SOLIDARITY UNITY

**Submission to the Universal Periodic Review of the United Nations Human Rights Council 4th Cycle – 52nd Session**

Submitting organisation: Solidarity & Unity

**Country review: eSwatini**

March 2026

Daria Vorobyeva

SOLIDARITY UNITY

**Solidarity Unity** is a NGO, based in the Netherlands and founded in 2010, dedicated to building more peaceful, just, and livable societies. We develop solution-oriented, human-centered, and empathy-based approaches to address social challenges.

# 1. Introduction

## A. Scope of work

1. Albeit a small and a landlocked State, Eswatini receives migrants and asylum applications annually. Statistics show that Eswatini currently fosters over 1400 refugees, with almost 3300 asylum-seekers (1). Most of these asylum application seekers originate from countries like Burundi and the Democratic Republic of Congo (2). Eswatini experienced a significant influx of asylum applications when approximately 1000 individuals fled there following the 2024 unrest in Mozambique (3).
2. The primary facility for refugees and asylum seekers in the country is the Malindza Refugee Reception Centre (4).
3. The scope of this report extends to the practical obstacles Eswatini is grappling with in the development of migrant policies, the local detention and the deportation practices, and the special consideration of standing of women as a vulnerable group.

## B. Methodology

4. This report is based on a qualitative analysis of publicly available sources concerning migration governance in Eswatini. It draws on data and findings from reports by international organizations, such as the International Organization for Migration, as well as relevant national legislation, policy documents, and available statistical data. Particular attention is given to gaps between formal legal frameworks and their implementation, especially in relation to detention practices, integration policies, and the protection of vulnerable groups. The report also acknowledges limitations arising from the lack of comprehensive and disaggregated migration data in Eswatini, which may affect the scope and precision of certain findings.

## 2. Legal framework

5. Eswatini has been a UN Member State since 1968 and is thus bound by the UN Charter. The African Charter on Human and People's Rights also applies (hereinafter ACHPR).
6. Eswatini is party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter CAT), in addition to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It is also a party to the 1951 Convention Relating to the Status of Refugees, although holds reservations to Articles 22 and 34 of said Convention.
7. Eswatini is party to the International Covenant on Civil and Political Rights (hereinafter the ICCPR), and has ratified both the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
8. In the national legislation, The Refugees Act 15 of 2017 (hereinafter the Refugee Convention) has been drafted with both the Statelessness Conventions as a principal foundation. This Act defines a refugee and is the primary legal source for the rights of a refugee in Eswatini, in conjunction with the 2005 Constitution of the Kingdom of Swaziland.
9. Eswatini has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

## 3. Key violations (main findings)

*A Practical hurdles*

1. Main struggles in developing evidence-based policies around migration stem from the lack of strong data collection and reporting systems in place (5). This also creates a difficulty in relevant stakeholders communicating efficiently.
2. Malindza Refugee Reception Center, being not only the primary, but in practice, the only facility for receiving and accommodating refugees and asylum seekers, is significantly overcrowded. Operating on 250 person capacity, they have reportedly had closer to 1500 individuals at a time,

stretching their resources, rationing supplies and struggling to ensure sanitary standards (6).

3. Further concern arises from the continued lack of progress in operationalizing the National Refugee Appeals Board, as envisaged under the Refugee Act of 2017 (7). Although the establishment of an independent appellate body represents a crucial safeguard for ensuring fairness, accountability, and compliance with international refugee protection standards, its prolonged inactivity significantly undermines the effectiveness of the asylum system. In practice, the absence of a functioning appeals mechanism leaves asylum seekers without a meaningful opportunity to challenge negative decisions, raising serious due process concerns. This gap not only risks arbitrary or erroneous determinations going uncorrected, but also places the state in potential tension with its obligations under international law, particularly the right to an effective remedy. The delay in operationalizing the Board therefore reflects not merely an administrative shortcoming, but a structural weakness that continues to hinder the full realization of the protections envisaged by the 2017 framework.

*B Detention and deportation practices*

10. In mid-July 2025, it was reported that Eswatini had accepted five deportees from the United States of America for a ‘third country’ deportation (8). The deported individuals were nationals of Yemen, Jamaica, Vietnam, Laos and Cuba (9). The US Department of Security spokesperson proclaimed that these individuals were deported to Eswatini because they are ‘so uniquely barbaric that their home countries refused to take them back’, referring to the nature of the crimes they have been convicted of (10).
11. Eswatini officials reported that the individuals were expected to only remain in the country temporarily before being sent to their respective home countries, and that the International Organization for Migration (IOM) will oversee their onward transit process (11). The involvement of IOM has nevertheless been denied by the agency (12). Other sources nevertheless expressed uncertainty in how long the individuals will remain in Eswatini (13). It is notable that

throughout the duration of their time in Eswatini, the deportees remained detained in the country's top maximum-security prison, Matsapha Correctional Complex (14). The legal basis for the detention of the deportees or its expected duration has not been clarified, and their access to legal assistance has been delayed (15). Evidence shows that despite their lawyers' attempts to contact their clients, the five men had still yet to have access to them on the 12th of August, almost a month since their deportation (16). This raises significant concerns about the individual's right to liberty and fair trial in conformity with Articles 9 and 14 of the ICCPR (15). An additional factor in the delay of access to legal counsel is that the authorities are reported to only allow monitored or video only contact with their lawyers (17). It is crucial to recall that confidential and non-monitored legal access is an integral part of due process, as recognised under international standards and in Eswatini's own Constitution (18).

12. The international community's concern over the circumstances is exacerbated by the previous reports of persons detained in Eswatini experiencing torture and inhumane treatment in detainment (19). It must be ensured that Eswatini treats the detainees in good faith with their obligations under CAT, noting the jus cogens status of the prohibition of torture and inhumane treatment, also explicitly outlined by its own Constitution (20). The African Commission on Human and Peoples' Rights Special Rapporteur on Refugees has encouraged the African Union to reiterate that deportations that do not afford people an opportunity to seek protection from persecution are abusive and unlawful (21).
13. It must be noted that the number of US deportees Eswatini has accepted since July 2025 has been reported to have reached at least 19 persons, and has since confirmed having agreed upon accepting up to 160 deportees from the United States for monetary compensation (22).
14. Outside of the alleged harsh conditions of those detained, it must further be questioned if an agreement like the one at hand is in accordance with Eswatini's human rights obligations in itself. It must be stated that similar agreements in the future should be avoided in respect of the non-refoulement

principle, as the Human Rights Committee has clarified that the scope of non-refoulement can apply to aliens not of refugee status (23).

*C Special consideration to the position of women*

15. Eswatini's nationality laws only allow a child a paternalistic *jus sanguinis* inheritance of a nationality (24). Only in exceptional situations, such as when born out of wedlock and there is no recognised father, children born before the commencement of the current Constitution may inherit their mother's nationality. Although it is not wholly prohibited for a woman to pass down a nationality, resorting to which is mostly used as a last resort to combat statelessness, it does showcase an unequal standing of men and women. It must be considered how this is in contradiction to the constitutionally recognised equality before the law, including gender equality (25).
16. Due to the reservation on the Articles 22 of the 1951 Refugee Convention, Eswatini is not bound to provide equal elementary educational opportunities to refugee children. In practice this translates to refugee children being imposed higher tuition fees, notwithstanding a genuine obstacle in accessing education at all (26).
17. Ratification and compliance with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families would not only ensure greater integration abilities for working migrants, but importantly also ensure greater protection enjoyed by their female family members.
18. The ratification of CEDAW was an important safeguard implemented by Eswatini to show commitment to the protection of women. The ratification of the Optional Protocol to CEDAW would allow for individuals or groups to submit complaints directly to the UN regarding women's rights violations, strengthening the commitment to protect women (27).
19. Of grave concern is also the lack of any enforceable measures in the prevention of human trafficking of migrants and refugees, as the government is yet to enact the The People Trafficking and People smuggling (Prohibition) Act of 2009 (28). The aforementioned inefficiency in data collection

exacerbates the difficulty in enforcement and prevention of human trafficking all throughout the irregular migration routes in Eswatini, particularly known for being a transit route to, and from, South Africa (29). Human trafficking is a serious concern for all migrants, whilst it is also important to highlight the particular vulnerability to trafficking of women and other vulnerable groups.

## 4. Recommendations

1. Solidarity & Unity recognises and appreciates Eswatini's commitment to developing their migration policies, especially showcased by the 2022 Voluntary Review Report on the status of implementation of the Global Compact for Migration (30),
    a. Furthermore appreciates the continued efforts to cooperate with the United Nations and follow up with Special Procedures.
2. Solidarity & Unity recommends that Eswatini must;
    a. Adopt measures to enable the full operationalization of the National Refugee Appeals Board, as envisioned by the Refugee Act 2017,
    b. Terminate currently active agreements for third-country deportations and refuse new ones in the future,
    c. Establish a national migration data collection and reporting management strategy, to enable evidence-based policy reforms,
    d. Guarantee, through appropriate legislative measures, equal rights to fathers and mothers with regard to the transmission of nationality to children,
    e. Support the conclusion of the National Labour Migration Policy,
    f. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,
    g. Consider ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women,
    h. Ensure the full enactment of the People Trafficking and People smuggling (Prohibition) Act of 2009, and the special consideration of migrants thereof.

## References


1. “Eswatini”, *UNHCR Rights Mapping and Analysis Platform*, accessed 20 March 2026, https://rimap.unhcr.org/countries/eswatini.
2. “Eswatini”, UNHCR.
3. UNHCR. 2024. “Thousands displaced as post-election unrest grips Mozambique” Press release, 31 December, 2024. https://www.unhcr.org/news/press-releases/thousands-displaced-post-election-unrest-grips-mozambique.
4. UNHCR, “Thousands displaced”.
5. International Organization for Migration (IOM), Migration in Eswatini: A Country Profile 2015–2021 (Geneva: IOM, 2023).
6. “SWZ: Population Movement - 11-2024 - Influx of migrants in refugee camp” International Federation of Red Cross and Red Crescent Societies, last modified 11 January, 2025, accessed 24 March, 2026, https://go.ifrc.org/field-reports/17364.
7. Refugees Act 15 of 2017, s. 6.
8. Singh, Maanvi. “US deports migrants to Eswatini, African country with troubling human rights record” *The Guardian*. July 16, 2025. https://www.theguardian.com/us-news/2025/jul/16/trump-administration-deports-five-migrants-to-eswatini-in-southern-africa.
9. Singh, “US deports migrants to Eswatini”.
10. Singh, “US deports migrants to Eswatini”.
11. Owolabi, Adekunle. “Five US deportees held in isolation at Matsapha” *Independent News*. July 16, 2025. https://independentnews.co.sz/18647/news/diplomacy/five-us-deportees-held-in-isolation-at-matsapha/.
12. Hesson, Ted and Le Poidevin, Olivia. “IOM not involved in Eswatini plan for U.S. deportees, agency says” *CNBC Africa*. July 17, 2025. https://www.cnbcafrica.com/2025/iom-not-involved-in-eswatini-plan-for-u-s-deportees-agency-says.
13. Singh, “US deports migrants to Eswatini”.

14. Singh, “US deports migrants to Eswatini”. See also “Rights advocates accuse Eswatini of stalling case weighing US deportations” *Al Jazeera*. September 25, 2025. https://www.aljazeera.com/news/2025/9/25/rights-advocates-accuse-eswatini-of-stalling-case-weighing-us-deportees.
15. Amnesty International. 2025. *Eswatini: Five detained deportees denied legal access*. AFR 55/0294/2025. Eswatini: Amnesty International Ltd. https://www.amnesty.org/en/documents/afr55/0294/2025/en/.
16. Amnesty International. “Eswatini: Five detained”.
17. International Covenant on Civil and Political Rights, December 16, 1966, 999 U.N.T.S. 171, arts. 9 and 14.
18. Eswatini, The Constitution of the Kingdom of Swaziland Act, 2005 (Mbabane: Government Printer, 2005), sec. 16(6)(b).
19. Amnesty International. 2025. *The State of World’s Human Rights*. Amnesty International Ltd. https://www.amnesty.org/en/location/africa/southern-africa/eswatini/report-eswatini/.
20. Erika de Wet, “The Prohibition of Torture as an International Norm of jus cogens and Its Implications for National and Customary Law” EJIL 15, no. 1 (2004): 1-2; Eswatini, The Constitution of the Kingdom of Swaziland Act, 2005 (Mbabane: Government Printer, 2005), sec. 18(2).
21. “US/Africa: Expulsion Deals Flout Rights” *Human Rights Watch*. September 23, 2025. https://www.hrw.org/news/2025/09/23/us/africa-expulsion-deals-flout-rights.
22. Singh, “US deports migrants to Eswatini”; Musi, Nokukhanua and Gumede, Michelle. “Eswatini receives third batch of migrants deported by the US” *ApNews*. March 12, 2026. https://apnews.com/article/eswatini-deportees-us-trump-immigration-5388e07771714b074953cfcb1f110b67c.
23. UN Human Rights Committee. General comment no. 36, Article 6 (Right to Life). CCPR/C/GC/35. September 3, 2019. 6.

24. Eswatini, The Constitution of the Kingdom of Swaziland Act, 2005 (Mbabane: Government Printer, 2005), sec. 43.
25. Eswatini, The Constitution of the Kingdom of Swaziland Act, 2005 (Mbabane: Government Printer, 2005), sec. 22.
26. Sanele Lushaba, “World Vision Eswatini appeals for the inclusion of children of Refugees and Asylum Seekers in free primary education during World Refugee Day 2023 commemorations” *World Vision Eswatini*. June 29, 2023. https://www.wvi.org/stories/eswatini/world-vision-eswatini-appeals-inclusion-children-refugees-and-asylum-seekers-free.
27. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, adopted October 6, 1999, 2131 U.N.T.S. 83 (entered into force December 22, 2000).
28. People Trafficking and People Smuggling (Prohibition) Act 7 of 2009; “Eswatini Refugee Law Reader” *AfricanLII*. January 1, 2025. https://africanlii.org/en/akn/sz/doc/book/2024-01-01/eswatini-refugee-law-reader/eng@2025-01-01.
29. See section 3A.
30. Kingdom of Eswatini. 2022. Voluntary Review Report on the status of implementation of the Global Compact for Migration. United Nations Network on Migration. https://migrationnetwork.un.org/system/files/docs/Eswatini%20-%20Voluntary%20GCM%20Review.pdf.