

BALANCING MONARCHICAL RIGHTS AND HUMAN RIGHTS IN SOUTHERN
AFRICA: EXPERIENCES FROM THE KINGDOM OF ESWATINI.

By

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Declaration

I, Gamelihle Ncube declare that, the entirety of the work contained therein, is my own original work. I am the owner of the copyright and that any other material contained in this dissertation has been duly acknowledged. I further acknowledge that I have not previously submitted this material in entirety or in part for obtaining any qualification at any other institution.

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Dedication

This work is dedicated to all who are fighting for the upholding, respect and betterment of the people's human rights in the African continent.

Acknowledgments

I would like to express my enduring and heartfelt gratitude to my supervisor, Doctor. P. Dzimiri, for his unwavering support and outstanding guidance and mentorship throughout the entirety of my Masters program. You guided me academically hence because of you I am richly equipped with the necessary academic knowledge which I will forever cherish and make use of in future. I am also deeply indebted to my supervising committee, Mr H. Tshamano and Prof. R.R. Molapo for their insightful input and immense inspiration throughout this academic journey. Lastly I would love to acknowledge the immense support and guidance of my parents and sisters who never gave up on me in this academic journey and showered me with their unwavering, unconditional love and moral support. I shall forever be grateful and indebted to you. May God bless you.

Abstract

The study investigates the issue of human rights on whether there can be a balance or relationship between monarchical rights and human rights in Southern Africa, paying particular attention to the small monarchical kingdom of Eswatini. The study seeks to examine how traditional monarchies in the 21st century treats the issue of human rights bearing in mind the fact that the current global system highly believes in upholding the fundamental freedoms and rights of the people. As a case study, this study seeks to examine the major reasons behind the Kingdom of Eswatini's continued adherence to a monarchical system and also how the regional and international bodies like the Southern African Development Community (SADC) and the United Nations (UN) are doing in terms of addressing the continued violation of human rights in the Kingdom of Eswatini. Qualitative research methodology will be employed to gather data. The research will contribute to the African studies discourse, especially on the nexus between monarchical rights and human rights. Volunteer sampling will be used to get participants for the study and would be drawn mainly from academics, local chiefs/political leaders and also some of the elderly citizens.

Keywords: Monarchical rights, Human rights

Acronyms

AIIPA	Access to Information Protection of Privacy Act
APRM	African Peer Review Mechanism
AU	African Union
CCPR	Covenant on Civil and Political Rights
CESCR	Covenant on Economic, Social and Cultural Rights
DRC	Democratic Republic of Congo
EU	European Union
ICJ	International Commission of Justice
ICRtP	International Coalition for the Responsibility to Protect
INM	Imbokodvo National Movement
MDG	Millennium Development Goals
NGO	Non Governmental Organisation
OAU	Organisation of African Unity
POSA	Public Order Security Act
SADC	Southern African Development Community
UAE	United Arab Emirates
UN	United Nations
UNCHR	United Nations Commission of Human Rights

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CHAPTER 1

INTRODUCTION AND BACKGROUND TO THE STUDY

1. Introduction

Traditional monarchies in the 21st century have proven beyond reasonable doubt that they are a highly anachronistic type of political order. They have a political system which is different from contemporary politics, which are democracies. Monarchies wield absolute power, residing largely in the highly traditional institution of hereditary monarchy (Huntington 1996). What is noteworthy is that monarchies still exist in the contemporary 21st century era. These monarchies are much in contradiction with the politics of the 21st century, which highly believes in a globalised world which is democratic and observes and respects the people's human rights. Countries such as North Korea and Saudi Arabia, to mention a few still have monarchical systems as their forms of government. These forms of government have many profound problems for the citizens at large. This is so because the people's rights are not observed and there is no democracy. An example would be in North Korea, where elections are not conducted. Therefore, this study examines the issue of monarchical rights and human rights on the African continent, paying particular attention to the small monarchical state of Eswatini, which has been the talk of most human rights pressure groups as it has been viewed as one of the worst human right violators on the African continent.

The state of the Kingdom of Eswatini, due to it being a small absolute monarchy, is best known for its repressive regime and on-going struggle for human rights. As a result it has attracted a lot of criticism. The government of Eswatini considers itself a monarchical democracy. Democracy may be defined in different ways, and opinions tend to coalesce around two conceptions, namely, electoral 'thin' democracy and liberal 'thick' democracy (Freedom House, 2018). Freedom House (2018) classifies countries that meet the minimal democratic requirements as 'electoral democracies'. Electoral democracies are states which have multi-party political parties, which compete against each other, have near universal adult suffrage and hold regular contested free and fair elections, without leaving out access of major political parties to the electorate through the media and through general open political campaigning. For countries to consider themselves as liberal democracies, they should be able to meet more serious requirements, in addition to the electoral democracy ones. Such requirements include the need to practice the rule of law and protect civil and political liberties. . Hence such governments would be limited and accountable; in addition power

would be divided between the executive, legislative and judiciary (Hlatshwayo 2014). Therefore, from an analytical point of view, the kingdom of Eswatini does not constitute a state which is an electoral democracy or a liberal democracy, as the current leader, King Mswati III wields absolute power and authority over all branches of government. Hence, the state is an absolute monarch, as it does not meet the minimum requirements for a democracy.

1.1 Map of the Kingdom of Eswatini



Adapted from: <https://goo.gl/images/dXaM1k>

1.2 Background

Respect for human rights and fundamental freedom of people has become a key norm globally. This has witnessed the development and codification of several international laws and instruments for purposes of protecting human security. Topical in the international political discourse currently is the issue balancing sovereignty rights and human rights. Given the colonial experiences of many African states, sovereignty entitlements take precedence. In the context of Eswatini, being a kingdom with no electoral institutions or laws, issues of human rights protection are always questioned.

The political structure of Eswatini is unique on the African continent and the whole world at large. Evidence on the ground shows that since 1973, no political party was allowed to exist in the state of Eswatini, as any opposition is criminalised. The constitution of 1973 was scrapped following the elections which took place the same year, which saw the opposition party gaining three seats in parliament (compared to 21 seats in the then King Sobhuza's Imbokodo National Movement. Subsequently), the King dissolved the constitution, proclaiming it a state of emergency, thus ruling by decree (Kenworthy 2017). The situation was made worse when the 2005 constitution never mentioned the repealing of the 1973 proclamation of banning political parties. However, the constitution guaranteed freedom of association within the country. In its current state, the new constitution still puts a ban on political parties; even though the ban was no longer by decree. In so doing, it claimed that there is presently political freedom and expression. However, this does not mean that there is freedom of expression in the country as opposition political parties are still banned in the new constitution. It is very much evident that there nothing has changed from the previous constitution with regards to allowing the formation of political parties and political expression. The quest for curbing terrorism was used as a pretext for banning political parties and stopping opposition parties from posing a threat to the Eswatini monarchy (Kenworthy 2017). Any political party found to be chanting political slogans or wearing any political regalia was punished through heavy prison sentences under the state's harsh anti-terror laws which were put in place. In addition, Eswatini also restricts public demonstrations and campaigning for participation in the electoral proceedings, as this is unlawful. Anyone found to be against the king's word may be charged with treason. This clearly shows that Eswatini is an absolute monarchy, whereby the king has all the powers (Hlatshwayo 2014).

Another unique aspect which makes the Eswatini state stand out from other African states is its voting system or electoral process. Unlike other African states there is no electoral process in Eswatini. Everything revolves around the King; as a result there is no democracy in the Eswatini. The monarch appoints about 20 of the country's senators out of a total of 30. Furthermore, the parliamentarians are elected by the King. However, they do not have the power to initiate any constitution. In addition, executive authority is vested in the king, including judicial powers (Hlatshwayo 2014). Thus, the king has absolute control over whole electoral process, and has absolute power, as 90% of the government is elected by him. Those who are elected by the people at the local council (Tinkundla system) are subjected to

scrutiny and vetting prior to elections. This is different from a democratic state whereby the government is for the people, chosen by the people.

The fact that opposition politics is not tolerated in Eswatini warrants concerns regarding the country's commitment to democracy and human rights. This also gives an impression of continued adherence to state security as opposed to human security.

Ultimately, with regards to the political situation in Eswatini, it would not be justifiable not to mention the significant impact the absolute monarchical state of Eswatini has had on citizens' human rights. With the current global system which is highly committed to upholding and protecting human rights and fundamental freedoms, the political leadership in the kingdom of Eswatini is found wanting in that regard. The absence of electoral practices and non-adherence to the human rights regime demonstrates Eswatini attitude towards international laws and the praxis of global governance. As a result, Eswatini has been highly condemned by the international community because of failure to respect citizens' human rights. According to Hlatshwayo (2014), in his work titled 'unpacking Eswatini's monarchical democracy', the Swazi government has restricted particular rights and liberties. The freedoms of assembly and association and permission to hold political gatherings have often been denied, despite constitutional guarantees. There is also lack of freedom of expression, as the media is tightly controlled, with both television and radio broadcasting being monitored by the government. This means that there is strict press censorship in Eswatini.

1.3 Problem statement

This proposed study examines the politics of human rights protection in monarchical societies in the SADC regional sphere, by focusing on the kingdom of Eswatini. One of the major problems facing Africa as a continent is creating harmony, as well as synchronising traditional and modern political policies into practice. Many African countries have managed to do away with the parochial traditional political systems and adopted the Westphalia model of state system. This also entails embracing democratic praxis, in which elections are used for electing public office bearers. Despite the fact that many elections have not been free and fair, it is not a secret that leaders are elected into public offices without being democratically elected by the people. Eswatini somehow imposes leaders for the citizens. What is perplexing in the Eswatini's scenario is the fact that the country is parochially monarchical and is still led by a King who has not been democratically elected and also bearing in mind that the Kingdom of Eswatini is the only monarchical state within the SADC region. In light of such

democratic deficiencies in the country, it is imperative to examine how the issue of human rights is being dealt with in the Kingdom, given its monarchical status. The balance between monarchical rights and human rights, thus informs the fundamental focus of the study. Eswatini's continued adherence to traditional political praxis, characterised by monarchical system, will be examined and analysed. Notwithstanding that elections in Africa suffer from lack of integrity, since the dawn of 21st century era, the general expectation from the world is that countries should embrace democracy and conduct regular elections when choosing public office bearers.

1.4 Main Aim

The major aim of this study is to investigate the issue of human rights violations in the African political systems as a result of having monarchical governments in the highly globalised and interconnected 21st century. Another aim of this study is to also try and gain an understanding on how monarchies operate in a highly democratic international system, hence showing how there is a balance between monarchical rights and human rights.

1.5 Specific objectives

1. To examine the reasons behind Eswatini's continued adherence to a monarchical system
2. To examine how issues of political accountability in matters related to human rights are addressed.
3. To examine how best the Kingdom of Eswatini can democratise its political system in order cater for fundamental rights and freedoms of its people
4. To examine how external players can assist in the entrenchment of democracy in Eswatini

1.6 Research Questions

In order to accomplish the study objectives, the following research questions will be addressed:

1. What are the reasons behind Eswatini's continued adherence to monarchical political system?
2. How are issues of political accountability in matters related to human rights addressed?
3. How best can the country democratise its political system in order to cater for the fundamental rights and freedoms of its people?

4. What role can external players play in order to assist the entrenchment of democracy in Eswatini?

1.7 Justification of the study

This study, which is based on balancing monarchical rights and human rights in African political systems, which draws experiences from the kingdom of Eswatini, is justifiable in the sense that, it highlights the conflicts between monarchical rights as well as human rights in the current global context. Hence it would be a breakthrough of this study to highlight to whether there can be a balance between the two contradictory and contentious sets of rights. Also important is the fact that when people talk about human rights protection and violations in Africa, they generically discuss the issue. In some countries there are human rights violations; however, elections are regularly conducted. But what about countries with no elections like Eswatini? It is because of this generalisation that the study attempts to examine human rights in the context of a monarchical system.

Also this study will attempt to show how the two political systems can co-exist and see if ever they can operate as equals or one would be subservient to the other. This study will help create an awareness of how monarchical countries are violating people's human rights, especially in this 21st century's highly globalised world which is very particular about observing and respecting human rights. This study can also be used by policy-makers to come up with policies which will create awareness among pressure groups that advocate for democracy and the upliftment of human rights. This study can also help fill the knowledge gap with regards to the political system of the small monarchical state of Eswatini. The study is important considering the fact that the Kingdom of Eswatini is an absolute monarch, most probably the only one on the African continent, which continually faces widespread criticism from the International System because of human rights violations. However, one needs to be also critical about this phenomenon before making conclusions. This is because before Eswatini gets accused, why not research or consult the citizens and ask them if ever they believe that their human rights are being violated by their form of government, which is a monarchy? After the study is completed one can therefore analyse all the documented data and find out whether a balance between monarchical rights and human rights is feasible or not and also extrapolate the challenges which might be as a result of having both systems.

1.8 Preliminary literature review

1.8.1 Introduction

This section of the study reviews literature on a few aspects which cover key thematic issues, which include but are not limited to; globalisation and democracy in Africa, African political systems, the political history of Eswatini and human rights protection in Africa. The section attempts to address the above-mentioned key themes, which will guide the study, to find out the voices of other scholars with regards to the topic ‘balancing monarchical rights and human rights in Africa: a case study of the kingdom of Eswatini’.

1.8.2 The political history of the kingdom of Eswatini

John Baloro (2009), in his publication ‘the development of Swaziland’s Constitution: Monarchical Responses to Modern Challenges’, states that when Eswatini gained its independence in 1968, the monarchy of Eswatini did not suffer the fate of traditional leaders in most of independent Africa, whereby most of their powers were severely curtailed and subordinated to those of nationalist leaders. Thus, the Swazi monarchy’s control over the strategic resources of the country, inclusive of land and mineral resources were entrenched in the constitution. This consequently amalgamated the power of its King through the domination of his royalist party, the Imbokodvo National Movement. As a result, this gave the king political powers far beyond those intended for a constitutional monarch (Baloro, 2009).

Peter Kenworthy asserts that Swaziland (Eswatini), being the last autocratic monarchy in Africa, is a country in an almost constant state of crisis. The repeated human rights violations and harassment of the Swazi democracy movement by the Swazi regime, the huge inequalities between a small Swazi elite and the poor majority inevitably should make the world react. Kenworthy elucidates that the problem with Swaziland can be traced through its history of colonialism, which was somehow unlike that of other African countries. He elicits that Swaziland, when it faced the colonial era, the British made it a point to keep intact the traditional societal structure which constantly served the interests of the British and also those of the Swazi monarchs, as much of its daily administration was controlled and handled by the king and his chiefs. Much of Kenworthy’s work mainly focused on how colonialism paved the way for a monarchical government that still exists in Eswatini and continues to be an ulcer to the people of Eswatini.

Eswatini, being a British protectorate, was colonised in a unique way, compared to other African colonies on the entire continent. The Swati people were used as sources of cheap labour. Furthermore, their political system was changed to suit the needs of the British

colonialists, which later paved the way for the Swazi monarchy, as much of the political, social and economic administration were carried out and controlled by the Kings and Chiefs (Levin 2001).

During its preparation for independence, Eswatini saw the formation of political parties, especially where most of the Swazis lived, in the urban areas, as compared to the rural areas, where there were few Swazi people residing there. Thus, the most dominant group which emerged was the Imbokodvo National Movement (INM) which was the one which represented the majority of the Swazi people as a result of the political pressure in the country. Therefore, in the 1964 scheduled elections by the colonial government, the Imbokodvo National Movement (INM) won against four other political parties which were formed in Swaziland (US Department of State 2018).

Eswatini's evolution towards a modern state was necessarily cautious, harried by forces of commanding influence from within and outside its boundaries and adhering, with dogged persistence to traditional customs and institutions, while not eschewing the advantages that might wait upon social and political renovation (Hugh 1999). In the politics of Swaziland this evolution significantly entailed that the country was now under pressure to liberate themselves from the colonial masters as it was the last country still under colonial rule. Hugh (1999) adds that the Kingdom of Swaziland, being the last kingdom on the African continent to break free from the British colonial rule, meant that it was now self-ruling; hence it meant doing away with British political systems. However, it is important to ascertain that those British political systems are the ones which paved the way for the kingdom of Eswatini to become an absolute monarch. It is also safe to say that the legacy of the British political system was carried in Eswatini, although in an African way.

Also worthy of noting is that soon after attaining its independence in September 1968, Eswatini adopted a constitution that was enacted by the British parliament at Westminster, and consequently the country did not have a formal written constitution. According to the Constitution of Swaziland, 1968, Article 2, the constitution reflected some aspects of the British parliamentary system of governance which was based on the Westminster model. It declared that the constitution was the supreme law of Swaziland and that if any other law was inconsistent with it, that law was deemed to be void. The Westminster system of governance, thus immensely paved the way for the monarchical government in Swaziland which up to date is still existence.

1.8.3 Globalisation and Democracy in Africa

Mubangizi's (2010) study mainly focused on democracy and development in the age of globalization. He states that the relationship between globalization and democracy is quite complex. This is because both globalization and democracy should have a significant role on the protection of human rights globally, mostly in the developing world. Mubangizi further states that "nowhere is this complex relationship more prominent than on the African continent". Thus, this was a result of peculiar challenges that African countries have previously encountered.

It can also be argued that globalization has a tendency and potential to narrow the scope of democracy (Zezeza, 2004). Thus, one problem in particular picked up from his work is that globalization has profound problems of rearranging social classes through the creation of social classes, which makes democracy inexistent, as the two cannot work hand in hand due to their contradictory nature. Inevitably, globalization and democracy have a significant tension which could be termed as "globalised dependency". Africa's dependency on western patronage is an important characteristic of globalization, which has a disastrous impact on democracy and governance (Griffith 2003).

1.8.4 Human Rights protection in Africa and Eswatini

Africa has experienced a serious lack of the respect and upholding of people's human rights. This section of the study explores the human rights issues, not only in Eswatini but the entire Southern African region. It is of pivotal importance to realise that the African union has mechanisms set to protect African people's human rights, yet in reality, there are gross violations of human rights on the African continent. This goes to show that the mechanisms put in place by the African Union (AU) are just on paper but not enforced as demonstrated by the case study of the kingdom of Eswatini in the southern part of the continent, which suffers significantly on issues pertaining to human rights. According to Mubangizi (2015) there are still several challenges that inhibit the promotion and protection of human rights in Africa, including various on-going regional and internal conflicts.

According to the Amnesty international report on Eswatini's human rights (2015) there is an appalling condition of women ill-treatment in the country. Women are treated as second class citizens with violence being the order of the day against them and young girls. As a consequence, they are exposed to high levels of HIV infection rates, which are amongst the highest in prevalence rates globally. More serious is the fact that since 2006, the domestic

violence bill has been in the pipeline in their parliament, but it still has not been implemented. This results in the abuse of both women and girls, as shown by forced marriages for the under-aged girls as there is no law protecting them against such evil acts. There is also no right to property ownership. Over two thirds of the entire Swazi population lives in rural areas where they are controlled by chiefs who are obviously appointed by the king. These chiefs can chase or evict people from their homes at any given time if they feel like they are either a threat to the kingship or the chieftainship. Hence, no one owns any property or land, resulting in the majority of the population living in dire poverty (Amnesty International 2015).

Last but not least, trade unions and political activists are prohibited in the kingdom of eSwatini. Therefore, if they are found to exist they are bound to face persistent harassment, beatings, arrests, political charges and unfair court trials. Furthermore, the perpetrators are almost never brought to justice.

1.8.5 Tradition vs. Modernity

There have been immense tensions between traditional and modern forms of governments in the African political systems in the 21st century era (Gumede 2005). The main causes of these tensions are as a result of the globalisation of world politics, whereby the rule of law is now dictated by the powerful countries of the world. This consequently clashes with some of the African countries' political systems in the sense that, some African countries still believe in the traditional political systems. These systems entail the absolute rule of kings and chiefs. It believes in chieftainship and kingship norms and values of governing. However, the traditional political systems often clash with the modern political systems, as there seems to be an infringement of human rights when countries practise traditional political systems which are seen to be dictatorial and authoritarian.

Modernity is viewed as a western and progressive phenomenon, while tradition is viewed as African, out-dated and black (Muiu and Martin 2009). Tradition is still very often considered out-dated, without any contemporary legitimacy while modernity is often mistakenly considered as progressive (Parasjindal 2013). Much of the modernisation theory has been criticised for treating African societies as if they had no history and for asserting that African indigenous culture, traditions and institutions were an obstacle to socio-political and economic progress.

Based on the above brief introduction of the tensions between traditional and modern political systems, it is the aim of this study to examine the balance of monarchical rights and human rights in African political systems. Eswatini is among one of the African countries which has, for a long time branded itself a democratic country when it is actually not. Eswatini is far from attaining democracy, as it has remained the last absolute monarch in sub-Saharan Africa, hence there are serious concerns about human rights and the rule of law remains a pipe dream in the country despite the promulgation of the Swaziland constitution (Act 1 of 2005). This means that there is no balance or a good relationship between monarchical rights and human rights. Having a king and chiefs, being part of the elite group to dictate the rule of law, consequently violates the Swazi people's human rights, as they have no constitution to protect them. Their constitution only protects and gives all powers to the King. Swaziland is therefore a country in the African political landscape which is trapped between a traditional and modern form of government.

1.8.6 Political system of the kingdom of Eswatini

Eswatini has a non-party political system and its electoral procedures are based on Swazi customs. Its political system is based on the Tinkundla system of government that does not accommodate any other political parties. This system only allows local representatives nominated at local centres for people to be local spokespersons in parliament (Gumede 2004). Therefore, the system being practised in Eswatini is in direct contrast to the highly globalised world which advocates for multi-party democracy whilst the political and constitutional landscape of Eswatini is strongly against that.

Africa is regarded as one continent which does not respect and uphold people's human rights. In the kingdom of Eswatini, there is no respect of human rights and the rule of law, as it fails to embrace modern democratic principles which ensure that both human rights and the rule of law are upheld (Jaichand 2004). Therefore, there is a misconception in Eswatini that any human rights advocacy is contrary to the Swazi culture, as evidenced by the hostility of the top authority's attitude towards the culture of human rights. This suggests that there is no balance between monarchical rights and human rights in Eswatini. Although the country has a constitution, it however, gives all powers to the King, thus, leaving the Swazi people prone to having their rights violated on a daily basis. Democracy at this point is a dream which is far from being achieved as Eswatini's political terrain is still characterised by traditional

norms and values which are in direct contrast to the highly globalised political world which is democratic, interlinked and also advocates for human rights recognition.

1.8.7 Monarchical power structure in the global context

The monarchical rights discourse dates back to the end of the Roman era up until around the eighteenth century (Wilde, 2018). Some scholars argue that the latest form of an absolute monarch in Europe was seen in France in the era before World War I whereby the western world was entirely monarchical with the divine rule of Kings and Queens. However, all this changed as there was a transition or rather transformation of the entire western world from monarchical rule and sovereign kings to democratic republican rule and sovereignty (Hoppe 2018). The French revolution in 1789 is one example whereby France was an absolute monarchy under the rule of Louis XVI whereby they had a constitutional monarchy which, however was overthrown during the revolution, hence equality, fraternity and liberty became the order of the day.

According to Wilde (2018), a monarchy is a form of government in which total sovereignty is invested in one person - a head of state called a monarch who holds the position until death or abdication. Monarchs usually hold and achieve their position through the right of hereditary succession; for example if they were related, usually the son or daughter of the previous monarch, although there have been elective monarchies, where the monarch holds the position after being elected. The papacy is sometimes called an elective monarchy. These monarchs have absolute power invested in them and the ordinary people had no say, hence there is no democracy in an absolute monarch.

Monarchies also do exist in the global context, thus they are not only limited to Africa only. Globally countries such as Britain, Saudi Arabia and the United Arab Emirates still have monarchical governments. Thus, looking at Britain, the monarchy works hand in glove with democracy, thus it is termed as the “modern constitutional monarchy”. According to the British Monarchist League (2014) the Monarch and her Governors-General in the Commonwealth realms hold significant "reserve" or "prerogative" powers, to be wielded in times of extreme emergency or constitutional crises usually to uphold parliamentary government. This consequently shows that the monarchs still hold absolute power in Britain even though the appointed Prime Minister also has power which is limited. However, having both a monarchical leader who is the queen and a prime minister shows that there is a fusion

of both democracy and monarchy in one Kingdom unlike the Kingdom of Eswatini whereby there is no democracy.

1.9 Ethical considerations

Like any scientific enquiry, academic research requires one to adhere to good moral and ethical conduct in both carrying out research and presentation of the findings (Babbie 2007). Ethics are therefore rules to be considered when embarking on a research study. Thus, in this study, the main research ethics observed were informed consent, anonymity and confidentiality. This is because the study was on a sensitive issue which could land one into trouble. Above all, academic honesty is one research ethic which was considered in carrying out this research. Plagiarism was avoided by ensuring that all sources were duly acknowledged.

1.10 Research methodology

This study employed qualitative research methods, as it relates to the interpretive social science model, where forms of human behaviour will be studied. A reflection of such is the state of phenomenological reports (Babbie and Mouton, 2007). In the context of an academic thesis, this implies the existence of a research design. This design designates a plan which encompasses all the aspects of the proposed study from, the level of conceptualisation of the problem right through to the presentation of the relevant evidence and the communication of the findings (Babbie 2008). Qualitative research methods involve focus group discussions, in-depth interviews, and projective techniques (Domegan and Fleming 2007). The qualitative methodology was suitable for this study, as it shed more light on what people say and do as a product of how they interpret the complexities of their living world in the true sense of it (Bryman and Bell 2007). Hence this study adopted in-depth interviews as they involve direct one on one engagement with the participants.

1.11 Data collection

This study used the qualitative approach, instead of the quantitative approach because its aim was to elicit feelings, behaviour, interactions, attitudes and opinions of people. Therefore, qualitative was the most suitable approach in this study. Twenty (20) people who included 5 adult men, 5 adult women, 5 youth boys and 5 youth girls were approached to voluntarily take part and answer some questions in the interviews. Pierce (1998) states that one of the strengths of a qualitative research lies in its unique capacity to learn and understand the

underlying values of society through interviewing and observation. Hence in this context, other data collection instruments involved the use of secondary sources. These secondary sources included, but were not be limited to diaries, archives, articles, journals and books. Furthermore, academic texts were consulted because a copious amount of literature on the subject matter also existed in the form of books and journal articles.

1.12 Population Sample

A research sample, according to Pierce (2008) is a set of individuals who constitute the participants or informants. In this study, a volunteer sample, whereby participants voluntarily take part in the research process after consenting was used. The main advantage of using voluntary sampling was that the participants were willing to provide information and cooperate fully. It was important to select a sample of people who had lived or who still lived in the kingdom of Eswatini and had experienced the phenomenon in question.

1.13 Data Analysis

Having outlined the methodology and of data collection methods, this section will reflect on my proposed methods of data analysis. Maxwell (2009) identifies three strategies for analysing qualitative data, which are categorizing strategies (involving coding and thematic analysis), connecting strategies (involving narrative analysis and individual case studies) and lastly names and displays. Since this study deals with qualitative data, which is narrative/verbatim statements, analysis involved a comparative model of similarities and differences on the same category of responses for example identifying where the chosen respondents agree or disagree on the same question. This involved intra-group despondence analysis. The same model of analysis was also be utilized in order to extrapolate where the responses converge and diverge. The comparative approach is informed by the fact the questions are the same for both males and females and boys and girls. More so, the recorded interviews were transcribed and since the bulk of the data from the interviews was qualitative, thematic analysis was utilized. This involves identifying patterns and emerging themes out of the differences and similarities from the despondence's views (Cousins 2008; Maxwell 2008).

1.14 Delimitations to the study

This was very sensitive as it dealt with people's human rights. Some people were afraid to participate in the data collection process due to fear of political victimisation, given the

nature of political sensitivity in Eswatini. Therefore, some of the respondents who were approached could have been in support of the monarchical government in Eswatini whilst others were against it. Hence, some of the people's responses were be influenced by their attitudes towards their government.

1.15 Outline of the study

Chapter one provides a general introduction to the study, its background, the problem statement, the research questions, as well as its aims and objectives. This chapter also outlines the justification of the study and preliminary literature review.

Chapter two provides a conceptualisation of the study. Emphasis is on studies that have dealt with issues of human rights, monarchical governments on the African context. Hence, scholarly work related to the study was used.

Chapter three will discuss in detail the research methodology. This is whereby the data collection procedure is reviewed hand in glove with research instruments, data sources and also the delimitations of the study.

Chapter four was dedicated to the central issue at hand, which is the balancing of monarchical rights and human rights in the kingdom of Eswatini. This particular chapter extensively dealt with the two contentious sets of rights, which are monarchical and human rights.

Chapter five is summative evaluation whereby the outcomes of the previous chapters were combined and discussed. It will also serve as the conclusion to the study

1.16 Definition of operational terms

a. King

A King is a male sovereign or monarch; a man who holds by life tenure, and usually by hereditary right, the chief authority over a country and people.

b. Traditional leadership

According to Max Webber 1947, traditional leadership is a style based on the belief that power is bestowed on the leader, in keeping with the tradition of the past. He further articulates a few characteristics which define traditional leadership and these encompass: (i) Leaders are viewed as having control and power because those holding the position before

them had control and power, (ii) Leaders are followed because of personal loyalty to the position, not to the individual and (iii) Followers are promoted based on favouritism and office politics.

c. Democracy

Democracy is defined as a form of political organization guided by the idea that political domination and government should be grounded in the will of the people. The ruled should also be the rulers and political power should be rooted in, and legitimated by the will of the people (Van Beek and Rusen 2006).

d. Chief

This is the ruler of a larger territory. In pre-colonial times, he/she could parcel land and power to the headmen. A Chief is above several headmen who report to him/her on important matters. The Chief also presides over serious offences brought to him/her by the headmen or headwomen and he/she is the final judge in the absence of the King (Govo, 2004).

e. Tradition

These are normally customs of any given society. They form part of the history and heritage of society. In short, tradition is the old way of doing things and is guided by old principles which are passed from generation to generation within the context of a society. It is any cultural product that was created or pursued in whole or in part by past generations and having been accepted and perceived by the present generations (Senyonyo 2004).

f. Modernity

This is the opposite of tradition. It is the new way of doing things and is characterised by new trends, conceptions and perspectives. In most African societies, it is associated with western ideas and values. It is also associated with the democratization of societies, especially the destruction of inherent privileges and the declaration of equal rights of citizens. It also implies decentralization of power; that is the process of moving decision-making powers from central government closer to the people (Belden 2010). Modernity also implies the development of political institutions that move away from authoritarian rule, toward forms of government that enhance the liberty and welfare of all citizens, rather than a selected few (Wallerstan 1995).

g. Globalisation

It generally refers to an increasing interaction across national boundaries that affect many aspects of life: economic, social, cultural and political (United Nations 1999). However, in the context of this study, the focus will be mainly on the political aspects of the impact of globalisation on the African political systems.

h. International system

A collection of independent political unites, which interact with some regularity (Cooray)

I. Monarchy

A monarchy is a form of government in which a group, usually a family called the dynasty, embodies the country's national identity and one of its members, called the monarch exercises a role of sovereignty (Flexture and Carry 1993). A monarchy is a form of government in which total sovereignty is invested in one person; a head of state called a monarch, who holds the position until death or abdication. Monarchs usually hold and achieve their position through the right of hereditary succession (Wilde 2017).

j. Human rights

According to the United Nations, Human Rights, human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

k. colonisation

Colonisation is the forming of a settlement or colony by a group of people who seek to take control of territories or countries. It usually involves large-scale immigration of people to a new location and the expansion of their civilisation and culture into that particular territory.

Colonisation may involve dominating the original inhabitants of the area, known as the indigenous population.

l. Political systems

Is a set of formal legal institutions that constitute a "government" or a "state." The term includes actual as well as prescribed forms of political behaviour, not only the legal organisation of the state, but also the reality of how the state functions. It is also seen as a set

of “processes of interaction” or as a subsystem of the social system interacting with other non-political subsystems, such as the economic system (Heslop 2017).

m. International community

It refers to all countries with international influence, which decide to act together, also whose identity and sovereignty is recognised and which choose to participate in global discussions and decision-making.

1.17 Conclusion

In a nutshell, the above chapter was an introductory chapter which introduced key topics and guidelines to the main study below. These included but not limited to the introduction and background, the problem statement, aims and objectives, preliminary literature review and also data collection and analysis methods.

CHAPTER 2

LITERATURE REVIEW AND CONCEPTUALISATION OF THE STUDY

2.1 Introduction

This chapter provides a comprehensive review of literature in order to situate the study in a context. The chapter also discusses the theoretical framework underpinning the present study paying special attention to the issue of human rights violations in Africa in general and in monarchical governments in particular. The main research question which will guide this study is; what are the main reasons behind Eswatini's continued adherence to a monarchical political system? Literature to be reviewed in this chapter will include studies on the emergence of the human rights discourse and the monarchical discourse. It will also focus on the traditional debates linked to the two contradictory set of rights. Concepts such as globalisation and democratisation in Africa, African political systems, and the political history of Eswatini, human rights protection in Africa and the Kingdom of Eswatini will also be discussed in this chapter. The next section of this chapter shall focus on the human rights discourse.

2.2 Political history of the kingdom of Eswatini

Historically, Swaziland¹, now known as the Kingdom of Eswatini was an independent and recognized state before the British invaded the country, thus weakening its sovereignty (Stevens 1963). Stevens argues that without their king Swaziland would be nothing. This means that the Kings instilled divine rule in the country to the extent that its citizens do not see a life without their Kings. The King and Chiefs in Swaziland (Eswatini) cultivated a culture of fear and respect amongst the ordinary citizens to the extent that they are solely dependent on the Kings word politically, socially and also economically (Stevens, 1963). These were the traits of monarchism which are evident in present day in the Kingdom of Eswatini. When Sobuza II was inaugurated as king in 1924, he immediately set out to persuade the British to give Swaziland its independence and autonomy. Progress towards the realisation of these came through the Proclamations of 1944 and 1950, which were ratified after negotiations and the king taking advice from the Liqoqo, (Inner Council) and subsequently the Libandla (General Council) (Kuper 1978: 174). Hence the country remained

¹ According to Daley (2018) Swaziland changed its name to its ancient name Eswatini when commemorating their 50th anniversary from complete independence from the British rule, thus the King Mswati III stipulated that it was an attempt to distinguish the country's name from other nations such as Switzerland.

a British colony with power, however invested in King Sobhuza II. The king thus continued to rule the country as an absolute monarchy, following traditional principles and ensured that anti-traditionalists were kept out of the process of government (Esterhuysen, 1984: 5). Studies by scholars such as John and Johnson (1986) show that the absolute rule of Kings was put to the test in Swaziland in the 1980s when the king at the time Sobhuza II died. The country fell into a political crisis with the passing away of the then King. John and Johnson (1986) note that the 1980s have been the most traumatic years for the Swazi people as the death of their king Sobhuza II brought an end to fourteen years of political stability in the Kingdom of Eswatini. In the period between 1973 and 1978, the King had ruled without any constitution and had ultimate authority over all political institutions (Mabuza, 2008: 33). This consequently led to a crisis in the country as they no longer respected each other leading to factional groups emerging. The King in the Kingdom of Eswatini held all the power in all aspects, especially politically as his death put the country into shambles before the election of a new King to rule them.

Prior to the colonization of the Kingdom of Eswatini, Swazi law and custom were the only law applicable in the Kingdom (Whelpton 1997). This meant that Eswatini stuck to its law and custom as it did before being colonised. Its traditional political system remained in place after gaining their independence from the British colonisers. This shows the country is not about to do away with its monarchical Kingdom in the name of democracy brought about by globalisation in the international system. Having democracy in Eswatini, a country which has its roots shaped up by traditional customs and norms would require serious intervention from the international community and pressure groups.

Historically, in the Swazi religion and tradition the monarchy is widely viewed as a sacred institution and a dual monarchy in which the King and his mother play complementary socio-political and religious roles in society (Ndlovu 2005). Both the King and the Queen Mother are revered as paradigmatic personages who embody the key ideals, values, beliefs, and institutions that are cherished by most Swazi people. Tradition in the Swazi Kingdom has been narrowed down to the royal family, dating from the historical narratives. This leaves no room for transition of power from one political party to another which is what democracy entail in the modern international system. Hence the Swazi history laid a strong foundation for the current reigning absolute monarchy.

The emergency and rise of political parties evidence that the Swazi culture shaped the country's political system. This is substantiated by Baloro (2010) who notes that how King Sobhuza II disliked the western idea of having many political parties contesting during elections. This resulted in King Sobhuza's own party winning all the elections which were undertaken even though some of the opposition had gathered a few votes to enable those seats in the parliament. This shows that despite being colonised, Eswatini had its political backbone on its culture which has shaped it into an absolute monarchy.

According to Gumede (2005) Swaziland (Eswatini) remains trapped between a traditional and modern form of government. This is because when one looks at the mere fact that Swaziland's political history is what has shaped Swazi customs and its way of life up to date. The political history which, according to Gumede (2005) is in contrast with the modern form of governance in the international system is the politics of the Tinkundla system which does not accommodate political parties as is the case in the modern form of governance encourages in the name of having democratic governments.

The Kingdom of Eswatini in the African continent, especially in the southern part of Africa was the only autocratic monarchy left. The Kingdom being a British colony or protectorate was colonised in a unique way as compared to other African colonies in the entire continent. According to Levin (2001), the Swazi people were used as sources of cheap labour. Also their political system was changed and suited best the needs of the British colonialists which later on paved way for the Eswatini monarchy as much of the political, social and economic administration was carried out and controlled by the Kings and Chiefs. The British administration in Eswatini, during the colonisation era paved way for its current form of government the system which was introduced vested all the powers in the Kings and Chiefs (Levin, 2001). It is therefore impossible for Eswatini to abandon its traditional political way of life for the modern political systems as they are very loyal to their monarchical government which they term as a monarchical democracy.

Eswatini's evolution towards a modern state was necessarily cautious, harried by forces of commanding influence from within and outside its boundaries and adhering to traditional customs and institutions while not eschewing the advantages that might wait upon social and political renovation (Hugh 1999). This evolution in the politics of Eswatini significantly entailed that the country was now under pressure to liberate themselves from the colonial masters as it was the last country which under colonial rule. Hugh (1999) notes being the last

kingdom in the African continent to break free from the British colonial rule, the Kingdom of Swaziland was now self-ruling and had to do away with the British political system. Worth noting is the fact that those British political systems are the ones which paved way for the kingdom of Eswatini to become an absolute monarch. It is safe to say that the legacy of the British political system was carried on though in an African way.

Ndlovu (2011) acknowledges the huge role played by colonisation in the shaping of the Kingdom of Eswatini's political history. This is so considering the mere fact that colonial rule in Eswatini created a plural society whereby the Swazi people were now subjected to the western common law and the Swazi law and custom. This colonial era led to the introduction of a western constitution to govern the kingdom of Eswatini which however, undermined the power of the Swazi kingdom as they were displaced and made to stay in native reserves whilst the colonisers occupied most of the rich and fertile lands in the kingdom. The events that preceded independence in the late 1950s and early 1960s ensured that the Swazi monarchy remained a dominant institution in that country's political arena. The King effectively manipulated processes to secure his dominant position (Booth, 1983: 33). This also meant that the royal family gained control of the Swazi economy and was able to amass wealth using traditional institutions that were part of the Swazi's daily life. Furthermore, Ndlovu (2011) notes that when the Kingdom of Eswatini gained its independence in 1968, they used a constitutional monarch, which however led to the realisation that the post-independence Eswatini was anything but homogenous. This brings into light the assertion that Eswatini was an absolute monarch way before colonisation; hence the colonial era had nothing to do with it changing the Kingdom of Eswatini into an absolute monarchy. By virtue of being monarchies Britain colonised an already monarchical kingdom hence they just interrelated with each other.

Eswatini, in its preparation for independence, it saw the formation of political parties, especially where most of the Swazis lived in the urban areas as compared to the rural areas where there was not much Swazi people residing there. Thus, the most dominant group which emerged was the Imbokodvo National Movement (INM) which represented the majority of the Swazi people as a result of the political pressure in the country. In the 1964 scheduled elections by the colonial government which were won by the Imbokodvo National Movement (INM), against four other political parties which were formed in Swaziland (US Department of State 2018).

Worth noting is the fact that soon after or upon attaining its independence in September 1968 Eswatini adopted a constitution that was enacted by the British parliament at Westminster, and consequently Eswatini had no formal written constitution. Article 2 of the 1968 constitution of Swaziland, shows some aspects of the British parliamentary system of governance which was based on the Westminster model. It declared that the constitution was the supreme law of Eswatini and that if any other law was inconsistent with it, that law was deemed to be void. This Westminster system of governance, thus immensely paved way for the monarchical government in Swaziland which remains in place until today. Through the introduction of the Tinkundla traditional system in 1978 Eswatini came with a non-party electoral system which was based on traditional local councils. Thus, coupling it up with the Westminster system of government resulted in the brewing of an absolute monarch (Lumina 2002).

With regards to the political situation in Eswatini historically and up to date, there are being political activists in the country who solicit for a change in the political realm of Eswatini there has been change in the political atmosphere even after the introduction of the 2005 constitution. According to the Civil Society Report (2017) there is no democracy in the country due to the contradiction between common law and customary law as systems of governance which are used interchangeably. The next focus of this chapter shall be on the Human rights protection in Africa.

2.3 The human rights discourse

Literature shows that the evolution and development of the human rights discourse is as old as the discipline of politics itself. First and foremost, during the slave trade era, the United Nations was concerned about the gross violation of human rights during that time, resulting in the setting up of a commission on human rights recalling the provisions of the slavery convention, the supplementary convention on the abolition of slavery, the slave trade and institutions and practices similar to slavery (UN Commission on Human Rights (42nd session) 1986). The commission was set up bid to address the gross violation of human rights in the world. This was followed by the development of the international human rights law in 1948, which according to the United Nations was as a result of the Universal Declaration of Human Rights adopted in 1948. According to the United Nations General Assembly, “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind”. It is these barbaric which acts led to the United Nations coming up

with commission to address these vast violations of human rights in the world (UN General Assembly 1948). According to Roosevelt (2001), the United Nations General Assembly adopted the Universal Declaration of Human Rights in the midst of a bitter phase of the cold war whereby there were gross violations on the people's rights.

In the trials at Nuremburg, the allied powers prosecuted the Nazi leaders for war crimes and crimes against humanity during the year 1945 (www2.gwu.edu). Looking at the Nuremburg trials of 1945, it is evident that the issue of human rights has a long history. During the Nuremburg trials of 1945, the liberated Auschwitz doctors made an international declaration to trial all those responsible for doing experiments on prisoners (Weindling 2004). This marked the beginning of the serious consideration of the human rights of people who, hitherto had been previously treated as animals for experiments during the course of World War II.

Before the cold war, the human rights movement had not yet matured. Prior to The devastating effects of the cold war and other ideological war fares brought about chaos and disorder in the whole world with regards to human rights standards resulting in serious deficiencies in implementing them (Henkin 1994).The cold war divisions impaired the international community from focusing on human rights related issues. During the cold war attention to human rights abuses in the international community was inconsistent and often overshadowed by the perceived stakes of the cold war in military, political, ideological and also in economic aspects (Synder 2011).Since the cold war was between the United States of America and the Soviet Union (USSR) there was a division with regards to the issue of human rights. This is evident in the fact that there were now two groups which consisted of those supporting the first generation of rights and those supporting the second generation of rights respectively (humanrights.wikia.com). Anderson and Anderson (2003) state that on the onset of the Cold war, which was an ideological warfare, those who were anti-communists expressed that the issue of civil rights were Soviet inspired hence a threat to the American way of life. After the end of the cold war, the international system through the United Nations (UN) realised the need for human security and protection after realising the devastations of the cold war hence coming up with the notion of human rights. The human rights issue in the international system came about legally through the United Nations Charter (UN).

The issue of human rights became a legal issue on the 10th of December 1948 when the general assembly of the United Nations adopted the Universal Declaration of rights

(www.humanrights.gov.au). Human rights were established as a document that states the fundamental freedoms of people to all human beings in the world either politically, socially, economically or culturally. Furthermore, there was the human development report which introduced a twist to the phenomena of human rights. This report stipulated that human security should now be limited to people rather than territories. Human security was thus only limited to territorial protection whereby states only protected their territories from invasion and other forms of danger. However, with the establishment of the United Nations Development Report (UNDP), the people within those territories were made to be a priority (Human Development Report 1994).

Worth noting is that there are global justice mechanisms which have been put in place to try and strengthen the human rights regime. One of the many mechanisms put in place as articulated by Petersmann (2002) is the Global Compact which was launched by the United Nations Secretary General Kofi Annan in 2004. The main aim of this mechanism is to call upon people, especially businesses to respect, support and uphold human rights within their working environments so as to avoid the abuse of human rights in the global system. Another global mechanism introduced by the United Nations Human Rights Council in a bid to protect human rights was the; protect, respect and remedy policy framework. According to Ruggie (2009) the policy framework rests on three main pillars of the state which have the duty to protect against human rights abuses as well as the corporate responsibility to uphold and respect human rights and last but not least, victims of human rights abuse or violations having effective remedy both judicial and non-judicial. Ruggie (2009) notes that these pillars will work extremely well as they complement each other.

Since the notion of Human rights was approached from a Westphalian centric view, it is pivotal to mention that, the Westphalian notion of the political system has since the colonial times taken primacy and imposed itself on the monarchical traditional political system. This system is now seen as complementary to the Westphalian political system. The same can also be said about traditional human rights. These must be conceptualised as communal based human rights. The Westphalian human rights are individualistic and they find pronouncement in the Western notion of liberal democracy. This is a very problematic area of study which was attempted by Jean and John Comaroff (J. Comaroff & Comaroff, 2003; J.J Comaroff, 1991; J.L Comaroff & Comaroff, 1986). They asked the question whose rights should take precedence where the rights of the individual clash with the rights of communities. Jean and John Comaroff, used the case study of the North West Province where a woman from the

royal Bafokeng Kingdom was expected to partake in traditional mourning and cleansing rites after the death of her husband. She denied partaking these traditional rights on grounds that she was converted to Jehovah's Witness and it was her constitutional right not to partake in these traditional rites of passage. The case went all the way to the constitutional court in Bloemfontein. Hence in this instance, the court was asked to determine whose rights should take precedence in such an event whereby the constitutional rights of an individual and the constitutional rights of a community clash. Having discussed the issue of the human rights discourse, the next section will explore the issue of monarchical rights discourse.

2.4 Monarchical rights discourse

A monarchy is a form of government in which total sovereignty is invested in one person, a head of state called a monarch who holds the position until death or abdication (Wilde, 2018). Monarchs usually hold and achieve their position through the right of hereditary succession. For example, if they were related, usually the son or daughter of the previous monarch, although there have been elective monarchies where the monarch holds the position after being elected. The papacy is sometimes called an elective monarchy. These monarchs have absolute power invested in them and the ordinary people have no say, hence there is no democracy in an absolute monarchy.

The monarchical rights discourse dates back to the end of the Roman era until around the eighteenth century (Wilde, 2018). Thus, it is argued that the latest form of an absolute monarch in Europe was seen in France in the era before World War I (WWI) whereby the western world was entirely monarchical with the divine rule of Kings and Queens. However, the system of absolute monarchs changed due to the fact that there was a transition or rather transformation of the entire western world from monarchical rule and sovereign kings to a democratic republican rule and sovereignty (Hoppe, 2018). Studies show that the French revolution in 1789 was one example whereby France was an absolute monarchy under the rule of Louis XVI, whereby they had a constitutional monarchy which, however, was overthrown during the revolution hence equality, fraternity and liberty were now the order of the day.

Studies show that the traditional and contemporary Arab system of governance, for example in Saudi Arabia and the United Arab Emirates (UAE) is still moulded along monarchical systems of governance. This shows that these monarchies are not only limited to Africa but also other countries in the international system. In Britain, the monarchy works hand in glove

with democracy, thus it is referred to as a modern constitutional monarchy. According to the British Monarchist League (2014) the Monarch and her Governors-General in the Commonwealth realms hold significant reserve or prerogative powers. These powers are evoked in times of extreme emergency or constitutional crises usually to uphold parliamentary government. This consequently shows that monarchs still hold absolute power in Britain even though the elected Prime Minister also has power. By virtue of having both a monarchical leader who is the queen and a prime minister, it shows how there is the fusion of both democracy and monarchy in the United Kingdom unlike the Kingdom of Eswatini where there is only one centre of power. .

Scholars writing about the Middle East history reveal that the history of monarchies can be traced back to Libya and Kuwait which were and still are monarchies presently. Notable is that in Kuwait, just like all monarchies the country is under the rule of the Al Sabah family unlike in Libya whereby the revolution overthrew King Idris regime in the year 1969 (Herb, 1999). Looking at the Asian continent, the history of monarch's dates back to the Biblical (Fensham and Pienaar, 1989:96). Saul's kingship was of a primitive nature as he assumed the role of a military leader instead of a King (Fischer 2002). This shows that during Saul's tenure as a king, he possessed dictatorial tendencies which fall in line with being a monarch just like how in the Kingdom of Eswatini , King Mswati also has control of the army.

Drawing examples from the African continent, Lesotho is one other monarch worth noting as, in the African era, monarchies and their rights date back to the era before colonisation by the western powers. Amongst the Basotho, kings were not elected but they descended from the royal family (Fischer 2002). This is a characteristic of monarchies in the whole world whereby there are no elections where people can vote for rulers of their choice, hence there is lack of democracy. However, worth noting is the fact that after its first ever democratic elections in 1993 that brought about an end to military rule, Lesotho is now a democratic and traditional country which is led by a monarch as the head of state and a prime minister as the head of government (Ngozwana 2014).

Although Lesotho holds elections its political system is highly characterised by conflicts. Political polarisation runs deep, even in a socio-culturally homogenous country like Lesotho as evidenced by centralisation of power within small elites in the ruling and opposition parties (Matlosa, 2008; Makoa, 2014). Gumbi (1995:1) notes that the post 1993 transition to democracy created more problems than was anticipated. Gumbi further states that the country

gradually became involved in the devastating political crises that posed serious political implications for peace and stability (Gumbi, 1995). The Kingdom of Lesotho is not really balancing well the democratic and traditional imperatives through merging both forms of government in the country.

2.5 Globalisation and democracy in Africa

Globalisation has raised the issue of cultural diversity in the current global dispensation. Cultural-ethnic and religious communities as well as human rights have become very much aware that their identities are under threat by an engulfing, mainly western driven globalization (Nabudane, 2005). This ultimately shows how globalisation, instead of unifying the international system, it erodes, especially the African continent's culture. There is a lot of great wealth when it comes to literature on globalisation and democracy in Africa and the entire world at large, with scholars arguing from different perspectives depending on which school of thought that they subscribe to. In the whole globalisation process, the African continent has been widely marginalised by the highly globalised countries of the first world, thus in the process it has been named as a "failed state" (Thompson 2000). Ramose (1999), in his book *African Philosophy through Ubuntu*, that African societies have suffered greatly in the whole process of globalisation. He argues that through the Ubuntu spirit the African race is trying by all means to advocate for its human rights which are being disrespected by this notion of globalisation.

Globalisation and human rights are totally different in meaning and context (Abdulai 2011). One cannot talk about globalisation without touching the aspects of human rights issues. Globalisation has somehow failed to live up to its expectations especially on the African continent. In his book 'Making Globalisation Work' Stiglitz (2007) argues that the rules of the game have been changed by culprits who have made this whole globalisation debacle a means of gaining from African countries socially, economically and socially. This means that globalisation now has a negative effect on African countries and as a result democracy is being eroded in the process the developed Northern countries are indirectly controlling African societies.

The road to democracy in most if not all African states remain unclear and not transparent as there is lack of true democracy in the process. Thus, despite the setting up of institutions to support democracy brought about through globalisation, there is still no democracy in the African states, an indication that democracy has its own hidden agendas in the African

continent (Nkolika 2012). Scholars such as Jega (2007:19); Joseph (1998:4) and Chabal (1994:83-86) share similar views in relation to the fact that most African leaders are authoritarian in nature and they adopted or accepted the notion of democracy in order to be beneficiaries of western donors who have made democracy or the democratization process to be along liberal lines which later on becomes a gateway to be donor recipients. Many African states have abused human rights of innocent citizens in the name of globalization and democracy as there is no transparency and accountability, especially during elections which are marred by a lot of fraud that consequently goes against the spirit of democracy. The most specific impact of globalisation that is noted by many scholars and readers is the economic impact. However, in this paper political impacts are more important on the issue of democracy in Africa. The principles of democratic governance and transparency tend to be applied selectively and subjectively. Globalisation does not really cater or provide for the economic conditions necessary for genuine democracy and good governance in the African continent. Globalisation has somewhat influenced the democratic behaviour of African states (The Challenges of Globalisation conference 2002).

Stiglitz (2002) notes that, “few subjects have polarised people throughout the world as much as globalisation. While some see it as bringing unprecedented prosperity to everyone everywhere, others fault it as the source of all problems”. The fault lies in the mere fact that the underlying principles of democracy are now in accordance to the participation of a certain state in the global economy. This is so because the first world countries labels African countries as democratic according to their contribution to the so called ‘global economy’.

Karns and Mingst (2010) notes that globalization has been both an impediment to the development of international human rights and humanitarian activities as well as a stimulus. Political globalization, especially on the human rights governance situation may be prone to a backlash. This means that, globalisation is not as innocent as the western countries portray it; it is a tool of exploitation for African states as they use globalization to try and control the African continent.

Since the 1990s, many states or countries have taken the route of being democracies in the international system (Zezeza 2007). These states have features which include having multi parties and holding elections after every five years to choose new leaders in order to try and remove long serving and dictatorial African leaders. However, most African leaders have one way or the other manoeuvred democracy to their advantage instead of the citizen’s advantage.

As a consequence, hijacking of the democracies has had a lot of human rights negative impacts on the people.

Zeleza (2007) argues that these new democracies have their elections marred by harassment and intimidation of opposition parties, outbreak of violence, vote rigging schemes and gross human rights violation as seen in the recent highly disputed Zimbabwean July 31st elections whereby human rights violations were prevalent. Zeleza argues that democracies are generally agreed to be less repressive as compared to autocracies. This is a result of the fact that the positive correlation between democracy and respect for human rights is based on the assumption that democratic leaders are more accountable to their citizens. However, realistically tackling this, from the current democracies, especially in the African continent, most of these democratic governments and their leaders are far from respecting and upholding the people's fundamental human rights as no citizen can hold them accountable to fear of being victimised by the government of the day.

An article published by the All Africa Council of Churches (1976) however has a very different view on the issue of human rights violations. The article does not really blame the issue of violation of the people's human rights on the introduction of globalisation or the adoption of democracy in African states. It argues that that the violation of human rights in Africa existed in our traditional societies long before the colonial era. It reveals that traditional societies had a lot of elements which connote to the violation of human rights and freedoms. Examples of these include domestic slavery, the killing of twin born babies, ritual deaths or killings and also tribalism amongst others. This perspective tries not to shift blame on the gross violation of human rights to the western policies of colonisation and democracy but it brings back the blame to our African societies which were the perpetrators of human rights violation. African societies might not have considered their norms and customs as human rights violations it was the African normal way of life as before colonialism and the introduction of human rights. (All Africa Council of Churches/World Council 1976).

2.6 Human rights protection in Africa

Scholars have noted that there is a serious lack of respect for human rights in Africa. This section explores the human rights discourse in the Southern African region and Eswatini in particular. It worth noting that the African Union has mechanisms to protect the African people's human rights yet in practice there are gross violations of human rights on the

African continent. This shows that the mechanisms put in place by the African Union (AU) are not implemented in practice as evidenced by the Eswatini case study.

During the 1970s human rights appeared to enjoy low self-esteem on the African continent (Umozurike 1983) hence there was the adoption of the charter on human and people's rights. According to Ainetter (1985) the adoption of human rights adoption was an important undertaking for the African states by the Organisation of African Union (OAU) now the African Union (AU). The charter on human and people's rights would guarantee the appreciation of the economic, social and political contexts of all the 51 member states by then of the Organisation of African Union (OAU). Article 1 subsection 1 of the African charter on human and people's rights notes that member States of the Organization of African Union parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them. However, there is a short-coming in this article of the charter as member states do not recognise the human and people's rights. This is despite the reporting mechanism established under Articles 52-54, and Articles 58-59 of the Charter, which imposes a duty on the Commission to make an annual report of its activities to the African Union (AU), suggestive of the latter's involvement in the enforcement of human rights. Noncompliance with human rights obligations in Africa has, therefore, been enforced by sanctions of any form (Ayinla 2003).

The most paramount issue at hand was to draft a Charter that would represent or reflect the African legal system and also responsive to African needs in terms of their rights and freedoms. On the issue of human rights in Africa, Whelpton (1997) states that although the African way of acknowledging and protecting human rights is not incompatible with that of Westerners, there is a significant difference in the way they define the concept itself. The fact that the African continent believes in its traditional customs, rules and norms already is a problem on its own in the sense that the western community is imposes the issue of human rights and democracy yet Africa wants to stick to its culture of protecting human dignity in its own way and not based on imposed system by the westerners. This becomes a stumbling block in upholding human rights in African countries especially; Eswatini which still has its traditional political system. Whelpton (1997) argues that the Africa's concern for human dignity is central to a traditional view of life and they do not conceive 'human rights' in the same way as Westerners do, namely that, human beings are entitled to these rights simply by being members of the human race. This means that if African countries are still loyal to the

tradition, customs and norms, the full functioning of human rights on the continent will be difficult to practice.

Mubangisi, (2010), notes that there are several challenges that inhibit the promotion and protection of human rights in the African continent. These include various on-going regional and internal conflicts. In relation to Eswatini, ever since the inception of the constitution in 2005, there has been a total decrease in the enjoyment of human rights in the country. Although the country's constitution is supposed to help protect the people it is not the case with Eswatini (Swaziland Joint Society 2017)

The African Charter on democracy, elections and good governance is yet another preamble by the African Union (AU) which has one of its objectives being to promote adherence, by each State Party, to the universal values and principles of democracy and respect for human rights. The Charter adopted in Addis Ababa (Ethiopia) states in Article 4 (1) that State Parties shall commit themselves to promote democracy, the principle of the rule of law and human rights. This is however, not the case within African Union (AU) member states. When the African Union was formed, replacing the Organisation of African Unity, many state were enthusiastic that the AU would champion the cause of human rights and democracy (Ibrahim 2012). Furthermore, the failure of the Organisation of African Unity (OAU) to address Africa's development issues and matters of governance led to its downfall and the rise of the African Union (AU) with the hope of it being more effective and efficient when it comes to addressing issues within the African continent Akokpari (2004). Akokpari(2012) states that the transformation of the Organisation of African Unity (OAU) to the African Union (AU) in July 2002 spawned considerable euphoria and optimism that it would do much better than the OAU in mitigating Africa's intractable challenges that the latter failed to resolve, especially with regards to governance and human rights issues. According Ibrahim (2012), there is no culture of human rights in Africa when considering the fact that the African Union has had ample opportunities to put the charter into practice when looking at the gross human rights violations which took place under their watch. These include events such as the Arab Spring and the gross violation of human rights in the Kingdom of Eswatini, to mention a few. Gil and Bandone (2013) argue that despite having such mechanisms, human rights are still violated in numerous African countries, reason being that many legal instruments within the African union have not been ratified; hence the human rights system suffers from weak capacity and the lack of political will within the African Union members to improve the situation.

The Southern African Development Community (SADC), as a continental body also has a charter on democracy and good governance which binds members to adhere to the principles of good governance and democracy. However, it has failed to live up to its mandate. This is particularly the case if we consider the fact that under the SADC watch, violations of democratic principles go unsanctioned. This has been witnessed when SADC continued to support Mugabe in Zimbabwe in spite of accusations of electoral fraud and human rights violations (Vleuten and Hoffmann 2010). The Southern African Development Community (SADC) has also failed in relation to the issue of human rights, especially looking at the Kingdom of Eswatini. Kuppel, (2009) states that, it might appear that the promotion and protection of human rights is not a priority for SADC as an organisation that furthers socio-economic cooperation and integration. However, it does have a human rights charter which was drafted. Consequently the human rights charter exists only on paper but is not applied in practice. Having discussed about human rights protection in Africa, the next section shall focus on the African political systems.

2.7 African political systems

Many scholars acknowledge that Africa as a continent had its own political systems which served its social, economic, political and religious needs from the late Stone Age to date (Davidson 1992). There was never a part of African which lived without authoritative power to channel its day to day needs from protecting their land, performing rituals, negotiations and resolving conflicts (Faola and Atim 1996). Of importance to note with regards to the African political systems is that, in most African communities, the ultimate political control resided in the ownership of land which was vested in the guardian spirits of ancestors (Beach, 1994).

This meant that no ruler in the African political systems could be powerful and respected without owning land as it was a symbol of economic power. The customs and traditions were clear in the indigenous law that a traditional leader should be in control of land (Beach 1994). However, this did not really mean that the ordinary people should not or were not entitled to own land. People could own land, but the traditional leader or chief or even the king would hold it in trust as they were the custodians of the land or guardians of the land (Bourdillion 1979).

When the colonisers invaded the African continent, they regarded the African political systems as autocratic and primitive. Ayittey (1992) however, argues that African political

systems were very democratic. He states that in all the African indigenous systems, unanimity and consensus were the main central features. This was a response to the contention by white colonialists that the African political systems were demonic.

The democracy of the African political systems could be clearly seen from the election of chiefs by the ordinary people. Also, those who participated in electing the officials had the power to remove them from power if they felt that they were not performing their duties. This view is supported Mandela (1994) who indicates that all people were free to attend the council sessions and where all free to speak out their mind. Therefore, the political organization in pre-colonial Africa offered an opportunity for all members of the community to express their opinions through their lineage or section chief, (Muiu and Martin 2009).

When one examines the Nguni of Southern Africa, it can be concluded that the centralization of power was more relevant in this part of Africa taking into consideration that the territorial chiefs ruled in the king's name and could also be disposed for unruly behaviour.

According to Jackson and Jackson (1997:366), there are about seven key functions of elections in entrenching democratic governments, and these are:

- Providing routine mechanisms for recruiting and selecting individuals who will occupy seats in representative institutions;
- Providing for orderly succession of governments;
- Providing a periodic opportunity for people to review governments record, assess its mandate and either renew the mandate or replace that government with an alternative one;
- Providing an elected government with a moral title to rule or what is also referred to as legitimacy locally;
- Providing international legitimacy for the elected government in the arena of foreign policy or diplomacy;
- Acting as agents of political socialization and political integration, providing a unifying focus for the country for nation building purposes; and
- Allowing periodic opportunity for smaller parties and independent candidates to air their political views and canvass their programmes and manifestos.

This shows that elections play a very important role in Africa. This is because give ordinary citizens an opportunity choose their leaders locally or nationally (Matlosa 2002). The next section will focus on the Westminster model of governance in Eswatini.

2.8 The Westminster model in Eswatini

As already been stated in the previous sections, Eswatini got its independence from colonial rule in 1968 from the British. One can still observe traces of the British system of government within the present Swazi system (Mqwabe 2016). The Westminster system is a system that is originally from the British parliament and is mainly exported to countries which were formerly colonised by the British. This Westminster system is basically a political system which is adhered to in Britain, hence, representing the type of constitution which is used there. It is worth noting how this system shaped the Eswatini political system to what it is day. When Swaziland attained its independence in 1968, its constitution was drafted in such a way that it accommodated the Westminster style of governance, which is the bicameral system (Lumina, 2002). This meant that it consisted of two chambers which were the House of Assembly and the Legislature and it also composed of members elected on a basis of territorial representation, of which this was in perfect sequence with the Tinkundla system. Even though this system did not last long in Eswatini, it is of importance to state that even though the British had granted independence to the country, they still had control and influence in shaping Eswatini to become an absolute monarchy through its imposition of the Westminster system of government which was exported to the country through the independence constitution. Of pivotal to note is that, the human rights according to the monarchy are different from the human according to the Westminster type of government. When the monarchy and the Westminster type of political system ‘talk’ about the human and human rights, they are essentially talking or referring to the same things (Benyera, 2018; Benyera, Mtapuri, & Nhemachena, 2018). However from this literature, these views are not of any help to the citizens of Eswatini as they are treated differently from their enshrined rights. Hence one respondent who requested anonymity highlighted that “they are treated as animals that do not have their rights enshrined in the Kingdoms Constitution as they are not observed at all”. Theoretical frame work will be focus of the next section.

2.9 Theoretical Framework

The study will be underpinned by the liberal discourse on democracy and good governance as propounded by scholars. The liberal discourse is influential in understanding and application

of human rights approaches. Beetham, (1992) states, that liberalism has provided both a necessary basis for modern democracy, but also imposes constraints upon it. Ever since the end of the cold war; the entire International System has gone through a lot of economic and especially political developments. The democratisation processes and its outcomes in some countries in Latin America, Eastern Europe and Africa have benefited from the triumph of globalisation. Thus there is increasing global consensus on the legitimacy of western values systems such as individualism, liberty, human rights, equality before the law, free markets, the rule of law and most significantly, liberal democracy (Adetula 2011). According to McFerson (2010), African governance is rather fragile after the cold war era as administrative and economic governance lagged behind, hence consolidating democracy would require institutional capacity building.

The chief proponent of the liberal school of thought was John Locke, who, according to Perry (2007) is very significant as he is the founder of political liberalism, which dominates mostly in western democracies and the United States in particular. The Liberal school of thought believes that the expansion of human freedom is a core liberal belief than can be achieved through political democracy and market capitalism (Karns and Mingst 2010). Thus, the liberalists believe in democracy and good governance in countries and, also cooperation. Liberalism in its own promotes the issue of human rights which are to be observed and respected through democratic governments. In the same vein, Douzinas (2014) argues that human rights are a symbol of liberalism, capitalism or individualism which unites the northern rich countries and the southern 3rd world countries. Furthermore, liberal scholars protects citizens, promotes state institutions and also human rights.

There is also democracy as pioneered by Immanuel Kant, whereby Kant states are to organise in the form of liberal republic as this bestows legitimacy on the political leaders (Georg, 1992). A liberal republic corresponds to a liberal political democracy. Hence according to Kant in his book *Perpetual Peace* (1975), the establishment of democracies in the world is a natural tendency.

Liberal democracy is a democracy that balances the will of the people, which is shown through elections, with limited government (state) and a respect for civil liberties in society (Bloor, 2018). According to Bonanno (1998), in liberal thought, democracy is guaranteed by the unity of community and government. He states that the community of citizens elects its government according to the people's political preferences, hence the chosen government

rules over the community with powers that are limited by unalienable human, civil and political rights.

When it comes to liberal democracy, it is of paramount importance to state that there is classical liberalism and modern or contemporary liberalism which is mostly influenced by the ever changing global activities influenced by globalization, especially in the African continent. The early liberals aim was to limit the power of the government over the individual while holding it accountable to the governed (Dagger, et al, 1998). The chief founders of liberalism, Locke and others argued that this required a system of government based on majority rule.

Classical liberalism however, has a number of key aspects which guided the liberals. According to Ludwig (2005) in his book 'Liberalism- The classical Tradition' some of these aspects of liberal policy are; the ownership of property leading to the private ownership of the means of production, also freedom whereby serfdom and subjection of the peasants was abolished hence resulting in voluntary paid work rather than slave unpaid labour. Ludwig also mentioned peace as an aspect of liberalism. Liberals in this instance are not against war but believe that what enables mankind is social cooperation which consequently distinguishes men from animals.

Ludwig states that war destroys; it does not create; only labour is productive as it creates wealth. More so, he goes on to explain equality as one of the main aspects of liberalism. Liberals of the 18th century demanded equality for everyone politically and also civil rights as they assumed that all men are created by God equally with the same capabilities and talents. Another important feature of classical liberalism is the inequality of wealth and income which he said should be equally distributed amongst the people. The most important element of liberalism is democracy. For the classical liberals, the state is an absolute necessity since most important tasks are incumbent upon it; hence that is not only the protection of private property but also of peace. Liberals consequently believe that democracy is that form of political constitution which makes possible the adoption of the government to the wishes of the governed. Therefore, in such a setup, no civil war is necessary to put into office those who are willing to work and serve the majority of the citizens. Thus, through the means of elections and parliamentary arrangements the change of government is executed smoothly without any friction nor violence and bloodshed.

There is also liberal democracy in the contemporary sense. Liberal democracy just like classical liberal democracy has its own key features which are worth noting. According to David Betham (1998) there are mainly four main features of contemporary liberal democracy. These include having a constitution in a state which will limit the powers of the government so that it does not become dictatorial. The second one is having a competitive party system in the political terrain whereby there is freedom to form political parties which will represent people during elections. The third aspect, according to Betham would be having universal suffrage. This is whereby people have the freedom to vote for an individual or party of their own desired choice. Last but not least, the most important are the citizens in a state. Betham states that the citizens should have freedoms and rights such as basic rights to assembly and to express amongst others. By protecting every citizen freedoms and rights the main aim would be to protect the ability that every citizen can influence every affair connected to their lives, jobs or family.

However, according to Francis Fukiyama (2006), contemporary liberal democracy is under threat mostly because of modern technology and terrorism which pose an immense threat to security. The main threat to liberal democracy in contemporary sense is globalization. Global governance is the one which intensifies the erosion of liberal democratic states to carry out some of their most important traditional functions such as the management of their own domestic economies (David Held *et al*, 1993).

Of importance to note as well is the whole issue of global governance. Rosenau (1992:4) conceives governance as activities which are backed by shared goals that may or may not derive from legal and formally prescribed responsibilities. He further states that governance, is a more encompassing phenomenon than government. It embraces governmental institutions as well as non-governmental mechanisms whereby those persons and organisations within its purview move ahead, satisfy their needs and fulfil their wants.

Within the whole discourse of global governance, the role of norms and institutions play a very vital role. This is so in the sense that these norms and institutions determine the expected standards of appropriate behaviour for states and non-state actors. Intergovernmental organisations serve diverse interests when it comes to the issue of world governance. These Intergovernmental organisations, besides providing aid and relief, create opportunities for their member states and exercise influence and impose constraints on their member states' policies. (Karns&Mingst 2010). Besides intergovernmental organisations, Karns and Mingst

go on to further talk about the importance of non-governmental organisations within the discourse of governance. They state that these non-governmental organisations play a very pivotal role as they are mostly active in all levels of human society and national to international issues of governance. Non-governmental organisations functions are parallel to those provided by governmental organisations as both can influence governments on many aspects, especially on issues of governance and human rights records.

2.10 Conclusion

This chapter reviewed literature linked to the present study. These key themes which were identified in the reviewed literature include human rights and monarchical rights discourse. In addition, literature on globalisation and democracy in Africa was reviewed. The focus was on the impacts of globalisation and democracy on the African continent. Further, literature on the political history of the Kingdom of Eswatini was reviewed in this chapter. This section dealt with the political structures of Eswatini before the colonial era. Literature on the African political systems was also reviewed to show how the African political systems were structured and set up before the colonialists arrived. The chapter also discussed the theoretical framework which underpinned the study, which is the liberal democracy school of thought.

CHAPTER 3

RESEARCH DESIGN AND METHODOLOGY

3.1 Introduction

This chapter discusses the research design and methods. Basically, there are two types of paradigms used when carrying out a research, namely qualitative and quantitative research methods. This study will use qualitative research methods as it is the appropriate one in a social studies research. This chapter will explain and discuss data collection methods, population and sampling tools, data sources, research paradigms and research instruments, data analysis methods, ethical aspects of the study as well as limitations of the study.

3.2 Research Methodology

Methodology in the context of an academic research implies the existence of a research design. This design designates a plan which encompasses all the aspects of the proposed study from the level of conceptualisation of the problem right through to the presentation of the relevant evidence and the communication of the findings (Babbie 2007). In research, there are basically two types of paradigms a researcher can use, namely qualitative and quantitative methods. This study employs qualitative research methods as it is a social science study. According to Pope & Mays (1995) the goal of qualitative research is the development of concepts which help us to understand social phenomena in natural (rather than experimental) settings, giving due emphasis to the meanings, experiences, and views of all the participants.

The main aim of using qualitative method of research was to get the respondents who reside in the Kingdom of Eswatini to give their views on their government which is monarchical and patriarchal as well. This study is about sentiments, behaviours, interactions, and attitudes amongst others. Babbie and Mouton (2001) notes that a qualitative research approach helps to investigate issues from an insider perspective and therefore this goes hand in glove with this study as the respondents would be also be evaluated through their human behaviour when responding to questions.

Qualitative research, as it is this study's preferred method creates avenues for participants involved in the data collection to be able to open up and provide the researcher with credible information from their feelings and thoughts, (Welman *et al* 2005, Brynman and Bell 2007)

adds that the qualitative research method sheds more light on what people have to say as a result of how they interpret and analyse the complexity of their living world in the true sense of it. Hence qualitative research allows the researcher to be able to understand the participant's way of thinking and responding based on their social settings and surroundings.

The qualitative research method allowed the respondents an opportunity to open up and state their different views on the notion of having to live in a monarchical country whereby their human rights are not really prioritised in this 21st century which is highly committed in upholding the fundamental freedoms and people's rights. Qualitative research methods will allow the researcher to understand the social construct of the country from the participants' point of view.

3.3 Population and sampling

According to Pierce (2008) a population sample in research means group of people, members of a union, a set of individuals, cases and states made from the target population. Pierce states that a sample frame is a list or schedule of the population from which the sample will be drawn. With regards to the sample size in this study, a group of 20, (5 adult men, 5 adult women, 5 youth boys and 5 youth girls) participants would be approached for voluntary and consented participation.

Given the research problem at hand, it is important to target all categories in terms of age and gender so as to get different perspectives on the issue of human rights in monarchical country as they have all experienced life in the Kingdom of Eswatini. Creswell (2007) states that the participants in a study need to be individuals who have all experienced the phenomenon in question. With regards to this study, volunteer sampling was applied to select people who could give responses to the questions. The main reason for using volunteer sampling in this study was to ensure that participants were as free as possible to talk about the issue under study, since the issue of human rights is a sensitive one.

3.4 Data Sources

Given the qualitative nature of this study, the researcher used a combination of both primary and secondary sources. With regards to secondary data, there was a vast corpus of literature in the form of articles, journals, archives, diaries and consultation of books. Bryman and Bell

(2007), state that secondary data would be obtained via a theoretical study. Primary data was obtained through semi structured interviews hand in glove with questionnaires.

3.5 Data Collection and Research

This study employed semi structured in-depth interviews to enquire about the issue of human rights violations in the monarchical Kingdom of Eswatini. In-depth interviews enable the researcher to probe issues so that the respondents reveal their deep feelings with regards to the human rights situation in Eswatini. De Vos *et al* (2011), state that semi-structured interviews enable the researcher to more control over the response rate. Hence the researcher can probe more into the respondents' personal feelings and make them to even reveal their secrets with regards to the subject matter. Interview guides were used for data collection from the respondents approached. Questionnaires or interview guides give a detailed description of issues at hand (Creswell 2009).

3.6 Data Analysis Methods

According to Maxwell (2009), there are three strategies for analysing qualitative data. These are categorizing strategies (involving coding and thematic analysis), connecting strategies (involving narrative analysis and individual case studies) and lastly names and displays. In the context of this study, which is dealing with qualitative data which is narrative/verbatim statements, analysis of data entailed coding and sorting data in order to allow an informed evaluation by others. Hence, the data was analysed through an inductive approach whereby the raw data which was gathered was thoroughly read so as to come up with themes and categorise it. As for the semi structured interviews, having used digital voice recorders, the data was translated from IsiSwati into English thereby ensuring accuracy in the analysis of the data which was recorded as the information was used for reference and clarity.

3.7 Limitations of the Study

This study is a sensitive one as it deals with issues of human rights which are just not talked about in the Kingdom of Eswatini as one can be interrogated or face arrest if found to be discussing human rights related issues. Hence the biggest limitation to the study was that some people were afraid to take part in the interviews because of fear of victimisation by the government of Eswatini. In addition, some participants withheld information which they deemed to be too sensitive and could lend them in trouble with the local authorities.

3.8 Ethical Considerations

Ethics can be defined as a system of moral beliefs about what is right and what is wrong (William *et al* 1995). Like in any scientific enquiry, academic research requires one to adhere to good moral and ethical conduct in both carrying out research and presentation of the findings (Babbie 2008; Du Plooy 2005). Hence the importance of research ethics cannot be overemphasised. The respondents' consent was sought and the purpose of the study was thoroughly explained to them. The issue of human rights in the Kingdom of Eswatini is one contentious and sensitive issue; hence it required the highest level of confidentiality meaning that only those who were willing to participate in the study were selected. In addition, secondary sources of used data used were acknowledged appropriately in order to ensure the integrity of the research. The researcher used the following guidelines in collecting data:

Informed consent is whereby all the participants were informed on the study topic and its implications so as allow the participants to freely agree or decline.

Confidentiality is whereby the information provided by the respondents/participants should be protected from the public. This means that no one should have access to the information other than the researcher hence need to keep the information very secure.

Anonymity is whereby the right of the respondents to provide information anonymously was observed and respected. This meant that no one should be able to identify who provided certain information with regards to this particular study

Fair selection of participants.In this regard, there was need to consider fairness in the selection of the participants in terms of gender. Hence, there was equity as there were 5 adult men, 5 adult women, 5 youth boys and also 5 youth girls who participated in the study.

3.9 Conclusion

This chapter discussed the research methodology employed in the study. The qualitative method was used in the study as it was the most appropriate method of researching on human rights and monarchical rights. This is because the two contentious of rights had a lot to do with people's feelings, perceptions, emotions as well as attitudes.

CHAPTER 4

THE HUMAN RIGHTS -MONARCHICAL RIGHTS MATRIX IN ESWATINI

4.1 Introduction

The previous chapter discussed the data collection and data analysis methods employed in this study. This chapter presents findings of the study focusing on the human rights-monarchical rights nexus in Eswatini. The main focus of the chapter is to establish the extent to which the issue of human rights are pitted against monarchical rights in Eswatini. In this chapter, focus is on addressing how matters of human are catered for in Eswatini. This is raised against the bedrock that the country is a monarch, hence the need to ascertain the extent to which matters of human rights feature in the country's governance structures and statuses.

These two sets of rights are consequently fighting for political space especially in the Kingdom of Eswatini in a context whereby democratic states are now upholding peoples human rights whilst there are still a few states in the international system which still believe that they are monarchical democracies. This makes them believe in monarchical rights and not human and people's rights. Of importance to note is that in Africa, of all the monarchies remaining, the Kingdom of Eswatini is adamant in that they do not violate human and people's rights hence their monarchy is "democratic", yet they do not practice what they preach. This all happens despite Eswatini being a member of the Southern African Development Community (SADC). The country still does not adhere to SADC statutes regarding democracy and good governance. The country does not adhere to SADC's principle of holding free, fair and credible elections. Hence the main study objective guiding this discussion would be why the Kingdom of Eswatini continues to violate the rights and fundamental freedoms of the people even though there are set mechanisms which should review and bring an end or curb the monarchical regime. The first section of this discussion shall focus on the understanding of the Kingdom of Eswatini's politics and governance system

4.2 Towards an Understanding of Eswatini's Politics and Governance System

There is need to do justice by outlining the political governance system of the Kingdom of Eswatini prior to colonisation. In as much as there is not much literature on the pre-colonial history of Eswatini, it importance to note Eswatini was colonised; it was already a country

with monarchical traits. This is because the Swazi history has been associated with the succession of kings. This consequently entails the traits of a monarchical regime. Schoeman (1986) laments that; Eswatini historically is largely an account of kingship as it developed from chieftainship over a small but independent group to a full monarchy. This means that during the pre-colonial times the Kingdom of Eswatini had a system of governance which was dictated by the Kingship system. This meant that that there was centralisation of power by the royal family either politically, socially or economically. The system of governance prior colonisation in Eswatini had the seniority - inferiority function. This is whereby those inferior to the king and his royal family had no say in governance issues. This already entailed a monarchical system as no one could advice the King on his decisions. The King and the Queen were the sole custodians of the power in the country. According to Ndlovu (2005) the pre-colonial political system of the Swazi had a distinctive political administration system which comprised of a hereditary and dual monarchy. It was a dual monarchy as the King and the Queen mother where both heads of the state who shared administrative duties.

For one to comprehend the current governance system in the Kingdom of Eswatini; there is need to reflect a bit on the country's history and the recent name change from Swaziland to Eswatini. The country's political and legal system can be described as dual in the sense that it features both simultaneous operations of traditional institutions and western methods of modern governance as well as the Roman Dutch Common Law. In understanding the current political terrain in the Kingdom of Eswatini, one has to fully understand its political history in terms of governance, especially how the colonial system shaped the current state of governance or affairs.

The history of Eswatini as presented by Mamdani (1996) sits on the balance of what can be described as politics of dualism. Mamndani notes that rule was used by the colonial powers to conquer the colonies. Those colonies were divided by land and law. This meant that the colonies where divided through their already existent power structures even though they later infused their own system of governance. This created the culture of dualism in the Kingdom of Eswatini as the King did not want to erode their cultural political practices, hence had to make use of both their traditional systems and the British systems which they infused together soon after independence.

Therefore, it is important to examine how the colonial state crafted its total control of Eswatini through the introduction of colonial ways of governance thereby eroding the African political systems leading to the dual system.

Monarchy rule in The Kingdom of Eswatini dates long back to the era of colonisation by the British government, whereby the British introduced the western type of governance. This had a huge impact on the traditional system of governance as Eswatini remained a British colony after independence whereby powers were invested solely in King Sobhuza II. This consequently led to the use of the British parliamentary system which already had monarchical traits. Up to today the British still have a queen which is basically a symbol of monarchism as she has all the powers invested in her. In his thesis 'An analysis of the system of government in Swaziland' Mqwabe (2016) lists the advantages and disadvantages of the British system of governance in the Kingdom of Eswatini. Some of the advantages are that the system is a combination of both tradition and modernisation forms of governance, thereby bringing about a balance or stability as it is a mixture of both old and new ways of governance. Another advantage of the British parliamentary system is that the system allows for the prime minister and cabinet to be questioned in parliament thereby making them accountable. It therefore can be said that it self-regulates itself to ensure effective and responsive government. The effects of pressure groups, the media and public opinion polls, cannot be down-played in British politics.

Although there is more of a fusion of powers than separation, the system is able to regulate itself and ensure that no abuse of power is allowed. The fact that Parliament can pass a vote of no confidence against the executive checks the power of government. Regular elections ensure that no dictatorship is allowed. The constituency system of Britain allows for a local person to represent a community in parliament and ensure that that community is heard. The power remains with the people to remove or endorse a particular party based on its election manifesto.

However, having outlined the advantages of the British parliamentary system, it is important to mention that the Kingdom of Eswatini does not really stick to this parliamentary system as there is dictatorship and there is no freedom of expression, especially when it comes to governance and parliamentary issues. This is a disadvantage because what is written on the paper is not what is practised on the ground. The parliament of Eswatini is strong enough to

change, manipulate or terminate the constitution from the absolute power invested in the King.

Drawing an analysis from the above, it is clear that the British parliamentary system has had more influence in the Kingdom of Eswatini's parliamentary system in terms of the monarchical tendencies which were there during the pre-colonial era. It strengthened the roots of monarchisms which were already present and visible in the Swazi traditional political system. This is noted in an article published by News 24 which stated that in 1973, King Sobhuza II abandoned the British style system and introduced their traditional system that gave him and his royal family supreme powers over the whole Kingdom (News24.com). Scholars such as Proctor (1973) note that traditional authorities have remained more powerful at the national level in the Kingdom of Eswatini than in any other African state, which has emerged from British colonial rule. Even though the British parliamentary system empowered the monarchical tendencies in Eswatini, the Westminster system had features of the Swazi pre-colonial political structure which were deliberately preserved in the modern constitution (Proctor, 1973). It is evident that the British system, through infusing the traditional political system of the pre-colonial Eswatini made it the most powerful absolute monarchy in the Southern African continent.

The next focus of the study shall concentrate on the Tinkhundla system of governance in the Kingdom of Eswatini which is the form of government which dismantled the constitution and gave the King all the power in the Kingdom.

4.3 The Tinkhundla System of governance

The Kingdom of Eswatini has a system of governance which is based on the Tinkhundla system, which is consequently a traditional concept which is being used to show or highlight what is known as a monarchical democracy (Civil Society report 2017). According to Zambara (2016), in matters of governance, Swaziland has a unique and controversial non-party system, in which leaders are appointed by traditional regional councils on the basis of "individual merit". This Tinkhundla system, according to the Constitution of Swaziland of 2005 is a system of governance which is democratic, participatory, and also emphasises devolution of state power from the central government to the Tinkhundla areas. This consequently meant that this system was more of investing power in the local government constituencies. Motsamai, (2012), notes that the system of the Tinkhundla in the Kingdom of Eswatini was introduced in a rash manner as a form of electoral engineering, benefiting the

incumbent by giving it legitimacy while invalidating the opposition. The invalidation of the opposition was done through the introduction of the Proclamation No.7 of 12 April 1973, which among other changes outlawed political party-based elections. The Proclamation, which was a declaration by the King, introduced several changes in the country, especially constitutionally (Lumina 2002). These changes included the banning of political parties which were a major characteristic of the Westminster system. This meant the king was doing away with the British way of ruling, thus leading to him personalising power through the suspension of the constitution (Levin 1991). Through the proclamation, King Sobhuza II declared that he had taken absolute power as the constitution was bringing about lack of peace and violence in the country (www.eisa.org.za) The Tinkhundla traditional system of governance was not democratic at all. The king could however overturn the electoral results at his discretion, voters were not registered, the ballots were not a secret and also there was voter intimidation as the voting was done in front of the Kings and chiefs so that they could vote for the King's preferred candidate out of fear of being labelled rebels (Motsamai 2012). There was centralisation of power by the King, hence making his word the law, thus no one could question his ruling. There is however a general consensus among historians that in southern Africa, in the late eighteenth century, some clan-based chieftaincies began a process of transformation into stratified centralized states (Kuper, 1993). Kuper (1993) notes that the Kingdom of Zulu represented the most complete example of a centralised political system during the nineteenth century. This consequently validates the view that not only the Kingdom of Eswatini had a centralised political system, but also other Kingdoms such as the Zulu Kingdom and the Ndebele of Mzilikazi Kingdom. All these Kingdoms had centralised political systems in order to retain and maintain their power within the royal family as they were all Chiefdoms.

Having discussed the traditional mode of governance that characterised conventional politics in Eswatini, there is a need to examine the country's human rights architecture. This informs the focus of the next section which is the human rights embracement in the Eswatini constitution.

4.4 Human Rights embracement in the Eswatini Constitution.

In order to understand the balance between monarchical and human rights, it is imperative to understand the constitutional provisions in relation to human rights. The constitution of Eswatini came into force in 2005. Section 14 of the constitution it is where the fundamental

human rights and freedoms are enshrined. However, it is regrettable to note that what is on paper is not practiced on the ground, constitutionally. Eswatini continues to violate human rights even though the constitution pledges to protect them. Section 14 of Eswatini's constitution section 14, talks about the protection and promotion of fundamental rights in the country. This is whereby all the citizens of the country shall enjoy liberties and freedoms such as the respect for life, right to fair hearing, equality before the law amongst others (The Constitution of the Kingdom of Swaziland Act 2005). However, according to Minh Joo Yi, (2017) the state of human rights in the Kingdom of Eswatini is lamentable, due to the fact that the gross violations of human rights are rampant. These human rights violations include repression of the right to freedom of peaceful assembly and association as well and also rights and freedoms of women and children. Van Wyk (2015) also notes that women and girls are treated as second class citizens as they are prone to serious violence and also HIV infection even though the protection of women and children are enshrined in section 29 and 38 of the 2005 constitution.

The World Report (2017) notes that there is disregard of human rights in Eswatini and the country has failed to commit to peace and a decent lifestyle for its citizens. The country has a Public Order Act. People are faced with a public order act which prohibits them from voicing their views with regards to political, economic, cultural and social development of the Kingdom. If one is found to be going against this law they are bound to pay a hefty fine or to face imprisonment for up to of two years, which is against the constitution which stipulates in section 24 of the 2005 constitution that a person has the right to freedom of expression and opinion.

There have been numerous reports on the condition of human rights in Eswatini, of which the majority, if not all of them describe the human rights situation in the Kingdom as atrocious. Hence, according to the government of Eswatini, there is a serious misconception that any human rights related issues or advocacy is contrary to the Swazi culture. Some of these human rights atrocities include women and child abuse, and the stifling freedom of expression assembly and association. This is despite the fact that in 2004, Eswatini ratified to two key human rights treaties, which are the international Covenant on Civil and Political Rights (CCPR) and the International Covenant on Economic, Social and Cultural Rights (CESCR) which came into being in June 2004. By signing these treaties, one would expect the government of Eswatini to preserve, respect and uphold the human and people's rights as per the guidelines of the treaties. However, signing the treaties did not provide any relief to

the ordinary citizens as the monarchical government continued with its repressive and authoritarian rule on its people. Having highlighted the human rights situation in Eswatini, the next section analyses Eswatini's political practices in the context of its membership to two important regional bodies, namely the Southern African Development Community (SADC) and the African Union (AU)

4.5 Analysing the Eswatini political practices in both SADC and AU regional Contexts

The African Union (AU) formerly known as the Organisation of African Unity (OAU) adopted a charter on human and people's rights. This charter was adopted on 27 June 1981 in Banjul, Gambia and was put into force in 1986 as the Banjul charter on human and people's rights 1981). Consequently, this set out guidelines and principles for its member states to adhere to, abide and uphold and the respect rights of ordinary citizens in their respective states or countries. The underlying fundamental principles were mainly, freedom, equality, justice and dignity as they are enshrined in the preamble.

What prompted the human rights regime was duly stated in the African charter on human and people's rights preamble. It stated how member states wanted to do away with colonial experiences which are the main reasons behind the African union emphasising on matters of human rights. The preamble stated that it needs to achieve total liberation of Africa, the people who are still struggling for their dignity and genuine independence. Hence, there was an undertaking by the member states to eliminate colonialism, neo colonialism apartheid and discrimination against race, ethnicity, colour, sex, religion and political opinions (African Union Charter on human rights and people's rights). According to the African Union Commission, the Kingdom of Eswatini joined the African Union, which is the predecessor of the Organisation of African Union on the 06th of September 1968, hence becoming a member state.

By virtue of being an AU member, the general expectation was that the Kingdom of Eswatini would be bound to play by the set rules. This meant that it was now supposed to abide by the African Union guidelines on democracy and good governance as well as conducting of free, transparent and credible elections which as enshrined in articles 2(1), 3(1) and 4(1) respectively. The African Charter on Democracy, Elections and Governance which was adopted in Addis Ababa, Ethiopia on the 30th of January 2007, set out guidelines which included that there should be democracy, rule of law and human rights (Article 4). Member states committed themselves to promoting democracy, the principle of rule of law and human

rights. Article 8 (1) stipulated that these member states shall eliminate all forms of discrimination, especially those based on political opinion, gender, ethnic, religious and racial grounds as well as any other form of intolerance. In addition, article 11 states that parties are to undertake to develop a culture of democracy and peace in their respective member states (African Charter on Democracy, Elections and Governance). However, the adoption of this charter barely improved peoples and human rights violations on the African continent as some African states showed no inclination in protecting and upholding human rights. This has been seen in the southern part of Africa which has appalling human rights violation records, such as the Democratic Republic of Congo whereby the United Nations failed to stop an ethnic motivated massacre that claimed the lives of 30 civilians in the province of south Kivu on the 6th of June 2014 (Human Rights Watch, 2014).

In the DRC, there is the United Nations peace keeping initiative, named the Monusco which did absolutely nothing when notified about the attack. All they did was to go afterwards when civilians had already lost their lives. As propounded by the Human Rights Watch (2014) the perpetrators have not yet been brought to justice as the army and the United Nations did not do anything about the massacre. The DRC is not an absolute monarchy, but still it violates the AU guidelines on democracy and good governance. This shows that there is no difference between monarchs and the so-called democratic countries as they all violate human rights whilst the regional and continental organisations are watching. The African Union AU lacks an effective monitoring and sanctions system to punish noncompliance by recalcitrant states (Cilliers 2010: 49). This shows on how countries such as the DRC get away with these human right violations.

Zimbabwe which is not an absolute monarchy has also violated the African Union's Charter on democracy, elections and good governance. It has serious violations of human rights whereby we witnessed the African Union not doing enough to help ease the situation. This was experienced during Robert Mugabe's regime in 2008 which made headlines for electoral violence. Dzimiri (2017) notes that the 2008 pre-election violence did not only result in forced displacement of people, destruction of urban sources of living and property, but also politically related killings, beatings, torture, arbitrary arrests and detentions of perceived enemies of the state . According to the International Coalition for the Responsibility to Protect (ICRtP) report, it the African Unions response's in Zimbabwe was minimal and inadequate.

Although the African Union knew about the human rights atrocities which took place in Zimbabwe, it did not question Mugabe's right to assume Zimbabwe's seat at the AU summit which took place in Egypt that very same year.

This shows how the policies of these organisations are only effective on paper and not on the ground (Mangu 2014). The AU also failed to deal with the Sudanese government of Oumar al-Bashir's intransigence over Darfur (Akopari and Zimble 2008). This shows that even though the African Union adopted several other instruments aimed at promoting democracy and good political governance among its member states it has dismally failed. These instruments include the New Partnership for Africa's Development document, the Declaration on Democracy, Political, Economic and Corporate Governance which governs the APRM in section 6 and 7 in the preamble, the African Convention on Preventing and Combating Corruption, and the African Charter for Democracy, Elections and Governance. Also, worth noting, is the fact member states of these organisations prioritise sovereignty and non-interference, hence taking precedence over humanitarian concerns.

Kannya (2015) notes that the Organization of African Unity's (OAU) Charter on human rights is the first step in the establishment of an African regional mechanism for the protection of individual and collective rights. This is contrary to what is happening in reality as the African Union (AU) has dismally failed to put their planned mechanisms into use as evidenced by the failure to intervene not only in the Kingdom of Eswatini which is characterised by lack of democracy and gross violation of human rights, but also non-monarchical countries like Zimbabwe and the DRC which are democratic states. According to Dzimiri (2017) one of the factors that makes these regional organisations not fulfil their mandate of holding their member states accountable for committing wanton human rights acts is the fact that they fear the states' withdrawal from the organisation if directly confronted, hence, their minimal or cautious approach in these human rights issues. Another reason why these intergovernmental organisations are failing to hold the Kingdom of Eswatini accountable for human rights abuse and violations is that they do not review the governance systems of their member states; hence they just listen to their reports on their countries status and do not investigate the authenticity of those reports by head of states. One of the factors which results in the Kingdom of Eswatini's failure to align its laws with the UN recommendations is the duality of their political will and their customary values. This is because certain Swazi systems do not co-relate with enforceable human rights standards. This shows the incompatibility of both modernity and traditional systems, which results in the

traditional systems having more leverage and at the same time violating the fundamental rights which come with modernity.

The Human Rights Watch noted that King Mswati III told the United Nations General Assembly that the Kingdom of Eswatini is committed to peace and a decent life for all, and also, that the government allows each and every citizen an opportunity to voice their views in a constructive manner (www.hrw.org). Analysing the events taking place in the Kingdom of Eswatini, one can argue that notice that the heads of states is contradictory to what is happening on the ground. With such tendencies continuing, African countries will never be held accountable for these crimes as they report what is not actually taking place in their countries and the intergovernmental organisations do not visit these countries to validate the reported claims.

In terms of the African Charter, article 1 state that parties to the African Charter ‘shall recognize the rights, duties and freedoms’ enshrined therein and ‘shall undertake to adopt the legislation or any other measures to give effect to them. However, even though these are the set guidelines for states to follow in a bid to ensure the rights and freedoms of the people, the Kingdom of Eswatini is nowhere close to observing the conditions set in the African Charter as it is totally disrespecting human rights as well as the rule of law. This is totally against what the modernisation theory stands for. This theory believes that as nations develop, economic development and social change should lead to democracy. However, this is not the case with the African continent even though there is development; there is no room for democracy in these countries. They are dedicated to violating the people’s human rights as noted above. This shows that the aspects of modernisation which come with democracy and good governance are not embraced in the southern African region. Eisentadt (1966) argues that modern societies are in some sense democratic or at least populistic societies. They are characterized by the decline of traditional legitimation of the rulers. This is not the case in southern African where countries such the Kingdom of Eswatini and Lesotho still give power to traditional practices.

This speaks to the issue of defective democracies in the Southern part of the African continent. Defective democracies are those which have failed; they are illiberal to the extent that the rule of law is damaged in the country. The Kingdom of Eswatini is bound to be a defective democracy because it does not have rule of law. According to Merkel (2004), ‘illiberal democracy’ is a sign of defective democracy. This illiberal democracy stipulates

that the principle of the rule of law is damaged, affecting the actual core of liberal self-understanding, namely the equal freedom of all individuals. Hence this is evident in Eswatini as there is no rule of law, and also there is no freedom for all individuals even though in their constitution guarantees freedom for all in section 14 of the 2005 constitution. Merkel also talk about exclusive democracy whereby if one or more segments of all adult citizens are excluded from the civil right of universal suffrage it is a sign of a defective democracy as the sovereignty of the people is the basic concept of democracy and has to be guaranteed by universal electoral rights and their fair execution. However, this is not the case with Eswatini as there is no full electoral rights and also the prevalence of voter intimidation. The following section of the study will focus on Eswatini's political conduct within the SADC institutional parameters.

4.6 Eswatini political conduct in the Southern African Development Community (SADC) regional institutional parameters

There is need to examine the Kingdom of Eswatini's political conduct within the Southern African Development Community regional institutional parameters as it is one of the founding member states of this intergovernmental organisation which was formed on the 1st of April 1980. SADC is a very important organisation within the Southern part of the continent. This is because it should be the first one to intervene and condemn if ever there are any governance or human rights violations amongst other problems. The Kingdom of Eswatini joined SADC from the onset when the intergovernmental organisation was formed. Worth noting is the fact that the Southern African Development Community (SADC), which is an intergovernmental body for the southern countries in the African continent also has its guidelines on democracy, good governance and elections which the member states should abide and adhere to. However, as Aeby (2018) notes the Southern African Development Community's institutional framework for regional peace and security is proving to be ineffective because its leaders are unwilling to enforce democratic principles. One of the reasons why these leaders are unwilling to act on these issues is the mere fact that they want to protect their liberation movements which are still in power, and also not to hold them accountable. In addition, the issue of protecting their trade relations comes into play as these leaders do not want to jeopardise their relations by holding their peers accountable for their actions. There are no interventions from the SADC to try and alleviate the appalling violations especially on human rights in Eswatini as it is a member of SADC. As a member state, the Kingdom of Eswatini should stick to the agreed principles of SADC. Article 4 of

the treaty of the Southern African Development Community, of 1992, states that ‘human rights, democracy and the rule of law’ are principles guiding the acts of its members. Furthermore, Article 5 of the same treaty outlines the objectives of SADC, which commits member states to promote common political values, systems and other shared values which are transmitted through institutions, which are democratic, legitimate and effective. It also commits member states to consolidate, defend and maintain democracy, peace, security and stability in the region.

The Kingdom of Eswatini has been known to have a poor record of human rights hence it failed to use its leadership of SADC to strengthen the regional body’s ability to call for improved human rights standards across southern Africa. This shows the hypocrisy of SADC, as Eswatini, despite its poor record on democracy and human rights, in August 2016, it received support from the regional government for it to be the Chair of SADC (www.freedomhouse.org). Thus, both SADC and the African Union (AU) have done little to press the Kingdom of Eswatini to improve and to respect human rights (Human Rights Watch, 2018). The Kingdom could have used its leadership position of being the head of SADC to fix its human rights violations. Some of these human rights violations include having the people’s liberties enshrined in the constitution of Swaziland (2015) section 14 (1) (b) being restricted .An example of the violation of this particular section of the constitution would be the passing of the Suppression of Terrorism Act which declared any opposition political party or any organisation a terrorist group (Hlatshwayo 2014). This means that if any organisation or political party was to be formed, it would be considered a threat to the Kingdom, thus resulting in them being prosecuted.

Having discussed Eswatini conduct at the regional level it is vital to discuss the Swazi politics at a global context; hence the next section focuses on Swazi politics in the context of global governance.

4.7 Swazi politics in the context of global governance

It is worth noting what international bodies have to say with regards to issues of democracy, governance as well as elections. With regards to issues of good governance, the United Nations High Commissioner for Human Rights identifies tenets of good governance, which should apply in all the states in the International System. The United Nations High Commissioner for Human rights describes good governance as the exercise of authority through political and institutional processes that are transparent and accountable and

encourage public participation (Mqwabe, 2016; UN-OHCHR publication, 2007: 2). The United Nation's Commission on Human Rights identifies the following four characteristics of good governance being (i) participation: the public participates either directly or indirectly in the decisions that affect them, (ii) responsiveness to the needs of the people: institutions try to meet the needs of all stakeholders reasonably, (iii) transparency: decisions taken are within legal parameters and information on these decisions is readily available to those affected, (iv) responsibility and accountability: decision-makers are answerable to the public or stakeholders. (<http://www.unescap.org>)

Most states, especially in the African continent do not abide by these set norms and institutions in running their governments. For example, the Kingdom of Eswatini does not consider public opinions but do what suits the King and his close followers only. There is also no transparency, accountability responsiveness and participation in the country.. However, member states cannot be entirely blamed for having repressive undemocratic governments because the same regional and international bodies which come up with these mechanisms for the protection of human and people's rights, and also guidelines for democracy and good governance do not practice what they put on paper. One example would be the drafting of peer review mechanisms whereby they would visit each and every member state to review whether they are sticking to the agreed principles or not. However, they not do this meaning that their policies or principles are only appear on paper but are not practiced as has been witnessed with violations of human rights in Eswatini. Another example of the failure of global governance in the Kingdom of Eswatini could has been witnessed through the human rights and the 2030 agenda for sustainable development, which was adopted by the UN General Assembly in September 2015. The 2030 Agenda for Sustainable Development is grounded on human rights and explicitly references the Universal Declaration of Human Rights and international human rights treaties throughout its text. It is informed by other instruments such as the Declaration on the Right to Development. This is a good example of the failure of global governance as the mandate of the SDG was an agreement of interconnectedness and a universal roadmap for change, including renewed commitment to the promotion and protection of human rights (www.humanrights.dk). The United Nations, through reports about the Kingdom of Eswatini's human rights violations and abuse should have intervened and held Eswatini accountable so as to achieve the 2030 agenda goals. Intergovernmental organisations such as the United Nations, SADC and the African Union do comment on the issue of human rights violations but do not act. This is

evident through the statement by the International Commission of Justice (ICJ 2018) that says “albeit that Swaziland is a party to the UN Convention against Torture, and its domestication of the prohibition against torture under the Constitution of the Kingdom of Swaziland, the State continues to be either actively involved in, or turns a blind eye to torture and other forms of ill-treatment”. This is evidence that despite being part of these intergovernmental organisations like the United Nations convention against torture, there are continuities to the human rights violation in the Kingdom of Eswatini. Under Article 45 of the Charter, the African Union implores the African Commission to promote human and peoples’ rights through among other things, research, studies and undertaking visits to states parties to gather information on human and peoples’ rights and formulating rules and regulations that could be used by states parties in their policies and legislation. Through this section, it is plausible to note that the African Union in August 2006 embarked on a promotional mission to the Kingdom of Eswatini to seek clarification and follow up on reports and information before the African Commission about the human rights situation in the country (www.achpr.org). However, this did not do any justice to the human rights situation as cases of violations were still reported. The next section of the study shall deal with the political landscape in the Kingdom of Eswatini.

4.8 The political landscape in Eswatini

One needs to appreciate that the kingdom of Eswatini is an absolute monarch and it becomes to unpack the extent to which matters of democracy are embraced in the country’s political realm. Dlamini (2017) states that an absolute monarchy does not promote any democratic governance as this would shift the balance of power. Democracy good governance and accountability are mutually interconnected and none can survive without the other. To begin with, human rights are ‘tied to democracy’ and ‘it is difficult to bypass a discussion of democracy in relation to human rights in the contemporary world’ (Acheampong and Domson-Lindsay 2011). According to Hoffman (1988) is undoubtedly the most discussed and contested notion of political theory.

With regards to the issue of democracy in the Kingdom of Eswatini there are contrasting views as to whether democracy exists in the Kingdom or not. The government of Eswatini considers itself ‘monarchical democracy’ which King Mswati III described as a “marriage between the monarch and the ballot box”. However, Hlatshwayo (2014) in his article ‘unpacking Swaziland’s monarchical democracy’ refutes this claim.

Hlatshwayo (2014) argues that (i) there is constrained popular choice, absolute monarchism as King Mswati is holding complete authority over all branches of government, hence there is no electoral democracy, (ii) the Kingdom is a no party system whereby formation of new political parties is not allowed, hence one cannot say there is democracy in Eswatini as one of the major characteristics of democracy is the fundamental freedom of forming new political parties, (iii) there are serious constraints on media and access to political information. The King censors the media especially on political issues and news pertaining to criticism to his royal house. As a result, journalists are always prone to threats and attacks from the authorities. The government of the day in the Kingdom of Eswatini has failed immensely to meet any standards of democracy as the state encroachment on civil and political rights and freedoms is contrary to the dictates of democracy in the International System (Hlatshwayo 2014). There is lack of freedoms in monarchies which results in human rights violations. This is because there are continued restrictions on freedom of association and assembly even though Eswatini signed the African Charter on Democracy, Elections and good governance (www.hrw.org). An example of these human rights violations would be the harsh and heavy response of the police on protests for better salaries of public sector workers. The harsh response of the police resulted in a lot of casualties despite the Police Act of 2018 which stipulates that the police shall respect and protect human dignity and human rights (World Report 2019).

The human rights situation in the Kingdom of Eswatini is appalling. Amnesty International (2014) stated that the Southern African kingdom is under the near total control of King Mswati III who has a long-standing record of human rights violations, including the suppression of the rights of freedom of expression, association and peaceful assembly. This shows that the government of Eswatini is not keen to adhere to the norms and values of democracy. On the 8th of August 2017 King Mswati approved and introduced the Public Order Act which had a huge impact on organisers of public gatherings (www.amnesty.org). The introduction of this Public Order Act has had many profound human rights violations. One of the violations was reported by the Freedom House whereby the police, in an attempt to disperse protesting students drove into the crowd injuring the protesters.

Since human rights violations resonate with issues of governance, Adetula (2011) argues that the weak governance environment in Africa is characterised by underdeveloped of institutions of democratic accountability, a situation that presents an extraordinarily high risk for democracy on the continent. Underdeveloped political parties, weak civil society, an over-

concentration of power at the centre, non-separation of the branches of government, and lack of transparency and accountability characterise political life in many African countries. In the case of Eswatini, all the above mentioned possible causes of the lack of democracy in African states are evident, whereby the King is the most powerful person and everyone under his control. In the Kingdom of Lesotho, there is also a centralised political system whereby the King is the head and everything revolves around him. However, unlike Eswatini, Lesotho is not an absolute monarch but a constitutional monarchy, with the King as Head of State, the Prime Minister as Head of Government and a dual legal system consisting of traditional customary law and the common law. The Kingdom of Lesotho does things differently from the Kingdom of Eswatini as there is room for democracy and democratic institutions are gradually evolving, thus leading to political stability even though power is centralised.

The situation in Eswatini resonates with the analysis on governance and politics (Levitsy and Way, 2012). There is significant relevance to touch base on the four main arenas of democratic contestation in a monarchical kingdom as it has significance on what is obtaining in Eswatini. Levitsy and Way (2012) focused on what they termed the electoral arena, which according to them is the most important. They argued that in authoritarian regimes, opposition parties are routinely banned or disqualified from electoral competition and their leaders often jailed and harassed. This is also the case in Eswatini when considering the fact that it is a one-party state whereby opposition political parties are not tolerated, hence one can say there is no democracy. The second arena of contestation, according to Levitsky and Way (2012) is the legislative arena. In this arena, two different scenarios with regards to the legislature obtain. The first, which usually happens in non-democratic full authoritarian states, is a situation whereby legislators either do not exist or are totally controlled by the ruling party. The second competitive authoritarian legislators tend to be relatively weak. The Kingdom of Eswatini is a full scale authoritarian regime in that the ruling party is in full control of the Kingdoms legislature, hence it is a being a one party state.

The third aspect would be the judicial arena. In this scenario, Levitsky and Way (2012) posit that those governments in competitive authoritarian regimes routinely attempt to subordinate the judiciary. In most cases they try this through impeachment, bribery, extortion and or other means of co-optation. Reflecting on the Kingdom of Eswatini it would be too strong an argument to say that the judicial system is more like the legislative system whereby the ruling party is in full control hence appointing its own judges who will never rule against them. This means that there is no democracy in Eswatini, as, one of the characteristics of a democracy is

that the judiciary should be an independent entity. However, this is not the case in the Kingdom as the whole judiciary system is run and appointed by the ruling party.

The fourth and last aspect is the media which has also been discussed by Hlatshwayo (2014). According to Hlatshwayo (2014), the media in most authoritarian regimes is entirely state-owned, heavily censored and or systematically repressed. Television and radio stations are controlled by the government or ruling party and that the independent media is heavily prohibited by the law. In the Kingdom of Eswatini the media is closely monitored and censored, especially when it comes to political issues and news about the criticism of the king's royal family. This shows that there is absolutely no democracy in Eswatini, hence the term 'monarchical democracy' is not true as the Eswatini government has all the characteristics of an authoritative government as noted by Levitsky and Way (2012) in their article 'the rise of authoritarianism'. This censorship of the media however, does not only apply to monarchical regimes or Kingdoms, but also in countries which also claim to be democratic. This has been witnessed in Zimbabwe where there draconian laws such as the Public Order and Security Act (POSA) and the Access to Information and the Protection of Privacy Act (AIPPA) were passed before the March 2002 presidential election which escalated the humanitarian crises in the country. Dzimiri (2017) notes that POSA gave the police and security agencies all the necessary power to suppress the opposition party, MDC and its supporters while and on the other hand, the AIPPA was used prevent journalists from reporting on cases such as political inspired killings, torture, harassment and also intimidation of the opposition supporters. This shows that these practices and behaviours of violating human rights in repressive regimes are similar whether a country is a Kingdom or a democratic state. This shows that, the African continent prioritises regime security at the expense of human security as it been observed SADC did not do anything to alleviate the appalling human rights conditions in Zimbabwe.

Dlamini (2017) posits that people's participation is a sign of democracy and the ability for citizens to elect a "government of their choice through regular, free and fair elections as proof that democracy is thriving. The democratization agenda is promoting political reforms that strengthen democratic governance. Democratic governance cannot be complete without accountability, responsiveness and transparency of the government to its citizens". This is what is missing from the monarchical Kingdom of Eswatini. Of all the attributes of democracy discussed above none is being practised by the King and his Chiefs. There is no accountability for their actions, especially on the delicate issue of human and people's rights

violations, no transparency in their governance and also no responsiveness in service delivery. This proves that Kingdoms do not conduct themselves responsibly, hence default on their duties and obligations with regards to the protection of the fundamental rights and freedoms of their people (Deng, 2010) It further goes on to talk about the responsibility of the state to protect its citizens in a world that is modernizing, hence bringing about the concept of responsibility to protect (r2p) especially on the African continent.

According to Gumede (2005) Eswatini “is faced with the ever increasing pace of globalisation which advocates a multi-party democracy.” This is however one notion which is non-existent in the kingdom considering the fact that the Tinkhundla system of governance which has been endorsed by the constitution dealt with multi party democracy as it does not tolerate any opposition political parties and Section 79 of Eswatini constitution states that ‘the system for Swaziland (Eswatini) is a democratic, participatory, Tinkhundla-based system which emphasises devolution of state power from central government to Tinkhundla areas and individual merit as a basis for election or appointment to public office.’ However, the problem with this particular part of their constitution is it conceives the political system as a democratic and participatory yet in actual fact there is no democracy as there is no public participation and contribution in politically related issues concerning their country.

Osaghae and Osaghae (2013, p. 394) argue that “good governance depends on the extent to which citizens are able to vote governments in or out in competitive elections. It could therefore be argued that there is no good governance in the Kingdom of Eswatini as according to the above definition of what good governance is, citizens in Eswatini do not have the privilege to be able to vote in or out the governments of their choice as opposition political parties are banned. This means that the King is not subjected to political competition. Having talked about the political landscape in Eswatini, the next section of the study will look at the issues of modernity and tradition.

4.9 Modernity vs Tradition in the context of Eswatini

Tradition and modernity constitute perhaps the two most consistent rivals in contemporary African polity (Orabator, 1991). This is because modernity introduced a system of governance which was instrumental to the development and achievement of the socio-political and economic status of the African continent whilst the traditional system of governance was slow in progress. Orabator asserts that this always brings about conflicts between the two systems of governance resulting in most of Africa’s contemporary problems

arising from the conflict between modernity and tradition. A good example of the conflict between the two would be the issue of human rights and monarchical rights in the Kingdom of Eswatini.

Traditional values in the Kingdom of Eswatini triumphed over modern political initiatives granted under a democratic Parliamentary constitutional arrangement. From 1973 to 1978, the Tinkhundla system of government was first put in place as an experiment. This meant that King Sobhuza II ruled without an elected Parliament, and made laws by decree (Maroleng 2003). Of importance to note about the traditional system in the Kingdom of Eswatini is that it is different from military regimes or one party regimes because it is based on traditions hence the failure for them to adapt to modern systems of governance (Dlamini 2017). By sticking to traditional forms of governance the King ensures that he has divine authority of power within the Kingdom as compared to adopting modern systems of governances which highly preach of democracy that will defiantly limit his power.

In the 21st century era, there have been immense tensions between traditional and modern forms of governance in the African political systems (Gumede 2005). The main cause of these tensions is globalisation of world politics. Popularisation of the discourse of global governance has been perpetuated by globalisation. Nations in the international system should be characterised by global governance which entails that there should be shared beliefs, values and norms which is somehow expected of each and every country to abide by the rule of law and subsequently international law which is dictated by the powerful countries in the world. Bull (2012) concurs with this view, noting that the international society comprises of a group of states which interact with one another and are bound by a set of rules and norms. This, clashes with some of the African countries political systems in the sense that, some African countries still believe in the traditional way of political systems. These systems entail the traditional or absolute rule of kings and chiefs. It believes in chieftainship and kingship norms and values of governing. However, the traditional political systems often clash with the modern political systems, as there seems to be an infringement of human rights when countries practise traditional political systems which are seen to be dictatorial and authoritarian in the modern world.

Modernity is viewed as a western and progressive phenomenon, while tradition is viewed as African, out-dated and black (Muiu and Martin 2009). Tradition is still very often considered out-dated, without any contemporary legitimacy while modernity is often mistakenly

considered as progressive (Parasjindal 2013). Much of the modernisation theory has been criticised for treating African societies as if they had no history and for asserting that African indigenous culture, traditions and institutions were an obstacle to socio-political and economic progress.

The kingdom of Eswatini is among one of the African countries which have long labelled themselves of being a democratic country. However, the Swati people are still far from attaining democracy, as it has remained the last absolute monarch in sub-Saharan Africa, hence, there are serious concerns for human rights, and the rule of law remains an unfortunate reality in the country despite the promulgation of the new Swaziland constitution (Act 1 of 2005).

This means that there is no balance or a good relationship between monarchical rights and human rights (modernity and tradition). Having a king and chiefs, being part of the elite group to dictate the rule of law consequently violates the Swazi people's human rights, as they have no constitution to protect them. Their constitution only protects and gives all powers to the King (Constitution of Swaziland 2005). The Kingdom of Eswatini is therefore a country in the African political landscape which is trapped between a traditional and modern form of government. The system of government of the Kingdom of Eswatini is somewhat a dual system, which has both traditional hierarchy and a modern institution in the form of parliament (Dlamini 2005:21). Having this section talk about the issue of modernity and tradition in Eswatini, the next part of this study will examine the issue of the rule of law in Eswatini.

4.10 The Rule of Law in the Kingdom of Eswatini

The rule of law is propounded by Choi (2018) as a mechanism, process, institution, practice, or norm that supports the equality of all citizens before the law. It secures a non-arbitrary form of government, and more generally prevents the arbitrary use of power. The arbitrary use of power is whereby authoritarianism and absolutism will be the order of day in a country. The concept of the rule of law has many broad definitions. Heywood (2002:302) defines the above concept as 'the principle that the law should 'rule' in the sense that it establishes a framework to which all conduct and behaviour conform, applying equally to all the members of society, be they private citizens or government officials'. This entails that the government has limited power through abiding to the constitution. However, this is not the case with the Kingdom of Eswatini. This because even though the constitution of Eswatini

provided for the judiciary to be independent in section 141 of the constitution, it was however now vested in the King in section 3 of the Kings proclamation hence, making him hold supreme executive power and all the authority (World Report 2018). Independence of the judicial system is a key indicator of any society's respect for the rule of law and in Eswatini, the issues and reports from civil society organisations and NGO's shows how grave the rule of law is in the Kingdom of Eswatini (James 2014).

Mqwabe (2016) asserts that in terms of Swazi law the King has absolute power and this is not consistent with the principles of good governance as well as democracy. This undermines the whole concept of the rule of law. King Sobhuza II, in his proclamation of 1973, section 3 announced that he has assumed supreme power in the kingdom. This results in the negation of the people's human rights by the King and his government as the constitution is supposed to provide for equality before the law. The King personally appoints the prime minister, chief justice, and principal secretaries and political commissions (Masuku and Lamb 2016).

Maroleng (2003) notes that Sobhuza II 'killed' the Bill of Rights, together with provisions on citizenship, parliament and the judicial and public service, hence political parties were banned, and meetings of a political nature, including processions and demonstrations, had to be authorised by the Commissioner of the Police. This spelled the end of political freedom in Eswatini and at the same time tightening the King's protection. After the death of Sobhuza II, his son King Mswati III took over power came up with a vision of monarchical democracy which however was just a rebranding of the country's traditional Tinkhundla system (Vandome, 2013). This means that even after the death of Sobhuza II, there was no change as Mswati continued with the monarchical regime. The only notable change brought by King Mswati III was the renaming of Swaziland to Eswatini. This shows that the country is an absolute monarch and not many people in the world are able to change the name of a nation, but King Mswati managed to do so (www.bbc.com).

The Kingdom of Eswatini has become a major phenomenon in the SADC region as it has become under scrutiny for its lack of the rule of law. Masuku and Limb (2016) argue that "Swaziland remains the only Southern African Development Community (SADC) country that excludes political parties from participation in elections and representation in elective state structures, thus the country has become an open-air prison, a militarised society and a royal farm in which people become mere farm workers for an individual and his family. The autocratic system parasitically feeds off the labour of the poor, whose primary reason for

existence is to work for the royal family and reproduce future workers of the same.” This clearly shows that the King is running the Kingdom of Eswatini for his own protection and benefit and not for the suffering nonvoting citizens, hence the lack of the rule of law.

The following section of this study interrogates the international and regional reactions to the case of human rights in the kingdom of Eswatini.

4.11 International and Regional reaction to Eswatini’s Human rights issues

To begin with, of importance to note is that the International and regional bodies such as the United Nations, the African Union and the SADC have not been helpful in resolving the human rights crisis in the Kingdom of Eswatini. Even though both the international community and the regional community condemn the situation in Eswatini, they have not taken any tangible action apart from expressing their views. Motsamai (2011) opines that although there has been widespread condemnation from key trade partners, particularly the United States of America and the European Union, as well as from civil society organisations from across the Southern African region, reactions from SADC governments were slow in coming. As for the African Union, it had an observer mission sent to the Kingdom of Eswatini for the September 30th national elections in 2013 (www.africa-union.org) but very little was achieved. This election observer group from the African union was to examine the level of political rights in Eswatini. This however did not have any positive impact as even the presence of the AU observer mission there were still reports of human rights violations.

The ‘responsibility to protect’ concept loomed large in the debate about SADC responses to the Swazi government’s violent reaction to the demonstrations by the paramilitary units. This consequently proves that SADC, as a regional body has dismally failed to protect citizens in only in the Kingdom of Eswatini, but the southern part of Africa at larger. Motsamai states that the reason why especially SADC is not intervening and offering help to the ordinary citizens whose rights are violated could be because they try to maintain their trade relations with the Kingdom of Eswatini. In her article, Mostamai (2011) argues that countries like Mozambique and South Africa as well as the SADC who had multilateral relations with a number of countries have ignored the Kingdom of Eswatini’s continued violations of human and people’s rights as they have trade agreements with them.

South Africa, an influential country on the African continent should have been at the forefront of finding solutions to the human rights problem in the Kingdom of Eswatini because Eswatini is heavily dependent on it in terms of trade and also the fact that Eswatini

uses the South African rand as its currency. This inevitably gives South Africa political and economic leverage and dominance over Eswatini to try and intervene in the humanitarian crisis that exists there. However, South Africa chose to ignore and let the monarchical government violate the human and people's rights through being an absolute monarch and allowing the king to have all power invested in him only.

Besides the governmental organisations failing to intervene in the Kingdom of Eswatini human rights abuses and violations, it is of pivotal importance to acknowledge the efforts of nongovernmental organisations in being vocal about the situation in the kingdom. Nongovernmental organisations do not have the mandate and power to intervene in countries faced with humanitarian crises in as much as intergovernmental institutions have. One of the non-governmental institutions called the Amnesty International has been very vocal on the Eswatini situation. Mukadam (2018) reported that in the midst of the King planning a lavish birthday celebration and the country's independence, people were left homeless after their homes had been demolished. The monarch failed to provide accommodation for those who had lost their homesteads, which is against the constitution as every human being is entitled to proper accommodation adequate and descent housing. Hence, amnesty International in its report also mentioned how people in Eswatini live in dire poverty whilst the King is very wealthy.

The notion of state sovereignty when it comes to humanitarian intervention has come under much scrutiny of late. Humanitarian intervention has been arguably justified in order to maintain regional stability based on the notion of the responsibility to protect. However, these governmental organisations responses are slow, inadequate or reckless when it comes to intervening as they prioritise state sovereignty instead of the protection of the civilians suffering in that particular state due to human rights abuses and violations. Also of importance to note is the mere fact that these organisations are all about self-interests, hence, they would not just intervene where they will not benefit.

4.12 Conclusion

This chapter demonstrated the Kingdom of Eswatini's monarchical democracy which is headed by the royal family with the King as the head. It also showed how there is centralisation of power which was furthered by the British when they colonised Eswatini hence introducing their British parliamentary system. The first outcome that was captured by this chapter was the understanding of the politics and governance system of Eswatini. The

next outcome was the Tinkhundla system of governance which is being used in the Kingdom. The chapter showed how King Sobhuza II replaced the British parliamentary system by introducing the Tinkhundla which is their traditional system of governance. The Tinkhundla system of governance was a non-party system; hence leaders are elected by traditional leaders. Another aspect discussed in this chapter is the issue of human rights embracement within the constitution of Eswatini. Here the issue of human rights violations comes to light. It was demonstrated that even though the constitution of Eswatini embraces human rights, these rights are not protected in practice; they however do not respect them nor abide by the constitution.

This chapter also discussed Eswatini's political practices within the regional contexts of the African Union and SADC. It was demonstrated in this particular section, how the Kingdom of Eswatini was one of the founding member states of the Southern Development Community (SADC). However, despite being a founding member, Eswatini got away with gross human rights violations as the SADC leadership never intervened although they had pledged to help each other if any of the member states were not adhere to democracy and good governance. The African union is another intergovernmental organisation of which Eswatini is a member state. The African Union has the African Charter on Democracy, Elections and good governance whereby member states agreed to intervene if one or more of the countries do not to abide with this doctrine. Findings from this study reveal that just like the SADC, the African Union is also incompetent in holding Eswatini accountable for committing wanton human rights violations. Besides the regional intergovernmental organisations failing to intervene in the case of Eswatini, there are also international governmental organisations like the United Nations who also have a 2030 agenda to achieve interconnectedness and the commitment to the promotion and protection of human and people's rights. Albeit all these commitments, they have failed to intervene in the not only Eswatini, but also in DRC and also Zimbabwe where human rights have been grossly violated.

The issue of modernity and tradition was also discussed this particular chapter. The outcome was that there is failure to embrace both modernity and tradition in the Kingdom of Eswatini. Embracing modernity entails doing away with the monarchical regime and effect democracy which prioritises people's human rights. Regrettably, the leadership of Eswatini is not keen on leaving their traditional political systems for western modern governance political systems. This consequently leads to the issue of lack of rule of law in the Kingdom. It was demonstrated that the judiciary system in Eswatini is not independent as the King has

absolute control over it. The chapter also discussed how the international organisations have responded to Eswatini's human rights issues. It was evident that they only react on paper and not on the ground. All they did was to issue out reports condemning the undemocratic practices by the kingdom but were slow in intervening.

The next chapter is a summative evaluation of the study in relation to the balance of monarchical rights and human rights in Eswatini.

CHAPTER FIVE

A DISCUSSION OF KEY FINDINGS RECCOMENDATIONS AND CONCLUSION

5.1 Introduction

This chapter provides summative evaluation and conclusion on the two contentious set of rights, namely, monarchical rights and human in order to demonstrate whether there is a balance between the two in the Kingdom of Eswatini. The main objective of this chapter is not to solely do a comparative analysis between human rights and monarchical rights, but rather to draw inferences on whether there can be a balance between the two sets of rights in the Kingdom of Eswatini and whether there have been any instances whereby these two have been successfully implemented together. This chapter further provides a summary of the study objectives and how they were addressed in relation to the research problem that was investigated. Against this background, this chapter will proceed with analysis of key themes emerging from the data, namely, human rights violations, monarchical rights, and democracy as well as issues of governance in the Kingdom of Eswatini. These thematic issues will be drawn from the previous chapters to evaluate the issue at hand which is balancing monarchical rights and human rights in the Kingdom of Eswatini. As demonstrated by the findings in this case study, monarchical rights precede human and people's rights are not being respected let alone considered

5.2 Overview of the research

In order to establish whether there can be a balance between monarchical rights and human rights in the Kingdom of Eswatini in this highly globalised world; this study was divided into five chapters. Chapter one introduced the study by setting out the parameters of the problem statement, research questions, study aim and objectives.

Chapter two provided extensive review of literature relevant thematic areas. It also dealt with the conceptualisation of the study which examined the key issues of the study. These key thematic issues included the human rights discourse which addressed the issue of how human rights evolved and came into being in the international system. Discussed also is the evolution of monarchical rights and to how they came to be recognised in the international system. Fundamentally, issues of global governance and democracy in the African were explores. The subject of global governance in the context of globalisation was explored against the bedrock of the fact that they inform the pillar through which the issue of human

rights can be examined. The political history of the Kingdom of Eswatini constitutes a fundamental aspect of literature focus in chapter 2 given the quest for clarifying what shaped the political sphere of Eswatini which resulted to it being a monarchical regime, and the timeline of the evolution of its political space. To understand the position of the Kingdom of Eswatini in the broader context of the African political sphere, human rights protection in Africa was explored. Covered under this theme is how matters of human rights are managed on the continent. The chapter went on to stress on the mechanisms in place for the protection of the fundamental human and people's rights. Hence instruments such as the African Union Charter on Human and People's Rights as well as the Charter on Democracy, Elections and Governance were critically engaged. As demonstrated by literature, these instruments put in place to try and avoid human rights violations in the continent.

Furthermore, the chapter explored the scope and nature of the African political systems which were there before the colonial era. Focus was specifically on how African political systems were crafted before the colonisers came in and introduced their western political systems. Unpacked also was whether there was or no democracy before the colonial era. The Westminster model is another aspect that was discussed in Chapter two. The value of focusing on the Westminster is in that it helped to understand how western political influences shaped the Kingdom of Eswatini's political system as obtaining day.

Lastly, Chapter two provided highlights on the theoretical aspect of the study. Theoretically, this study was guided by the liberal school of thought and the explanatory value of the liberal school of thought is that it is the foundation upon which democracy and good governance are embedded. Key to the liberal school is its articulation on the nexus between democracy, good governance, and respect of the human and people's rights around the world.

In Chapter three, methodological aspects of the study were critically engaged. Special focus was on how data was collected and analysed. This also entailed justifying why a qualitative methodology and methods like in-depth interviews and desk research were mainly relied upon in the overall research design.

Chapter four specifically examined how monarchical rights and human rights are negotiated in the kingdom of Eswatini. This chapter's aim was to extensively deal with the two contentious sets of rights which are monarchical and human rights. It examined how these two contentious sets of rights are competing for political space in this highly globalised international system. To examine the balance between monarchical rights and human rights,

this chapter had to discuss and analyse aspects such as the background of the political governance in Eswatini, the advantages and disadvantages of using the British parliamentary system; the Tinkundhla system of governance which was used in the Kingdom, the human rights architecture of the kingdom of Eswatini and how it is related to the African charter on human rights; the United Nations on issues of governance, the Southern African Development Community (SADC) on democracy, good governance. Another issue discussed was the democratic space in Eswatini and how they infuse the balance between tradition and modernity in the current global dispensation. The role of non-state parties (civil society groups and non-governmental organisations) in the promotion of human rights was explored. Critically examined was the extent to which matters of human rights embracement are catered for by the Eswatini Constitution. The former aspect was crucial for addressing the study problem namely; the balance between monarchical rights and human rights in the Kingdom of Eswatini.

The next section discusses fundamental study findings as informed by the thematic analysis of data.

5.3 DISCUSSION OF STUDY FINDINGS

5.3.1 Human rights violation

As already articulated in the previous chapters, human rights violation is endemic in Africa, Kingdom of Eswatini included. In post-colonial Africa, as revealed by literature, the state is on the forefront of violating the fundamental freedoms and rights of the people (Zezeza 2007). Globally, Africa is found wanting when it comes to the protection and upholding human and people's rights. As revealed by Chapter 4, the monarchical nature of the Kingdom of Eswatini pays a lip service to matters of human rights. Thus, to say the security of the Kingdom precedes human security. Lack of democratic entrenchment in the Kingdom has been singled out as the reason human and people's rights are at stake. Despite claims that Eswatini subscribe to democratic precepts, one can argue that the Kingdom is mere a defective democracy (Levitsky 2012) since human and freedoms are always under threat. An analysis of human rights violations in the Kingdom of Eswatini show that they are perpetuated by the government with the King and his Chiefs assuming the command responsibility. As argued by critics (Ibrahim 2012; Kuppel 2009) this mode of bad governance is merely for protecting wealth and accumulations by the Kingdom and his cronies.

Regarding matters of political accountability in relation to human rights, it emerged that the King and his Chiefs enjoy impunity before human rights violations. This is seen through the government's act of banning opposition political parties. Evidence shows that no opposition political parties are allowed to be formed and contest in the Kingdoms 'elections', (Zambara 2016). Media freedom is one ingredient of democracy that is heavily suppressed in Eswatini. Findings show that there is media censorship, no freedom of speech and no political participation.

Political representation is another democratic deficiency in the Kingdom since the King holds absolute power to choose who goes to parliament. This shows that there can never be a balance between monarchical rights and human rights in the Kingdom of Eswatini as the King and his Chiefs use monarchism to enrich the already rich ruling royal family as well as protect themselves whilst the ordinary citizens on the ground suffer as they are voiceless and powerless. This consequently shows that there is no rule of law in the Kingdom. The Kingdom has a constitution, but the government does not abide by it as the King is sovereign over everything.

To cover up for democratic deficiencies, the government of Eswatini uses its Kingdom status as a shield against wide international criticism. This concurs with earlier articulation by Dlamini (2017) that absolute monarchy does not promote any democratic governance as this would shift the balance of power. Democracy, good governance and accountability are mutually interconnected and inseparable. Human rights are 'tied to democracy' and 'it is difficult to bypass a discussion of democracy in relation to human rights in the contemporary world'. (Acheampong and Domson-Lindsay 2011). The perplexing observation is the challenge of political reform since Eswatini is the only remaining monarchic and struggles to balance matters of regime security and human security.

Comparatively, there is enough evidence to argue that the Kingdom lacks political will when it comes to reforming and embracing modern forms of global governance. Evidence from the British system shows that, monarchism and democracy can work hand in glove by infusing modern constitutional monarchy. The only challenge however, is that in both cases is that pure democracy remains under threat in the sense that even though the people can have their say, the final decision making lies with the Queen or the King.

5.3.2 *Monarchical Rights*

According to Wilde (2018), a monarchy is a form of government in which total sovereignty is invested in one person, a head of state called a monarch who holds the position until death or abdication. Monarchical rights are still of relevance in the 21st century. This has been demonstrated in the previous chapters. For instance, in Chapter two it was shown that those monarchical governments still do exist and are fully functional in a world which prefers democracy, human rights and globalization as priorities instead or rather than authoritarianism in monarchical states. Some of these monarchical countries mentioned in previous chapters include Lesotho in the Southern part of the African continent; there is also Libya and Kuwait in the Middle East Africa and Saudi Arabia as well the United Arab Emirates (UAE). These countries have shown show that monarchism is still being practised in the International System despite calls from governmental and nongovernmental organisations to dissolve such governments as a result of the call for democracy and respect of human rights in the world. However, it is worth noting that of all these monarchical states, African monarchs, democracy and the rule of law does not exist.

These governments do not have respect for human rights. This is because these countries are failing to balance monarchical rights and human rights. Citizens suffer appalling human rights violations. One of the objectives of this study was to investigate the main reasons behind the Kingdom of Eswatini's continued adherence to a monarchical system. The study established that one of the major reasons for the continuity of monarchism was the protection of the Kings wealth as well as of that one of his immediate Chiefs. This was done through the repressive form of governance which they imposed on the citizens of the Kingdom of Eswatini. Therefore, to hide under the terminology "monarchical democracy" did not really change much the ground as it was evident that people were being suppressed and there was no democracy at all.

Another challenge demonstrated by the study is the nativity of the AU and SADC when it comes to holding member states accountable for political ills. They implement policies on paper, but they do not practically practice them. A good example is that of the African Union's African Peer Review Mechanism (APRM) which was aimed at reviewing each member state as to whether they are abiding and following the African Union's guidelines in terms of governance, human rights, elections, and on issues of democracy. Looking at the political developments in the Kingdom of Eswatini, and its non-adherence to good

governance it can be argued that these institutions are moribund intuitions serving no purpose.

5.3.3 Contestation between Constitutionalism and Tradition

Governance issues were also picked up by this study's findings. There are a lot of governance irregularities that come as a result of having a monarchical government, especially in a highly globalised and modernised 21st century. The government of Eswatini has unlimited power. Despite the fact that the Kingdom of Eswatini, adopted the use of a constitution in 2005, it does not abide by it. The adoption and use of a democratic constitution quintessential as it curtails the power of the government and gives the ordinary citizens their fundamental rights and freedoms.

Even though the country adopted a constitution it was never really implemented as the government of the day did not respect freedoms enshrined in the constitution. The banning of opposition political parties is a good example of non-adherence to constitutionalism and the rule of law. When the constitution was implemented the banning of political parties was lifted but still no political parties could participate in elections as they are deemed a threat to the monarchical regime in Eswatini. This shows that the regime in Eswatini has unlimited power which is totally against the current global practices. The lack of a constitution was accompanied by their system of governance called the Tinkhundla system. As explained in chapter 2 and 4, it is a traditional concept which is being used to show or highlight what is known as a monarchical democracy (Civil Society Report 2017). This system of governance accords the King unlimited and personalisation of power. This shows that there is no democracy and respect for human rights in the Kingdom of Eswatini hence, no balance between monarchical rights and human rights.

5.3.4 The Kingdom of Eswatini's deviation from global governance

Globalisation as articulated by Schrire (2001) is viewed as process which creates a global culture characterised by liberalism and democracy, resulting in universal victory. In simpler terms, through globalisation, the international community is bound to unite and become one global village which is interconnected. Through technological improvements the world has become a global village and respect for human and people's rights with shared norms, values and practices. However, globalisation has somehow failed to bring about democracy, not only in the Kingdom of Eswatini, but also in the southern part of the African continent. Most countries in Southern Africa are defective democracies (Levitsky 2012) and these include

Zimbabwe, Malawi and the Kingdom of Lesotho among others. Looking at the case study of Eswatini one can clearly note that the wave of globalisation has not had any positive impact in the country in relation to issues of human rights and democracy. It is important to mention that throughout the international system, globalisation has played a critical role in advocating for the respect of human rights and democracy in governments especially on the African continent. However, Eswatini does not conform to the set norms and values of international standards as the country views itself as traditional monarchy which does not want to erode its culture through adopting western forms of governance and way of life. Therefore, explains the lack of reform in the Kingdom as the King is afraid of giving away his rights and privileges.

5.4 Challenges Experienced in the Course of the Research

As is the case with all academic inquiry, this study is rather limited and suffers certain shortcomings. These are the result of specific challenges that were experienced in the course of the research. This study which sought to examine the balance between monarchical rights and human rights is contentious in nature especially given that the issue of human rights in Africa is a very sensitive one. Talking about human rights and democracy before a monarch sounds a norm displacement. Issues of traditional rights are given credence in Eswatini, and as a result in the process researching on such a sensitive topic was a tough task. The first challenge was conducting a study on human rights in a country that advances monarchical rights over human rights. Hence this consequently meant that it was difficult to reach out to the respondents because of fear of victimisation from their government. Criminalisation of anyone speaking against the Kingdom of Eswatini, and the King is treasonous if not an act of terrorism.

A second major challenge was the fact that there were no human rights advocacy organisations which were permitted in the Kingdom of Eswatini hence it was a stumbling block to get accurate information as the citizens of Eswatini withheld some important aspects about issues of human rights and also there was no record of the human rights violations as there was no room for documenting the wanton atrocities on the citizens as the government did not allow, thus one would be liable for imprisonment if caught addressing the issue of human rights.

To mitigate on the challenges, citizens from the Kingdom of Eswatini were heavily relied upon as key informants. These could speak freely while in South Africa as opposed to what they could they have done back home.

Notwithstanding these weaknesses, the many valuable findings of the research, when considered in combination with indicated shortcomings, offer ample scope for a future and complementary research agenda.

5.5 Recommendations regarding further Research

Evidence show there is total adherence to tradition in Eswatini and this is an insult to democracy and human rights. The challenge of not adhering to the dictates of global governance in the Kingdom of Eswatini has exacerbated human rights violations and impunity. As a recommendation for further research or further study, there is need for establishing ways on how SADC as a regional body can share best practices and capacitate the Kingdom in matters of human rights. South Africa as a regional hegemony should take the lead in this regard.

- **Lack of accountability**

Wanton human rights violations in Eswatini, also speaks to lack of accountability by the political leadership. This problem is endemic from Zimbabwe to Eswatini. There is therefore need for establishing ways on how to revive the APRM and make members accountable for their actions.

Reviving the Human Security Agenda

Again, considering continued adherence to regime security at the expense of human rights, there is need to find mechanisms through member countries within the SADC region, Eswatini respectively, can revive and internalise the human security agenda in their domestic constitutions. This can yield positive results in as far as balancing monarchical and human rights are concerned.

- **Integration of Tradition and Modernity**

Findings from the study show that tradition and modernity are highly incompatible in the context of Eswatini. Lack of political reform in conformity with the dictates of global governance by the Kingdom of Eswatini is enough evidence that human rights and

monarchical rights are binary opposites. To bridge this polemic divide, further research should be channelled towards how the two can coexist without compromising the other.

- **Strengthening regional pieces of legislations on good governance**

As demonstrated by the study, Eswatini besides being an African Union and SADC member state, it does not adhere to the SADC and AU principles of governance, democracy and good governance especially matters of holding elections. There are SADC principles and guidelines on elections that are not followed in Eswatini. Considering the observed gap, further research is needed to find ways of enforcing the democratic principles without compromising on sovereignty entitlement of member states.

5.6 Conclusion

This chapter examined the contentious issue regarding ‘balancing monarchical rights and human rights in Southern Africa using the test case of Eswatini. Hence, several conclusions were drawn in relation to whether there is any balance between monarchical rights and human rights in the Kingdom of Eswatini. What emerged from this study findings are that monarchical and human rights are highly incompatible. It emerged that monarchical rights are sacrosanct and cannot be compromised in Eswatini. This has been attributed to lack of political reform in Eswatini that prioritises matters of regime security at the expense of human security.

This final chapter is intended as a summative conclusion to the study on balancing monarchical rights and human rights in Southern Africa: Experiences from the Kingdom of Eswatini. It is a summative conclusion in the sense that it synthesized the key findings and conclusions of the study by revisiting the initial research propositions of the study so as to offer a critique on gaps in available research material, and explaining the challenges experienced in the course of the study; as well as recommending focus areas for complementary and follow-up academic research into the primary and secondary themes of the study. The sole aim of this study is to add value to the issue of human rights discourse and monarchical rights discourse in the highly globalised 21st century.

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RESEARCH AND INNOVATION
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PROJECT TITLE: Balancing monarchical rights and human rights in Southern Africa: Experiences from Kingdom of Eswatini.

PROJECT NO: **SHSS/19/DS/04/0306**

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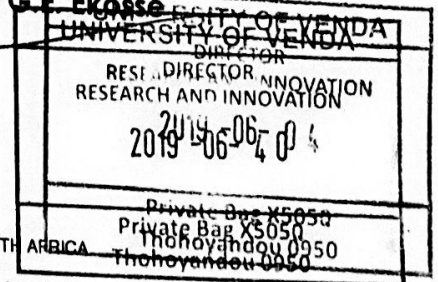
UNIVERSITY OF VENDA, RESEARCH ETHICS COMMITTEE

Date Considered: June 2019

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INTERVIEW SCHEDULE

1. What is your understanding of human rights?
.....
2. What is your understanding of monarchical rights?
.....
3. Is there any respect for human rights in the Kingdom of Eswatini by the government?
.....
4. Is there political freedom in the Kingdom of Eswatini?
.....
5. Is there political accountability in matters related to human rights in the Kingdom of Eswatini?
6. What political challenges do you face as a citizen of Eswatini?
.....
7. Do you prefer monarchical rights or the universal human rights?
.....
8. Are human rights advocacy groups allowed in the Kingdom of Eswatini?
.....
9. Do you think there is democracy in Eswatini?
.....