

**Universal Periodic Review (39th session)**  
**Contribution of UNESCO**

**Eswatini**

**I. Background and framework**

<i><b>Title</b></i>	<i><b>Date of ratification, accession, acceptance or succession</b></i>	<i><b>Declarations /reservations</b></i>	<i><b>Recognition of specific competences of treaty bodies</b></i>	<i><b>Reference to the rights within UNESCO's fields of competence</b></i>
<i>Convention against Discrimination in Education 1960</i>	Ratified in 1970	Reservation to this Convention shall not be permitted		Right to education
<i>Convention concerning the Protection of the World Cultural and Natural Heritage (1972)</i>	30/11/2005 Ratification			Right to take part in cultural life
<i>Convention for the Safeguarding of the Intangible Cultural Heritage (2003)</i>	30/10/2012 Ratification			Right to take part in cultural life
<i>Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)</i>	30/10/2012 Ratification			Right to take part in cultural life

**II. Promotion and protection of human rights on the ground**

**A. Education**

1. The Constitution of the Kingdom of Swaziland Act of 2005<sup>1</sup> does not guarantee the right of everyone to education but provides in its Article 29 (6) that: "Every Swazi child shall

<sup>1</sup> <http://www.unesco.org/education/edurights/media/docs/c8997f008d2d9629d2b5bfb6f5172885aa0a0f36.pdf>

within three years of the commencement of this Constitution have the right to free education in public schools at least up to the end of primary school, beginning with the first grade.”

2. The Free Primary Education Act<sup>2</sup> was adopted in 2010. It enshrines the right to free primary education, as recognized in Article 3: “(1) Except as provided in this Act, every Swazi child enrolled at a public primary school is entitled to free education at that public primary school beginning with grade 1 up to and including Grade 7. (2) For the avoidance of doubt, a Swazi child enrolled at a public primary school shall not be dismissed or excluded from school on the ground only that the Government has not paid the fees due.”

## **B. Freedom of opinion and expression**

### Constitutional and Legislative Framework:

3. Freedom of Expression, including of the media, is enshrined in Article 24 of the Constitution of Eswatini and can only be restricted if in the interest of defence, public safety, order, morality or health.<sup>3</sup> However, the King has absolute power to interfere and to suspend the constitutional rights at his discretion.<sup>4</sup>
4. Defamation is a criminal offense in Eswatini, for example based on the Sedition and Subversive Activities Act In 2017, a revision of the Public Order Act<sup>5</sup> criminalised public criticism of the king or the Swazi government. The offense is punishable by a fine or up to two years of imprisonment.
5. There is no separate freedom of information law. However, Article 24 of the Constitution does state under the protection of freedom of expression that a person has the “freedom to receive ideas and information without interference“.

### Implementation of legislation:

6. There is one major journalists’ union in Eswatini, the Swaziland National Association of Journalists. It has passed a Code of Ethics and can thus implement some functions of a self-regulatory body.<sup>6</sup>
7. The Swaziland Media Complaints Commission (MCC), a self-regulatory body of journalists and other media workers, was officially registered in 2011 following a 14-year effort by local media organizations.

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<sup>2</sup> <http://www.unesco.org/education/edurights/media/docs/d41cff2a0c18696f6b44c2f3e021bde926064ed5.pdf>

<sup>3</sup> See the Constitution on the website of the Swazi government:

<https://www.wipo.int/edocs/lexdocs/laws/en/sz/sz010en.pdf>

<sup>4</sup> See for example Articles 65 and 117 of the Constitution.

<sup>5</sup> <https://www.ilo.org/dyn/natlex/docs/SERIAL/107529/132402/F-1089596558/SWZ107529.pdf>

<sup>6</sup> <http://www.rjionline.org/MAS-Codes-Swaziland-National-Association-Journalists>.

<sup>7</sup> <https://www.esccom.org.sz/about/profile/>

8. The Eswatini Communications Commission (ESCCOM)<sup>7</sup> is the regulatory body responsible for regulating the communications sector in Eswatini, constituting of telecommunication services and networks, broadcasting services, postal services and the use and allocation of radio spectrum. It derives its mandate from the Swaziland Communications Commission Act no. 10 of 2013.<sup>8</sup> The commission is headed by a Board of Directors, whose members are appointed by the Minister of ICT.

#### Safety of journalists:

9. UNESCO has recorded no killings of journalists in Eswatini since systematic reporting began in 2008.

### **III. Review and specific recommendations**

#### **A. Education**

##### Legislative, regulatory and policy framework

- National education and training sector policy adopted in 2018<sup>9</sup> addresses every level and sub-sector of the education and training continuum, from ECCDE to HE and non-formal education and training<sup>10</sup>. The policy goal is: “The provision of an equitable and inclusive education and training system that affords all learners access to free and compulsory basic education and senior secondary education of high quality, followed by the opportunity to continue with life-long education and training, so enhancing their personal development and contributing to Eswatini’s cultural development, socio-economic growth and global competitiveness.”<sup>11</sup>
- The National education and training improvement programme (2018/19 – 2020/2021)<sup>12</sup> which lays out the medium-term plans that have been prepared and require financing for the realization of planned goals and objectives.<sup>13</sup>

##### Free and compulsory education

- Under Education 2030 Agenda, States commit to adopt “at least 12 years of free, publicly funded, inclusive and equitable quality primary and secondary education” and “at least one year of free and compulsory pre-primary education of good quality”<sup>14</sup>. Nevertheless, only public primary education is free for seven years and UNICEF reported that school dropouts are also caused by poverty and the inability to pay “top up fees” at primary

<sup>7</sup> <https://www.esccom.org.sz/about/profile/>

<sup>8</sup> <https://www.esccom.org.sz/legislation/SwazilandCommunicationsCommissionAct.pdf>

<sup>9</sup> National education and training sector policy, 2018, accessible at:  
<https://www.unicef.org/eswatini/media/336/file/UNICEF-SD-Education-Sector-Policy-report-2018.pdf>

<sup>10</sup> Ibid. p. 3.

<sup>11</sup> Ibid. p. 7.

<sup>12</sup> National education and training improvement programme (2018/19 – 2020/2021, accessible at:  
[https://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/eswatini\\_netip.pdf](https://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/eswatini_netip.pdf)

<sup>13</sup> Ibid. p. 1.

<sup>14</sup> SDG4-Education 2030 Framework for Action, para. 12

levels as well as the high cost of secondary education.<sup>15</sup>

### Technical vocational education and training (TVET)

- UNICEF also raised issues over TVET which is characterised by fragmentation and lack of coordination and faces challenges including a) low efficiency of the system b) limited range of programs; c) lack of strong quality assurance mechanisms at both national and institutional levels; d) insufficient public investment in TVET; e) and the weak alignment between current TVET provision and labour market requirements.<sup>16</sup>

### School dropout

- According to UNICEF<sup>17</sup>, in Eswatini, “High repetition rates within the schooling system, particularly at the primary school level, are likely to further perpetuate socio-economic issues, such as high unemployment.”<sup>18</sup> It was also noted that the high drop-out rates are also caused by “pregnancy (41 per cent of drop out in lower secondary and 52 per cent in senior secondary is due to pregnancy) [...] and high levels of sexual violence”.<sup>19</sup>

### Corporal punishment

- While UNICEF reported on the “continuing use of corporal punishment of school children”<sup>20</sup>, no legal provision has been identified prohibiting corporal punishment in education.

### Reproductive health education

- The Human Rights Council recommended to “[e]nsure access for men, women, boys and girls to comprehensive reproductive health education and services throughout the country, particularly in rural areas, including access to affordable contraceptives, and increase awareness-raising programmes on the importance of using contraceptives and on sexual and reproductive rights and choices”<sup>21</sup>.

### Covid-19 education disruption

- Due to the pandemic, the government closed schools impacting 350,000 students and nearly 16,000 teachers. With support from technical and financial partners, “the government of Eswatini developed an education contingency plan and established alternative learning methods through TV, radio and newspapers to facilitate continued

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<sup>15</sup> UNICEF Education – Eswatini, accessible at : <https://www.unicef.org/eswatini/education>

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Concluding observations on Swaziland of the Human Rights Council, CCPR/C/SWZ/CO/1, 23 August 2017, para. 29 (c), accessible at:

[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)

learning from home”.<sup>22</sup> Aside from learning programs that benefitted 63,000 students, mental health and psychosocial program for students is also broadcast weekly on the radio.

- Schools reopened starting from July 6, 2020 and “the Ministry of Education and Training has started to implement the school reopening plan by training over 850 staff, teachers and stakeholders”<sup>23</sup>.
- Nevertheless, according to the GPE’s July blog, “alternative ways of learning are not available to all children: children from the poorest households who don’t have access to technology like TV and radio are excluded from the program, which also only targets students completing classes”.<sup>24</sup>

### **Specific recommendations:**

10. Eswatini should be encouraged to:

- Fully implement the provisions of the UNESCO Convention against discrimination in education, to which it is a state party since 1970.
- Extend free and compulsory education to correspond to at least nine years of compulsory education and twelve years of free education.
- Consider introducing at least one year of free and compulsory pre-primary education.
- Strengthen measures to combat school dropout including measures to ensure safe and inclusive environment.
- Invest in the quality of TVET and ensure the education and training provided responds to the needs of the labour market.
- Explicitly prohibit corporal punishment and all violence in education in national legislation
- Ensure access to all including in rural areas of comprehensive reproductive health education.
- Submit regularly comprehensive national reports for the periodic consultations on UNESCO’s education-related standard-setting instruments, including the Convention against discrimination in education.
- Share with UNESCO any relevant information to update its country profile on UNESCO’s Observatory on the Right to Education.<sup>25</sup>

### **B. Freedom of opinion and expression**

11. The Government of Eswatini is encouraged to fully implement the constitutional provision on freedom of expression.

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<sup>22</sup> GPE, Eswatini online learning has become new normal during coronavirus, July 16, 2020, accessible at:

<https://www.globalpartnership.org/blog/eswatini-online-learning-has-become-new-normal-during-coronavirus>

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

12. The Government is encouraged to introduce a freedom of information law that is in accordance with international standards.<sup>26</sup>
13. It is further recommended that the Government decriminalize defamation and place it within a civil code that is in accordance with international standards.<sup>27</sup>
14. The Government should enable a media ecosystem that fosters self-regulatory approaches and media independence, including through an independent media regulator, in line with international standards.

### **C. Cultural Rights**

15. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)<sup>28</sup>, the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)<sup>29</sup> and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)<sup>30</sup>, Eswatini is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Eswatini is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

### **D. Freedom of scientific research and the right to benefit from scientific progress and its applications**

16. **Eswatini** did not submit its National Report on the implementation of the Recommendation on the Status of Scientific Researchers (1974) for the Second Consultation covering the period from 2013 to 2016 (<http://unesdoc.unesco.org/images/0025/002592/259256e.pdf>). Therefore Eswatini is encouraged to report to UNESCO on the implementation of the newly adopted Recommendation on Science and Scientific Researchers (2017), which supersedes the 1974 Recommendation, on any legislative or other steps undertaken by it with the aim to

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<sup>26</sup> See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87<sup>th</sup> Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

<sup>27</sup> See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87<sup>th</sup> Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

<sup>28</sup> Periodic Report available at: <http://whc.unesco.org/document/133416>

<sup>29</sup> Periodic Report not available

<sup>30</sup> Periodic Report available at: <http://en.unesco.org/creativity/governance/periodic-reports/submission/4031>

ensure the application of this international standard-setting instrument paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers, as well as human rights obligations related to science, the principle of non-discrimination, including urging active promotion of women and girls entering scientific careers, as well as the scientists' rights of autonomy, freedom of research, expression and publication.