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LGBTIQs & HUMAN RIGHTS

A presentation by The Commission on Human Rights and Public Administration / Integrity in Eswatini.

Presented at the request of Eswatini Sexual and Gender Minorities.



STRUCTURE OF PRESENTATION

- **WHAT ARE HUMAN RIGHTS**
- **KEY COMPONENT OF HUMAN RIGHTS**
- **SOURCES OF HUMAN RIGHTS**
- **LIMITATIONS OF HUMAN RIGHTS**
- **CORE HUMAN RIGHTS INSTRUMENTS**



WHAT ARE HUMAN RIGHTS?

- Entitlements accruing to human by virtue of being human
- Universal legal guarantees protecting individuals and groups against interference with their fundamental freedoms and human dignity.
- Human rights law obliges governments to protect, promote and fulfil human rights



PRINCIPLES OF HUMAN RIGHTS

Principles of Human Rights –

- Equality and Non-discrimination,
- Universality,
- inherent,
- inalienable,
- indivisible,
- inter-dependent and inter-related

These are all based on the principle of BUNTFU!



SOURCES OF HUMAN RIGHTS

- INTERNATIONAL TREATIES AND CONVENTIONS
 - UNITED NATIONS BASED
 - AFRICAN UNION BASED
 - REGIONAL BASED (RECs/RMs)
- NATIONAL CONSTITUTIONS AND LEGISLATIONS



LIMITATIONS OF HUMAN RIGHTS

- It is the duty of all citizens to respect the rights of others and to observe the lawful and necessary requirements of maintaining public order in a democratic society
- Limitations and restrictions to the exercise and enjoyment of these are determined by law;
 - To ensure respect for the rights and freedoms of others
 - To meet the requirements of morality , public order and the general welfare in a democratic society.



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WHO MONITORS THEM?

- National Human Rights Institutions
- Courts
- Parliament
- Media
- Trade Unions
- Local and International NGOs and FBOs
- Regional and International Treaty bodies – Committees



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CORE HR INSTRUMENTS/TREATIES

- **UDHR- Universal Declaration of Human Rights**
- **ICCPR -International Covenant on Civil and Political Rights**
- **CESCR- International Covenant on Economic and Cultural Rights**
- **CERD-International Convention on the elimination of all Forms of Racial discrimination**
- **CAT- Convention Against Torture and other Cruel or Degrading Treatment or Punishment**
- **CEDAW- Convention on the Elimination of All Forms of Discrimination against Women**
- **CRC- Convention on the Rights of the Child**



HUMAN RIGHTS PROTECTIONS

- KEY HUMAN RIGHTS PROTECTED UNDER THE CONSTITUTION- LIMITATIONS (S 14(3))
 - RIGHT TO LIFE - ACCES TO HEALTH (Section 15)
 - INHUMAN AND DEGRADING TREATMENT (Section 18)
 - FREEDOM OF EXPRESSION (Section 24)
 - EQUALITY PROTECTION BEFORE THE LAW 20(2)
 - NON DISCRIMINATION 14(3)
 - FREEDOM OF CONSCIENCE AND RELIGION – SECTION 23



PRINCIPLE OF NON DISCRIMINATION

Discrimination

- treating people differently – a distinction, exclusion restriction or preference based on one or multiple characteristics.
- has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on equal footing, of all rights and freedoms.
 - Considered “less than”
 - Vulnerability
 - Mistreatment
 - Difference in treatment



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PROTECTION FROM INHUMAN AND DEGRADING TREATMENT

- Protection from inhuman or degrading treatment.
- Prison search procedures are based sexual reproductive organs to categorise LGBTI
- Sexual abuse and rape (corrective rape) SODV??
- Verbal humiliation and name calling
- Lack of sympathy and response when cases of rape are reported by complainants known to be amongst LGBTI



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Right to life 15 (Access to health)

- LGBTIs are more likely to suffer from different health conditions, e.g. problems associated with drug abuse since often they will have been forced into a lifestyle that includes risk behaviours, because of prejudices relating to their sexual orientation or gender identity.
- LGBTI Prisoners with gender dysphoria, once detained, are often said to be denied medical treatment for gender dysphoria, such as hormone therapy.
- Treatment of STIs and access to other reproductive health information and products and services.



FREEDOM OF EXPRESSION

- LGBTIs have the right to express themselves freely.
- Lack of Conducive environment for free expression – e.g for
 - coming out
 - Dressing the way they do
 - Discussing their issues without judgement

END OF PRESENTATION



THANK YOU!