

**STATEMENT TO THE HUMAN RIGHTS COUNCIL BY CHIEF
MGWAGWA GAMEDZE, HONOURABLE MINISTER OF JUSTICE
AND CONSTITUTIONAL AFFAIRS OF THE KINGDOM OF
SWAZILAND. 15 MARCH 2012.**

President,

Distinguished Members and Observers of the Human Rights Council,
Excellencies,

Ladies and Gentlemen.

I am deeply honored to present on behalf of the Delegation of Swaziland to the consideration of the UPR outcome, the Kingdom's views on the conclusions and recommendations.

President, allow me to begin by informing this august house about progress with regards to international reporting mechanisms. During the month of February 2012, a training workshop was conducted on the treaty body reporting mechanism, specifically the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Through this training, our officers attained broad knowledge and competences in relation to the role and function of the treaty monitoring bodies; how to produce effective reports as well as understanding the reporting process and lastly on how to enhance

opportunities for Civil Society and the Commission on Human Rights and Public Administration to engage.

All this, Madam President, has been made possible by the Office of the High Commissioner for Human Rights, who sent a team of experts to the country to train our Officers, and in this regard we would like to extend our sincerest gratitude.

In the course of the interactive dialogue before the UPR Working Group on 04 October 2011, a number of recommendations were made by member states to the Kingdom of Swaziland. The recommendations made were examined by the National Steering Committee on the UPR. Responses were drafted and after consultation with all relevant stakeholders they were approved. I may as well add that His Majesty's Government has elevated the National Steering Committee into a Permanent Committee that will be responsible for preparing state reports to the Treaty Monitoring Bodies.

President, about 90 percent of the overall recommendations made during the Swaziland's UPR received favorable responses from the Government. Through you President, I would like to focus mostly on those that we had promised to consider but have unfortunately not received our support.

1. Accession to the Second Optional Protocol to the ICCPR and abolish the death penalty.

President, as you may recall from our intervention in October that Capital punishment was not mandatory and the death penalty had last been carried out in 1983. In effect, Swaziland, though retentionist State in law, is abolitionist in practice. The Kingdom is not yet ready to accede, at least for the time being, to this Optional Protocol. In this regard, Swaziland considers the current practice of not implementing capital punishment to be adequate.

2. Torture and Extra-judicial Killings.

On extra-judicial killings, all deaths are investigated by the law enforcement officers. Where there is sufficient evidence, criminal proceedings are instituted. Torture is unlawful in Swaziland hence the acceptance of the recommendation to accede to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

3. Consider allowing the registration and operation of political parties, including greater political freedoms through free, fair, transparent democratic elections (77.48); to remove all legislative and practical restrictions impeding the free exercise of 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 for trade unions (77.51); to enact legislative measures to facilitate the existence of political parties (77.52); to take steps to further democratization efforts, including enacting laws that facilitate the registration of political parties (77.55).

The intervention made by the Swaziland delegation on 4 October 2011 explained that political parties are not banned. Section 25, read together with Section 32 of our Constitution protects the right to freedom of association including the rights of Trade Unions. However by virtue of section 79 of the Constitution election to public office is by individual merit and therefore political parties cannot field candidates in national elections. The Constitution is a product of wide consultations and hence reflects the views of the majority of Swazis. For these reasons Swaziland is not yet ready to accept the recommendations relating to permitting political parties to contest elections.

3. On the recommendation of issuing a standing invitation to the special Rapporteurs and Working Groups of the United Nations human rights system; Issue a standing invitation to the special procedures of the United Nations Human Rights

Council and enhance its cooperation with all human rights bodies; Consider positively the request for a visit by the Special Rapporteur on the promotion and protection of the right to freedom of Opinion and expression and eventually extend a standing invitation to all Special procedures of the Human Rights Council. (77.17, 77.18, 77.19)

The human Rights institutions and mechanisms of Swaziland are still at infancy as such the Kingdom feels they are not yet ready for review. Swaziland prefers the strengthening of local institutions and structures.

4. Implement measures to prevent violence against the LGBT community, through training and advocacy campaigns; and bring legislation into conformity with international human rights obligations by repealing provisions which may be used to criminalize same-sex activity between consenting adults, and take all necessary measures to ensure enjoyment of the right to the highest attainable standard of health, without discrimination on the basis of sexual orientation or gender identity.

With regard to this recommendation the country does not accept the decriminalization of same-sex activity. However, I wish to state that Swaziland does not prosecute consensual same sex relations between

consenting adults. Further the Government is taking steps towards the progressive realization of the highest attainable standard of health without discrimination on the basis of sexual orientation or gender identity.

Lastly, Madam President I would like to express my gratitude to the Members and Observers of the Human Rights Council for their participation in my country's review. Furthermore, I would like to inform this august body that the Government undertakes to consult with relevant stakeholders in mapping out a way forward regarding the implementation of all recommendations that enjoyed the support of the Kingdom of Swaziland.

I thank you.