



SWAZILAND

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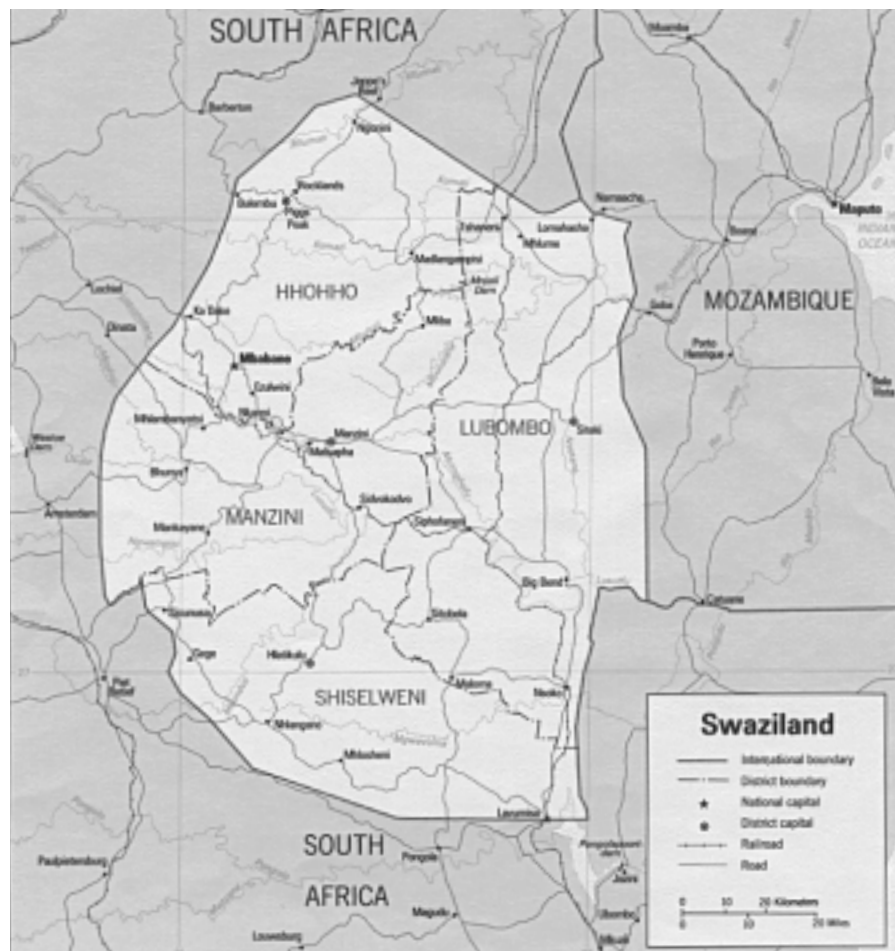
Introduction

Swaziland is one of the smallest countries in Africa, occupying an area of 17 363 sq km. It is bordered by South Africa on the west, north and south, and Mozambique on the east. Its total population is 1.2 million.

A former British Protectorate, Swaziland was granted independence in 1968. It became a monarchy at independence, and is the last surviving monarchy in Africa. King Mswati III is the absolute ruler. The country has no recognised constitution,¹ and no Bill of Rights. There is a national parliament, but it has no real power. The king has the power to veto decisions made in parliament, decree laws without consulting with the legislature, and dissolve parliament.²

This has grave implications for accountability to the people of Swaziland, as well as for the application of key principles and standards of international law. The International Bar Association said in 2003 that:

“...the deterioration of the rule of law in Swaziland ... has culminated in the resignation of all the judges of the Swaziland Court of Appeal, the resignation of the Director of Public Prosecutions, the High Court of Swaziland declaring that it is no longer prepared to hear applications brought by the Government, charges of contempt of court being brought against the Attorney General, the Swaziland



police refusing to implement court orders, and the Government declaring that it would not abide by court decisions with which it did not agree...”.

Civil society groups have consistently called for democratic reforms without any success. In 2003 the People’s United Democratic Movement (PUDEMO), formed in violation of the King’s “Proclamation to the Nation” of 12 April 1973, announced its intention to engage in a campaign of armed confrontation against the government to effect democratic reforms.³

Methodology

This chapter is based on qualitative research conducted by the Co-ordinating Assembly of Non-Governmental Organisations in Swaziland (CANGO). Semi-structured interviews were undertaken. Attempts were made to include a representative sample of respondents from all four of Swaziland’s districts, but for a variety of logistical and political reasons, respondents from only three districts – Hhohho, Manzini and Lubombo – were interviewed.⁴ In the Hhohho District, respondents came from Mbabane; in Manzini District, respondents came from Manzini and Embikwakhe, and from the Lubombo District the respondent came from Big Bend.

The respondents were:

- a member of the Royal Swaziland Police,
- representatives of His Majesty’s Swaziland Correctional Services,
- a registered firearms dealer,
- the Registrar of the Central Firearms Registry,
- two traditional leaders from the Hhohho region (Luhlangotsini) and Manzini region (Ngculwini),
- representative of a private security company,
- three civilians firearm owners who were also survivors of gun related crimes.

The researchers reviewed the annual reports of the relevant government sectors; appropriate legislation; and relevant publications on small arms and light weapons.

To facilitate the research process, two consultative workshops were held with government departments and other relevant people to present the purpose of the study, allay any fears or suspicions⁵ that people might have about the study, and address questions and concerns.⁶ The workshop participants included senior members of the Umtsofo Swaziland Defence Force (USDF), Royal Swaziland Police (RSP), His Majesty’s Swaziland Correctional Services, the Attorney General’s office, Director of Public Prosecution’s office (DPP), the Mbabane City Council and the Arms and Ammunition Association.

At the conclusion of the workshops, participants undertook to co-operate with the researchers, and requested that questionnaires be forwarded to them two weeks in advance to facilitate their preparation. Despite this commitment, the researchers encountered reluctance from some informants to participate. The USDF, after initially agreeing to participate, reversed its decision and refused to be interviewed. Factors that seemed to discourage the USDF were concerns about national security and sovereignty, as well as suspicions about CANGO’s objectives.

National Firearms Stockpiles

State structures

State institutions that provide their personnel with firearms are the RSP, His Majesty’s Swaziland Correctional Services and the USDF. The researchers found that in 2002 there were 2 774 uniformed police officers and the national military had approximately 2 700 personnel. The researchers were unable to ascertain the number of Correctional Services staff.

The RSP and Correctional Services acquire their firearms through the office of the RSP Commissioner, who approves acquisitions under the guidance of the office of the Prime Minister. The relevant legislation (Arms and Ammunitions Act of 1964, Police Act of 1957 and Prisons Act of 1964) does not state which structure is responsible for the acquisition of arms for

both state institutions. Thus the RSP Commissioner's role appears to have been a practice borne out of administrative convenience.

Representatives from the military, police, Correctional Services and Customs and Excise, were not willing to provide data on stockpiles or the origins of the state-owned firearms, stating national security concerns. The only information available had been published by the South African government, and showed that the Swaziland military received firearms from South Africa between 1996 and 2000 to the value of R2 517 000 (US\$ 384 441).⁷

Civilian Firearm Ownership⁸

The civilian firearm licensing process is rigorous. It is initiated in the applicant's home area where he/she must be interviewed by the local chief's council. At this level, the decisive factors are the "character of the applicant" and his or her "general reputation" in the community. If the chief's council feels that the applicant lacks the necessary character and reputation to own a firearm then s/he will be disqualified from the licensing process.

If the chief's council approves the application, the local chief is required to fill out and sign an official form. The applicant must also fill out an official form. Both forms must then be submitted to the relevant police station commander. The applicant will then have his/her fingerprints taken at their local police station. A lengthy process then ensues. Several officials and state bodies have to give their approval before a firearms licence can be issued: the Local Station Commander, the Regional Administrator, the Director of Crimes at Police Headquarters, the Licensing Officer/Registrar of Firearms Registry, and the Licensing Board.

According to the Licensing Officer, the Licensing Board does not meet on a regular basis, and is only convened when a minimum of 200 applications have been received.⁹ There were five Licensing Board meetings in 2002, at which a total of 564 applications were considered, and 323 licences approved (57% of applications received).¹⁰

Once a firearm licence application has been approved by the Board, the applicant is issued with a Permit to Purchase which s/he needs to take to a

local police station and pay a E50 (US\$ 7.57) registration fee, after which the applicant will receive a Certificate of Registration. The police station commander then inspects the applicant's place of residence or business to determine whether he/she owns an appropriate firearm safe, which is one of the requirements for a licence. If the police are satisfied about the existence and condition of a safe, then the applicant will be issued with a Possession Licence at a cost of an additional E50 (US\$ 7.57), which entitles him/her to purchase a firearm from a registered firearms dealer.

All interviewees, including those in state agencies, described the process of obtaining the relevant firearms licences as long and tedious. The Licensing Officer pointed out that this is deliberate, as the government wants to discourage people from seeking to acquire firearms. The reasons, he said, are that the government feels there are too many guns in the hands of civilians, and that levels of gun-related crime in the country are increasing.¹¹

There are currently 11 407 registered firearms in Swaziland, owned by 8 711 registered firearms owners. Licences are issued for the following firearms: shotguns, revolvers, pistols and rifles, the majority being for shotguns (of the 323 licences issued in 2002, 203 were for shotguns).¹²

The Arms and Ammunitions Act of 1964 does not require prospective firearms owners to acquire a firearms competency certificate, although the Swaziland Rifle Association and some firearm dealers offer training. This omission, according to a representative of the Swaziland Rifle Association, means there are too many guns in the hands of incompetent owners.

In 2002 the records of the Central Firearm Registry were computerised.

Firearms Dealers

Swaziland has no firearms or ammunition production capability, so all firearms and ammunition are imported. There are eight registered dealers¹³ situated in Manzini, Mbabane, Siteki and Big Bend.¹⁴

To acquire firearms, a dealer must first apply for an end-user certificate from the Firearms Registry. The dealer can then get an import permit and order from the government. These documents are then dispatched to the relevant foreign supplier.

The RSP Annual Report of 2002 states that 501 import permits were issued to dealers for rifles (8), shotguns (470), pistols (22), and revolvers (1). In addition, 789 757 rounds of ammunition were imported into the country during 2002.¹⁵

Loss And Theft

According to RSP annual reports, 15 registered firearms were reported stolen in 2002, 36 in 2001 and 72 in 2000, a total of 123 over the three year period.¹⁶ It was not possible to obtain any additional data.

According to the Chairperson of the Licensing Board, incidents of loss of firearms by civilians have resulted in the RSP taking a tough stance towards those individuals seeking to replace firearms following loss or theft. The licensing authority is reluctant to issue licences to replace firearms lost by civilians, particularly for handguns.¹⁷

Both the RSP and Correctional Services reported that no firearms had been stolen from their armouries, due to rigorous control systems. Controls include strong armouries and strict registration and accountability procedures for signing out and returning firearms. A USDF representative, however, admitted that there had been losses from their stockpiles at bases in some of the border areas.¹⁸ According to this informant, the main reason was that the armoury facilities at these bases were structurally weak. No details about the loss and theft from USDF armouries was provided.

Illegal Firearms

Sishi and Meek suggest that Swaziland has been an arms smuggling transit point for conflict areas in southern and central Africa, particularly prior to 1994.¹⁹ If this is the case, it is possible that some of these weapons remained within the confines of Swaziland's borders. Swaziland has also been linked with Victor Bout, a controversial international arms dealer who has allegedly violated numerous arms embargoes. In 1997 Air Cess Swaziland, one of Bout's transport companies, was registered in Swaziland. This company was allegedly used for gun-running.²⁰ The Arms and Ammunition Act does not legislate against brokering, which means that such activities are not illegal.

It is also possible that the stringent controls and the lengthy licensing approval process employed by the state in the case of private citizens may

contribute to the presence of illegal weapons in Swaziland. Some individuals, who perceive their lives to be under threat from criminals, but who are either unable to secure a licence or are not prepared to endure the lengthy approval process, may acquire firearms through the black market.

Assessing the Demand for Firearms

The interviews revealed a negative attitude towards the ownership of firearms by private citizens and state employees, meaning that respondents felt that owning a gun and carrying a gun in public was undesirable. The one exception was a civilian firearms instructor who felt that this negative attitude was the result of ignorance about guns and their constructive and recreational use. His view was that with appropriate knowledge and proper training in the use and maintenance of firearms, the negative perception about guns would change.

Some respondents suggested that civilians sought to own guns because they are a status symbol, a symbol of strength, important to a person's ability to defend themselves, or provide a sense of security. For Swazis the most common motivations for wishing to own a firearm were self-defence and protection of property. There is a general perception, even among the government in Swaziland, that violent crime is on the increase²¹ and that the police are unable to protect citizens adequately from criminals. In particular, respondents perceived there to be low conviction rates for people who had engaged in firearms-related crime.

Many of the civilians interviewed complained about the government's predisposition towards issuing licences for shotguns while discouraging applicants from applying for licences for handguns. Respondents felt that they needed handguns for self-protection from criminals who may be armed. One respondent, a businessperson who has allegedly been attacked by criminals on three occasions, stated that a shotgun was unsuitable for self-defence. He complained that a shotgun was so unwieldy that it exposed him to harm from any assailant who might be carrying a handgun.

Crime Statistics

National crime statistics published by the police in their Annual Report show that during 2002 there were 43 128 reported crimes in Swaziland

(excluding traffic offences). Unfortunately published data on firearms-related crime was not readily available. In the case of recorded violent crimes such as murder, culpable homicide and armed robbery, the data did not indicate the type of weapon that was used. The data in the following table records the incidence of armed robbery, murder and homicide.

Table 7.1: Violent Crime Statistics 2000 - 2001

Year	Armed robbery	Murder and culpable homicide
2000	415	142
2001	2 520	203
2002	2 098	140

Stories on firearms crime appear sometimes in the media. The *Times of Swaziland* of 19 November 2001 reported that on 1 October 2001 two Swazi citizens were charged with the murder of the editor of the *Swazi Observer*. The murder weapon, an R5 rifle, had been stolen from a policeman at the Mahlangatsha Police Station in April 2001.

In the absence of data about firearm-related crime, it is impossible to assess whether incidents of crimes involving the use of firearms are increasing.

Assessing Firearm Control

The Office of the Prime Minister, in collaboration with the Commissioner of the RSP are primarily responsible for implementing small arms management policies. However, the Swaziland government had not by the end of 2003 ratified the SADC Protocol.²² Respondents at the November 2003 Report Validation Workshop indicated that the primary stalling point was the reluctance of the Prime Minister's office to take action on the issue.

It appears that most control activities were undertaken on an *ad hoc* basis, or as a response to regional pressure. For example, Operation Recover Firearms, a recent police initiative to collect illegal firearms, was reported to have been a consequence of pressure from the small arms structures within SADC.²³

Overview Of Legislation

The Arms and Ammunitions Act

While outdated in relation to international and regional agreements, the Arms and Ammunitions Act (No. 24 of 1964) imposes strict controls for civilian possession and use of firearms.

The legislation is, however, silent on competency testing requirements. It does not place restrictions on the numbers of weapons a civilian may own, nor does it regulate the pawning and pledging of firearms, nor does it cover firearms brokering.

While the basic controls for marking and record-keeping are in place, there are gaps. The legislation does not include the need for a standardised system specifying the country of manufacture, the serial number and the manufacturer; there are no specifications as to how, where and when the firearm is marked; there is no regulation and centralised registration of all civilian owned firearms; the Act does not make falsifying, altering or removing of markings an offence, nor is there any stipulation that records be maintained for up to 10 years.

According to the Act, manufacturing can only be undertaken on behalf of the government. The definition of 'manufacturer' in the Act does not include repairs done to arms or ammunition.

The Act stipulates that a licence is required to deal in firearms. The licence is linked to the premises from which dealing takes place and contains controls over both the premises and the dealer, specifying to whom the dealer may provide arms or ammunition. The Act contains no regulations controlling record-keeping by dealers.

The Act provides for seizure, confiscation and forfeiture controls, even though it makes no provision concerning the re-activation of de-activated firearms. The Act does not specify penalties for the breaching of arms embargoes.

The Act excludes control over employees of the state who use firearms,²⁴ those acting on behalf of the state, and those using firearms at the behest of the King.

The Customs and Excise Act

The Customs and Excise Act (No. 21 of 1971) seeks 'to provide for the levying of customs, excise and sales duties and a surcharge, the prohibition and control of the import, export or manufacture of certain goods and for incidental matters'. Part III and Part IV, which deal with import, export, transit of goods and duty warehouse-storage make specific mention of firearms. Penal provisions for offences committed under the Act are negligible, which can be attributed to the age of the Act.

The Police Reserve Act

The Police Reserve Act (No. 62 of 1962) provides a legal framework for the establishment of the Reserve Police Force. Swazi citizens over the age of 18 can volunteer to join the force. It specifies which reservists are legally entitled to possess firearms, and the circumstances under which this can be done. Section 5 mandates reservists to carry firearms in pursuance of their duties, which are to assist "the Force in the preservation of peace, the prevention and detection of crime and the apprehension of offenders against the peace."

The Act does not say how the arms given to the police reservists are to be controlled. It makes no mention of what should happen to the firearms when reservists are off duty, or of procedures regarding the surrender of firearms at the time of the resignation or retirement of reservists.

The Rifle Association Regulations

The Rifle Association Regulations (No. 61 of 1940) allow for a rifle association to be administered by the Commissioner, who is directly responsible for all matters of policy connected with the organisation and discipline of the Association. It allows for the formation of as many rifle clubs as the Commissioner approves.

The Act also regulates the administration and membership of rifle clubs. Section 10 provides for the purchase of arms and ammunition through the government for target practice and competition purposes.

The Act specifies fines or imprisonment for use of a rifle on a range that has not been approved by the Commissioner. However, the fine of E20 (US\$3.02) is unlikely to be a deterrent in this regard.

The Police Act

The Police Act (No. 29 of 1957) purports to "make better provision for the enrolment, discipline and administration of the Royal Swaziland Police Force, and matters ancillary thereto." This Act vests the right to carry arms on members of the Police Force, but makes no provision for the control of these arms. It stipulates that a police officer can be suspended from duty pending an investigation, but makes no mention of what would happen to arms in the officer's possession at that time. The Act makes no mention of the circumstances under which firearms can be used, as opposed to the Prisons Act which does regulate the use of arms by prison officers.

Section 36 creates special constables as a further category of persons entitled to carry arms. Special constables can be appointed wherever there are insufficient numbers of police members to perform policing duties. There are no regulations for the handling of firearms by these officers, either during or after their deployment.

The Prisons Act

The Prisons Act (No. 40 of 1964) makes provision for "prisons and the organisation, powers and duties of prison officers and incidental matters". The Act mandates the possession of firearms by "prison officers while on duty and whether within or without a prison". The Act clearly specifies the circumstances under which an officer may be said to be justified in using a firearm in the performance of duty.

For the safekeeping of firearms, the Act places the officer in charge of stores with the responsibility to account for loss or damage to firearms.

Arms Collection And Destruction Programmes

The RSP has engaged in one arms collection programme to date, namely Operation Recover Firearm. This programme was initiated in October 2001 and resulted in the seizure of 270 illegal firearms by the police. In April 2002, 134 people were arrested for illegal possession of firearms during this operation.²⁵

Earlier studies by Oosthuysen and Meek published official crime data from the Royal Swazi Police on arms seizures from 1994 to 1997, stating that 394 arms were seized by the Swazi authorities.²⁶

The Royal Swaziland Police (RSP) are responsible for destroying illegal and

confiscated small arms. All such arms, including surplus and redundant arms, are held in the central armoury located at Police Headquarters, where firearm destruction equipment has been provided by the British government. However, it seemed that one of the operators of the equipment had been injured during the initial testing, and as a result the equipment was no longer in use.²⁷

At the end of 2002, the Swazi Police reported that there were 713 firearms in their possession that were earmarked for destruction. However, none of these weapons had been destroyed by the end of 2003. The researchers were told that the RSP were engaged in a joint initiative with the South African government to have these firearms transported to Pretoria for destruction.

Conclusion

The political crisis in Swaziland may have been responsible for the government's concern about sharing information about the nature and extent of its small arms holdings. This reluctance may have negative implications for the country's participation in regional information sharing exercises.

Despite the fact that Swaziland has not ratified the SADC Protocol and therefore not committed itself to the regional agreement, the country's laws regarding firearms are extensive. The Arms and Ammunition Act needs to be revised to incorporate controls over brokering, the number of firearms civilians can own, and a requirement for competency testing. The stringent requirements for civilian licensing are certainly a deterrent to legal proliferation, but ironically the combination of cheap illegal firearms with the stringent licensing process has possibly resulted in an increased market for illegal firearms.

Endnotes

- 1 The constitution adopted at Independence in 1968 was suspended on 12 April 1973. A new constitution was promulgated on 13 October 1978, but was not formally presented to the citizens of Swaziland. There were subsequently a number of further constitutional outlines compiled by the Constitutional Review Commission.
- 2 "Swaziland: Mswati picks his new MPs" IRIN report, 31 October 2003 (<http://www.irinnews.org>).
- 3 "Police question PUDEMO chief," *Swazi Observer*, 7 May 2003, p2.
- 4 The research team encountered significant suspicion and hostility from a number of respondents, which affected the representivity of the sample.
- 5 Government respondents suspected that Gun Free South Africa was possibly an agent

- of the South African government, and that this chapter would result in arms sales to Swaziland being cut off in the future. One participant asked if the study was not an attempt to colonise Swaziland and make it a 10th province of South Africa.
- 6 The major concerns that were expressed during the workshops were: the lack of involvement of the Southern Africa Development Community in the study; the absence of a sanction of the Swazi government; the possibility that the study could be a threat to national security; and the possibility that the final report might be used by the opposition movement to discredit the Swazi government.
 - 7 Lamb, G. "An Overview of Small Arms Production, Export, Ownership and Proliferation in South Africa" draft paper, Centre for Conflict Resolution, University of Cape Town, South Africa, 2000.
 - 8 All the respondents were male. None of the respondents knew a woman who owned a firearm.
 - 9 Interview with the Licencing Officer, Mbabane, 4 September 2003.
 - 10 *Royal Swaziland Police Service Annual Report 2002*, Mbabane, 2002. p32.
 - 11 Interview with the Licencing Officer, Mbabane, 4 September 2003.
 - 12 *Royal Swaziland Police Service Annual Report 2002*, p32.
 - 13 Ibid, p33
 - 14 Only one dealer was interviewed, as the others were reluctant to participate in the study. This dealer said he got his stock from South Africa.
 - 15 *Royal Swaziland Police Service Annual Report 2002*; p33
 - 16 Ibid, p31.
 - 17 Comment at a workshop on firearms issues in Swaziland, Mbabane, 23 November 2003.
 - 18 Information supplied by a representative of the USDF during the Report Validation Workshop, Mbabane, November 2003.
 - 19 Sishi, E. "Small Arms in Southern Africa", 1998. www.peacemagazine.org/9803/sishi.htm. Meek, S. *Weapons flows in Zimbabwe, Mozambique, Swaziland*, ISS monograph no. 34, Pretoria, 1999.
 - 20 Van Niekerk, P and Verloy, A. "'Merchant of Death' Sold Arms to Taliban", International Consortium of Investigative Journalists, 2002. www.cooperativeresearch.net/timeline/2002/montrealgazette020502.html
 - 21 Prime Minister of Swaziland, speech at passing out parade of RSP police recruits, 2002. (<http://www.gov.sz/home.asp?pid=3166>).
 - 22 Swaziland had signed but not ratified the Protocol on the Control for Firearms, Ammunition and Other Materials in the Southern African Development Community (SADC Protocol). It is signatory to both the UN Programme of Action and the Bamako Declaration.
 - 23 Interview with RSP Representative, Mbabane, 16 September 2003.
 - 24 This general laxity is seen throughout all legislation that grants state employees the right to carry firearms.
 - 25 Examples include: "58 People Arrested in Operation Recovery," *Times of Swaziland*, 21 December 2001; "At Least 22 Guns, 18 Computers Recovered by Police Operation," *Times of Swaziland*, 7 February 2002; "Police Nab 134 for Illegal Firearms," *Times of Swaziland*, 23 April 2002.
 - 26 60% of the arms seized were handguns; 17% were AK-47 rifles; 14% were shotguns and 8% were other rifles. Oosthysen, G. 1996. *Small Arms Proliferation and Control in Southern Africa*. Braamfontein: SAIIA; Meek, S. Op cit.
 - 27 Comment by Ms. Lydia Dlamini, Legal Advisor, Swaziland Police, SARPCCO workshop on marking, tracing and disposal of firearms, 3-4 April 2003, Harare, Zimbabwe.