



General Assembly

Distr.: General
25 July 2011

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Twelfth session
Geneva, 3–14 October 2011

**Compilation prepared by the Office of the High
Commissioner for Human Rights in accordance with
paragraph 15 (b) of the annex to Human Rights Council
resolution 5/1**

Swaziland

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. Background and framework

A. Scope of international obligations¹

<i>Universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	7 April 1969	None	Individual complaints (art. 14): No
ICESCR	26 March 2004	None	–
ICCPR	26 March 2004	None	Inter-State complaints (art. 41): No
CEDAW	26 March 2004	None	–
CAT	26 March 2004	None	Inter-State complaints (art. 21): No Individual complaints (art. 22): No Inquiry procedure (art. 20): Yes
CRC	7 September 1995	Declaration under art. 4	–

Treaties to which Swaziland is not a party: OP-ICESCR, ICCPR-OP 1, ICCPR-OP 2, OP-CEDAW, OP-CAT, OP-CRC-AC, OP-CRC-SC, ICRMW, CRPD (signature only, 2007), OP-CRPD (signature only, 2007) and CED (signature only, 2007).

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	No
Rome Statute of the International Criminal Court	No
Palermo Protocol ³	No (signature only, 2001)
Refugees and stateless persons ⁴	Yes
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁵	Yes, except Additional Protocol III
ILO fundamental conventions ⁶	Yes
UNESCO Convention against Discrimination in	Yes

Education

1. In 2006, the Committee on the Rights of the Child (CRC) recommended that Swaziland ratify the Optional Protocols to the Convention,⁷ and encouraged it to expedite its ratification of the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.⁸
2. In 2011, the United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged Swaziland to ratify the 1989 Convention on Technical and Vocational Education.⁹
3. In 2011, the United Nations Country Team (UNCT) noted the lengthy national ratification procedure¹⁰ and recommended that Swaziland fast track the ratification of a number of conventions and domesticate the ratified ones.¹¹

B. Constitutional and legislative framework

4. UNCT, noting that chapter III of the Constitution Act 2005 was a bill of rights, stated that amendment of all existing national legislation was required in order to be fully aligned with the Constitution.¹² It added that some amendments awaited Parliamentary enactment and that there remained a backlog of laws requiring urgent attention.¹³
5. In 2006, CRC remained concerned at the lack of a systematic and comprehensive legislative review regarding compatibility of domestic legislation, policy and practice with the Convention,¹⁴ and recommended that Swaziland seek the assistance of UNICEF in order to have an adviser to the Parliament.¹⁵
6. In 1997, the Committee on Elimination of Racial Discrimination (CERD) expressed concern at the failure to adopt legislative, administrative and other measures implementing fully the provisions of the Convention contained in articles 4, 5 and 7. In that connection, it was noted that the Race Relations Act 1962, prior to the Convention's coming into force, adopted a narrower approach to the definition of the term "racial discrimination", as it speaks only of discrimination based on race and colour.¹⁶

C. Institutional and human rights infrastructure

7. As of 15 June 2011, Swaziland did not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).¹⁷
8. In 2011, UNCT noted that the 2005 Constitution created a number of key institutions, including the Commission of Human Rights and Public Administration to inter alia investigate human rights violations. It however observed that the enabling legislation to fully operationalize the Commission had not been passed.¹⁸ UNCT recommended that the capacities of the Commission of Human Rights and Public Administration; the Public Service Commission; the Judiciary Service Commission and the Anti-Corruption Commission be strengthened to enable them to deliver on their mandates.¹⁹
9. In 2006, CRC recommended that Swaziland establish an independent body for monitoring the implementation of the Convention of the Rights of the Child in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Such a body should be provided with adequate human and financial resources, be easily accessible to children, and deal with complaints from children in a child-sensitive manner.²⁰

10. CRC welcomed the establishment of the Ministry of Regional Development and Youth Affairs in 2006; and the establishment of the Children's Centre Clinical Excellency, a special health facility for children infected with HIV/AIDS.²¹

11. UNCT noted that Swaziland had established the Trafficking Task Force.²²

D. Policy measures

12. UNCT noted that Government policies promoting human rights included the National Gender Policy (2010), the National Children's Policy (2009), the Social Development Policy, the National Health Policy (2007), the Education Policy, the National Strategic Framework on HIV/AIDS and the Labour Inspection Policy.²³ The Disability Policy, Food for Work Policy and the Land Policy to promote the enabling environment for a human rights-based development agenda were still pending.²⁴

13. In 2006, CRC welcomed the adoption of the National Plan for Orphans and Vulnerable Children for 2006–2010.²⁵

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body²⁶</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	1996	March 1997	–	Fifteenth and nineteenth reports overdue since 2006
CESCR	–	–	–	Initial report overdue since 2006
HR Committee	–	–	–	Initial report overdue since 2005
CEDAW	–	–	–	Initial report overdue since 2005
CAT	–	–	–	Initial report overdue since 2005
CRC	2005	September 2006	–	Combined second to fourth report due April 2011

14. In 2011, UNCT took note that Swaziland had only reported on two conventions.²⁷

15. In 1997, CERD, having recalled that the report under consideration did not follow the Committee's guidelines for the preparation of reports and was submitted after a delay of 20 years, requested the State party to comply fully with the reporting obligations under article 9 of the Convention and to ensure that the next report be prepared in accordance with the general guidelines and submitted in time.²⁸

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	–
<i>Visits agreed upon in principle</i>	–
<i>Visits requested and not yet agreed upon</i>	Special Rapporteur on the right to freedom of opinion and expression (2003)
<i>Facilitation/cooperation during missions</i>	–
<i>Follow-up to visits</i>	–
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, one communication was sent. The Government did not reply to the communication.
<i>Responses to questionnaires on thematic issues</i>	Swaziland responded to 2 of the 23 questionnaires sent by special procedures mandate holders. ²⁹

B. Implementation of international human rights obligations

1. Equality and non-discrimination

16. In 2009, the *Complementary Country Analysis* stated that the process of ensuring that women enjoy their constitutional rights had been slow and women were still regarded as legal minors when accessing productive resources.³⁰ In 2011, UNCT indicated that a number of key pieces of legislation required urgent amendments because they perpetuated inequality before the law and discriminated on face value, and also in application, including the Marriage Act 47/1964, Deeds Registry Act 37/1968, Administration of Estates Act 1902, Citizenship Act 1992, and Birth, Marriage and Death Registration Act 1963.³¹

17. In 2011, UNCT stated that Swaziland had a number of discriminatory cultural practices against women. Recognizing this, Article 28 of the Constitution enshrined that women shall not be compelled to undergo or uphold any custom to which they are in conscience opposed. UNCT noted that this not only placed a heavy burden on the individual woman but also meant that the law was refraining from actually prohibiting and condemning all forms of practices that negatively affected the human rights of women.³²

18. In 2011, UNCT stated that the Marriages Act and its provisions on marital power violated the equality clause as it limited the right of women in that they cannot acquire a bank loan or own property without the written consent of their husbands, and thereby relegating them to the status of minors.³³

19. In 2011, UNCT stated that there were a number of discrepancies in the acquisition of land, which disadvantaged women. In most instances, women were denied (limited) independent access to land through inheritance, traditional acquisition of Swazi nation land and also in registering title deed land in their names if they were married.³⁴ CRC

recommended, inter alia, that Swaziland abolish the prohibition of land ownership by women, particularly widowed mothers and orphans.³⁵ In 2009, the *Complementary Country Analysis* stated that women were particularly affected by poverty because of limited employment opportunities and control over their earnings and/or capital.³⁶

20. In 2006, CRC welcomed the fact that the Constitution had addressed the issue of non-discrimination, in particular with regard to persons born out of wedlock. Nevertheless, it was concerned that national legislation was inconsistent with the non-discrimination provisions of the Convention. It was also concerned that de facto societal discrimination persists against vulnerable groups of children, including children with disabilities, street children, children living in rural areas, children born out of wedlock, orphans and children living in foster care and children affected or infected by HIV/AIDS. CRC was also deeply concerned at the situation of girls, in particular adolescent girls who suffer marginalization and gender stereotyping, compromising their educational opportunities and who are more vulnerable to sexual violence, abuse and HIV/AIDS. CRC inter alia recommended that Swaziland prioritize and target social services for children belonging to the most vulnerable groups and pay special attention to the situation of girls through education campaigns, participation, support and protection.³⁷

21. CRC noted with concern that equal opportunities for children with disabilities were jeopardized, e.g. by their limited access to health, education, sporting facilities and the physical environment, and that social stigma, fears and misconceptions surrounding disabilities remained strong in society. CRC was further concerned that children were doubly disadvantaged if they lived in rural and remote areas.³⁸

2. Right to life, liberty and security of the person

22. UNCT stated that protection of the right to life was provided for under article 15 of the Constitution. Although the Human Rights Charter provided for abolishing the death penalty, the same article provided that it could still be used as a form of punishment by the court in criminal cases.³⁹

23. UNCT reported that some actors in conservation argue that the Game Act 51/1953 provides unbridled authority and power to game rangers to respond to transgressions of the protection of the game, and stated that extrajudicial killings by game rangers of individuals suspected of being poachers had been reported.⁴⁰

24. UNCT indicated that while article 18 of the Constitution provided for the protection against inhuman and degrading treatment, there had been allegations of police employing interrogation methods that were in contravention of this provision, some of them resulting in death. UNCT further noted that as of 2011, there had been no successful case holding police accountable for police brutality.⁴¹

25. In 2009, the *Complementary Country Analysis* stated that gender-based violence was a major problem and that some cultural practices such as wife inheritance, forced marriages, early marriage and intergenerational sex compounded the increasing incidence of gender-based violence and, in particular, sexual abuse of girls and young women.⁴²

26. UNCT noted that, although there had been some effort to address gender-based violence, such effort still fell short of addressing the problem adequately and developing an effective and comprehensive policy addressing the sexual exploitation of children.⁴³ In this regard, CRC in 2006 recommended that Swaziland take appropriate legislative measures, including expediting the adoption of the draft law on sexual offences and domestic violence, and ensure that child victims of sexual exploitation were not criminalized or penalized.⁴⁴ In 2011, UNCT reported that a first reading of that bill had taken place but some barriers remained in passing it into law.⁴⁵

27. In 2006, CRC, while welcoming the establishment of a Domestic Violence, Child Protection and Sexual Offences Unit, remained concerned at the lack of a comprehensive policy for the prevention and combat of child abuse and neglect in the family. It was also concerned that many child victims had only limited access to justice owing to the prohibitive costs associated with the services of legal counsel.⁴⁶

28. CRC was deeply concerned that corporal punishment was legal and traditionally accepted and widely practised in the family, schools and other settings. It was further concerned that the new Constitution allowed the use of “moderate chastisement” of children. It recommended inter alia that Swaziland consider, as a matter of priority, explicitly prohibiting by law corporal punishment in all settings and conduct awareness-raising and educational campaigns to ensure that alternative forms of discipline were used, in a manner consistent with the child’s human dignity.⁴⁷

3. Administration of justice, including impunity, and the rule of law

29. In 2011, UNCT stated that the dualism of the legal system (customary and common law) created challenges of forum shopping, as there are inconsistencies and overlaps between these two systems and therefore a need for harmonization. The traditional courts often offered a less rigid procedure, that was also fast, while the common law system was faced with challenges of inadequate infrastructure and human resource and that lead to a huge backlog in cases resulting to delayed justice delivery.⁴⁸ UNCT recommended that the institutional and technical capacities of the judiciary and national courts be strengthened to speed up case-flow and enhance access to justice.⁴⁹

30. In 2009, the *Complementary Country Analysis* observed that among the general public, there was little understanding of their legal rights and of conflict resolution procedures. Limited infrastructure, inadequate human resources, and a dearth of the instruments required to administer justice reduced the efficiency of the legal system.⁵⁰

31. In 2011, UNCT stated that, with the exception of murder cases, a person charged with a criminal offence was not entitled to State-funded legal counsel.⁵¹ UNCT recommended Swaziland to consider establishing a legal aid facility and strengthening the capacity of professional regulatory bodies such as the Law Society to provide enhanced access to justice especially by the vulnerable.⁵²

32. In 2011, UNCT reported that, in some instances, it had been observed that, where the courts had passed judgments on cases, the law enforcement agencies had shown reluctance in enforcing the courts’ decisions.⁵³

33. While welcoming the establishment of the Children’s Court in 2005, CRC was nevertheless concerned at the lack of a functioning juvenile justice system throughout the country. It inter alia recommended that Swaziland raise the age of criminal responsibility as a matter of urgency and ensure that it complied with acceptable international standards; improve training programmes on relevant international standards for all professionals involved with the system of juvenile justice; strengthen the Children’s Court by providing it with adequate human and financial resources and ensure that, particularly in rural areas, well-trained judges dealt with children in conflict with the law; ensure that the deprivation of liberty of a juvenile was a matter of last resort and took place for as short a time as possible and that detained girls were separated from adult women; and provide children with legal assistance at an early stage of legal proceedings.⁵⁴

34. In 2011, UNCT stated that corruption remained a widespread problem at all levels of society. Although there had been a few reported cases, and some arrests, the Government was yet to secure a conviction. The efforts of the 2008 Anti-Corruption Commission, though commendable, had fallen short of addressing the problem, given that the situation seemed to be worsening each year.⁵⁵ UNCT recommended capacity development be

undertaken to improving transparency and information flow between the State and citizens.⁵⁶

4. Right to privacy, marriage and family life

35. In 2006, CRC was concerned at the lack of clarity under common and customary law regarding the definition of the child and the minimum age for marriage, and recommended that Swaziland inter alia expedite the preparation, adoption and enactment of the Marriage Bill, which intended setting the minimum age for marriage at 18 years for both boys and girls, and prevent the practice of early marriages.⁵⁷

36. UNCT indicated that chapter IV of the Constitution governing citizenship issues provided for different treatment between men and women regarding acquisition of citizenship through marriage, transfer of citizenship through descent and renunciation of citizenship.⁵⁸ CRC was also concerned that the child did not derive his or her citizenship from the mother unless the child was born outside of marriage and was not adopted or claimed by the father.⁵⁹

37. UNCT noted that birth registration was not automatic although it remained the entry point for all public services, including access to free primary education and orphans and vulnerable children education grant.⁶⁰ CRC recommended that the State party strengthen and further develop measures to ensure that all children born within the national territory were registered.⁶¹

38. CRC noted that Swaziland, in cooperation with civil society, had developed many programmes to provide care and support to orphans and vulnerable children, but remained deeply concerned about the impact the high rate of HIV/AIDS had on children who had lost one or both parents and the need to provide them with adequate alternative care.⁶²

39. In 2011, UNCT noted that there was still some level of stigma and discrimination against lesbians, men who have sex with men, bisexuals, and transgender and sex workers. The most-at-risk population (prisoners, men who have sex with men and sex workers) still had difficulties accessing sexual reproductive health care due to the fact that the country still had legislation that prohibited their sexual acts.⁶³

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

40. In 2011, UNCT, while noting that article 24 of the Constitution provided for the protection of the freedom of expression and that some improvement regarding media freedom had been observed, stated that in other sectors, realization of that freedom had been restricted by the Suppression of Terrorism Act 2008.⁶⁴

41. In 2011, the ILO Committee on the Application of Standards deplored the continuing allegations of arrest and detention following peaceful protest actions.⁶⁵

42. In 2011, UNESCO also noted restrictions of the freedom of expression especially regarding political freedoms or matters concerning the royal family.⁶⁶ UNESCO observed that sections 4 and 5 of the Sedition and Subversive Activities Act 1938 banned publication of any criticism of the monarchy. The Proscribed Publications Act 1968 empowered the Government to ban publications if they were deemed “prejudicial or potentially prejudicial to the interests of defence, public safety, public order, public morality, or public health.” UNESCO indicated in 2011 that the law had been used in recent years to sue newspapers that criticized the monarchy for defamation and that this had led to increased self-censorship among journalists.⁶⁷ UNESCO therefore recommended that Swaziland develop a comprehensive legal framework that guarantees freedom of expression, media freedom and the right to access information; open broadcast media to private sector players; and

establish a self-regulatory mechanism for the media, and develop awareness-raising campaigns about the nature, purpose and operations of this proposed structure.⁶⁸

43. In 2006, CRC remained concerned that traditional societal attitudes appeared to limit children in freely expressing their views in schools, communities or within the family, and that so-called cautionary rules limited the due weight given to their views in judicial or administrative proceedings.⁶⁹

44. In 2011, UNCT stated that article 25 of the Constitution provided for the right to freedom of assembly and association, limited by the interests of defence, public safety, public order. Because the interests of public safety were not clearly articulated, that was left to the discretion of the political leadership. UNCT further noted that the law required police consent to hold any political meetings, marches or demonstrations in a public place and that, in practice, there had been a number of restrictions imposed on meetings, marches and demonstrations by labour-related and political bodies.⁷⁰

45. In 2011, UNCT stated that while article 25 of the Constitution provided that persons might associate freely with other persons for the promotion and protection of the interests of that person, it was silent on political parties.⁷¹ The 2010–2015 UNDP country programme document observed that the absence of political parties (banned by royal decree in 1973) continued to constrain space for political inclusion, participation and plurality of opinion.⁷²

46. In 2009, the *Complementary Country Analysis* stated that, although women were better represented in decision-making, Swaziland needed to continue to reinforce its efforts, if it was to reach the MDG target of 30 per cent. In particular, traditional leadership continued to be the domain of men, with women empowered to act only in cases where the incumbent was young or had not yet been identified.⁷³

6. Right to work and to just and favourable conditions of work

47. In 2011, the ILO Committee on the Application of Standards firmly called upon Swaziland to intensify its efforts to institutionalize social dialogue and anchor genuine social dialogue through durable institutions at various levels of the government, which could only be assured in a climate where democracy reigned and fundamental human rights were fully guaranteed.⁷⁴

48. Reiterating similar observations of the ILO Committee of Experts on the Application of Conventions and Recommendations made in 2010,⁷⁵ the ILO Committee on the Application of Standards in 2011 requested Swaziland to elaborate a roadmap for the implementation of measures long called for, including to ensure that the 1973 King's Proclamation had no practical effect; to amend the 1963 Public Order Act so that legitimate and peaceful trade union activities could take place without interference; to ensure, including through necessary amendment, that the 2008 Suppression of Terrorism Act may not be invoked as a cover-up to suppress trade union activities; to consult the Social Dialogue Steering Committee on the proposed amendments to ensure the right to organize to prison officers, as well as the outstanding matters in the Industrial Relations Act; and to establish an effective system of labour inspection and effective enforcement mechanisms, including an independent judiciary.⁷⁶

49. In 2009, the ILO Committee of Experts reiterated its request for Swaziland to consider taking concrete measures to address occupational sex segregation and ensure that women had access to higher paid jobs.⁷⁷

50. In 2011, UNCT noted the need to build the capacity of the Government, institutions and social partners in promoting and protecting labour rights, on reporting on ILO Conventions and on how to operationalize them, building on existing programmes, such as

the Action Programme on the Elimination of Child Labour (APEC) and ILO HIV/AIDS workplace programme.⁷⁸

7. Right to social security and to an adequate standard of living

51. In 2009, the *Complementary Country Analysis* stated that, while Swaziland retained its ranking as a lower-middle-income country, high-income inequality meant a large proportion of the population lived in poverty.⁷⁹ The 2011–2015 United Nations Development Assistance Framework indicated that about 69 per cent of the country's 1.018 million people lived below the national poverty line.⁸⁰

52. The *Complementary Country Analysis* noted that Swaziland had consistently failed to produce enough food to cover domestic requirements, contributing to the food insecurity of an estimated 20 to 25 per cent of the population. Chronic malnutrition remained a major challenge.⁸¹ In 2011, UNCT observed that the Swaziland Food and Nutrition Policy was completed in 2008, but had not yet been endorsed,⁸² and recommended the establishment of a higher level national body that effectively coordinates food and nutrition security strategies, action plans and monitoring and evaluation for the activities within the country.⁸³

53. In 2006, CRC inter alia recommended that Swaziland support communities in their responsibility to ensure that all children have adequate nutrition and hygiene, including school meals and alternative sources of meals for orphaned and vulnerable children during school holidays and engage communities, including young people, in initiatives to increase self-sufficiency in food production.⁸⁴

54. In 2011, UNCT stated that, while significant progress had been made towards the provision of free primary health care, the distance to clinics remained a hindrance to access to health. Besides geographic access issues, access to finance (for transportation), social access and access to specialized health care remained a challenge in the provision of services to the most vulnerable groups.⁸⁵

55. In 2009, WHO stated that high maternal and neonatal morbidity and mortality were a cause for concern.⁸⁶ CRC was concerned at the particular situation of girls, given, for instance, the relatively high percentage of early marriages and early pregnancies, which could have a negative impact on their health and development.⁸⁷

56. In 2011, UNCT stated that article 15 (5) of the Constitution limited the right to abortion to cases “where the pregnancy resulted from rape, incest or unlawful sexual intercourse with a mentally retarded female” or medical or therapeutic grounds. UNCT noted that the stipulated procedure was long and ended up endangering the life of the mother and unborn child and that, in the case of unlawful sexual intercourse, the procedure was unclear.⁸⁸

57. In 2011, UNCT stated that Swaziland had a particularly high HIV/AIDS prevalence rate. Overall, strides had been made in treatment and care, however prevention of new infections remained a challenge. UNCT also noted that at present there was no specific policy in place to address issues of stigma and discrimination.⁸⁹ In 2006, CRC was deeply concerned at the devastating impact that situation had on children and inter alia recommended that Swaziland ensure the full and effective implementation of a comprehensive policy to prevent HIV/AIDS that included all preventive measures, and the complementarity of the different approaches for different age groups; and continue to strengthen its efforts to prevent mother-to-child transmission of HIV.⁹⁰

58. UNCT further noted that in addition to exerting pressure on the health system, HIV/AIDS had significantly increased the burden on Government social welfare services, as well as on traditional community support systems. Noting the creation of the Orphans and Vulnerable Children Fund and grants for the elderly, UNCT observed that mechanisms

for registering those eligible for support had been daunting, and comprehensive access and monitoring had not been achieved.⁹¹

59. The 2010 UNICEF country programme indicated that HIV/AIDS was associated with the resurgence of tuberculosis,⁹² which according to WHO, was the leading cause of morbidity and mortality among adults in Swaziland⁹³.

60. CRC recommended that Swaziland take measures to prevent and reduce drug abuse among children and to support recovery programmes for child victims of drug abuse.⁹⁴

61. In 2011, UNCT noted that the Constitution protected citizens from arbitrary evictions without due process. However, experience pointed to the fact that the traditional system disregarded such provisions and citizens had recourse to the courts after demolitions had been effected. For many citizens, the legal costs associated with legal redress were prohibitive. In addition, the lack of knowledge of the constitution and the absence of a human rights culture prevented citizens from seeking redress.⁹⁵

62. In 2009, the *Complementary Country Analysis* stated that, as drought persisted across the country, access to clean water and sanitation remained severely limited for much of the population, contributing to mortality and morbidity, particularly among children.⁹⁶

8. Right to education and to participate in the cultural life of the community

63. The 2010 UNICEF country programme indicated that free primary education now covered children in the first and second grades and would incorporate one additional grade each year.⁹⁷ In 2011, UNCT stated that the greatest challenge in the coming years would be reaching the most marginalized, who remained outside of the system due to factors beyond school fees alone.⁹⁸

64. UNCT observed that challenges in the education sector included the lack of qualified teachers and inadequate school infrastructures and a weak policy and legislative framework.⁹⁹ UNCT recommended Swaziland to support qualitative improvement in education, focusing attention on class size teacher/pupil ratios and educational material supplies, particularly in disadvantaged regions.¹⁰⁰ CRC recommended that Swaziland take specific measures to reduce the high rates of repetition and dropouts; improve the quality of education through an increase of the number of well-trained teachers, reform of the curriculum and better equipping of schools with materials; and undertake additional efforts to ensure access to formal and informal education to vulnerable groups.¹⁰¹

65. In 2009, the *Complementary Country Analysis* stated that, while primary education rates had insignificant gender differentials, there was a low rate of progression from primary to secondary and low enrolment of women in tertiary institutions.¹⁰²

66. In order to advance the right to take part in cultural life, noting the forthcoming ratification of the 2003 Convention for the Safeguarding of Intangible Cultural Heritage and 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, UNESCO in 2011 encouraged Swaziland to ensure that its domestic law and practice were consistent with the provisions of these Conventions.¹⁰³

9. Minorities and indigenous peoples

67. In 2010, the ILO Committee of Experts urged Swaziland to ensure that, in the context of the national equality policy, concrete measures were taken to ensure that workers from ethnic minorities, i.e. the Zulu and the Tonga, were protected against discrimination in employment and occupation.¹⁰⁴

10. Human rights and counter-terrorism

68. In 2011, UNESCO observed that the definitions of “terrorist” in part I and “terrorist acts” in part III and section 2 of the 2008 Suppression of Terrorism Act were expansive. The parameters for a “terrorist act” in subsection 2 allow for actions to be judged on the basis of “nature and content”.¹⁰⁵

69. In 2011, UNCT recommended Swaziland to consider seeking further cooperation and engagement with the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the possibility of requesting the advisory services and technical assistance of this mandate, to ensure that Swaziland complies with its international obligations for the protection of human rights and fundamental freedoms, while implementing its other obligations under the United Nations Global Counter-Terrorism Strategy.¹⁰⁶

III. Achievements, best practices, challenges and constraints

70. In 2011, UNCT stated that Swaziland had made progress particularly towards creating an enabling legislative and policy environment.¹⁰⁷ UNCT stated that in the previous public budget Swaziland attained the Abuja Declaration goal of allocating 15 per cent of the budget to the improvement of the health sector, but that because of the fiscal challenges faced, it has dropped to 12 per cent.¹⁰⁸

71. UNCT indicated that although there had been some progress towards the provision of fundamental rights and freedoms there was still room to address issues related to the protection of social, cultural and economic rights. Transparency and accountability remained a major challenge and the need to strengthen justice delivery system, fast-track domestication of regional and international conventions and the establishment of effective regulatory bodies could not be overemphasized.¹⁰⁹

IV. Key national priorities, initiatives and commitments

N/A

IV. Capacity-building and technical assistance

72. CRC recommended that Swaziland seek technical assistance from, inter alia, UNICEF and OHCHR regarding an independent mechanism with a specific mandate to regularly monitor and evaluate progress in the implementation of the Convention.¹¹⁰

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights

ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CED	International Convention for the Protection of All Persons from Enforced Disappearance.

- ³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ⁴ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- ⁵ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.
- ⁶ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning the Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁷ CRC/C/SWZ/CO/1, para. 69.
- ⁸ Ibid., paras. 42–43.
- ⁹ UNESCO submission to the UPR on Swaziland, para. 20.
- ¹⁰ UNCT submission to the UPR on Swaziland, para. 5.
- ¹¹ Ibid., para. 63.
- ¹² Ibid., para. 2.
- ¹³ Ibid., para. 6.
- ¹⁴ CRC/C/SWZ/CO/1, para. 7.
- ¹⁵ Ibid., para. 8.
- ¹⁶ CERD/C/304/Add.31, para. 6.
- ¹⁷ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights

- (ICC), see A/HRC/16/77 of 3 February 2011, annex.
- ¹⁸ UNCT submission to the UPR on Swaziland, para. 9.
- ¹⁹ *Ibid.*, para. 68.
- ²⁰ CRC/C/SWZ/CO/1, paras. 13–14.
- ²¹ *Ibid.*, para. 4.
- ²² UNCT submission to the UPR on Swaziland, para. 53.
- ²³ *Ibid.*, paras. 13 and 52.
- ²⁴ *Ibid.*, para. 14.
- ²⁵ CRC/C/SWZ/CO/1, para. 11.
- ²⁶ The following abbreviations have been used for this document:
- | | |
|--------------|--|
| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CAT | Committee against Torture |
| CRC | Committee on the Rights of the Child |
| CRPD | Committee on the Rights of Persons with Disabilities. |
- ²⁷ UNCT submission to the UPR on Swaziland, para. 4.
- ²⁸ CERD/C/304/Add.31, para. 7.
- ²⁹ The questionnaires referred to are those reflected in an official report by a special-procedure mandate holder issued between 1 January 2007 and 1 June 2011. Responses counted for the purposes of this section are those received within the relevant deadlines, and referred to in the following documents: (a) A/HRC/6/15, para. 7; (b) A/HRC/7/6, annex; (c) A/HRC/7/8, para. 35; (d) A/HRC/8/10, para. 120, footnote 48; (e) A/62/301, paras. 27, 32, 38, 44 and 51; (f) A/HRC/10/16 and Corr.1, footnote 29; (g) A/HRC/11/6, annex; (h) A/HRC/11/8, para. 56; (i) A/HRC/11/9, para. 8, footnote 1; (j) A/HRC/12/21, para. 2, footnote 1; (k) A/HRC/12/23, para. 12; (l) A/HRC/12/31, para. 1, footnote 2; (m) A/HRC/13/22/Add.4; (n) A/HRC/13/30, para. 49; (o) A/HRC/13/42, annex I; (p) A/HRC/14/25, para. 6, footnote 1; (q) A/HRC/14/31, para. 5, footnote 2; (r) A/HRC/14/46/Add.1; (s) A/HRC/15/31/Add.1, para. 6 – for list of responding States, see <http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/ContributionsPSP.aspx>; (t) A/HRC/15/32, para. 5; (u) A/HRC/16/44/Add.3; (v) A/HRC/16/48/Add.3, para. 5 endnote 2; (w) A/HRC/16/51/Add.4; (x) A/HRC/17/38, see annex I.
- ³⁰ *Complementary Country Analysis: the Kingdom of Swaziland* (2009), p. 9. Available from <http://www.undg.org/docs/11231/UNDAF--CCA.pdf> (accessed on 16 May 2011).
- ³¹ UNCT submission to the UPR on Swaziland, para. 19.
- ³² *Ibid.*, para. 21.
- ³³ *Ibid.*, para. 19.
- ³⁴ *Ibid.*, para. 20.
- ³⁵ CRC/C/SWZ/CO/1, paras. 57–58.
- ³⁶ *Complementary Country Analysis*, p. 12.
- ³⁷ CRC/C/SWZ/CO/1, paras. 25–26.
- ³⁸ *Ibid.*, para. 48.
- ³⁹ UNCT submission to the UPR on Swaziland, para. 22.
- ⁴⁰ *Ibid.*, para. 25.
- ⁴¹ *Ibid.*, para. 27.
- ⁴² *Complementary Country Analysis, the Kingdom of Swaziland*, p. 12.
- ⁴³ UNCT submission to the UPR on Swaziland, para. 23.
- ⁴⁴ CRC/C/SWZ/CO/1, para. 64.
- ⁴⁵ UNCT submission to the UPR on Swaziland, para. 23.
- ⁴⁶ CRC/C/SWZ/CO/1, para. 44.
- ⁴⁷ *Ibid.*, paras. 36–37.
- ⁴⁸ UNCT submission to the UPR on Swaziland, para. 28.
- ⁴⁹ *Ibid.*, para. 70.
- ⁵⁰ *Complementary Country Analysis*, p. 9.
- ⁵¹ UNCT submission to the UPR on Swaziland, para. 29.
- ⁵² *Ibid.*, para. 69.

- ⁵³ Ibid., para. 30.
- ⁵⁴ CRC/C/SWZ/CO/1, paras. 67–68.
- ⁵⁵ UNCT submission to the UPR on Swaziland, para. 31.
- ⁵⁶ Ibid., para. 71.
- ⁵⁷ CRC/C/SWZ/CO/1, paras. 23–24.
- ⁵⁸ UNCT submission to the UPR on Swaziland, para. 16.
- ⁵⁹ CRC/C/SWZ/CO/1, paras. 32–33.
- ⁶⁰ UNCT submission to the UPR on Swaziland, para. 17.
- ⁶¹ CRC/C/SWZ/CO/1, para. 35.
- ⁶² CRC/C/SWZ/CO/1, para. 40.
- ⁶³ UNCT submission to the UPR on Swaziland, para. 46.
- ⁶⁴ Ibid., para. 34.
- ⁶⁵ ILO Committee on the Application of Standards, General Report, document PR No.18/Part 1. Available from http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_157817.pdf, para. 204.
- ⁶⁶ UNESCO submission to the UPR on Swaziland, para. 13.
- ⁶⁷ Ibid., para. 15.
- ⁶⁸ Ibid., para. 22.
- ⁶⁹ CRC/C/SWZ/CO/1, para. 30.
- ⁷⁰ UNCT submission to the UPR on Swaziland, para. 32.
- ⁷¹ Ibid., para. 33.
- ⁷² Draft country programme document for Swaziland (2011–2015), DP/DCP/SWZ/2, para. 7.
- ⁷³ *Complementary Country Analysis*, p. 12.
- ⁷⁴ ILO Committee on the Application of Standards, PR No.18/Part 1, , para. 205.
- ⁷⁵ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), 2010, Geneva, doc. No. (ILOLEX) 062010SWZ087, ninth paragraph.
- ⁷⁶ ILO Committee on the Application of Standards, PR No.18/Part 1, para. 205.
- ⁷⁷ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Equal Remuneration Convention, 1951 (No. 100), 2009, Geneva, doc. No. (ILOLEX) 092009SWZ100, third paragraph.
- ⁷⁸ UNCT submission to the UPR on Swaziland, para. 65.
- ⁷⁹ *Complementary Country Analysis*, p. 7.
- ⁸⁰ “The United Nations Development Assistance Framework (UNDAF) 2011–2015: the Kingdom of Swaziland” (Mbabane,) p. 9. Available at <http://www.undg.org/docs/11336/FINAL-UNDAF-2011-2015-SIGNED.pdf> (accessed on 16 May 2011).
- ⁸¹ *Complementary Country Analysis*, p. 11.
- ⁸² UNCT submission to the UPR on Swaziland, para. 42.
- ⁸³ Ibid., para. 72.
- ⁸⁴ CRC/C/SWZ/CO/1, para. 52.
- ⁸⁵ UNCT submission to the UPR on Swaziland, para. 44.
- ⁸⁶ WHO, “Country Cooperation Strategy, 2008–2013: Swaziland” (Brazzaville, 2009, WHO Regional Office in Africa), p. 5. Available from http://www.who.int/countryfocus/cooperation_strategy/ccs_swz_en.pdf (accessed on 16 May 2011).
- ⁸⁷ CRC/C/SWZ/CO/1, para. 55.
- ⁸⁸ UNCT submission to the UPR on Swaziland, para. 24.
- ⁸⁹ Ibid., para. 43.
- ⁹⁰ CRC/C/SWZ/CO/1, paras. 53–54.
- ⁹¹ UNCT submission to the UPR on Swaziland, para. 45.
- ⁹² UNICEF, “Revised country programme document: Swaziland (2011–2015)”, para. 3. Available from <http://www.unicef.org/about/execboard/files/2010-PL.12-Swaziland-revised-English.pdf> (accessed on 30 May 2011).
- ⁹³ WHO, Country Cooperation Strategy, 2008–2013 Swaziland, Brazzaville, 2009, WHO Regional Office in Africa, p. 3, available at http://www.who.int/countryfocus/cooperation_strategy/ccs_swz_en.pdf (accessed on 16 May 2011).

⁹⁴ CRC/C/SWZ/CO/1, para. 66.

⁹⁵ UNCT submission to the UPR on Swaziland, para. 38.

⁹⁶ *Complementary Country Analysis*, p. 11.

⁹⁷ “Revised country programme document”, para. 11.

⁹⁸ UNCT submission to the UPR on Swaziland, para. 47.

⁹⁹ *Ibid.*, para. 48.

¹⁰⁰ *Ibid.*, para. 67.

¹⁰¹ CRC/C/SWZ/CO/1, para. 60.

¹⁰² *Complementary Country Analysis*, p. 12.

¹⁰³ UNESCO submission to the UPR on Swaziland, para. 21.

¹⁰⁴ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010SWZ111, first paragraph.

¹⁰⁵ UNESCO submission to the UPR on Swaziland, para. 17.

¹⁰⁶ UNCT submission to the UPR on Swaziland, para. 61.

¹⁰⁷ *Ibid.*, para. 51.

¹⁰⁸ *Ibid.*, para. 58.

¹⁰⁹ *Ibid.*, para. 60.