

# **STATEMENT**

## **UPR Pre-Session on The Kingdom of Lesotho**

**GENEVA, February 2025**

**Delivered by: Master of Healing Foundation**

### **1 - Presentation of the Organisation**

This statement is delivered on behalf of The Master of Healing Foundation, a not-for-profit, independent, non-partisan, research and advocacy organization set up to advance and protect human rights in The Kingdom of Lesotho. The Master of Healing Foundation has participated in UPR processes at the national level since 2018.

### **2 - National consultations for the drafting of the national report**

The Master of Healing Foundation led multistakeholder consultations for the development of the joint report. The said report included consultations with other local Civil Society Organisations (CSOs) and development partners that work for the rights and wellbeing of persons of diverse sexual orientations, gender identities & expressions and sex characteristics.

### **3 - Plan of the Statement**

This statement addresses the following issues: (1) The National Human Rights Institution (2) Welfare and wellbeing of persons with diverse Sexual Orientations & Gender Identities

### **4 - Statement**

#### **i. Establishment of a National Human Rights Institution**

##### **A. Follow-up to the first review**

During Lesotho's first Universal Periodic Review (UPR) in 2010, the establishment of a National Human Rights Institution (NHRI) was a significant focus. The UPR Working Group recommended that Lesotho expedite the creation of an NHRI in accordance with

the Paris Principles, which set international standards for such institutions. This recommendation aimed to enhance the promotion and protection of human rights within the country.

In response, Lesotho acknowledged the importance of establishing an NHRI and indicated its commitment to doing so. The government highlighted existing mechanisms, such as the Office of the Ombudsman, which had the mandate to inspect places of detention and address human rights concerns. Additionally, Lesotho emphasized ongoing human rights training for law enforcement officials to ensure that human rights principles were integrated into their activities.

Despite these acknowledgments, the recommendation to establish an NHRI in line with the Paris Principles remained a priority. The international community encouraged Lesotho to take concrete steps toward the formation of an independent and effective NHRI to strengthen its human rights framework.

Following the 2010 UPR, Lesotho made progress by enacting the Human Rights Commission Act in 2016, which provided the legal foundation for the establishment of the Human Rights Commission. However, as of the latest reports, the Commission is still in the process of becoming fully operational.

## **B. New Developments since the first review**

Since Lesotho's first Universal Periodic Review (UPR) in 2010, the country has undertaken several initiatives to establish and operationalize its National Human Rights Institution (NHRI). In 1995, the government established a Human Rights Unit within the Ministry of Justice, Law, and Parliamentary Affairs to promote, protect, and monitor human rights. This Unit has been instrumental in coordinating human rights education, facilitating the domestication of international human rights instruments, and preparing state party reports for treaty monitoring bodies.

In 2016, the Human Rights Commission Act was enacted, providing the legal framework for the establishment of the Human Rights Commission. However, challenges have impeded the full operationalization of the Commission. As of January 2024, issues surrounding the Omnibus Bill, specifically the 10th Amendment, have stalled the Commission's establishment. The Human Rights Unit continues to coordinate efforts to address these challenges and is reviewing the Act with the aim of repealing it to facilitate the Commission's formation.

In May 2023, Amnesty International urged Prime Minister Sam Matekane to fulfill his promise to ensure the realization of human rights, and highlighting the importance of establishing the Human Rights Commission as a mechanism to promote and protect human rights in Lesotho.

By September 2023, the Deputy Prime Minister and Minister of Justice, Law, and Parliamentary Affairs, Justice Nthomeng Majara, officiated a workshop on the International Covenant on Civil and Political Rights (ICCPR). During this event, the United Nations Resident Coordinator in Lesotho, Ms. Amanda Khozi Mukwashi, reiterated the need for the establishment of the Human Rights Commission to enhance the promotion of human rights in the country.

Despite these efforts, as of January 2025, the Human Rights Commission has not yet been fully operationalized. The government continues to face challenges in implementing the necessary legal and institutional frameworks to establish an independent and effective NHRI in line with the Paris Principles.

### **C. Recommendations**

We urge that the establishment of a national human rights commission by The Kingdom of Lesotho be prioritised. We recommend:

The Kingdom of Lesotho expedites the establishment of an independent National Human Rights Institution (NHRI) in full compliance with the Paris Principles. The NHRI should have a clear mandate, must be adequately resourced, and operational by [specific deadline] to promote and protect human rights, including the rights of LGBTIQ+ persons. A monitoring framework with measurable indicators to assess its effectiveness and impact should also be developed.

#### **ii. Welfare and wellbeing of persons with diverse Sexual Orientations & Gender Identities**

##### **A. Follow up to the first review**

Lesotho has undergone three cycles of the Universal Periodic Review (UPR) at the United Nations Human Rights Council, in 2010, 2015, and 2020. Across these cycles, the country has received recommendations related to the rights of LGBTIQ individuals, reflecting international concerns about discrimination and legal protections.

Lesotho's first UPR review included some general human rights recommendations, but LGBTIQ-specific recommendations were minimal. At the time, Lesotho did not have explicit legal protections for LGBTIQ individuals, and same-sex relations were criminalized under common law (though not actively prosecuted). The government did not accept recommendations to decriminalize same-sex relationships or adopt anti-discrimination laws protecting LGBTIQ people.

In the Second UPR Cycle (2015) LGBTIQ issues gained more attention, with several states recommending that Lesotho takes steps to protect sexual minorities. Key recommendations included:

- Decriminalizing same-sex relationships.
- Enacting laws to prohibit discrimination based on sexual orientation and gender identity.
- Recognizing LGBTIQ rights within broader human rights protections.

Lesotho **noted** (but did not accept) most LGBTIQ-related recommendations, citing cultural and religious sensitivities.

In the Third UPR Cycle (2020) LGBTIQ issues remained a significant topic, with multiple recommendations calling for:

- Decriminalization of consensual same-sex relations.
- Explicit anti-discrimination laws.
- Protection of LGBTIQ individuals from violence and social exclusion.

Lesotho once again **noted** rather than accepted many of these recommendations, maintaining a cautious stance due to societal resistance.

## **B. New developments since the first review**

Since Lesotho's first Universal Periodic Review (UPR) in 2010, there have been notable developments concerning the rights of LGBTIQ+ individuals in the country:

### **Legal Reforms**

- In **2012**, Lesotho decriminalized consensual same-sex sexual activities, marking a significant step toward legal equality for LGBTIQ+ individuals.
- The Labour Act of **2024** introduced explicit protections against discrimination based on sexual orientation and gender identity in employment. This legislation also addresses gender-based violence and harassment in the workplace, encompassing issues related to sex, gender, and gender identity.

### **Advocacy and Social Initiatives**

- **Pride Events:** Since 2013, annual pride events have continued, fostering community solidarity and raising awareness about LGBTIQ+ issues in Lesotho. The events are peaceful and receive support from local authorities, symbolizing growing visibility and acceptance of the LGBTIQ+ community.

## Judicial Engagement

- **Workshops with the Judiciary (2023):** In April 2023, the International Commission of Jurists (ICJ) and the People's Matrix Association conducted workshops with Lesotho's judiciary to discuss human rights issues related to sexual orientation and gender identity. These sessions aimed to enhance understanding and ensure better access to justice for LGBTIQ+ individuals.

Despite these advancements, LGBTIQ+ individuals in Lesotho continue to face societal discrimination, including social stigma.

## C. Recommendations

In order to ensure the welfare, wellbeing and the protection of the rights of people with diverse sexual orientations, gender identities & expressions and sex characteristics, we recommend that:

- **Amend existing laws**, including the Registration of Births and Deaths Act of 1973, the National Identity Cards Act of 2011, the Passports and Travel Documents Act of 2018 and the Data Protection Act, to correct outdated and inconsistent terminology and eliminate abusive requirements in order to ensure that all individuals can access the human right to legal gender recognition based on self-determination through a quick, transparent and accessible administrative procedure.
- **Enact comprehensive anti-discrimination legislation by 2026** that explicitly criminalizes discrimination and violence against LGBTQ+ individuals. Ensure that law enforcement agencies receive mandatory, ongoing training on LGBTQ+ rights, and establish a specialized reporting and prosecution mechanism by 2027
- **Incorporate questions** on sexual orientation, gender expression, and sex characteristics into the National Census so that the national database has the correct numbers for purposes of planning and allocating resources to the LGBTQ+ community.

Thank you for your attention.