charged for having contravened the Suppression of Terrorism Act of 2008 which proscribes some entities as terrorist groups, including PUDEMO. He was later found dead in custody amidst controversy surrounding his death. A commission of enquiry was set up by the government,

however, coroner, herself a former police officer, concluded that Jele killed himself. There had been various concerns about the coroner's appointment, which include perceptions of bias given that she is a former police officer who was now serving as a magistrate. Other concerns included the fact that she was sourced from the Shiselweni region, outside the jurisdiction of the region where the death occurred. The expectation from the public had been that at least a Principal Magistrate from either the Manzini region (where Jele was arrested) or the Hhohho region (where he died) would have been appointed. Swaziland has also not abolished the death penalty. There are currently prisoners serving time in jail awaiting hanging, and their sentences cannot be carried out because Swaziland does not have a hangman. Their sentences are not commuted to life sentences.

3.2 Freedom of Association and Assembly

Freedom of association is protected by the Constitution through section 26. However, there is a contradiction with later provisions. This right, properly interpreted allows for the formation, alignment with and participation of political parties in the Swaziland political system. Whilst section 84(1) provides for the representation of the people in political activities, section 79 waters it down by requiring individual merit as a criterion for public office/election. Political groupings remain banned since the abrogation of the independence constitution in 1973, and those who have attempted to unban themselves were proscribed as terrorist entities through the anti-terror law of 2008. This hinders accountability and there is no collective political mandate/agenda. Moreover, there is no power to recall members of parliament if the public is not satisfied with their performance. A Bill apparently aimed at facilitating the registration of political parties and social formations has been in the pipeline since it was announced by the Attorney-General in 2010. There have been attempts to litigate on the issue of the banning of political parties without success. For example, an entity calling itself the African United Democratic Party (AUDP) has had its case pending in court for over four years now. The most cited excuse given by the state for refusing to register political parties is that there is no instrument to facilitate such registration, as the Companies Act was not designed for such. However, civil society organizations such as non-governmental organizations have been able to use the Companies Act to register.

3.2.1 Political Parties

Political parties were banned in 1973 by the King's Proclamation to the Nation of 12 April 1973. Since then political parties have remained banned thus denying people an opportunity to decide their government. The coming into force of the 2005 Constitution has yielded no results or has not changed or improved the situation. Political parties still remain banned. The Constitution only provides for the right to freedom of assembly and association in terms of section 25. In February 2011, the Attorney General (AG) issued a statement to that effect that political parties are allowed or can exist, save that they cannot form a government. This defeats the whole purpose of having political parties, which is to facilitate participation in the formation of government. His statement was more of propaganda as it does not have any legal basis. However, the aversion of the State towards political plurality came to the fore when the Royal Board of Trustees dismissed the King's private secretary Samuel Mkhombe and a member of the King's Advisory Council Mathendele Dlamini for allegedly attempting to revive the royalist political party, the Imbokodvo National Movement in January 2011. This shows the negative attitude of the country's authorities towards political parties. The prohibition of political parties is a denial of the people's right to freedom of assembly

and association as some political entities have been proscribed as terrorist groups. Therefore, they cannot meet to deliberate on political issues. On another note, people's groupings are denied freedom of assembly as to hold public meetings; permission from the state police authorities has to be obtained first. This means the permission sought may either be granted or denied.

3.3 Freedom of conscience or religion

Section 23 of the Constitution provides for the right to freedom of conscience or religion. People are denied their right to freedom of conscience. Once a person voices out his concerns on a particular matter, threats of eviction from the area's chief are directed towards that person. So when one raises his/her concerns, he/she is said to be acting in an unSwazi or unGodly way which leads to people fearing to come out with their dissatisfaction on the way they are governed. An illustrative case of problems with freedom of conscience or religion is the state's tendency to view every Swazi citizen as belonging to the ethnic Swazi tribe. Eventually, when cultural activities and rituals are carried on, people who do not wish to participate in those activities are fined by traditional chiefs. This fails to take into account the ethnic diversities within the Swazi nation, and the different religious beliefs that citizens harbour.

In November 2010, a woman was brutally violated by a group of males identifying themselves as members of the '*water party*', a group of males who are commissioned by royalty to traverse the country ahead of the annual *Incwala* ritual.ⁱⁱⁱ The woman who was wearing a pair of slacks was told by this group of men to pay a monetary fine for wearing pants. She refused and called her mother to intervene. The men became violent, threatening both women and stating that they were also members of the State police force and the army, albeit out of uniform. When the aggrieved women called the national police hotline 999, the police told them their hands are tied, and that they do not intervene in matters involving the '*water party*'. The November incident is not an isolated one. Women have been fined, assaulted and harassed by members of this customary party for various reasons, ranging from painting fingernails, not covering their heads, as well wearing slacks. This is regardless of the victim's ethnicity, belief system or conscientious dispossession.

3.4 Protection from deprivation of property

Swaziland is party to many international instruments such as the Universal Declaration of Human Rights (UDHR), Convention on the Rights of the Child (CRC), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic Social and Cultural Rights (ICESCR). These instruments contain provisions relating to the right to property. Moreover, the Constitution in section 19 provides for this right. However, the land tenure system leaves citizens open to arbitrary deprivation. Constitutionally, the land is held in trust by *iNgwenyama* (the King in his customary role) on behalf of the Swazi nation (section 211 of the Constitution). However, over time, this trust relationship has ceased to exist as land use in Swaziland today is not designed to benefit the Swazi citizens on whose behalf the king holds such land.

The people on the ground do not own the land as they are arbitrarily evicted without compensation and outside any judicial process. Evictions remain the highest form of deprivation of property. Evictions are also used as punishment against vocal citizens. This hinders development in terms of access to productive resources, as the Swazi nation does not benefit from this trust relationship. This is further compounded by the fact that the Swaziland Constitution in section 211 provides that Swazi Nation Land (tribal land) may

only be used for domestic purposes, which makes the operation of businesses on such land unconstitutional.

3.5 Protection from arbitrary search or entry and freedom of movement

Arbitrary searches are conducted by the state's armed forces in the name of curbing terrorism. People are dispossessed of their belongings during these searches. These unlawful searches target vocal citizens and human rights defenders.^{iv} Arbitrary searches are not necessarily restricted to persons suspected of being terrorists or suspected of links with terrorist groups. Due to the state's aversion to political plurality, arbitrary searches and entry continue to be targeted at persons who hold divergent political views. Those deemed to be critical of the state or the head of state are subjected to arbitrary searches.

Section 26 provides that a person shall not be arbitrarily deprived of freedom of movement, that is to say the right to move freely throughout Swaziland, the right to reside in any part of Swaziland, the right to enter Swaziland, the right to leave Swaziland and immunity from expulsion from Swaziland. However, this is not the case on the ground as people are short dead once found in wildlife conservation areas, some of which are not fenced. Further, the State views certain individuals as dissidents and therefore bars them from moving freely in certain areas.^v The Constitution allows for the deprivation of the right to freedom of movement when it is done under Swazi Law and Custom. This opens floodgates to violations, and promotes the arbitrary displacement of people with impunity. Section 26(6) provides:

Nothing contained in or done under the authority of any provision of Swazi law and custom shall be held to be inconsistent with or in contravention of this section to the extent that that provision authorizes the imposition of restrictions upon the freedom of any person to reside in any part of Swaziland.

3.7 Protection of freedom of expression

Section 24 of the Constitution provides for this right, however, there is intimidation, frustration and detaining of vocal persons by the state using the anti-terrorism law to silence them. This Act is also used to silence dissenting entities and proscribe them as terrorist groups. Criticism of the State, its organs or key politicians and leaders is frowned upon and met by threats from the State. Citizens who openly criticize the State have their privacy violated either through raids or interception of their communications. The independence of the media is also negatively impacted upon by State policy, laws and conduct. Journalists are threatened for reporting on matters perceived to place the State in bad light. In a recent national dialogue, a senior prince, Prince Mahlaba uttered statements to the effect that journalists who report negatively about the country and royalty would die. Such utterances served to cement years of entrenched suppression on media freedom. Effectively, the governmental clampdown on the media has led to self-censorship within the country's media houses.

The State further invokes customary law to deny citizens the right to freely express themselves.^{vi} The head of state is customarily referred to as '*mlomo longacali manga*', which loosely translated means 'the mouth that does not lie', or the infallible one. Consequently, any form of criticism of the head of state's actions, even within the executive sphere where he is head is visited with contempt. This basically means what the king, both in his executive capacity and in his customary capacity as *iNgwenyama* cannot be subjected to public scrutiny or debate. Neither can his actions, utterances, deeds and omissions be called to question.

3.8 Electoral and Boundaries Commission

The Constitution in section 90 provides for the appointment or establishment of an Electoral and Boundaries Commission (EBC). The EBC was appointed in 2007 a year after coming into force of the Constitution and this was a new era for the election exercise. The commission immediately embarked on preparations for the 2008 elections. After the elections in 2008 the commission facilitated civic or voter education exercise in preparations for the 2013 elections. However, the commission is appointed by the King on the advice of the Judicial Service Commission which is also appointed by the King. Section 90(3)(b) provides that a person shall not be appointed a member of the commission where that person is or has been in the last five years actively engaged in politics. However, the chairperson of the commission is a chief which is a political position as they (chiefs) are the footstools of the *iNgwenyama* (section 233(1) of the Constitution). The Constitution limits the description of a political position so to bypass some leadership positions (more especially traditional offices) even though their functions are purely political. The qualifications of the commissioners are questionable in the sense that they do not qualify on the first requirement of the Constitution, that of possessing qualifications of a judge of a superior court. They were only considered for their moral characters at the expense of the kind of work bestowed upon them. On another note the requirement of relevant experience and demonstrable competency was ignored as they lack the necessary experience in the field. The 2008 elections report was released two years later and as at the date of submission of this report, it was still not available to the general public.

3.9 Accountability of the Royal Family

There are many institutions that draw financially from the national coffers, and some of these are related to the institution of the royal family. The Swazi National Treasury, the police and army, and every other government ministry make some provision the royal household. Currently the public and even parliament has no say on royal spending, neither does it have access to information on funds allocated to the royal family. The King's Office which is responsible for the affairs and welfare of the royal family is not audited, its budget allocation is never revealed despite receiving a subvention from the government. Further, the King's international travel expenses are never made public and the taxpayer is left in the dark in as far as knowing what those trips cost. Royal trips are not only limited to those undertaken by the king, but the Queen Mother also travels frequently, allegedly for medical check-ups. The cost of these international trips, which involve very large delegations, are never made public for the taxpayers. A significant number of police officers have also been moved from the streets to provide security for the royal family.

3.10 Liberty Rights

Section 16 of the Constitution provides for the protection of the right to personal liberty. This right is also provided for in many other international human rights instruments.^{vii} However, it is not respected as people are frequently detained without any charges preferred. As a result, it has become common for workers, student leaders and political activists to be abducted by state police and dumped in remote places as a means of fighting against protest marches.

3.11 Independence of the Judiciary

The independence of the judiciary is one key element of democracy. Thus, the State is commended for having included a provision in the Constitution that specifically deals with it. Section 141(1) of the Constitution provides that the judiciary shall be independent and subject only to this Constitution, whilst section 138 states that justice shall be administered in the name of the crown by the judiciary. The judiciary is also vested with judicial power. However, the independence of the judiciary is clouded by many issues. Firstly, the judiciary is appointed by the king after consultation with the Judicial Service Commission (JSC) which is also appointed by him. The major problem is that the appointment of the JSC itself is not participatory, as the national law society is not consulted even though it is a body with an interest in this matter. The criteria for appointment into the JSC are not clear. Further, constitutionally the king can elect not to act on the advice of the JSC in appointing judges. As a result, the independence of the judiciary cannot be guaranteed, as illustrated in the recent Supreme Court judgments, the cases in which the state was a party were all held in favour of the state. Some judges have been sidelined from hearing particular cases with no clear explanation from the office of the Chief Justice and Registrar of the Supreme Court.

Further, the Supreme Court bench comprises entirely of foreign judges, and no local judge is allowed to sit. Ever since independence, Swaziland has not had a Swazi chief justice. This has allowed the holder of this office can be employed on contract, and therefore without security of tenure. The State has adopted a habit of elevating extremely junior judges to hear civil matters, relegating senior judges to criminal matters. This is targeted at those judges who espouse progressive disposition or human rights based assessment. As a result, no matter civil matter filed by civil soc that challenges the constitution has succeeded.

3.12 Uncertainty of Laws - 1973 Decree

On 12 April 1973, the then king, Sobhuza II unilaterally abrogated the 1968 independence constitution, and replaced it with the King's Proclamation to the Nation, largely known as the 1973 decree. The country operated under this 1973 decree, which was the supreme law for 33 years until the promulgation of the Constitution in 2005. This Constitution came into force in 2006. Section 2 of the Constitution provides that it is the supreme law of Swaziland and if any other law is inconsistent with this Constitution that other law shall to the extent of the inconsistency be void. The 1973 decree fell foul of the constitutionality test and was supposed to automatically fall away upon the coming into force of the Constitution. However, there should have been a legal instrument that abolished the decree as many government policies emanated from it. This means the decree is non-existent only on paper but in practical terms it still exists as there is indirectly heavy reliance on it by the government. For instance, before the decree came into being, political parties existed and were given a platform but were later banned by the decree and they still remain banned as there is no political contestation by political parties.

3.13 Civil Society Groups

Registration of human rights organisations is frustrated by the State, through deliberately delaying the process. This delays the operations of such organizations as they can not immediately embark on their missions. An illustrative case would be that of the Centre for Human Rights and Development which submitted its application for registration in 2007, but was only registered in 2010. It has also become common for human rights and pro-democracy NGOs to be raided by state police. Property is either confiscated or destroyed during these illegal raids, and human rights defenders are harassed, assaulted, tortured and their privacy violated.

3.14 Customary Courts

The existence of customary law creates a forum for litigation of matters related thereto. These matters are mostly adjudicated at community level where the chief through his inner council presides over such matters. There is lack of legal training on the part of these officials, thus creating some elements of judicial unfairness. There is also no legal instrument authorizing chiefs' courts, therefore their powers to deal with cases brought before them are a matter of speculation. The Constitution in section 21(1) provides for the right to a fair and speedy public hearing within a reasonable time by an independent and impartial court or adjudicating authority established by law. It also provides for the legal representation of an accused person, however, this right is denied under customary law, as people are not allowed representation. Thus they tend to lose cases on the technical matters or issues. In the same vein subsection 7, provides that a person who has been tried by a competent court for a criminal offence and either acquitted or convicted shall not again be tried for that offence or for any other criminal offence of which that person could have been convicted at the trial for the offence, save upon the order of the superior court made in the course of appeal or review proceedings relating to the conviction or acquittal. However, in some communities people are tried under customary law despite having appeared in a court of law for the same offence, leading to double jeopardy. It is common for chiefs using customary law powers to find a convict guilty of disgracing the community and fining him a cow or such other monetary fine after release from jail. In some communities, people who have either been convicted of a crime or even acquitted by a court of law are not welcome back to their communities. They are subjected to double jeopardy either through fines by the chiefs' courts or orders of eviction. The non-codification of customary law makes it difficult to understand the grounds upon which decisions of customary courts are reached, as there are no reasons for the decision given. Another short coming of the customary court system is that there are no written judgments. Further, it is not known how chiefs' courts are constituted; therefore it makes it difficult to challenge their composition and jurisdiction.

There is no clear avenues of appealing or seeking a review of a decision of the chiefs' courts. The formalized customary court system, (Swazi Courts) does have an appellate structure on paper only. In reality, the Judicial Commissioner who is the ultimate appellate body before a litigant can approach the High Court, offers very little help to those wishing to appeal. This flies in the face of section 33(1) which in part provides that a person has a right to apply to a court of law in respect of any decision taken against that person with which that person is aggrieved.

4. Appointment of chiefs

Section 233(2) provides that the *iNgwenyama* (the king in his customary capacity) may appoint any person to be chief over any area. Prior to the constitution, this was a hereditary office. The appointment of any person by the king amounts to an imposition of a leader to the people, and leads to chieftaincy disputes and social unrest. A clear example here would be recent attempts to appoint the king's brother, Prince Sobandla as chief of Nsenga area. This is in violation of the right to self-determination as provided for under the African Charter. The disputes result in delayed development thus denying the people their socio-economic rights e.g., rights to education, health, etc. It is worth noting that in Swaziland access to government scholarships and most government or public services are closely tied with one's chief. Applications for national identity cards, passports and birth certificates will require the applicant to furnish

details of his or her chief. Also during these disputes there are displacements of people as some turn out to be very violent, such as those in KaMhawu and Lusitini areas in the Shiselweni region. The powers now bestowed on the King to appoint any person to be chief over any place in Swaziland basically opened floodgates for the abuse of the position of chief and created an opportunity for the King's siblings to be imposed as chiefs for various chiefdoms across the country.^{viii}

5. TORTURE

The country ratified many international human rights instruments in 2004 including the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. The State went further to enshrine in section 18 of the Constitution, the right to be protected from inhuman and degrading treatment. Swaziland is also party to the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights which are also against torture and other cruel, inhuman and degrading treatment or punishment. The country's Constitution in section 29 further provides that a child shall not be subjected to abuse or torture or other cruel, inhuman and degrading treatment or punishment subject to lawful and moderate chastisement for purposes of correction.

However, there have been constant violations of these provisions mainly by State police and community police. In all these transgressions of the law there has been no prosecution by the State of any of its agents accused of torture. The state police usually arrest suspects for allegedly committing offences and while in their custody brutalize and torture them. All this happens in the name of eliciting information that may help the police in their investigations. The torture meted out by the police includes beatings and suffocation. In the course of these beatings some suspects have lost their lives while in the hands of the police.^{ix} The police authorities are protective of their own.^x Further, there seems to be a concerted effort on the part of the State to either torture, degrade or treat cruelly any member of the progressive movements calling for political plurality and democracy. Swaziland also has an informal community watch formation known as community police. Although recognized by the State, they are not regulated or trained. They also torture and brutalize suspects once they arrest them before they hand them to the state police. Some suspects who have been severely beaten by community police end up being paralyzed. There have been very few prosecutions by the state where community police have violated people's rights.

Residents of Swaziland are also tortured by conservation police (game rangers). Whilst these game rangers claim that they shoot people who enter game protection areas for poaching, there are cases where citizens are dragged out of their houses and shot inside their own homes. Illustrative in that regards are a number of people shot in their homes at Hlantambita area. The approach taken by the game rangers amounts to punishment before one is proven guilty by a competent court of law. In some instances, those who are shot at eventually have no charges preferred against them. This is against presumption of innocence doctrine which is also stipulated in section 21(2)(a) of the Constitution. What compounds this problem is that the game rangers are immune from prosecution in terms of the Game Act 1991 for killing any person they suspect of having poached. This is a violation of the right to life and the state is failing on its constitutional duties to protect the citizens. Whenever civil society organizations attempt to visit the affected families, they are intimidated by State police. In a recent visit by two human rights activists, immediately they left each homestead, State police would move in and intimidate the victims.

5.1 Corporal Punishment

Corporal punishment and other forms of inhuman and degrading punishment are institutionalized. Schools still inflict corporal punishment to offending students. The schools are empowered by The Education Rules No. 49 of 1977 to administer corporal punishment on pupils. However, the rules clearly stipulate how such punishment is to be meted to pupils. For instance, the rules provide that corporal punishment shall not be given in public and that it shall not exceed four strokes in the case of boys and girls under sixteen years of age and six strokes in the case of boys and girls sixteen years of age and over. This is not the case as there are instances where pupils are given more strokes than the stipulated number. The Constitution on the other hand does not prohibit corporal punishment, but provides that a child shall not be subjected to abuse or torture or cruel, inhuman and degrading treatment or punishment subject to lawful and moderate chastisement for purposes of correction. However, what is happening on the ground is in contrast with this provision. Children are brutalized by parents, guardians, teachers and relatives.

6. Recommendations

The coalition of civil society organizations therefore recommends that:

- 4.1 The government of Swaziland expressly abrogates the 1973 King's Proclamation to the Nation and enacts a law to facilitate registration of political parties.
- 4.2 The government embarks on civic education on fundamental rights and democracy.
- 4.3 The government amends unconstitutional provisions of the Suppression of Terrorism Act of 2008.
- 4.4 The government makes public all findings of past and future inquests emanating from deaths in police custody.
- 4.5 The government prosecutes all parties involved in extra-judicial killings.
- 4.6 The government desists from granting immunity to the *water party* and further embarks on a law reform exercise to identify customs which offend the Constitution.
- 4.7 The government embarks on human rights training of all police officers and law enforcement agents.
- 4.8 The government amend the Game Act to remove immunity granted to game rangers and to facilitate access and benefit sharing of natural resources within game reserves.
- 4.9 The government to allow civil society access to chiefdoms to carry out civic education.
- 4.10 The government to take its reporting obligations under the various international instruments seriously and to report accordingly.

ⁱ These political objectives, which are not justiciable include active political participation by citizens, democracy, good governance, respect for fundamental rights, accountability and transparency and political tolerance. It is worrying that the state would locate such important political rights within the directive principles rather than within the substantive part of the constitution, such as the Bill of Rights. This would allow citizens to hold the state accountable for the protection, promotion and fulfilment of their rights to political participation, good governance and democratic processes.

ⁱⁱ Times of Swaziland, *Cops shot Ngozo 35cm away*, 11 November 2007. The suspect, Ngozo had earlier claimed that police had vowed to kill him before this shooting incident. To date, there is no record of prosecution of the officers involved. This has created a feeling of impunity within the police force, and as a result, almost every suspect who goes through their hands is tortured. In 2010 the mother of yet another suspect, Brian Shaw who was wanted by the police

reported that the police had come to her home to threaten her son. They had told her to buy a coffin in preparation for her son's funeral. They had vowed to kill her son.

ⁱⁱⁱ The *Incwala* ceremony takes place either in December or January each year, depending on advice from royal astrologers. It is governed by Swazi customary law and attended by persons who identify with the tradition. However, chiefs expect every person to attend this ceremony, their cultural or religious beliefs notwithstanding. Failure to attend this ritual is punished with fines ranging from payment of cows to eviction from that chief's area. In the period preceding this ritual, a group of traditional agents known as the *water party (bemanti)* traverse the entire country on foot, collecting fines from men and women who are alleged to be breaking customary laws. For women, these range from painting their nails, wearing pants, not covering their heads, not carrying babies on the back, wearing revealing clothes, wearing earrings or other forms of jewellery or accessories, talking back when being addressed, not wearing traditional attire, and any other form of behaviour that appears to the *water party* as unSwazi. The right to privacy is violated by the actions of this *water party* as they invade private dwellings without permission. All this happens despite the ethnic origins or the religious or conscientious beliefs of the individual being ordered to pay that particular fine and to undergo this custom.

^{iv} In 2010, the houses of Mario Masuku, (PUDEMO president) and Musa Hlophe (Coordinator of Swaziland Concerned Civil Society Organisations (SCCCO)) were raided on several occasions.

^v An example here would be the case of political activists who are always barred from participating in labour movements' activities like marches. They are usually bungled into police cars and dumped in far away places. In 2010, political activist Mphandlana Shongwe was abducted by state police during labour mass stay aways and dumped at his parental home some more than 160 kilometres away. No charges were preferred against him, yet he was deprived of his right to freedom of movement, association, assembly, expression, and political participation.

^{vi} Some traditional chiefs prevent access by civil society organizations to conduct civic education in communities. This is much more pronounced for organizations that focus on fundamental rights and citizen participation.

^{vii} Liberty is a rights recognized by the Universal Declaration of Human Rights , the International Covenant on Civil and Political Rights, as well as the African Charter on Human and Peoples' Rights, to which Swaziland is a party.

^{viii} Prince Sobandla imposed himself as Chief of Nsenga, claiming that he was appointed by the king.

^{ix} Many citizens have died in the hands of police yet none of the perpetrators have been prosecuted. These include the deaths of Mathousand Ngubeni (2004), Siphon Jele (2010). The violence within the police force has become so institutionalized that police officers are now assaulting each other and using violence on their own. Several cases have been reported where members of the force assaulted some of their own, either when effecting an arrest or simply searching them. There has only been one case the state prosecuted two police officers for whipping a woman and hitting her with a plank for allegedly stealing clothes. At the time of compiling this report, the case was still pending. See Times of Swaziland, *Two cops charged for whipping woman* 21 January 2010, page 3. Another striking example is that of David Simelane, who has been on trial for the past 10 years, on 34 counts of murder. Simelane narrated before court that the state police wanted him dead, and a senior official at the time told him he was to be killed. Simelane was then tortured to elicit a confession.

^x Swazi News, July 17, 2010, page 2.