

Kingdom of Eswatini

In the Kingdom of Eswatini (herein after Eswatini), two legal frameworks apply. The first is uncodified Eswatini law and custom, and the second is a combination of partly codified Roman Dutch legislation introduced after Eswatini's independence.

1. Discrimination in the family

a) Overarching legal framework for marriage

Eswatini's overarching legal framework for marriage is founded upon a dual system of un-codified Swazi customary law and the Marriages Act (Act 47 of 1964). The Constitution provides that marriage takes place only between men and women (Article 27), and same sex marriages are thus prohibited.

Several analyses from Amnesty International (2010), the United States State Department (2015) and the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) (2014) indicate that marriages in Eswatini remain unequal relationships for women, with significant decision-making power invested in the male partner and his family.

The Constitution of the Kingdom of Eswatini (2005) (Section 20) created provisions for equality before the law, including the provision that no woman should be compelled to undergo or uphold any custom to which she is in conscience opposed (Section 28). However, there is little legislative or administrative support to enforce either Section 20 or Section 28 of the Constitution; hence women are often forced to submit to harmful practices (CANGO, 2014). These include *inhlanti* (where a younger sister or paternal niece is given for marriage to a woman's husband if she cannot bear children), or *kwenzisa* (an arranged marriage which often takes place at a young age) (CANGO, 2014).

The Constitution specifies that marriage should be entered into only with the free and full consent of the intending spouses (Section 27), thus legally prohibiting forced marriage. However, the prevalence of patriarchal social customs exacerbates gender inequality in Eswatini, and as a result presents a challenge to the fulfilment of Constitutional ideals (United Nations in Eswatini). In a customary marriage a woman is never asked whether she consents to the marriage (United Nations In Eswatini).

Religious marriages also lack legal recognition in terms of the Marriage Act, with the effect that many Islamic marriages are not registered, leaving the women open to challenges related to divorce and inheritance (Zulu, 2016 and CEDAW, 2012).

Women in Eswatini are often not equal decision-makers within marriage (Amnesty International, 2010). Some customary marriages may be polygamous, (Criado, 2013). However, polygamy is prohibited in civil marriages.

The Government of Eswatini has begun a process of law reform of the Marriages Act (CEDAW, 2012), however as of 2017 a revised Bill has not been introduced. The CEDAW Committee (2014) recommended urgent law reform in this area, and that Eswatini include marital status in a revised comprehensive definition of discrimination.

There are no formal laws in place to prevent harmful practices against widows, however the Constitution does provide for protection for widows to inherit from their deceased spouse's estate (Section 34). Despite this, property grabbing does still occur, as do traditional practices that require a widow to marry her deceased spouse's brother, remain secluded, or mourn for an extended period preventing her ability to work (Owen, 2014). There are no special measures in place to address these through legislation, and hence widows are often the victims of abuse (CANGO, 2014). There have been reports of widows being turned away from employment and political participation opportunities because they were wearing mourning dress (Owen, 2014). In addition, widows are at an increased risk of contracting HIV as a result of traditional practices where a widow is 'claimed' by her husband's brother as his wife following her husband's death (IRIN, 2012a).

b) Child marriage

The legal age of marriage for both men and women is 18 (The African Child Policy Forum, 2013, US Department of State, 2016), but permission may be acquired from parents and the Minister of Justice for girls between 16 and 18 to marry according to the Marriages Act (US Department of State, 2016). Children have the right to refuse to be compelled to uphold any custom or practice that could negatively affect their wellbeing (Children's Protection and Welfare Act (2012)).

Child marriages do occur under customary law and are common. Traditional law and custom do not set a minimum age for marriage, and the US Department of State (2015) reports that under traditional law marriages are permitted for girls as young as 13.

Although young girls have the right to refuse marriages, these are often arranged by their parents and are condoned by traditional leaders (IRIN, 2013). Forced intergenerational marriages ("*kwendzisa*") are also common (Littlejohn, 2013). Sex with a girl younger than 16 is illegal in terms of the Girls and Women Protection Act (1920), however this law is suspended if the girl is married.

c) Household responsibilities

Although the Constitution provides for equal standing before the law, including the right to freedom of movement, Swazi customary law still assumes that a man will be the household head (CEDAW, 2012). In civil marriages, unless an explicit prenuptial contract is signed, women continue to require their husband's approval and consent for many legal and political activities. In customary marriages this decision-making power imbalance is even further entrenched (Amnesty International, 2010 and CEDAW, 2012).

Both the Constitution (2005) and the Child Protection and Welfare Act (2012) provide for equal rights and responsibilities with regards to children, including shared guardianship of any child. However, reports indicate that in some instances it can be difficult for a woman to register the birth of her child without the father's permission, affecting children's right to citizenship (CANGO, 2014).

Children whose fathers are non-Eswatini men are not automatically citizens, even though their mothers are, regardless of whether their parents are married (CEDAW, 2012). Section 43 (4) of the Constitution notes that where a child born outside of marriage is not adopted or claimed by its father, but the mother of the child is Eswatini, the child can be declared citizens by birth. Thus, were a non-Eswatini woman gives birth to a child whose father is an Eswatini man, but he does not claim them, they are at risk of statelessness (CEDAW, 2012). Unless the mother is able to get evidence that their father has not claimed them, and present this before the Citizenship Board, the child will remain stateless. Women report that appearing before the Citizenship Board in these circumstances is degrading, as women must declare the details of the circumstances surrounding the pregnancy, and the subsequent denial of the child by the father (CEDAW, 2012).

d) Divorce

Civil marriages in Eswatini are dissolved via death or divorce, and divorce can only be initiated on two grounds – adultery or desertion (CEDAW, 2012). Eswatini law recognises the ‘fault’ principle, where the person who is at fault may be negatively impacted during the distribution of property in a divorce (CEDAW, 2012). In 2017, reports were made that King Mswati had indicated that divorce might be banned in Eswatini (ENCA, 2017). Under Eswatini law and custom there is no divorce in a legal sense, however a marriage can be dissolved through adultery, an extra-judicial meeting between the husband and the father of his wife, abuse by a husband, the practice of witchcraft by the wife, desertion by the husband or wife, or showing of disrespect by the wife that could be termed constructive desertion. In most instances a divorce should be arranged by a meeting between both families (High Court of Eswatini, Nxumalo v Ndlovu, 2011).

The Constitution and the Children’s Protection and Welfare Act provide for the best interests of children to be protected in all cases, whether within or outside of marriage. Traditional marriages consider children to be the property of the father and his family if the couple divorce (US Department of State, 2015). However, where children are born to an unmarried couple, they are the responsibility of mothers in the case of separation, unless the father claims paternity in which case the children are considered as belonging to the father and his family (US Department of State, 2015 and US Department of State, 2016).

e) Inheritance

According to the US Department of State (2015), inheritance in Eswatini passes only through male children. However, the Constitution (Section 29) commits Parliament to enacting laws to ensure that a child is entitled to a reasonable portion of its parents’ estate irrespective of sex. However, it is traditional for Eswatini families to only recognise men as the heirs of estates (CEDAW, 2012)

The Constitution (Section 34) also protects the rights of surviving spouses to a provision from their spouse’s estate, regardless of whether there is a will in place or not, and regardless of whether the marriage was civil or customary. Widows face significant challenges in inheriting Eswatini Nation Land from their spouses, as most traditional authorities only recognise the male heir (CANGO, 2012). Access to chiefs to address this inequality is difficult, especially where widows are still considered to be in the ‘mourning’ period and thus cannot appear before the chiefs in terms of customary law (CANGO, 2012).

2. Restricted Physical integrity

Eswatini has signed and ratified the Maputo Protocol (African Commission on Human and People's Rights, 2017), as well as the Southern African Development Community (SADC) Protocol on Gender and Development (2008). Both of these protocols require action to promote the physical integrity of women and to protect them from violence. The Sexual Offences and Domestic Violence Bill was introduced in Eswatini, and passed by Parliament, however it has never been assented to by the King and thus does not hold the status of law as of 2017 (CANGO, 2014).

a) Violence against women

CANGO (2014) reports that violence against women in Eswatini is common, and that Eswatini women have little legal remedy to protect themselves. UNICEF (2007) reported that one in three females surveyed in Eswatini having reported experiencing violence as a child from either a boyfriend or family member.

The National Gender Policy (2010) commits to raising awareness of the issue, as well as for providing better victim friendly services, however this policy does not have any set budget. It does however commit to encouraging gender budgeting across Departments (The National Gender Policy 2010, P32). The key strategies to address gender-based violence as identified in the National Gender Policy (2010, P28) are: awareness raising on beliefs that lead to violence, establishing counselling centres for survivors of violence, empowering teachers to provide guidance and counselling, formulating new laws and policy to prohibit all forms of GBV, and building the capacity of the justice system.

b) Domestic violence

Domestic violence is covered under the pending Sexual Offences and Domestic Violence Bill, which began being developed in 2009. This Bill was passed through both houses of Parliament in 2014, but it lapsed because it did not receive Royal Assent (CEDAW Committee, 2014). Thus there is currently no law addressing domestic violence. The US Department of State (2016) reports that domestic violence, when charged as assault, is criminal. However, they note that prosecutors find it difficult to prosecute such cases because witnesses often fear testifying. Women can charge their husbands with assault according to Roman-Dutch law, however penalties in cases where women have charged their husband with assault vary, as they are at the discretion of the court. Another state response to domestic violence is the establishment of Domestic Violence and Child Protection Units at a number of police stations around the country (CEDAW, 2012).

CANGO (2014) reports that the norms that promote domestic violence, such as placing emphasis on women's domestic responsibilities, remain unchallenged and hence perpetuate such violence. In addition, these norms and beliefs are held by both men and women, with a 2014 survey revealing that women were more likely than men to believe that a husband was justified in beating his wife (Family Life Association of Eswatini, 2017). Domestic violence is thus common, and sometimes results in death (US Department of State, 2016). As a result, the Family Life Association of Eswatini

(2017) reports that there is a link between the incidence of domestic violence and women contemplating suicide.

There are no government shelters for victims of domestic violence although one private shelter does exist (US Department of State, 2016, CANGO, 2012). There is thus limited opportunity for women to seek shelter when leaving a violence domestic relationship (CEDAW Committee, 2014).

c) Rape

The Girls and Women Protection Act (Act 39 of 1920) criminalises rape, which it defines as the “unlawful carnal connection with a woman without her consent” (CEDAW, 2012). However, marital rape is not prohibited in Eswatini according to the Girls and Women Protection Act (Act 39 of 1920), and the Committee on the Elimination of Discrimination Against Women (2014) called on the Eswatini government to address this.

The Girls and Women Protection Act (Act 39 of 1920) Section 3 (1) makes the rape of girls under 16 a crime, unless the girl is a prostitute, or she is married. Where the perpetrator is a boy younger than 16, or where the perpetrator believed the girl was 16 this reduces their liability for the crime (UNICEF, Date no specified). Section 44 of the Criminal Law and Procedure Act (Act 61 of 1889) also makes it a crime for a householder to permit the defilement of a girl on his or her premises.

There are no guidelines or special training measures in place for professionals who assist sexual violence survivors, and the law does not provide for special legal assistance for survivors. The cautionary rule, an evidentiary rule used in sexual offences cases such as rape, is still in place in Eswatini, and requires the presiding officer to caution him/herself against convicting the accused without corroborating evidence to that of the complainant (CEDAW, 2012). This means that a rape survivor’s testimony is not sufficient to convict someone, and she requires further evidence (CEDAW, 2012).

d) Sexual harassment

Sexual harassment is not criminalised in Eswatini, and no case of sexual harassment has ever gone to court in order to establish a legal precedent (US Department of State, 2016). However, it is reported to be common. CANGO (2014) reports that the proposed bill on sexual offences and domestic violence does make reference to sexual harassment, however this does not cover harassment such as stalking.

e) Female genital mutilation

There is no evidence to suggest that female genital mutilation is common in Eswatini (UNICEF, 2013), and this practice is not addressed in legislation or policy.

f) Abortion

Abortion in Eswatini is unlawful, except under restricted circumstances, as per the Constitution (2005) Section 15 (5). Abortion is only allowed in three circumstances. First, on medical or therapeutic grounds, when it is certified by a doctor that the pregnancy will endanger the life or physical or mental health of the woman, or where there is a serious risk that the child will suffer a

physical or mental disability. Second, where the pregnancy resulted from rape, incest, or other unlawful sexual intercourse with a woman with a mental disability. The final exception is only made on other grounds that Parliament has prescribed. There is thus no legal support for a woman seeking abortion on any other grounds.

Despite the fact that it is unlawful, there are reports that women do seek abortion in Eswatini. A significant proportion of women do not use or do not have access to contraception, largely as a result of social stigma rather than structural barriers to access (CEDAW, 2012). However, performing, receiving, or participating in an abortion is a criminal offence carrying a maximum sentence of life imprisonment, according to Eswatini's attorney general (IRIN, 2012b). In 2011 three nurses were arrested and sentenced to 15 years in prison for assisting with abortions. Illegal abortions have also led to maternal deaths, and have been linked to infanticide (IRIN, 2012b).

More

Reproductive health services are not easily accessible in rural areas in Eswatini (CEDAW, 2012), however the National Gender Policy (2010) makes provision for improving access to these services, as well as awareness thereof.

Freedom House (2016) reports that the sex trafficking of young girls is common in Eswatini. In addition, the CEDAW committee (2014) reports that Eswatini is a country of origin, transit, and destination for trafficked women and girls.

3. Restricted Access to productive and financial resources

Access to productive and financial resources in Eswatini is most commonly restricted via custom rather than by legislative barriers. Eswatini has signed and ratified ILO Convention 100 on Equal Remuneration and Convention 111 on Discrimination.

a) Secure access to land and assets

Eswatini has two types of land – Eswatini Nation Land (SNL) and Title Deeds Land. Section 211 of the Eswatini Constitution provides for equal access to land for men and women for normal domestic use. SNL can be accessed free of charge from the area chief, however in order for women to access this land they must apply via a male relative or spouse (CEDAW 2012). However CEDAW report (2012) notes that in some instances chiefs have relaxed this restriction.

The Constitution of Eswatini (2005) Section 19 (1) provides the right to own property either alone or in association with others. In addition, Section 34 (2) requires Parliament to enact a law related to the property rights of spouses including common-law husband and wife. In 2010 the Deeds Registry Act (1968) (Section 16 (3)) was amended to allow for women married in community of property to register their real rights (immovable property) in their own name. However, marriage in community of property limits women's ability to make decisions regarding their property.

Although access to Title Deed Land does not have similar requirements in terms of asking a male relative, women in Eswatini are less likely to have the available funds to purchase property (CEDAW,

2012). Women are more likely to be unemployed, and to earn less when employed (ILO, 2010), thus creating a gendered poverty context (CEDAW, 2012). In addition, marriage in community of property may also restrict women's ability to apply for credit, or to purchase property.

Registering land is also a challenge, as according to the Deeds Registration Act (Section 16), property must be registered under the husband's name. In 2010, the Eswatini High Court ruled that married women should be able to register property in their name, however the Supreme Court reversed this decision later that same year (ActSA, 2016).

Regarding access to non-land assets, Eswatini women are able to administer and register property in their own names, according to an amendment to the Deeds Registry Act (Section 16 (3)). Marriage regimes significantly affect women's ability to register and make decisions around their land and immovable property (CEDAW, 2012). Where women are married in community of property without marital power, she is able to make decisions around her property and land. However, where a marriage incorporates marital power, the husband is the automatic administrator of the joint estate, and over his wife's separate estate and can transact on behalf of the estate without the knowledge or consent of his wife (CEDAW, 2012). Women in these types of marriages cannot conclude contracts, cannot represent herself in civil suits, and cannot register immovable property in her own name without the assistance of her husband (CEDAW, 2012). This further impacts a woman's ability to access credit and loans without her husband's permission (CEDAW, 2012).

The Constitution prohibits property grabbing (Section 14, 19 and 34), however when property is situated on Eswatini Nation Land widows are often dispossessed of their property because it is recognised as belonging to the male heir (CANGO, 2014). This is linked to the fact that women must apply for Eswatini Nation Land through a male family member.

There is a pending land policy, but there are no timeframes for passing it (CEDAW, 2014).

b) Secure access to formal financial resources

The Constitution (2005) Section 28 (1) provides women with the same rights as men to access political, social and economic opportunities. In addition, Section 59 (5) of the Constitution commits the Swazi Government to taking the necessary steps to ensuring the full integration of women into mainstream economic development.

Women have the same rights as men to open a bank account; however, she may require permission from her husband depending on her marital regime (CEDAW, 2012). Married and unmarried women have the same rights as men to access credit according to the Constitution (Section 28 (1)). However, their ability to access credit and loans is often reliant on their access to collateral and existing resources, which is usually a challenge, particularly when married in community of property (CEDAW, 2012).

The National Gender Policy (2010) outlines strategies to ensure that women and girls have equitable opportunities and access to, and control over productive resources including land and credit, which

include promoting self-employment opportunities, and building women's capacity in small and medium enterprises.

c) Workplace rights

Women's rights in the workplace in Eswatini are protected both by the Constitution (2005), and the Eswatini Employment Act (1980). Although no legal restrictions on women entering particular professions exist, the representation of women in the media as inferior, or less capable, could discourage women from entering traditionally masculine professions (CEDAW, 2012). In addition, sexist portrayals of women in the media are common.

Despite these gender norms, legislative protections exist to prevent discrimination of women on the grounds of sex and marital status in the Eswatini Employment Act (1980), and which require equal pay for equal work. Instances of discrimination can be reported to the Labour Commission. It should be noted however, that this Act does not contain any clauses in relation to sexual harassment in the workplace.

The Act also provides for women to receive maternity leave of up to twelve weeks of which two-weeks minimum must be paid by the employer. Women are also protected against losing their jobs whilst on maternity leave, and from losing their position of seniority. There are no legislative provisions for any form of parental or paternity leave.

Women have equal rights to men to register a business and to choose their profession. The Constitution (Section 32) provides all persons the right to practise a profession and to carry on any lawful occupation, trade or business.

More

The International Labour Organisation (ILO) (2010) found that unemployment was higher amongst women than men, and in particular it was high amongst the youth, and highest amongst young women (ILO, 2010). Unemployment levels are highest in rural areas (CEDAW, 2012). Where women are employed they are likely to earn less than men (CEDAW, 2012).

In addition, although the economy of Eswatini is primarily agrarian, many women are employed within the textiles sector, although these jobs are particularly vulnerable (ILO, 2010). In addition, as of 2010, women were more likely to be self-employed than men (ILO, 2010) The Ministry of Enterprise and Employment indicated that over 70% of small businesses are owned by women (CEDAW, 2012).

Literacy levels were high amongst both male and female Eswatinis (above 90%), however teenage pregnancies may affect young women's ability to stay in school and later go on to find employment (CEDAW, 2012). Despite this, Eswatini has reached equality in secondary education (GenderLinks, 2015).

4. Restricted Civil liberties

Eswatini's Constitution provides women with freedom of movement and the right to vote and be elected into office, however a number of structural barriers continue to exist preventing women from travelling with their children, voting, and being elected to office.

a) Citizenship rights

Men and women in Eswatini have equal rights to acquire, change, and retain nationality (The Constitution, Section 40 – 43). However, there are limitations on the ability of women to confer nationality to their spouses and children.

The Constitution (2005) (Section 44) relates only to women acquiring citizenship, and does not provide for a man to lodge a declaration of citizenship. There is thus no option for non-Eswatini husbands of Eswatini women to acquire citizenship through marriage. In addition, the Constitution (2005) (Section 44) provides that a woman must lodge a declaration in order to become a citizen, since it is not automatic.

Because of patrilineal belief systems in Eswatini, the assumption is that if a Eswatini woman marries a non-national, she will take on her husband's nationality. The Constitution (Section 50) provides that women can renounce their Eswatini citizenship should they wish to.

The Constitution (2005) (Section 43) only provides that children born in Eswatini and are fathered by Eswatini men are automatically citizens. The consequence is that children born to non-Eswatini men are not automatically citizens, even if their mothers are. The Constitution (2005) (Section 43 (4)) provides that children born outside of marriage to women who are citizens of Eswatini, and who are not adopted or claimed by their fathers to mothers who are citizens of Eswatini by birth. Thus both the Constitution and the Citizenship contain clauses that discriminate against women (CEDAW, 2012).

The Child Protection and Welfare Act (2012) (Section 6) gives each child the right to birth registration and citizenship. Section 18 (1) states that a parent whether married or not shall not deprive a child of his welfare. Section 18 (3) provides that 'a parent or guardian shall be responsible for the registration of the birth of his children and the name(s) of the parent(s) or guardian shall appear on their birth certificate.' In addition, Section 29 (4) provides that children born in or out of wedlock shall enjoy the same protection and rights. However, the patrilineal nature of Eswatini society can effectively deny a child the right to citizenship. Government procedures specify that the father must register the birth if both parents are Eswatini citizens. This impacts on women's ability to obtain travel documents in relation to their children born of foreign men, because of a requirement that the father should be present and supply details. Where the child does not have a Eswatini surname, travel documents are not issued, preventing children from seeing their fathers if they don't live in Eswatini (CEDAW, 2012).

The Constitution (Section 14 and 26) makes provision for free movement, including across Eswatini borders. In reality though, single mothers face difficulty in having their citizenship conferred to their

children. In addition, when women try to confer their citizenship onto their children born out of wedlock they must often endure humiliation and discrimination in front of the Citizenship Board, including being required to provide details related to the conception and birth of their children (CANGO, 2014). Even after this presentation there is no guarantee that a woman's children will be granted citizenship.

The National Gender Policy (2010) provides for strategies for advocating for the integration of human rights and gender awareness education into community belief systems, school curricula including those of training institutions. (Section 12.1.3.). In addition, the National Development Strategy includes a section on eliminating gender gaps, and offering equal opportunities to all citizens irrespective of their sex (as described in the National Gender Policy (2010), P16).

No discrimination seems to exist related to the application for identity cards and passports (World Bank 2016).

Birth registration in Eswatini is negatively affected by the prohibition of late birth registration, except with the permission of the registrar of births, marriages and deeds. Birth registration is also costly, and not readily available in rural areas (Humanium, 2012). As a result, not all births in Eswatini are registered.

b) Voting

The Constitution (2005) (Section 85) provides for every Eswatini, or person ordinarily resident in Eswatini, to vote in any election of Members of the House or the members of the Bucophu. Voters must register in their own district and can only vote in that area. The National Gender Policy (2010) Section 12.3.3 includes a commitment to ensuring that women are made more aware of their right to participate in decision-making and electoral processes. However, the CEDAW report (2012) notes that women's economic and household responsibilities, as well as mourning rituals for widows, have been known to prevent women from participating in electoral processes. For example, in August 2016, widows or those in mourning were not permitted to participate in the People's Parliament gathering (US Department of State Bureau of Democracy, Human Rights and Labour, 2016). GenderLinks (2013) has also noted that women may require the approval of their husband to vote or participate in elections.

c) Political voice

In Eswatini there are a number of challenges that prevent women from having access to political voice. First, there are no political parties within Eswatini and leadership is often linked to traditional systems of power, which tend to be patriarchal. There are no special temporary measures to increase women's representation in government. Second, cultural practices such as widowhood rituals can prevent women from actively participating in running for government. One example, provided by CANGO, is that when a widow ran for elected office during the traditional mourning period, other community members and traditional leaders rallied against her and encouraged people not to vote for her. Third, the King's appointment of women to Parliament has not met with Constitutional obligations and because of the significant power vested in the monarchy there is very

limited potential to challenge these appointments. Finally, women's limited access to economic resources may prevent them from campaigning on the same scale as their male counterparts.

The Constitution (2005) Section 84 (2) provides that women and other marginalised groups have equal rights as men to representation in Parliament and other structures. The Constitution (2005) Section 86 and 95 (c) reserves four out of 65 seats for women.

In addition, the Constitution further provides that the King should appoint nominated members of the house so that at least half of them are female (Section 95 (2)), and so that eight out of 20 senators should be female (Section 94 (3)). The National Gender Policy (2010) includes commitments to increase women's representation, and participation in political decision-making processes including through sensitization of communities to promote acceptance of women's abilities.

However, Eswatini was ranked 175th out of 190 in terms of the representation of women in Parliament (IPU, 2017). Women's representation in the executive remains low (United Nations in Eswatini). Although the Tikhundla system (a system of smaller political areas like constituencies) is created in the constitution to promote women's access to political representation, as of 2013, only one woman from the of the 55 constituencies was elected (United Nations in Eswatini). In 2016 the King did not follow electoral quotas in his selection of seats (US Department of State Bureau of Democracy, Human Rights and Labour, 2016).

In 2016, women's organisations in Eswatini came together to develop the Progressive Women's Charter aimed at enhancing women's representation and equality in Eswatini (ActSA, 2016).

d) Access to justice

The Constitution (2005) (Section 14) provides for equality before the law and equal protection of the law. There is no legislation aimed at prohibiting or preventing violence in public life, or to specifically protect human rights defenders in Eswatini.

There is no evidence to suggest the existence of specialised courts to promote women's access to justice. Human Rights Watch (2017) suggests that both formal and informal court processes discriminate against women, and CANGO (2014) suggests that the costs of court processes are prohibitive for women. Only one of six Constitutional Court Justices is a woman (World Bank, 2016).

However, a landmark High Court case declared that women no longer require their husband's permission to sue (Shili, 2013). In 2013 the High Court (High Court of Eswatini, Nombuyiselo Sihlongonyane v Mholi Joseph Sihlongonyane, 2013) repealed "marital power" as it related to the consideration of a woman as a legal minor, and thus affected her ability to sue in her own name, however the court did not make a finding with respect to other elements of marital power (CANGO, 2014).

In terms of bodies to promote Eswatini women's interest in government, there is a Gender Coordination Unit that rests in the Deputy Prime Minister's Office. It has the objective of monitoring and evaluating the implementation of gender and development interventions and strategies nationally (The Government of Eswatini, 2017).

The Commission on Human Rights and Public Administration Integrity is able to monitor human rights in general. It is established in terms of the Constitution (2005) (Section 163). However, the ability of this body to monitor issues is limited by the restriction that it may not investigate any matter involving the relations or dealings between Government and any other Government or international organisation.

According to CANGO (2014) a legal aid policy to promote women's access to justice is being drafted, however there was no evidence that this had been completed by 2017.

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