Eswatini (formerly Swaziland)

In 2018, Swaziland’s absolute monarch, King Mswati III, who has ruled Swaziland since 1986, unilaterally changed the country’s name to Eswatini, but has done little to change the policy of political repression and disregard for human rights and rule of law.

Candidates for the national elections held on September 21 were elected based on “individual merits,” without any affiliation to political parties. The State of Emergency decree, which bans political parties, has been in force since 1973. Despite the adoption of the 2005 constitution which guarantees basic rights, and the country’s international human rights commitments, the government has not reviewed the decree or changed the law to allow the formation, registration, and participation of political parties in elections.

During 2018, amid reports of the king’s lavish lifestyle, Eswatini continued to struggle to fulfill the socio-economic rights of its estimated 1.4 million population. Despite improved access to HIV testing services and the provision of free antiretroviral treatment to those who need it, the country has the highest HIV adult prevalence rate in the world at 27.2 percent. Women and girls continued to be disproportionately affected by the epidemic.

Freedom of Association and Assembly
Restrictions on freedom of association and assembly continued in 2018. Although Eswatini signed the African Charter on Democracy, Elections and Governance in January, the government has not taken steps to ratify and implement the charter.

A few days before the September elections, public sector workers, including teachers and nurses under the umbrella of the Trade Union Congress of Swaziland (TUCOSWA), embarked on protests over salaries across the country. Police responded in a heavy-handed manner, beating and injuring protesters in Manzini. Earlier in June, police injured at least four workers protesting alleged corruption in government. These incidents
occurred despite the new Police Service Act of 2018 that provides that “the police shall respect and protect human dignity and human rights,” and that “police officers are prohibited from inflicting or tolerating any act of torture or cruel, inhuman or degrading treatment.”

**Forced Evictions**

In April, armed police and the Mbabane High Court Deputy Sheriff evicted 61 people in Malterns town, rendering them homeless. Although the eviction was carried out on the orders of the country’s Supreme Court, those evicted were not given adequate notice prior to the demolitions of the homes they had occupied for 57 years. The Eswatini constitution requires evictions to be carried out with sufficient notice, and the payment of adequate compensation, in accordance with the law.

In July, the Eswatini Supreme Court ordered the forceful eviction within 21 days of another 150 long term residents of the Malterns farming settlement. The court did not address issues related to compensation, assistance during and after the eviction, or provision of alternative accommodation.

**Rule of Law**

King Mswati holds supreme executive power over the parliament and judiciary by virtue of a 1973 state of emergency decree. The country’s courts have upheld the legality of the decree. This is contrary to the 2005 constitution, which in accordance with the 2007 African Charter on Democracy, Elections and Governance, provides for three separate organs of government—the executive, legislature, and judiciary. The prime minister theoretically holds executive authority, but in reality, King Mswati exercises supreme executive power and also controls the judiciary.

The 2005 constitution provides for equality before the law, but also elevates the king above the law. In 2018, in an apparent exercise of his absolute executive powers, the king renamed the country without parliamentary approval or the requisite constitutional change.
The Sedition and Subversive Activities Act, which restricts freedom of expression through criminalizing alleged seditious publications and the use of alleged seditious words, such as those which “may excite disaffection” against the king, remained in force in 2018. In February, then-Prime Minister Barnabas Dlamini said that a newspaper, Swaziland Shopping, was shut because it criticized the government. Its editor, Zweli Martin Dlamini fled the country in January after allegedly receiving death threats for implicating King Mswati in a corruption case.

Women’s and Girls’ Rights

The Eswatini government made some progress toward the promotion and protection of women’s and girls’ rights through amendments to the 1964 Marriage Act, and the passing of the Sexual Offences and Domestic Violence Act of 2018, which provides the framework to curb sexual and gender-based violence in the country. The amendments prohibit child marriages of persons under the age of 18.

Women are under-represented in leadership and decision-making positions in both public and private sectors. To fulfill the constitutional requirement for quotas for the representation of women and and marginalized groups in parliament, the government passed the Election of Women Act in 2018. Eswatini also committed to a number of regional and international instruments to promote gender equality, including the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), which Eswatini ratified without reservation, and the Southern African Development Community (SADC) declaration on Gender and Development.

Article 20 of the Eswatini Constitution provides for equality before the law and non-discrimination, but does not prevent discrimination on the grounds of sex, language, sexual orientation, and gender identity. Eswatini’s dual legal system, where both Roman Dutch common law and Eswatini customary law operate side by side, has resulted in conflicts leading to numerous violations of women’s rights over the years.

Sexual Orientation and Gender Identity

A colonial-era law criminalizes “sodomy,” with an unspecified sentence. Despite this law, lesbian, gay, bisexual, and transgender (LGBT) activists successfully held the first ever
“Eswatini Pride” in June 2018, with hundreds marching in the streets of Mbabane in support of LGBT equality.

**Key International Actors**

Representatives of the Southern African Development Community (SADC) and the African Union (AU) observed Eswatini’s national elections on September 21. After the elections, despite political parties being banned, SADC issued a statement saying it observed that the 2018 general elections were conducted successfully in a peaceful environment, in line with the constitution of the Kingdom of Eswatini, and the guiding legal framework.

The AU Observer Mission report on the Eswatini elections found that electoral process was conducted in a generally calm and peaceful environment, but raised concerns about the wage-related workers’ strike that took place prior to election day and the resultant police intervention. The AU further noted that, although the 2005 constitution guarantees fundamental rights and freedoms, such as freedom of association, assembly, and expression, practical restrictions on civil and political rights remain. These relate to, among others, the formation and participation of political parties in the electoral process.

In his address to the United Nations General Assembly in New York on September 26, King Mswati noted the need to ensure that every citizen has access to basic goods, such as clean water, health, and free primary education. He listed the enactment of the sexual offences and domestic violence act, and the holding of “a very peaceful national election, which was free and fair,” as some of the country’s key successes.