



## **Joint Submission to the Commonwealth Ministerial Action Group on the Kingdom of Swaziland** **April 2013**

CIVICUS: World Alliance for Citizen Participation and Commonwealth Human Rights Initiative would like to draw the attention of the Commonwealth Ministerial Action Group (CMAG) to the human rights situation in the Kingdom of Swaziland.

The Kingdom of Swaziland, the last absolute monarchy in Commonwealth Africa, has been ruled by King Mswati III since 1986. This regime has been characterised by a suppression of fundamental freedoms, in particular, the freedoms of expression, assembly and association remain curtailed. Human rights defenders and especially those who engage in pro-democracy activities, face severe intimidation and threats. Media censorship in the country is widespread and police impunity is prevalent.

The King's Decree of 1973, which prohibits political organising remains in force. Political parties are banned as no legislative framework exists for political parties to register and be legally recognised. Political parties are still therefore unable to participate in the political process. While the National Constitution (2005) contains provisions on the rights to freedom of association and assembly, these basic rights are weakened by contrary claw-back provisions that limit their exercise. Activists are at increased risk of harassment and violence for calling for democratic participation and a multi-party dispensation.

Swaziland has faced calls by the African Commission on Human and Peoples Rights to respect its obligations, especially the rights to freedom of expression, association and assembly. With elections scheduled for August this year, concerns expressed over the country's human rights record remain pertinent.

The Commonwealth Expert Team that observed elections in 2008 noted that repressing civil and political rights and denying political parties formal recognition, was a challenge to the credibility of the electoral process in the country. The Expert Team expressed the need for reform to ensure that the next elections comply with established democratic principles and norms.

There has been little change since 2008, and instead the status quo is continuously reaffirmed with the repression of peaceful dissent. The government is yet to demonstrate the political will needed to guarantee credible elections in August 2013. The repressive climate and present electoral process transgresses norms exhorted by the Charter of the Commonwealth, the Southern African Development Community Principles and Guidelines Governing Democratic Elections and the African Charter on Democracy, Elections and Governance.

### **Recommendations**

The Commonwealth promotes democracy and democratic political processes. The holding of free and fair elections and the democratic governance of a country are minimum Commonwealth values. This minimum has been habitually denied to the people of Swaziland.

For this reason, we urge CMAG to put Swaziland on its formal agenda and call upon the country to at a minimum fulfil the following ahead of the August 2013 elections:

- Take concrete measures to guarantee political participation, plurality and democracy, including allowing the registration and operation of political parties;
- Create an enabling environment for civic participation by amending or repealing laws that inhibit the rights to freedom of expression, association and assembly;

- Ensure that the imminent elections are credible, democratic and transparent;
- Investigate allegations of torture, ill-treatment and police brutality while holding perpetrators to account and
- Respect the work and rights of human rights defenders in accordance with the UN Declaration on Human Rights Defenders.

## **Appendix**

### **Brief on the situation in the Kingdom of Swaziland**

**Freedom of Expression, Association and Assembly:** While the National Constitution of Swaziland (2005) guarantees the rights of freedom of expression, association and assembly these rights are undermined by provisions that restrict their exercise. The King's Proclamation of 1973- a state of emergency law- remains in force and prohibits political organising. Political parties are banned. Political activity and expression that does not align itself with the government is not tolerated. Political gatherings are regularly dispersed and publications critical of the regime are censored.

The lack of tolerance of dissent is evidenced by the de-registration of the Trade Union Congress of Swaziland (TUCOSWA) in April 2012, soon after it stated its intention to boycott the 2013 elections. That same month, peaceful pro-democracy protests were repressed, with journalists being detained and the harassment of human rights defenders.

Permission to hold gatherings is usually denied and peaceful demonstrations are regularly dispersed with force by the police. In February 2013, it is reported that armed police invaded a church meeting alleging that the congregation 'intended to sabotage' the elections in August. A month later, in March 2013, the police intercepted and prevented a peaceful prayer meeting organised by the Trade Union Congress of Swaziland from taking place. In these instances, the police lacked the legal authority to stop the meetings.

In September 2011, during a week of action to demand multi-party democracy, it is reported that police violently disrupted demonstrations using rubber bullets and tear gas against the crowds. Similarly, in September 2012, peaceful protests to call for democracy were disrupted by the police.

**Repressive Legislation:** Broad and imprecise provisions in counter-terror legislation are used to target pro-democracy activists and human rights defenders. The Suppression of Terrorism Act (2008), for example, has led to more arbitrary arrests of government critics and increased surveillance of political activism. This law has been used broadly and indiscriminately to silence dissent and allow arbitrary searches, arrests and detention. In 2008 for example, three organisations- the Swaziland Solidarity Network, Peoples United Democratic Movement and the Swaziland Youth Congress were, and remain classified as 'terrorist groups' under the law. The counter-terror law has been used to restrict and intimidate civil society groups. Draconian laws such as the Sedition and Subversive Activities Act (1938) are employed to inhibit the exercise of fundamental freedoms.

**Media Censorship:** The media remains highly controlled by the state. Media workers face threats and violence. Self censorship is wide-spread, and expression that criticises the monarchy is banned using laws such as the Sedition and Subversive Activities Act (1938).

**Police impunity:** There is a strong perception of police impunity, while credible allegations of extra-judicial killings, torture and ill-treatment are not adequately addressed. Prompt, impartial and transparent investigations are a rare occurrence and sometimes lacking procedural safeguards.

For example, Siphon Jele, was arrested and detained in May 2010, under the Suppression of Terrorism Act (2008), for wearing a t-shirt of the proscribed group, the Peoples United Democratic Movement. He was soon after found dead in custody at a correctional facility. An inquest into the death was established, but there were concerns about the impartiality of the coroner appointed to serve on this inquiry, as the coroner was also a former police officer. The inquiry's findings have still not been made public.

**Elections 2013:** The next elections are scheduled for August 2013. The last election observer report by the Commonwealth Expert Team in 2008 underscored the need for reform to ensure the next elections complied with democratic principles and norms. Yet since then, there has been no demonstrable political will to address these concerns. To ensure the upcoming elections are credible, political plurality, participation and the exercise of rights should be guaranteed.