



## 50/50 POLICY BRIEF ESWATINI

## **APRIL 2020**

# 30% to 50/50 9

### Key facts

This policy brief sets out women's representation in political decision-making at local and national level in Eswatini. The policy brief makes the case for urgent action to achieve gender parity at all levels of political decision-making. With 15% women in local government, 15% in parliament and 32% in cabinet, Eswatini is far from reaching the gender parity goals set out in the Southern African Development Community (SADC) Protocol on Gender and Development Protocol which is aligned to the Sustainable Development Goals (SDGs).

The policy brief sets out key issues and options for the increased representation

of women in politics in Eswatini following the September 2018 elections that witnessed a decline in women's political representation at national and local level, despite an act of parliament passed in the same year to ensure a minimum 30% representation of women in parliament. The issue is of critical importance as Eswatini continues to violate its own Constitution, and now also the laws put in place to try to ensure that the Constitution is upheld. Urgent action is required to hold the government to its commitments.

	Last election/ announcement	Next elections	Electoral system	No of seats/ candidates/ appointments	No of women elected	% of women elected
House of Assembly	2018	2023	FPTP	65	6	9%
Senate	2018	2023	FPTP	30	10	33%
Both houses				95	16	17%
Prime Minister	2018	2023	Appointed			
Cabinet <sup>2</sup>	2018			19	6	32%
Local government	2017	2022	FPTP	97	15	15%
Tinkhundlas	2018			59	9	15%

Source: IPU website accessed on 7 April 2020 and GL Elections Data.

Appointed by the King.
Appointed by the King.

## Barriers to Women's Political Participation

Eswatini is the only traditional monarchy in SADC and is a deeply patriarchal society. Only a few women close to power get political leadership; many through nominations. The no- party First Past Post (FPTP) electoral system is an added barrier to women's political participation in Eswatini.

Women are discouraged from running for office due to self-esteem and confidence; limited resources; lack of support amongst women themselves; and socio-cultural and gender stereotypes about women that lead to their discrimination and exclusion. Women's economic and household responsibilities, as well as mourning rituals for widows, also preclude women from participating in electoral processes. Married women may require the approval of their husband to vote or participate in elections.3 Late campaigning and corruption compound these barriers. Due to their inferior position in society, women are unlikely to express themselves honestly or to nominate other women who do not have the support of male leaders in party nomination processes.

#### Normative frameworks

International Policy Framework: Eswatini is signatory to several international instruments providing for gender equality including the Sustainable Development Goals, Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (1991); the Beijing Declaration on the Platform for Action (1995); the Convention on Civil and Political Rights (CCPR); the Equal Remuneration Convention; the Convention on Prohibition of Discrimination in Occupations, Convention on the Elimination of the Worst Forms of Child Labour and the Convention on Economic, and Social and Cultural Rights (ECOSOC).

Eswatini ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 26 March 2004. Eswatini has not yet adopted a National Action Plan on United Nations Security Council Resolution 1325 (UNSCR 1325). ESwatini signed the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (The Maputo Protocol) on the 7 December 2004 but has not ratified it.



Primary elections in Hhoho in 2018 elections.

Photo: Thandokuhle Dlamin

These instruments advocate women's equal and effective participation in all areas of decision-making.

**Domestication:** The provisions on women's political participation have been domesticated through the Gender Policy (2010); however, these provisions are still far from being realised in reality. The office of the Deputy Prime Minister is responsible for gender equality in the kingdom.

National Policy Frameworks: Eswatini developed and adopted a Gender Policy in 2010. The policy states that the Government shall ensure a fair representation and participation of women and men in all decision-making positions and structures and ensure the provision of increased capacity for leadership particularly for women.<sup>4</sup> Programmatically, the Gender Policy commits to increase women's participation in power structures and decision-making positions at different levels of governance.

#### Constitutional provisions

The Constitution of the Kingdom of Eswatini states in Article 14 (f) that it will respect for rights of the family, **women**, children, workers and persons with disabilities.

Article 29(1) states that **women** have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities. The Constitution further states in 29(2) that subject to the availability of resources, the Government shall provide facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential and advancement. Article 84 of the Constitution states that:

 $<sup>^3</sup>$  OECD, Social Institutions and Gender Index for the Kingdom of Eswatini, p.11. Eswatini Gender Policy, 2010.

- (1) Subject to the provisions of this Constitution, the people of Eswatini have a right to be heard through and represented by their own freely chosen representatives in the government of the country.
- (2) On women holding Public Office, Section 84 (2) of the Constitution states that "Without derogating from the generality of the foregoing subsection, the women of Eswatini and other marginalised groups have a right to equitable representation in Parliament and other public structures".

#### **Electoral System**

Eswatini replaced the Westminster electoral model by the tinkhundla system to facilitate traditional and the western styles of government in 1978. Political parties are not allowed to contest. Instead, individuals are elected to parliament from 59 constituencies known as "Tinkhundla."

Section 95 (1) of the Constitution permits a maximum of 76 members of the lower chamber, or house of assembly. There are currently 65. Fiftynine members are elected from single-member constituencies corresponding to the *tinkhundlas*. Candidates are first nominated at the tinkhundla level through 385 chiefdoms in the four regions nationwide. In the primary elections the top three finishers by secret ballot then proceed to a general election, also by secret ballot, in a first-past-the-post system of voting, where the candidate who receives the most votes is elected.

The King appoints the other ten members, at least half of whom must be women. Article 86 of the

Constitution states that if, after the first meeting of the House after any general election, "it appears that female members of Parliament will not constitute at least 30% of the total membership of Parliament", the House shall form itself into an electoral college and elect not more than four women from the four regional administrative districts (Hhohho, Manzini, Shiselweni and Lubombo)in accordance with the provisions of section 95(3) of the Constitution.

The Senate consists of thirty Members (called Senators). The House of Assembly elects ten Senators (by majority vote) and the King appoints the remaining twenty. Appointed Senators include chiefs, Princes and Princesses (Bantfwabenkhosi) and special interests. Of the ten Senators elected by the House of Assembly, at least half should be women. Of the twenty appointees to Senate, at least eight should be women.

The Election of Women Members to the House of Assembly Act (2018) aimed to give effect to Section 86 of the 2005 National Constitution to increase the participation and representation of women in politics. The Women's Caucus in parliament initiated the legislation to enforce the Constitutional provisions in the 2018 elections. The Act provides for "the election of the women members to the House of Assembly where, after any general election, it appears that the female members of Parliament will constitute less thanthirty percent of the total membership of Parliament." This gives effect to section 86 (1) in the Eswatini Constitution which states that: "Where at the first meeting of the house after any general election it appears that female members of Parliament will not constitute at least 30 per cent of the total membership of Parliament, then, and only then, the provision of this section shall apply."

The debate on Bill reflected the strong resistance that still exists to women's political participation. Mbabane West Member of Parliament (MP) Johane Shongwe said that wives should not stand for election unless they had the permission of their husbands: "It is difficult for women to nominate one another in chiefdoms. Therefore, it is advisable for them to get permission from their husbands. I was nominated by a woman to be where I am right now, to show that most women would rather nominate a man than another woman." The MP added that women MPs would sometimes attend workshops at places far away from their homes. This would



mean they would have to go for days without sleeping next to their husbands at home. The local media reported that "traditionalists do not support a constitutional change to ensure 30 percent of members of the House of Assembly are women."5

#### Local government

Local government is enshrined in the Constitution. There are 13 urban local authorities and 59 rural councils called Tinkhundla. As a single countrywide system of local government has not been put into place, there are Rural Local Authorities (under the Ministry of Tinkhundla Administration and Development) and the Urban Local Authorities (under the Ministry of Housing and Urban Development).

#### The "Traditional" Tinkhundla-based system: According to Section 79 of the Constitution, "The system of government for Eswatini is a democratic, participatory, tinkundhla-based system which emphasises devolution of state power from central government to tinkundhla areas and individual merit as a basis for election or appointment to public office Constitution."

The primary objective of the tinkhundla-based system of government is to bring government closer to the people so that the people at subnational or local community level progressively take control of their own affairs and govern themselves. Local government is organised and administered, as far as practicable, through democratically established regional and subregional councils or committees. 6 The Decentralisation Policy says that the Tinkhundla system has been adopted as a political philosophy and system of governance as well as an administrative instrument for service delivery to ensure that Swazis directly participate in governance and development. The main aim of local government is to provide citizens with affordable and non-interrupted quality services (Decentralization Policy, 2006:7)

Each Inkhundla is headed by a Regional Administrator (RA), who is the political head of the region. He or she is appointed by the King and reports to him for any traditional duties. The duties of the RA include overseeing the operations of the Tinkhundlas within his or her region and taking responsibility for chieftaincy matters and all other matters that are regulated by Swazi law and custom (UNDP, 2003). In terms of the King's Order No. 23/1978 and the Constitution, the RA has the



Eswatini elected women Councillors pose for a photo during a GL 50/50 meeting

same status and has the same rights and privileges as a Deputy Minister.

Chiefdom level: Each of the 59 Inkhundla comprises of a number of imiphakatsi (chiefdoms), administered by chiefs on behalf of the King. The Tinkhundla centres are supposed to serve as forums for development activity and efficient delivery of government services at the "grassroots" level.

In each Inkhundla there is an Inkhundla committee which is the executive council of the Inkhundla. This committee is made up of the Indvuna, who is elected on the Inkhundla every five years and who heads the Inkhundla committee as well as Bucopho who are democratically elected (every five years) representatives from each of the chiefdoms (imiphakatsi). The local member of Parliament (MP) sits on the Inkhundla Committee in an ex officio capacity.

**Urban Government:** Co-existing with the traditional structure is the modern urban government system which comprises of:

- City Councils: There are two City Councils in Eswatini, namely Manzini and Mbabane.
- Town Councils: There are five town councils in Eswatini which form the second grade of local councils. They are Pigg's Peak, Nhlangano, Matsapha, Ezulwini and Siteki. These five councils are still in their infancy and because of this their ability to contribute to economic development in their respective areas of jurisdiction is very limited.

http://allafrica.com/stories/201805250765.html The Constitution of the Kingdom of Eswatini Act 2005, 2005, p.102.

• Town Boards: There are six town boards namely, Lavumisa, Vuvulane, Mankayane, Ngwenya, Malkerns and Hlathikhulu. All the towns administered by Town Boards are towns only by official proclamation. They are economically undeveloped, with the result the constituents cannot rely on them for much except some limited administrative services.

Municipalities' work through defined structures in the Act: Councillors, committees and staff members. Councillors are appointed through an electoral process. The Municipality is divided into territorial wards; elected Councillors are appointed to respective wards. This Act is silent on gender equality. Other Acts on Local Government include the Town Planning Act no.45 of 1961, The Building and Housing Act no. 34 of 1968, The Rating Act of 1967, The Eswatini Environmental Act of 1992.

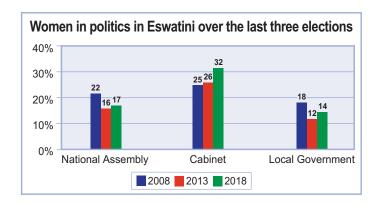
Chapter XIII, Section 221 of The Constitution of the Kingdom of Eswatini Act 2005, underscores the mandate of Local Government. But the Constitution is silent on voting for Local Authorities. Even the Election Act No. 10 of 2013 concentrates on voting at Parliament and in Rural Local Authorities leaving only the Urban Government Act to define voting in Urban Local Authorities.

#### **Political Parties**

King Sobhuza II banned political parties in Eswatini in 1973 and this proclamation has not been repealed. Political parties exist but may not contest elections. Some political parties in Eswatini include the African United Democratic Party (AUDP), Communist Party of Eswatini, Inhlava Party (previously Inhlava Forum), Ngwane National Liberatory Congress (NNLC), Ngwane Socialist Revolutionary Party (NGWASOREP), Peoples'

United Democratic Movement (PUDEMO), Sive Siyinqaba National Movement and Impbokodvo National Movement.

## Elections outcomes over the last three elections



The graph tracks women's participation in political decision-making in Eswatini over the last three elections (2008 to 2018). It shows how, despite the Constitutional and legislative provisions for at least 30% women in parliament this figure has dropped from 22% in 2008 to 17% in 2018. Women's representation in local government has also dropped from 18% to 14%. The only area in which women's representation in political decision-making has increased is in cabinet, from 25% in 2008 to 32% in 2018. The increase of women's representation in cabinet is an indicator of political will at the highest level to bring about change. However it is worrying indeed that even after the adoption of the Election of Women Members to the House of Assembly Act (2018), Constitutional provisions for women's representation in parliament continue to be breached.

Statutory provisions versus actual representation of women in parliament								
Chamber	Elected	Women	Appointed	Women	Total seats	Total women	% women	
House of Assembly provision	59	0	10	5	65	5	8%	
House of Assembly actual	59	2 + 4	10	0	65	6	9%	
Senate provision	10	Half - 5 shall be women	20	At least 8 shall be women	30	13	43%	
Senate actual	10	5	20	5	30	10	33%	

Gender Links SADC Gender Protocol Barometers 2019, 2018, 2017.

The table shows that although the Constitution provides for 30% women in the House of assembly, the only concrete measure to achieve that is the provision that half of the women appointed by the King must be women. This only guarantees 8% women in the lower chamber.

In the recently held National elections (2018) only two women out of a constituency of 59 Tinkhundla were voted in. Women elected came from one region (Manzini). Four women were nominated into the House of Assembly following the failure to meet the 30% target as stipulated by the National Constitution. Of his ten appointees, the King did not appoint half women. This resulted in just six women obtaining seats. The senate provisions for women's representation are more water tight. Half of the ten senators elected by the House of Assembly must be women and eight of the twenty appointed senators have to be women (a requirement altogether of 43% women). However, this provision was also not honoured. Altogether women comprise 33% of senators. Overall (house and senate together) women constitute 17% of the total, which is well below 30%.

# Options for increasing women's representation

As witnessed both at local and national level, the FPTP system is not conducive to women's political participation. Eswatini has consistently failed to achieve the minimum 30% target for women in political decision-making set by the Constitution and legislation. The gains made have largely been due to quotas for women among appointed members of parliament and senators. Short of changing the electoral system, Eswatini needs to examine the nature of the quota that it is applying within the FPTP system and question why it is not working. In multi- party systems a common reason for quotas not working in FPTP systems is that women get fielded in constituencies where parties are unlikely to win. In Eswatini, a useful start would



Women In Local Government Forum Consultative Meeting 2020.

Photo: Gender Links

be to amend the Constitution and Election of Women Members to the House of Assembly Act (2018) to include 50% of all candidates being women. This measure needs to be accompanied by public education and awareness on the importance of women's leadership. Eswatini's bottom up approach to governance provides an excellent opportunity to popularise women's leadership from village to regional to national level.

#### Other factors

#### Electoral laws

Eswatini has six electoral laws namely:

- The Elections and Boundary Act No. of 2013 Provides for the administrative operations of Elections and Boundaries Commission.
- Voter's Registration Act No. 8 of 2013 Provides for the various aspects of the voter registration process. This includes the application for the registration as a voter, the qualifications for registration, the compilation and preparation of the draft voters roll, the verification and finalization of the voters roll.
- Elections Expenses Act No. 9 of 2013 Provides for regime of accountability of candidates in the conduct of campaigns. It calls upon a candidate who exceeds the prescribed limit to account for the financial sources of his or her campaign.
- Elections Act No. 10 of 2013 Deals with the elections process. It provides the appointment of the polling staff, the setting up the polling station, the opening, conduct and closing of the station. It also deals with the counting and announcement of results. The Act also establishes corrupt election practices and norms on election observation.
- The Senate Elections Act No. 11 of 2013 Provides for the procedure of the election of the ten Senators who are elected by the House of Assembly in its first sitting.
- The Parliament Petition Act No. 12 of 2013 Provides how an election can be litigated in a court especially on the form of procedure to be used. Before the passing of this law, there were varying judgements on whether a litigant must approach the court by means of an application or by petition.

These laws are silent on gender equality and women's representation. There is a urgent need for all electoral laws to be made gender aware.

#### Electoral Management Body

Election Management Bodies (EMBs) ensure that the environment in which elections take place is conducive to the conduct credible elections.8 EMBs are responsible for the management and conduct of elections and play a crucial role in ensuring that fair elections are held and in the end accepted.9 EMBs need to begin, "in their own institutions, by ensuring that women are given positions of responsibility and that the policies and practices of the institution work to improve the status of women in society. This might involve creating incentives for women to become election administrators; training all members of staff to be sensitive to gender issues; and collecting gender-disaggregated statistics in order to evaluate women's participation; and, identifying aspects of the democratic process that can be improved."10

The Eswatini Constitution Chapter V11 Part 1(c) 80 states that there shall be one independent authority styled the Elections and Boundaries Commission (EBC). The Eswatini's Elections and Boundaries Commission is established by section 90 of the 2005 Constitution and comprises five members including the Chairperson, Deputy Chairperson and three other members. Currently there are four Commissioners, of which only one, the Deputy Chairperson, is a woman.

The Communication and Marketing strategy for the 2018 National Elections was an extension of the civic and voter education program. It aimed to improve the election of women targeting two traditional groups Lutsango (Women Regiment) and Imbali (Youth regiment) and communities. Experts produced and presented a series of communication and marketing strategies, promotional activities and products to the Commission. These included a wide range of advertisement, jingles and an inclusive campaign slogan "Ngete Ngasala Sakha Live" to name a few. After consultations, one company was engaged to coordinate an intensive and consistent marketing strategy.

The 2018 elections, the third under the 2005 Constitution saw the Election and Boundaries Commission (EBC) make an effort to reach out to marginalised groups such as youth, women and persons with disabilities. The EBC's civic education has included encouraging greater and more meaningful participation by these groups in all aspects of the process, not only as voters but also as candidates for all three elective offices, namely Bucopho (development committee), Indvuna yeNkhundla (chair of this committee) and Member of Parliament (MP).

Voter Registration in Eswatini by region and sex 2018						
REGION	GENDER					
REGION	Male	Female	Total			
Hhohho	69 710	77 606	147 316			
Manzini	82 087	93 162	175 249			
Lubombo	51 793	57 951	109 744			
Shiselweni	51 575	62 900	114 475			
TOTAL	255 165	291 619	546 784			
Proportion	47%	53%	100%			

The Commission registered 546, 784 voters; (84%) of the eligible voter population, a 14% increase compared to 2013). Women comprised 53% of voters, compared to men (47%). These figures show that while women engage actively in voting in Eswatini, they still face many hurdles as aspirants and candidates.

## Civic and Voter Education

Civic and voter education is a very important process in preparing the voter to take part in elections from an informed position. It enhances the voter's decision in rightly choosing a candidate of his or her choice. Section 90 (7) (b) of the Constitution requires the Commission to "facilitate civic or voter education as may be necessary in between elections." The Commission has come

SADC Gender and Development Monitor 2016.
 Commonwealth Secretariat (2016) Election Management: A Compendium, of
 Commonwealth Good Practice.
 Commonwealth Compendium of Good Election Management Practice.

up with various civic and voter education strategies which involved visiting all constituencies and chiefdoms in the country. There are also meetings with various collaborating partners including nongovernment organizations to ensure that the civic and voter education exercise is carried through harmoniously.

To ensure a comprehensive civic and voter education exercise, the Commission developed a civic and voter education manual through a consultative process with its stakeholders. The manual targeted all sectors of society such as the disabled, women and the youth. The Commission conducted civic and voter education in 385 chiefdoms/polling divisions and other designated areas around the country during the 2018 elections through presentations, dialogues and distribution of educational material were the models of communication.

#### Campaigning

The Eswatini election campaigns consists of both organised and general campaigns. The Commission provides a Code of Conduct for the candidates for campaigns. The print media also assists the candidates in profiling campaign statements. There are no standards put in place guiding candidates on time allocation, topics/content and manner of presentation during the organised campaign bring a great disadvantage to women. Corruption or "vote buying" is rife in this process. Women are disadvantaged in campaigning by limited resources to fund their campaigns.

# Violence Against Women in Elections (VAWIE)

As Eswatini operates a no-party electoral system, the issue of VAWIE related to political party election contest does not arise. However, the individual merit-based system does not make women immune to violence either. Eswatini's elections are generally characterized as peaceful and incidents of overt violence are rare. Nonetheless, women participating in elections report experiencing subtle and insidious forms of violence in the form of threats, intimidation and sexual harassment through the election cycle. A form of overt violence that has increased during election is that of ritual killings, where women comprise a higher proportion of victims. In terms

of mitigating potential threats, there are ongoing awareness-raising and capacity-building initiatives to assist women with knowledge and skills of how to protect themselves against such violence and how to obtain redress when such violence occurs.

#### The role of the media



Media Communications Trainer Mr Comfort Mabuza during the Women with Disabilities 5050 campaign dialogue at Bethel. Photo: Thandokuhle Dlamini

Freedom of expression in Eswatini is guaranteed by section 24 of the 2005 national constitution. However, subsequent clawback clauses restrict this right. There also remain a number of draconian laws that relate to contempt of court, defamation and limited access to information that are contrary to the constitution but have not been amended hence continue to operate and impede the media's diversity, pluralism, independence and overall freedom to play its role effectively.

The 2015 Gender and Media Progress Study measured the proportion of women sources in the media overall, as well as in the political topic category. In Eswatini, women comprised 18% of sources overall, and 8% of sources in the political topic category. Thus although women constitute over 50% of the population, they only comprise 8% of sources in the political topic category. The study finds that:

- The views of women candidates are often not profiled or trivialised.
- Male spokespersons dominate.

The views of women voters are seldom canvassed.

#### Civil society

There is no institution established by the Constitution to promote gender equality; however, during elections, the Gender and Family Issues Department under the Deputy Prime Minister's Office conducts campaigns with civil society

during elections to promote women's participation in elections. Gender Links, Women in Law Southern Africa are some of the civil society organisations working on gender and elections. Together over the years these organisations have run spirited "vote for a woman" campaigns.

#### Conclusions and Recommendations

The regression in women's political participation in Eswatini despite national, regional and international commitments to gender equality is a concern. The FPTP system is not favourable for women's representation especially at the national level. The banning of political parties leaves little chances for those women not close to power to be in political leadership. The monarchy has power to change women's representation through appointments.

Limited information on the roles of elective officers, resulting in conflict amongst these officers (MP, Indvuna yeNkhundla and Bucopho) is further hindrance to women's representation and participation in politics. There is conflict in the functions of the elective officers and the chiefdoms/traditional structures which negatively affects the development/governance of communities especially women voters and candidates. There is need to harmonise the chiefdom development agenda and the National Development Plan to favour women's political representation. The electoral legal framework needs to be reviewed to address these concerns. Some recommendations are:

#### Electoral systems and quotas

- Conduct advocacy and lobby for changes that will raise the minimum threshold of women's MPs from a minimum of 30% to 50%.
- Lobby for a 50% women candidacy quota in the constituency based elections, in addition to the 50% quota for women appointees.
- Extend this quota to local government.

#### Electoral Laws

- Review the banning of political parties to allow women from all classes to contest elections.
- Include specific clauses on gender and women's representation.

- Ensure that the 30% quota for women's representation is met at candidate nomination stage and raise this to 50%.
- Implement the Election of Women in the House of Assembly Act (2018); raise the threshold from 30% to 50% and extend this to include local government.
- Review the conduct and period of the campaign to eliminate VAWIE.
- Review and unpack the individual merit/ competences of politicians.

#### Elections Management Body

- Work with the EBC to develop and implement a gender and elections policy and checklist.
- Undertake awareness-raising, civic and voter education initiatives aimed at promoting women's greater and more effective participation in elections and in politics and governance.

#### Media

 Build capacity of the media to reflect women's political participation in a progressive way that promotes gender equality in governance, rather than perpetuates stereotypes about women's unsuitability for leadership.

#### Civil society organisations

These should be supported to gear up their watchdog and advocacy role through, among others:

 Establishment of fundraising networks and organisations for women candidates which can provide important seed funds to women in the early stages of seeking the party nomination.

- Monitoring electoral processes from a gender perspective, conducting gender audits of elections and widely publicising the findings.
- Lobbying for electoral reform.
- Concerted, well-coordinated 50/50 campaigns at national and local level that lead to a paradigm shift in patriarchal power dynamics that are at the core of women's exclusion.
- Build capacity of aspiring and elected women (Bucopho, Indvuna Yenkhundla and MPs) with
- knowledge and skills, in the former case, to effectively participate in the elections and in latter case, to promote gender equality commitments at their levels of operation.
- Conduct advocacy and lobby the relevant structures to address discriminatory laws and customary practices that discriminate against women in elections and to pass enabling legislation that advances the 50/50 campaign agenda.



Team Eswatini showcasing their dancing skills.

Photo: Gender Links

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