



**Joint Submission to the UN Universal Periodic Review
25th Session of the UPR Working Group
Kingdom of Swaziland**

Submitted 21 September 2015

**CIVICUS: World Alliance for Citizen
Participation, NGO in General Consultative Status with
ECOSOC
And
Lawyers for Human Rights (Swaziland)**

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1. (A) Introduction

- 1.1** CIVICUS is a global network of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS proudly promotes marginalised voices, especially from the Global South and has members in more than 170 countries throughout the world.
- 1.2** Lawyers for Human Rights (Swaziland) - (LHRS) - is a non-partisan group of lawyers that advocates for the respect of human rights and promotes good governance, the rule of law and democracy. LHRS engages in advocacy at local, regional and international levels and uses regional and international human rights mechanisms to hold the government to account. It also engages in litigation, educates citizens about their fundamental rights and works with different stakeholders to promote these rights.
- 1.3** In this document CIVICUS and LHRS outline concerns relating to threats faced by human rights defenders, journalists and restrictions on the media in Swaziland since 2011. We outline several concerning examples which are illustrative of actions taken by the government to curb the freedoms of expression, association and assembly. Moreover, we illustrate the failure of the government to uphold and implement some of the recommendations accepted during its initial examination under the Universal Periodic Review (UPR).
- 1.4** During its review on 12 October 2011 under the 12th Session of the UN Working Group of the UPR, the Kingdom of Swaziland accepted 105 recommendations including commitments to create an enabling environment for civil society where citizens are free to exercise their full rights to freedom of peaceful assembly and association in accordance with the principles of democracy and in line with international obligations under the International Covenant on Civil and Political Rights (ICCPR) including revoking the decree of 1973.¹
- 1.5** Swaziland also agreed to repeal or urgently amend the Suppression of Terrorism Act (2008) and other pieces of security legislation to harmonize them with international human rights standards. It agreed to remove all legislative and practical restrictions impeding the rights of citizens to freely exercise civil and political rights, in particular, those related to freedom of association and expression, with a view to allow the creation of political parties and respect of trade unions.² Despite these explicit commitments, the rights to freedom of expression, association and assembly remain threatened and human rights defenders (HRDs) and civil society organisations (CSOs) are targeted for the work they do.
- 1.6** CIVICUS and LHRS are concerned about the imposition of restrictions on freedom of expression and the media, assembly and association using draconian colonial era laws and others promulgated by the authorities. Principally, these laws, which include the Sedition and Subversive Activities Act (1938) and the Suppression of Terrorism Act (2008), have been subjectively interpreted at various times to curb fundamental freedoms and convict and imprison human rights defenders and journalists. They have also been used to de-legitimise trade unions and political movements and label such movements and those affiliated to them as promoters of terrorism.
- 1.7** CIVICUS and LHRS express concerns about the harassment, judicial persecution and intimidation of human rights defenders and journalists because of the work they do. Human rights defenders and journalists have been arbitrarily persecuted, convicted and jailed for simply doing their job, while others have been threatened for participating in protests and criticising the government. In addition, peaceful protests are sometimes

¹ 'UPR Info Swaziland' http://www.upr-info.org/database/index.php?limit=0&f_SUR=167&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly, accessed 15 September 2015.

² "UPR Info Swaziland" http://www.upr-info.org/database/index.php?limit=0&f_SUR=167&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly, accessed 15 September 2015.

violently suppressed and major trade unions are denied registration. The Tinkhundla system of government which is preferred in Swaziland forms the basis for some of these restrictions. The system lays emphasis on the devolution of state power from the central government to Tinkhundla areas, does not recognise political parties and favours individual merit for election into public office. In addition, King Mswati III has the powers to suspend constitutional rights relating to fundamental freedoms at his discretion.

- In section B, CIVICUS and LHRS highlight concerns related to draconian laws used to restrict civic space and target human rights defenders and the media.
- In section C, CIVICUS and LHRS express concerns over restrictions on freedom of expression and attacks on journalists.
- In Section D, CIVICUS and LHRS highlight concerns over judicial persecution, harassment and intimidation of members of civil society organisations.
- In section E, CIVICUS and LHRS express concerns over restrictions on freedom of assembly.
- In Section F, CIVICUS and LHRS highlight concerns over restrictions on freedom of association.
- In Section G, CIVICUS and LHRS make a number of recommendations in the areas of concern listed.

2 (B) Concerns regarding draconian laws used to restrict civic space and target human rights defenders and the media

2.1 The Constitution of the Kingdom of Swaziland provides for the rights of Swazis to freely communicate ideas and information publicly or to any person without interference. Article 24 (2) states that “a person shall not except with the free consent of that person be hindered in the enjoyment of the freedom of expression which includes freedom of the press and other media.”³ The Constitution also provides guarantees for the respect of civil rights and freedoms of Swazis including “the respect for life, liberty, right to fair hearing, equality before the law and equal protection of the law.”⁴ On 2 May 2012, the African Commission on Human and People’s Rights (ACHPRS) adopted a resolution on the human rights situation in the Kingdom of Swaziland and called on the government to respect, protect and fulfil the rights to freedom of expression, association and assembly as provided for in the African Charter, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and other international and regional institutions. However, the Swazi authorities continue to use colonial era laws and suppression of terrorism legislation to target human rights activists and political movements and journalists in an effort to prevent them from doing their work. Individuals have been labelled as terrorists and convicted under these laws. The laws have been further used to deny the registration of civil society organisations and to persecute those associated with such organisations.

2.2 The Suppression of Terrorism Act

The Suppression of Terrorism Act (2008) (STA) was sent to Parliament with a certificate of urgency and was thus not subjected to the regular procedure in which Bills are published in the government gazette for 30 days for citizens to provide feedback before they are signed into law. The STA was approved by King Mswati III

³ “The Constitution of the Kingdom of Swaziland Act 2005,” http://defensewiki.ibj.org/images/0/0d/CONSTITUTION_OF_THE_KINGDOM_OF_SWAZILAND.pdf, accessed 15 September 2015.

⁴ “Article (1) and (a) of the Constitution of Swaziland Act 2005” http://defensewiki.ibj.org/images/0/0d/CONSTITUTION_OF_THE_KINGDOM_OF_SWAZILAND.pdf, accessed 15 September 2015.

on 7 August 2008 after it was passed by Parliament. The definition of “terrorist act” is very broad and can include conduct that is non-violent or considered to be driven by an intent to incite fear. Article 2(1) defines a terrorist act as “an act or omission which constitutes an offence under this Act or within the scope of a counter terrorism convention.”⁵ According to Article 5(3b), “any person who intentionally or without lawful excuse sends or communicates to another person or institution a false alarm or by any deed causes a false alarm or unwarranted panic,” is guilty of an offence and upon conviction liable to serve a term in prison not exceeding three years or a fine imposed by a court.⁶ The challenge with these broad descriptions is that they provide authorities with sweeping powers to target individuals, civil society organisations and political movements labelled “specified entities” who are critical of government actions and who engage in public protests. Major political formations and unions in Swaziland have been banned by the authorities using the harsh provisions of the Suppression of Terrorism Act.

2.3 The Public Order Act (1963)

The Public Order Act regulates the holding of public gatherings in Swaziland and has often been used to curb freedom of assembly and prevent trade unions, political formations and other groups from holding peaceful protests. Major sections in the Act are interpreted to refuse permission for public assemblies as it requires organisers of gatherings to solicit and obtain consent at least 7 days before they hold a public gathering. For example Section 3 of the Act states that “any person wishing to hold, convene, organise or form a public procession shall first make an application for a licence in that behalf to the public officer in charge of the police in that district in which the meeting or procession is to take place.”⁷ It goes further to state that the police officer may refuse to grant a licence if for example, the organisers have contravened the Act or any other law.⁸ This provision is often used by the Swazi authorities to refuse permission for trade unions, civil society groups and other political formations to hold public processions and rallies. Oftentimes, security forces proceed to occupy areas marked for such rallies before they begin and forcefully arrest and disperse protesters when they arrive. The Act also outlaws printing, publication and circulation of notices advertising public meetings which are not licenced under the Act. Also individuals who without permission enter or remain in a public space to which access has been closed to them are deemed to have violated the Act. Those found guilty of violating the Act are liable upon conviction to imprisonment not exceeding three years.

2.4 The Sedition and Subversive Activities Act (1938)

The Sedition and Subversive Activities Act was passed by the British Colonial Administration in 1938 and has been used to target human rights defenders and activists who call for democratic reforms and are critical of the excesses of the Swazi regime. The Act criminalises statements spoken or published which have a “seditious intention.” It defines sedition as an act to “bring into hatred or contempt or to excite disaffection against the person of his Majesty the King, his heirs or successors, or the Government of Swaziland as established by law” (Article 3a). It notes that any action aimed at raising discontent or disaffection among the King’s subjects or the population is seditious.⁹ The definitions of sedition used in the Act are overly broad and have been subjectively interpreted by the authorities to severely curtail the freedoms of expression, assembly and association.

⁵ “Supplement to the Swaziland Government Gazette, Suppression of Terrorism Act.”

⁶ “Supplement to the Swaziland Government Gazette, Suppression of Terrorism Act.”

⁷ “The Public Order Act 1963,”

<https://www.issafrica.org/cdct/mainpages/pdf/Corruption/Legislation/Swaziland/Swaziland%20Public%20Order%20Act.pdf>, accessed 17 September 2015.

⁸ “The Public Order Act 1963”

<https://www.issafrica.org/cdct/mainpages/pdf/Corruption/Legislation/Swaziland/Swaziland%20Public%20Order%20Act.pdf>, accessed 17 September 2015.

⁹ “Sedition and Subversive Activities Act, date of commencement 30 September 1938,”

Articles 4 (a and e) criminalises any action or act done with a “seditious intention” and makes it illegal for individuals to be in possession of seditious publications. This section of the Act has been used to arrest, charge and convict activists who publicly called for democratic reforms and who participated in peaceful rallies and wore t-shirts with the names of organisations.¹⁰ In addition, according to Article 4 (e), those found guilty of contravening the Act will upon conviction be liable to a prison term not exceeding 20 years and a fine not exceeding E 20000 (approximately US \$ 1480). The Act defines subversive activities as those which support, propagate or advocate anything prejudicial to public order, the security of Swaziland or the administration of justice (2a) or those which indicate expressly or by implication any connection, association or affiliation with or support for an unlawful society (2d). Anyone found guilty of a subversive act is liable on conviction to imprisonment to a term not exceeding 20 years without the option of a fine.

3 (C) Concerns over restrictions on freedom of expression and attacks on journalists

3.1 Article 24 (1) of the Constitution of Swaziland provides for the freedom of expression and the media. It states that “a person has the right of freedom of expression and opinion, and that a person shall not, except with the free consent of that person be hindered in the enjoyment of freedom of expression which includes the freedom of the press and other media.”¹¹ Article 19 of the ICCPR, which Swaziland has acceded to, states that everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of a person’s choice. This right carries certain duties and responsibilities and may be subject to certain restrictions only as provided by the law.” Despite these guarantees, the government strictly controls freedom of expression and the media. Reporting on royal and political matters is severely restricted. Further, regular threats emanating from senior government officials and the royal family to journalists also lead to government censorship and self-censorship by the media further curtailing democratic freedoms.

3.2 On 28 April 2014, Chief Justice Michael Ramodibedi threatened the Managing Editor of the *Swazi Observer*, Mbongeni Mbingo over reports on court proceedings in the case involving the editor of *Nation Magazine* Bheki Makhubu and human rights lawyer Thulani Maseko. In the 30 March 2014 edition of the newspaper, Mbongeni expressed concerns that Bheki and Thulani were in jail even though the prosecuting team had not concluded its investigations.¹² The Chief Justice ordered Mbongeni to stop reporting on the case and warned that he would be subjected to the same fate as the accused. The *Swazi Observer* is owned by King Mswati’s business holding *Tibiyo taka Ngwane* but the newspaper had been reporting regularly on the case. After the threats from the Chief Justice the newspaper adopted a more cautious approach in its reporting on the case.

3.3 On 17 April 2013, Bheki Makhubu, editor of *Nation Magazine* was found guilty of contempt of court for “scurrilous abuse of the Chief Justice” based on articles he wrote in November 2009 and February 2010 in which he criticised Swazi Chief Justice Michael Ramodibedi. One of the articles commended Justice Thomas Masuku for his views in cases which focused on the evictions of Swazis from lands held by the king in contrast to views held by two other Supreme Court Judges. The other article criticised Justice Ramodibedi over comments he had made. Bheki Makhubu was handed a fined of E 200000 (approximately us \$ 14750) and informed that he would serve a two year jail term if he failed to pay the fine within three days.¹³

¹⁰ “PUDEMO seven freed on E15000 bail each,” *Swazi Observer*, <http://www.observer.org.sz/news/61502-pudemo-seven-freed-on-e15-000-bail-each.html>, accessed 15 September 2015.

¹¹ “Constitution of the Kingdom of Swaziland, Act 2005,” http://defensewiki.ibj.org/images/0/0d/CONSTITUTION_OF_THE_KINGDOM_OF_SWAZILAND.pdf, accessed 11 September 2015.

¹² “A Judiciary under siege,” *Nation*, <http://www.thenation.co.sz/index.php/hidden/8-cover-story-a-judiciary-under-siege>, accessed, 11 September 2015.

¹³ “Makhubu convicted of scandalising court,” *The Times*, <http://www.times.co.sz/News/86539.html>, accessed,

On 30 May 2014, he won an appeal with the Supreme Court and the sentence was reduced to 3 months fully suspended on condition that he is not convicted of any offence of scandalising the court for a period of three years.

- 3.4** On 17 and 18 March 2013 human rights defender Thulani Maseko and journalist Bheki Makhubu were arrested and charged with “scandalising the judiciary” and for being “in contempt of court” after they published articles critical of the Swazi judiciary.¹⁴ In February 2014, Thulani wrote an article in the *Nation Magazine* titled “where the law has no place” and in March 2014 Bheki wrote an article titled “speaking my mind.” Both articles were critical of the arrest of government vehicle inspector Bhantshana Vincent Gwebu. Thulani Maseko is a member of the Lawyers for Human Rights (Swaziland) and Southern Africa Human Rights Defenders Network. Bheki Makubu is a journalist and editor of *Nation Magazine*. They were both sentenced to two years in jail on 25 July 2014 without bail. On 30 June 2015 the Supreme Court ordered the release of both journalists on the basis that they had not received a fair trial.¹⁵ The Supreme Court argued that the trial judge was one of the persons criticised in the articles and had not recused himself from the case.
- 3.5** On 15 January 2014, the government controlled *Swazi Observer* newspaper suspended its editor Thulani Thwala and weekend editor Alec Lushaba after they were accused of failing to adhere to the mandate of the newspaper by publishing negative news stories about the King.¹⁶ The journalists were accused of failing to heed several warnings not to publish damaging reports about the King. Prior to the suspension, they published reports indicating that the Swazi government had solicited a financial bailout from South Africa. Eight months after their suspension, the Board of Directors of the Swazi Observer Newspaper Group reinstated them. The *Swazi Observer* newspaper is controlled by the *Tibiyo Taka Ngwane* conglomerate, which is owned by the King. News items published are highly censored.
- 3.6** In January 2012, Musa Ndlangamandla was relieved of his duties as Chief Editor of the *Swazi Observer* newspaper after publishing interviews in his *Asikhulume* column of leaders of pro-democracy movements in Swaziland.¹⁷ Prior to that he had published a report about the expropriation of state land by Prime Minister Sibusiso Dlamini. The police confiscated his computer and in February he was forced to flee to South Africa after attempts by security forces to arrest and charge him under the Suppression of Terrorism Act.
- 3.7** On 11 April 2012, Tumaole Mohlaoli and Meshack Dube, journalists from the private South African television channel e-TV, were detained by the Swazi authorities at a road block in Oshoek and their passports and equipment were seized after the authorities accused them of not having the proper accreditation to cover events commemorating the 39th anniversary of King Sobhuza II’s 1973 decree which outlawed political parties in Swaziland.¹⁸

4 (D) Concerns regarding judicial persecution, harassment and intimidation of members of civil society organisations

- 4.1** Article 12 of the United Nations Declaration on Human Rights Defenders mandates member states to take necessary measures to protect human rights defenders. The ICCPR, guarantees the freedoms of expression, assembly and association. However, it is a matter of deep concern that human rights activists have been arrested and

11 September 2015.

¹⁴ “Bheki Makhubu, Thulani Maseko jailed seven days,” <http://www.observer.org.sz/news/59944-bheki-makhubu-thulani-maseko-jailed-seven-days.html>, accessed 11 September 2015.

¹⁵ Bheki Makhubu, Thulani Maseko freed from jail,” *Swazi Observer* <http://www.times.co.sz/news/103492-bheki-makhubu-thulani-maseko-freed-from-jail.html>, *Times of Swaziland* accessed, 11 September 2015.

¹⁶ “Two Observer editors, FAC suspended,” *Swazi Observer*, <http://www.observer.org.sz/index.php?news=40877>, accessed 15 September 2015.

¹⁷ “Swazi journalists not free” *Times of Swaziland* <http://www.times.co.sz/news/91571-%E2%80%98swazi-journalists-not-free%E2%80%99.html>, accessed 15 September 2015.

¹⁸ “PM bans protests,” *Swazi Observer*, <http://www.observer.org.sz/index.php?news=37529>, accessed 11 September 2015.

persecuted for the work and others have been threatened by senior government officials including the Prime Minister.

- 4.2** On 26 August 2014, Vincent Ncongwane, Secretary General of the Trade Union Congress of Swaziland (TUCOSWA), was apprehended shortly before he was due to address a prayer meeting on the effects of the withdrawal of financial assistance through the African Growth and Opportunity Act (AGOA) from Swaziland by the United States Government. He had also planned to discuss the position of civil society regarding the withdrawal. The Matsapha area has many textile factories that will be affected by the cancellation of assistance through AGOA. Following his apprehension by the police, Vincent was forced to leave the venue of the meeting before delivering his address. On 5 September 2013, Vincent was followed by police officers in civilian clothing and arrested while attempting to enter his office. He was whisked to the police station without any explanation or warrant and detained for several hours. He was later placed under house arrest and the authorities argued he had attempted to instigate an unlawful protest.
- 4.3** On 6 August 2014, Prime Minister Sibusiso Barnabas Dlamini threatened human rights defenders Siphso Gumedze and Vincent Ncongwane while they participated in the civil society meeting on the promotion of democracy in Africa on the sidelines of the African leader's summit hosted by US President Barack Obama in August 2014. The activists had also participated in peaceful demonstrations aimed at highlighting threats to freedom of expression in Swaziland. While addressing the Parliament in Swaziland, the Prime Minister called for both activists to be interrogated and "strangled" when they return to Swaziland.¹⁹ Siphso is a member of Lawyers for Human Rights (Swaziland) and Vincent is the Secretary General of the Trade Union Congress of Swaziland (TUCOSWA).
- 4.4** On 1 May 2014, Mario Masuku, President of the pro-democracy People's United Democratic Movement (PUDEMO) and Maxwell Dlamini of the Swaziland Youth Congress (SWAYOCO), were arrested after addressing a crowd of about 7000 people during a Labour Day event in the capital, Manzini.²⁰ They were charged with singing a seditious song and uttering seditious statements under the Suppression of Terrorism Act. The state argued in court that their utterances were serious and threatened the leadership of Swaziland. They were denied bail on two occasions before they were released on bail on 14 July 2015 by the Supreme Court.

5 (E) Concerns over restrictions on freedom of assembly

- 5.1** Article 14 (b) of the Constitution of Swaziland guarantees the rights of citizens to assemble freely. It states that "a person has the right to freedom of peaceful assembly and association." Article 21 of the ICCPR further guarantees the right to peaceful assembly. It states that "the right of peaceful assembly shall be recognised and that no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security." However we remain concerned that the authorities regularly suppress peaceful demonstrations, Persons considered leaders of such protests have been arrested and subjected to judicial persecution and some have been charged under the Suppression of Terrorism Act.
- 5.2** In March 2015, security forces prevented members of the Trade Union Congress of Swaziland (TUCOSWA) from holding their national executive committee meeting at the premises of the Swaziland National Association of Teachers (SNAT). In dispersing the participants, security forces harassed the Secretary of SNAT, Muzi Mhlanga after he took pictures of the police actions against protesters. Again on 28 February 2015 security forces forcefully dispersed a meeting of TUCOSWA because the participants discussed multi-party democracy.

¹⁹ "PM Statement ruined AGOA chances – Gumedze," *Swazi Observer*, <http://www.observer.org.sz/news/pick-of-the-day/65006-pm-statement-ruined-agoa-chances-gumedze.html>, accessed 16 September 2015.

²⁰ "Mario-Maxwell trial next year," *Swazi Observer* <http://www.observer.org.sz/news/pick-of-the-day/66441-mario-maxwell-trial-next-year.html>, accessed 16 September 2015.

- 5.3** On 24 April 2014, Mlungisi Makhanya, Secretary General of PUDEMO and 6 others were arrested at the High Court in Mbabane as they demonstrated against the manner in which the trial of Thulani Maseko and Bheki Makhubu was conducted. They were charged for contravening the Suppression of Terrorism Act for wearing and being in possession of tee-shirts on which the word PUDEMO was inscribed. The authorities noted that the tee-shirts reflected terrorist demands. They were also charged with chanting 'terrorist slogans' and for conspiring with others to commit seditious acts. In May 2014 they were all released on bail of E 15000 (approximately US \$ 1106) and asked to pay E 5000 (approximately US \$ 368) upfront and provide surety of E 10000 (approximately US \$ 737).
- 5.4** On 5 September 2013, security forces in Swaziland arrested and detained Jay Naidoo, a South African trade union activist, Bishop Paul Verryn from the Methodist Church in Johannesburg, South Africa and Zimbabwean human rights lawyer and activist Alec Muchadehama ahead of a planned global inquiry scheduled for 6 September 2013. Those arrested were part of an international panel of experts who had been requested by TUCOSWA and the International Trade Union Confederation (ITUC) to engage in a dialogue with workers about the effect of violations on labour rights on all Swazis. The panellists were followed from the airport and arrested at a roadblock on their way to Manzini. They were then transported to a police station where they were interrogated about the rationale for the planned meeting. They were later released after questioning and had to return to Johannesburg as the authorities closed the George Hotel in Manzini where the inquiry was scheduled to take place.
- 5.5** On 12 April 2012, the police intercepted pro-democracy protests planned to be held at Coronation Park in Mbabane and arrested 15 organisers. The protests had been planned to coincide with King Sobhuza II's 1973 Proclamation which outlawed political parties. The venue was filled with police and security offices who prevented protesters from entering. Protesters who were driving from other parts of the country were stopped at road blocks, prevented from entering Mbabane and sent back to their home towns. The organisers of the protests had planned to use the day to call for democratic reforms, the organisation of multiparty election, for freedom of association to be respected and express concerns over the imposition of tax on basic goods.

6 (F) Concerns over restrictions on freedom of association

- 6.1** Article 25 (2) of the Constitution of Swaziland provides for the rights of Swazis to form and join associations and organisations created to preserve or further their beliefs or interests. It states that "a person has a right to freedom of assembly and association" and "shall not except with the free consent of that person be hindered in the enjoyment of the freedom of peaceful assembly and association, that is to say the right to assembly peacefully and associate freely with other persons for the promotion or protection of the interests of that person."²¹ However, Swazi authorities have refused the registration of the major trade unions and political formations and continue to target some organisations and their members using the Sedition and Subversive Activities Act and the Suppression of Terrorism Act.
- 6.2** The Swazi Government has refused to recognise the registration of the Trade Union Congress of Swaziland (TUCOSWA). It was founded in March 2012 and brought together different workers unions including the Swaziland Federation of Labour, Federation of Trade Unions and the National Association of Teachers (SNAT). The Swazi government provided a registration certificate to TUCOSWA on 25 January 2012 but annulled it in April of the same year under the pretext that the Federation is not a trade union organisation as described in the Industrial Relations Act and that the Act does not provide for the registration of trade unions. It is also paradoxical to note that the Minister of Labour and Social Security had sent a letter congratulating TUCOSWA prior to its launch. Since April 2012 the government has not recognised the registration of TUCOSWA.

²¹ "The Constitution of the Kingdom of Swaziland Act 2005," http://defensewiki.ibj.org/images/0/0d/CONSTITUTION_OF_THE_KINGDOM_OF_SWAZILAND.pdf, accessed 15 September 2015.

7 (G) Recommendations to the Government of the Kingdom of Swaziland

CIVICUS and LHRS are concerned about the failure on the part of the Kingdom of Swaziland to meaningfully implement the recommendations it accepted relating to civic space and human rights activists during its initial UPR in 2011.

CIVICUS and LHRS urge the government of Swaziland to create an enabling environment for civil society and the media to operate in accordance with the rights enshrined in the Constitution of Swaziland, ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

7.1 Concerns regarding draconian laws used to restrict civic space and target human rights defenders and the media.

- The Suppression of Terrorism Act should be repealed or radically amended as it is not consistent with Swaziland's constitutional and international human rights commitments.
- All charges currently imposed on organisations and individuals under the Suppression of Terrorism Act should be immediately withdrawn and the restrictions which prevent them from carrying out their human rights activities be lifted.
- The Public Order Act should be thoroughly reviewed. In particular section 3 which requires individuals or groups to seek permission from the police before they can hold protests should be repealed.
- The Sedition and Subversive Activities Act should be repealed and replaced with more enabling legislation that is respectful of democratic rights.
- Charges against persons, organisations and movements under the Sedition and Subversives Act should be examined with a view to annulling restrictions against them.
- The 1973 Proclamation which banned political parties and restricts freedom of association should be annulled and the Constitution of Swaziland should be respected at all times. In particular, the authorities should take Article 24 (1) (2) and 25 (1) (2) into account on issues relating to freedom of expression and freedom of assembly and association respectively.

7.2 Concerns over restrictions on freedom of expression and attacks on journalists

- The environment in which the media operates in Swaziland should be opened up to allow the registration and operation of more independent newspapers and media houses.
- The government should stop using the Sedition and Subversive Activities Act and the Suppression of Terrorism Act to impede media freedoms.
- Swazi authorities should respect and fulfil the right to freedom of expression and stop the practice of intimidating and persecuting journalists using unlawful legal processes.
- Journalists and media representatives should be protected by the law at all times.

- Public figures should stop threatening journalists and desist from interfering in state owned newspapers.
- Obsolete laws that restrict freedom of expression such as Sedition and Subversive Activities Act Suppression of Terrorism Act should be reviewed and repealed.
- The Swazi authorities should stop censoring the contempt of newspapers and refrain from interfering in the editorial policies of newspapers to eliminate censorship.

7.3 Concerns regarding judicial persecution, harassment and intimidation of members of civil society organisations

- All cases of intimidation of civil society activists and human rights defenders should be fully investigated with a view to bringing the perpetrators to justice and deterring further such acts.
- Government officials should desist from publicly threatening human rights defenders especially when activists are critical of the excesses of the royal family and government.
- Human rights defenders should be allowed to carry out their activities without restrictions and without the threat of being reprimanded and charged under the Sedition and Suppressive Activities Act and the Suppression of Terrorism Act.
- Human rights defenders from within Swaziland and from abroad should be allowed travel to other parts of the country to address meetings without being detained at roadblocks and interrogated at police stations.
- The independence of the judiciary must be respected at all times and Swazi authorities must not interfere in legal processes involving human rights defenders.

7.4 Regarding restrictions on freedom of assembly

- All peaceful protests should be allowed to take place and authorities should stop preventing demonstrations calling for change in line with the Constitution of Swaziland .
- The government must stop using the Subversion and Subversive Activities Act and the Suppression of Terrorism Act to target leaders of peaceful demonstrations.
- Best practices on freedom of peaceful assembly prescribed by the UN Special Rapporteur on Freedom of Peaceful Assembly and Association should be adopted by the Kingdom of Swaziland.
- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by the authorities.

7.5 Concerns over restrictions on freedom of association

- The Swazi authorities should immediately re-register the TUCOSWA and all other labour unions and recognise their legitimacy in catering to the rights of workers.
- The government must respect the right of all Swazis to form associations and belong to groups in line with constitutional provisions and international human rights standards.

7.6 Regarding access to UN Special Procedures and Mandate Holders

- A standing invitation should be extended to the UN Special Procedures, particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression, and Special Rapporteur on Freedom of Peaceful Assembly and Association.