



UPR 43rd Pre-session 4th Report for Tonga
Decriminalization of SOGIESC Rights in Tonga

Read By: **Mr. Taufu'i 'Ae Valu Naufahu**

Mr. President,

We speak on behalf of the Tonga Leitis Association (TLA), which is a non-government organization and it is the sole organization that deals directly with the LGBTQI+ members in Tonga.

We confirm that the Government did not organize a national consultation in preparation of the National UPR 4th Report.

There will be two thematic that we will be focusing on, and that is, first, the need to decriminalize same sex activities and amend the legislation accordingly; and secondly, the needs to translate the SOGIESC terminology into Tongan so that legal drafters can incorporate into current or new legislation.

During the previous cycle, Tonga received 31 recommendations related to decriminalization of same sex marriage and sex activities. Among these recommendations, none has been implemented except for the establishment of the Family Protection Legal Aid Center in 2018. However, this Centre works under the mandate of the Family Protection Act which limited to free legal assistance and advice for the domestic violence and gender based violence survivors only. Severe cases which involve sexual violence and sodomy under the Criminal Offences Act, the Police and Public Prosecutors will take over and this is where the issues arise. The public servants including the police officers, public health and teachers, are not fully aware of how and what they should do to protect the human rights of LGBTQI+ when cases are brought forward for their assistance. This is a clear indication that there is a need and that there are gaps between the law and the implementation that the Government should consider. There is an existing Government Department claiming that they are promoting Gender Equality, however, this division only focus on women.

The second thematic deals directly with the needs for the SOGIESC guideline to be translated into Tongan. During the previous cycle, Tonga received 41 recommendations related to the need to



take urgent measures to repeal the norms and regulations that sanction and discriminate the minorities .Only 1 recommendation has been implemented, and that is the amendment to the Criminal Offences Act on the definition of rape. Translation of the SOGIESC guideline is part of these measures that the Government should prioritize in order for Tonga to have a national guideline. This guideline will be useful for legal drafters, so that they can incorporate the new and amendment legislation in order to be inclusive for the public and relatable to local populations. Family Life Education has now incorporated into the curriculum for both Primary and Secondary Schools. However, it is important to note that the complete Curriculum Sexual Education Module is not fully included as to how it should be because of no appropriate translation for SOGIESC available at this stage.

Therefore, we recommend the following for Tonga followed by the recommendations from the Member States on the third (3rd) Cycle:

- A. To amend the Criminal Offences Act to decriminalize consensual same sex activities;
- B. To amend existing legislation that discriminates against LGBTQI+ persons, including those related to ‘cross dressing’, access to health care and same-sex marriage such as:
 - a. Birth, Death and Marriage Act;
 - b. Health Act and Regulations;
 - c. Education Act and Regulations;
 - d. Interpretation Act;
- C. Establish the National Human Rights Institution and a separate Government Department to specifically focus on Human Rights of LGBTQI+ and Gender Equality/Identity under the Ministry of Internal Affairs;
- D. To support and empower Human Rights capacity building and public awareness at the National level;
- E. To amend current gender specific language that excludes diverse SOGIESC in national legislation.

Thank you.