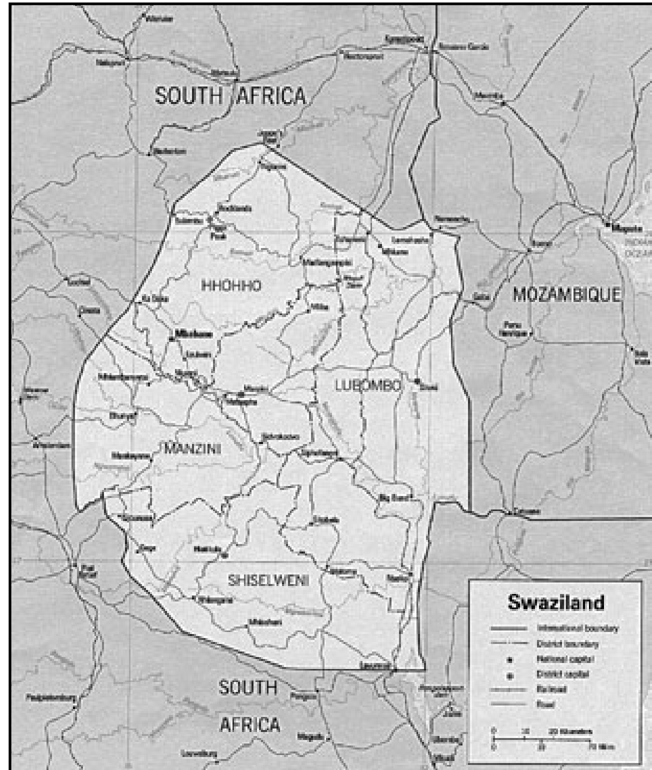
VI. SWAZILAND COUNTRY BACKGROUND

Geography and Population

Swaziland, Africa's last absolute monarchy and the smallest country in the southern hemisphere,[422] is a land-locked kingdom located between Mozambique and the northeast edge of South Africa. It covers 17, 364 square kilometers[423] and includes a variety of geographic and climactic features. Much of the country is a mountainous and well-watered plateau, with dry lowveld in the surrounding regions.[424] Annual temperatures range from 2.5 to 45 degrees Celsius, with the rainy season falling between September and March.[425]

The two major urban centers are Mbabane, the country's capital, and, to the southeast, Manzini, the principal commercial hub. About three-quarters of the population lives in rural areas.[426] In the recent past, Swaziland has experienced an annual population growth rate of 2 percent; the country's 2006 population was estimated to be 1.14 million, with nearly 56 percent falling between the ages of 15 and 64.[427]

The ethnic breakdown of the population is 97 percent African, with the remainder having European roots.[428] Forty percent of the population practices Zionism, a mix of Christian and traditional worship, while 20 percent are Roman Catholic, ten percent Muslim and 30 percent Anglican, Bahai, Methodist, Mormon, Jewish and other faiths.[429] SiSwati and English are the official languages.[430]



History and Politics

The Nkosi Dlamini, a Nguni people, migrated south from Central Africa and settled what would later become Swaziland in the 18th century.[431] Swaziland became a protectorate of Great Britain after King Mswati II sought help in defending his country from raids by Zulu warriors and others from areas that later became part of South Africa.[432]

King Sobhuza II assumed the throne in 1921 and reigned for more than 60 years.[433] In 1964, elections for the first legislative council were held and the Imbokodvo National Movement (INM), which strongly identified with Swazi tradition, won all 24 elective seats and started lobbying for independence.[434]

Britain granted independence to a sovereign Swaziland as a constitutional monarchy and parliamentary democracy on September 6, 1968.[435] In 1973, a court ruling prompted King Sobhuza II to declare a state of emergency, abrogate the constitution, and assume the authority to rule by decree and appoint the government. King Sobhuza II died in August 1982 and, after some political maneuvering, was succeeded by his son, Prince Makhosetive, who was enthroned as King Mswati III in 1986.[436]

Swaziland has four administrative regions, Manzini, Hhohho, Lubombo and Shiselweni, which are subdivided into 55 political constituencies (*tinkhundla*).[437] Each *inkhundla* (constituency) is comprised of several chiefdoms and led by an *indvuna yeNkhundla*, (elected official), who works together with each chief's representative (*bucopho*); chiefs are determined by heredity and appointed by the King.[438] Officials manage day-to-day affairs of the chiefdom.[439]

Swaziland's parliament includes a House of Assembly, which can consist of up to 76 members, and a Sen-

ate of no more than 31 members.[440] Up to 60 members of the House can be elected by citizens via *tinkhundla* elections.[441] The King may nominate up to ten House members.[442] Under the new Constitution, four women are to be specially elected to represent each of the regions.[443] The Attorney General also serves as an *ex officio* member.[444] House members elect ten members of the Senate (half of which must be women)[445] and the King appoints 20 senators.[446] In addition, the King, who serves as head of state with legislative and judicial powers, keeps a circle of traditional advisors who constitute a "parallel executive government" which has raised serious concerns about the credibility of the Swazi government and justice systems.[447]

Swaziland has a dual-legal system, comprised of Swazi Law and Custom, often referred to as customary law, as well as General (Roman-Dutch) Law, known as civil law.[448] Customary law, while unwritten, is recognized and maintained by a network of traditional courts.[449] Swazi civil law is maintained by a formal court system including magistrate courts, a High Court and, until 2006, a Court of Appeal, whose judges came from South Africa.[450] Chiefs deal informally with community disputes in their chiefdoms.[451]

The efficacy of the courts was seriously undermined in November 2002. The Court of Appeals limited the King's power to rule by decree by overruling his removal of 200 subjects from their homes for protesting the royal appointment of a new chief.[452] The then Prime Minister, Sibusiso Dlamini, in turn announced that all royal decrees were absolute and that the Government would ignore the court.[453] All Appeals judges resigned and returned to South Africa. After two years of protest and behind-the-scenes negotiation, the judges returned to work in late 2004 after receiving assurances from the new Prime Minister, Themba Dlamini, that the government would abide by their decisions.

Although the Prime Minister has kept that promise, the Swaziland Law Society has pointed out that the law crisis persists since the King retains authority with regard to the appointment of the judiciary.[454] The failure of the Government to ensure an efficient judicial appointment process and a full bench of judges on the High Court has continued to have an impact on access to justice and legal remedies. The constitutionality of the Judicial Services Commission, which advises the King on judicial appointments, was challenged in October 2006; the hearing was postponed until 2007.[455] More positively, the Minister of Justice is in the process of establishing a new "Supreme Court" with appellate jurisdiction, and with the intention of eventually replacing expatriate judges with local ones. Two new appointments were made in 2006.[456]

King Mswati III, who is polygamous, has faced some public criticism for this in the past decade. For example, his decision in 2004 to marry a teenage schoolgirl has provoked controversy,[457] as did an episode in 2002 when court proceedings were held to determine the legality of the King marrying an 18 year-old against her mother's formal objection.[458]

In 2002, moving forward with an ongoing constitutional process in response to escalating national and international pressure, King Mswati appointed a Constitution Drafting Commission headed by one of his brothers, Prince David, the current Minister of Justice and Constitutional Affairs. The King presented a draft to the nation in May 2003 and, in September 2004, the Government convened a week-long forum in the royal cattle kraal, sometimes referred to as the "People's Parliament," to allow citizens a chance to express their views.[459] While Prince David's management of the process has been praised, the public meeting has been criticized as ineffective and unrepresentative.[460] The document was passed by Parliament in June 2005, and assented to and signed by the King on July 26, 2005.[461] It went into effect in February 2006.[462]

Political parties have been prohibited by the Government in the past, and may continue to be so by omission from the final draft Constitution,[463] although some experts believe that the new freedoms of speech and assembly provide a basis for the legalization of parties.[464] There is confusion regarding whether the new Constitution's bill of rights superseded the 1973 decree by King Sobhuza banning political parties. Although King Mswati III claims that political parties are allowed under the new constitution,[465] the Prime Minister has stated that the Constitution nullified the decree.[466] The Swaziland Law Society brought a legal challenge on the matter in February 2006 which is pending before the Mbabane High Court.[467]

King Mswati III has stated publicly that the country is not economically prepared for multiparty democracy.[468] He has criticized foreign envoys for international scrutiny of Swaziland's one-party state.[469] Opposition in the form of political coalitions and labor unions does exist. The most notable example is the People's United Democratic Movement (PUDEMO), which named itself the official opposition in 1992,[470] and the Swaziland Federation of Trade Unions. In January 2003, the Swaziland Coalition of Concerned Civic Organizations was formed in response to the country's rule of law crisis and provides training and

civic education to Swazi civil society.[471] However, Swaziland's political climate remains hostile to opposition. In December 2005 and January 2006, 16 PUDEMO and Swaziland Youth Congress members were incarcerated on charges of treason for allegedly fire-bombing government structures.[472] In March 2006, the Acting Chief Justice of Swaziland ordered the release of the men on reduced bail and instructed the Government to create a commission of inquiry to investigate allegations that the accused were subjected to torture while in detention.[473]

Economy

The GDP of Swaziland in 2006 was estimated at US$5.91 billion, or US$5,200 per capita, with most of that coming from industry and services.[474] While agriculture accounted for just 11.8 percent of the GDP, more than 80 percent of the population practices subsistence farming.[475] Due to poor weather conditions, HIV/AIDS and low crop production, [476] 177,050 people received food aid in Swaziland in 2004; over 97,000 of these recipients were women.[477] Sixty-nine percent of the population lives below the poverty line.[478] The Swaziland economy is also one of stark inequity. The top 10 percent of the population controls 40 percent of the country's wealth while the bottom 40 percent of the population controls only 14 percent of the national wealth.[479] In an index of countries based on the level of income equality, Swaziland ranks 119th out of 124 nations.[480] In the 2006 Transparency International Corruption Perception Index, Swaziland ranked 121 out of 163 countries, and on a scale of 0 (highly corrupt) to 10 (highly clean), it scored a 2.5.[481] The Prime Minister and the Minister of Justice and Constitutional Affairs are trying to address pervasive corruption systematically through the Anti-Corruption Act of July 2006, an August 2006 national Anti-Corruption Summit and commissions of inquiry into incidents of large-scale corruption, and with capacity-building and training assistance from the UNDP and South African investigators.[482]

Unemployment in Swaziland stood at 30 percent in 2005.[483] Including those who stopped looking for work, unemployment was 40 percent.[484] Swaziland ranks 97th out of 103 developing nations on a scale which measures human development, based on indicators such as access to education and health care, as well as the nation's standard of living.[485] Swaziland's gender-related development index, the human development index adjusted for gender equality, places it 146th out of 177 developing countries.[486] Women earn 29 percent of what men earn in Swaziland.[487]

South Africa has always played a significant role in Swaziland's economy. South Africa is Swaziland's largest trading partner.[488] Swaziland has suffered from changes in the value of the South African rand to which the Swazi *lilangeni* is pegged. The rand appreciated from R12 to the US dollar to half that amount between 2002 and 2005.[489] As a result, and compounded by increased competition and law changes affecting the international textile market,[490] and the end of preferential agreements to sell sugar to the European Union,[491] two of Swaziland's chief industries have suffered, costing the country thousands of jobs.[492] Many Swazis have also returned home from South Africa after cutbacks in the latter's mining industry.[493]

The structure of land tenure in Swaziland has also result in inequities, particularly with respect to gender. Tenured Swazi land is divided into three categories: communal property on Swazi Nation Land (SNL), freehold rights on private land known as Title Deed Land (TDL) and Crown Land.[494] The King owns the title to SNL, TDL and Crown Land.[495] The new Constitution affirms this, vesting all land except privately-held TDL in the King in trust for the nation.[496] With respect to Swazi Nation Land, the King may divide the land between individual chiefdoms for allocation to individuals for cultivation, residence and communal grazing, but not for ownership.[497] SNL is allocated through the *kukhonta* tradition whereby men pledge allegiance to chiefdoms in exchange for land rights.[498] Women are barred from performing *kukhonta*, though they have been allocated land by chiefs, for example through programs which grant land access for commercial use.[499]Some women have formed co-operatives to take advantage of such programs.[500] Individual ownership of TDL is permitted for residential, business and commercial agricultural use.[501] While women can own and register businesses in their own names, women married in community of property cannot own land or secure loans, making them reliant on their husband's signatures. This leaves women's enterprises vulnerable because men can sell or otherwise dispose of their wives' business lands or his family can claim them upon his death.[502] Crown Land can also be sold to individuals; some has been allocated on a "temporary" basis stretching into years but without formal rights.[503] Of particular note is that while the new Constitution permits women to own land, those rights extend only to land to be used for "normal domestic purposes."[504] Thus, it remains to be seen what the impact of the new provision will be on women's access to property.

Health Care System

The most recent statistics available indicate that Swaziland's total health expenditure, both public and private, dropped from 6.4 percent of the GDP in 1999 to 5.8 percent in 2003.[505] The Government spends 10.9 percent of its annual budget on health care.[506]

The country's health care system is comprised of modern health centers and traditional healers, with much of the general populace relying on both for care.[507] The national system is decentralized into the four regions but overseen at the central level.[508] Private and public clinics operate throughout the country and Rural Health Motivators educate local communities about condom use, sanitation, breastfeeding and general disease prevention.[509] Eighty percent of the population lives within eight kilometers of a facility that provides at least antenatal care,[510] though problems exist regarding access for certain rural communities due to the lack of public transport and persistent poverty.[511] There are approximately 0.2 physicians available for every 1,000 people[512] and one nurse for every 356 people.[513] Swazi nurses rallied in 2002 and 2004 for pay raises, winning a 7.5 percent increase in 2002.[514] Despite this, between 100 and 150 nurses are estimated to leave the profession each year as a result of low pay, lack of HIV/AIDS training and personal assaults,[515] while the Mbabane and Manzini hospitals graduate approximately 100 new nurses each year.[516]

Traditional healers continue to play a significant role in providing health services, for HIV and other ailments, particularly in rural areas with little access to modern medicine.[517] Many Swazis consult both traditional healers and modern health centers when they fall ill.[518] WHO/AFRO statistics have reported one traditional healer per every 100 people.[519] Medicines derived from plants play a large role in traditional Swazi healing.[520]

After Swaziland gained independence, life expectancy rose to 65 years for women and 58 years for men.[521] In 2004, life expectancy for women and men was 31.3 years.[522] The infant mortality ratio stood at 108 deaths/1,000 live births in 2004.[523] That same year, the probability of a child dying under five years of age was 163/1,000 live births for boys and 150/1,000 for girls.[524]

HIV/AIDS Epidemic

In March 2004, Swaziland officially became the country with the world's highest HIV prevalence.[525] That year, Botswana's HIV-positive adult population dropped from 38.8 percent of all adults to 37.5 percent while Swaziland's remained at 38.6 percent of the total adult population.[526]

Since 1992 the Government has been conducting sentinel sero-surveillance surveys at antenatal clinics every other year, with the cooperation of WHO.[527] The most recent survey based on estimates derived from 2,467 blood samples taken from pregnant women visiting antenatal care health centers in August to October 2006, found a prevalence of 39.2 percent,[528] as compared with 42.6 percent in 2004.[529] A similar survey revealed an infection level of just 3.9 percent in 1992.[530] That was six years after the first case of HIV infection in the Kingdom was identified.[531]

According to the 2006 surveillance data, 41 percent of HIV-positive Swazi women are from urban areas as compared to 36.9 percent from rural regions.[532] The prevalence of infection fell for women ages 15-29, but rose for women in the 30-34 and 35-39 age groups.[533] Pregnant women ages 25-29 had the highest prevalence, 48 percent, a decline from 56.3 percent in 2004, and close to the 2002 prevalence, 47.7 percent.[534] Unmarried pregnant women previously married or living with their partners had the highest HIV prevalence, 51.2 percent.[535] Women with tertiary and higher education had the lowest levels of infection compared with women with lower levels of education or vocational training.[536]

Women are disproportionately affected by the HIV/AIDS epidemic in Swaziland. Of the 220,000 adults in Swaziland estimated to be HIV-positive at the end of 2005, 120,000 — 54.5 percent — were women.[537] UNDP reported that 52.8 percent of female hospital inpatients in Swaziland were HIV-positive at the end of 2003, compared with 45.6 percent of male patients.[538]

Unequal power relations between men and women and gender discrimination disadvantaging women are key factors underlying the higher prevalence of HIV in women in Swaziland.[539] Intergenerational sexual transmission has been cited as a major driving force behind Swaziland's HIV/AIDS epidemic and, in particular, for its gender disparity.[540] Moreover, while polygamy itself is not seen as a cause per se of HIV transmission, infidelity within polygamous marriage can increase infection rates among women[541] in a manner similar to the dynamics seen in other multiple concurrent (and serial) sexual partnerships.[542]

As is the case elsewhere in the region, gender inequality and poverty are driving the epidemic's disproportionate effect on women.[543] For example, rising food insecurity among an increasing number of female-headed households has been faulted for forcing women

into high-risk sexual behavior such as exchanging sexual intercourse for food, money or other resources.[544] As mentioned above, high mobility both within and out of Swaziland has also been cited as a factor in the country's HIV/AIDS epidemic.[545] Studies have shown that many men work away from home in urban Swaziland or the South African mines, increasing the rate of multiple partnerships, sexually transmitted diseases and thus risk of HIV infection.[546]

Traditional practices have also been identified as possible factors in the epidemic. In 2001 the King revived the customary practice of *umcwasho* by royal decree with the intention that it serve as a means by which to curb HIV infection.[547] *Umcwasho* are traditional woolen tassels young women wear to indicate their sexual abstinence.[548] The revival was received with mixed reviews within Swaziland[549] and was repealed in 2005, one year earlier than planned.[550] Months into the ban, the King himself paid the traditional fine of one cow to the father of a 17-year-old woman with whom he broke the chastity vow.[551] He chose his 13th fiancée in 2005 after he saw her at the annual reed dance in which virgins dance for the King and he can choose his next wife from among the dancers.[552] Moreover, while customary polygamy has come under fire from HIV/AIDS activists as facilitating the spread of the epidemic, King Mswati III has defended it by blaming individual infidelity rather than the practice itself for the epidemic.

Traditional health practices also increase the risk of contracting HIV. For instance, *kugata*, during which incisions are made in the skin to administer traditional medicines, is potentially dangerous, since *kugata* blades are customarily not cleaned between uses.[553] Some healers have claimed to be able to cure AIDS through a cleansing ritual of goat slaughter and herbal medicine injection which could lead to misplaced belief of being cured.[554]

Like many countries in southern Africa, Swaziland is feeling the economic effects of the HIV/AIDS epidemic and a shrinking workforce. UNAIDS has estimated that AIDS-related deaths would account for a 41 percent decrease in Swaziland's population between 2002 and 2015.[555] In 2005 alone an estimated 16,000 Swazis died of AIDS.[556] Those affected by the disease come disproportionately from society's working population.[557] The loss of its economically productive citizens is straining Swaziland's health care structure and raising the number of dependents who cannot generate income to sustain themselves.[558] It is estimated that Swaziland is currently home to 63,000 children orphaned by AIDS.[559] The Swazi government expects that the country will be home to 120,000 orphans by 2010.[560] The United Nations Children's Fund (UNICEF) estimates that AIDS will be the cause of 82 percent of the orphaned population.[561]

Swaziland HIV/AIDS Policy

Governmental and Organizational Response

The first case of HIV was identified in Swaziland in 1986.[562] In response, the Government created the National AIDS Prevention and Control Programme (NAPCP) in the Ministry of Health and Social Welfare that same year.[563] Two years later, with the help of WHO, the program was expanded and renamed the Swaziland National AIDS/STI Programme (SNAP). SNAP's mandate is to reduce HIV and STI transmission through information, education and communication campaigns.[564] In 1999, King Mswati III declared HIV/AIDS a national disaster.[565] The Government created the National Emergency Response Committee on HIV/AIDS (NERCHA) in 2001 to oversee and coordinate a comprehensive and multisectoral approach to managing the epidemic,[566] operating under the National Strategic Plan for HIV and AIDS (2000-2005).[567]

A comprehensive review of the strategic response plan was commissioned and produced in 2005 to guide NERCHA and other stakeholders in developing a second strategic plan for the next three years.[568] The result was the Second Multisectoral HIV and AIDS Strategic Plan 2006-8[569] and the National Multisectoral HIV and AIDS Policy.[570] Whereas the first National Plan focused on risk reduction, response management and impact mitigation,[571] the current strategy incorporates prevention; care, support and treatment; and management of the national response as an "urgent priority," and emphasizes comprehension and scaling up. The Policy puts forth as three of its guiding principles respect for human rights, compliance with international and national laws, and gender equality and equity.[572] Moreover, women's sexual and reproductive rights and protection of women against gender-based violence and traditional practices negatively affecting their health are explicitly endorsed.[573]

The Swazi government reported that it spent US$4.1 million on HIV/AIDS in 2005.[574]

The international community is also involved in Swaziland's fight against HIV/AIDS. For example, WHO and several UN agencies facilitate Swaziland's United Nations Theme Group on HIV/AIDS, a joint policy and strategy collective.[575] In 2004 the Theme Group, together with Support to International Partnership

Against AIDS in Africa, assisted PLWA support groups to conduct a rapid assessment of local organizations that work with PLWA.[576] Also in 2004, the Theme Group helped create the Swaziland Partnership Forum on HIV and AIDS to bolster "multisectoral cooperation and resource mobilization efforts for HIV and AIDS."[577] The group also assisted in the establishment of a national PLWA network, the Swaziland National Network of People Living with HIV and AIDS (SWANNEPHA), which advocates for PLWA.[578] In 2000, Swaziland's chapter of the Alliance of Mayors and Municipal Leaders on HIV/AIDS in Africa (AMICAALL) formed in Manzini.[579] AMICAALL addresses the social, economic, cultural, and political impacts and drivers of the epidemic in Swaziland's municipalities.[580] Since its inception, AMICAALL has established and strengthened 40 feeding centers to ease food insecurity as a result of HIV/AIDS.[581] The alliance has also promoted PMTCT services, trained home-based care volunteers and facilitated monitoring and evaluation projects.[582]

In 2005, the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria contributed US$4,318,890 to Swaziland for Mother to Child Transmission services, VCT, ARV treatment, blood bank safety measures and legal assistance to PLWA.[583] In 2004, the European Union gave US$2.85 million and the World Bank gave US$0.4 million for HIV/AIDS prevention and treatment.[584]

In 2005, the United States reported that it was providing US$32 million to several HIV/AIDS-related initiatives in Swaziland through a variety of agencies, including the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria.[585] The United States Agency for International Development's (USAID) Regional HIV/AIDS Program in South Africa supports a number of projects in Swaziland through faith-based, non-governmental and community-based organizations, including orphan care, palliative treatment and community preparation for ARVs.[586] The US Embassy's International Visitor Exchange program trains Swazis in-country and sponsors study tours to the United States to share HIV/AIDS fighting strategies.[587] In 2005, the US Ambassador's Girls Scholarship Program committed US$210,000 to the provision of basic education for 1,000 Swazi girls who have been orphaned, abused or live with HIV/AIDS.[588] USAID, through MEASURE DHS, also supported a Demographic and Health Survey in Swaziland in the first four months of 2006.[589]

A number of Swazi non-governmental and community-based organizations have been created to address HIV/AIDS. These include The AIDS Information and Support Center (TASC), which in 1993 became the first organization to offer free voluntary counseling and testing to PLWA.[590] TASC in turn created the first support group for PLWA, the Swaziland AIDS Support Organization (SASO) that same year.[591] Like other support groups, SASO also advocates at the national level for the rights of PLWA.[592] In 2001, Swazis for Positive Living (SWAPOL) was formed by several HIV-positive women[593] who approached Swaziland's UNICEF representative for support.[594] With funds from its own agricultural projects in addition to UNICEF and other donor assistance, SWAPOL educates communities, trains caregivers, provides medical and home-based care to PLWA and assists abused women and children.[595] Rural Health Motivators, nurses, Swaziland Hospice at Home and the Family Life Association of Swaziland (FLAS), a youth sexual and reproductive health services NGO, also lead prevention activities at the homestead level.[596] SWAPOL, SASO and Women Together have organized counseling and testing initiatives and provide support to PLWA.[597] The Nhlangano AIDS Training and Information Counseling Center (NATICC) is an education and counseling organization formed in 2002 in the Shiselweni region.[598] The southern Africa regional office of the International Community of Women Living with HIV/AIDS opened in Mbabane in April 2004. In collaboration with the POLICY Project, this advocacy network focuses on gender equality, universal access to care and treatment and women's participation in decision making at all levels.[599] Many of these organizations have worked together through CANGO, the Coordination Assembly of Non-Governmental Organizations, which in 2006 organized workshops with NGOs working on HIV/AIDS, NERCHA and the Ministry of Health to enhance collaboration among these agencies.[600]

The Swaziland Infant Nutrition Action Network (SINAN), a local NGO and Secure the Future, an initiative of Bristol Meyers Squibb, as well as the Ministry of Health and Social Welfare, oversee PMTCT programs which provide, without charge, hospital delivery, ARV prophylaxis for mother and child, treatment of opportunistic infections, male and female condoms, VCT services during pregnancy, food supplements for the mother and child and infant formula.[601] PMTCT also offers ARV treatment to women and families at certain sites.[602]

Various organizations and government ministries are struggling to care for Swaziland's growing AIDS orphan population. The Government has asked chiefs to forego the practice of redistributing a deceased man's land in favor of letting the deceased's orphans remain on it.[603] The traditional practice of the "chief's

field" has also proven useful. Custom provides for a plot of land to be reserved for growing communal village supplies, to be drawn upon in times of drought and other emergencies.[604] The Government asked the 366 chiefs to create such plots for orphans and, by September 2002, 190 had started designating some cropland for such use.[605] However, of the 190 fields that were planted in 2003, only 12 percent were able to produce enough food to feed the area's orphans.[606]

Swazi media has been criticized for failing to comprehensively address the HIV/AIDS epidemic as a result of strict government regulation, cultural taboos and lack of capacity.[607] While many Swazis receive information via radio, HIV/AIDS is often relegated to unpopular health education programs.[608] The state owns much of the media in the country and keeps tight reins on its content, barring any reports that suggest critique of the Government.[609] In 2003, NERCHA established a communications office to assist media outlets to craft HIV/AIDS awareness programming.[610] Some activities resulting from this initiative include a weekly HIV/AIDS column in the *Times of Swaziland* as well as weekly HIV/AIDS briefings at NERCHA.[611] The Media Institute of Southern Africa has a Swaziland chapter focused on creating a legal framework for realization of the right to freedom of information, educating civil society on this right, monitoring violations and integrating a gender perspective, among other activities.[612]

Prevention/Education

A review by the Swazi government in 2005 found that programs designed to communicate information and promote behavioral change were not coordinated at a national level, had not been adequately evaluated as to effectiveness and lacked an overarching communications strategy.[613] The Swazi Government reported to the 2006 UN General Assembly's Special Session on HIV/AIDS (UNGASS) meeting that only 47 percent of 15 to 24-year olds were able to identify at least one way that HIV is prevented.[614] Swaziland also lacks national policies on the prevention of mother-to-child transmission and on addressing HIV and AIDS in the workplace.[615]

In April 2003, Chief Madelezi Masilela of Vusweni area, 40 kilometers southeast of Mbabane, became the first traditional leader to publicly admit his HIV-positive status.[616] He said he contracted the virus through the practice of widow inheritance, meaning that he "inherited" and married his sister-in-law after his brother died of AIDS.[617] Chief Masilela urged his subjects to get tested and practice safe sex.[618]

The Ministry of Health is also working with traditional healers to build upon healers' access to patients and improve patient education and care.[619] Healers are encouraged to sterilize any invasive implements to conduct *kugata*.[620] Some healers also distribute condoms.[621]

A 2006 NERCHA prevention campaign was controversial and has been strongly criticized by PLWA and women's groups. Called "Makhwapheni Uyabulala" ("a secret lover kills"), it included SMS text messages imitating lovers' solicitations sent to thousands of mobile phones. The campaign was publicly denounced by organizations including SWANNEPHA, for being insulting to PLWA and suggesting that they irresponsibly have multiple sexual partners.[622] Women's groups raised concerns of gender discrimination in the portrayal of women in the campaign, pointing out that *makhwapheni* is an insulting term in Swazi culture when referring to women, and fearing that women already stigmatized as transmitting HIV to their partners, and female PLWA in particular, would be further marginalized by the impression that they are seeking, and have been infected due to, risky, adulterous relationships.[623]

Testing

Despite the prevalence of HIV in Swaziland, widespread testing has been a relatively recent practice. Insurance companies usually require HIV tests of life insurance applicants.[624] If applicants test positive they are often denied policies.[625] The national army, the *Umbutfo* Swaziland Defense Force, announced in February 2004 that it would begin mandatory, anonymous HIV testing for its 3,500 members.[626] Though staff would be able to receive their results and voluntary counseling and treatment upon request, the policy is aimed more at measuring the scope of infection rather than identifying infected individuals.[627]

The central element of the Government's testing policy in the past few years has been the creation of 22 VCTs, with several in each of the country's four districts, the majority located within other health facilities.[628] The centers offer pre- and post-test counseling and some rapid testing services.[629] The testing policy has faced implementation challenges. For example, in 2005 it was determined that that the recruitment and training of additional counselors were not keeping up with the demand for testing services.[630] In addition, some centers were found to keep poor records, fail to protect confidentiality and lack strong links with community-based organizations that provide support services for people with HIV.[631]

Moreover, despite educational campaigns to promote HIV testing, many of those at risk are afraid of being tested.[632] Such fears could stem from the fact that Swaziland remains an inhospitable environment for people with HIV because of associated stigma and the difficulty of preventing or redressing HIV/AIDS-related discrimination.[633] For example, women have been driven from their homes after disclosing their HIV-positive status.[634]

Treatment

Swaziland has recently begun to provide HIV/AIDS treatment. When the National Strategic Plan was drawn up in 2000, only a few private clinics offered access to ARVs.[635] In August 2002, the Government of Swaziland promised to make ARVs available to HIV-positive mothers and rape survivors "soon" at public health facilities, with an eye toward eventually expanding the service to all HIV-positive citizens, as well as increasing training and counseling services.[636] In January 2004, the Ministry of Health and Social Welfare launched an effort to make ARVs available without cost on a national level.[637] In September 2005, the most recent estimate, NERCHA reported that 14,500 patients had enrolled in ARV treatment.[638]

As of early 2005, treatment was free at six public hospitals around the country, but many patients who live in rural areas still found it difficult to access such treatment.[639] Additionally, because of the rising number of individuals seeking treatment, the inadequately staffed and supplied centers find themselves unable to cope with the demand.[640] In November 2005, for example, public hospitals in Mbabane, Siteki (in eastern Swaziland) and Hlatikhulu (in southern Shiselweni District) reported ARV shortages[641] due in part to a decision by the Global Fund to Fight AIDS, Tuberculosis and Malaria to suspend funding for drug distribution pending the meeting of certain requirements, including the implementation of management systems.[642]

The estimated cost of treating one patient with ARVs for one year in Swaziland was US$380 in January 2004.[643] By spring 2005, the cost had fallen to between US$150 and US$170.[644] Swaziland participated in WHO's "3 by 5 Campaign," aimed at providing 3 million people in developing and "transitional" countries with ARVs by 2005.[645] WHO estimated the number of Swazis in need of ARVs to be 32,000 by 2005 and committed to providing treatment to half of them.[646] The major sources of funding for ARV treatment in Swaziland are the Global Fund, the Swazi government and the private sector.[647] For example, Royal Swaziland Sugar Corporation and South African Paper and Pulp Industry *Usuthu* purchase their own ARVs for distribution to employees.[648]

Despite the influx of funds, lack of adequate infrastructure remains a roadblock in the delivery of HIV/AIDS treatment in Swaziland. The country's lack of a national drug-testing facility prompted its exclusion from a fourteen-country, US-backed program promoting ARVs for pregnant women, which in turn prevented Swaziland from being included in PEPFAR.[649]

A 1990s survey indicated that the majority of Swazis consult traditional healers as their first mode of health care.[650] There were an estimated 3,000 healers working in Swaziland in 2003.[651] That same year, Swaziland's Traditional Healers Association reported that 20 percent of workers diagnosed with HIV in the northern sugar belt had consulted healers after their diagnosis, with many claiming to have been bewitched.[652] In light of people's reliance on traditional medicine for knowledge about HIV prevention and transmission, as well as treatment, the Ministry of Health and Social Welfare (MOHSW) has recruited *tinyango* (traditional medicine men and women) to assist in HIV treatment such as counseling.[653]

Home-based care for PLWA is provided by volunteer or nominally-paid caregivers who are overwhelmingly female. MOHSW provides approximately 5,500 caregivers, who are trained by UNAIDS, with US$17 monthly stipends each, but this is not nearly enough to meet expenses.[654] Moreover, due to high demand, many caregivers receive no compensation for their services which include feeding, washing, dressing and advising HIV-positive patients.[655]

Women's Status

Swaziland's prolonged status as an absolute monarchy has raised concerns about its human rights policies. Nonetheless, Swaziland has signed, ratified or acceded to several important international human rights documents. Swaziland has acceded to the Convention on the Elimination of All Forms of Discrimination against Women,[656] the International Covenant on Civil and Political Rights,[657] the International Covenant on Economic, Social and Cultural Rights,[658] and the International Convention Against Torture.[659] The obligations under these treaties were accepted without entering any reservations. It has ratified the Convention on the Rights of the Child[660] and the African Charter on Human and People's Rights.[661] Swaziland has signed the African Charter on the Rights and Welfare of the Child[662] as well as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women.[663]

Legal Status

The legal rights of Swazi women are unclear given the country's dual legal system and pending implementation of the new Constitution. The new Constitution contains some victories for Swazi women, including equal access for Swazis to land "for normal domestic purposes"[664] and the right of women to be free from customs to which they are opposed.[665] Yet, at present, many Swazi people continue to adhere to customary law, particularly in rural areas.[666] While there have been consultations on the development of draft legislation to reform and consolidate customary and civil law relating to marriage, property and inheritance rights for women, the Attorney General's office has not yet completed work on the bill and the situation is unclear pending the passage of new laws implementing the constitutional provisions and their interpretation by the courts.[667] Women's lives remain highly constricted by traditional cultural rites and many aspects of customary law, which limit their rights and ability to own land, inherit property, find employment and conduct business.[668]

Much of Swazi women's economic and societal vulnerability stems from the fact that, upon marriage, they assume a legal status comparable to that of a minor child, unless a couple is explicitly married "out of community of property," in which case the husband does not have marital power.[669] Marital power prohibits women from securing bank loans, opening bank accounts, leaving the country,[670] making major decisions, registering property in their names or suing in court without their husbands' permission.[671] The practice of polygamy, while less prevalent than in the past, further entrenches discrimination against women. Although civil law does not recognize the practice, customary law allows men to take an unlimited number of wives.[672]

Further evidence of women's subordinate status in customary law is revealed in marriage rites. As in some other African countries, many Swazi marriages involve payment of a bride price, or *lobola*.[673] In *kwendiziswa*, a traditional method of marriage, a young woman's father negotiates her marriage as an economic transaction.[674] Typically, *lobola* is exchanged as cattle, although cash is increasingly being substituted.[675] In some traditional settings, a woman need only be smeared with ochre to signify that a marriage has taken place.[676] Custom dictates that the woman be informed of the ritual in advance, but there have been cases where she has been not been warned beforehand.[677]

Customary marriage rites and laws reinforce the concept that women's social and familial status is derived from their reproductive role. For example, *lobola* can be recalled if a woman fails to fulfill her reproductive or labor capacities.[678] Moreover, if a woman is found to be infertile, her biological family may give her husband an aunt or sister as a surrogate mate or *inhlanti* ("substitute wife") rather than return the *lobola* to the husband's family.[679] The *inhlanti* does not keep her children, since her role was simply to provide offspring in lieu of the woman who did not. Likewise, if a man impregnates a woman or girl before she is married, he must pay a fine to the girl's father in compensation for the *lobola* the family will lose in trying to marry off a daughter who is no longer a virgin.[680]

Upon her husband's death, a woman's life is further ruled by custom. For example, *kuzila*, mourning rites, outline the protocol for a widow's behavior for months to years.[681] Widows are expected to wear black gowns for up to three years.[682] Because widows are believed to be omens of bad luck, they are generally prohibited from socializing with others, especially men.[684] These and other customs have created conflicts for women who work in environments where observing such behavior is difficult, further endangering their economic well-being by threatening their jobs. Furthermore, in-laws may seek to usurp ownership of land and property because the widow is not allowed inside a courtroom while in mourning. The widow herself is sometimes married, even without consent, to her late husband's brother, as in the practice of *kungenwa*.[685]

Swazi women also face struggles to fulfill their rights in the civil legal system. Maintenance, for instance, is a general term allowing for the provision of basic necessities of life. It can be claimed from a husband by a wife, parents from children and grandchildren from grandparents.[686] The 1970 Maintenance Act of the Swazi civil law system obligates both parents to provide for children.[687] However, if a child is born outside of marriage and the woman demands maintenance from her male partner, customary law gives him the right to "buy" his child from the maternal grandfather for the price of one cow for a boy and two cows for a girl.[688] The grandfather cannot refuse even if the mother objects.[689] The possibility of losing one's children prevents many women from making maintenance claims,[690] preferring to struggle to care for their children in exchange for being able to keep them.

There is no specific law criminalizing domestic violence in the Swazi civil law system. Therefore, domestic violence complaints must be brought under general assault or rape laws,[691] which exclude marital rape.[692]

Though the police, magistrates and a small number of NGOs, such as WLSA and the Swaziland Action Group Against Abuse (SWAGAA) provide some recourse for women experiencing abuse,[693] their effectiveness is often limited by women's low social and legal status and the limitations of civil law.

In 2005, Prime Minister Dlamini announced that he had instructed the Minister of Justice and Constitutional Affairs to draft a bill offering victims of domestic violence civil legal remedies.[694] Certain provisions of the draft bill on sexual offenses and domestic violence raised concerns about human rights, including those of PLWA. For example, the draft bill labeled the failure to disclose HIV status to one's sexual partner as fraud.[695] Given that women are more often aware of their HIV status than men, this provision put women at increased risk of violence as a result of the disclosure requirement.[696] The bill also prescribed the death penalty for cases in which HIV/AIDS is an aggravating factor. This could discourage men from learning their HIV status.[697] In the past, rapists had been able to avoid prosecution by marrying their victims.[698] In addition to legal hurdles, women's economic vulnerability often makes them reluctant to report abuse.[699] There is a new version of the bill which addresses some of these concerns, but the Minister of Justice has not acted on it to-date.[700]

Socio-Economic Status

Swazi women are economically disadvantaged as compared to Swazi men. In 2004, Swazi women earned an estimated PPP (purchasing power parity) of US$2,576 per year, 29 percent of men's income.[701] However, some Swazi women are assuming control over their economic destinies. A 2003 study by Swaziland's Ministry of Enterprise and Employment indicated that over 70 percent of small businesses are owned by women.[702] Due to restricted land laws, however, while businesses can be registered in women's names, the land upon which they operate can only be owned by men.[703] Women are typically relegated to the informal sector, such as produce markets, or to small enterprises, such as hair salons, tailors and restaurants.[704] A third of Swazi households are headed by females.[705]

Education levels are comparable between Swazi men and women, with men enjoying a slight advantage over women. Approximately 59 percent of men attend primary and secondary school and tertiary institution compared with 57 percent of women.[706] Literacy rates reflect a similar relationship, with just over 78 percent of women over the age of 15 being literate, compared to more than 80 percent of men in the same age group.[707]

Health Indicators and Access

While women's health in Swaziland is neglected, their cultural status as caregivers compels them to tend to others even when they themselves are ailing.[708] Seventy percent of pregnant Swazi women give birth in the presence of skilled health personnel.[709] The adjusted maternal mortality ratio for Swaziland was 370 maternal deaths per 100,000 live births in 2000[710] and the total fertility rate, or the number of lifetime births per woman, was 3.7 in 2005.[711] In 2005, the teen pregnancy rate was 36 births per 1000 women ages 15 to 19 years old; this data only accounts for live births.[712] Swaziland has no statutory law on abortion.[713] The practice is generally governed by principles of Roman-Dutch law which preclude abortion except in cases where the woman's mental health or the life of the mother or child is in jeopardy.[714]

General Gender Policy

Since the United Nations Fourth World Conference for Women held in Beijing in 1995, Swaziland has taken a number of steps to place women's issues on the national agenda, though to date Swaziland has not formally approved a national gender policy.[715] In 1996, the Government created a Gender Coordination Unit (GCU) in the Ministry of Home Affairs.[716] The GCU is charged with mainstreaming gender into all sectors of national development.[717] The government also appointed a "gender focal point" for each sector of the executive and established the Swaziland Committee on Gender and Women's Affairs, a group of government, non-governmental and private sector representatives who are responsible for drafting a gender program.[718] The United Nations agencies also contain gender focal points.[719] In 2001, UNDP, UNESCO, UNIFEM and the World Bank created "An Integrated Approach to Gender Equality in Swaziland," an initiative intended to assist the Swazi Government in "examining gender issues and formulating a national gender policy."[720] The Gender Consortium is a non-governmental organization that is charged with mainstreaming gender into various government and non-profit sectors.[721]

Women accounted for just under 17 percent of parliamentarians in 2006.[722] In 2003 the King appointed two women as House members and seven as senators.[723] Five women were popularly elected to the House.[724] A Parliamentary Women's Caucus has been created to build the capacity of women representatives so that they can better influence the policy-making process and plan for gender equality throughout the country.[725]

There are several Swazi NGOs that address women's issues. WLSA, a regional women's rights NGO, has a national office in Mbabane.[726] WLSA conducts research, advocacy and lobbying on women's issues.[727] It also provides gender-rights training and related educational materials.[728] Umtapo Wa Bomake, also known as the Women's Resource Centre, began in 1992[729] but has since closed. It provided enterprise skills training to rural women and advocated for the repeal of discriminatory legislation and cultural practices.[730] FLAS was founded in 1979 as a sexual and reproductive health organization.[731] FLAS operates clinics targeting youth ages 10-24 in Manzini and Mbabane.[732] These clinics offer reproductive health services, information and education.[733] FLAS specifically targets gender-sensitive issues such as maternal mortality, unsafe abortion and

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