

**ESWATINI**



**GOVERNMENT**

**STATEMENT ON THE REVIEW OF THE COMBINED 1<sup>ST</sup> TO 9<sup>TH</sup> PERIODIC REPORT OF THE KINGDOM OF ESWATINI ON THE IMPLEMENTATION OF AFRICAN CHARTER AND MAPUTO PROTOCOL DURING THE 69<sup>TH</sup> ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES RIGHTS, DELIVERED BY THE HONOURABLE MINISTER FOR JUSTICE AND CONSTITUTIONAL AFFAIRS, PHOLILE P. SHAKANTU**

**24 NOVEMBER, 2021**

**THE CHAIRPERSON OF THE AFRICAN COMMISSION,**

**DISTINGUISHED MEMBERS OF THE COMMISSION  
REPRESENTATIVES OF MEMBER STATES**

**REPRESENTATIVES OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

**REPRESENTANTIVES OF CIVIL SOCIETY ORGANISATIONS**

**LADIES AND GENTLEMEN.**

Greetings,

May I, on behalf of His Majesty's Government and the people of Eswatini congratulate the members of the new Bureau Hon. Commissioner Remy Ngoy Lumbu as Chairperson and Hon. Commissioner Maya Sahli- Fadel as

the Vice- Chairperson. The outstanding work of outgoing Commissioners cannot go unnoticed. Eswatini extends accolades for the work of the Commission in the promotion and protection of human and people's rights in our Continent.

May I reaffirm the Government of Eswatini's commitment to respect, promote and protect human rights and further to ensure a conducive environment for the enjoyment of the fundamental rights and freedoms by the citizens of Eswatini.

The Kingdom of Eswatini welcomes the opportunity to present before the African Commission on Human and Peoples Rights (African Commission), the country's Combined 1<sup>st</sup> to 9<sup>th</sup> Periodic Report on the implementation of the African Charter on Human and Peoples' Rights (African Charter) and initial report under the Protocol on the Rights of Women in Africa (Maputo Protocol).

Honourable Commissioners, it is regretted that the report presented today has been long overdue as a result of the country's inability to report timeously as enjoined by Article 62 of the African Charter. The country realized the importance of a systematic reporting mechanism and has established a National Mechanism for Reporting and follow- up (NMRF). This mechanism will systematically coordinate the preparation of reports and follow-up on implementation of recommendations from the various regional and international human rights mechanisms.

Eswatini regrets that the progress on the implementation of concluding observations issued by the Commission could not be addressed. This is

attributed to the absence, of an institution that systematically coordinates the implementation of human rights obligations, preparation of state reports and following-up on recommendations from the various human rights mechanisms and absence of information management system. However, tireless efforts were made to locate a copy of the concluding observations from the Registry of the Commission in vain. Eswatini is optimistic now that there is an institution in place, such would be avoided in future.

Honourable Commissioners, there has been remarkable development as well as notable strides that the Kingdom of Eswatini has taken during the period under review. This includes the enactment of the Constitution, various legislation domesticating ratified treaties, establishment of institutions aimed at promoting and protecting human rights as well as the deployment of policies and strategies to enhance the livelihood of the people of Eswatini.

However, like other countries, the Kingdom has not been spared by the current global challenges such as economic recession, which is partly due to global warming and the emergence of the COVID-19 pandemic. Climate-related disasters and associated socio-economic impacts continue to intensify globally. Recently, the Kingdom of Eswatini has experienced extreme weather patterns such as cyclones and droughts.

This review is also taking place at a time when the Kingdom has recently experienced a number of challenges including protests which have resulted in an unprecedented civil unrest. The civil unrest has led to the unfortunate loss of lives, injuries and damage to property and infrastructure.

Despite these challenges, the Kingdom of Eswatini has further taken strides in advancing Sustainable Development Goals (SDGs), Agenda 2063 and human rights in different thematic areas since the last review.

At this point, I we take this opportunity to seek your indulgence to play a short documentary to illustrate some of the progress made by the country during the period under review.

### **Cooperation with the African Commission**

Honourable Commissioners, may I firstly address the following preliminary issues that have been raised in the advance questions and observations pertaining to resolutions issued by the Commission in respect of freedom of expression, association, assembly and the right of workers in 2012 and 2014 as well as the Promotion Mission in 2016.

The Kingdom is indebted for the support and guidance of the Commission on the initiatives offered to assist the country to improve its human rights record.

Eswatini has implemented the two recommendations on the promotion of the freedom of assembly, association, expression and rights of workers through the enactment of the Public Order Act of 2017, adoption of Code of Practice for Industrial and Protest Action of 2015, adoption of Code of Practice on Gatherings of 2017, the amendment of the Industrial Relations Act in 2014. Other interventions put in place to give effect to the recommendations are discussed in the main report and responses to the advance questions that will be provided by my delegation.

On the recommendations made by the Promotion Mission in March 2016, some of the recommendations have been fully implemented whilst others are ongoing. Comprehensive information on the implementation of the recommendations is provided in the main report as well as the responses to the advance questions that will be provided by my delegation.

Honourable Commissioners, the report presented today highlights some of the significant milestones achieved and the challenges encountered in the implementation of the African Charter and Maputo Protocol during the period under review.

The National report at hand is as a result of a consultative process involving all Government Ministries/ duty bearers, relevant Civil Society Organisations and the Commission on Human Rights and Public Administration. The Government through the Ministry of Justice received technical and financial support from the Centre for Human Rights, University of Pretoria and organized workshops with relevant stakeholders to gather and consolidate information towards this report. We are grateful to the CHR for providing technical guidance on the preparation of the reports.

### **Legislative milestones:**

Since the last review, several progressive legislations have been enacted to domesticate the various human rights conventions ratified by the country. These include:

- The Sexual Offences and Domestic Violence (SODV) Act of 2018 and operational Regulations adopted in 2021.
- The Persons with Disabilities Act of 2018.

- Children Protection and Welfare Act 2012.
- The Election of Women Members to the House of Assembly Act of 2018.

Other important legislations recently enacted by the Kingdom include; The Police Service Act No. 22 of 2018 and the Correctional Services Act No. 13 of 2017. These statutes prohibit Law Enforcement Officers from inflicting torture and other forms of cruel, inhumane and degrading forms of punishment or treatment.

The Kingdom has also amended the **Suppression of Terrorism Act No. 03 of 2008**. The amendment narrows down the definition of 'terrorist act' and further provides for judicial review of a Ministerial Order designating certain organizations as proscribed entities.

Further to these legislative advancements, the Kingdom established a Law Reform Unit to improve the efficiency of domesticating international instruments and harmonizing laws with our Constitution.

### **Reporting obligations:**

Honourable Commissioners, Eswatini is progressively moving towards honouring its reporting obligations to the regional and international treaty monitoring bodies.

At a regional level, the country presented its first and second periodic reports under the African Charter on the Rights and Welfare of the Child (ACRWC) in 2019.

At international level, In July 2017 the Kingdom presented its report to the Human Rights Committee under the International Covenant on Civil and Political Rights (ICCPR).

On 15<sup>th</sup> September this year, the country presented its second to fourth periodic reports to the Committee on the Rights of the Child under the Convention on the Rights of the Child.

On 8 November 2021, the country presented its third cycle report before the Human Rights Council, Working Group on the Universal Periodic Review.

Currently, the country has started working on its first and second periodic reports on the Convention on the Rights of Persons with Disabilities (CRPD) to be submitted early 2022.

Honourable Commissioners, let me assure you that efforts to fully operationalize and strengthen the Commission on Human Rights and Public Administration are at an advanced stage. The Human Rights and Public Administration draft Bill of 2020 is at its final consultation stages. Its enactment will ensure the full efficiency and compliance with some of the Paris principles as well as other international standards.

Eswatini has acceded to a number of the major human rights treaties, internationally and regionally. However, like any other sovereign States, Eswatini is not a State Party to all of the relevant international and regional human rights treaties and protocols. The reasons for that are many, but as a basic starting point, it is important to record that ratification and/or accession is not a panacea and it requires readiness for implementation in terms of capacity and the resources to do so, including to guard against the

onset of treaty fatigue. The Kingdom of Eswatini continues to engage in internal debates with relevant stakeholders to inform the right course of action to take.

**Environmental issues:** Although Eswatini is one of the lowest emitters, the Kingdom has submitted its Nationally Determined Contribution (NDC) commitment to the Paris Agreement which proposes to reduce greenhouse gasses by 14% and increase access to renewable energy in Eswatini to 50% by 2030. Through Government initiatives and support from development partners, Eswatini has invested in building resilience to climate shocks and disasters. These efforts have included strengthening climate information and early warning systems to inform risk-based decision making. The Government continues to mobilize resources to enhance environmental protection.

### **Promotion of Gender equality and empowerment of women**

In relation to non-discrimination and equality between men and women, there is a significant paradigm shift pronounced by the Constitution and compounded by the Courts. Highlights worth mentioning include the abolishment of the concept of marital power, meaning that women married in community of property can now acquire immovable property and register property in their own name without the assistance of their husbands.

On participation of women in decision making positions, although some efforts have been made in this regard, Eswatini acknowledges that there is



need to invest more efforts to increase the participation of women in decision making positions and politics.

Honourable Commissioners, in an effort to address the increase in gender-based violence cases in the country, government enacted the SODV Act. The implementation of this legislation was negatively affected by the Covid-19 pandemic. Like most countries, Eswatini also instituted measures such as lockdowns to curb the spread of the virus. As a result, the much-anticipated positive gains could not be realized in the short term as they have been shadowed by the effects of the pandemic.

The Kingdom appreciates the need for further efforts to compliment the legislative and policy gains. In 2020 the Commission on Human Rights with support from UNDP conducted an assessment to better understand bottlenecks affecting its implementation.

The assessment not only presented recommendations on how to improve the effective implementation of this important legislation, but also highlighted the need to address Gender Based Violence holistically. These recommendations are currently being implemented which include; training of key implementers of the SODV Act for standardized application and strengthening coordination within Government and other relevant stakeholders and also improving after care for the survivors of violence.

Some of the key milestones in this area include successful development and implementation of the National Strategy and Action Plan to End Violence 2017-2022 and other multi sectoral policies on interventions towards the elimination of GBV.

There are a number of other initiatives undertaken by Government in collaboration with development and implementing partners aimed at eliminating this scourge in our society. These interventions range from programs involving changing societal norms and values, social and behavioral change and other protection programs. The Government acknowledges that there is need for better investment and technical support in these prevention programs.

## **Education**

Honourable Commissioners, in relation to the right to education, may I report that the Government of Eswatini priorities education as it is the foundation and the main pillar of economic and social development. The introduction of the Free Primary Education program has improved access to quality education with a net enrolment of 94%. However, the Government has recorded a low participation rate at Secondary level and a Strategy has been put in place to address this challenge.

In an effort to ensure the right to education for all, the Government has strengthened inclusive education by minimizing barriers to learning for children with special needs. To this end, Government has put in place programs to support learners with special needs and teachers to ensure effective teaching and learning. The Ministry of Education has also strengthened the monitoring and evaluation in the area of special needs.

Despite all the efforts made, there are constraints faced by the education sector which regress progress towards achieving goal 2 of the Agenda 2063 on well-educated citizens and skills.

The COVID 19 pandemic has also adversely affected the education sector. Between March 2020 and March 2021, the Government had to temporarily suspend face-to-face teaching and learning to protect children with the exception of classes sitting for external examinations. As of November 2021, only 11% of the confirmed COVID-19 cases were school going children.

It is regrettable that measures to curb the widespread of COVID-19 resulted in the increase in the number of teenage pregnancy cases. Our Education Policy allows for the integration of pregnant girls back to their schools and there are ongoing awareness campaigns to reduce teenage pregnancies. Furthermore, the Ministry of Education has also developed a strategy and guidelines to facilitate the reintegration of pregnant girls to school.

Honourable Commissioners, COVID-19 has greatly caused delays in the learning programs and compromised the quality of education. In order to mitigate the COVID -19 impact, the Ministry of Education with support from UNICEF, introduced home-based learning for external examination classes (Grade 7, Form 3 and Form 5). Core subjects were aired on radio, television and published in local daily newspapers.

An estimated 80% of the population has access to radio stations therefore this modality greatly improved the opportunity to access education. Other schools opted for online learning. Despite these mitigating measures, not all learners were able to access these initiatives due to their socio- economic

backgrounds. The Government has recently developed and launched an Open and Distance Learning Policy to support the roll-out of all online learning for all schools.

Eswatini has experienced double tragedy with the disruption of learning during the recent protests while faced with COVID 19 related inhibitions. The Government has reopened schools for completing classes and is working tirelessly to ensure that all learners return to class. The Government will continue to invest financial and human resources in the education sector to ensure quality education and will further work in collaboration with all relevant partners in achieving this outcome.

## **Health**

Honourable Commissioners, the health sector remains a priority area for the Government of Eswatini. The Kingdom continues to strive for the Universal Health Coverage. The objective is to ensure that Emaswati have access to equitable, affordable and quality health care, irrespective of socio-economic status. The budget allocation for the Ministry of Health has increased from 10.5% in 2020 to 12% in 2021 to support the implementation of its programs and interventions in the health sector.

The Kingdom of Eswatini has been recognized for achieving the global targets of 90-90-90 set in 2016 by UNAIDS to be achieved in 2020 and exceeded its expectation by reaching 95-95-95 in 2019, a target projection set for 2030. This means that 95 percent of people living with HIV are aware

of their HIV status; 95 percent of those who are aware of their HIV+ status are on ART and, 95 percent of those on ART are virally suppressed.

Government in collaboration with its Development and Implementing Partners continues to support all intervention programs directed towards the elimination of HIV/ AIDS in the country, as such, Government has met its obligation to procure all reagents and medications for HIV (ARVs). The Kingdom of Eswatini, is invariably aware that despite all the robust programs for HIV interventions, the prevalence remains very high at about 27% in the last 14 years, a case of cohort population.

This is a result of the intense case identification, enrolment of persons to ARVs, retention and prevention programs that has improved reduction of infection incidence to about 1.3% and death rate of those infected to less than 2%, increasing life expectancy from 47years to 63years according to our 2017 Census.

### **Covid-19 Pandemic**

The emergence of the Covid 19 has perpetrated a multitude of challenges in the health sector. It has further exposed the inadequate response and preparedness to this global pandemic. The first case of coronavirus in Eswatini was identified in March 2020 and subsequent to that, a number of initiatives were introduced to curtail the spread of the virus including the introduction of partial lockdowns to limit the movement of persons.

A total of 46 498 people have been infected with Covid19 since the first case. 45 223 have recovered and; 1248 have died, placing the death rate at 2.7%.

Currently there are 27 active cases with 0 new cases recorded as of the 23<sup>rd</sup> of November 2021.

In an effort to procure health necessities, a supplementary budget was approved to cater for the Covid emergency. Further, a portion of capital budget was also directed towards refurbishment and increase of health facilities. This facilitated the decentralization of services thereby increasing the bed capacity for those infected, for isolation or treatment of Covid-19 from two (2) to thirteen (13) health facilities.

His Majesty, set up a Resource Mobilization Committee which was able to mobilize a significant amount and resources which assisted towards the Covid response.

Eswatini has received vaccines of AstraZeneca, Johnson and Johnson, including recent batch of Pfizer through the COVAX facility. About 22.5% of the total population has been fully vaccinated as at 23<sup>th</sup> November 2021. The Kingdom of Eswatini has been reported to be one of the first 14 African countries to have reached the World Health Organization (WHO) target of fully vaccinating at least 10% of its population against COVID-19 by the end of September 2021. In this regard, the Kingdom would like to express profound appreciation to all its Development Partners, including but not limited to the COVAX facility.

## **ECONOMIC AND SOCIAL RIGHTS**

Honourable Commissioners, the Government has managed to reduce poverty rate from 63% in 2010 to 58.9% in 2017. Despite the positive

progress the poverty rate remains high and efforts to reduce it need to be accelerated. The Government continues to provide resources to alleviate poverty and reduce disparities in the Kingdom. These resources have ensured Social protection programs are implemented to enhance livelihood of vulnerable groups including the Orphan and Vulnerable Children (OVC), Disabled and Older persons. These have benefited through the OVC education grants, disability grants and elderly grants.

To strengthen these interventions, Government has developed a National Social Security Policy 2021 (NSSP), which is at its advanced stage of approval. Furthermore, under development is the National Health Insurance Scheme (NHIS) Policy in the Ministry of Health and the Social Assistance Policy under the Deputy Prime Ministers' Office.

The Government has also commenced implementation activities in terms of the policy and is in the process of establishing modalities of an Unemployment Benefit Fund (UBF).

One of the socio –economic interventions implemented during COVID was the establishment of a Fund to provide relief to laid off employees coordinated through the Ministry of Labour. To date, the Fund has provided compensation to a total number of 23 040 employees from 155 Companies.

Further, a socio- economic needs assessment was conducted to inform response and recovery plans. The Government made concerted efforts to coordinate a multisector comprehensive response through the National Disaster Management Agency (NDMA). This included a COVID-19 relief program which saw over 300,000 vulnerable Emaswati receive this support

in the form of cash transfers as well as food parcels distributed to the most vulnerable and hard-hit populations in Eswatini. The Kingdom is grateful to the Development Partners and the private sector for their contributions in these interventions.

## **Civil unrest**

Honourable Commissioners, Eswatini experienced civil unrest around June 2021. This unrest resulted in the unfortunate loss of lives, personal injuries and damage to property and infrastructure.

Although there has not been a comprehensive investigation to fully understand the root causes of the unrest, based on the available information it seems the cause of the unrest is a combination of socio –economic, political and criminal factors compounded by the effects of the pandemic which resulted in job losses, poverty and increased levels of frustration in general.

The Commission on Human Rights and Public Administration conducted an independent preliminary assessment on the events surrounding the civil unrest. The Commission issued its preliminary findings and recommendations on the 29th October 2021. The Government is still considering the assessment report.

Further, the Government through the Deputy's Prime Minister's office has commissioned an assessment to ascertain the effects and impact of the unrest on vulnerable groups. This assessment will culminate into a plan of action to address the findings and recommendations.



The Government appreciates the importance of finding sustainable solutions after fully understanding the root cause of the unrest in order to pave a way forward within the confines of the law. To this end, His Majesty, the King has announced a national dialogue (Sibaya) that is set to commence early next year. Eswatini believes that dialogue is the hallmark of national peace and reconciliation, and the Government remains optimistic that all parties shall work together in finding a sustainable solution to maintain peace and stability which is the unique attribute of Eswatini.

With regards to damage occasioned to private and public property, His Majesty established a Reconstruction Fund to support all those that were affected during the civil unrest. This is a step towards resuscitating all the businesses, structures and infrastructure that were damaged during the civil unrest. The Fund was capitalized by the Government, Business Community, Corporate Institution and Development Partners.

This was an unprecedented situation for the country, which has enjoyed centuries of peace and stability. The events of the civil unrest were accompanied by extensive campaigns of violence and looting. It is important to state that the unrest was not a product of planned peaceful protest in terms of the Public Order Act, which allows parties to exercise their constitutional rights to freedom of assembly, freedom of speech in a lawful and orderly manner. When protest organizers follow the Public Order Act there are usually no incidences of violence and disorder.

## **Conclusion**

Lastly, I would like to appreciate the technical and financial assistance offered by the University of Pretoria-Centre for Human Rights, United Nations Development Programme (UNDP) and other Development Partners in the preparation for this review. Further, the Government of Eswatini appreciates the support extended towards the achievement of the country's commitments to protect and promote human rights of all people in Eswatini in line with the Sustainable Development Goals and Agenda 2063.

The Government counts on continued cooperation and support of the African Commission, Regional and International Organisations and all other Development Partners in promoting the human rights agenda and addressing challenges to advance the lives of Eswatini.

As I conclude, allow me to reaffirm the Government of Eswatini's commitment to respect, promote and protect the fundamental human rights and freedoms in the Kingdom.

The delegation of Eswatini is honoured to participate in this forum and looks forward to engaging with the Commissioners in this constructive dialogue. We are confident this dialogue will lead to desirable outcomes to assist in improving the human rights record.

May I also give assurance to the Commissioners that careful consideration will be given to its recommendations.

I thank you.

I would like to take a moment to introduce members of my delegation:

- 1.1 Name: Ms. Lindiwe Mbingo  
Designation: Principal Secretary,  
Ministry: Ministry of Justice and Constitutional Affairs (MOJCA)
- 1.2 Name: Mr. Kennedy Groening  
Designation: Under Secretary - Political  
Ministry: Ministry of Foreign Affairs and International Cooperation
- 1.3 Name: Dr. Ntombenhle Dlamini  
Designation: Director of Education  
Ministry: Ministry of Education
- 1.4 Name: Mr. Robert Biyela  
Designation: Chief Mining Engineer  
Department: Department of Mining  
Ministry: Ministry of Natural Resources and Energy
- 1.5 Name: Mrs. Lungile Magagula Magongo  
Designation: Legal Advisor  
Department: Elections and Boundaries Commission
- 1.6 Name: Mr. Tholi Vilakati  
Designation: Legal Advisor  
Ministry: Ministry of Labour and Social Security
- 1.7 Name: Ms. Nonhlanhla Shongwe  
Designation: Senior Economist  
Department: Poverty Reduction and Evaluation  
Ministry: Ministry of Economic Planning and Development
- 1.8 Name: Mrs. Nozipho Nzuza – Motsa  
Designation: Gender Coordinating Officer

Department: Health Sector Response to GBV - Clinical Management, Sexual Reproductive Health Program

Ministry: Ministry of Health

- 1.9 Name: Mr. Mpendulo Masuku  
Designation: Monitoring and Evaluation Analyst (Gender)  
Department: Department of Gender and Family Issues  
Ministry: Deputy Prime Minister's Office
- 1.10 Name: Ms. Nozipho Mazibuko  
Designation: State Reporting Coordinator  
Department: National Mechanism for Reporting and Follow up  
Ministry: MOJCA
- 1.11 Name: Mr. Mlondi Nsibandze  
Designation: Senior State Reporting Officer  
Department: National Mechanism for Reporting and Follow up  
Ministry: MOJCA