



## **AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS**

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INTERNATIONAL COMMISSION OF JURISTS' SUBMISSION TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS IN ADVANCE OF THE EXAMINATION OF THE KINGDOM OF ESWATINI'S COMBINED 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> report (2001- 2020)

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ICJ Submission to the African Commission on Human and People's Rights in Advance of the Examination of the Kingdom of Eswatini's Report

## INTERNATIONAL COMMISSION OF JURISTS

### INTERNATIONAL COMMISSION OF JURISTS' SUBMISSION TO AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS IN ADVANCE OF THE EXAMINATION OF THE KINGDOM OF ESWATINI'S COMBINED 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> report (2001- 2020)

#### A. Introduction

1. During its 69th session, from 15 November 2021 – 6 December 2021, the African Commission on Human and People's Rights ("ACHPR") will examine the combined periodic reports of Kingdom of Eswatini's ("Eswatini") concerning the implementation of the State's obligations under the African Charter on Human and People's Rights ("the Charter") and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ("Maputo Protocol") including in light of the State party's combined report.
2. The International Commission of Jurists ("ICJ") welcomes the opportunity to submit the following comments to this Commission. The ICJ's submissions do not constitute a comprehensive alternative report covering Eswatini's compliance with the full scope of its obligations in respect of all Charter provisions. Rather, in this submission, the ICJ draws this Committee's attention to certain rights and concerns, in particular:
  - **Articles 9,10 and 11:** The rights to freedom of expression, association and assembly, including in particular in relation to internet access;
  - **Articles 5, 6, 7:** Access to justice and fair trial rights; and
  - **Articles 2,5 and 16:** The rights of women to be protected from sexual and gender-based violence, including domestic violence and the rights to access to sexual and reproductive health.
3. These submissions are drawn from and complement the work of the ICJ in Eswatini over more than a decade, reflected in a number of ICJ publications<sup>1</sup> and statements.<sup>2</sup> They are also informed by consultations with local human rights

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<sup>1</sup> ICJ "Swazi Women's right to health during the time of COVID-19" (2021): <https://www.icj.org/wp-content/uploads/2021/03/Eswatini-SRHR-publication-1.pdf>; ICJ and SWAGAA "Reporting on Gender-Based Violence: A Guide for Journalists and Editors in Eswatini" (2020): <https://www.icj.org/wp-content/uploads/2020/10/Reporting-GBV-Guide-ICJSWAGAA.pdf>; ICJ "Access to Justice Challenges Faced by Victims and Survivors of Sexual and Gender-Based Violence in Eswatini" (2020): <https://www.icj.org/wp-content/uploads/2020/09/Eswatini-SGBV-Report-Advocacy-Analysis-brief-2020-ENG.pdf>; ICJ "Achieving Justice for Gross Human Rights Violations in Swaziland Key Challenges" (2018): <https://www.icj.org/wp-content/uploads/2018/05/Swaziland-GRABaselineStudy-Publications-Reports-Thematic-reports-2018-ENG.pdf>; ICJ "Justice Locked Out: Swaziland's Rule of Law Crisis" (2016): <https://www.icj.org/wp-content/uploads/2016/02/Swaziland-Justice-locked-out-RoL-crisis-Publications-Fact-Finding-Mission-Report-2016-ENG.pdf>; ICJ "The Failure of Justice Unfair Trial, Arbitrary Detention and Judicial Impropriety in Swaziland" (2015): <https://www.icj.org/wp-content/uploads/2015/08/Swaziland-Maseko-Trial-Observation-Publications-Trial-observation-report-2015-ENG.pdf>; ICJ "Submission to the Universal Periodic Review (UPR) of Swaziland" (2015): <https://www.icj.org/icjs-submission-to-the-universal-periodic-review-upr-of-swaziland/>; ICJ "Attacks on Justice – Swaziland" (2008): <https://www.icj.org/attacks-on-justice-2005-swaziland/>.

<sup>2</sup> ICJ "ICJ urges multinational mobile telecommunications company MTN to immediately restore internet access in eSwatini" (8 July 2021): <https://www.icj.org/eswatini-icj-urges-multinational-mobile-telecommunications-company-mtn-to-immediately-restore-internet-access-in-eswatini/>;

defenders, civil society organizations and lawyers under during recent mission the ICJ undertook into Eswatini during November 2021.

## B. Brief overview of the context of the human rights situation in Eswatini

4. The ICJ has been following with grave concern the unfolding human rights situation in Eswatini, following the allegedly unlawful and arbitrary killing by police of student Thabani Nkomonye in May 2021. This incident ignited public protests which have been ongoing since May to the time of writing with protestors calling for, among other things: the unbanning of political parties; a meaningful, safe and transparent process of national dialogue leading to democratic change; and the release of all political prisoners, including two members of Parliament Mduduzi Bacede Mabuza and Mthandeni Dube.
5. **Violation of Article 4: Right to Life and Article 11: Freedom of Assembly**  
These protests show no sign of abating. ICJ notes with concern reports that more than 80 people have been killed by security forces since May, with allegations that many if not all of these killings are arbitrary and unlawful.<sup>3</sup> These deaths have been primarily caused by security officials during the course of protests or due to suspicion of being involved in protests.
6. The ongoing civil unrest in Eswatini has been the subject of at least two statements of this Commission in July 2021<sup>4</sup> and October 2021 respectively.<sup>5</sup> It is noteworthy too that these events have transpired while Eswatini has continued to face significant social, political and economic challenges arising from the COVID-19 pandemic and Eswatini authorities' responses to the COVID-19 pandemic.

## C. Suppression of the Right to Freedom of Expression within the context of digital Rights

7. Eswatini has an obligation, under **article 9** of the Charter to ensure that "every individual shall have the right to receive information" and that "every individual shall have the right to express and disseminate his opinions within the law.". These rights apply every much online, in the digital context, as offline. The ACHPR's *Declaration on Principles of Freedom of Expression and Access to Information in Africa*<sup>6</sup> makes clear that: "the exercise of the rights to freedom of expression and access to information using the internet are central to the enjoyment of other rights

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ICJ "Lawyers under attack as proposed law would undermine their independence, <https://www.icj.org/eswatini-lawyers-under-attack-as-proposed-law-would-undermine-their-independence/>" (8 October 2020); ICJ "Avoid use of live ammunition and internet shutdowns in response to pro-democracy protests" (30 June 2021): <https://www.icj.org/eswatini-avoid-use-of-live-ammunition-and-internet-shutdowns-in-response-to-pro-democracy-protests/>; ICJ "Police must respect people's right to stage protests in demand of representative government" (16 July 2021): <https://www.icj.org/eswatini-police-must-respect-peoples-right-to-stage-protests-in-demand-of-representative-government/>; ICJ "Children must be protected as authorities crackdown on protests" (19 October 2021): <https://www.icj.org/eswatini-children-must-be-protected-as-authorities-crackdown-on-protests/>.

<sup>3</sup> <https://www.sabcnews.com/sabcnews/situation-tense-in-eswatini-as-pro-democracy-groups-intensify-protest/>

<sup>4</sup> ACHPR "Press statement on human rights situation in the Kingdom of eSwatini" (17 July 2021): <https://www.achpr.org/pressrelease/detail?id=591>.

<sup>5</sup> ACHPR "Press Statement on human rights situation in the Kingdom of eSwatini" (25 October 2021): <https://www.achpr.org/pressrelease/detail?id=608>.

<sup>6</sup> ACHPR "Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019" (2019): <https://www.achpr.org/legalinstruments/detail?id=69>.

and essential to bridging the digital divide". Eswatini has failed to comply with its obligations in a number of respects.

8. As part of the attempt to control the spiralling protests, Eswatini authorities have on at least two occasions ordered both general and partial internet and telecommunications shutdowns. These directives were issued by State authorities including by the King's daughter, Princess Sikhanyiso Dlamini, who is the Minister of Information and Communications Technology. The first such order occurred in July 2021<sup>7</sup> when blanket internet access was restricted for a two-week period. The second such order resulted in a partial two-hour restriction of social media platforms on 15 October 2021.<sup>8</sup> These internet restrictions were imposed arbitrarily and constituted an illegitimate exercise of political authority.
9. Eswatini partly implements its **article 9** obligations through the incorporation of the right to freedom of expression and to seek, receive and impart information its Constitution.<sup>9</sup> While freedom of expression and information is not absolute, any restrictions must comply with the principles of legality, non-discrimination, legitimate purpose, proportionality and necessity. But as the United Nations Human Rights Council,<sup>10</sup> has observed, it is inherent to internet shutdowns that they unnecessarily and disproportionately restrict the rights to privacy, access to information and freedom of expression. Such measures are often undertaken for political or other improper reasons, rather than for a legitimate purpose under human rights law. A recent OHCHR report<sup>11</sup>, provides an analysis of related human rights protection gaps, ways to bridge those gaps and barriers to advancing effective, human-rights based regulation of artificial intelligence which would be useful to the Commission in the Eswatini context.
10. Though internet shutdowns always present a threat the equal and full enjoyment of human rights and the rule of law this threat is deepened in the context of a public health emergency such as the one brought on by COVID-19, given the increased importance of ensuring widespread access to public health information and other information necessary to guard against COVID-19 transmission, sickness and death.<sup>12</sup> In the specific context of COVID-19, the UN Special Rapporteur on the Right to Freedom of Expression highlighted this need from the outset of the pandemic.<sup>13</sup>
11. **Article 11** provides that "Every individual shall have the right to assemble freely with others". The largely, peaceful pro-democracy protests have been ongoing in Eswatini since June 2021 and show no signs of abating given the widespread dissatisfaction with the current political dispensation. Participants have exercised their protected rights to freedom of expression and assembly, protected under

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<sup>7</sup> ICJ "ICJ urges multinational mobile telecommunications company MTN to immediately restore internet access in eSwatini" (8 July 2021): <https://www.icj.org/wp-content/uploads/2021/07/ICJ-Letter-to-MTN-8.07.21.pdf>.

<sup>8</sup> Access Now "#KeepItOn: Eswatini authorities shut down internet to quell protests, ask people to email grievances" (21 October 2021): <https://www.accessnow.org/keepiton-eswatini-protests/>.

<sup>9</sup> Constitution, section 24.

<sup>10</sup> See UN Human Rights Council "The promotion, protection and enjoyment of human rights on the Internet" A/HRC/38/L.10/Rev.1 available at <https://undocs.org/A/HRC/38/L.10/Rev.1>.

<sup>11</sup> <https://www.ohchr.org/EN/Issues/DigitalAge/Pages/cfi-digital-age.aspx>

<sup>12</sup> ICJ "Living Like People Who Die Slowly: The Need for Right to Health Compliant COVID-19 Responses" (September 2020): <https://www.icj.org/wp-content/uploads/2020/09/Universal-Global-Health-COVID-19-Publications-Reports-Thematic-Reports-2020-ENG.pdf>, pp 104-117.

<sup>13</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Disease pandemics and the freedom of opinion and expression, UN Doc. No. A/HRC/44/49 (23 April 2020) ("UNSR FoE report, April 2020"), para 18.

**article 11.** They have been met with efforts from State authorities to suppress protests. These include government directives to Internet Service Providers (“ISPs”) to disrupt internet access. The directives given to shutdown internet access amount to *prima facie* violations of **articles 9** and **11** by Eswatini.

12. In addition, two telecommunications mobile operators are licenced in Eswatini,<sup>14</sup> namely: MTN Eswatini and Eswatini Mobile. Business enterprises, including telecommunications companies, have a responsibility to respect human rights and must exercise due diligence to ensure that their actions are human rights compliance in accordance with the UN Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council. As licensees these companies should not simply comply with a directive if to do so would interfere with human rights<sup>15</sup>. Such action is in conflict with their responsibility to respect the human rights of end-users, including those wishing to action their rights to assembly and protest.<sup>16</sup>
13. Individuals whose rights have been impaired as a result of licensees acting in contravention of their human rights responsibilities have a right to an effective remedy to redress those harms.<sup>17</sup> This right is of continued application on all circumstances, including, as examples, public health emergencies<sup>18</sup> and situations of conflict and/or transition.<sup>19</sup>
14. In Eswatini, however, effective remedies are not fully accessible without an opportunity being provided for ISPs or those impacted by internet shutdowns to access courts to review, appeal or otherwise challenge decisions to shutdown internet access. This process has not been tested as no ISP has yet refused to comply with a written directive to shutdown the internet. Nor to our knowledge has any ISP publicly or privately questioned or opposed Eswatini’s issuing of such directives, despite the fact that the ICJ has repeatedly brought the unlawfulness of shutdowns to their attention.
15. The internet shutdown in Eswatini has impaired the exercise of freedom of expression, including by preventing information-sharing, and undermined the enjoyment of the right to health, protected of persons from affected communities, which is protected under Article 16 of the Charter, by impeding humanitarian and health access during the COVID-19 pandemic and the ongoing protests. This drastic

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<sup>14</sup> According to the Eswatini Communications Commission <https://www.esccom.org.sz/mandate/telecommunications/licenced/>.

<sup>15</sup> <https://qz.com/africa/2029884/eswatini-turns-off-internet-to-silence-pro-democracy-protestors/>

<sup>16</sup> [https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf).

<sup>17</sup> OHCHR “Guiding Principles on Business and Human Rights” HR/PUB/11/04:

[https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf); Basic

Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005:

<https://www.ohchr.org/en/professionalinterest/pages/remedyandreparation.aspx>; ICJ “The Right

to a Remedy and Reparation for Gross Human Rights Violations” 2018): <https://www.icj.org/wp-content/uploads/2018/11/Universal-Right-to-a-Remedy-Publications-Reports-Practitioners-Guides-2018-ENG.pdf>; ICJ “Effective Operational-level Grievance Mechanisms” (2019):

<https://www.icj.org/wp-content/uploads/2019/11/Universal-Grievance-Mechanisms-Publications-Reports-Thematic-reports-2019-ENG.pdf>.

<sup>18</sup> ICJ “Living Like People Who Die Slowly: The Need for Right to Health Compliant COVID-19 Responses” (September 2020): <https://www.icj.org/wp-content/uploads/2020/09/Universal-Global-Health-COVID-19-Publications-Reports-Thematic-Reports-2020-ENG.pdf>, p 24.

<sup>19</sup> ICJ “Corporate Accountability for Abuses of Economic, Social & Cultural Rights in Conflict and Transition” (2020): <https://www.icj.org/corporate-accountability-for-abuses-of-economic-social-cultural-rights-in-conflict-and-transition-icj-new-guide/>.

measures imposed by MTN Eswatini and Eswatini Mobile was disproportionate and unnecessary to any legitimate purpose. The reported purpose of the internet restrictions was to suppress ongoing pro-democracy protests and to prevent protestors from communicating with the outside world<sup>20</sup>.

16. On 20 October 2021, the Eswatini Communications Commission<sup>21</sup> ("Communications Commission") issued a directive entitled "Barring of Access to Social Media Platforms (Facebook) by all Network Operations in Eswatini". Sections 7(j), (o) and (r) of the Swaziland Communications Commission Act (SCCA)<sup>22</sup> provide as follows relating to the primary functions of the Commission:

"...

*(j) generally regulate, monitor and keep under review all practices, operations and activities within the remit of the Commission;*

...

*(o) establish minimum quality and security standards for any of the communications services, products, operations and activities relating to any matter regulated by the Commission and regulate such measures as may be necessary to ensure public and private safety;*

....

*(r) regulate interconnection and access systems between licensees and users of the electronic communications services."*

17. Other primary functions of the Communications Commission require that the Commission complies with national and international communications standards and ensures the operation of communications networks and services during times of public emergencies. While the declaration of a public emergency is made by the King, the definition of public emergency in the SCCA says it "shall include State security". Section 7(y) thus provides that even in times of emergencies, including state security related emergencies, the Communications Commission must ensure the operation of communication networks and services. As an organ of State, the conduct of the Commission engages the responsibilities, of the State, including in particular under the African Charter.

18. A blanket internet shutdown is clearly unlawful.<sup>23</sup> Where limited, specific, and time-bound internet restrictions like the one from October 2021 are implemented they must be proportionate and necessary to achieve a legitimate aim.<sup>24</sup> The suppression of peaceful protest against government policies or practices is not a legitimate aim. Many observers have expressed concern that Eswatini's government has unjustifiably restricted free expression and the free flow of information through internet shutdowns and the right to peaceful protest through the excessive use of force and arbitrary arrests in a heavy-handed attempt to suppress the pro-democracy protests<sup>25</sup>.

19. The ICJ therefore submits that Eswatini is in violation of **article 9**, of the African Charter on Human and People's Rights. In order to ensure compliance with its human rights obligations relating to access to the internet, the ICJ therefore

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<sup>20</sup> <https://www.iol.co.za/news/africa/internet-restored-in-eswatini-says-mtn-b850ec5b-8f66-58d7-9466-00afdf5c796a>

<sup>21</sup> For more information see : <https://www.esccom.org.sz/mandate/telecommunications/>.

<sup>22</sup> Electronic Communications Act, 2013.

<sup>23</sup> Blanket internet shutdowns violates rights under articles 19, 21 and 22 ICCPR. See OHCHR "Internet Shutdowns and Human Rights": <https://www.ohchr.org/Documents/Press/Internet-shutdowns-and-human-rights.pdf>.

<sup>24</sup> Id.

<sup>25</sup> Restoration of Internet and Social Media Services in Eswatini available at: <https://misa.org/blog/restoration-of-internetand-social-media-services-in-eswatini/>

requests the ACHPR to recommend that there Eswatini authorities take measures, including:

- a. Immediately halt internet shutdowns and publicly commit to refrain from the use of internet shutdowns during protests.
- b. Ensure that internet service providers refrain from executing unlawful instructions to shut down the internet in violation of their responsibility to respect human rights in international law.
- c. Call for the urgent review of all legal provisions and regulations by which Eswatini purports to effect and order unlawful shutdowns and restrictions on internet access.

**D. Access to Justice and freedom from arbitrary detention and the right to a Fair Trial Rights following the arrest and criminal charges against Members of Parliament**

20. We are concerned that **Article 7** on the Right to Fair Trial has been breached in respect of the situation of the arrested members of parliament. As we have noted above, during the course of the protests, two against Members of Parliament (MPs), Mduzuzi Bacede Mabuza and Mthandeni Dube, have been arrested and criminally charged. ICJ is informed by their legal representatives that they have been denied bail twice without legitimate reasoning. They filed an appeal to the denial of bail and this appeal has not been enrolled for a hearing by the judiciary despite the appeal having been filed on an urgent basis. They are charged under the Suppression of Terrorism Act<sup>26</sup> alternatively, the Sedition and Subversive Activities Act<sup>27</sup>, two counts of murder and contravention of the Covid-19 Regulations. They have been detained since their arrest on 25 July 2021. As at the 15 November their bail appeal to the Supreme Court was not enrolled for hearing in violation of fair trial rights in **Article 7**. The high court judge who denied them bail, is the same judge presiding over their trial, so they are not provided with an impartial tribunal. The presence of heavily armed military in the court room and surrounding areas created an intimidating environment further undermining the right to an impartial tribunal. Further, the addition of the murder charge days before the initial commencement of the trial on 20 October, and the failure of the prosecution to avail the defence team with witness statements ahead of the trial, undermined Mr. Mabuza and Mr. Dube's ability to adequately prepare a defence ahead of the trial, resulting in the initial postponement of the case. The African Commission has considered the failure to inform individuals of the reasons for their arrest to be among the reasons for finding the detention to be arbitrary, violating **Article 6** of the African Charter, guaranteeing the right to liberty and prohibition of unlawful and arbitrary detention<sup>28</sup>. Everyone who is arrested or detained has the right to be promptly informed of any charges against him or her. This right is set out in article 9(2) of the ICCPR and a number of other standards, including Section M(2)(a) of the Principles on the Right to Fair Trial in Africa<sup>29</sup>. Finally, the appearance of Mr. Mabuza and Mr. Dube in leg irons was a violation of their right to dignity as well as the presumption of innocence in violation of **Article 5**. ICJ is concerned about the

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<sup>26</sup> Suppression of Terrorism Act, as amended in 2017: <https://www.ilo.org/dyn/natlex/docs/SERIAL/107527/132401/F1505411586/SWZ107527.pdf>.

<sup>27</sup> The Sedition and Subversive Activities Act 46 of 1938 (the act is not available online)

<sup>28</sup> Monim Elgak, Osman Hummeida and Amir Suliman (represented by FIDH and OMCT) v Sudan, (379/09), ACHPR (2014) paras 106-107.

<sup>29</sup> <https://www.icj.org/wp-content/uploads/2016/10/Africa-Pretrial-rights-Publications-Reports-Thematic-reports-2016-ENG.pdf>

denial of their fair trial rights and access to justice. The criminal trial is due to commence on 16 November 2021.

21. The ICJ requests the ACHPR to recommend that there Eswatini authorities take measures to ensure compliance with its human rights obligations in respect of fair trial rights<sup>30</sup>:
- a. Put an end to arbitrary arrests and the clampdown of peaceful protests and ensure enjoyment of the right to freedom of expression, assembly and association.
  - b. Ensure all charges against human rights defenders, including arrested MPs Mduzi Mabuza and Mthandeni Dube.
  - c. Respect the right to fair trial in all cases but particularly in the case of Mduzi Mabuza and Mthandeni Dube.

**E. Sexual and Gender-Based Violence (Article 5, African Charter, Articles 3-4 of Maputo Protocol)**

22. Article 5 of the African Charter provides that “every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status” and that “all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.”<sup>31</sup>

23. In this regard, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has clarified that “domestic violence cannot be regarded as a private matter, but constitutes a major human rights issue of inherently public concern that requires examination, inter alia, from the perspective of the prohibition of torture and ill treatment.”<sup>32</sup> In the same vein the Special Rapporteur has highlighted that in international human rights law it is well recognised that “torture or ill-treatment at the hands of private perpetrators can trigger a wide range of positive state obligations, including in the context of domestic violence”.<sup>33</sup> Accordingly states are “internationally responsible for torture or ill-treatment when they fail to exercise due diligence to protect against such violence or when they legitimize domestic violence”.<sup>34</sup>

24. The Maputo Protocol places a range of obligations on States with respect to violence against women and domestic violence. In particular, it provides that:

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<sup>30</sup> <https://www.icj.org/wp-content/uploads/2016/10/Africa-Pretrial-rights-Publications-Reports-Thematic-reports-2016-ENG.pdf>

<sup>31</sup> African Charter, Article 5.

<sup>32</sup> “Under international law, and regardless of questions of State responsibility and of individual criminal culpability, both of which need to be separately assessed, domestic violence therefore always amounts to cruel, inhuman or degrading treatment or punishment and very often to physical or psychological torture.” Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Relevance of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment to the context of domestic violence, 12 July 2019, A/74/148, para 4 and 10; See also ICJ, Women’s Access to Justice for Gender-Based Violence, A Practitioner’s Guide, February 2016, available at: <https://www.icj.org/wp-content/uploads/2016/03/Universal-Womens-access-to-justice-Publications-Practitioners-Guide-Series-2016-ENG.pdf>.

<sup>33</sup> Id, para 6.

<sup>34</sup> Id, para 12.

“every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited. States parties shall take appropriate and effective measures to... enact and enforce laws to prohibit all forms of violence against women, including unwanted or forced sex whether the violence takes place in private or public.”<sup>35</sup>

25. The Eswatini authorities have consistently breached their obligations in respect of the African Charter and the Maputo Protocol and have failed to effectively implement the SODV Act<sup>36</sup> or otherwise ensure the realization of Eswatini’s obligations to prevent and effectively respond to gender-based violence in terms of international human rights law and standards.

26. In its report, the Government of Eswatini acknowledges that sexual violence, physical and emotional violence remain high in Eswatini. The government further states that it has prepared a strategy for the implementation of the SODV Act 2018 in relation to GBV survivor support. However, even though the law in Eswatini protects women’s rights to dignity, in practice, these rights are systematically violated in in Eswatini do not fully enjoy this right. The ICJ’s research and consultations with local civil society reveals that survivors experience insurmountable difficulties in accessing justice for gender based violence in at least the following respects:<sup>37</sup>

- **Shortages of Staff:** The ICJ is reliably informed that there are significant shortages of staff, including trained police officers and prosecutors to handle GBV cases.<sup>38</sup> This has been exacerbated by the COVID-19 pandemic, as the number of cases of GBV have increased, but the staff dedicated to providing GBV services has not been increased, and there is a huge backlog of cases.
- **Lack of resources, training:** The ICJ has been informed of the prevalence of the practice of police sending survivors of GBV back home without providing them with assistance in many cases due to lack of training and in some cases due to lack of capacity and lack of resources including transport to take the survivors to One-Stop centres or to the hospitals. According to these allegations, there are many cases where evidence is contamination by police officers due to lack of training on how to collect and process evidence relating to survivors of sexual violence. In its report, the Government further states that it has set up One-Stop centres (currently in three out of the four regions) which provide comprehensive services to survivors of GBV. These centres are not effective because they are severely under staffed and lack essential equipment for them to be able to function effectively. Furthermore, there are not enough One-Stop centres to serve the population of Eswatini, especially those in living in rural areas.
- **Significant delays:** Because of severe shortages of staff, including prosecutors, as well as the shortage in forensic equipment and expertise

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<sup>35</sup> Protocol to the African Charter on Human and Peoples’ rights on the Rights of Women in Africa, Articles 4 (1) and 4 (2)(a).

<sup>36</sup> Sexual Offences and Domestic Violence Act, No 15 of 2018. The Act “makes provision concerning sexual offences and domestic violence, prevention and the protection of all persons from harm from other sexual acts and acts of domestic violence.”

<sup>37</sup> ICJ “Access to Justice Challenges Faced by Victims and Survivors of Sexual and Gender-Based Violence in Eswatini” (2020): <https://www.icj.org/wp-content/uploads/2020/09/Eswatini-SGBV-Report-Advocacy-Analysis-brief-2020-ENG.pdf>

<sup>38</sup> Inputs received by ICJ at its 4<sup>th</sup> *Integrated Meeting of Governmental Stakeholders in the Justice Chain: Combating Sexual and Gender-Based Violence* held in Ezulweni on 4 November 2021.

which significantly delays collection of forensic evidence for trials, GBV cases experience inordinate delays in the justice system.

- **Suspended sentences for serious crimes:** The ICJ has received information indicating that in some cases, perpetrators have been handed suspended sentences for serious GBV crimes.
- **Shortage of health workers at One Stop Centres:** The ICJ has also received information according to which the One-Stop centres lack a dedicated psychologist or similarly adequately qualified professional<sup>39</sup> at the facilities and there is also a serious shortage of qualified medical personnel which is symptomatic of the situation more broadly wherein, for example, we are informed that there is only *one* psychiatrist available in Eswatini to service the public health sector and this psychiatrist can only meet individual patients once every six months. There is also a serious shortage of prosecutors and police officers dedicated to the centres. This means that, for example, when any of these personnel are absent for leave, survivors are left without access to services.
- **Delays in acquiring results needed for forensic evidence:** The One Stop Centres and prosecuting authorities more generally also depend on South African forensic labs to process forensic evidence, which results in enormous delays of more than a year to receive evidence back from South African labs. In many cases this results in the acquittal of accused persons due to lack of forensic evidence.
- **Insufficient access to rape kits and swabs:** There is also an insufficient numbers of rape kits and swabs to assist survivors of GBV.
- **Lack of transportation to One Stop Centres:** The ICJ's research revealed that many survivors of GBV face serious challenges in getting to the few One-Stop centres due to lack of transportation. This challenge has been exacerbated by the COVID-19 pandemic and regulations implemented to curb the spread of the virus, including through restriction of movements. The political unrest in Eswatini, coupled with lockdown restrictions implemented in response to COVID-19, has also restricted survivors' ability to reach One-Stop centres due to curfews and fear of police ill-treatment.<sup>40</sup>
- **Problems in evidence giving:** The Eswatini report further states that domestic violence and protection units are set up in police stations to provide support to survivors of GBV. However, these units reportedly lack the necessary accommodations to ensure that survivors are able to give their evidence in a manner that protects their dignity.
- **Unavailability of Legal Aid:** There is no legal aid available for survivors of survivors of GBV. This means that many survivors face challenges in effectively accessing justice. The ICJ is informed that the State, through the ministry of justice, is currently exploring introducing a Legal Aid Bill in

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<sup>39</sup> Id. ICJ has been informed that in many cases the counselors and social workers made available to the One-Stop centres are merely interns or otherwise inexperienced or inadequately trained. This means that the service they provide to survivors in many cases is not at the level of a qualified, trained and experienced professional.

<sup>40</sup> Human Rights Watch "Eswatini: Respect rights while policing protests – Security forces should safeguard citizens against violence" (1 July 2021): <https://www.hrw.org/news/2021/07/01/eswatini-respect-rights-while-policing-protests>.

Parliament. There is an urgent need for such a Bill and its adoption and enactment in to law is urgently needed.<sup>41</sup>

- **Criminalization of LGBT persons:** In relation to the rights of LGBT persons, Eswatini still criminalizes consensual same-sex sexual conduct.<sup>42</sup> It has further refused to allow Eswatini Sexual and Gender Minorities (ESGM) the right to register as a non-profit organization in Eswatini, thereby denying the right to freedom of association for LGBT persons, in contravention of article 10 of the Charter.<sup>43</sup> This is exacerbated by the inordinate delays in the finalization of the case before Swazi courts which seeks to challenging government's decision to deny registration: it has been over a year and the courts have not issued a judgement on this case.

27. In order to ensure compliance with its human rights obligations relating to domestic and gender-based violence, the ICJ therefore requests the ACHPR to recommend that there Eswatini authorities take measures, including:

- a. Repeal discriminatory laws which discriminate against LGBT persons, or substantially amend them to bring them into human rights compliance. Eswatini must end all discriminatory practices in the area of sexual and reproductive health, including restrictive abortion laws and laws and policies, that discriminate against LGBT persons;
- b. Ensure full access to healthcare services for survivors of gender-based violence, including medical and psychosocial support provided by psychiatrists, psychologists and other adequately qualified and trained medical professionals
- c. Adopt legislation providing for legal aid to enable survivors of gender-based violence to be better able to access justice and effective remedies for SGBV, including through courts;

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<sup>41</sup> UNDP "Eswatini, Leaving no one behind through legal aid" (17 June 2021): <https://www.sz.undp.org/content/eswatini/en/home/leaving-no-one-behind-through-legal-aid-reform.html>.

<sup>42</sup> Sodomy is a common law crime in Eswatini. The Swazi Penal Code contains the crime of Sodomy. However, no penalty is specified. Furthermore, the law does not prohibit discrimination based on sexual orientation. The Human Rights Committee has expressed concern that:

"discrimination on the basis of sexual orientation and gender identity is not clearly prohibited under the Constitution, or in the State party's domestic law. It is also concerned at reports that reveal that lesbian, gay, bisexual, transgender and intersex persons frequently face discrimination, particularly in accessing adequate housing and employment. It is further concerned about reports of violence against lesbian, gay, bisexual, transgender and intersex persons, including the murder of two individuals directly linked to their sexual orientation and the rape of a gay man in detention. While noting the State party's position that the common law criminalization of same sex relations between men (sodomy) is not enforced in practiced, the Committee is concerned at the State party's current intention to retain the law, and at the law's continued discriminatory effect on lesbian, gay, bisexual, transgender and intersex persons." T

The HRC further recommended that Eswatini repeal the common law crime of sodomy and criminalize the rape of men, forthwith. UN Human Rights Committee, Concluding observations on Swaziland in the absence of a report, CCPR/c/swz/co/1 (23 August 2017) paras 18 and 19(e), [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/SWZ/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/SWZ/CO/1&Lang=En).

<sup>43</sup> Southern African Litigation Centre "Media Advisory: Eswatini High Court Postpones Case on the Refusal to Register an LGBT Advocacy Group" (25 June 2020): <https://www.southernafricanlitigationcentre.org/2020/06/25/media-advisory-eswatini-high-court-postpones-case-on-the-refusal-to-register-an-lgbt-advocacy-group/>.

- d. Provide training to public officials, including police, health practitioners and prosecutors and judicial officers on SODV Act on Sexual and Reproductive health rights of survivors of sexual and gender-based violence; and
- e. Ensure comprehensive services for survivors of sexual and gender-based violence are available at all times including during the COVID-19 pandemic. This includes ensuring adequate access to rape kits and other necessary health products, goods and services in all health centres.

#### **F. Criminalization of Abortion (*Maputo Protocol Article 4*)**

28. Article 4 of Maputo Protocol provides that “every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.”<sup>44</sup> In Eswatini certain critical reproductive services, including access to safe abortion, is unavailable and indeed unlawful except in in very limited circumstances.<sup>45</sup> Unsafe abortions contribute to high maternal mortality rate in Eswatini and contribute to a significant number of maternal deaths.<sup>46</sup>
29. The Government of Eswatini acknowledges in its report that “whilst Section 15(5) Constitution makes provision for medical abortion in specific grounds, the absence of any regulations, guidelines or rules of procedure poses a challenge for persons seeking these services.” The absence of legislation and regulations giving effect to the relevant Constitutional provision creates uncertainty regarding circumstances in which voluntary termination of pregnancy is legally available. The lack of clear regulations also creates a context where many pregnant people endure cumbersome procedural requirements, including requirements for court orders and refusal to perform abortions on grounds of conscientious objection, which obstruct access to lawful abortions. The ICJ has, for example, been informed of minors who have had to carry pregnancies to term due to the uncertainty in the law regarding access to abortion, even in the circumstances listed in the constitution.<sup>47</sup>
30. There is a need, not only for regulations to be developed which clarify the law on the right to an abortion in Eswatini, but also for decriminalization of abortion and the law to ensure safe, legal and effective access to abortion where it constitutes an informed, autonomous choice of the pregnant person to terminate a pregnancy.

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<sup>44</sup> Maputo Protocol, Article 4 (1.

<sup>45</sup> Constitution, 15(5) reads:

“Abortion is unlawfully but may be allowed –

- (a) in medical or therapeutic grounds including the life or constitute a serious threat to the physical health of the woman;
  - (i) continued pregnancy will constitute a serious threat to the mental health of the woman;
  - (ii) there is serious risk that the child will suffer from physical or mental defect of such a nature that the child will be irreparably seriously handicapped;
- (b) where the pregnancy resulted from rape, incest or unlawful sexual intercourse with a mentally retarded female; or
- (c) on such other grounds as Parliament may prescribe.”

<sup>46</sup> UN Human Rights Committee, Concluding observations on Swaziland in the absence of a report, CCPR/C/SWZ/CO/1, para 28; UNFPA, Kingdom of Eswatini Facts and Prospects. Sexual and Reproductive Health Rights (2019); See also, WHO, Maternal mortality in 2000-2017 Internationally comparable MMR estimates by the Maternal Mortality Estimation Inter-Agency Group (MMEIG) WHO, Unicef, UNFPA, World Bank Group and the United Nations Population Division, Eswatini,

<sup>47</sup> ICJ “Swazi Women’s right to health during the time of COVID-19” (2021): <https://www.icj.org/wp-content/uploads/2021/03/Eswatini-SRHR-publication-1.pdf>.

31. Whilst Eswatini may enact laws to regulate voluntary termination of pregnancy, it must do so in a manner that does not violate their enjoyment of other fundamental human rights. As the UN Human Rights Committee has clarified, measures restricting women's ability to seek abortion must not "jeopardize their lives, subject them to physical or mental pain or suffering which violates article 7, discriminate against them or arbitrarily interfere with their privacy". States are also required to "provide safe, legal and effective access to abortion where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering". Ultimately States "may not regulate pregnancy or abortion in all other cases in a manner that runs contrary to their duty to ensure that women and girls do not have to undertake unsafe abortions, and they should revise their abortion laws accordingly".<sup>48</sup>
32. In order to ensure compliance with its human rights obligations relating to abortion, the ICJ therefore requests the ACHPR to recommend that there Eswatini authorities take measures, including:
- a. Enact legislation, in accordance with section 5(5)(c) of the Constitution, to provide for safe, effective and legal access to abortion in an expanded range of circumstances. Abortion must be permitted and facilitated in line with international human rights law and standards, in circumstances when it constitutes an informed, autonomous choice of the pregnant person to terminate a pregnancy; and
  - b. To the extent that it is deemed necessary to achieve the enactment of legislation contemplated in (a), amend the Constitution to ensure its consistency with international human rights law and standards.

**G. Sexual and reproductive healthcare (*African Charter, Article 16; Maputo Protocol, Article 14*)**

33. The African Charter provides that "every individual shall have the right to enjoy the best attainable state of physical and mental health."<sup>49</sup> The Maputo Protocol provides that "States parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. This includes the right to control fertility, to decide whether to have children, the number of children and the spacing of children, the right to choose any method of contraception, the right to self-protection and to be protected against HIV/AIDs, the right to be informed on one's health status and that of one's partner, and the right to family planning education."<sup>50</sup>
34. In Eswatini there is a high rate of unmet need for contraception, especially among poor women and women in rural areas, including those living with HIV.<sup>51</sup> This situation is compounded by a high unmet need for family planning among young people because only a limited number of healthcare facilities in the country provide youth friendly services.<sup>52</sup> Adolescents face challenges when seeking to access sexual and reproductive health goods, services and information.

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<sup>48</sup> General Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, para 8.

<sup>49</sup> African Charter, Article 16(1).

<sup>50</sup> Maputo Protocol, Article 14(a)-(g).

<sup>51</sup> Government of Swaziland, Swaziland; Monitoring the situation of children, women and men, Multiple indicator Cluster Survey 2010 (December 2011).

<sup>52</sup> Deputy Prime Minister's Office "The Kingdom of Eswatini's Country Progress Report on the Implementation of the Beijing Declaration and Platform for Action" (May 2019), p43; The Kingdom of Swaziland – Ministry of Health, National Policy on Sexual and Reproductive Health, (2013) , p1; UNICEF, Country Office Annual Report Eswatini (former Swaziland) (2018).

35. The Maputo Protocol provides that "States Parties shall take all appropriate measures to provide adequate, affordable and accessible health services, including information, education and communication programmes for women especially those in rural areas."<sup>53</sup>
36. Accordingly, in order to address the high rate of early pregnancies, Eswatini must provide young girls with access to family planning services, affordable contraceptives and safe abortion. Eswatini must also make comprehensive sexual and reproductive health education compulsory in schools.
37. In order to ensure compliance with its human rights obligations relating to sexual and reproductive health rights, the ICJ therefore requests the ACHPR to recommend that there Eswatini authorities take measures, including:
- a. take immediate and effective measure to ensure access to comprehensive, affordable and safe reproductive and family planning health services for all women and LGBT persons.
  - b. ensure all health facilities, throughout the country, are equipped with all essential medicines, products and services including a wide range of contraceptive methods, such as condoms and emergency contraception and medicines for abortions and for post abortion care, as well as HIV-related medicines; and
  - c. guarantee access to comprehensive information and education on sex, sexuality, HIV, sexual and reproductive rights especially for adolescents and youth.

#### H. ***Housing and access to shelter (Maputo Protocol Article 16)***

38. The Maputo Protocol provides that "women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. To ensure this right, states parties shall grant to women, whatever their marital status, access to adequate housing."<sup>54</sup>

39. Eswatini's report indicates that:

"while the country has enacted the SODV Act, the full implementation of the Act is still in progress: for instance the country is yet to establish support services in the form of shelters or temporary housing for women. There is also need for comprehensive response structures to be put in place for the protection of survivors of sexual and gender-based violence including safe houses, education centres, decentralized and prompt referral mechanisms at the community level as well as economic empowerment initiatives to support the economic independence of survivors."<sup>55</sup>

40. As stated above, the rate of GBV in Eswatini is high.<sup>56</sup> The COVID-19 pandemic and political unrest in Eswatini exacerbated the GBV crisis. Many survivors were trapped

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<sup>53</sup> Maputo Protocol, Article 14(2)(a).

<sup>54</sup> Maputo Protocol, Article 16.

<sup>55</sup> Kingdom of Eswatini Formerly known as the Kingdom of Swaziland, Combined 1<sup>st</sup> to 9<sup>th</sup> periodic report on the African Charter on Human and Peoples' Rights and initial report to the protocol to the African Charter on the rights of women in Africa, para 364, Available at: <https://www.achpr.org/states/statereport?id=134>.

<sup>56</sup> On Eswatini's own version in its report:

in their homes with abusive partners and family members. The lack of alternative shelter or accommodation for these persons meant that they have to remain in homes where they continue to face violence without redress, this especially because there is no shelter for survivors of GBV which is provided by the government. Shelters which exist are said to be predominantly reserved for children. Recently a shelter has been open for women in Eswatini, but it only houses about 24 women. Furthermore, information about the location and functioning of this shelter seems scarce, even among government employees providing services to survivors of GBV. Furthermore, we have been informed that National Shelter Guidelines for Survivors of Gender Based Violence have recently been produced by Eswatini. These guidelines have reportedly not yet been implemented or adequately popularised even within government departments.

41. Whilst the African Charter does not explicitly provide for the right to adequate housing, it does protect this right. As the African Commission held in *the Social and Economic Rights Action Centre (SERAC) and the Centre for Economic and Social Rights (CESR) v. Nigeria*,<sup>57</sup> the combined effect of articles 14, 16 and 18 (1) reads into the Charter a right to shelter or housing.<sup>58</sup>
42. In general, in Eswatini women have faced significant difficulties in accessing adequate housing with security of tenure because of customary law rules and social norms. The land is allocated to Swazi people through local chiefs and is based on a patronage system.<sup>59</sup> Many women are still forbidden to approach the chiefs for the allocation of land, unless they are accompanied by male relatives; it is common for chiefs to allocate communal land to women only through their husbands, male relatives or male children.<sup>60</sup> This is a breach of Eswatini's obligations to ensure protection of human rights without discrimination, including on the basis of gender, under articles 2-3 of the Charter which provides that "every individual shall be equal before the law" and every individual shall be entitled to equal protection of the law."
43. While the Swazi Constitution provides for equal access to land for men and women,<sup>61</sup> women are in practice routinely discriminated against when it comes to

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"violence against women and girls remains pervasive in the Kingdom of Eswatini. Whilst there is no accurate data on the rates of violence against women in the country, various surveys conducted in previous years show that almost 48 percent of women who reported sexual violence had two or more incidents of violence before the age of 18 years. In addition to this, 1 in 4 young women reported experiencing physical violence prior to the age of 18 years." Id, para 387.

<sup>57</sup> Communication No. 155/96 *The Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria*: <https://www.escc-net.org/sites/default/files/serac.pdf>.

<sup>58</sup> Id, para 60.

<sup>59</sup> International Commission of Jurists, *Achieving Justice for Gross Human Rights Violations in Swaziland: Key Challenges* (May 2018), p24: <https://www.ici.org/wp-content/uploads/2018/05/Swaziland-GRABaselineStudy-Publications-Reports-Thematic-reports-2018-ENG.pdf>. See also, Amnesty International "They don't see us as people, Security of Tenure and Forced Evictions in Eswatini" (2018): <https://www.amnesty.org/download/Documents/AFR5587852018ENGLISH.PDF>; SALC "Alignment of Eswatini's Domestic Laws with Recommendations of United Nations Human Rights Mechanisms", p32: <https://www.southernafricalitigationcentre.org/wp-content/uploads/2018/09/SALC-Eswatini-Human-Rights-Research-Report.pdf>.

<sup>60</sup> See Absalom M Manyatsi et al "Land Governance in Eswatini" (September 2019), p 35: <http://landsymposium.nust.na/sites/default/files/2019-08/Land%20Governance%20in%20eSwatini%203-4%20September%202019.pdf>

<sup>61</sup> Constitution, section 211 (2) reads:

ownership of land. Such discrimination leaves widows, unmarried women and women without sons vulnerable when it comes to land ownership and access. In addition, forced evictions, which are commonplace in Eswatini, also impact women disproportionately.<sup>62</sup> Reports suggest that many evicted women face challenges when seeking to be allocated land by chiefs in the aftermath of being evicted, especially because they cannot afford the traditional fees associated with such allocation.<sup>63</sup> There have been reports of homesteads of the families, many of which consisted of single mothers being destroyed and evictions done without any prior formal notice of the evictions.<sup>64</sup>

44. Such inadequate housing exacerbates the risk of women experiencing violence, including rape and sexual violence. In particular, the risk of eviction leaves women at risk of being “exposed to violence and intense emotional stress before, during and after an eviction because of their close ties to the home and their role as caregivers for the entire family.”<sup>65</sup>
45. Moreover, it is not uncommon for women to experience violence even during the process of eviction where “verbal abuse, beatings and rape may take place.” After women have been evicted, they may be at an even greater risk of being abused, especially if they have been forced to move to inadequate housing, often in informal settlements where the lack of shelter and privacy can lead to increased exposure to sexual and other forms of violence.<sup>66</sup>
46. Inadequate housing can directly contribute to women remaining in abusive environments. Many women who have fled domestic violence have been reported to return to their homes and thus to violence, due to lack of shelter.<sup>67</sup>
47. In order to ensure compliance with its human rights obligations relating to the right to housing, the ICJ therefore requests the ACHPR to recommend that there Eswatini authorities take measures, including:
  - a. ensure access to shelters and alternative accommodation for all survivors of gender based and domestic violence in Eswatini, including accommodation or shelters that should be made available in all parts of the country; and
  - b. ensure compliance by customary leaders with the Constitution and the Charter providing for women’s rights to land ownership and amend laws to provide for women’s security of tenure including protections against unlawful evictions.

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“Save as may be required by the exigencies of any particular situation, a citizen of Swaziland, without regard to gender, shall have equal access to land for normal domestic purposes”.

<sup>62</sup> Amnesty International “They don’t see us as people, Security of Tenure and Forced Evictions in Eswatini” (2018): <https://www.amnesty.org/download/Documents/AFR5587852018ENGLISH.PDF>.

<sup>63</sup> Id, pp 26-37. There are reports of women waiting for more than 3 years to be allocated land after they were evicted.

<sup>64</sup> Id, p 18. For example, between October 2014 and April 2018, 19 homesteads consisting of at least 180 people were forcibly evicted to give way to the Royal Science and Technology Park.

<sup>65</sup> See also, Office of the High Commissioner for Human Rights “The right to Adequate Housing, Fact Sheet No.21”, p 18: [https://www.ohchr.org/documents/publications/fs21\\_rev\\_1\\_housing\\_en.pdf](https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf).

<sup>66</sup> Id.

<sup>67</sup> Commission on Human Rights, Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, Report of the Special Rapporteur on violence against women, its causes and consequences, E/CN.4/2000/68/Add.5, 24 February 2000, para 70: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G00/112/65/PDF/G0011265.pdf?OpenElement>.