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Swaziland

Submission to the UN Universal Periodic Review 12th Session of the UPR Working Group

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Submitted by CIVICUS: World Alliance for Citizen Participation, NGO in
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1. (A) Introduction

- 1.1 CIVICUS: World Alliance for Citizen Participation is an international civil society movement with members and partners in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizen's freedom of association are threatened.
- 1.2 For effective and sustainable civic participation to occur, citizens must enjoy rights of free association and to be able to engage all sectors of society.
- 1.3 CIVICUS recognises the international and constitutional commitments of the Kingdom of Swaziland to guarantee citizens their rights to express their views, assemble freely and live free from the fear of torture. The Kingdom is a party to the International Covenant for Civil and Political Rights (ICCPR), International Covenant on Economic Social and Cultural Rights (ICESCR) and the UN Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment and the African Charter on Human and People's Rights.
- 1.4 In this document CIVICUS: World Alliance for Citizen Participation outlines key concerns related to the freedom of expression, association and assembly in Swaziland, the growing intolerance of the Swazi government towards any form of criticism towards the regime and dissent and the overcategorisation of specific legislation used broadly to

clampdown on those who are critical of the government and the Swazi monarchy.

- Under section B, CIVICUS focuses on issues of concern regarding the severe restrictions and repressive measures adopted by the Swazi government using provisions in the Suppression of Terrorism Act which was promulgated in 2008.
- In section C, CIVICUS focuses on the use of excessive force by security officials to silence dissenters and those who are critical of the government and the monarchy.
- In section D, CIVICUS makes a number of recommendations in the areas of concerns listed.

2. (B) Concerns over the use of the Suppression of Terrorism Act promulgated in 2008

2.1 Overall Concerns

- 2.1.1 The Act was signed into law by King Swati III in August 2008 after going through parliament without broad consultations with civil society and the public. There are several legal ambiguities in the application of the law because the definition of “terrorist act” as stipulated in the law is broad and in certain instances applies to association, assembly, and affiliation to religious groups and other formations. The law also places limitations on the country’s courts to review orders from the government which outlaws certain groups or organisations.
- 2.1.2 CIVICUS and other civil society organisations who work in Swaziland have expressed serious concerns about the legal and regulatory restrictions placed on civil society organisations and the media in the Kingdom and the extensive use of the Suppression of Terrorism Act by the state authorities to exert control over civil society, human rights activists and the press.
- 2.1.3 CIVICUS acknowledges that it is the responsibility of the state to ensure through appropriate legislation that citizens are protected from indiscriminate attacks from persons or groups of persons whose intention is to inflict serious harm and fear. And in the event of violence also ensure that after proper investigations that perpetrators of such acts are brought before the law.
- 2.1.4 At the same time CIVICUS believes that the promulgation and implementation of such legislation must comply with international human rights law. The Suppression of Terrorism Act of 2008 (herein referred to as the STA) has been used broadly and in a discriminatory manner to restrict the activities of social society groups, human rights

defenders and the press. Provisions in the Act have been used by the government to silence or outlaw groups and formations with dissenting views. In 2008, the Swaziland Solidarity Network (SSN) based in South Africa the People's United Democratic Movement (PUDEMO) and the Swaziland Youth Congress (SWAYOCO) were classified as terrorist groups using sections of the STA.

- 2.1.5 After the government labeled these groups as terrorist groups, Mario Masuku, President of PUDEMO was arrested, detained and charged under the STA for making comments at a funeral which insinuated that he supported a terrorist group. The Swazi Attorney General reportedly told Swazi citizens that they will face the might of the law if they are associated with any of the groups or associations which the government identified as terrorist in nature.

2.2 Restrictions on the rights to freedom of expression

- 2.2.1 Civil society organisations, human rights defenders and the press should be able to freely voice their views on critical issues which affect the citizens in the country.
- 2.2.2 In contrast to the Kingdom's international commitments under the ICCPR, the Swazi Monarchy exercises absolute and discretionary powers to curtail the rights of citizens to free speech even though this right is also enshrined in the country's constitution.
- 2.2.3 Freedom of expression is severely restricted in Swaziland. The press is regularly censored and the authorities have outlawed any publication or writing that is critical of the monarchy. On 19 October 2010, the Swazi Prime Minister Barnabas Sibusiso Dlamini outlined his proposal for legislation that will force columnists to request prior permission before publishing comments that criticise the government. The Prime Minister stated that columnists who write pieces that are critical of the government, dent the image of the country and receive compensation from foreign sources. This establishes a de facto environment where articles which are critical of the government will be censored before they are published. The only independent radio station that operates in the country broadcasts content on religious issues.
- 2.2.4 In July 2010, security officers arrested two activists – Mphandlana Shongwe and Norman Xaba at a civil society meeting for allegedly putting on T-Shirts and shouting slogans of groups which the government had declared were terrorist groups under the STA. The accused were later released on bail.
- 2.2.5 Sections of the STA have also been used to monitor and survey the activities of civil society including telephone calls and meetings. On several occasions meetings or protests organised by civil society have also been called off because of a strong security presence.

2.3 Restrictions on Freedom of Association and Assembly

- 2.3.1 The government of Swaziland should at all times respect the citizen's rights to assembly and be part of associations as enshrined in the 2006 constitution.
- 2.3.2 Even though the 2006 constitution of Swaziland has provisions for freedom of association and assembly, the same constitution does not outlaw or repeal the 1973 ban on political parties and so political parties are not legally recognised in Swaziland.
- 2.3.3 Protest demonstrations are usually suppressed, sometimes through brute force applied by law enforcement authorities. Following the acquittal of opposition leader Mario Masuku on terrorism charges on 1 September 2009, prison authorities violently attacked a group of demonstrators who had gathered around the prison premises waiting for Masuku's release.
- 2.3.4 In September 2010, security forces disrupted pro-democracy demonstrations, detained and later released some activists without any charges and deported trade union activists from other countries who had traveled to Swaziland to show solidarity with civil society in the country. The government approved these actions claiming that intimidation and torture are tools the government uses to suppress opposition to the state and those acting on behalf of foreign sources.

3. (C) Torture and the use of Excessive Force on demonstrators and critics

- 3.1. Law enforcement officers continue to act with impunity in using brute force against those suspected of committing criminal offences, demonstrators and political activists. Victims of police violence have no recourse to an independent body which can look into allegations of torture.
- 3.2 A member of PUDEMO was found dead in custody after he was arrested and detained for wearing a T-shirt which had the PUDEMO logo on it. At the time of his death, the police stated that he had committed suicide while in detention but inconsistent injuries found on his body call into question this police pronouncement.
- 3.3 Wandile Dlodlu, president of the Swaziland Youth Congress was arrested close to the South African border with Swaziland on September 4 2010. Four police officers who arrested him took reportedly tortured him after tying his hands and ankles and dumped him without pressing any charges.

4. (D) Recommendations to the Swazi Government

4.1. CIVICUS urges the Government of Swaziland to protect civil society space and freedoms of association, assembly and expression in the spirit of the ICCPR to which Swaziland is a party and its own Constitution which guarantees these freedoms. In light of this, the following recommendations are made;

4.2 Regarding the Suppression of Terrorism Act:

- The Suppression of Terrorism Act which has been used broadly to deal with dissent should be reviewed and amended after due consultation with the public and civil society. This is because the Act conflicts with Swaziland's responsibilities under international law and the Swazi Constitution.

4.3 Regarding the regulation of the Swazi judiciary:

- In its quest to execute justice, the Swazi government should create an independent body to review allegations of torture and abuse made by those in custody and mechanisms should be put in place for appropriate actions to be taken when these allegations are made.

4.4 Regarding the provision of an enabling environment that guarantees freedom of expression and assembly:

- The government should adhere to its obligations as a party to key international organisations and treaties and create an enabling environment for citizens to freely express their views and to join formations to advance their respective interests.
- The government should equally eliminate the impunity and of security officials and revoke the use of all forms of torture and abuse of detainees, demonstrators and critics.