

# DISCRIMINATION AGAINST LGBTI PERSONS IN ESWATINI

Eswatini's 3rd Universal Periodic Review  
37TH SESSION  
October 2021



This advocacy paper has been developed under the framework of the project “Out and Proud: LGBTI Equality and Rights in Southern Africa”, co-funded by the European Union and implemented by the following partners: Nyasa Rainbow Alliance – NRA (Malawi), Trans Research, Education, Advocacy and Training –TREAT (Zimbabwe), The Rock of Hope – ROH (Eswatini), Southern Africa Litigation Centre (SALC), Centre for Civil and Political Rights (CCPR) and Cooperazione per lo Sviluppo dei Paesi Emergenti (COSPE). The overall objective of Out & Proud Project is to improve the legislative frameworks and non –discriminatory environment in favour of lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Sothern Africa. The aim is to strengthen the capacities of and opportunities for LGBTI Human Rights defenders (HRDS) and their organization in Malawi, Eswatini and Zimbabwe to defend, advocate and promote their rights and fight discrimination.



## Issue at stake:

LGBTI persons living in Eswatini experience prejudice, social exclusion discrimination, rejection, stigma, and violence based on their sexual orientation and/or gender identity or expression (SOGIE). Human rights abuses and violations against LGBTI persons continue to go undocumented, unreported, unprosecuted and unaddressed. Domestic legislation does not include SOGIE amongst the prohibited grounds of discrimination and there are no oversight mechanisms protect LGBTI persons who face discrimination.

A recent representative survey<sup>1</sup> shows that with a participation of 100 individuals, across the LGBTI spectrum; a majority (36%) of participants had experienced stigma, 28% had experienced harassment, 15% had experienced stigma, harassment and violence. Violence had been experienced by 5% of participants and 4% had experienced both stigma and violence.

## Progress since the UPR 2nd cycle

During the 1st and 2nd UPR Cycle of ESwatini (Former Swaziland), several countries made recommendations on inclusive legislation, irrespective of a Swati's actual or perceived sexual orientation or gender identity, on guaranteeing non-discrimination in access to health services, education, justice and employment for all persons. All recommendations related to non-discrimination of persons based on actual or perceived SOGIE, were noted rejected by Eswatini Government<sup>2</sup>.

<sup>1</sup> Risk and Vulnerability Assessment 2020/21 (Unpublished yet) Out and Proud Southern Africa project

<sup>2</sup> Rec. 110,13. Decriminalize same-sex relations (Slovenia); Rejected. 2016 UPR Cycle. Report of the Working Group on the Universal Periodic Review, July 13th 2016, A/HRC/33/14 and its Addendum 1, A/HRC/33/14/Add.1

## Suggested advance questions to ask during the UPR dialogue

1. What steps is the Government taking to ensure that comprehensive human rights education (National Multi-sectoral HIV and AIDS Strategic Framework (NSF) 2018 – 2023) is afforded to all sectors and not just the health sector in Eswatini?
2. What measures is Eswatini taking to prevent prejudice, discrimination, rejection, stigma, and violence based on SOGIE?
3. What steps is the Government of Eswatini taking to provide access to justice and support for LGBTI people who have experienced rights violations?

## Suggested recommendations. It is recommended that the State:

1. Expand the scope of life skills education to comprehensively include SOGIE.
2. Review domestic legislation to explicitly include SOGIE among the prohibited grounds of discrimination.
3. Improve the independence of the Human Rights Commission to provide accountability and redress for LGBTI people who have experienced rights violations.
4. Decriminalise consensual same-sex sexual acts.

