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Shadow Report for the Committee on Economic, Social, and Cultural Rights

Eswatini, September - October, 2025

Civil Society Report

SUBMITTING ORGANISATIONS:

The Southern Africa Litigation Centre (SALC)

Swaziland Rural Women's Assembly (SRWA)

Eswatini Sexual and Gender Minorities (ESGM)

Trans Swati

I. Introduction

The kingdom of Eswatini acceded to the Covenant on Economic, Social and Cultural Rights (CESCR) in March 2004. According to Articles 16 and 17 of the Covenant, the state was expected to provide information on the measures taken to fulfil its obligations as early as 2005. Emblematic of the government's failures to implement these obligations, including the submission of its initial report, filed in June 2024, this report highlights the government's slow progress and, in some instances, its failure to implement, particularly concerning the following articles.

- a. Article 1
- b. Article 3
- c. Article 8
- d. Article 10
- e. Article 11
- f. Article 12

This is a shadow civil society report submission prompted by the Eswatini government's submission of the state report to the committee. We note that Eswatini is due to be reviewed and believe that it is our responsibility, along with the organisations mentioned, to highlight, in part, some of the shortcomings in the government's implementation of the articles of this covenant.

II. Methodology

The Southern Africa Litigation Centre¹ (SALC), which has been operational for twenty years in the southern Africa region, has supported grassroots organisations in Eswatini, including the partners submitting this report. The Swaziland Rural Women's Assembly² (SRWA), a local partner in SALC's ongoing work to promote women's rights in social and economic emancipation, has experience working with rural women in political discourse and accessing land for commercial purposes in Eswatini.

TransSwati³, a relatively new organisation, is dedicated to advancing and promoting the protection of gender diverse communities. It brings the expertise it has gained over the years and firsthand experience in the government's efforts to improve access to healthcare.

¹ <https://www.southernafricalitigationcentre.org/salc-20th-anniversary-timeline/>

² <https://www.ruralwomensassembly.org/>

³ <https://transswati.org/>

SALC has collaborated with the two organisations to ensure that the data collected and presented in this report is as accurate as possible based on their experience. The report also includes SALC's data, along with other partners from various government agencies in Eswatini, including the human rights commission, parliamentarians, judiciary members and lawyers.

III. Article 1

Article 1: The Protection of the Right to Land Ownership and Traditional Livelihoods

Gender Disparities in Land Allocation and Adjudication of Disputes

While Section 211 of the Constitution guarantees equal access to land regardless of gender, patriarchal norms still obstruct women's land ownership. Although there are reports of progress in chiefs allocating land to women without male intermediaries, many women in rural areas face resistance when asserting their land rights. Customary law often overrides constitutional provisions, leaving women vulnerable to dispossession, especially in cases of widowhood or divorce. Under the patriarchal Swazi law and customs, women only have the right to land use through their husbands, male relatives, and the exclusive authority of male political and legal figures, such as chiefs⁴.

According to SRWA's findings, single women are still made to pay local authorities for burying their children at their parental homes. This lack of agency and protection on communal land renders women vulnerable, as they depend on the goodwill of their husbands, in-laws, and chiefs, who could expel them for any reason, including accusations of adultery, witchcraft, or the failure to bear male children.

This situation is compounded by the traditional dispute resolution structures that seem to favour men over women. SALC recently received a report, through a local law firm, of an incident in which an Umphakatsi affirmed a homestead dispossession occasioned on a divorced woman by her ex-husband and his relatives. The Umphakatsi that adjudicated the matter decided without allowing her to be heard and suggested that upon divorce, a woman should leave the matrimonial homestead when situated in a chiefdom or Swazi National Land, which position offends the right to equality and discrimination based on gender. To seek redress, the woman obtained an interdict from the Magistrates Court, which restored her right to the homestead; however, the High Court has since ruled that traditional structures should determine the dispute.

Lack of Transparency in Communal Land Administration

⁴ [https://scielo.org.za/scielo.php?script=sci_arttext&pid=S2707-29912023000100007#:~:text=Under%20the%20patriarchal%20Swazi%20law%20and%20custom%2C,political%20and%20legal%20authorities%20\(that%20is%2C%20chiefs\).](https://scielo.org.za/scielo.php?script=sci_arttext&pid=S2707-29912023000100007#:~:text=Under%20the%20patriarchal%20Swazi%20law%20and%20custom%2C,political%20and%20legal%20authorities%20(that%20is%2C%20chiefs).)

The administration of Eswatini National Land (ENL) by chiefs under Section 233 of the Constitution lacks accountability mechanisms. There are reports of arbitrary land allocations, favouritism, and corruption, disadvantaging vulnerable groups. The absence of formal land registration for ENL exacerbates tenure insecurity, as occupants cannot prove ownership or claim compensation when displaced. Resultantly, forced evictions⁵ are rampant, having disastrous consequences for families in predominantly rural Eswatini who have, for generations, depended on the land to grow crops to feed their children or raise some extra income to pay for healthcare, school fees and other basics.

Inadequate or no Compensation for Land Dispossession

Section 211(3) mandates prompt and adequate compensation for land deprivation, yet cases of forced evictions, particularly for infrastructure or commercial projects, often result in delayed or insufficient compensation. Affected communities, especially farm dwellers under the Farm Dwellers Control Act (1982), report coercion and lack of meaningful consultation. A recent case illustrating this happened at [Mbondzela](#) in the Shiselweni region, where farm dwellers were evicted without compensation. The [Sigombeni](#) community have filed a case at the High Court to challenge evictions in a similar situation. In the [Malkerns](#) evictions that happened in 2018, the people are still living in horrible conditions and were never compensated.

Weak Enforcement of Environmental Regulations

The Eswatini Environment Authority (EEA) conducts awareness campaigns, but enforcement remains weak. Illegal mining, deforestation, and pollution disproportionately affect rural communities dependent on land for subsistence. The Litter Regulations (2011) are poorly enforced, with peri-urban areas suffering from unchecked dumping. What exacerbates this issue is the government's reversal⁶ of banning plastic bags in grocery shops and supermarkets. The country's parliament reversed the ban on single-use plastic bags, which has been seen by environmental activists as a failure by the legislature to uphold the Prime Minister's commitment at the third United Nations Oceans Conference (UNOC3) that the country will eventually ban their use.

Limited Participation in Decision-Making

While the Environmental Assessment Regulations (2022) provide for public objections, marginalised communities often lack access to information or legal support to challenge harmful projects. Without resources like land, women have limited agency in decision-making

⁵ <https://www.amnesty.org/en/latest/news/2018/08/eswatini-forced-evictions-expose-flawed-land-laws-as-hundreds-face-homelessness/>

⁶ https://www.downtoearth.org.in/africa/eswatini-government-determined-to-ban-single-use-plastic-despite-push-back-by-pro-plastic-lobbyists#google_vignette

and no recourse when projects negatively impact their assets during crises. Therefore, a gender approach to land rights is essential to catalyse shifts in gender power relations and ensure that all individuals, regardless of sex, benefit from and are empowered by development policies and practices that enhance people's rights to land. This issue also relates to political participation, which will be discussed in this report under Article 3.

Economic Exclusion in Rural Areas

Swazi Commercial Amadoda's Limited Impact

This national organisation was established to support and represent Swazi business owners, particularly in rural areas. Its role involves regulating certain businesses, especially in transport and trade, ensuring that Swaziland is represented in these sectors. The organisation was established in the face of growing foreign direct investment, sometimes creating unfair competition for local small business owners. While intended to promote Eswatini's business interests, the organisation has faced continued allegations of corruption, including the manipulation of membership lists and licensing processes.

The organisation is allegedly concerned about the influence on land allocations and business permits, with some alleging it allowed non-Swazis to operate through loopholes in the regulations.

The organisation's mandate to support rural entrepreneurs is commendable, but small businesses still face barriers, including:

- Lack of access to credit for ENL-based enterprises, especially the youth who have no property, but also the fact that property in ENL cannot be used as surety.
- Competition from foreign-owned businesses granted preferential leasing rights.
- Bureaucratic delays in securing trading permits.

Recommendations

To advance equitable land governance and promote inclusive development in Eswatini, a set of reforms is urgently needed to address longstanding issues around land tenure, displacement, environmental sustainability, and rural economic participation, particularly on Swazi Nation Land (SNL), which constitutes the vast majority of the country's land.

a. Strengthening Women's Land Rights

Despite constitutional guarantees, women in Eswatini continue to face systemic barriers to accessing and owning land. A rights-based approach to land governance must begin with empowering women through institutional reforms. This includes mandating gender-sensitive

training for chiefs and land administrators to address entrenched patriarchal norms in traditional land allocation and dispute resolution. Legal aid services should be made accessible to women who seek to challenge discriminatory land decisions. These interventions must be underpinned by enacting a comprehensive national land policy that explicitly protects women's land rights and clarifies land tenure frameworks. Also, there should be legal certainty through legislative reform or judicial interpretation on the conflict between applying Swazi customary law and constitutional guarantees on non-discrimination regarding women's ownership of Swazi Nation Land.

b. Reforming Communal Land Governance

The governance of communal land requires urgent transparency and accountability mechanisms. Under Swazi Law and Custom, the land allocation process remains opaque, often leaving communities vulnerable to dispossession. Introducing a system of transparent land allocation records, particularly on Swazi Nation Land, will prevent irregularities and build trust in traditional land management systems. Furthermore, establishing an independent oversight body to investigate land-related grievances would ensure that disputes are resolved fairly and with due process, enhancing the credibility of traditional and state institutions alike.

c. Ensuring Fair Compensation

When land is acquired for public or private use, affected communities are frequently left without adequate compensation or legal support. Strict enforcement of the *Acquisition of Property Act of 1961* must be prioritised to guarantee that expropriation is lawful, necessary, and accompanied by prompt, fair, and adequate compensation. In addition, communities facing displacement should be provided with state-supported legal aid to ensure their rights are safeguarded and their voices heard in compensation negotiations.

d. Enhancing Environmental Justice

As land-based investments increase, so too do threats to the environment and the livelihoods of rural and indigenous communities. The enforcement capacity of the Eswatini Environment Authority (EEA) should be significantly strengthened to ensure compliance with environmental regulations. Projects affecting indigenous land and resources must meet the international standard of free, prior, and informed consent (FPIC), ensuring that affected communities fully engage in decision-making processes before project implementation.

e. Supporting Rural Entrepreneurship

Finally, rural livelihoods and economic empowerment must be central to land reform efforts. Financial inclusion programs should be expanded to support small-scale enterprises based on the Swazi Nation Land. Many of these businesses remain informal and excluded from access to credit and formal markets. In addition, policies that currently favour foreign investors, often at the expense of local entrepreneurs, should be reviewed to ensure that rural communities benefit equitably from economic development initiatives.

IV. Article 3

Article 3 Gender Equality and Women's Rights in Eswatini

Gender equality is an ongoing effort. Section 28 of the Constitution explicitly provides women with equal treatment and political, economic, and social opportunities. It mandates the Government to enhance the welfare of women progressively. Key advances include the 2018 High Court ruling⁷ that the common-law doctrine of marital power, which designates the husband as the head of the household, is unconstitutional. Additionally, amendments to the 1964 Marriage Act banning child marriage, the 2018 Sexual Offences and Domestic Violence Act, and the 2018 Election of Women Act, aimed at boosting women's representation in Parliament, are significant milestones (Human Rights Watch, 2023; Shabangu, 2019).

Inadequate Domestication of CEDAW

Despite ratifying CEDAW in 2004, Eswatini has yet to domesticate it into national law fully. While progressive legislation exists (e.g., Sexual Offences and Domestic Violence Act, 2018), inconsistencies persist, particularly in customary law systems where women are still denied land and inheritance rights. Court rulings (e.g., Dlamini v Prince Chief Gasawangwane, 2019) have attempted to rectify discriminatory practices, but enforcement remains weak in rural areas. People in power and Royalty still enjoy impunity when it comes to sexual violence. In one case, rape allegations⁸ involving a university student and allegedly involving a Royal Prince did not succeed in court, on another recent case of a former Government spokesperson⁹ which took the police time to arrest him for allegedly sexually assaulting two minors, he got bail withing 24 hours.

Weak Enforcement of Gender Laws

⁷ <https://www.southernafricalitigationcentre.org/press-statement-eswatini-high-court-declares-doctrine-of-marital-power-unconstitutional/>

⁸ <http://www.times.co.sz/news/121038-student-offered-scholarship-to-drop-rape-case.html>

⁹ <http://www.times.co.sz/news/150254-alpheous-wants-passport-to-visit-sa-prophet.html>

Although laws prohibit workplace discrimination and mandate equal pay, women still face economic marginalisation. The lack of paternity leave reinforces traditional gender roles, placing childcare responsibilities exclusively on women. Furthermore, maternity leave regulations are unclear, leaving women susceptible to workplace discrimination.

Limited Political Representation

Despite the Election of Women Members into the House of Assembly Act (2018), women remain under-represented in leadership roles, occupying only 17% of seats in the House of Assembly (IPU Parline, 2023). Cultural biases and a lack of support for female candidates hinder progress. While capacity-building programs exist, financial support for campaigning, more robust measures such as quotas and more substantial penalties for political violence against women are needed. The recent Afrobarometer¹⁰ survey indicates that only one in three citizens believes the government is doing a good job of promoting gender equality.

Persistent Gender-Based Violence (GBV)

Girls and women also continue to face violence and discrimination rooted in persistent patriarchal norms (Mwanenguren, 2021). A 2007 Violence Against Children Survey¹¹ found that nearly half (48%) of girls and women aged 13-24 reported experiencing sexual violence (Reza et al., 2009), and in 2018, 17.7% of women aged 15-49 stated that a current or former intimate partner had subjected them to physical and/or sexual violence in the previous year (UN Women, 2021).

Despite the Sexual Offences and Domestic Violence Act (2018), GBV remains widespread. Survivors face barriers in accessing justice due to:

- Underreporting (fear of stigma, victim-blaming)
- Lack of specialised courts (only two One Stop Centres exist)
- Delayed prosecutions and weak sentencing for perpetrators

Economic Exclusion of Women

While the Citizens Economic Empowerment Act (2023) aims to promote women's economic participation, structural barriers persist, such as limited access to credit and land ownership, unpaid care work disproportionately affecting women, minimal representation in high-income sectors, and no women's development fund in the country's budget still exist.

¹⁰ <https://www.afrobarometer.org/publication/ad723-more-needs-to-be-done-for-womens-rights-emaswati-say/>

¹¹ <https://www.togetherforgirls.org/en/resources/eswatini-vacs-report-2007>

Recommendations

1. Full Domestication of CEDAW: Enact a comprehensive Gender Equality Act to harmonise statutory and customary laws.
2. Strengthen GBV Response: Expand One Stop Centres, train law enforcement personnel, and fast-track GBV cases.
3. Enforce Political Quotas: Implement mandatory 50% women candidate lists and provide campaign financing for women.
4. Economic Empowerment: Introduce affirmative action in land ownership, credit access, and entrepreneurship grants.
5. Reform Parental Leave Policies: Mandate paid paternity leave and clarify maternity leave protections.

V. Article 8

Article 8

Article 8 of the International Covenant on Economic, Social and Cultural Rights guarantees everyone's right to form and join trade unions of their choice, subject only to the rules of the organisation concerned and to national security or public order considerations.

In Eswatini, this right is severely undermined by legal, administrative, and political barriers that target civil society, labour movements, and associations, especially those critical of the state. One of the most prominent examples is the ongoing refusal by the government to register *Eswatini Sexual and Gender Minorities (ESGM)*¹², an organisation seeking to advocate for the rights of LGBTQ+ persons. Despite fulfilling all legal requirements for registration, ESGM¹³ was denied recognition because its objectives were “unlawful,” a position upheld by the Registrar of Companies. This denial effectively restricts the group's ability to associate and advocate freely, a core protection under Article 8.

The Southern Africa Litigation Centre (SALC) has provided ongoing legal and strategic support to ESGM, particularly through a constitutional challenge in the High Court of Eswatini. The case, *ESGM v. Registrar of Companies*¹⁴, argues that refusing to register the organisation violates constitutional guarantees of freedom of association (Section 25 of the Constitution) and freedom of expression (Section 24). The government's position in this matter reflects a broader intolerance toward dissenting civil society actors and its unwillingness to align domestic law and practice with international human rights obligations, including those under the ICESCR.

¹² *ESGM v. Registrar of Companies*, High Court of Eswatini (pending).

¹³ <https://www.southernafricalitigationcentre.org/wp-content/uploads/2020/06/factsheet.pdf>

¹⁴ <https://www.southernafricalitigationcentre.org/wp-content/uploads/2020/06/factsheet.pdf>

Similarly, trade unions and workers' associations face repeated and unjustified restrictions. The government has often denied trade unions and worker federations the right to assemble and protest, often under the pretext of public order or national security, without providing legitimate justification or following due process. According to reports¹⁵ from the *International Trade Union Confederation (ITUC)* and the *International Labour Organisation (ILO)*, Eswatini¹⁶ has regularly failed to meet its obligations under ILO Conventions 87 and 98, both of which relate directly to the rights to organise and collective bargaining. These violations directly undermine Article 8 of the ICESCR, which Eswatini acceded to in 2004.

Restricting police¹⁷ officers' right to form associations is another critical concern. Police in Eswatini are barred from forming unions or participating in collective action, despite international best practices recognising the right of law enforcement personnel to organise, with reasonable limitations to ensure operational efficiency. The *United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association* has repeatedly called¹⁸ on states to ensure that even those in uniformed services enjoy limited, but protected, associational rights. In Eswatini, however, suppressing such rights is absolute and unjustified.

In view of the above, Eswatini has failed to uphold its obligations under Article 8 of the ICESCR. The government must urgently repeal restrictive administrative practices and discriminatory interpretations of association law, align domestic statutes with international standards, and demonstrate political will to support civil and workers' rights. The persistent denial of these rights to groups like ESGM, trade unions, and police associations reflects systemic repression rather than isolated oversight. The Committee on Economic, Social and Cultural Rights must call on Eswatini to implement concrete legislative and institutional reforms that enable all individuals, regardless of sexual orientation, occupation, or political view, to exercise their right to associate and organise freely.

VI. Article 10

Article 10 – Protection of the Family, Marriage Consent, and the Welfare of Children

Article 10 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires State parties to provide exceptional protection and assistance to families, ensure free and full consent in marriage, and protect children from exploitation and harm. While the Kingdom of Eswatini reaffirms its commitment to these obligations in its 2024 State Report¹⁹

¹⁵ International Trade Union Confederation (ITUC). *Global Rights Index: Eswatini 2023*

¹⁶ International Labour Organization (ILO), *Observation on Convention No. 87 (Freedom of Association), Eswatini, 2022*

¹⁷ <https://eswatini.ii.org/akn/sz/judgment/szsc/2024/111/eng@2024-11-29/source>

¹⁸ UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Reports A/HRC/41/41 and A/71/385.

¹⁹ **Eswatini State Report to the Committee on Economic, Social and Cultural Rights**, E/C.12/SWZ/1 (2023), available at: [UN OHCHR](#)

to the Committee on Economic, Social and Cultural Rights, several gaps persist between law, policy, and practice. These gaps are most evident in the ongoing prevalence of child marriage, limited enforcement of spousal equality, and systemic abuse within juvenile justice institutions.

In its submission, the State of Eswatini refers to the Marriage Act of 1964 and the Constitution as providing protections for the right to consent to marriage freely (paras. 91–93). However, as noted in the Southern Africa Litigation Centre’s policy brief (*An Opportunity for Law Reform on Child Marriages in Eswatini*, 2022),²⁰ the dual legal system, where customary law operates alongside statutory law, has allowed for the continuation of child marriages, particularly in rural areas.

Customary law does not stipulate a minimum age for marriage, and the enforcement of statutory protections is weak. Girls are frequently married off with parental consent, and in some cases, consent is assumed even when the child is below the statutory age. This practice contravenes Article 10 of the ICESCR and Eswatini’s obligations under the African Charter on the Rights and Welfare of the Child and the Convention on the Rights of the Child (CRC) General Comment No. 10, 2007.

Despite these issues, there exists a legislative opportunity for progress. A draft Marriage Amendment Bill has been under discussion for several years and proposes harmonising the minimum age of marriage to 18 years without exception. The SALC policy brief urges the swift enactment of this bill to close legal loopholes that permit underage marriage under customary norms. The delay in passing this legislation, despite repeated recommendations from regional and international human rights mechanisms, reflects a lack of political will and continues to expose girls to early and forced marriages, often resulting in school dropouts, health risks, and economic dependency.

Regarding gender equality within marriage, the *Sacolo v Sacolo*²¹ (2021) judgment by the High Court of Eswatini marked a pivotal moment. The court declared Section 24(2) of the Marriage Act unconstitutional, abolishing the legal doctrine of marital power that subordinated women in civil marriages governed by the community of property. The ruling aligns with the principle of equality under Eswatini’s Constitution and international law, including CEDAW and the ICESCR.

However, the State’s report to the Committee lacks detailed information on implementing this decision, particularly regarding its integration into administrative processes and application in rural areas governed by customary law. This undermines its transformative potential, leaving many women without meaningful access to equality in marriage.

The lack of protection of children, particularly those in conflict with the law or vulnerable to abuse, is a significant concern. The State’s report references the Child Protection and Welfare

²⁰Southern Africa Litigation Centre (2022). *Policy Brief: An Opportunity for Law Reform on Child Marriages in Eswatini*. [Download PDF](#)

²¹ *Sacolo v Sacolo*, [2021] SZHC 145

Act of 2012 and asserts that children are only detained under court orders (para. 123). However, credible reports from civil society organisations, including the Swaziland Action Group Against Abuse (SWAGAA) and Save the Children Eswatini, contradict this assertion. Children are often placed in juvenile detention not due to criminal conduct, but at the request of parents, guardians, or chiefs. In these instances, detention is employed as a means of discipline rather than a legal measure, bypassing judicial safeguards and due process. This constitutes a clear violation of Article 10 of the ICESCR and Article 37 of the CRC.

Moreover, the juvenile detention centre is plagued by corruption, abuse, and insufficient oversight. Community reports indicate that detention officials sometimes accept informal payments to detain children, and there is no consistent legal representation or monitoring mechanism to prevent abuse.

Detained children are kept in degrading conditions and often experience trauma, social exclusion, and disruption to their education. The State's report is silent on these issues, highlighting a serious gap in accountability and oversight. There is an urgent need for independent investigations, improved access to legal aid, and a strict prohibition on extra-judicial detention of children.

Although Eswatini has made limited legal advances, such as the *Sacolo* decision, it still falls short of its obligations under Article 10 of the ICESCR. The Committee is urged to recommend that Eswatini:

1. Immediately enact the Marriage Bill to prohibit all child marriages without exception.
2. Ensure full implementation and awareness of the *Sacolo* ruling across all marriage regimes, including customary law.
3. Prohibit the detention of children without due process and establish independent oversight of juvenile justice institutions.
4. Strengthen data collection and transparency around child protection measures; and
5. Work with civil society to promote legal literacy and support families at risk of violating children's rights.

VII. Article 11

Article 11: Right to an Adequate Standard of Living

1. Poverty and Unemployment

Despite Eswatini's stated commitment to poverty reduction, 58.9% of the population still lives below the poverty line, with rural areas disproportionately affected (70.2% poverty rate). While

the government highlights initiatives like the Youth Enterprise Revolving Fund (YERF) and Regional Development Fund (RDF), these programs remain insufficient given the 33.3% national unemployment rate and 58.2% youth unemployment. The Poverty Reduction Strategy and Action Programme (PRSAP), initially aimed at eradicating poverty by 2015, has failed to meet its objectives, indicating systemic inefficiencies in implementation. Furthermore, weak monitoring mechanisms undermine the effectiveness of financial interventions, leaving many beneficiaries without sustainable support.

2. Food Security and Agricultural Challenges

Climate change, erratic rainfall, and rising input costs threaten Eswatini's reliance on subsistence farming, leading to inconsistent crop yields. While the government subsidises agricultural inputs, delays in payment windows (e.g., maize farmer participation dropping from 15,049 to 11,519 in 2022/23) discourage smallholder farmers.

3. Water and Sanitation Access

While the government reports 77% national access to safe drinking water, disparities persist, with 95% coverage in urban areas compared to 72% in rural regions. Despite initiatives like borehole drilling and solar water projects, budget constraints and climate change hinder sustainable water access. Sanitation remains inadequate, with 20,319 households lacking toilet facilities, posing public health risks. The Eswatini Water Services Corporation (EWSC) imposes high tariffs on the people to maintain its structures. These tariffs are often increased year on year, without proper consultation with consumer rights groups, and without considering the cost of living crisis.

4. Housing and Land Tenure Insecurity

Eswatini lacks explicit constitutional recognition of the right to adequate housing, relying instead on fragmented policies like the Housing Policy of 2001, which remains outdated and underfunded. Two hundred eighty-three homeless individuals were recorded in the 2017 census, while 20,319 households lack proper sanitation. Informal settlements face forced evictions without adequate legal protections, particularly on contested farmland. Widows are evicted from their marital homes by their family or the traditional authorities. The absence of a comprehensive land policy perpetuates tenure insecurity, especially for women and marginalised groups, despite constitutional guarantees.

Recommendations

1. Strengthen Poverty Reduction Programs- Enhance monitoring of youth employment initiatives and expand social protection for rural communities.
2. Agroecology - Increase investment in irrigation, drought-resistant crops, and timely subsidy disbursements.
3. Equitable Water Access- Prioritise rural water infrastructure and enforce stricter quality controls.
4. Housing Policy Reform- Enact legislation to protect against forced evictions and accelerate low-income housing projects.
5. Land Tenure Security-Finalise the National Land Policy to address historical inequities and gender disparities in land access.

VIII. Article 12

Access to health care for transgender persons in Eswatini:

To TransSwati, health goes beyond the mere absence of illness. It encompasses a holistic, affirming, and dignified approach that recognises the unique experiences, needs, and rights of trans and gender-diverse people in Eswatini. Our vision for trans health is grounded in equity, respect, and informed care.

Transgender persons experience barriers to accessing the right to comprehensive healthcare, including gender-affirming healthcare, due to social and policy factors resulting in discrimination and exclusion. Transgender people continue to face hurdles when seeking healthcare services. A 2019 study that sheds light on the experiences of transgender people in Eswatini, ‘Are we doing alright?’, showed that eighty per cent of the people in the study said they had been treated disrespectfully at a healthcare facility because of their gender identity²². Furthermore, half of the people surveyed said they had been insulted at a healthcare facility, and 45% had been denied healthcare because of their gender identity.

Generally, the lack of legal gender recognition, combined with legislative laws and traditional and social perceptions, fuels stigma and restricts access to gender-affirming healthcare and other essential services²³. This component is critical for trans and intersex individuals. The Ministry of Health has a role in providing sex and gender options for trans people, as it is often a reference point for other sectors regarding gender recognition for trans and intersex individuals.

The Ministry of Health should devise strategies to support trans and intersex people in the registration of their birth certificates, which positively influences their lives later on. There should be flexibility in gender markers on birth certificates for intersex people. Health

²² Muller, A., Daskilewicz, K. and the Southern and East African Research Collective on Health (2019).

²³ https://www.southernafricalitigationcentre.org/wp-content/uploads/2022/12/Research-brief_Legal-gender-recognition-web.pdf

practitioners' availability and support for trans individuals, particularly in terms of legal gender recognition, also affect services within the health system.

The lack of legal recognition impedes the right to health. It violates Eswatini's obligations under the International Covenant on Economic, Social and Cultural Rights to ensure the right to health without discrimination²⁴.

Programs that community organisations rolled out under programs such as FHI 360, supported by the US President's Emergency Plan for AIDS Relief - PEPFAR, provided basic HIV, STI and mental health services to transgender people²⁵. These programs, supported by development entities, have helped improve access to healthcare for sexual and gender minorities²⁶. Although the health ministry also recognised transgender people, they still cannot get access to hormones, hormonal therapy and sex change operations²⁷.

The US funding cuts have threatened progress made regarding health services in Eswatini, disproportionately affecting those most at risk, including transgender individuals. Additionally, the entire health system has been affected by job cuts of personnel and disruption of HIV medication supplies²⁸. These rollbacks affect availability, accessibility, acceptability and quality of health care standards without additional financial support.

Recommendations

1. Tailor-Made Services Across All Geographical Areas in Eswatini

TransSwati advocates for comprehensive, customised health services that meet the needs of trans diverse individuals, regardless of their location. Health services should not be limited to urban areas but must also be accessible in rural and hard-to-reach communities. These services must include:

- Gender-affirming care, including hormone therapy, mental health support, and surgical referrals (where possible).
- Inclusive sexual and reproductive health services that reflect the realities of trans bodies and identities.
- Culturally competent and language-accessible care, ensuring that no one is left behind due to stigma or lack of awareness.

2. Trained and Trans-Sensitive Health Care Practitioners

²⁴ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

²⁵ <https://www.fhi360.org/wp-content/uploads/drupal/documents/resource-epic-kpif-transgender-leadership-success-story.pdf>

²⁶ <https://www.undp.org/eswatini/news/community-led-change-improve-access-hiv-services-eswatini>

²⁷ <https://www.cospe.org/wp-content/uploads/2021/01/Civil-society-report-on-the-implementation-of-the-Convention-on-the-Rights-of-the-Child.pdf>

²⁸ https://www.unaids.org/en/resources/presscentre/featurestories/2025/march/20250327_Eswatini_fs

We call for healthcare providers' training and continuous education to ensure they can serve trans people with professionalism, respect, and sensitivity. This includes:

- Understanding gender identity, gender expression, and transition-related needs.
- Addressing and eliminating bias, stigma, and discrimination in healthcare settings.
- Upholding confidentiality and informed consent which are vital in building trust between trans patients and health professionals.

Practitioners must be able to provide care that affirms and validates trans people's identities rather than questioning them.

3. Data Disaggregation and Representation

The lack of accurate, identity-based data has long contributed to the invisibility of trans people in health policy and planning. TransSwati strongly supports the collection and disaggregation of health data that accurately reflects the diversity within the trans community, including:

- Gender identity (beyond the binary),
- Access to healthcare and health outcomes,
- Experiences with healthcare providers, including discrimination.

Such data is crucial for policy development, resource allocation, and advocacy. It helps identify gaps in service provision and ensures that interventions are targeted and effective in improving health outcomes for trans people.

We call on the committee to urge the Kingdom of Eswatini to do the following:

1. Develop and implement legislation that allows transgender individuals to change their legal gender markers through an affordable and accessible administrative process.
2. Enact and enforce anti-discrimination laws and policies in the health sector and sensitise health professionals through mandatory training on transgender health rights and inclusive service delivery.
3. Ensure public health facilities provide essential gender-affirming healthcare, including hormone therapy, mental health support, and referrals for gender-affirming surgeries.
4. Allow LGBTIQ+ community-based organisations to register legally and operate without fear of repression, as these groups are often the only providers of trans-inclusive health support, and their formal recognition would strengthen healthcare reach and quality.
5. The government must urgently invest in domestic health financing and implement rights-based policies to fill the gap and protect vulnerable and marginalised groups.