



# FROM THE INSIDE OUT

social exclusion linked to sexual orientation, gender identity and expression and sex characteristics  
**in Eswatini, Malawi and Zimbabwe**



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Researched and written by Alex Müller and Melanie Judge.<sup>1</sup>

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## ETHICS STATEMENT

This study was conducted in accordance with standard, accepted norms for research ethics. Informed consent was sought from all study respondents, and the confidentiality and anonymity of respondents were ensured throughout. Participation in the study was voluntary and the principle of avoiding harm governed the research process, including through the provision of relevant information about accessing support services. Proper consideration was given to assuring scientific integrity and validity.

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1. Alex Müller (Dr.med.) is an independent consultant and an adjunct associate professor at the Gender Health and Justice Research Unit at the University of Cape Town. Melanie Judge (PhD) is an independent consultant and an adjunct associate professor in public law at the University of Cape Town.

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## LIST OF ABBREVIATIONS

<b>COSPE</b>	Cooperazione Per Lo Sviluppo Dei Paesi Emergenti
<b>CSO</b>	Civil Society Organisation
<b>GNC</b>	Gender Non-Conforming
<b>HIV</b>	Human Immunodeficiency Virus
<b>HRD</b>	Human Rights Defender
<b>LGBTQI</b>	Lesbian, Gay, Bisexual, Transgender, Queer and Intersex
<b>MSM</b>	Men Who Have Sex with Men
<b>NGO</b>	Non-Governmental Organisation
<b>NRA</b>	Nyasa Rainbow Alliance
<b>ROH</b>	The Rock of Hope
<b>SALC</b>	Southern Africa Litigation Centre
<b>SDG</b>	Sustainable Development Goal
<b>SOGIESC</b>	Sexual Orientation, Gender Identity and Expression, and Sex Characteristics
<b>TREAT</b>	Trans Research Education Advocacy and Training
<b>UN</b>	United Nations



# EXECUTIVE SUMMARY

This research report presents empirical evidence on the social exclusion of lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) people in Malawi, Eswatini and Zimbabwe. The research aimed to identify context-specific dimensions of social exclusion based on sexual orientation, gender identity and expression, and diversity of sex characteristics (SOGIESC); to develop a context-appropriate tool to measure that social exclusion; and to generate empirical evidence in the three countries for ongoing advocacy and strategic litigation to advance LGBTQI rights in Southern Africa.

The review of literature shows that social exclusion is multi-dimensional and operates at different levels such that measures of exclusion should be designed to account for contextual factors that impact both its experience and measurement.

Informed by the literature and in consultation with LGBTQI activists and communities in Malawi, Eswatini and Zimbabwe, the research framework for measuring SOGIESC-related social exclusion comprised the following four dimensions:

**SOCIETAL:** This includes openness about SOGIESC status in the family or household; representations of LGBTQI people in the mainstream media; participation in family gatherings; and expressing sexual or gender identity in public.

**CIVIC & POLITICAL:** This includes seeking police protection; representation and participation in political processes; and access to education, health and social services.

**RELIGIOUS & CULTURAL:** This includes participation in religious and cultural events or practices; and seeking guidance from religious or cultural leaders.

**ECONOMIC:** This includes participation in formal and informal economies; and access to land, employment and financial services.

Through community consultations in Malawi, Eswatini and Zimbabwe, a two-part survey was developed to collect data on social exclusion at structural, individual, household and community levels. Part I focuses on the structural and institutional environment and concerns discriminatory laws and policies; protections against violence and discrimination; and legal recognition of LGBTQI rights and freedoms. Part II is a quantitative online survey that targets diverse LGBTQI community members, and focuses on perceptions and experiences of social exclusion at individual, household and community levels.

In total, 663 individuals completed the survey, with respondents from Eswatini, Malawi and Zimbabwe comprising roughly one third each. The research findings highlight similar trends across the three countries, providing evidence of concerning high levels of social exclusion as experienced and perceived by LGBTQI people. The data show how this exclusion manifests across all four dimensions and offers a detailed picture of its multiple forms. Economic exclusion was shown to be higher in Zimbabwe than in the other two countries, whilst civil and political exclusion was higher in Malawi. Religious and cultural exclusion was experienced similarly across all three countries, whilst societal exclusion was higher in Zimbabwe and Malawi. It is also shown that SOGIESC-related social exclusions intersect with other vulnerabilities related to HIV status, being a sex worker, being a foreign national, and/or having a disability.

The research findings provide an evidence-base for country-level and regional advocacy and help widen the lens through which LGBTQI exclusion is viewed and addressed by research, law and policy reform, and strategic litigation. To tackle social exclusion, the key recommendations of this report are that:

- same-sex sexual conduct is decriminalised;
- legal gender recognition is available and accessible irrespective of SOGIESC;
- existing legal protections against discrimination are interpreted to include a prohibition of discrimination based on SOGIESC, and where such protections do not exist, specific legal protections are developed.

Other recommendations are that multi-dimensional measurements of social exclusion should be used to account for its contextual dynamics and that an intersectional analysis is applied to account for how the impact of social exclusion is connected to particular social positions and/or identity locations.

It is also recommended that the present study be repeated in the three countries in order to track shifts over time in experiences and perceptions of SOGIESC exclusion, and that the measurement tool be adapted for use in other countries to expand the evidence base of LGBTQI social exclusion, especially in the region.

# 1 INTRODUCTION

In Southern Africa, empirical evidence on social exclusion related to sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) has been shown to be crucial for advocacy and strategic litigation that defends, advocates for and promotes the rights of LGBTQI (lesbian, gay, bisexual, transgender, queer and intersex)<sup>2</sup> people. At the same time, there is little data that is disaggregated by SOGIESC, especially concerning rights that are not health-specific. This report presents empirical evidence on the social exclusion of LGBTQI people in Malawi, Eswatini and Zimbabwe. As part of the Out & Proud project, the research was conducted in collaboration with civil society organisations (COSPE, Nyasa Rainbow Alliance, Rock of Hope, the Southern Africa Litigation Centre and TREAT Zimbabwe) and was led by two researchers who work on SOGIESC research and advocacy.

The research presented in this report had the following objectives:

- To strengthen the evidence base for advocacy and strategic litigation by LGBTQI Human Rights Defenders (HRDs) and their organisations in Malawi, Eswatini and Zimbabwe, so as to defend, advocate and promote their rights and fight discrimination.
- To identify context-specific experiences and dimensions of social exclusion based on SOGIESC in Malawi, Eswatini and Zimbabwe, and to show how these are cumulative and overlapping processes.
- To develop a context-specific tool to measure social exclusion based on SOGIESC in Malawi, Eswatini and Zimbabwe.
- To generate empirical evidence of social exclusion based on SOGIESC in Malawi, Eswatini and Zimbabwe.

As the title of this report suggests, it is critical to understand social exclusion 'from the inside out', in other words based on the experiences and perceptions of LGBTQI people themselves. Recognising the need for an approach that is grounded in lived experiences and shaped from within the region, the report focuses on both the meaning and measurement of social exclusion. To this end, it explores the following key questions: What does social exclusion in Southern Africa mean? How do LGBTQI people in the region experience social exclusion? How can social exclusion be measured in ways appropriate to the region? What are the particular dynamics of such social exclusion in Malawi, Eswatini and Zimbabwe?

By considering these questions, the report offers a context-specific framework for understanding social exclusion, provides empirical evidence from the three country contexts, and contributes to wider efforts to measure social exclusion at regional and international levels.

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2. The term 'LGBTQI' is used throughout this report except when, for the sake of accuracy, we cite existing research and literature that use different terms.



# 2 CONTEXT AND APPROACH: SOCIAL EXCLUSION

This section of the report details the conceptual and empirical considerations that informed the research framework and approach for measuring social exclusion in Eswatini, Malawi and Zimbabwe.

## 2.1 Defining social exclusion

*"Social exclusion is a complex and multi-dimensional process. It involves the lack or denial of resources, rights, goods and services, and the inability to participate in the normal relationships and activities, available to the majority of people in a society, whether in economic, social, cultural or political arenas. It affects both the quality of life of individuals and the equity and cohesion of society as a whole"*<sup>3</sup>

The concept of social exclusion has been described in many different ways and its various dimensions have expanded and become increasingly specific over time. Whilst initially poverty was the primary indicator of exclusion, from the 2000s onwards increased attention has been given to forms of exclusion, beyond economic aspects, that encompass the social dynamics of power through which certain groups are excluded.<sup>4</sup>

Social exclusion is linked to inequality in that it is driven by unequal power relationships at different levels which create "a continuum of inclusion/exclusion characterised by an unjust distribution of resources and unequal access to [...] capabilities and rights"<sup>5</sup>. Institutions have a central role in allocating resources and assigning value in ways that systematically deny some groups equal resources and recognition.<sup>6</sup>

Identity often forms the basis for exclusion in that, "People may be excluded because they suffer discrimination [by individuals, groups and institutions] because of their social identity: gender, ethnicity, race, religion, sexual orientation, caste, descent, age, disability, HIV status, migrant status or where they live".<sup>7</sup> This social process of 'othering' produces and maintains dominant and subordinate social groups, which creates the conditions for some people or groups to be excluded from the enjoyment of certain resources or rights.<sup>8</sup>

It is common cause that social exclusion is multidimensional, dynamic, and takes different forms over time and in context.<sup>9</sup> For this reason, both the definition and measurement of social exclusion have limitations in their global application and require adaptations that consider how context shapes and drives exclusion.

## 2.2 Social exclusion based on SOGIESC

*"There are likely hundreds of millions of LGBTI people in the world, nearly all of whom experience some degree of social exclusion"*<sup>10</sup>

LGBTQI people experience exclusion across the world, which is often exponential when combined with other kinds of adversity and socio-economic marginalisation.<sup>11</sup> Like other forms of exclusion, those associated with SOGIESC are integrally linked to economics (e.g. the barriers LGBTQI people may face when entering the labour market), political participation (e.g. where LGBTQI organisations are prohibited from legally registering), and socio-cultural value and status (e.g. where same-sex couples are unable to gain equal status for their relationships). These forms of exclusion are enabled by both formal (i.e. by law and in state structures) and informal (i.e. norms and traditions) systems and practices.

3. Levitas et al., *The Multi-dimensional Analysis of Social Exclusion*, University of Bristol, 2007:9.

4. Hyman et al., *A Critical Review of Social Exclusion and Inclusion Indicators: Implications for the Development of a Canadian Framework*, n.d.

5. Popay et al., *Understanding and Tackling Social Exclusion: Final Report*, SEKN, 2008:7.

6. Zeitlyn, cited in *Inclusion Matters: The Foundation for Shared Prosperity*, World Bank, 2017.

7. DFID, *Practice Paper on Gender and Social Exclusion*, 2009:1.

8. Ibid.

9. Ibid.

10. Inter-Agency Regional Analysts Network (IARAN), *A Global Outlook on LGBTI Social Exclusion through 2030*, 2018:4.

11. Office of the United Nations High Commissioner for Human Rights (OHCHR), *Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law* (Second Edition), 2019.

It is anticipated that LGBTQI social exclusion will continue to be shaped by the following factors: how sexuality is perceived and defined, associated Western biases and binaries, including binary categories of sex and gender; the legacy of colonialism, including the criminalisation of sexual and gender non-conformity; and the levels of interaction between the general public and LGBTQI individuals, including degrees of familiarity and proximity.<sup>12</sup> It has also been shown that a lack of social, economic and cultural participation and opportunity, together with limited power to represent their specific needs and interests, are key factors in the social exclusions LGBTQI people face.<sup>13</sup>

Applying a SOGIESC lens to the concept and measurement of, and responses to, social exclusion is important to ensure its incorporation into broader human rights and development agendas. Such a lens can be used as a tool of analysis to drive advocacy and policy development.<sup>14</sup> With principles of inclusive growth and development now at the centre of global and regional policy frameworks, such as the African Union's Agenda 2063 and the Sustainable Development Goals (SDGs), LGBTQI inclusion-exclusion is increasingly taken into consideration at national, regional and global levels.<sup>15</sup> For example, the LGBTQI Inclusion Index was developed as a benchmark against which efforts to counteract exclusion can be identified, tracked and measured.<sup>16</sup>

There are numerous data on experiences of LGBTQI-related exclusions as manifested in "health access and outcomes, patterns of violence, levels of school bullying and education outcomes, domestic violence, hate crime, femicide and other killings, labour participation, workplace discrimination, access to housing, inclusion in civic spaces, and political leadership".<sup>17</sup> Attention has also been given to how various forms of exclusion produce economic harms<sup>18</sup> and how LGBTQI discrimination incurs business and economic costs.<sup>19</sup>

The main ways in which different forms and/or impacts of LGBTQI exclusion are measured globally, regionally and nationally include:

- Equality data collected by national human rights institutions, civil society and development agencies;<sup>20</sup>
- Trackers of anti-LGBTQI violence and experiences of discrimination;<sup>21</sup>
- Public attitude surveys<sup>22</sup> and attitude surveys that are LGBTQI specific;<sup>23</sup>
- African regional surveys and barometers on democracy, governance, and human rights more broadly,<sup>24</sup> and those on SOGIESC more specifically;<sup>25</sup>
- Monitoring of media representations of LGBTQI people and issues;<sup>26</sup>
- Global barometers that analyse countries' progress towards SOGIESC protections<sup>27</sup> as well as trackers of law and legal reform;<sup>28</sup>
- Assessments of the sexual and reproductive health and rights environment;<sup>29</sup>
- Overviews of global and regional data on LGBTQI inclusion-exclusion.<sup>30</sup>

12. IARAN, 2018.

13. This study focused on exclusion in five sites where LGBT people encounter prejudice and/or discrimination, namely: family; school; peer group; religious and other community life; and media.

14. Takács, Mocsonaki and Tóth, *Social Exclusion of Lesbian, Gay, Bisexual and Transgender (LGBT) People in Hungary: Research Report*, 2008.

15. With the adoption of the 2030 Agenda for Sustainable Development, 193 United Nations Member States pledged to ensure "no one will be left behind" and to "endeavour to reach the furthest behind first". The SDGs found to be most strongly associated with sexual and gender minorities are: poverty, health, education, gender equality, violence, social and political inclusion, access to justice and non-discriminatory laws, data and international cooperation (O'Malley & Holzinger, *The Sustainable Development Goals and Sexual and Gender Minorities*, 2018:10).

16. UNDP & World Bank, *Investing in a Research Revolution for LGBTI Inclusion*, 2016. The Inclusion Index identifies five high-priority dimensions for inclusion, namely: health, economic well-being, personal security and violence, education, and political and civic participation

17. UN Independent Expert on protection against violence and discrimination based on SOGIESC, *Data Collection and Management as a Means to Create Heightened Awareness of Violence and Discrimination Based on Sexual Orientation and Gender Identity*, 2019:6.

18. Badgett et al., *The Relationship between LGBT Inclusion and Economic Development: An Analysis of Emerging Economies*, Williams Institute, 2014:2. These and other factors can cause LGBTQI persons to be underemployed or unemployed, and also restrict their ability to seek, find, undertake and retain gainful employment; as well as reduce their productivity or diminished their capacity to work.

19. For example, evidence from Kenya found that LGBTQI+ discrimination costs to the Kenyan economy are as much as KSh130 billion per year (Open for Business, *The Economic Case for LGBTQI+ Inclusion in Kenya*, 2019).

20. See EU High Level Group on Non-discrimination, Equality and Diversity, *Guidelines on Improving the Collection and Use of Equality Data*, 2018.

21. See Arcus Foundation, *Data Collection and Reporting on Violence Perpetrated Against LGBTQI Persons in Botswana, Kenya, Malawi, South Africa and Uganda*, 2019:14; Lee and Ostergard, *Measuring Discrimination Against LGBTQI People: A Cross-National Analysis*, 2017.

22. See Lakhani et al., *"They Are Not Like Us" Understanding Social Exclusion*, World Bank, 2014; Eurobarometer on Discrimination: The Social Acceptance of LGBTQI people in the EU, 2019; Gender Links, #VoiceandChoice Barometer 2020: Chapter Sexual Diversity, 2020.

23. See Other Foundation, *Progressive Prudes: A Survey of Attitudes Towards Homosexuality and Gender Non-conformity in South Africa*, 2016; Inclusive Society Institute, *Survey on the Lived Experience of the LGBTQI+ Community in South Africa*, 2020; Ipsos and Williams Institute, *Global Opinions on Transgender Individuals*, 2018; and *The ILGA-RIMI Global Attitudes Survey on Sexual, Gender and Sex Minorities*, 2017.

24. See *Good Neighbours? Africans Express High Levels of Tolerance for Many, but Not for All*, Afrobarometer, 2016; UN Economic Commission for Africa's African Social Development Index Measuring Human Exclusion for Structural Transformation, 2015; Human Rights Measurement Initiative, 2020.

25. See #VoiceandChoice Barometer, Gender Links, 2020.

26. See Arcus, 2018.

27. See *F&M Global Barometer of Gay Rights and the Global Barometer of Transgender Rights*, 2019; European Union for Fundamental Rights, 2020.

28. See *ILGA State-Sponsored Homophobia Report: Global Legislation Overview*, 2020; OHCHR, 2019.

29. See SADC Regional Scorecard for SRHR, 2019-2030.

30. *ILGA State-Sponsored Homophobia Report*, 2019.

## 2.3. A framework for measuring social exclusion related to SOGIESC

The review of the literature shows that social exclusion is multi-dimensional with complex dynamics that operate at different levels. Importantly, it is advised that measures of exclusion "must be designed for use in a particular context, not as all-purpose indicators" in recognition of the contextual factors that impact both the concept and its measurement<sup>31</sup> Consequently, the research framework sought to take into consideration the specificities of local contexts, 'from the inside out'.

Informed by the definitional and empirical literature previously outlined, the research framework for SOGIESC-related social exclusion comprised the following four dimensions: societal, civic and political, cultural and religious, and economic. These dimensions are understood to manifest in different sectors through a combination of processes and cross-cutting dynamics, and either at one or multiple levels. Social exclusion can occur in any one specific sector, but usually exclusions at different sectors and levels combine to shape an individual's experience, effecting exclusion that occurs in various sectors and at various levels, effecting other sectors and levels in turn. This framework is summarised below.

[ **Framework:** Dimensions of SOGIESC-based social exclusion ]

### Four dimensions of social exclusion

**1. Societal:** This concerns everyday interactions, practices and messages in different social settings (such as not being able to freely express one's sexual or gender identity in the home or in public), and media representations that stigmatise and discriminate.

**2. Civil and political:** This concerns laws, policies and political processes (such as not being able to legally register an LGBTIQ organisation; laws that criminalise same-sex sexuality; political parties that discriminate against LGBTIQ persons etc).

**3. Religious and cultural:** This concerns religious and cultural practices, norms and institutions (such as not being able to participate in religious and cultural events or practices, or to seek guidance from religious or cultural leaders).

**4. Economic:** This concerns the workplace and the formal and informal economy (such as not being able to get a job or to access financial resources because of SOGIESC).

LEVELS	SECTORS	PROCESSES	CROSS-CUTTING DYNAMICS
<ul style="list-style-type: none"> <li>■ Individual</li> <li>■ Household</li> <li>■ Local Community</li> <li>■ Institutional (State, Workplace Etc.)</li> <li>■ National/Country-Level</li> </ul>	<ul style="list-style-type: none"> <li>■ Health</li> <li>■ Education</li> <li>■ Law and Justice</li> <li>■ Social Services /Protection</li> <li>■ Economic/Workplace</li> <li>■ Custom and religion</li> </ul>	<ul style="list-style-type: none"> <li>■ Access to (Services, Justice Etc.)</li> <li>■ Participation in (Civil, Political, Customary &amp; Religious, Economic Life)</li> <li>■ Existence &amp; Exercise of Rights (Recognition and Protection)</li> </ul>	<ul style="list-style-type: none"> <li>■ Relational &amp; Distributional</li> <li>■ Through Practices &amp; Impacts</li> </ul>

31. Department of Economic and Social Affairs UN, *Analysing and Measuring Social Inclusion in a Global Context*, 2010:5.

The following vignette illustrates how social exclusion is a combination of processes and cross-cutting dynamics at one or multiple levels.

### HOW THE PROCESSES AND DYNAMICS OF SOCIAL EXCLUSION WORK

Zinzi identifies as a lesbian woman and goes to a school (sector: education) where there is no school policy that prohibits discrimination based on SOGIESC (dimension: civic and political). As a result she has to hide her sexual orientation (level: individual). When one of her peers finds out that she identifies as a lesbian and teases her about it in class (dimension: societal; level: local community), she does not have any recourse because there is no existing non-discrimination policy (dimension: civic and political). The teasing continues and gets worse, and her teacher blames Zinzi for the recurrent disturbances it creates in the class room and so the headmaster expels her (level: institutional). As a result she is unable to finish her degree (sector: education) and cannot find employment in a skilled profession (dimension: economic).

ISSUE: school policies do not recognise that LGBTQI learners may be discriminated against because of their SOGIESC.  
DIMENSION: civic and political  
LEVEL: institutional (the school)

SECTOR: education

PROCESSES: access (to education), participation in civic life, exercise of rights (to non-discrimination)

DYNAMICS: interpersonal and intergroup relationships, through practices and impact.

As the vignette shows, whilst the absence of a non-discrimination policy is an exclusion at the institutional level, it has wide-ranging effects on LGBTQI learners and intersects with other forms of social exclusion. The absence of a non-discrimination policy tacitly condones the bullying of LGBTQI learners - by other learners, between LGBTQI learners and their peers (community level), by educators, and through the culture of the educational setting. Manifestations of exclusion at different levels and through dynamic social processes, result in their multiple impacts at different levels. Simply put, because Zinzi is forced to leave school as a result of bullying, this will have a knock-on impact on her ability to finish school and enter the job market, which in turn will affect her livelihood and possibly her psychological well-being.

When compared to the framework of social exclusion above, existing research in Eswatini, Malawi and Zimbabwe mostly focuses on the following:

- Exclusion in the sector of health;
- Exclusion through processes of access to services;
- Exclusion at institutional and national level through law and policy frameworks, including laws that criminalise same-sex sexuality;
- Exclusion through violence.<sup>32</sup>

There were additional considerations in developing a tool to measure SOGIESC-based social exclusion in Eswatini, Malawi and Zimbabwe, namely:

- There is a rich body of research evidence that can inform a tool. Some dimensions of social exclusion have been addressed through existing research and can be incorporated. This includes evidence on:
  - Social exclusion in health and healthcare;
  - Social exclusion in social, civic and political participation.
- At the same time, there is a need to generate new empirical knowledge on the dimensions of social exclusion that are not explored in existing research. These include:
  - Social exclusion in education;
  - Social exclusion in the workplace;
  - Social exclusion in religious and customary sectors;
  - Social exclusion in economic and workplace sectors.

The development of the research framework took into account the need for a multi-dimensional, context-specific measure for social exclusion, as well as the already existing empirical evidence. Based on these, specific tools were created through a participatory process, which is further described in the following section.

32. See Out & Proud LGBTI Equality and Rights in Southern Africa, 'Risk and Vulnerability Analysis' 2021.; Müller, Daskilewicz and SEARCH, *Are We Doing Alright? Realities of Violence, Mental Health, and Access to Healthcare Related to Sexual Orientation and Gender Identity and Expression in East and Southern Africa: Research Report Based on a Community-led Study in Nine Countries*, 2019; Human Rights Watch: 'Let Posterity Judge': *Violence and Discrimination against LGBT People in Malawi*, 2018; Southern Africa Litigation Centre and NRA, 2020; CEDEP & CHRR, *Violence and Discrimination Based on Real or Perceived Sexual Orientation and Gender Identity in Malawi*, 2015; Positive Vibes Trust, *Rights, Evidence, Action (REAct): Human Rights Violations Annual Report-KP REACH*, 2017; The Other Foundation, 2019; GALZ, *Perceptions and Perspectives: Access to Facility-based Health Services for LGBT people in Harare and Bulawayo, Zimbabwe*, 2018.

# 3 METHODOLOGY

In order to identify the context-specific dimensions and extent of SOGIESC-based social exclusion, a mixed-method approach was employed. Following a participatory methodology, the project worked 'from the bottom up' to adequately capture the structural, social, political and economic factors that shape the meaning and measurement of social exclusion in the lived realities of LGBTQI persons in Malawi, Eswatini and Zimbabwe. At the same time, close attention was paid to the metrics and measurements for similar undertakings at regional and international levels to ensure that the findings will contribute meaningful knowledge towards these wider efforts.

The research was guided by the following questions:

- a) What does social exclusion mean for LGBTQI people in Malawi, Eswatini and Zimbabwe? What are the different dimensions of social exclusion in these three countries, and how can it be measured?
- b) What are the pathways of social exclusion based on SOGIESC in Malawi, Eswatini and Zimbabwe? How are LGBTQI people excluded in those countries?
- c) What are the particular dynamics that broadly represent the social exclusion of LGBTQI people in Malawi, Eswatini and Zimbabwe? What are the effects of social exclusion on LGBTQI people in these countries?

Research questions a) and b) were answered through a thematic literature review and community consultations. These community consultations were used to inform the development of a two-part survey, which was employed to answer research question c). This process is explained in the next section on the development of the survey tool. The literature review was also used to contextualise the survey findings, and specific literature findings are discussed with the survey findings further on.

## 3.1 Development of the data collection survey

Different levels of social exclusion necessitate different techniques for collecting empirical data. Empirical knowledge about social exclusion at individual, household and community levels can be generated through research that focuses on the lived experience of LGBTQI persons. This can be done through surveys with LGBTQI people. Empirical knowledge about social exclusion at institutional and national level, however, is better captured by drawing on the knowledge of NGOs and institutions working to support LGBTQI people and their rights. This is because organisations whose work is at the intersection of community and government, are usually better placed to evaluate the structural conditions (such as law and policy frameworks) that shape individual experience.

Drawing on the methodology of the *Human Rights Measurement Initiative*,<sup>33</sup> a survey was developed that consists of two parts, to allow for data collection at the structural level of social exclusion, as well as at the individual, household and community levels of social exclusion.

Part I is an expert survey and focuses on social exclusion at a structural and institutional level. Its questions concern discriminatory laws and policies; protections against violence and discrimination; and formal recognition of LGBTQI rights and freedoms.

Part II is a quantitative online survey for LGBTQI community members and focuses on social exclusion at individual, household and community levels. It focuses on the sectors, levels and processes of social exclusion that have so far not been adequately documented in the three countries. This survey was developed through community consultations in each of the three countries. At the consultations, the dimensions of social exclusion were workshopped with LGBTQI community members, using interactive mapping exercises and group discussions, to develop an understanding of the local context. These workshops provided the qualitative data to shape Part II of the survey, and served to ground it in the lived experiences of LGBTQI persons in Eswatini, Malawi and Zimbabwe, ensuring that the measurement tool is:

- Rooted in local realities;
- Contextually relevant;
- Easily understandable;
- Captures key features of LGBTQI people's lived experiences in the three countries.

33. Human Rights Measurement Initiative, *Methodology Handbook*, 2019.

### 3.2 Data collection and analysis

Data for Part I of the survey were collected through dissemination to civil society organisations (CSOs) that work on LGBTQI rights in the three countries. In February 2021, CSOs answered the survey virtually. In total, 16 organisations participated (6 from Eswatini, 4 from Malawi and 6 from Zimbabwe).

Data for Part II of the survey were collected between August and October 2021. The survey was conducted online on the secure platform RedCap. Using a combination of digital and in-person strategies to reach potential respondents, the three partner CSOs encouraged LGBTQI people, who were part of their constituencies or accessible through their networks, to participate. In total, 663 LGBTQI persons from Malawi, Eswatini and Zimbabwe completed Part II of the survey (for details about the respondents, see page 15).

Survey data were analysed using the statistical software Stata13 and were reported using descriptive statistics.

Data collection took place during the Covid-19 pandemic when LGBTQI experiences of discrimination were amplified; for example, lockdowns forced people to remain at home and this increased the likelihood for conflict and violence in domestic settings and in the enforcement of COVID-19-related regulations.<sup>34</sup> Although people's movements were restricted during the data collection period, concerted efforts by the organisational partners to actively identifying potential study participants led to a positive turnout in the final number of respondents in all three countries.

### 3.3 Consultation and validation

The Out & Proud project partners (COSPE, Nyasa Rainbow Alliance, Rock of Hope, Southern Africa Litigation Centre and TREAT Zimbabwe) were involved in the conceptualisation and implementation of the research project from the beginning. National consultations with LGBTQI community members in the three countries were conducted between November 2020 and January 2021 to ensure that the research tool used to measure SOGIESC-related social exclusion is grounded in local realities. The methodology of the project was presented at a regional consultation with LGBTQI CSOs in June 2021 and was further shaped by the inputs gathered at this forum. The preliminary findings of the report were presented for validation at the SADC LGBTQI+ Activists Forum in March 2022 and the feedback from regional stakeholders was incorporated into this final report.

### 3.4 Limitations of the study

Study respondents were a non-representative sample and so the extrapolation of findings are not generalisable to the entire population of LGBTQI persons. There was selection bias in that respondents to Part 2 of the survey were identified by LGBTQI organisations and may experience higher levels of exclusion as evidenced by their seeking contact with these support organisations. The surveys were available in English which presents an inherent language bias, mitigated somewhat by the fieldworkers directly assisting with translations when required by respondents. The measurement tool developed is highly contextual and so the findings do not include a universal measure, or indexing of, SOGIESC-related exclusion.

Notwithstanding these limitations, the research findings provide a situationally specific and purposive measure of experiences and perceptions of social exclusion from the vantage point of LGBTQI persons themselves. This contributes to a growing evidence base showing the multiple dimensions of SOGIESC-related discrimination and their impacts in Southern Africa. The tool is also designed to capture an integrated concept of social exclusion and its various dimensions which can be tracked over time as well as applied to other contexts.

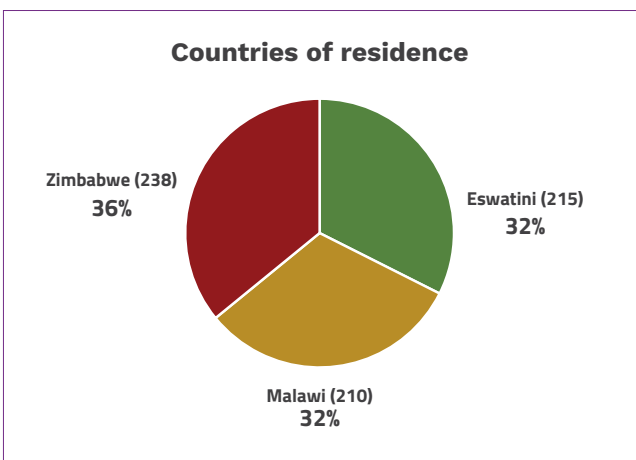
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34. Out & Proud LGBTI Equality and Rights in Southern Africa, *'Risk and Vulnerability Analysis'* 2021.

# 4 FINDINGS

## 4.1 Respondents and their characteristics

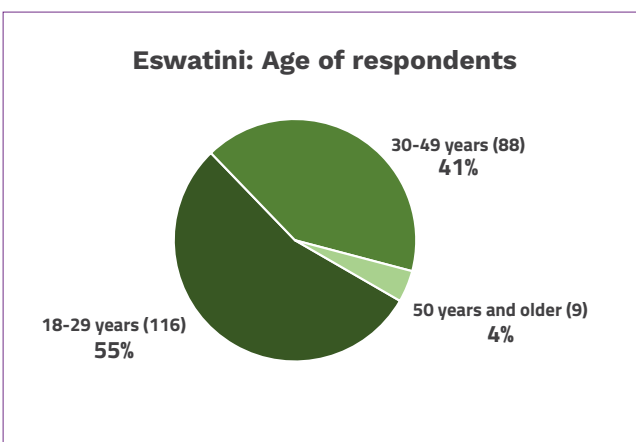
Overall, 663 respondents completed the survey, with roughly one third of all respondents from each country, Eswatini, Malawi and Zimbabwe (Figure 1).



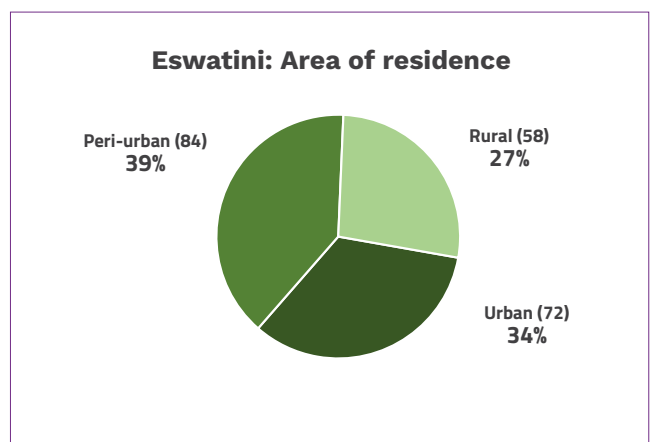
[ Figure 1: Countries of residence of survey respondents ]

### 4.1.1 Respondent profile in Eswatini

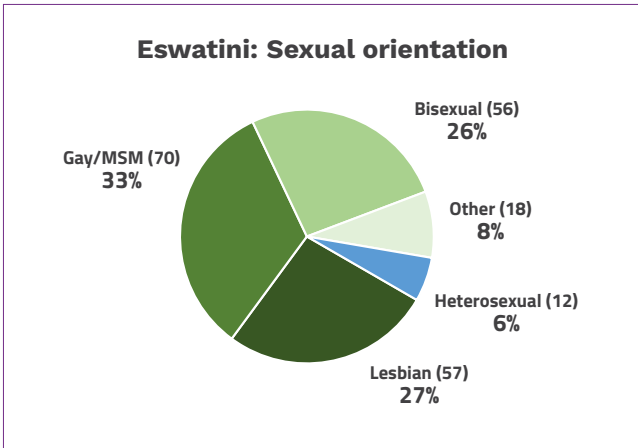
In Eswatini, most respondents were under the age of 30 (Figure 2). They represent a wide diversity of sexual orientations and gender identities (Figure 4 and Figure 5), as well as urban and rural locations (Figure 3). Seven percent of participants (n=15) identified as intersex.



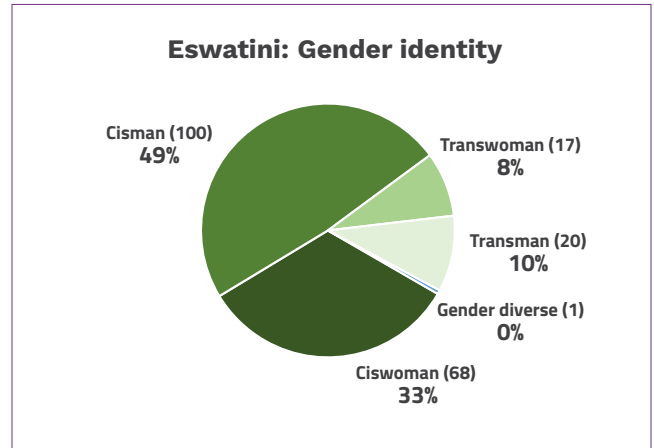
[ Figure 2: Eswatini - Age of respondents ]



[ Figure 3: Eswatini - Area of residence ]

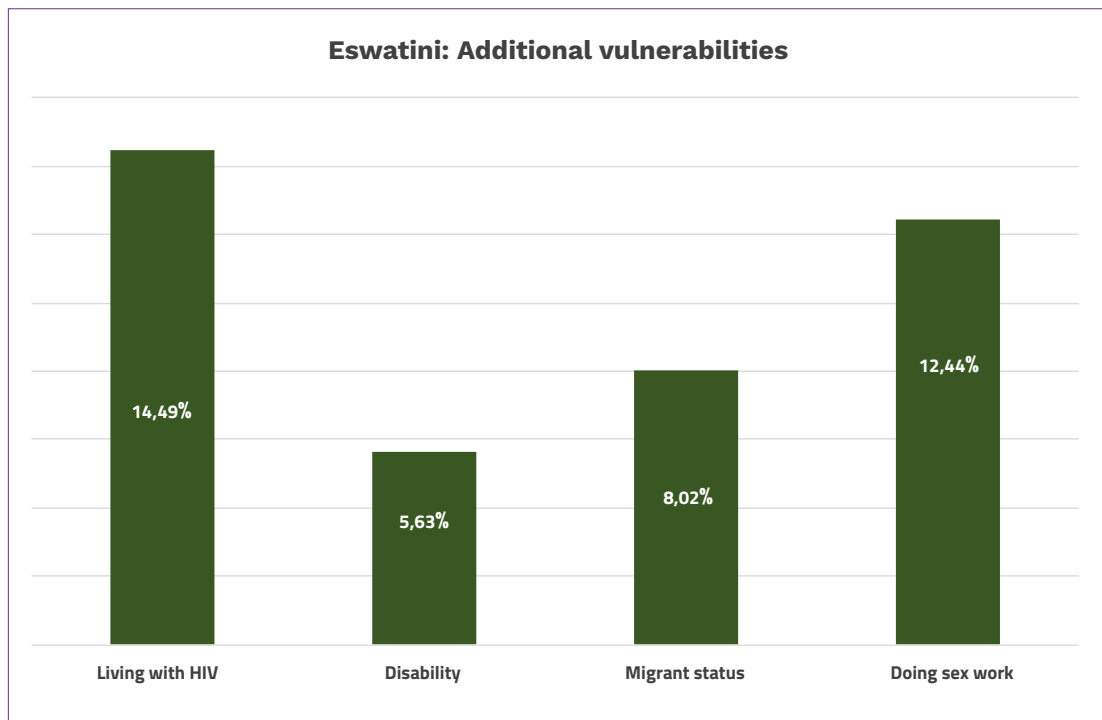


[ Figure 4: Eswatini - Sexual orientations ]



[ Figure 5: Eswatini - Gender identities ]

Figure 6 gives an overview of the additional, intersectional vulnerabilities of respondents in Eswatini. One in seven respondents (14%) answered that they were living with HIV, and a further 25% said they preferred not to disclose their HIV status. Six percent of respondents had a disability, and 8% were migrants. One in eight (12%) said they did sex work; 17% preferred not to answer whether they did sex work or not.

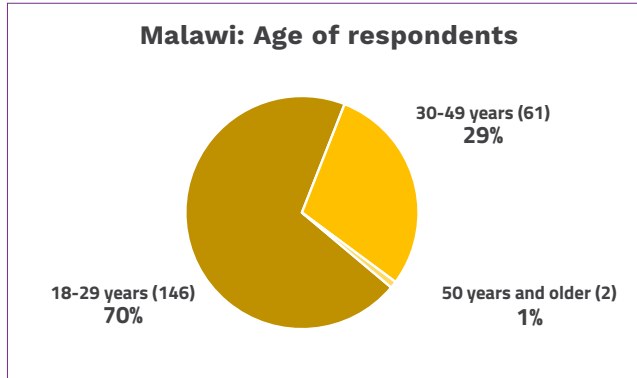


[ Figure 6: Eswatini respondents – Additional vulnerabilities ]

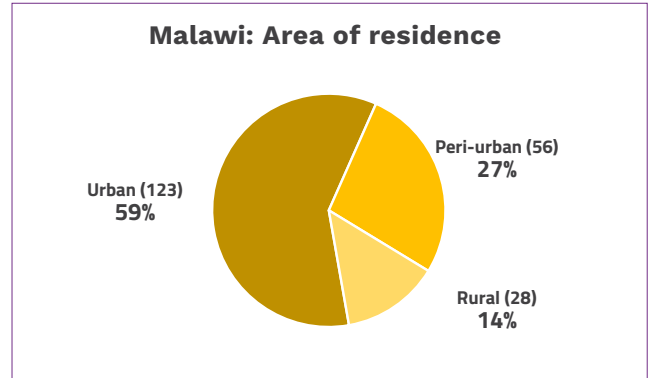


### 4.1.2 Respondent profile in Malawi

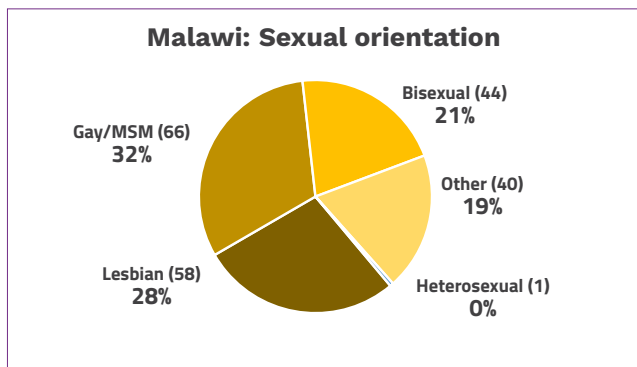
In Malawi, about one third of respondents was under the age of 30 (Figure 7). Respondents represented a wide variety of sexual orientations and gender identities (Figure 9 and Figure 10), as well as geographic areas of residence (Figure 8). Twenty-two percent of respondents (n=44) identified as intersex.



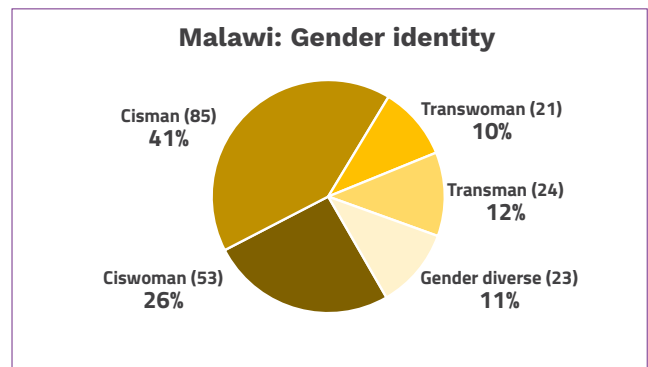
[ Figure 7: Malawi - Age of respondents ]



[ Figure 8: Malawi - Area of residence ]

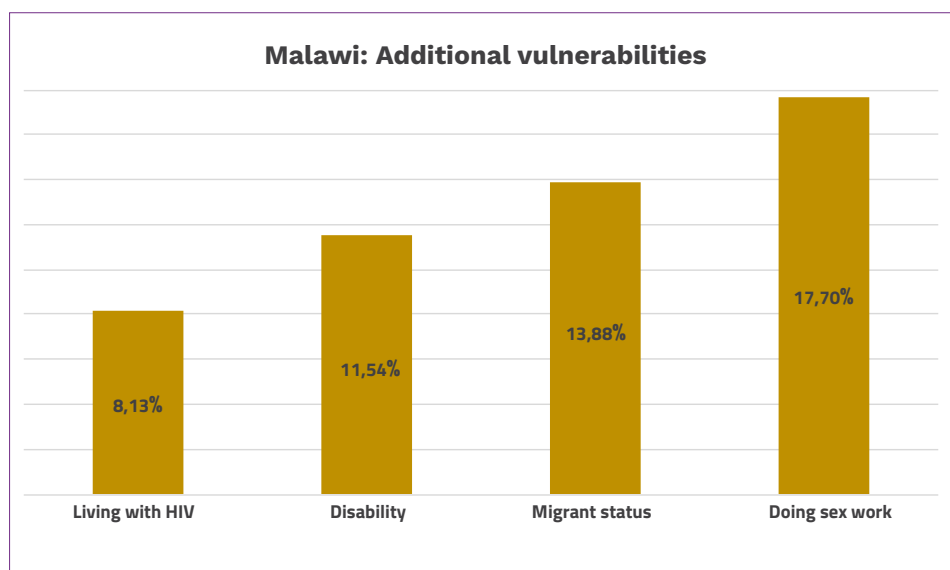


[ Figure 9: Malawi - Sexual orientations ]



[ Figure 10: Malawi - Gender identities ]

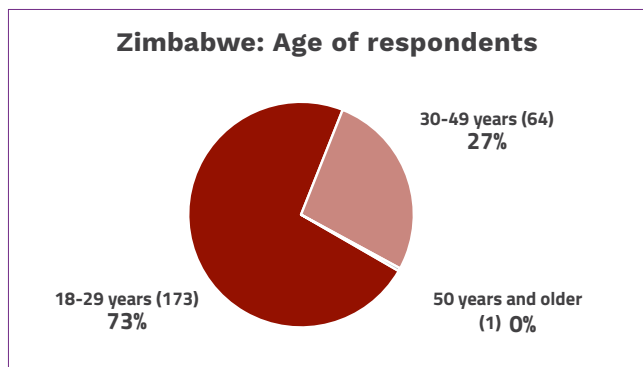
Figure 11 shows the additional, intersectional vulnerabilities of Malawian respondents. One in six Malawian respondents (18%) stated that they were doing sex work; a further 13% preferred not to answer whether they did sex work or not. Eight percent (n=17) said they were living with HIV, a further 24% (n=49) preferred not to disclose their HIV status. Twelve percent had a disability, and 14% were migrants.



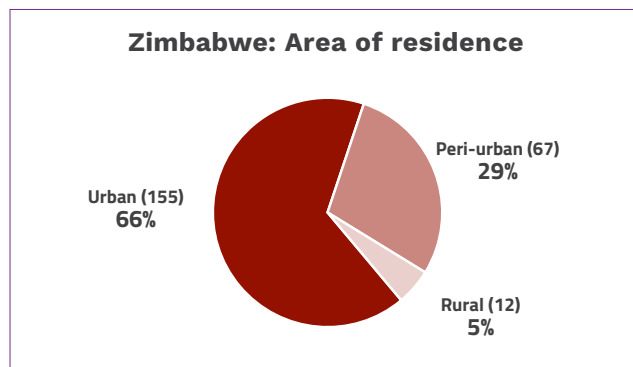
[ Figure 11: Malawi - respondents - Additional vulnerabilities ]

### 4.1.3 Respondent profile in Zimbabwe

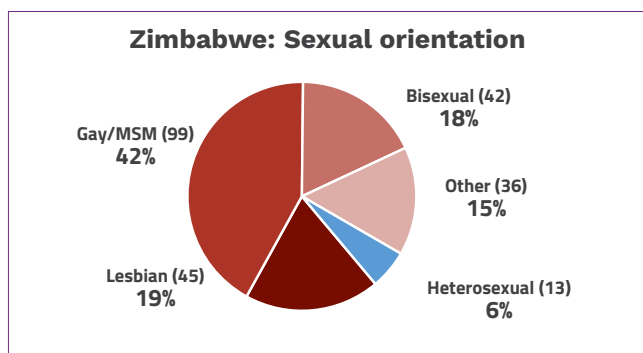
Of the 238 respondents in Zimbabwe, three quarter (73%) were under the age of 30 (Figure 12). Two thirds (66%) lived in urban areas, 29% in peri-urban areas, and one in 20 (5%) in a rural area (Figure 13). Zimbabwean respondents were diverse in their sexual orientations and gender identities (Figure 14 and Figure 15). Almost one in five (19%) of Zimbabwean respondents identified as intersex.



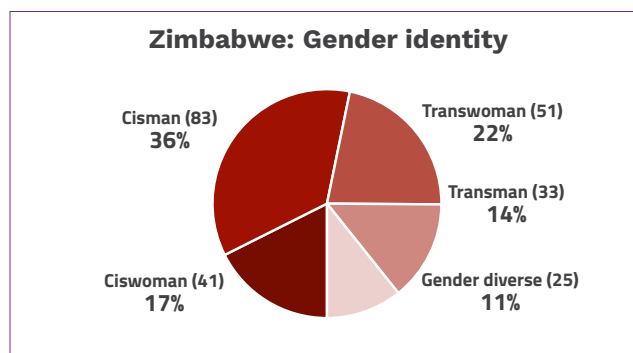
[ Figure 12: Zimbabwe- Age of respondents ]



[ Figure 13: Zimbabwe - Area of residence ]

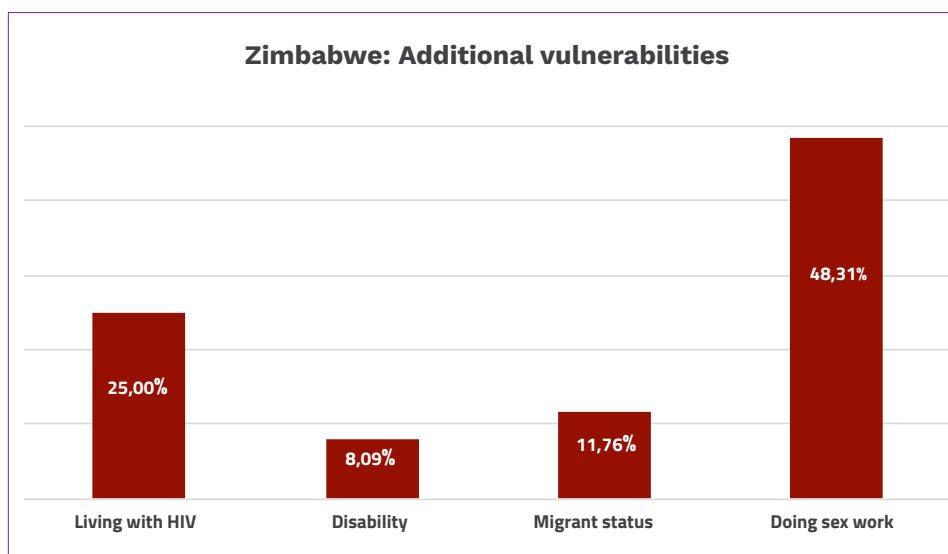


[ Figure 14: Zimbabwe - Sexual orientations ]



[ Figure 15: Zimbabwe – Gender identities ]

Almost half of Zimbabwean respondents (48%; n=114) stated that they were doing sex work (Figure 16). A further 6% (n=14) preferred not to answer whether they did sex work or not. One in four Zimbabwean respondents noted that they were living with HIV (25%; n=59) – and a further 11% (n=25) did not want to disclose their HIV status. Twelve percent (n=28) were migrants, and 8% (n=19) had a disability.



[ Figure 16: Zimbabwe - respondents – Additional vulnerabilities ]

## 4.2 Dimensions of social exclusion in Eswatini, Malawi and Zimbabwe

### 4.2.1 The legal framework

The influence of legal factors is not limited to any one dimension of social exclusion as they have cross-cutting consequences for all five dimensions that were the focus of measurement.

Part 1 of the online survey (see page 13) that investigated key structural factors impacting the social exclusion of LGBTQI people asked about, amongst others, three legal factors: whether there is a law that criminalises same-sex activity between adults, whether there is a law that criminalises gender non-conformity, and whether arrests under either of such laws have been made in the previous year.

At the time of data collection in July 2021, same-sex activity between adults was criminalised in all three countries (Table 1).

**[ Table 1: Legal factors influencing social exclusion ]**

	Eswatini	Malawi	Zimbabwe
Law that criminalises consensual same-sex activity between adults	✓	✓	✓
Law that specifically criminalises gender non-conformity	✗	✗	✗
Arrests under laws against same-sex activity or gender non-conformity in the past year	✗	✗	✓

In the Kingdom of Eswatini, colonial-era common law continues to criminalise sodomy, defined as same-sex sexual relations between men, although there is no clear sentence specified for the offence. The government of Eswatini notes that these common law provisions are not enforced.<sup>35</sup> During the 2021 Universal Periodic Review, it was recommended that Eswatini repeal all laws that criminalise consensual same-sex sexual conduct and take measures to combat discrimination on the basis of sexual orientation and gender identity.<sup>36</sup> Many LGBTQI Swazis have experienced violence as a consequence of legal discrimination and associated stigmatisation.<sup>37</sup>

The Malawian Penal Code criminalises both sex between men and sex between women: sex between men is prohibited under Section 153 and 156 of the Penal Code. A provision that criminalises sex between women was added as Section 137A in 2010. In addition, Section 180(g) of the Penal Code criminalises men who wear their hair beyond a certain length, with a penalty of three months' imprisonment, and six months imprisonment and a fine for repeat offenders. This provision is seen as criminalising gender expression. To date, initiatives to challenge the criminalising sections of the Penal Code have been unsuccessful. In 2012, the Minister of Justice declared a moratorium to suspend the arrest, prosecution, and conviction of LGBTQI people. This was challenged in the High Court, resulting in the moratorium being annulled and the criminalisation of LGBTQI persons remaining in force.

In Zimbabwe, Section 73 of the Criminal Law Act 2006 criminalises all sexual acts between men with a maximum penalty of one-year imprisonment and the possibility of a fine. A range of other criminal laws are also used to directly or indirectly police expressions of non-normative sexual orientation and gender identity. These laws relate to 'criminal nuisance', 'indecent acts', and the publication and dissemination of so-called 'undesirable' publications. A 2020 civil society shadow report to the UN Human Rights Committee

35. Southern Africa Litigation Centre, COSPE Onlus and Foundation for Socio-Economic Justice, *Alignment of Eswatini's Domestic Laws with Recommendations of United Nations Human Rights Mechanisms*, 2018.

36. Report of the Working Group on the Universal Periodic Review, Human Rights Council, Forty-ninth session, 28 February - 1 April 2021.

37. Müller, Daskilewicz and SEARCH, *Are We Doing Alright? Realities of Violence, Mental Health, and Access to Healthcare Related to Sexual Orientation and Gender Identity and Expression in East and Southern Africa: Research Report Based on a Community-led Study in Nine Countries*, 2019.

noted that authorities often harass LGBT persons on the grounds of indecency and public order offences.<sup>38</sup> In 2021, as part of the Universal Periodic Review, stakeholder submissions stressed the impacts of discriminatory laws on LGBTQI people in Zimbabwe.<sup>39</sup>

As shown in Table 1, whilst some countries may not explicitly criminalise gender non-conformity, existing laws can be used to persecute trans and non-binary persons as is the case in Zimbabwe. Also, whilst arrests under laws against same-sex activity or gender non-conformity are not commonplace in Eswatini and Malawi (unlike Zimbabwe), the mere persistence of legal frameworks that cast certain sexual and gender identities and expressions as unlawful, perpetuate the conditions in which *all* the dimensions of exclusion presented in this report continue to persist.

According to the United Nations Independent Expert on protection against violence and discrimination based on SOGIESC, discriminatory laws are a key driver of LGBTQI exclusion.<sup>40</sup> Moreover, in the Southern African region, legal indicators are considered central to the creation of a safe and enabling environment for LGBTQI communities to fully enjoy rights and freedoms. This includes the repeal of all discriminatory laws and policies as well as having legal protections in place to ensure that LGBTQI persons are free from violence and discrimination.<sup>41</sup> In this context, the absence of legal recognition and of protective laws, and/or the presence of restrictive laws that criminalise or marginalise, create the structural conditions in which LGBTQI communities in Eswatini, Zimbabwe and Malawi continue to face multiple forms of discriminatory exclusion. Laws that either criminalise, or that don't actively protect against SOGIESC-related discriminations, fuel human rights violations. Such violations by the state include abuse, extortion and violence from law enforcers and other government officials; and discrimination in accessing state services including health, education, housing, criminal justice and social welfare. For example, in Malawi it is argued that by condoning violence by state and non-state actors, and by failing to diligently investigate, prosecute and punish the perpetrators of violence, the state is participating in human rights violations against LGBTQI persons.<sup>42</sup>

The law informs how a society is governed, what social norms and practices are deemed permissible, as well as how both state and non-state structures and institutions (whether civil, cultural or political) approach issues of SOGIESC. As such, legal frameworks also impact public opinion, as evidenced in high levels of discriminatory attitudes. For example, the Afrobarometer survey of 2012 showed that "overall, 94% of Malawians do not think that same sex couples should have the right to be in relationships." According to these results, disapproval of same-sex relationships is above 90% across the country. Similarly, in Zimbabwe public attitudes towards sexual and gender diversity have mostly been negative, at times fuelled by political rhetoric and politician's statements.<sup>43</sup> Globally, it is empirically shown that a strong relationship exists between social acceptance of LGBTQI people and legal inclusiveness.<sup>44</sup> This does not necessarily mean that the law reflects the will of the people, but rather that laws can have a strong influence over people's views of what is acceptable.

In the national consultations, participants pointed directly to the extent to which the legislative environment in each country, respectively, mediates all spheres of social, political, economic, religious and cultural life for LGBTQI persons. A discriminatory legal framework was also found to stigmatise, marginalise and invisibilise LGBTQI persons as they are not fully recognised as citizens or as legitimate and worthy members of wider communities.

Part 2 of the survey included a question on LGBTQI respondents' perception of equality and inclusion in general in their respective countries (Figure 17 and Figure 18). This question gives an indication of LGBTQI people's perception of the environment in which they live. In all three countries, respondents mostly did not think that LGBTQI people were treated equally to everyone else, nor that LGBTQI people were totally included in society.

38. *Zimbabwe Civil Society Report on LGBTI Rights* (contribution to the List of Issues Prior to Reporting). Submitted for the adoption of the List of Issues Prior to Reporting of Zimbabwe. 130<sup>th</sup> session of the Human Rights Committee, October 2020.

39. Summary of Stakeholders' submissions on Zimbabwe, Human Rights Council, Fortieth session, 24 January - 4 February 2022.

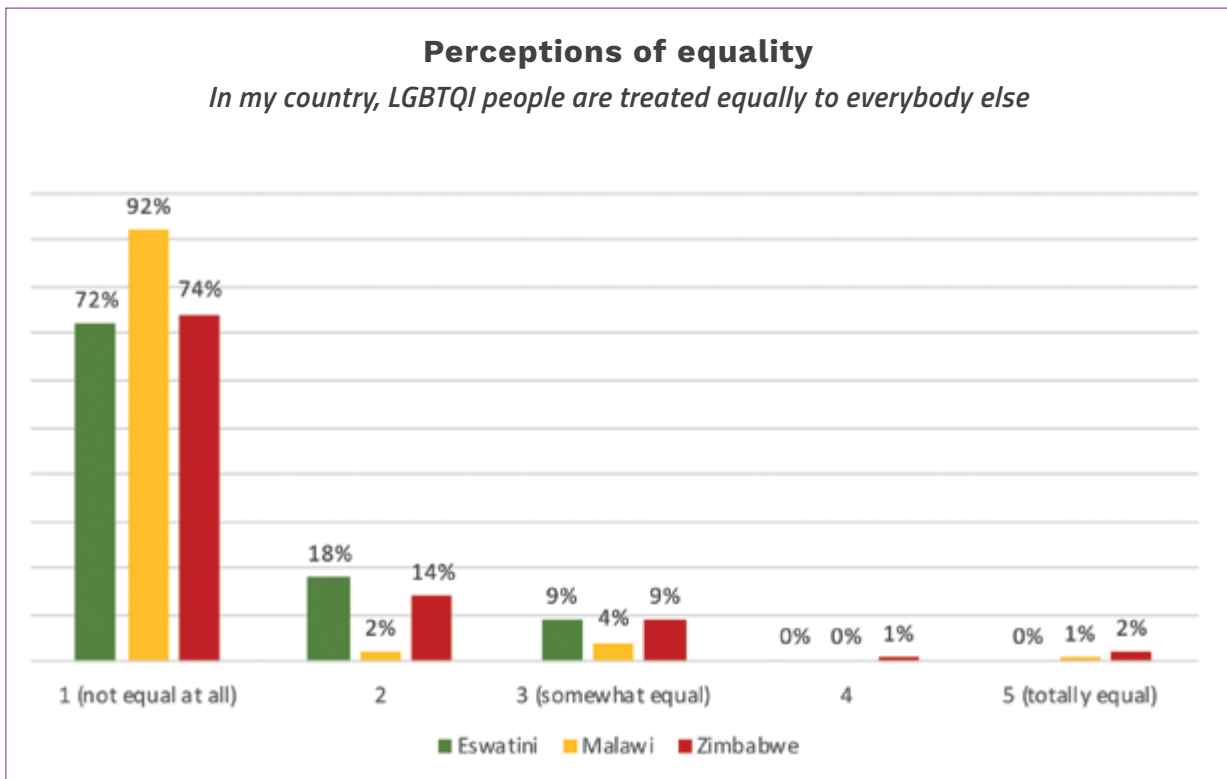
40. Principles of inclusion are central to the mandate of the Independent Expert which is derived from the Human Rights Council's assertion that "an inclusive society enables people to enjoy protection from violence and discrimination, and leaders in the social, cultural, political and other fields can have an important role in communicating, motivating and fostering that inclusiveness." (UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, 2019:3).

41. Gender Links, #VoiceandChoice Barometer 2020: Chapter Sexual Diversity, 2020.

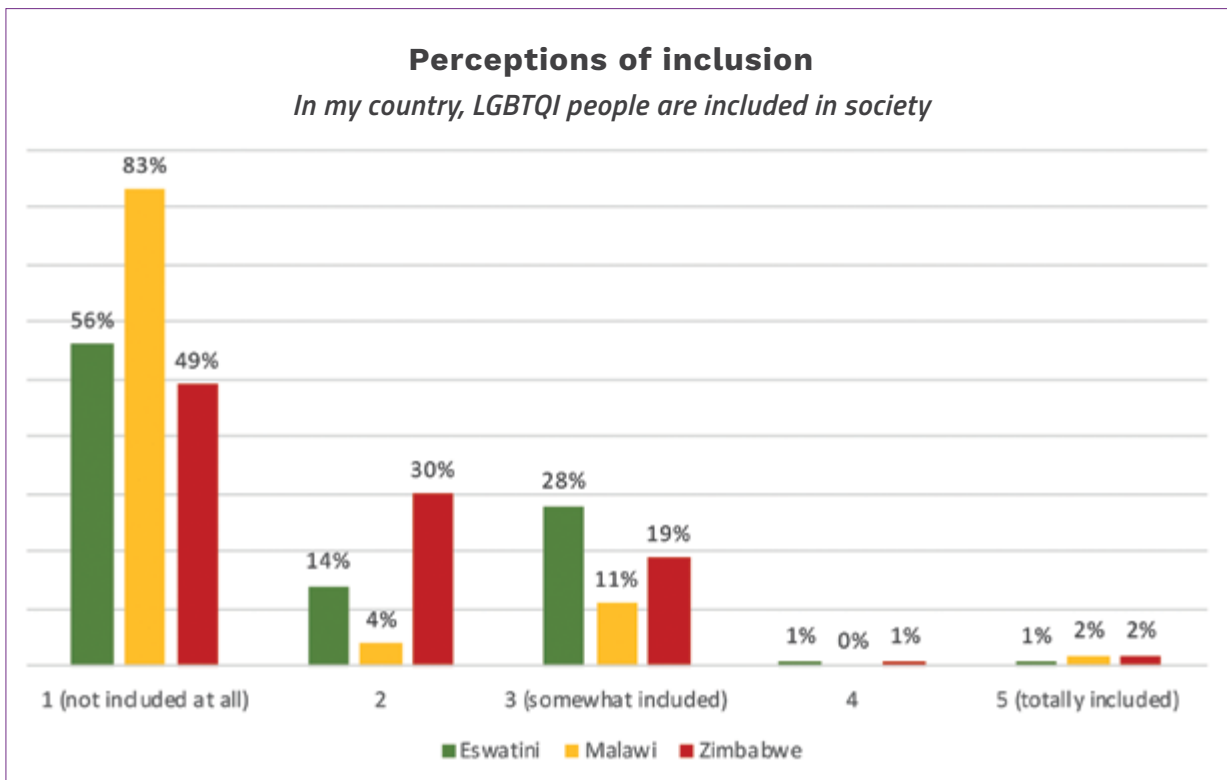
42. CEDEP & CHRR, 2015.

43. Senior figures in the government, particularly former President Robert Mugabe, used anti-LGBTQI rhetoric in public addresses. For example, in September 2015, Mugabe declared to the UN General Assembly: "We equally reject attempts to prescribe 'new rights' that are contrary to our values, norms, traditions, and beliefs. We are not gays". See <https://www.humandignitytrust.org/country-profile/zimbabwe/>

44. Flores, A. & Park, A., *Examining the Relationship Between Social Acceptance of LGBT People and Legal Inclusion of Sexual Minorities*. Williams Institute, UCLA, 2018.



[ Figure 17: Perceptions of equality, by country ]



[ Figure 18: Perceptions of inclusion, by country ]

In Eswatini, only one in ten survey respondents thought that LGBTQI people were treated somewhat equally to everyone else – the rest thought that LGBTQI people were treated not equally (18%) or not equally at all (72%). About one in three respondents thought that LGBTQI people were at least somewhat included in society, with 28% reporting somewhat included, only 1% saying included and 1% saying totally included. However, 14% thought that LGBTQI people were not included and over half (56%) thought that LGBTQI people were not included at all.

In Malawi, only one in twenty survey respondents thought that LGBTQI people were treated somewhat equally to everyone else, with 4% stating somewhat equally and even fewer, just 1%, asserting that they were treated completely equally – the rest thought that LGBTQI people were treated not equally (2%) or not equally at all (92%). About one in eight respondents thought that LGBTQI people were at least somewhat included in society (11%), or even totally included (2%). However, 4% thought that LGBTQI people were not included and more than four in five (83%) thought that LGBTQI people were not included at all.

In Zimbabwe, only one in eight survey respondents thought that LGBTQI people were treated somewhat equally to everyone else. Nine percent thought that LGBTQI people were treated somewhat equally (1%), 2% completely equally, and the rest thought that LGBTQI people were treated not equally (14%) or not equally at all (74%). About one in five respondents thought that LGBTQI people were at least somewhat included in society (19%), included (1%) or even totally included (2%). However, 30% thought that LGBTQI people were not included and almost half (49%) thought that LGBTQI people were not included at all.

#### 4.2.2 Societal dimension

##### Societal exclusion at structural level: across countries

Based on the community consultations and existing measures, Part 1 of the survey tool asked about three aspects of societal exclusion at a structural level which are indicators of the social acceptance of LGBTQI identities and relationships within the larger public sphere. These aspects are: whether the current head of state had publicly declared support for the decriminalisation of same-sex activity; whether national media had affirming portrayals of LGBTQI persons or relationships within the past year; and whether same-sex couples were legally allowed to jointly adopt children (irrespective of whether their relationship was recognised by the state). In all three countries, NGO respondents said that neither of these three indicators was currently met (Table 2).

[ Table 2: Societal exclusion at structural level ]

	Eswatini	Malawi	Zimbabwe
Current head of state has publicly expressed support for the decriminalisation of same-sex activity	✗	✗	✗
In the past year, there has been any affirming portrayal of LGBTI persons/relationships in national newspapers, radio or TV	✗	✗	✗
Same-sex couples are legally allowed to jointly adopt children	✗	✗	✗

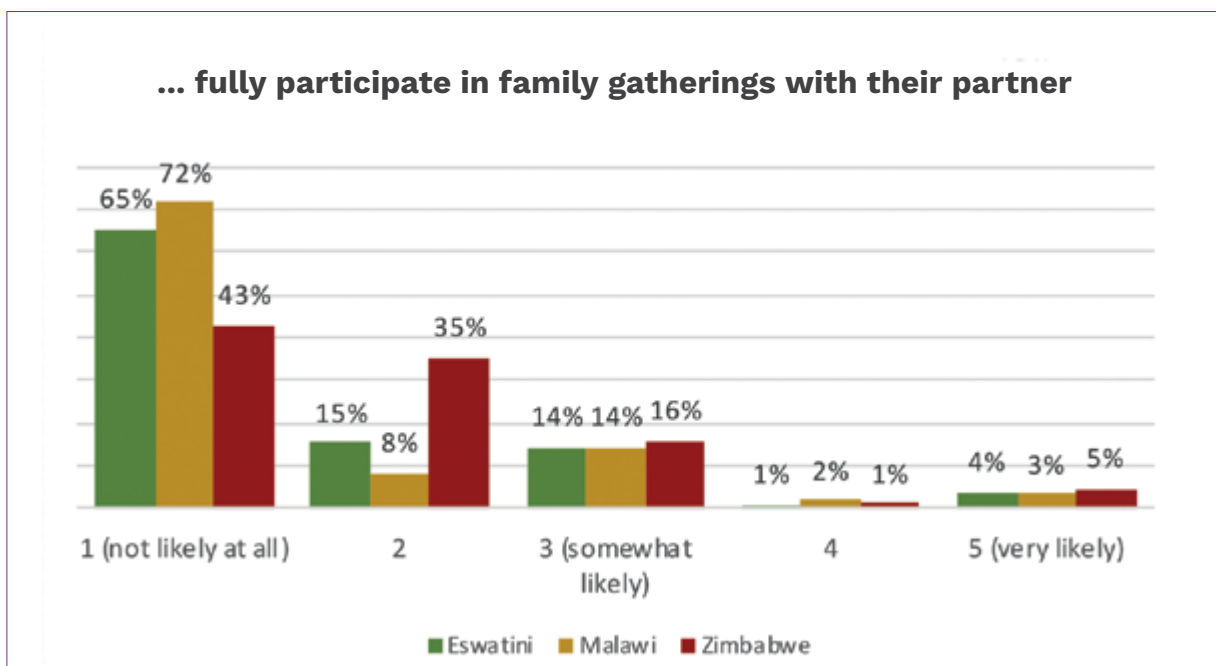
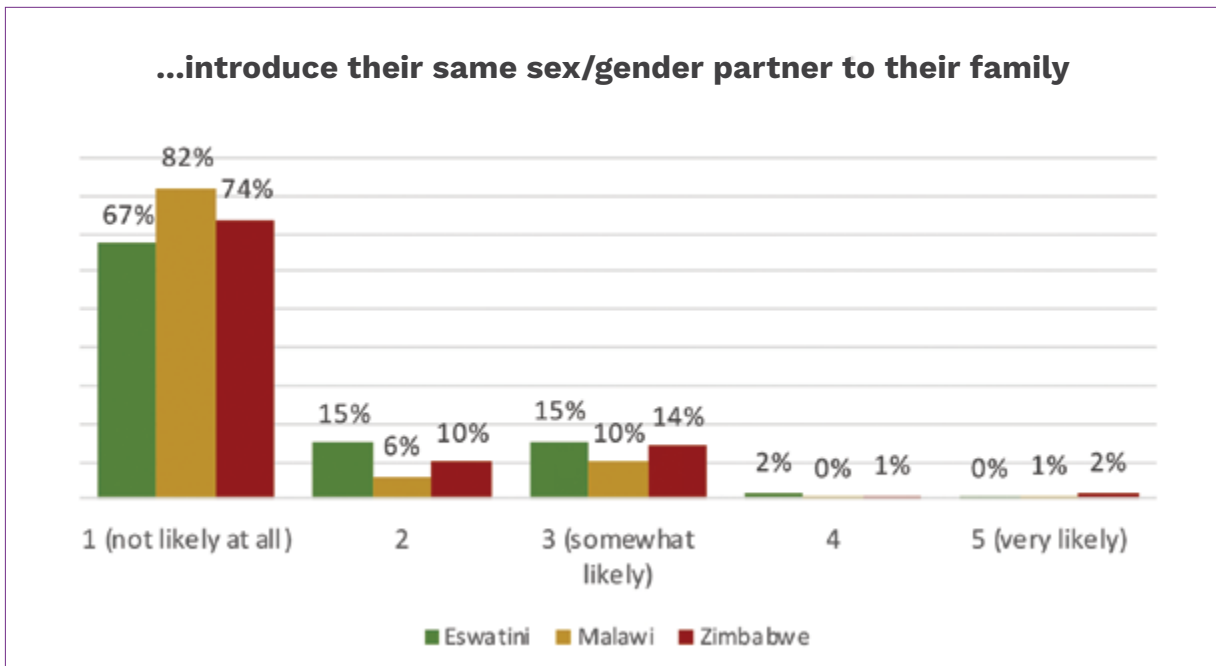
Across all three countries, the first two indicators demonstrate a lack of affirming and supportive representations of LGBTQI persons within wider public and political discourses. The third indicator signals the non-recognition of the parenting rights of same-sex couples and, by extension, the absence of a legally inclusive environment for LGBTQI families and households.

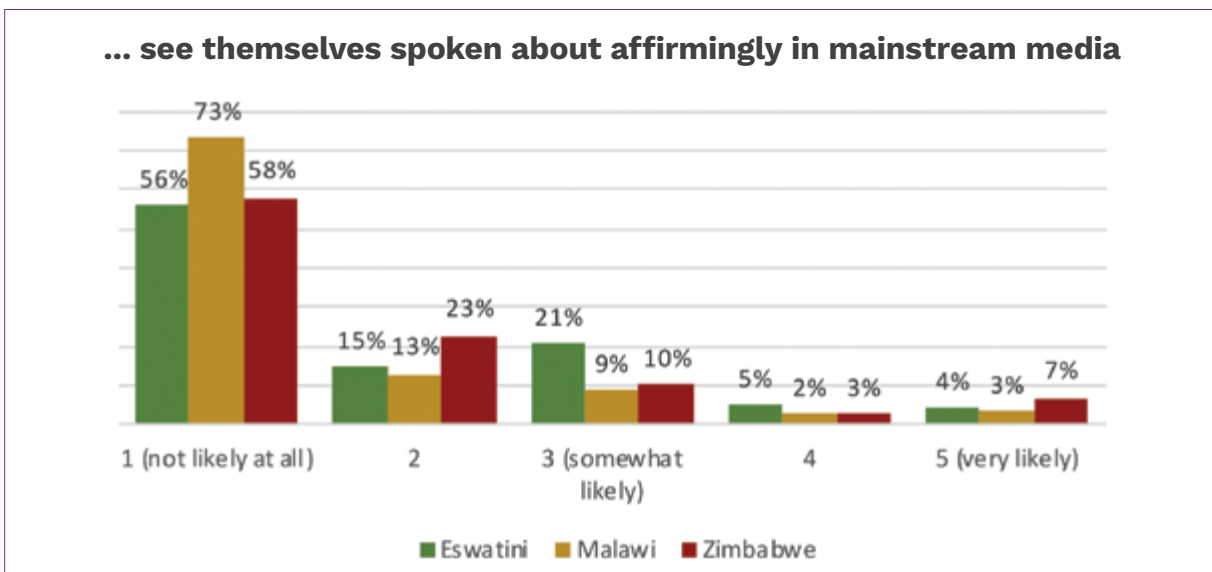
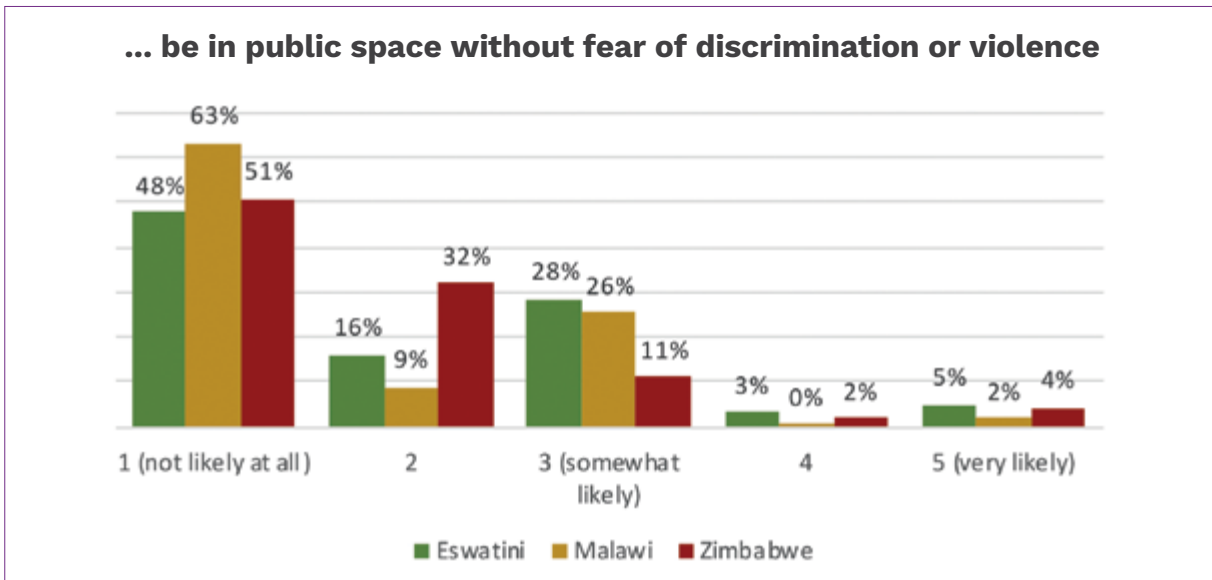
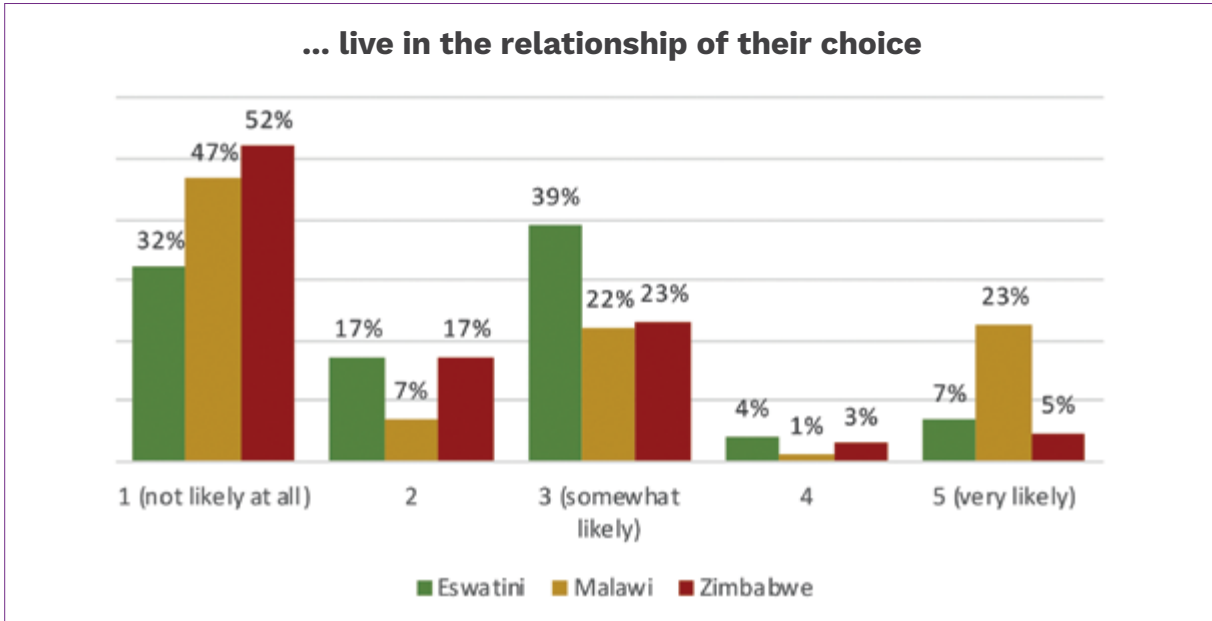
Perceptions of societal exclusion at individual, household and community level: across countries

Table 3 shows how LGBTIQ respondents perceived various elements of societal exclusion in the three countries. These were identified as key elements of exclusion in the community consultations. Each figure shows respondents’ opinions about one aspect of the societal dimension of exclusion. Respondents were asked how likely they thought a particular scenario was. The answer options ranged from not likely at all (marked with number 1), to somewhat likely (3), to very likely (5).

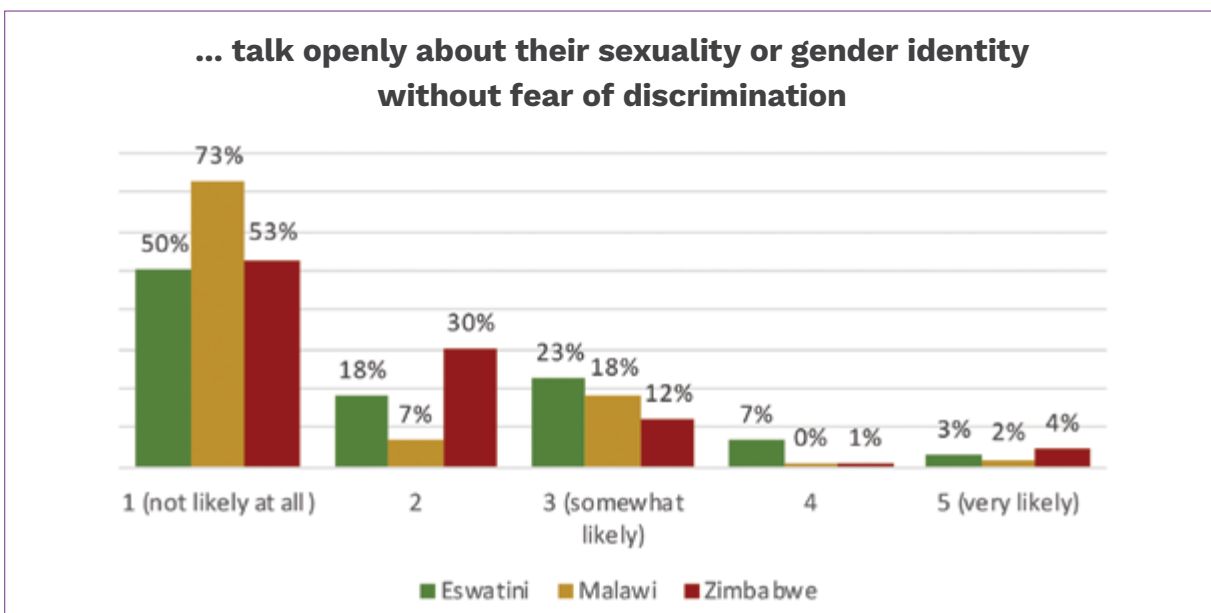
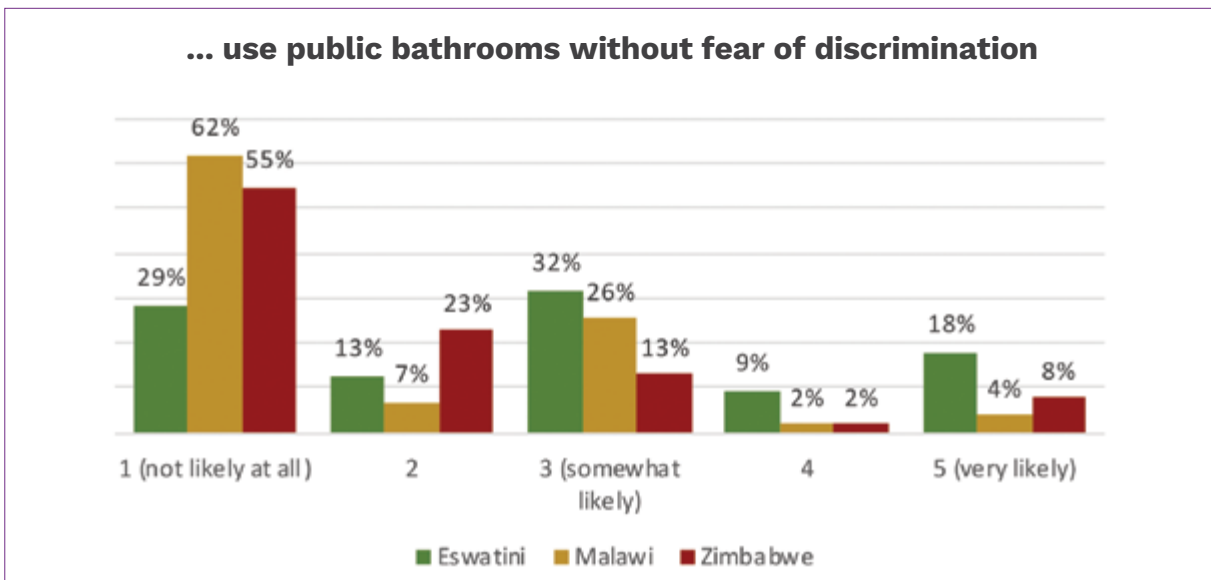
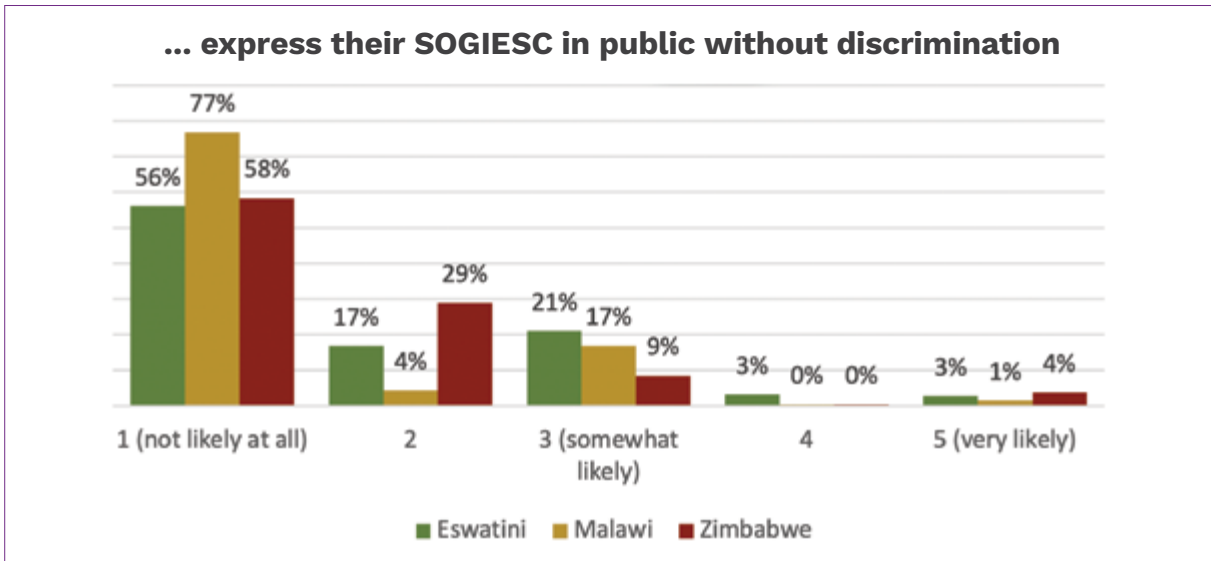
## How likely is it that an LGBTIQ person can...

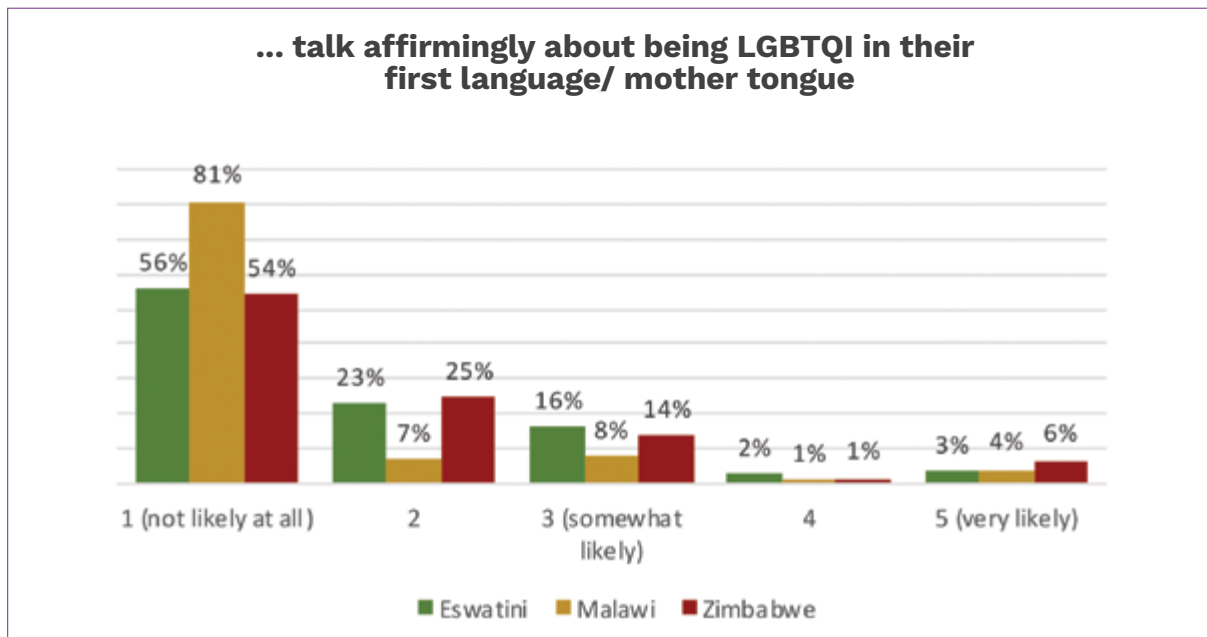
[ Table 3: Perceptions of societal exclusion, all countries ]











The above indicators of societal exclusion show different scenarios in which LGBTQI individuals interact with their social environment, from the family (e.g. introducing their partners and participating in family events) to wider social settings (e.g. public spaces and amenities, the media, and through language and expression). In all cases, the perception of most respondents is that LGBTQI people are not at all likely to be included. In the national consultations these perceptions were elaborated and those findings, for each country, are presented in the sections that follows.

**Societal dimension of social exclusion: Eswatini**

Overall, as shown in Table 3, respondents from Eswatini perceived a fair amount of societal exclusion at individual, household and community levels.

Only 15% thought that it was somewhat likely that an LGBTQI person could introduce their same-sex/ same-gender partner to their family whilst 67% thought that this was not likely at all. Similarly, 65% thought that it was very unlikely that an LGBTQI person could fully participate in family gatherings with their partner, 14% thought that was somewhat likely, and only 4% thought it was very likely.

Two in five respondents (39%) thought it was somewhat likely that an LGBTQI person could live in the relationship of their choice, and 7% thought that this was very likely. About one third (32%) thought that this was not likely at all.

Almost half of respondents (48%) did not think it was likely at all that an LGBTQI person could be in public spaces without fear of discrimination or violence, and more than half (56%) thought it was very unlikely that an LGBTQI person could express themselves in public without discrimination. Half of respondents thought that it was not likely at all that an LGBTQI person could talk openly about their SOGIESC without fear of discrimination. Almost four in five respondents (79%) thought it was not likely that an LGBTQI person could talk affirmingly about their identity in their mother tongue (23% thought it was not likely, and a further 56% thought it was not likely at all).

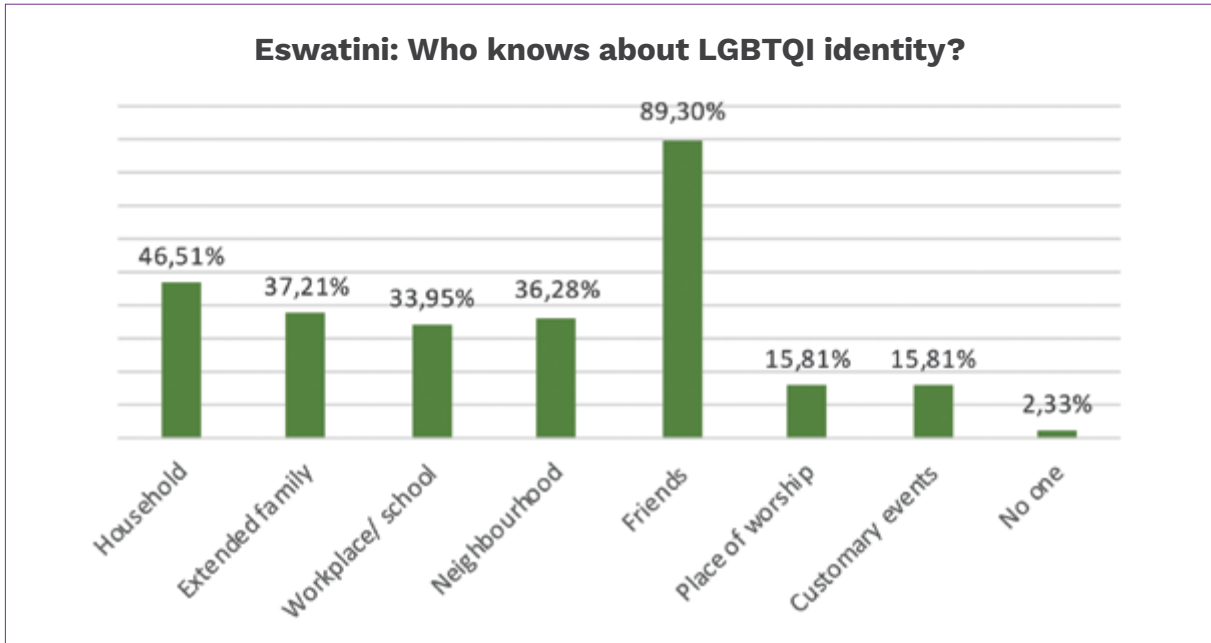
Less than one third of respondents thought it was likely that an LGBTQI person could see themselves affirmingly represented in the media (21% thought it was somewhat likely, 5% though it was likely, and 4% thought it was very likely).

More than half of respondents (59%) thought it was at least somewhat likely that an LGBTQI person could use public bathrooms without fear of discrimination: 32% thought it was somewhat likely, 9% thought it was likely, and 18% thought it was very likely.

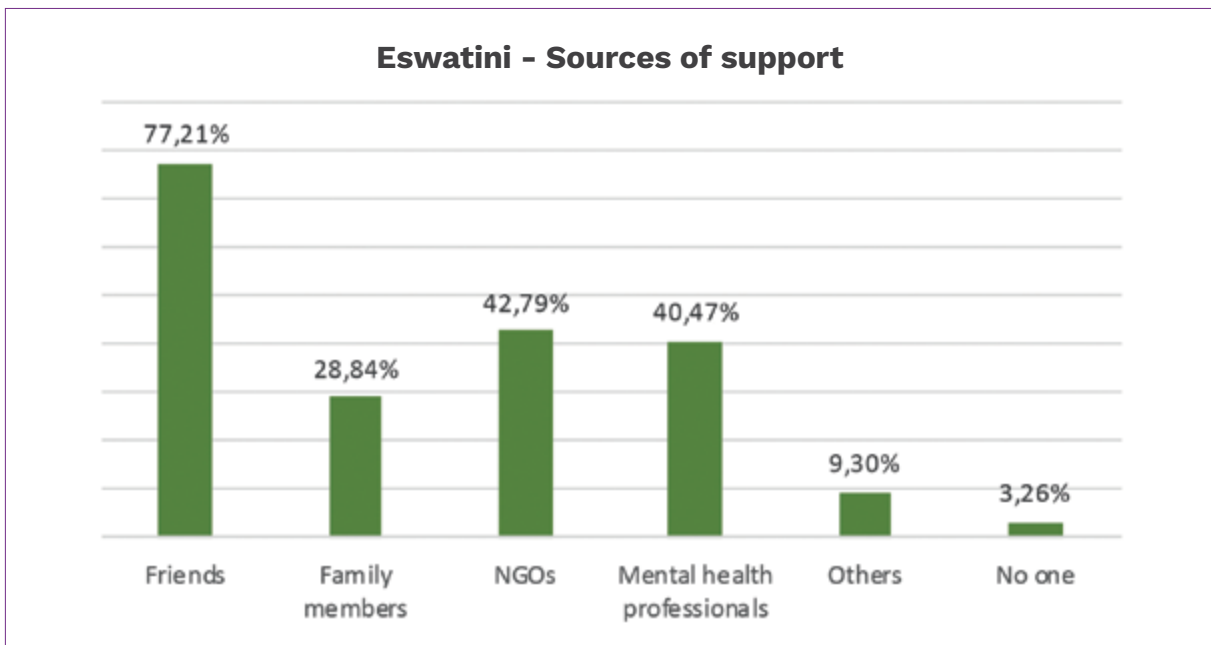
The survey also gathered information about two direct measures of societal exclusion: the level of openness respondents had about their SOGIESC, and the levels of social support respondents had access to.

Despite respondents’ perceptions of relatively high levels of societal exclusion described above, Figure 19 and Figure 20 below show that many other people know about respondents’ SOGIESC. Most commonly the people who know about respondents’ SOGIESC were friends (89%), followed by household members (47%). Only 2% of respondents (n=5) said that no one knew their SOGIESC. This could be a selection bias: because respondents were found through LGBTQI NGOs, it is likely that most of them are already ‘out’ to some extent, at least to the organisation that reached out to them.

Three in four respondents (77%) said that they could turn to friends as sources of support. However, only 29% could rely on family members to support them. This finding resonates with a 2020 survey among LGBTI people in Eswatini which showed that 22% had been rejected by their family after disclosing their sexual orientation or gender identity.<sup>45</sup>



[ Figure 19: Eswatini - Openness about SOGIEESC ]



[ Figure 20: Eswatini - Sources of support ]

In the national consultations in Eswatini, particular forms of societal exclusion were emphasised namely, restrictive gender roles and expectations; rejection by friends; lack of acceptance by traditional leaders; and victimisation in schools.

45. Out & Proud LGBTI Equality and Rights in Southern Africa, 'Risk and Vulnerability Analysis' 2021.

**Societal dimension of social exclusion: Malawi**

Overall, as shown in Table 3, respondents from Malawi perceived a fair amount of societal exclusion at individual, household and community levels.

Only 10% thought that it was somewhat likely that an LGBTQI person could introduce their same-sex/ same-gender partner to their family – 82% thought that this was not likely at all. Similarly, 72% thought that it was not likely at all that an LGBTQI person could fully participate in family gatherings with their partner, only 14% thought that was somewhat likely, 2% thought it was likely, and just 3% thought it was very likely. These findings correspond with reports of widespread fears of familial rejection in LGBTQI communities in Malawi, as shown in a 2020 survey in which 30% of participants had not disclosed their SOGI because they were afraid of family rejection.<sup>46</sup>

About half of respondents thought that it was at least somewhat likely that an LGBTQI person could live in the relationship of their choice: 22% thought it was somewhat likely, 1% thought it was likely, and 23% thought it was very likely. However, 47% thought that this was not likely at all.

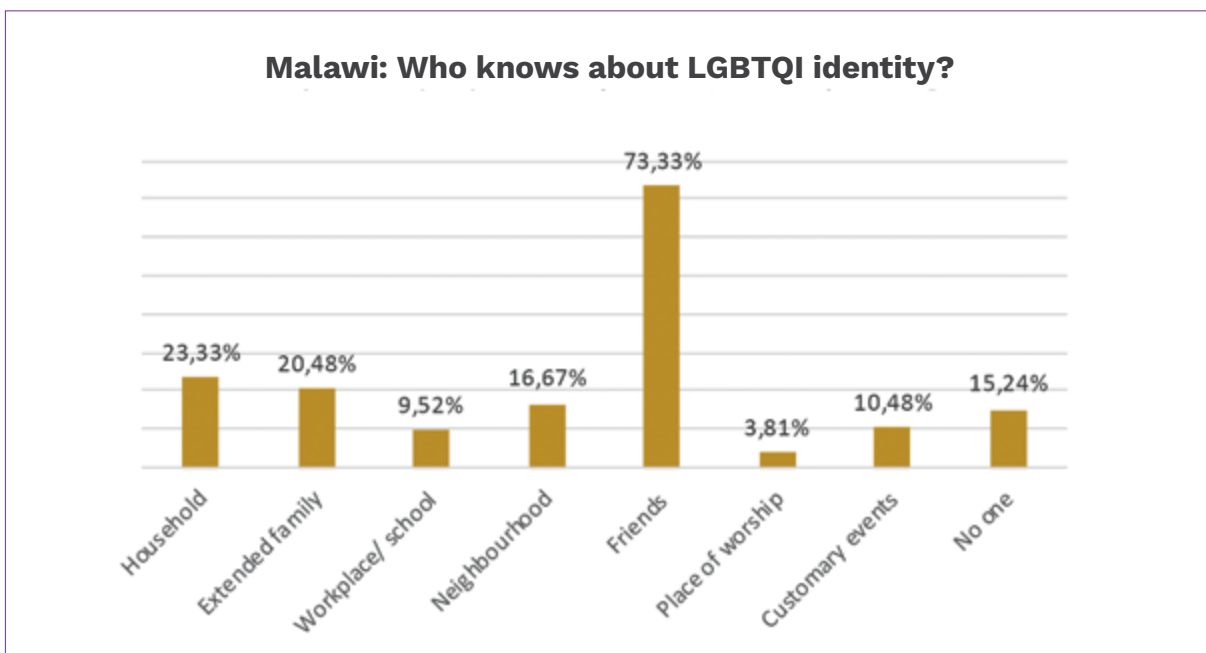
Almost two third of respondents (63%) did not think it was likely at all that an LGBTQI person could be in public spaces without fear of discrimination or violence, and more than three quarter (77%) thought it was not likely at all that an LGBTQI person could express themselves in public without discrimination. Almost three quarter (73%) also thought that it was not likely at all that an LGBTQI person could talk openly about their SOGIESC without fear of discrimination. Almost nine out of every ten respondents (88%) thought it was not likely that an LGBTQI person could talk affirmingly about their identity in their mother tongue (81% thought it was not likely at all, and a further 7% thought it was not likely).

Less than one in six respondents thought it was likely that an LGBTQI person could see themselves affirmingly represented in the media (9% thought it was somewhat likely, 2% though it was likely, and 3% thought it was very likely).

Only one in three respondents thought it was at least somewhat likely that an LGBTQI person could use public bathrooms without fear of discrimination: 26% thought it was somewhat likely, 2% thought it was likely, and 4% thought it was very likely.

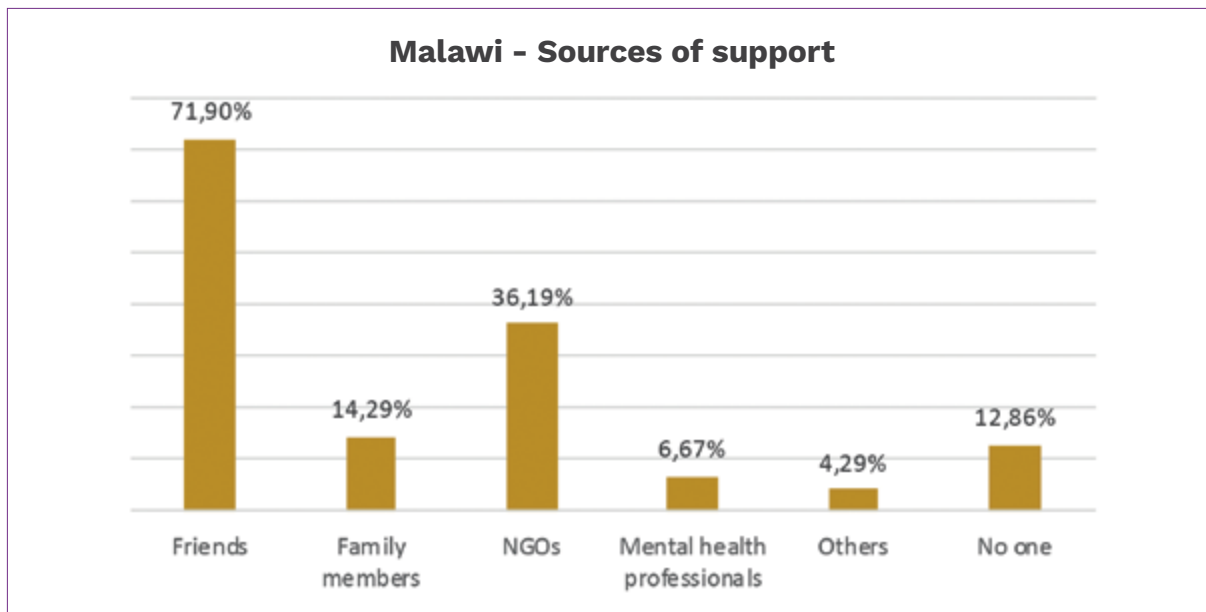
Despite respondents’ perceptions of relatively high levels of societal exclusion, Figure 21 and Figure 22 show that many other people know about their SOGIESC. The most common group of people to know about respondents’ SOGIESC were friends (73%). However, one in six respondents (15%) said that no one knew their SOGIESC.

Almost three in four respondents (72%) said that they could turn to friends as sources of support. However, only 14% could rely on family members to support them, and 13% said that they did not have anyone to turn to for support.



[ Figure 21: Malawi - Openness about SOGIESC ]

46. Out & Proud LGBTI Equality and Rights in Southern Africa, 'Risk and Vulnerability Analysis' 2021.



[ Figure 22: Malawi - Sources of support ]

In the national consultations, participants said that key forms of societal exclusion in Malawi include being gossiped about, provoked, mocked, treated like an outcast, and/or told that you are not of 'sane mind'. Self-stigmatisation by LGBTQI individuals was identified as a common effect of these exclusions. In addition, and echoing the qualitative data, family rejection, bullying at school, hate speech, and verbal harassment are common features of this dimension of exclusion. This aligns with civil society reports that show how, frequently, experiences of social exclusion take the form of being forced out of home by parents or relatives, evicted from rented houses, chased away from school, booed or pointed fingers at in public spaces, beaten or ostracised by significant others (family, relatives, parents), and mistreated in hospital settings.<sup>47</sup>

#### Societal dimension of social exclusion: Zimbabwe

Overall, as shown in Table 3, respondents from Zimbabwe perceived a fair amount of societal exclusion at individual, household and community levels.

Only 16% thought that it was at least somewhat likely that an LGBTQI person could introduce their same-sex/ same-gender partner to their family – 74% thought that this was not likely at all. Similarly, 78% thought that it was not likely or not likely at all that an LGBTQI person could fully participate in family gatherings with their partner. These results confirm other research findings that LGBTQI people who disclose their SOGIESC are rejected by family members, chased away from home or disowned. Among a group of LGBT people surveyed in 2020, 30% had experienced family rejection - 64% of gay men and 27% of lesbian women had been disowned by their families.<sup>48</sup> Among transgender people, 55% had been stigmatised by a family member because of their gender identity, and 50% had been left out of family meetings or community gatherings because of their gender identity.<sup>49</sup>

Only one third of respondents thought it was at least somewhat likely that an LGBTQI person could live in the relationship of their choice: 23% thought this was somewhat likely, 3% thought it was likely and 5% thought that this was very likely. Half (52%) thought that this was not likely at all.

Half of respondents (51%) did not think it was likely at all that an LGBTQI person could be in public spaces without fear of discrimination or violence, and more than half (58%) thought it was not likely at all that an LGBTQI person could express themselves in public without discrimination. Half of respondents (53%) thought that it was not likely at all that an LGBTQI person could talk openly about their SOGIESC without fear of discrimination. Almost four in five respondents thought it was not likely that an LGBTQI person could talk affirmingly about their identity in their mother tongue (54% thought it was not likely at all, and a further 25% thought it was not likely).

Only one in five of respondents thought it was likely that an LGBTQI person could see themselves affirmingly represented in the media (10% thought it was somewhat likely, 3% thought it was likely, and 7% thought it was very likely). Less than one in four of respondents thought it was at least somewhat likely that an LGBTQI person could use public bathrooms without fear of discrimination: 13% thought it was somewhat likely, 2% thought it was likely, and 8% thought it was very likely.

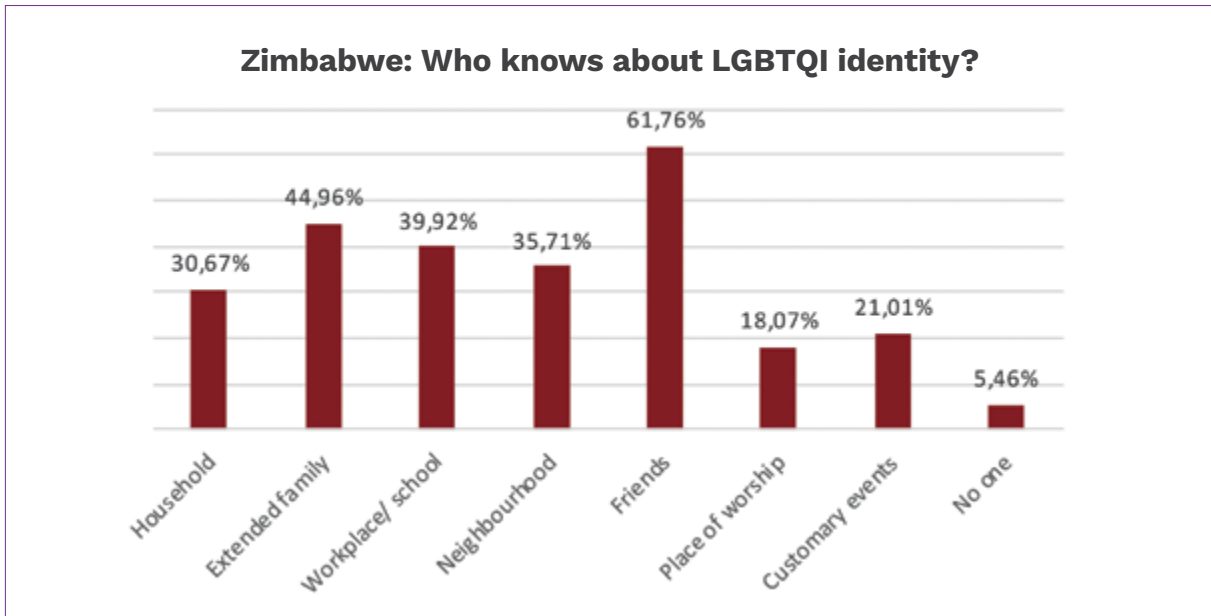
47. CEDEP. *Civil Society Parallel Report of the Voluntary National Review of SDG Implementation in Malawi*, 2020. Available at <https://www.cedepmalawi.info/index.php/news-and-events/102-civil-society-parallel-report-of-the-voluntary-national-review-of-sdg-implementation-in-malawi>

48. Reported in Badza, G. "I have no place in society", 2019, see: <https://www.dandc.eu/en/article/homophobia-zimbabwe-hurts-mental-health-lgbti-people>

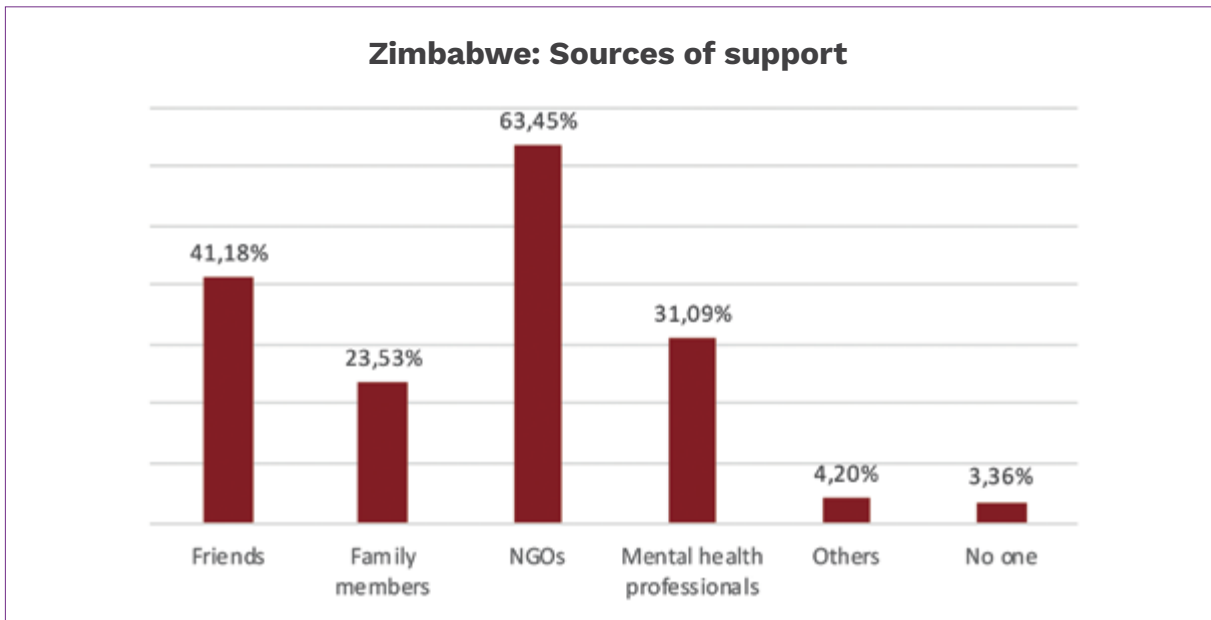
49. TransSmart Trust & RFSL. *Trans Inclusion in the Developmental Framework of Zimbabwe: A Spotlight Report Based on the National Trans Research Study*, 2020.

Related to respondents’ perceptions of relatively high levels of societal exclusion, Figure 23 and Figure 24 show that less than two thirds of respondents (62%) had disclosed their SOGIESC to their friends, and even less to family or household members. However, almost one in five respondents (18%) was open about their SOGIESC at their place of worship.

NGOs were the most important source of support for LGBTQI Zimbabweans who answered the survey: 63% said that they could turn to NGOs as sources of support, compared to friends (41%), family members (24%) and mental health professionals (31%).



[ Figure 23: Zimbabwe - Openness about SOGIESC ]



[ Figure 24: Zimbabwe - Sources of support ]

In the national consultation in Zimbabwe participants emphasised the following forms of societal exclusion: lack of recognition of LGBTQI marriages; absence of family and community support; no toilets for gender non-conforming people; victimisation in bars and night clubs; hate speech; bullying and harassment; limited information on sexual and gender diversity in schools; and negative media representations. Restrictive gender roles and patriarchal norms were also stressed, as well as that the normalisation of exclusion causes internalised stigma.

### 4.2.3 Civil and political dimension

#### Civic and political exclusion at structural level: across countries

A country's political landscape, including the attitudes and practices of its leaders, the laws and policies that govern its institutions, and the political culture, all have a powerful bearing on the lived realities of LGBTQI persons. In all three countries, government services (such as health, justice, welfare, policing and education) are crucial to well-being and civic participation. Prohibitive or restrictive laws, policies and practices in these areas of state service delivery directly undermine the civic and political rights of LGBTQI people and of the organisations that represent them.

Overall, civic and political exclusion at this level and across all countries was high, with no legal protections from discrimination based on SOGIESC (Table 4). Only in Zimbabwe are NGOs that work on issues of SOGIESC allowed to legally register. In Malawi and Eswatini the government has allowed Pride events and public expressions of sexual and gender diversity.

The only area in which structural measures to reduce SOGIESC-based exclusion are in existence, is in the health sector. In all three countries LGBTQI people are recognised as vulnerable groups in relation to HIV and are thereby provided for within health policy. This, however, does not necessarily include all sexual and gender diverse groups – in fact, health policies in the three countries expressly mention men who have sex with men (MSM) and transgender people, remaining silent on the health vulnerabilities and needs of lesbians and other women who have sex with women. Further, the recognised health concerns are restricted to sexual health and especially to HIV, and do not recognise that LGBTQI people might face barriers in access to healthcare in other areas. The survey showed that none of the countries provide gender affirming care or make provisions to protect the bodily autonomy of intersex children.

[ Table 4: Civic and political exclusion at structural level ]

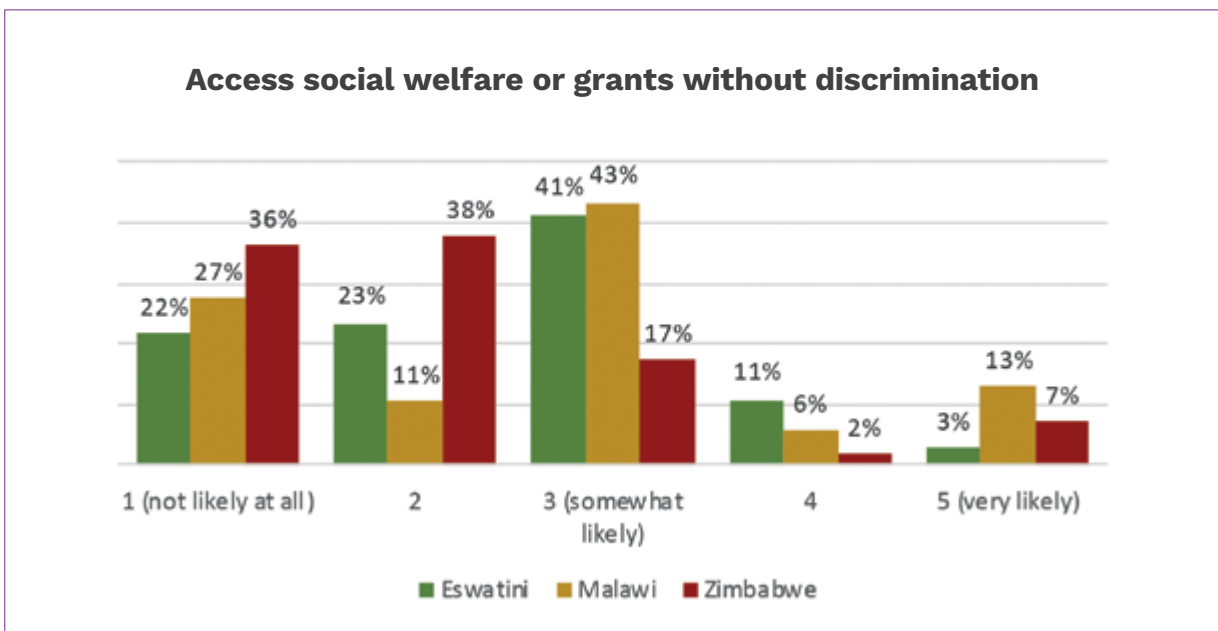
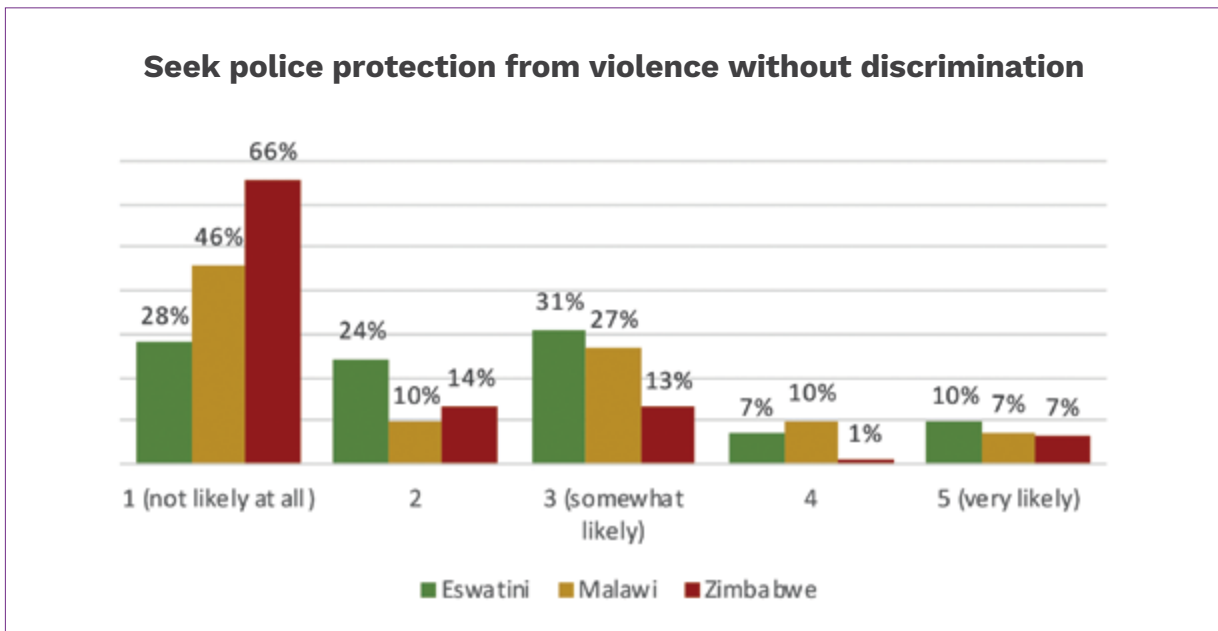
	Eswatini	Malawi	Zimbabwe
Law that prohibits discrimination based on sexual orientation and gender identity	✗	✗	✗
Legal way to record intersex status/ diversity of sex characteristics in official documents	✗	✗	✗
Legal way to change gender marker on identity documents	✗	✗	✗
LGBTI Pride events allowed by the state	✓	✓	✗
Registration of LGBTI organisations legally possible	✗	✗	✓
MSM and/or trans people are recognised as a vulnerable population in health policy	✓	✓	✓
Gender affirming care available in public health facilities	✗	✗	✗
Law that prohibits medical interventions on children with diverse sex characteristics/intersex children	✗	✗	✗
Law or policy that expressly prohibits discrimination based on SOGIESC in schools and/or other educational institutions	✗	✗	✗
Sexuality education includes affirming content about sexual and gender diversity/ LGBTI people	✗	✗	✗

Perceptions of civic and political exclusion at individual, household and community level: across countries

Table 5 shows the perceptions of civic and political inclusion among the survey respondents. Overall, the findings show that perceptions among LGBTQI respondents were that civic and political exclusion was relatively widespread, with many thinking that specific areas of such inclusion were not likely.

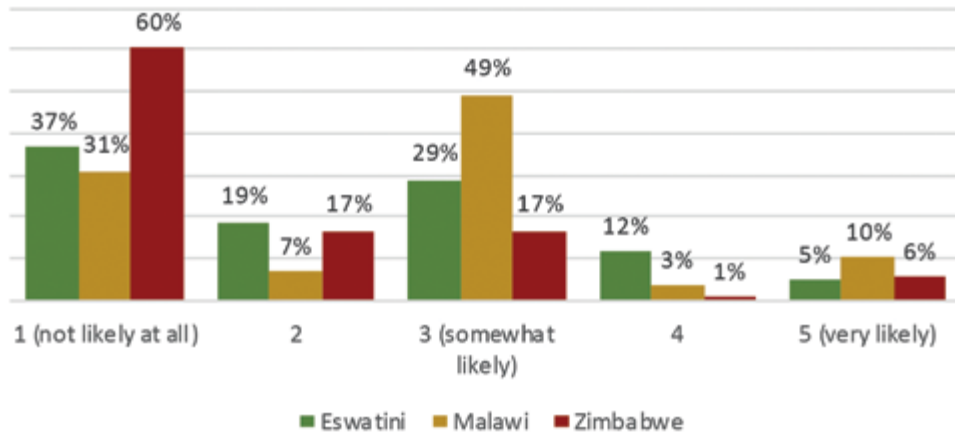
## How likely is it that an LGBTQI person can...

[ Table 5: Perceptions of civic and political exclusion, all countries ]

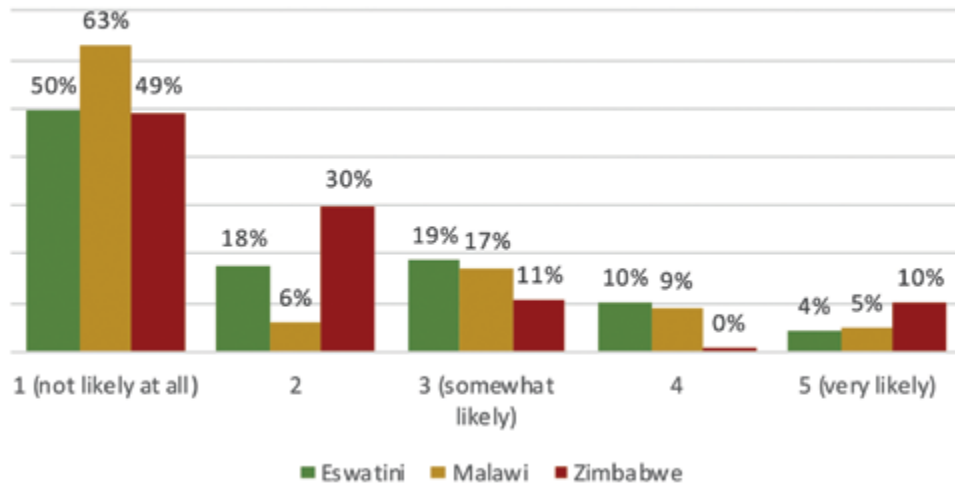




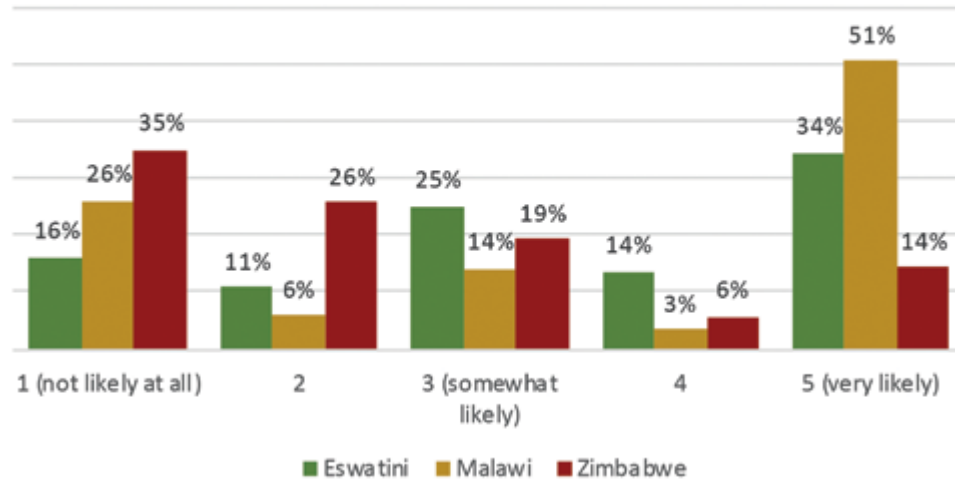
### Participate in political gatherings without discrimination

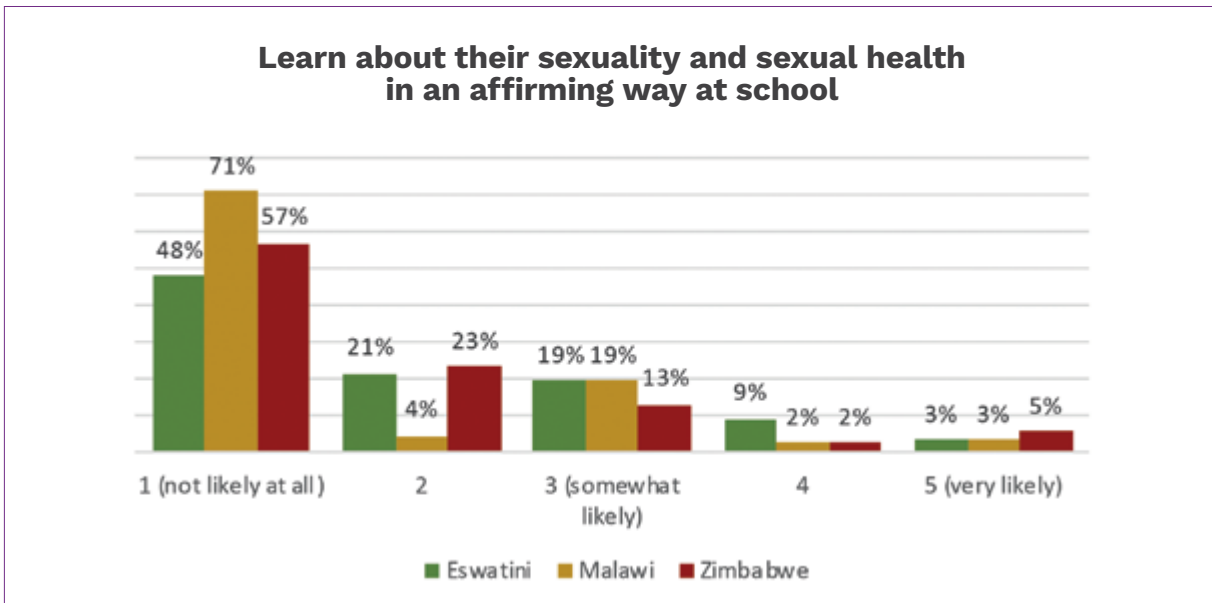
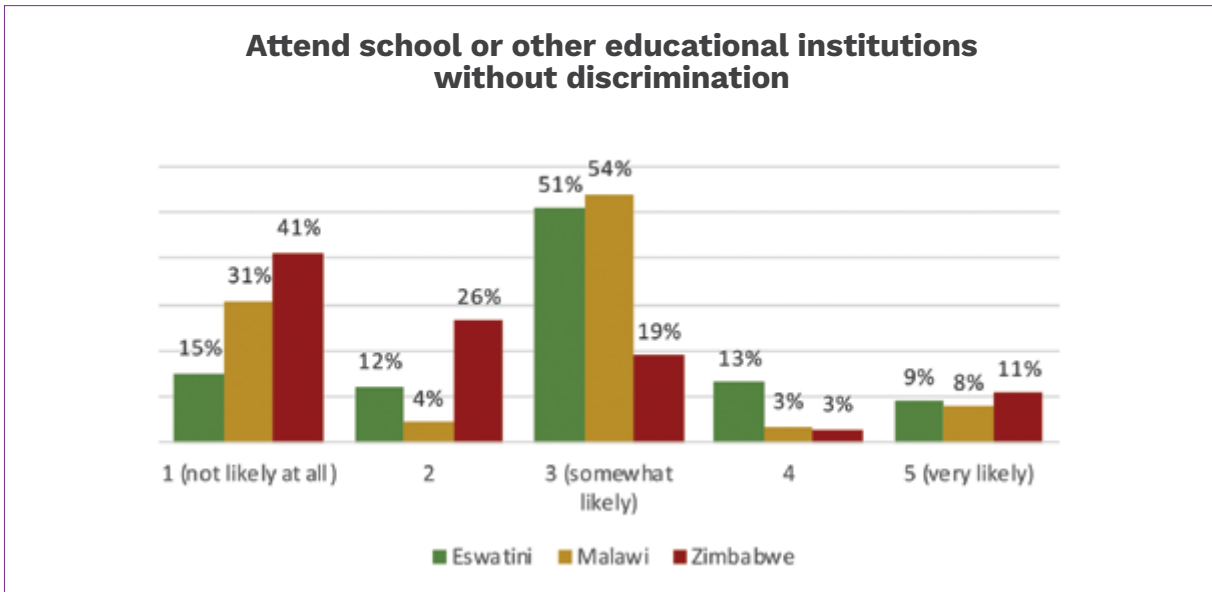
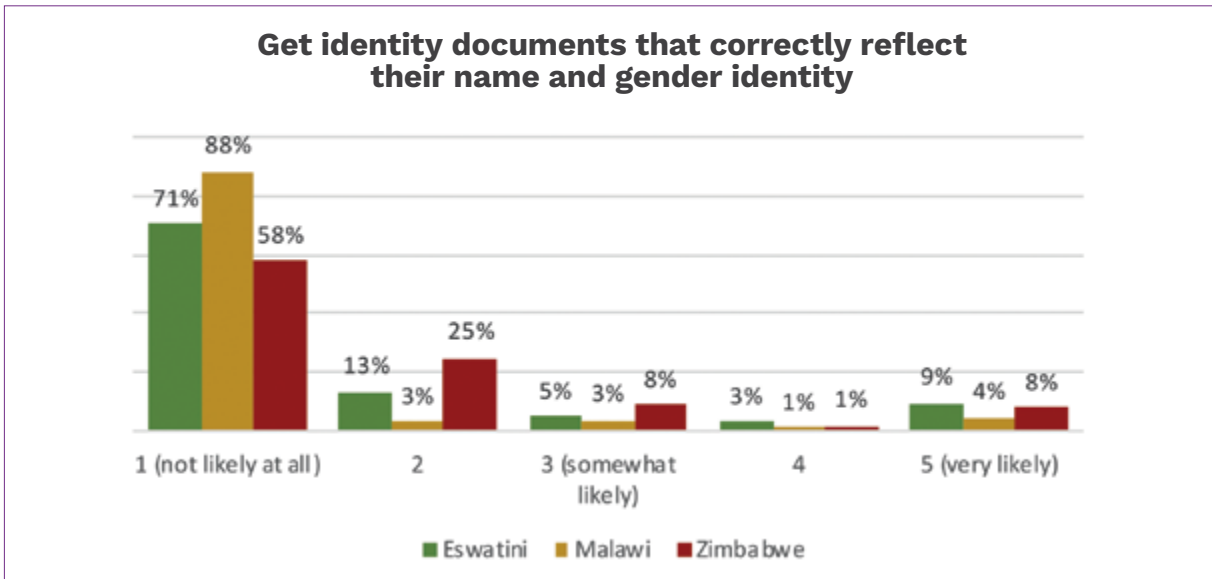


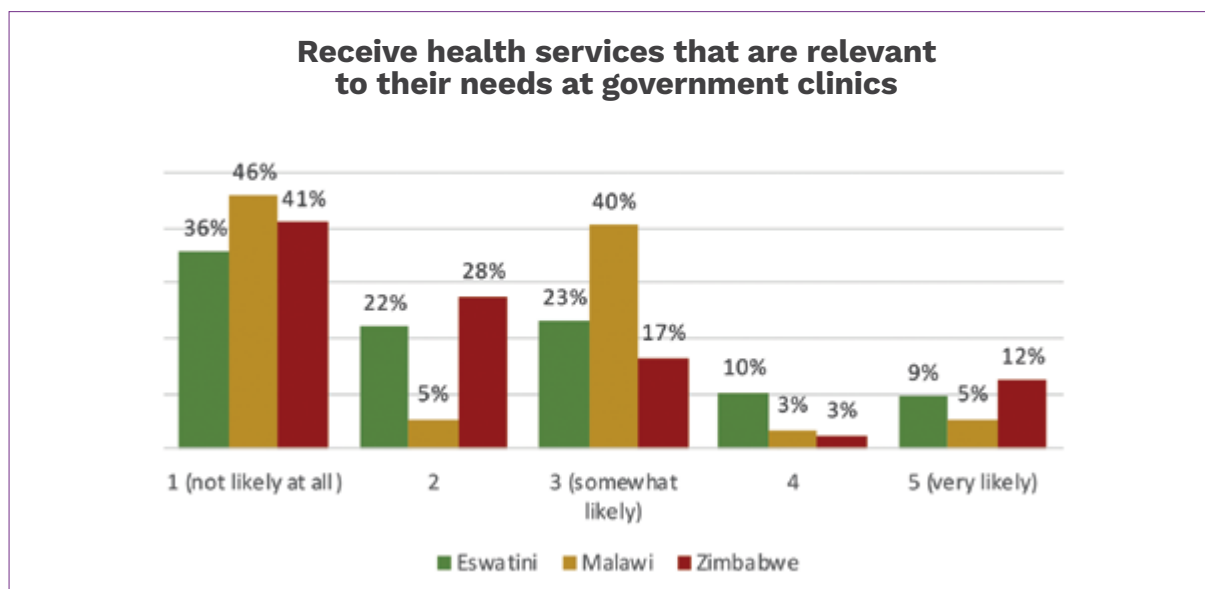
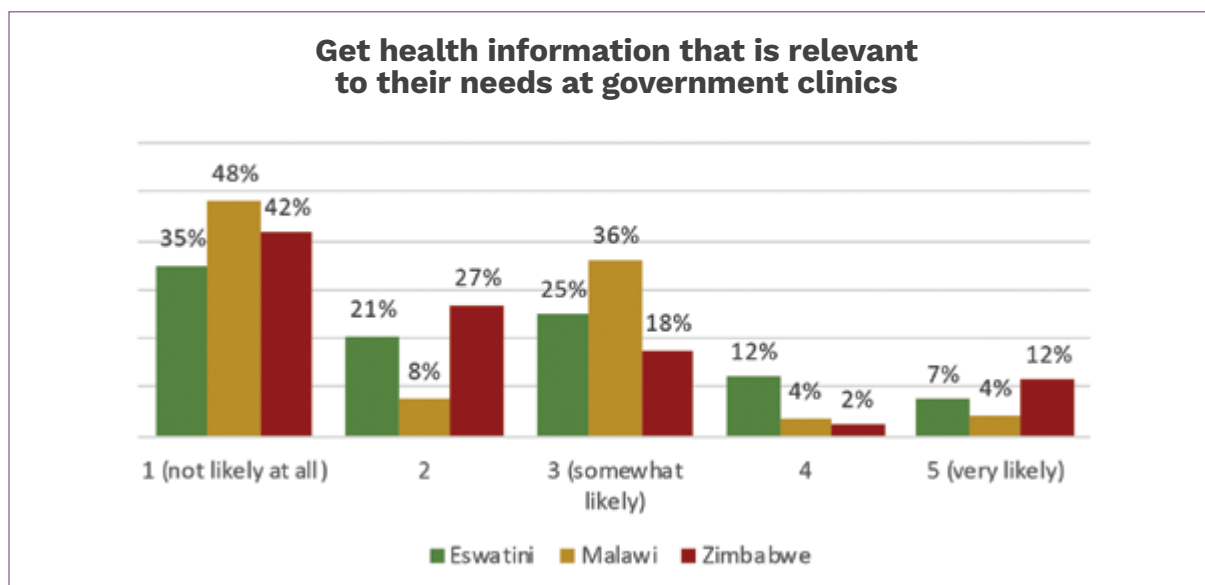
### Stand for elections without discrimination



### Vote in elections without discrimination







In sum, the above perceptions about civic and political exclusion shed light on barriers to accessing state institutions and services based on SOGIESC; from police protection, social welfare, political participation and official identification, through to education and health services and information. Respondents' views about being able to seek police protection from violence without being discriminated against, were mostly that this is not at all likely for LGBTQI people. This is compounded in a context where same-sex activity is criminalised, resulting in LGBTQI survivors of discrimination and violence not reporting abuses due to fear of arrest, and for those who do report, fear of being further victimised by the police.<sup>50</sup>

When it comes to LGBTQI persons accessing social welfare, 43% and 41% of respondents in Malawi and Eswatini, respectively, thought this was somewhat likely, and was notably less so in Zimbabwe (17%).

On political participation - in the form of LGBTQI persons standing for elections or taking part in political gatherings without facing discrimination - the majority perception in all countries is that this is not likely at all. However, respondents in Eswatini (34%) and in Malawi (51%) thought that it was more likely to be able to vote in elections than it was either somewhat likely or not likely at all, whereas respondents in Zimbabwe mostly (35%) thought this was not likely at all. Over three quarters of all respondents held the perception that getting identity documents which correctly reflect the gender identity of an LGBTQI person was not likely at all.

50. HRW, 2018.

Notably, LGBTQI people being able to access educational institutions without discrimination was seen as somewhat likely for most respondents in both Malawi and Eswatini, whilst most thought that it was not likely at all in Zimbabwe. Respondents also indicated that LGBTQI persons being able to learn about their sexualities and about sexual health in affirming ways at school, was mostly not likely at all.

### Civic and political exclusion in Eswatini

In Eswatini, survey respondents mostly did not think it was likely that LGBTQI people were included in civic and political life.

More than half of respondents thought that it was not likely that an LGBTQI person could seek police protection from violence without experiencing discrimination (24% thought this was not likely, and 28% thought it was not likely at all). This is significant in the context of high levels of violence experienced by many LGBTQI Swazis, as evidenced in a study that found 79% of respondents to have experienced SOGIESC-related harassment, half (50%) to have experienced sexual violence at least once in their lifetime, and three in five (58%) to have experienced physical violence.<sup>51</sup>

Almost half of all respondents thought it was unlikely that LGBTQI persons could access social welfare or grants without discrimination – 23% thought this was not likely, and a further 22% thought this was not likely at all. Two in five (41%) thought it was somewhat likely, and less than 10% thought it was likely or very likely.

More than half of respondents did not think that LGBTQI persons could participate in political gatherings without experiencing discrimination (19% thought this was not likely, and 37% thought this was not likely at all).

Two out of three respondents thought that it was either not likely (18%) or not likely at all (50%) that an LGBTQI person could stand for election without discrimination. More than one in four respondents thought it was not likely (11%) or not likely at all (16%) that an LGBTQI person could vote in general elections without experiencing discrimination.

More than four out of five respondents thought that it was not likely (13%) or not likely at all (71%) that an LGBTQI person could obtain official identity documents that correctly reflected their name and gender identity.

One in four respondents thought that it was not likely (12%) or not likely at all (15%) that an LGBTQI person could attend school or educational institutions without discrimination. When looking at levels of education of the respondents themselves, it is noteworthy that just over half (53%) had completed secondary school, and a further 42% had obtained a tertiary degree or diploma.

More than two thirds of respondents thought it was not likely (21%) or not likely at all (48%) for an LGBTQI learner to learn about their sexuality and sexual health in an affirming way. Less than half of respondents thought that it was at least somewhat likely that an LGBTQI person could receive health information relevant to their needs at government health facilities (25% somewhat likely, 12% likely, 7% very likely). Similarly, less than half of respondents thought that it was at least somewhat likely that an LGBTQI person could receive health services relevant to their needs at government health facilities (23% somewhat likely, 10% likely, 9% very likely). These findings correlate with other research in Eswatini on the negative impacts on LGBTQI people's health and well-being resulting from healthcare discrimination and a scarcity of LGBT-tailored HIV prevention resources.<sup>52</sup> Similarly, another study also evidences SOGIESC-based exclusion in Eswatini's healthcare services where more than half of LGBTI people surveyed (59%) had been treated disrespectfully in a health facility, two in five (41%) had been insulted in a health facility, almost one third (30%) had been denied healthcare because of their SOGIESC, and 44% had hidden a SOGIESC-related health concern from a healthcare provider.<sup>53</sup>

In the national consultations, LGBTQI participants emphasised that civic and political exclusions based on SOGIESC in Eswatini are largely characterised by:

- The absence of recognition of LGBTQI persons in the country's Constitution and laws;
- Political space being restricted by a gender binary that denies sexual and gender diversity;
- Lack of participation by LGBTQI people in law and policy development and reform;
- Lack of access to justice and the police's unwillingness to deal with SOGIESC-related cases of discrimination;
- Insufficient legal knowledge within the LGBTQI community.

51. Müller, Daskilewicz and SEARCH, 2019.

52. Logie et al., *Marginalization and social change processes among lesbian, gay, bisexual and transgender persons in Swaziland: implications for HIV prevention, AIDS Care*, 2018.

53. Müller, Daskilewicz and SEARCH, 2019.

### Civic and political exclusion in Malawi

In Malawi, survey respondents mostly did not think that it was likely that LGBTQI people were included in civic and political life.

More than half of respondents thought that it was not likely that an LGBTQI person can seek police protection from violence without experiencing discrimination (10% thought this was not likely, and 46% thought it was not likely at all). A number of reports document recurring harassment and violence experienced by LGBTQI persons in Malawi.<sup>54</sup> This violence is perpetrated by strangers in public places or leisure spaces, by family members or by partners.<sup>55</sup> In one study, two thirds (66%) of LGBT respondents had experienced SOGIE-related harassment, 42% had experienced sexual violence at least once in their life, and 41% physical violence, whilst 60% attributed this violence to their SOGIE.<sup>56</sup>

Almost two in five respondents thought it was not likely that LGBTQI persons could access social welfare or grants without discrimination – 11% thought this was not likely, and a further 27% thought this was not likely at all. Two in five (43%) thought it was somewhat likely, 6% thought it was likely, and 13% thought it was very likely.

Two in five respondents did not think that LGBTQI persons could participate in political gatherings without experiencing discrimination (7% thought this was not likely, and 31% thought this was not likely at all).

Two out of three respondents thought that it was either not likely (6%) or not likely at all (63%) that an LGBTQI person could stand for election without discrimination. More than one in three respondents thought it was not likely (6%) or not likely at all (26%) that an LGBTQI person could vote in general elections without experiencing discrimination.

Nine out of ten respondents thought that it was not likely (3%) or not likely at all (88%) that an LGBTQI person could obtain official identity documents that correctly reflected their name and gender identity.

One in three respondents thought that it was not likely (4%) or not likely at all (31%) that an LGBTQI person could attend school or educational institutions without discrimination. Two in five respondents had completed secondary school as their highest degree, and 53% had completed a tertiary degree or diploma. These findings are significant in light of studies that show LGBTI students' having experienced stigmatisation and bullying based on SOGIESC, where in most cases they withdrew from schools and tertiary institutions in order to escape this discrimination.<sup>57</sup>

Three quarters of respondents thought it was not likely (4%) or not likely at all (71%) for an LGBTQI learner to learn about their sexuality and sexual health in an affirming way. Less than half of respondents thought that it was at least somewhat likely that an LGBTQI person could receive health information relevant to their needs at government health facilities (36% somewhat likely, 4% likely, 4% very likely). Similarly, less than half of respondents thought that it was at least somewhat likely that an LGBTQI person received health services relevant to their needs at government health facilities (40% somewhat likely, 3% likely, 5% very likely). These findings occur in a country where there is reportedly "a low uptake of health services by LGBTI persons due to structural and legal barriers which [...] drive sexual minorities underground due to fear of prosecution".<sup>58</sup> Moreover, other research in Malawi found that 47% of LGBTI respondents had been treated disrespectfully in a health facility, 41% had been insulted in a health facility, 34% had been denied healthcare because of their SOGIESC, and a quarter (26%) had hidden a SOGIESC-related health concern from their healthcare provider.<sup>59</sup>

In the national consultations in Malawi, LGBTQI participants highlighted the following dynamics of SOGIESC-related civic and political exclusion:

- Lack of reform of the criminalising Penal Code;
- The President's view that LGBTQI rights should be subjected to popular opinion;
- Unfair treatment by state institutions (e.g. hospitals and police);
- Politicians do not assist LGBTQI people for fear of social rejection by their supporters;
- No possibility to actively participate in formal politics as an out LGBTQI person;
- Being side-lined in development activities and civil society spaces;
- Denial of access to education.

54. CEDEP & CHRR, 2015; HRW, 2018; Müller, Daskilewicz and SEARCH, 2019; Southern Africa Litigation Centre, 2020; Positive Vibes Trust, 2017.

55. CEDEP & CHRR, 2015; Müller, Daskilewicz and SEARCH, 2019.

56. Müller, Daskilewicz and SEARCH, 2019.

57. Southern Africa Litigation Centre and NRA, 2020. CEDEP & CHRR, 2015.

58. *Legal and Policy Environment Assessment (LEA)*, conducted by UNDP and the Department of Nutrition, HIV and AIDS in the Ministry of Health.

59. Müller, Daskilewicz and SEARCH, 2019.

### Civic and political exclusion in Zimbabwe

In Zimbabwe, survey respondents mostly did not think that it was likely that LGBTQI people were included in civic and political life.

Four out of five respondents thought that it was unlikely that an LGBTQI person can seek police protection from violence without experiencing discrimination (14% thought this was not likely, and 66% thought it was not likely at all). This is particularly significant as many LGBT Zimbabweans have reported experiencing violence: 63% had experienced SOGIE-related harassment, 39% had experienced sexual violence and 43% physical violence, with 77% attributing the violence to their SOGIE.<sup>60</sup> Similarly, among a group of LGBT people sampled for a recent situational assessment, 50% of participants stated that they sometimes experienced harassment, discrimination, stigma and violence, and 22% stated that they experienced these very often. Most notably, 23% had experienced violence by police officers.<sup>61</sup>

Only one in four respondents thought it was at least somewhat likely that LGBTQI persons could access social welfare or grants without discrimination – 38% thought this was not likely, and a further 36% thought this was not likely at all.

Three in four respondents did not think that LGBTQI persons could participate in political gatherings without experiencing discrimination (17% thought this was not likely, and 60% thought this was not likely at all).

Four out of five respondents thought that it was either not likely (30%) or not likely at all (49%) that an LGBTQI person could stand for election without discrimination. Only one in ten respondents thought that this might be somewhat likely (11%) or very likely (10%). More than 60% of respondents thought it was not likely (26%) or not likely at all (35%) that an LGBTQI person could vote in general elections without experiencing discrimination.

More than four out of five respondents thought that it was not likely (25%) or not likely at all (58%) that an LGBTQI person could obtain official identity documents that correctly reflected their name and gender identity.

Two thirds of respondents thought that it was unlikely that an LGBTQI person could attend school or educational institutions without discrimination, with 26% stating not likely and 41% not likely at all. Forty-two percent of respondents have a tertiary degree or diploma and 53% have completed secondary school.

Four in five respondents thought it was not likely (23%) or not likely at all (57%) for an LGBTQI learner to learn about their sexuality and sexual health in an affirming way. Less than one third of respondents thought that it was at least somewhat likely that an LGBTQI person could receive health information relevant to their needs at government health facilities (18% somewhat likely, 2% likely, 12% very likely). Similarly, less than one third of respondents thought that it was at least somewhat likely that an LGBTQI person received health services relevant to their needs at government health facilities (17% somewhat likely, 3% likely, 12% very likely). These perceptions align with the reality that SOGIESC-based discrimination and stigmatisation in healthcare facilities is frequent in Zimbabwe. One study found that more than half (54%) of LGBT respondents had been treated disrespectfully in a health facility, 43% had been insulted in a health facility, one third (34%) had been denied healthcare because of their SOGIE, and 36% had hidden a SOGIE-related health concern from their healthcare provider.<sup>62</sup> In light of these experiences, it is unsurprising that NGOs are often the most important source of care for LGBT people, especially for HIV testing and counselling or psychosocial support.<sup>63</sup> Since experience shapes perception, only a small number of uneasy or distressing experiences are necessary to dissuade people from returning to a facility where they have felt compromised, and this also prompts them to share that perception with others, which in turn increases wider perceptions of being excluded from healthcare services.<sup>64</sup>

In the national consultations in Zimbabwe, participants stressed that the rhetoric of politicians, together with the existence of prohibitive laws, are the primary shapers of social attitudes towards LGBTQI people amongst the general population. Against this backdrop, key forms of civic and political exclusion were identified as follows:

- Constitutional and legal prohibitions on the rights and identities of LGBTQI persons;
- Laws, policies and a state apparatus that fails to protect;
- No access to participation in the political sphere or to be represented in parliament.
- Hate speech from political leaders;
- LGBTQI organisations being prohibited from registering as public benefit organisations;
- Barriers to voter registration, political candidacy and participation in civic and political activities due to lack of access to identity documentation that reflects one's gender identity.

60. Müller, Daskilewicz and SEARCH, 2019.

61. Out & Proud LGBTI Equality and Rights in Southern Africa, 'Risk and Vulnerability Analysis' 2021.

62. Müller, Daskilewicz and SEARCH, 2019.

63. Müller, Daskilewicz and SEARCH, 2019.

64. GALZ, Perceptions and Perspectives: Access to Facility-based Health Services for LGBT people in Harare and Bulawayo, Zimbabwe, 2018.

### 4.2.4 Economic dimension

#### Economic exclusion at structural level: across countries

To assess economic exclusion at the structural and institutional level, Part 1 of the survey asked about the existence of laws that prohibit workplace discrimination based on SOGIESC. At the time of writing this report, none of the three countries had such laws in place (Table 6).

[ Table 6: Economic exclusion at structural level ]

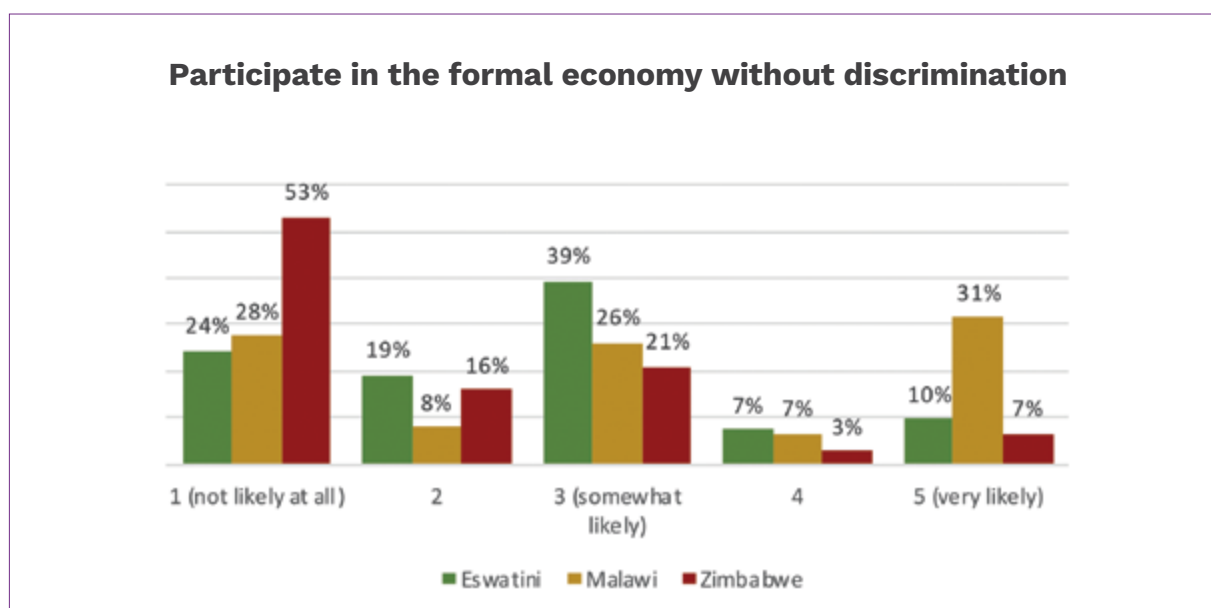
	Eswatini	Malawi	Zimbabwe
Law that expressly prohibits workplace discrimination based on SOGIESC	✗	✗	✗

#### Perceptions of economic exclusion at individual, household and community level: across countries

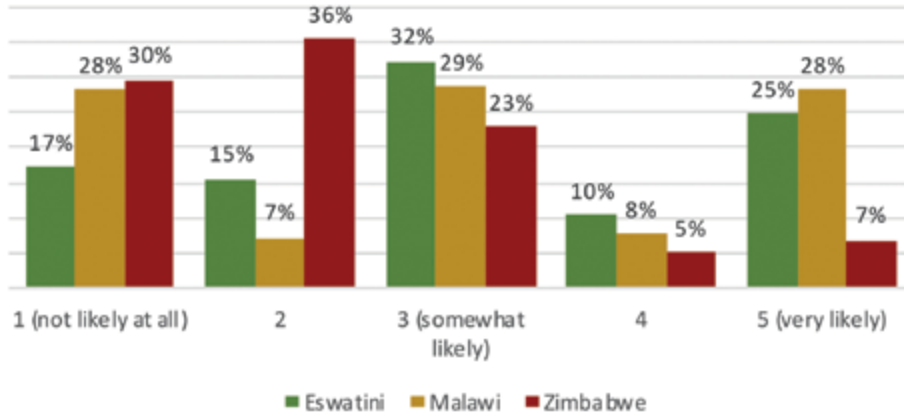
Part 2 of the survey showed that overall, respondents in the three countries perceive there to be a significant amount of economic exclusion (Table 7). The informal economy was perceived to be slightly less exclusionary than the formal economy. Whilst respondents viewed LGBTQI exclusion to be less likely when individuals apply for positions in the formal economy (where, in the process, they might not have to disclose their SOGIESC), in all three countries they thought it was very unlikely that an LGBTQI person could disclose their SOGIESC at work without experiencing discrimination.

## How likely is it that an LGBTQI person can...

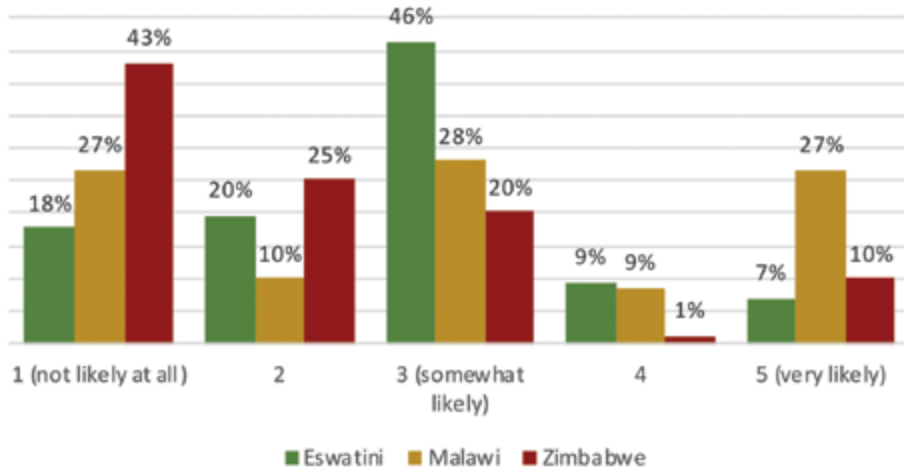
[ Table 7: Perceptions of economic exclusion, all countries ]



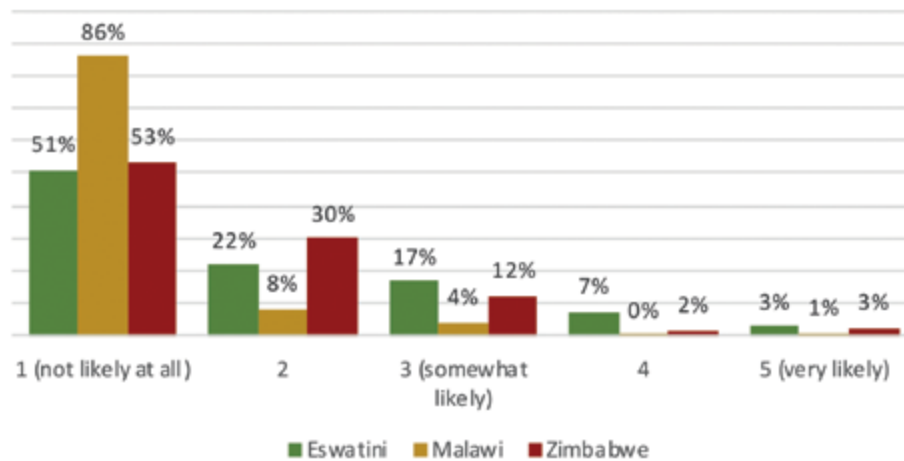
### Participate in the informal economy without discrimination



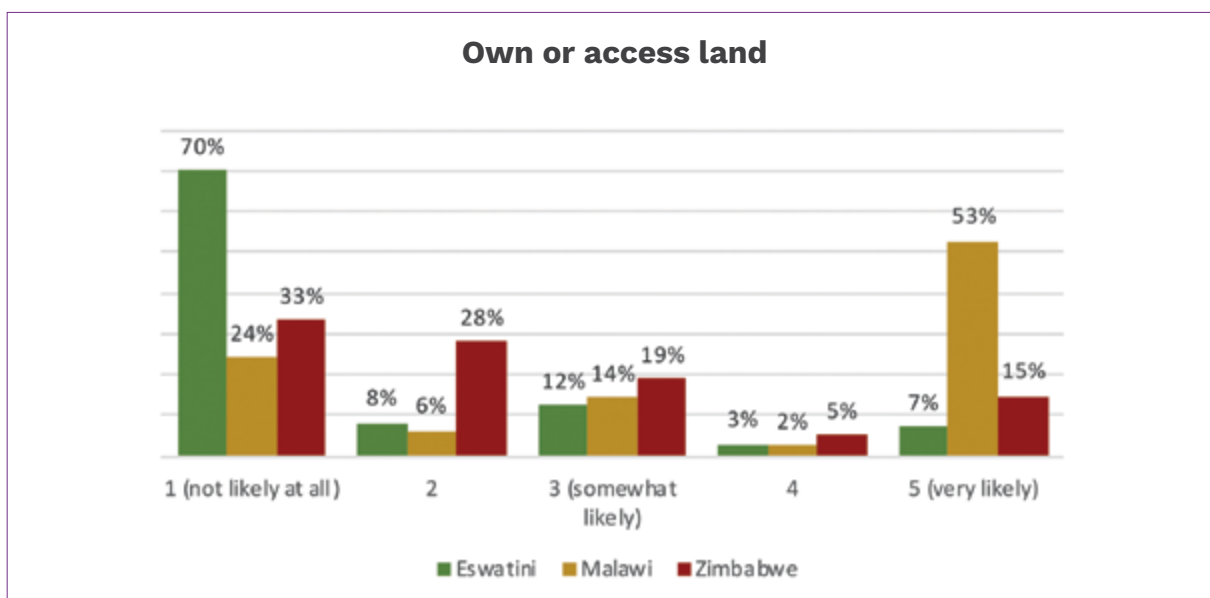
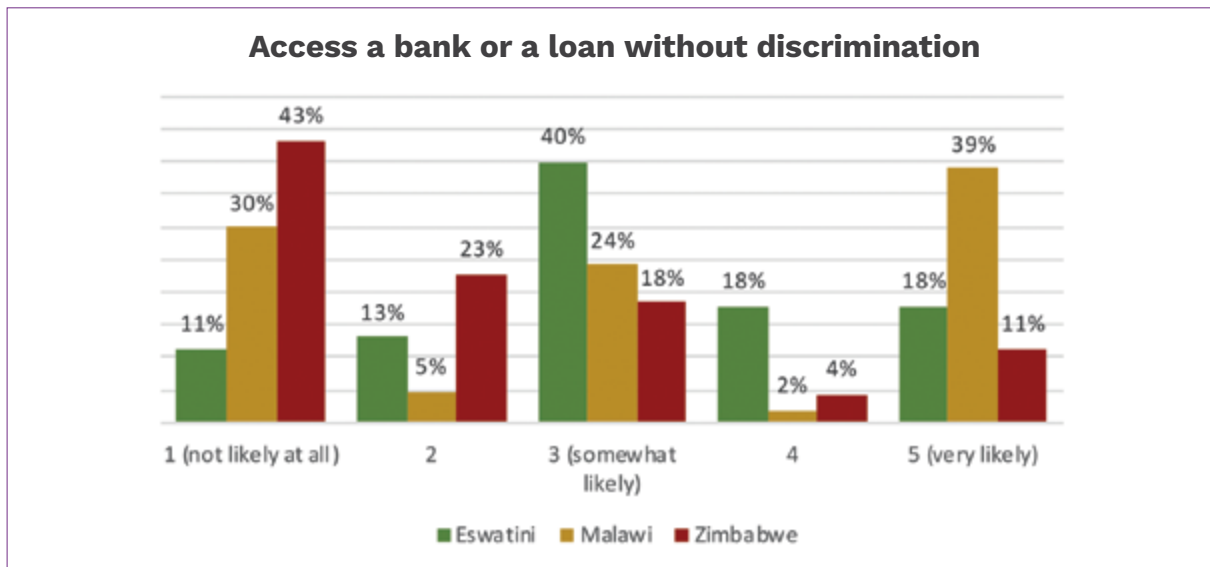
### Apply for a job without fear of discrimination



### Disclose their SOGIESC at work







The key indicators for economic exclusion presented above include participation in the economy, access to jobs and openness about SOGIESC status in the workplace, and access to banking, financing and land. Exclusionary practices and policies in these areas diminish the opportunities for LGBTQI people to participate fully and equally in economic life, both in the formal and informal economy. Interestingly, the findings show that whilst perceptions about the likelihood of whether an LGBTQI person can access a job without facing discrimination are somewhat divergent, it is commonly perceived that being able to disclose one’s SOGIESC in the workplace is, for the most part, very unlikely.

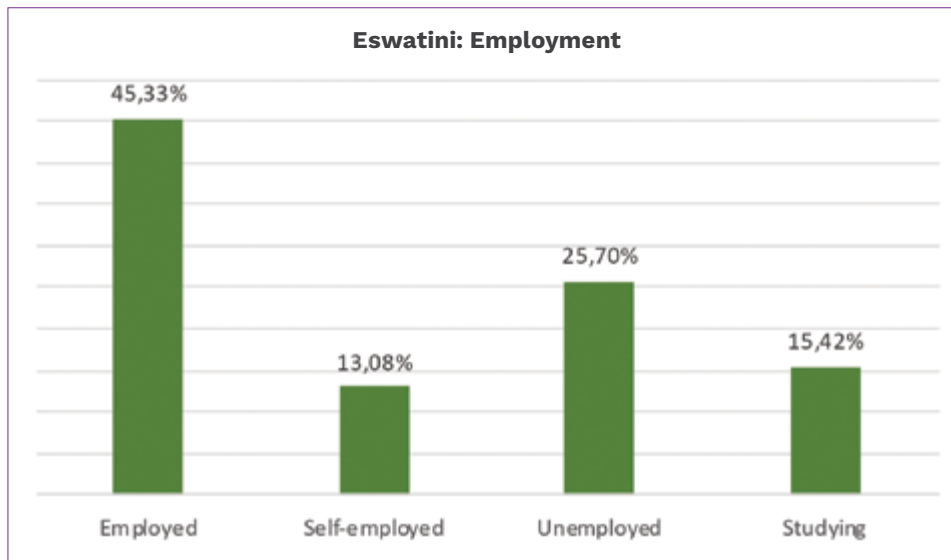
#### Economic exclusion in Eswatini

In Eswatini, more than half of respondents thought that it was at least somewhat likely that an LGBTQI person can participate in the formal economy without experiencing discrimination (39% somewhat likely, 7% likely, 10% very likely). Even more respondents thought that it was at least somewhat likely for an LGBTQI person to participate in the informal economy without discrimination (32% somewhat likely, 10% likely, 25% very likely).

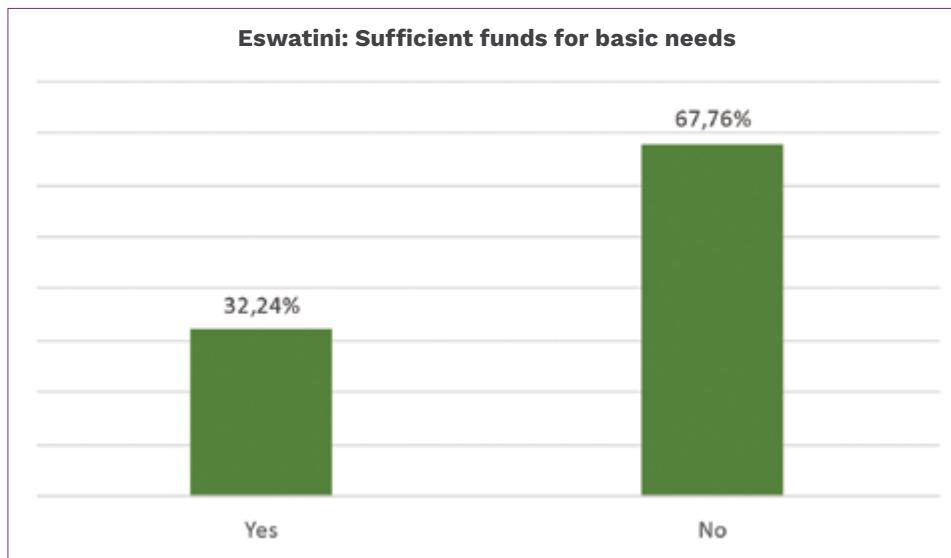
Similarly high numbers of respondents thought it was at least somewhat likely for an LGBTQI person to apply for a job without fear of discrimination (46% somewhat likely, 9% likely, 7% very likely). However, almost three quarter of respondents thought that it was unlikely that an LGBTQI person can disclose their SOGIESC at work, with 22% asserting that it was not likely and 51% not likely at all.

A relatively high number of respondents thought that it was at least somewhat likely that an LGBTQI person could access a bank or a loan without discrimination: 40% thought this was somewhat likely, 18% thought it was likely and a further 18% thought it was very likely. However, almost four in five respondents thought that it was unlikely that an LGBTQI person could own or access land, with 8% saying that it was not likely (8%) and 70% that it was not likely at all.

One survey question focused on respondents’ levels of employment (an indicator of ability to participate in the workplace) and another whether they have sufficient funds to cover basic needs (an indicator of ability to participate in the economy). In Eswatini, one in four (26%) was unemployed. Less than half of survey respondents were employed (45%), with a further 13% being self-employed, thus carrying a higher financial risk and level of uncertainty (Figure 25). Of concern is that two thirds (68%) did not have sufficient funds to cover their basic needs (Figure 26).



[ Figure 25: Eswatini – Employment ]



[ Figure 26: Eswatini - Financial stability ]

These findings mirror other research showing that 60% of LGBTI people in Eswatini did not have enough money for everyday needs and 40% were unemployed.<sup>65</sup> These dynamics of economic hardship are also reflected in a 2020 study where 59% of LGBTI people surveyed considered themselves vulnerable to financial insecurity.<sup>66</sup>

In the national consultations in Eswatini, participants identified key features of economic exclusion facing LGBTIQI people to be as follows:

- Difficulties securing and retaining jobs;
- Lack of inclusion in the economy in general;
- Barriers to education that make it harder to find employment;
- An absence of community engagement schemes and youth funds for LGBTIQI persons.

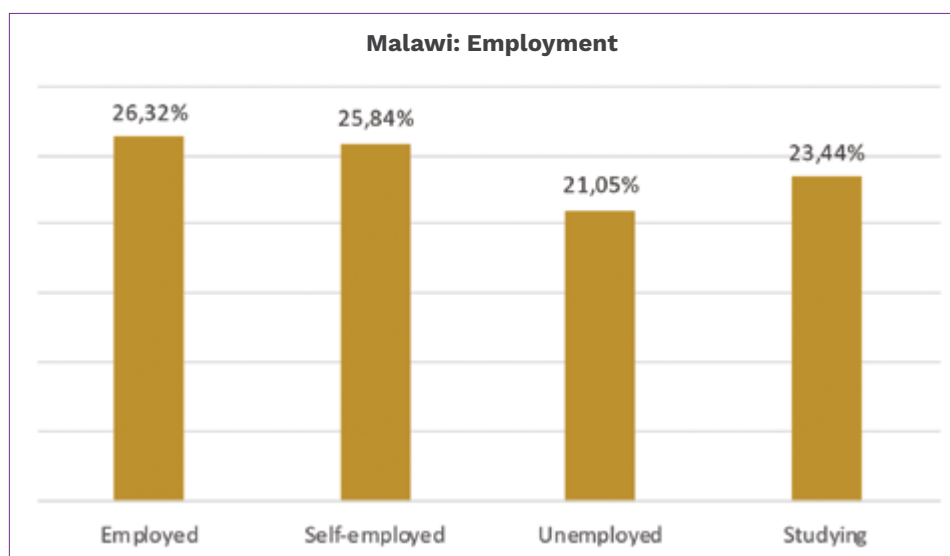
### Economic exclusion in Malawi

In Malawi, almost two thirds of respondents thought that it was at least somewhat likely that an LGBTIQI person can participate in the formal economy without experiencing discrimination (26% somewhat likely, 7% likely, 31% very likely). A similar number of respondents thought that it was at least somewhat likely for an LGBTIQI person to participate in the informal economy without discrimination (29% somewhat likely, 8% likely, 28% very likely).

Similarly high numbers of respondents thought it was at least somewhat likely for an LGBTIQI person to apply for a job without fear of discrimination (28% somewhat likely, 9% likely, 27% very likely). However, almost all respondents thought that it was not likely or not likely at all, 8% and 86% respectively, that an LGBTIQI person can disclose their SOGIESC at work. This aligns with documented case studies of LGBTI persons being bullied and discriminated against in the workplace in Malawi.<sup>67</sup> In these cases, the bullying was by colleagues and was tolerated by line managers, leading to the LGBTI employee resigning.

A relatively high number of respondents thought that it was at least somewhat likely that an LGBTIQI person could access a bank or a loan without discrimination: 24% thought this was somewhat likely, 2% thought it was likely and a further 39% thought it was very likely. Similarly, more than two thirds of respondents thought that it was at least somewhat likely that an LGBTIQI person could own or access land, with 14% saying somewhat likely, 2% likely and 53% very likely.

In Malawi, just over one quarter of LGBTIQI survey respondents were employed (26%). A further 26% were self-employed, thus carrying a higher financial risk and level of uncertainty, and one in five (21%) was unemployed (Figure 27). Four in five survey respondents (80%) did not have sufficient funds to cover their basic needs (Figure 28). This is in line with other research findings that 79% of LGBTI respondents did not have enough money for everyday needs.<sup>68</sup> In one report it is noted that a lack of legal protections limits employment opportunities for LGBTI people in Malawi who struggle to find employment due to the homophobic attitudes of employers. This results in LGBTI people turning to sex work, as one of the only means to livelihoods.<sup>69</sup>



[ Figure 27: Malawi – Employment ]

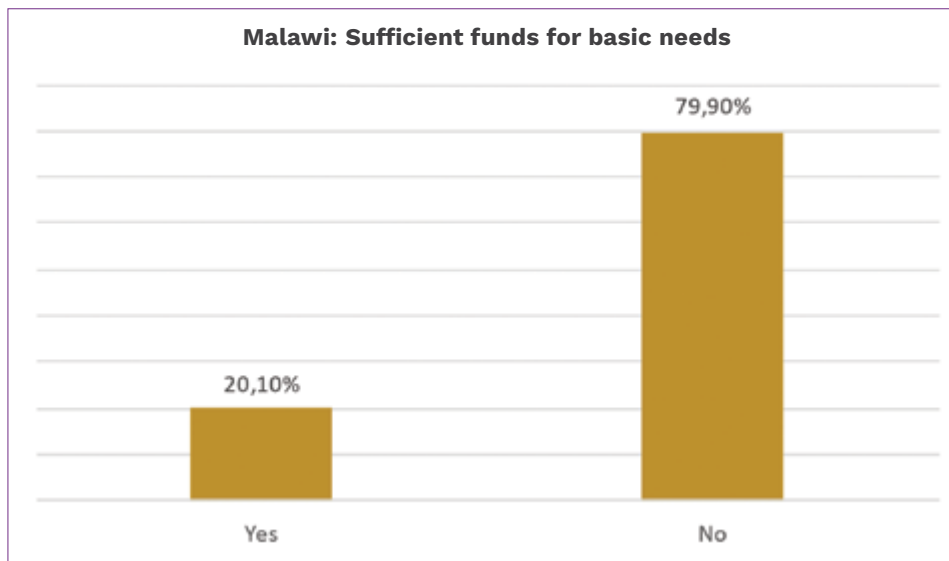
65. Müller, Daskilewicz and SEARCH, 2019.

66. Out & Proud LGBTI Equality and Rights in Southern Africa, 'Risk and Vulnerability Analysis' 2021.

67. Southern Africa Litigation Centre and NRA, 2020. CEDEP & CHRR, 2015.

68. Müller, Daskilewicz and SEARCH, 2019.

69. CEDEP, 2020.



[ Figure 28: Malawi - Financial stability ]

In the national consultations participants highlighted the following features of economic exclusion on the basis of SOGIESC in Malawi:

- Poor employment opportunities;
- Poor access to loans;
- Denied access to employment;
- Lack of economic relief for LGBTQI people;
- The confiscation of property from LGBTQI people;
- The general public not wanting to buy goods from LGBTQI people.

#### Economic exclusion in Zimbabwe

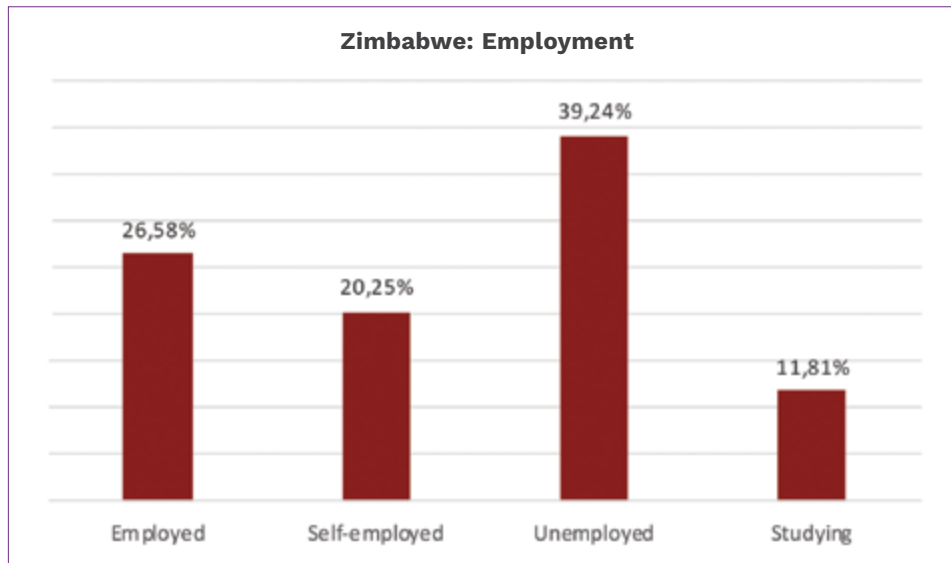
In Zimbabwe, two thirds of respondents thought that it was not likely (16%) and not likely at all (53%) that an LGBTQI person can participate in the formal economy without experiencing discrimination. Similarly, two thirds of respondents thought that it was unlikely for an LGBTQI person to participate in the informal economy without discrimination, with 36% saying it was not likely and 30% not likely at all.

Only one third of respondents thought it was at least somewhat likely for an LGBTQI person to apply for a job without fear of discrimination (20% somewhat likely, 1% likely, 10% very likely). However, more than 80% of respondents thought that it was not likely that an LGBTQI person can disclose their SOGIESC at work, with 30% and 53% saying not likely and not likely at all respectively.

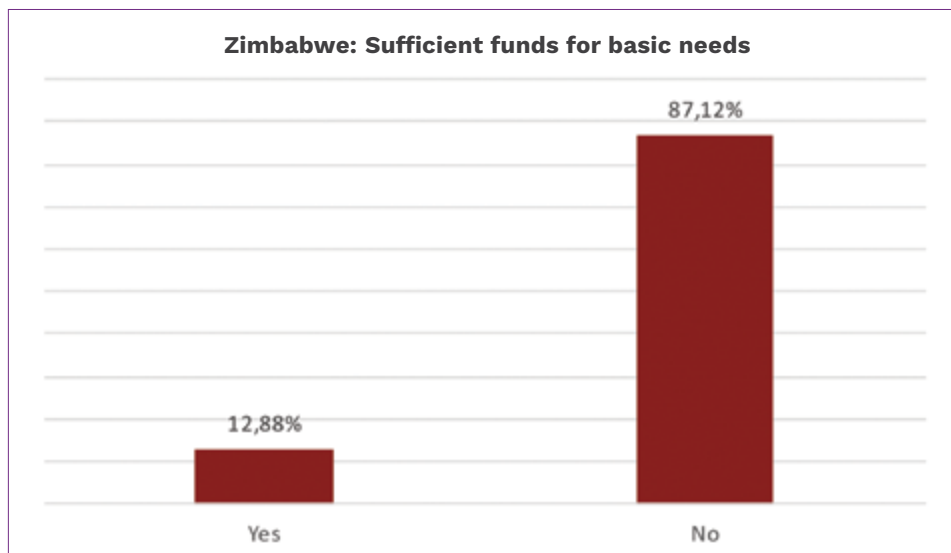
Two thirds of respondents thought it was unlikely that an LGBTQI person could access a bank or a loan without discrimination (23% not likely and 43% not likely at all). However, two out of five respondents thought that it was at least somewhat likely that an LGBTQI person could own or access land: somewhat likely (19%), likely (5%) or very likely (15%).

In Zimbabwe, only one in four of LGBTQI survey respondents were employed (27%). A further 21% were self-employed, thus carrying a higher financial risk and level of uncertainty. Two in five (40%) were unemployed (Figure 29). A large majority, 87%, did not have sufficient funds to cover their basic needs (Figure 30). Similarly, another study found that 58% of LGBT respondents were unemployed, with 66% not having enough money for their everyday needs.<sup>70</sup>

70. Müller, Daskilewicz and SEARCH, 2019.



[ Figure 29: Zimbabwe – Employment ]



[ Figure 30: Zimbabwe - Financial stability ]

The national consultations in Zimbabwe show the difficulties in identifying SOGIESC-specific economic exclusions in a country where unemployment (including informal employment) is estimated to be as high as 90%<sup>71</sup> and the overall economic environment is characterised by insecurity and instability. The country's fragile and unstable economy leads to frequent and crippling shortages in currency and commodities. In this context, the already precarious economic position of LGBTQI people, as a result of the economic climate, is further exacerbated by discrimination. In the national consultations, participants indicated that the main forms of economic exclusion facing LGBTQI people in Zimbabwe are:

- The inability to get a job and to express one's sexuality in the workplace;
- Gender overshadows an individual's talent and experience in the workplace;
- Not getting promoted because of SOGIESC;
- Not being able to register a self-owned company;
- Not being able to access a bank loan;
- The businesses of LGBTQI people not being supported by the general public.

71. Zimbabwe Congress of Trade Unions, reported 2017: <https://www.enca.com/africa/zimbabwes-unemployment-rate-at-90-percent-union>

### 4.2.5 Religious and cultural dimension

#### Religious and cultural exclusion at structural level: across countries

It is widely understood that the institutions and structures of organised religion tend to exclude non-heteronormative gender and sexual identities and expressions, and this is fuelled by “religious discourses that denigrate and deny LGBTIQ people, casting them (out) as deviants, sinners and lesser humans”<sup>72</sup> Similarly, discourses of culture and tradition have been used to argue that heterosexuality is normatively African and that homosexuality is deviant and Western, resulting in sexual and gender diversity being maligned within dominant notions of African identity and culture.<sup>73</sup> According to the UN Independent Expert on protection against violence and discrimination based on SOGIESC, cultural norms are key drivers of LGBT exclusion.<sup>74</sup>

At the structural and institutional level, LGBTIQI persons in Eswatini, Malawi and Zimbabwe remain largely excluded from cultural and religious spheres (Table 8). However, the NGO respondents to Part 1 of the survey also indicated that some faith leaders in Eswatini and Zimbabwe have publicly expressed views that are affirming of sexual and gender diversity. In Zimbabwe, these respondents said that at least some faith institutions were inclusive.

[ Table 8: Religious and cultural exclusion at structural level ]

	Eswatini	Malawi	Zimbabwe
LGBTI people are recognised and/or protected under customary law	✗	✗	✗
(Some) customary/traditional leaders or influential persons are publicly affirming of LGBTI persons/of sexual and gender diversity	✗	✗	✗
(Some) faith leaders or influential persons in religion are publicly affirming of LGBTI persons/of sexual and gender diversity	✓	✗	✓
(Some) faith institutions (eg. churches) are publicly inclusive of LGBTI persons	✗	✗	✓

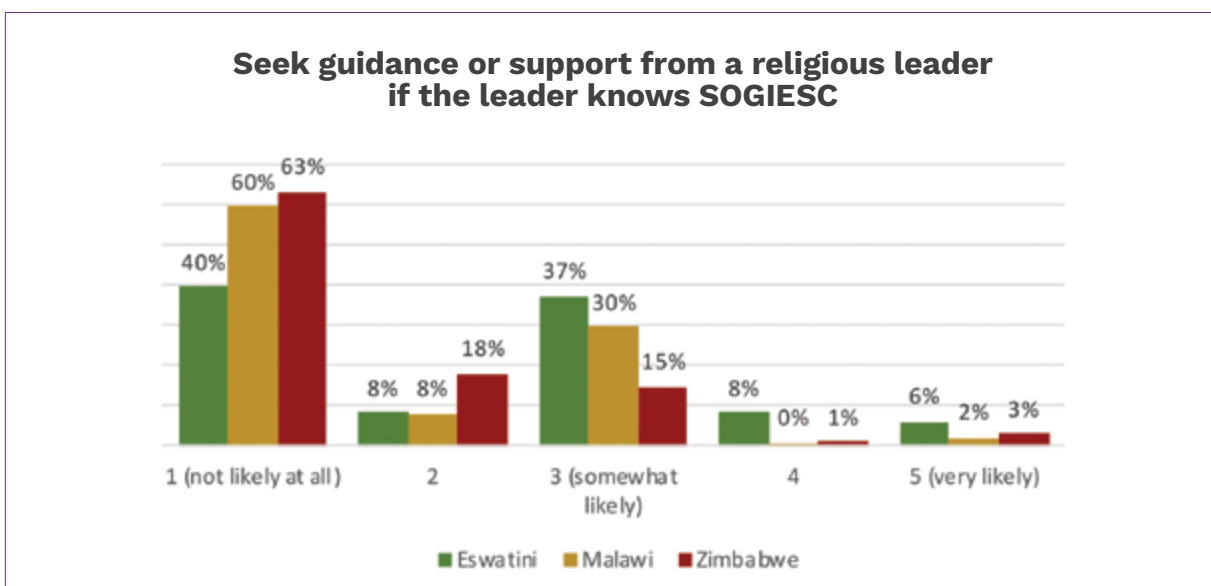
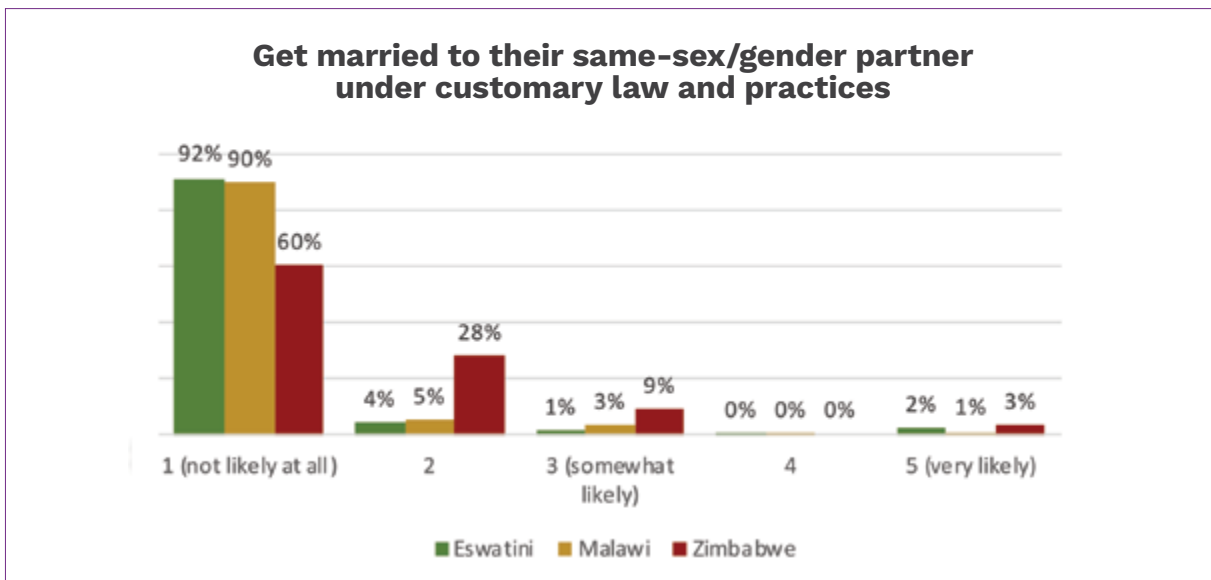
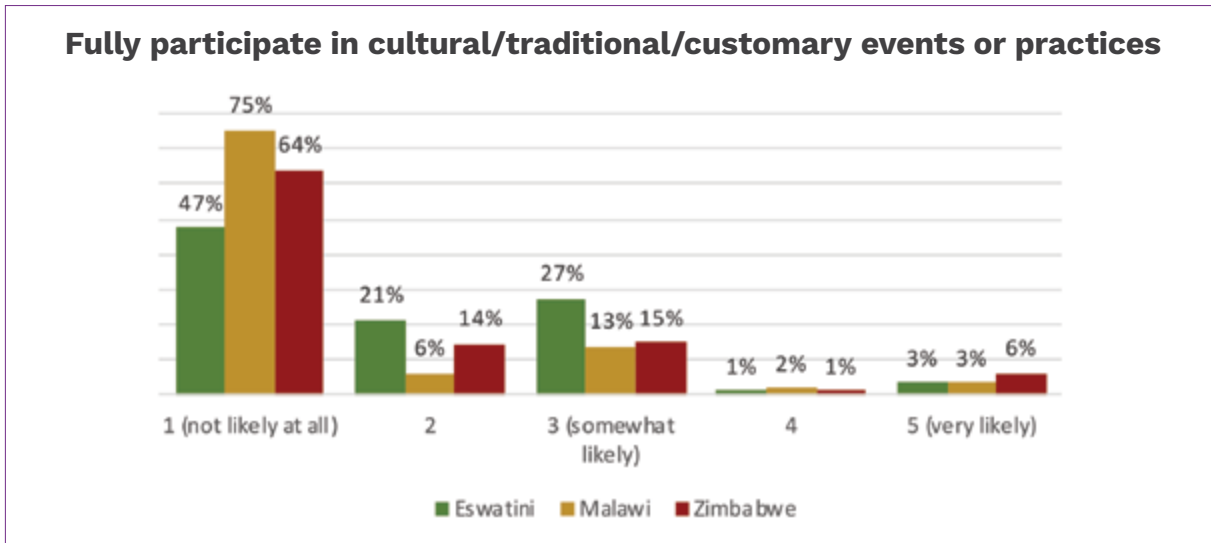
#### Perceptions of religious and cultural exclusion at individual, household and community level: across countries

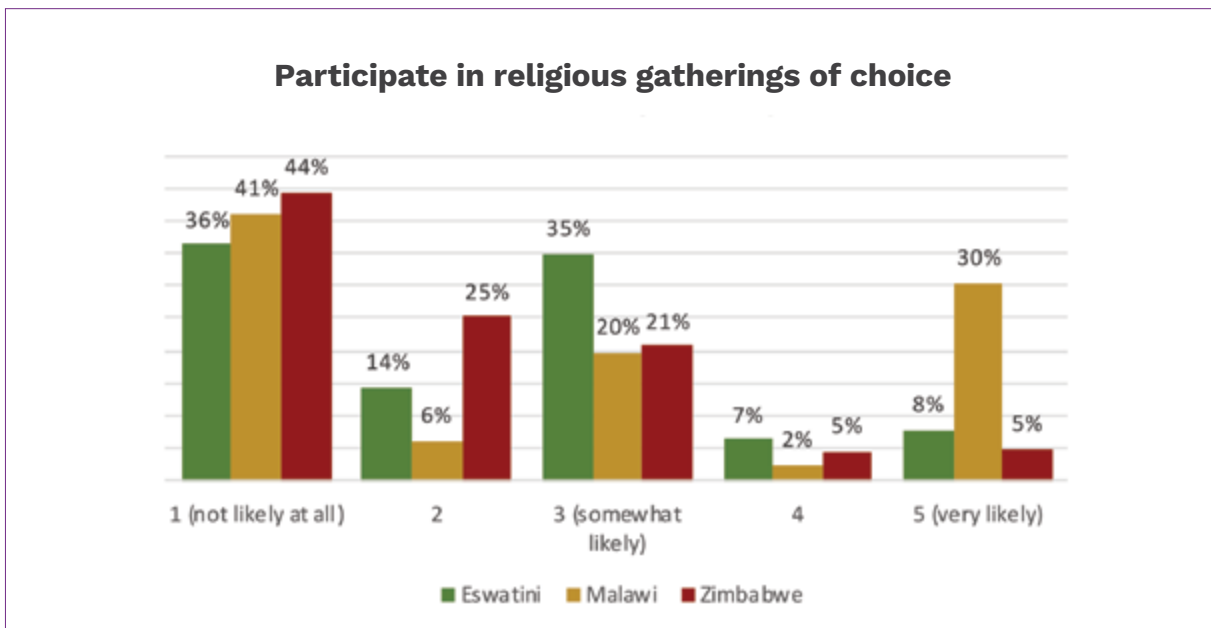
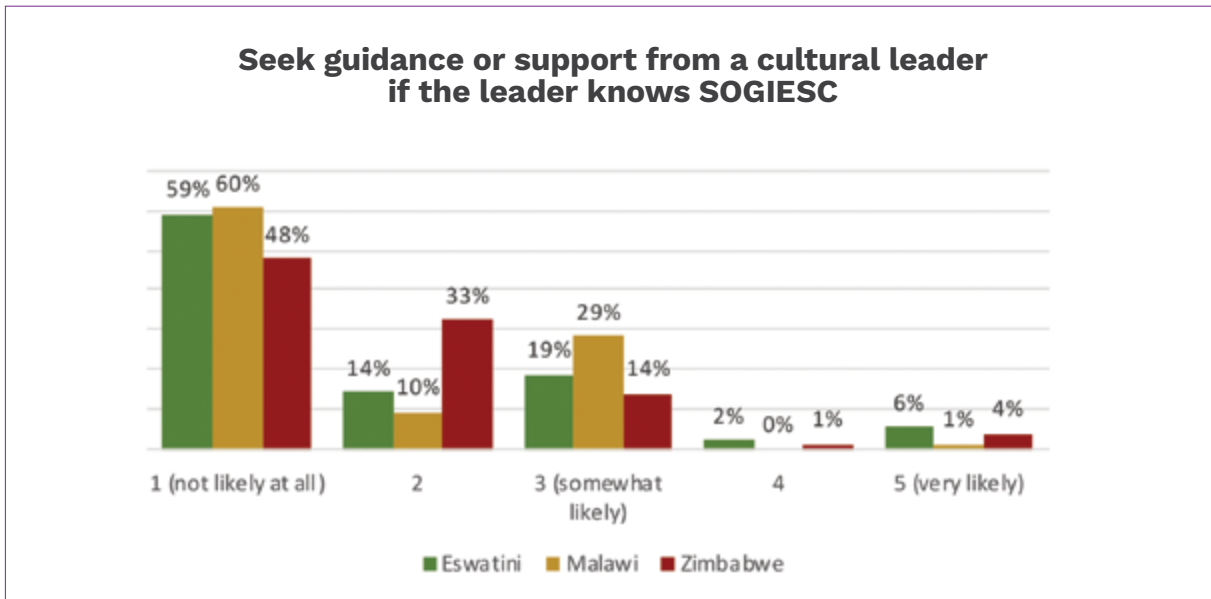
The indicators of religious and cultural exclusion focus on perceptions of whether LGBTIQI people can participate in religious and customary events and practices; enter into same-sex/gender marriages under customary law and practices; and seek guidance from their religious or cultural leaders. Overall, the answers of LGBTIQI survey respondents below indicate that many perceive there to be significant exclusion within cultural and religious contexts (Table 9). Nevertheless, faith-based events and activities are important to respondents, and many actively participate in them.

72. M. Judge, *Keeping the Faith: Working at the Intersection of Religion and Sexual and Gender Rights - A Discussion Paper on Critical Issues, Actors, Initiatives and Opportunities*. Heinrich Böll Stiftung, 2020:5.  
 73. Judge, 2018. *Blackwashing Homophobia: Violence and the Politics of Sexuality, Gender and Race*. Routledge.  
 74. Principles of inclusion are central to the mandate of the Independent Expert which is derived from the Human Rights Council’s assertion that “an inclusive society enables people to enjoy protection from violence and discrimination, and leaders in the social, cultural, political and other fields can have an important role in communicating, motivating and fostering that inclusiveness.” (UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, 2019:3).

## How likely is it that an LGBTQI person can...

[ Table 9: Perceptions of religious and cultural exclusion, all countries ]





The qualitative data from all three countries indicated that LGBTQI people are frequently represented in public discourse as ‘unAfrican’ and ‘unChristian’ (e.g. by media, political leaders and the general public) and these notions drive stigma, discrimination and violent exclusion.

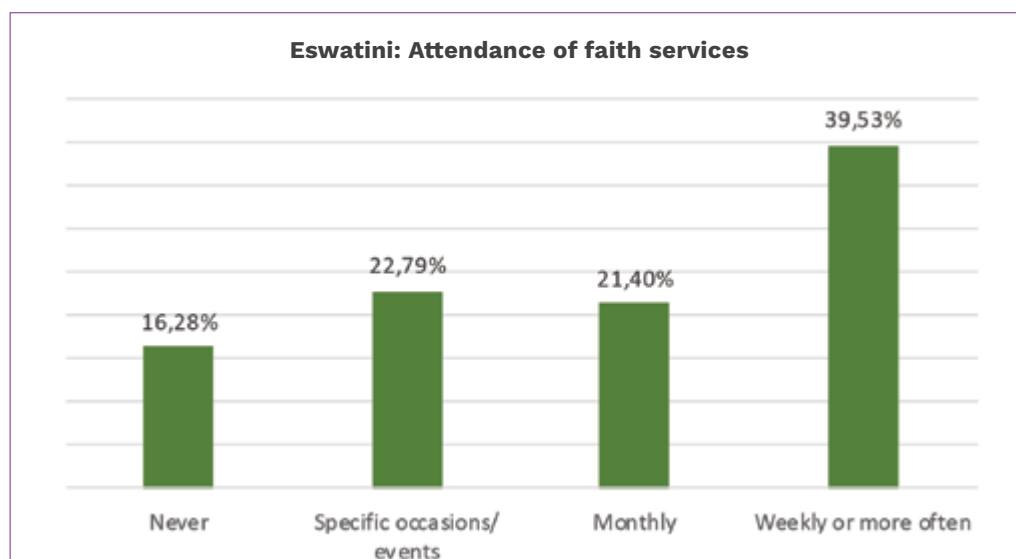
#### Religious and cultural exclusion in Eswatini

In Eswatini, a total of two thirds of all respondents said it was unlikely that an LGBTQI person could fully participate in cultural, traditional or customary events or practices, with 21% saying it was not likely and 47% thought it not likely at all that. Almost all thought that it was not possible that an LGBTQI person could marry their same-sex/ same-gender partner under customary law (4% said this was not likely, 92% not likely at all). Only one in four respondents thought that it was at least somewhat likely that an LGBTQI person could seek guidance or support from a cultural leader if the leader knew about their SOGIESC (19% somewhat likely, 2% likely,



6% very likely). Providing a context for these perceptions, it is reported that LGBT persons are actively excluded from the chieftom patronage system in Eswatini.<sup>75</sup> One study shows that 63% of the LGBT study participants considered themselves vulnerable to risk through traditional values and culture (63%).<sup>76</sup>

However, half of respondents thought that a LGBTQI person could approach a religious leader for support if the religious leader knew their SOGIESC (37% somewhat likely, 8% likely, 6% very likely). Half also thought that it was at least somewhat likely that a LGBTQI person could participate in the religious gatherings of their choice (35% somewhat likely, 7% likely, 8% very likely). Survey answers also showed that attending faith services was important to the respondents: two in five (40%) attended faith services at least once a week, and a further 21% attended faith services monthly.



[ Figure 31: Eswatini - Attendance of faith services ]

The qualitative findings from Eswatini underscored that much exclusion is experienced within religious and cultural spaces, and that religion is used to stigmatise and eject LGBTQI people from the church.

### Religious and cultural exclusion in Malawi

In Malawi, three in four survey respondents thought it was not likely (6%) or not likely at all (75%) that an LGBTQI person could fully participate in cultural, traditional or customary events or practices. Almost all thought that it was not possible that an LGBTQI person could marry their same-sex/same-gender partner under customary law (5% said this was not likely, 90% not likely at all). Only one in three of respondents thought that it was at least somewhat likely that an LGBTQI person could seek guidance or support from a cultural leader if the leader knew about their SOGIESC (29% somewhat likely, 1% very likely). These perceptions occur in an environment where, as evidenced in a survey of public attitudes, nearly three quarters of Malawians said gay men should not be accepted in Malawian culture or take part in Malawian traditions.<sup>77</sup>

One in three respondents thought that a LGBTQI person could approach a religious leader for support if the religious leader knew their SOGIESC (30% somewhat likely, 2% very likely). Half thought that it was at least somewhat likely that a LGBTQI person could participate in the religious gatherings of their choice (20% somewhat likely, 2% likely, 30% very likely). These perceived barriers to

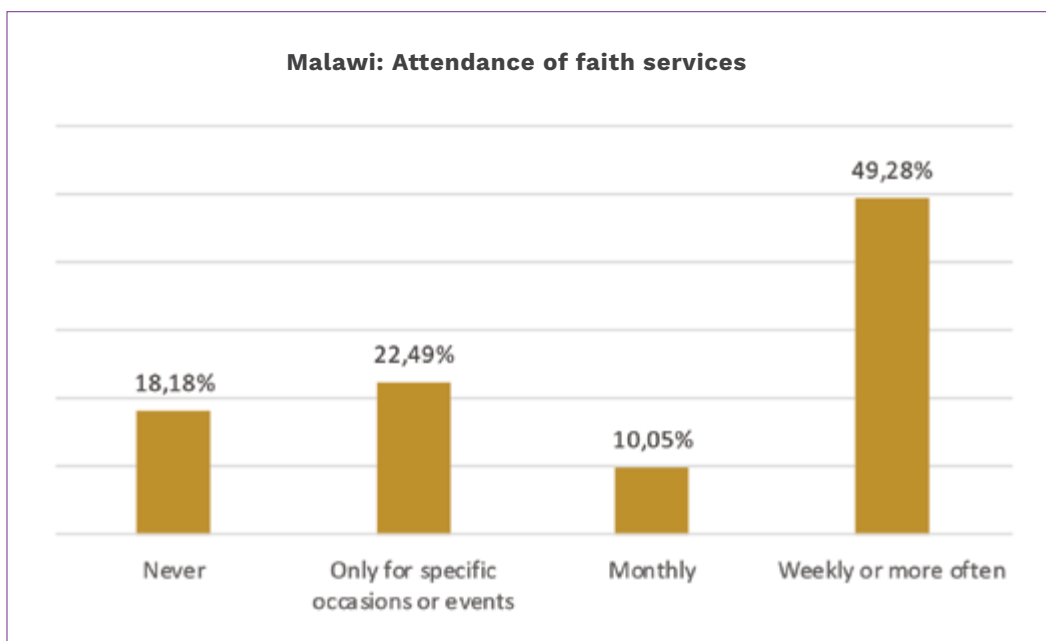
75. Rock of Hope and COC Nederland, *Lessons Learned: Creating access to health services for LGBT Community in primary health care settings in the four regions of Swaziland*, not dated.

76. Out & Proud LGBTI Equality and Rights in Southern Africa, *'Risk and Vulnerability Analysis'* 2021.

77. The Other Foundation, 2019.

inclusion within religion have been illustrated in case studies showing that LGBT persons were denied participation in places of worship and church communities.<sup>78</sup> Moreover, the context is one in which Malawian religious leaders have routinely made derogatory and inflammatory remarks that amount to hate speech, e.g. describing homosexuality as “pure evil” and “animal-like behaviour”.<sup>79</sup>

Survey answers also showed that attending faith services was important to the respondents: almost half (49%) attended faith services at least once a week, and a further 10% attended faith services monthly.



[ Figure 32: Malawi - Attendance of faith services ]

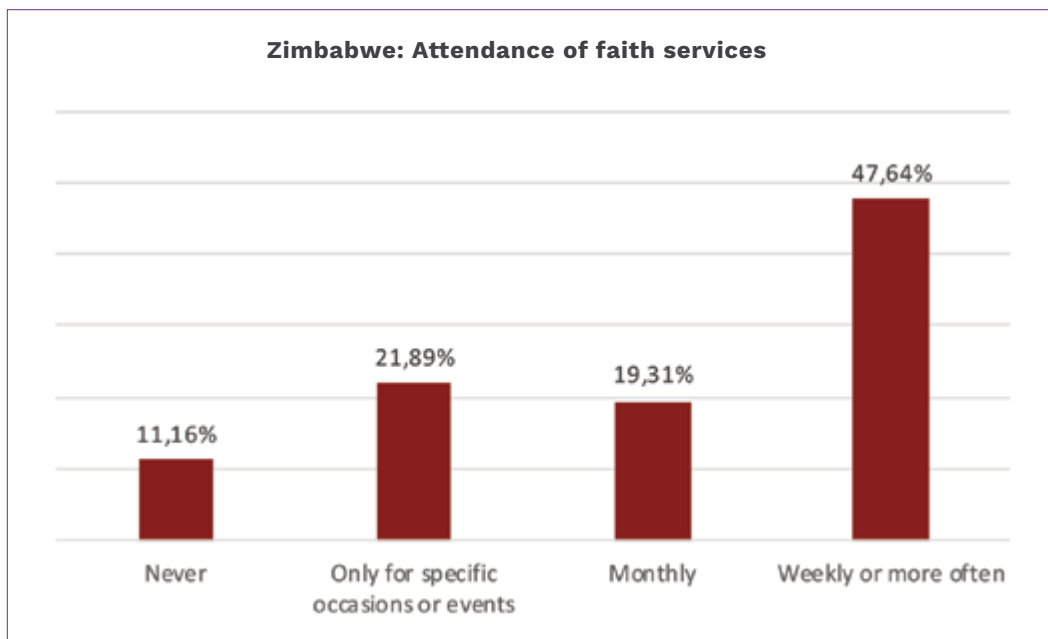
In the national consultations in Malawi participants highlighted how religious and cultural exclusions disadvantage LGBTIQ people. The idea of Malawi as a ‘Christian nation’ fuels rejection and LGBTIQ individuals are considered ‘satanic’. As a result, LGBTIQ people are denied participation in community activities and networks, and do not have full enjoyment of their human rights.

### Religious and cultural exclusion in Zimbabwe

In Zimbabwe, four in five survey respondents thought it was not likely that an LGBTIQ person could fully participate in cultural, traditional or customary events or practices, with a majority (64%) asserting that it was not likely at all. Almost all thought that it was not possible that an LGBTIQ person could marry their same-sex/ same-gender partner under customary law (28% said this was not likely, 60% not likely at all). Only one in five of respondents thought that it was at least somewhat likely that an LGBTIQ person could seek guidance or support from a cultural leader if the leader knew about their SOGIE (14% somewhat likely, 1% likely, 4% very likely).

78. CEDEP & CHRR, 2015.  
79. CEDEP & CHRR, 2015.

Similarly, only one in six respondents thought that a LGBTQI person could approach a religious leader for support if the religious leader knew their SOGIESC (15% somewhat likely, 1% likely, 3% very likely). Only one in three thought that it was at least somewhat likely that a LGBTQI person could participate in the religious gatherings of their choice (21% somewhat likely, 5% likely, 5% very likely). Survey answers also showed that attending faith services was important to the LGBTQI survey respondents: half (48%) attended faith services at least once a week, and a further 19% attended faith services monthly.

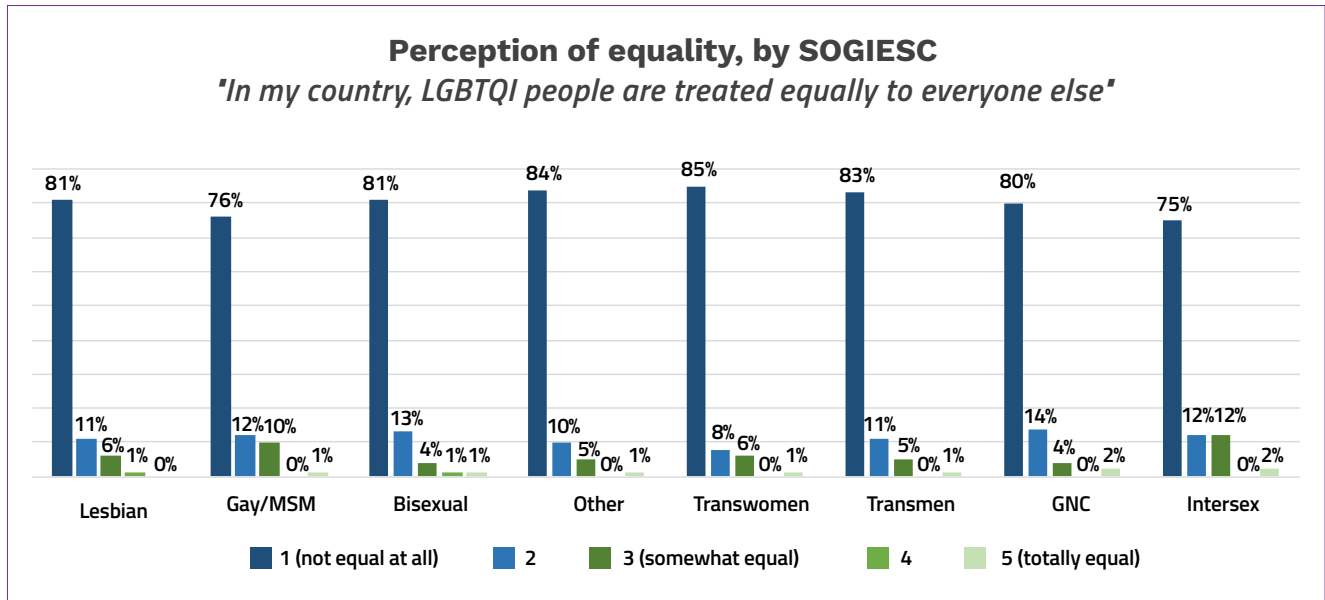


[ Figure 33: Zimbabwe - Attendance of faith services ]

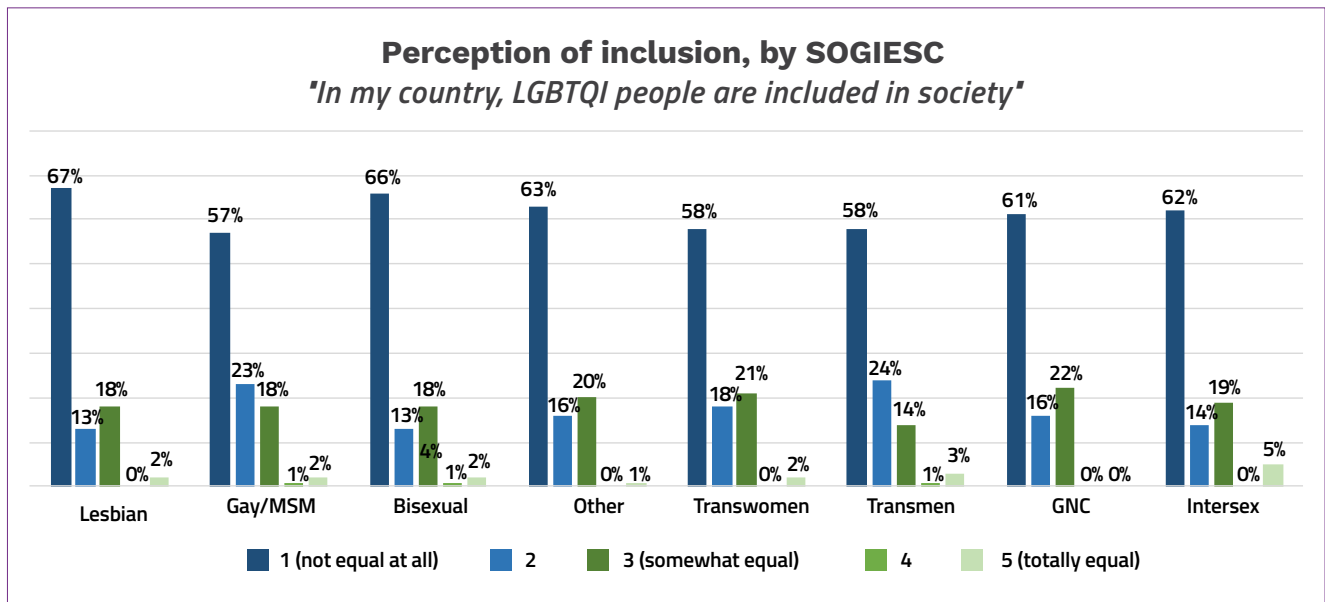
In the national consultations in Zimbabwe participants pointed to the dynamics of religious and cultural exclusion, observing that in the public perception, the LGBTQI community and advocating for LGBTQI rights is strongly associated with western culture and seen as outside of Zimbabwean tradition and culture. It was noted that individual involvement in church activities and participation in cultural activities (such as funerals and lobola negotiations) can only occur if a person's SOGIESC remains hidden.

### 4.3 Intersections and vulnerabilities: across countries

Figure 34 and Figure 35 show perceptions of social exclusion by SOGIESC across the three countries. Overall, perceptions of social exclusion were high and exclusion was seen to be likely. Most notably, survey respondents reported high perceptions of non-equality and non-inclusion irrespective of their own sexual orientation, gender identity or sex characteristics.



[ Figure 34: Perceptions of equality, by SOGIESC ]



[ Figure 35: Perceptions of inclusion, by SOGIESC ]

In the national consultations, participants further described the particular vulnerabilities that differentiate experiences of exclusion based on SOGIESC.

In Eswatini it was noted that: LGBTQI people share a common experience of oppression, rejection and stigma, and related social and psychological impacts; transgender people are particularly vulnerable to harassment in public spaces (such as public toilets and on the streets) due to their gender presentation; and gay men and transwomen are at higher risk of HIV infection.

Similarly in Malawi, the national consultations pointed to all LGBTQI people being at risk based on how openly they express themselves in a given environment. Transgender people were identified as being specifically vulnerable to verbal harassment in public.

The wider literature points to how discrimination based on gender identity negatively impacts employment opportunities and access to gender-affirming healthcare for transgender persons in all three countries.<sup>80</sup> Research in Malawi shows that when gay men or MSM disclose their sexual practices to health care professionals, they are often ridiculed, stigmatised and unable to access the necessary treatment.<sup>81</sup>

The common experience of social exclusion based on SOGIESC, albeit in different forms, has significant effects on psychological well-being. By way of example, in Eswatini a study found that almost half (48%) of LGBT respondents were classified as depressed, 16% showed signs of anxiety at clinically relevant levels, and one in four (26%) had attempted suicide.<sup>82</sup> Similarly in Malawi, the same study showed that 48% of LGBT Malawians showed signs of depression, whereas 15% had tried to end their own life by suicide. In Zimbabwe, 51% of LGBT Zimbabweans showed signs of depression, whilst the World Health Organisation estimates the prevalence of depressive disorders among the general population in that country to be 4%.<sup>83</sup>

The literature points to how various forms of identity-based discrimination fuel social exclusion such that, "People may be excluded because they suffer discrimination by others because of their social identity: gender, ethnicity, race, religion, sexual orientation, caste, descent, age, disability, HIV status, migrant status or where they live"<sup>84</sup> These and other factors can further compound vulnerabilities based on SOGIESC. Consequently, the survey asked about four intersecting factors that could increase vulnerability to social exclusion for LGBTQI persons: living with HIV, having a disability, being a migrant, and doing sex work.

Nine out of ten respondents thought that doing sex work added to an LGBTQI person's vulnerability to social exclusion (17% thought that it somewhat added, 16% added and 59% added very much; Figure 36). Four in five respondents thought that living with HIV added to an LGBTQI person's vulnerability to social exclusion (25% thought that it somewhat added, 13% added and 40% added very much). The same proportion of survey respondents thought that having a disability added to an LGBTQI person's vulnerability to social exclusion (25% thought that it somewhat added, 15% added and 39% added very much). Similarly, four in five respondents thought that being a migrant added to an LGBTQI person's vulnerability to social exclusion (26% thought that it somewhat added, 13% added and 42% added very much).

Overall, LGBTQI survey respondents said that all four factors would increase an LGBTQI person's vulnerability to social exclusion. Between the four factors, doing sex work was seen as increasing vulnerability the most. This is noteworthy given that between 12% (in Eswatini) and 48% (in Zimbabwe) of survey respondents did sex work. The wider context for this finding is the precarious economic circumstances that many LGBTQI people face. For example, among the 220 transgender people surveyed for the TransSmart Study, 41% were unemployed; 61% said it was very difficult to meet their basic needs due to their financial situation; and with their income generating options severely limited, 41% had done transactional sex work.<sup>85</sup>

80. TransSmart Trust & RFSL, 2020.

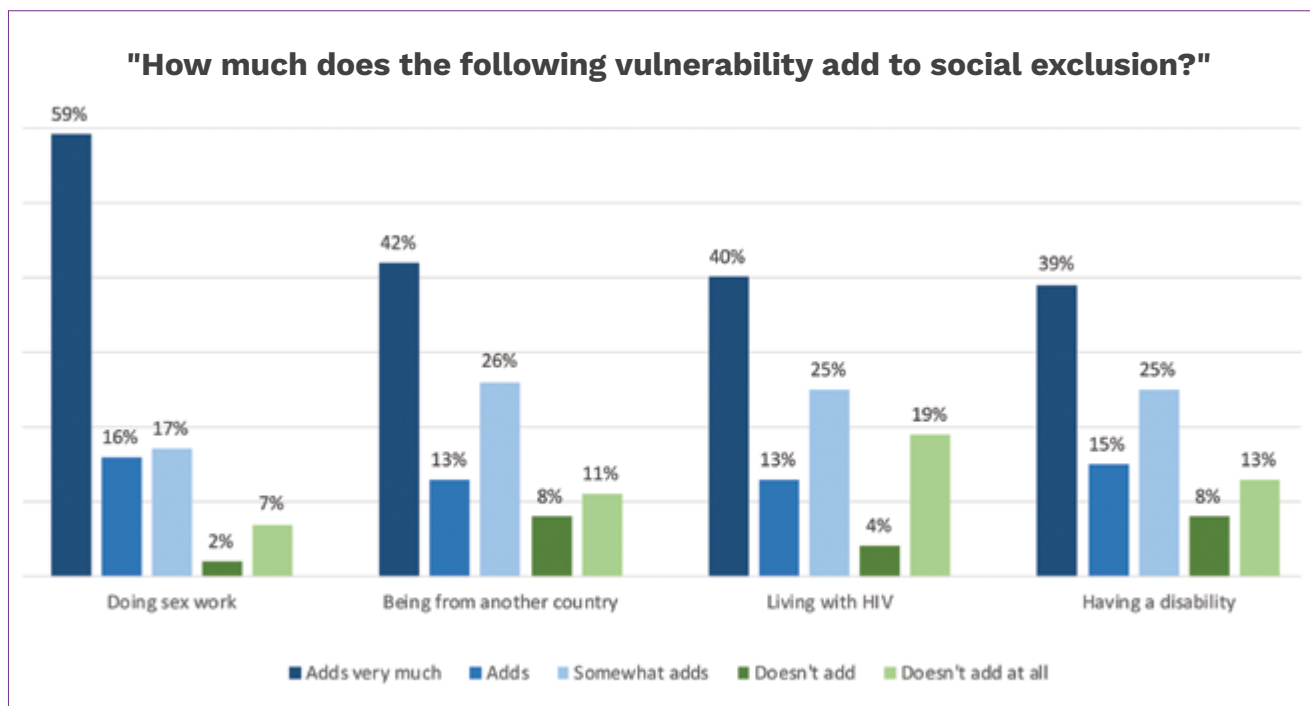
81. HRW, 2018.

82. Müller, Daskilewicz and SEARCH, 2019.

83. Müller, Daskilewicz and SEARCH, 2019.

84. DFID, *Practice Paper on Gender and Social Exclusion*, 2009:1.

85. TransSmart Trust & RFSL, 2020.



[ Figure 36: Additional vulnerabilities to social exclusion ]

### 4.4 Snapshot of high-level findings

The tables below give snapshots of high-level findings to facilitate an easier comparison across countries and over time.

In the following snapshot, select legal dimensions of exclusion across the three country contexts are coded as follows: Red coding means that a prohibitive law is in place, and green coding indicates a law that is inclusive or protective.

[ Table 10: Snapshot of the legal dimension across all three countries ]

	Eswatini	Malawi	Zimbabwe
Criminalisation of consensual same-sex activity between adults	Same-sex activity criminalised	Same-sex activity criminalised	Same-sex activity criminalised
Joint adoption of children by same-sex couples	Joint adoption impossible	Joint adoption impossible	Joint adoption impossible
Prohibition of discrimination based on sexual orientation and gender identity	No legal protection against discrimination	No legal protection against discrimination	No legal protection against discrimination
Registration of non-governmental organisations expressly representing LGBTQI people	Registration not possible	Registration not possible	Registration possible
Prohibition of sex-normalising medical interventions on children with diverse sex characteristics/intersex children	No legal prohibition	No legal prohibition	No legal prohibition

In the snapshots below, select indicators of perceptions of social exclusion are colour-coded, based on the majority responses in each country. Red coding means that the majority of respondents thought the specific scenario was *unlikely*; scenarios in orange were considered *somewhat likely* by the majority of respondents; and scenarios in green were considered *likely* by the majority of respondents.

[ Table 11: Snapshot of high-level findings, Eswatini ]

ESWATINI					
<b>Societal</b>	Introduce partner to family	Live in relationship of choice	Affirming representation in media	Public expression without discrimination	Affirmative representation in first language
<b>Cultural and religious</b>	Participation in cultural gatherings	Customary marriage to same-sex partner	Guidance from religious leader	Guidance from cultural leader	Participation in religious gatherings
<b>Economic</b>	Formal economy participation	Informal economy participation	Apply for employment without discrimination	Disclose SOGIESC at work	Access bank or loan
<b>Civic and political</b>	Police protection without discrimination	Participation in political gatherings	Obtain ID documents with correct gender	Attend school or other education institutions	Receive healthcare services

[ Table 12: Snapshot of high-level findings, Malawi ]

MALAWI					
<b>Societal</b>	Introduce partner to family	Live in relationship of choice	Affirming representation in media	Public expression without discrimination	Affirmative representation in first language
<b>Cultural and religious</b>	Participation in cultural gatherings	Customary marriage to same-sex partner	Guidance from religious leader	Guidance from cultural leader	Participation in religious gatherings
<b>Economic</b>	Formal economy participation	Informal economy participation	Apply for employment without discrimination	Disclose SOGIESC at work	Access bank or loan
<b>Civic and political</b>	Police protection without discrimination	Participation in political gatherings	Obtain ID documents with correct gender	Attend school or other education institutions	Receive healthcare services

[ Table 13: Snapshot of high-level findings, Zimbabwe ]

<b>ZIMBABWE</b>					
<b>Societal</b>	Introduce partner to family	Live in relationship of choice	Affirming representation in media	Public expression without discrimination	Affirmative representation in first language
<b>Cultural and religious</b>	Participation in cultural gatherings	Customary marriage to same-sex partner	Guidance from religious leader	Guidance from cultural leader	Participation in religious gatherings
<b>Economic</b>	Formal economy participation	Informal economy participation	Apply for employment without discrimination	Disclose SOGIESC at work	Access bank or loan
<b>Civic and political</b>	Police protection without discrimination	Participation in political gatherings	Obtain ID documents with correct gender	Attend school or other education institutions	Receive healthcare services



# 5 CONCLUSION

*The findings show that bread and butter issues are LGBTI issues<sup>86</sup>*

The research findings highlight similar trends across the three countries, providing evidence for the worryingly high levels of social exclusion experienced and perceived by LGBTIQI people. The data show how this exclusion manifests across all four dimensions measured, namely societal, civic and political, economic, and, religious and cultural exclusion; providing a composite picture of their multiple forms.

The findings illustrate that LGBTIQI people perceive high levels of social exclusion in all four dimensions and at individual, household, community, structural and institutional levels.

In comparison across the three countries, economic exclusion was shown to be higher in Zimbabwe, whilst civil and political exclusion was higher in Malawi. Religious and cultural exclusion was experienced similarly across all three countries, whilst societal exclusion was higher in Zimbabwe and Malawi.

SOGIESC-related social exclusions also intersect with other vulnerabilities linked to HIV status, being a sex worker, being a foreign national, and/or having a disability.

The main findings of the study provide further evidence of, as documented in the LGBTIQI+ Risk and Vulnerability Analysis, the high vulnerability of LGBTIQI people to violence, stigma and harassment in Eswatini, Malawi and Zimbabwe.<sup>87</sup> According to that report, this vulnerability manifests in rejection from families, communities and wider society, and in barriers to services such as health and employment. Similarly, the present study shows these dynamics, as manifest in multiple forms of social exclusion.

Significantly, the research provides empirical evidence for the importance of understanding and responding to social exclusion in a multi-sectoral and comprehensive way that takes into account its various dimensions. This provides an evidence-base for country level and regional advocacy to advance LGBTIQI rights and to challenge laws, policies and practices that continue to exclude sexual and gender minorities. A single-lens understanding of exclusion, as, for example, only occurring in the context of health rights and services, overlooks other dimensions of exclusionary policies and practices and does not adequately account for how exclusion often shapes several, or all, aspects of life. In this regard, the research findings seek to contribute to widening the lens through which the exclusions facing LGBTIQI individuals and communities are understood and responded to in research, policy advocacy and strategic litigation. It is hoped that these findings will lend support to multisectoral interventions at national and regional levels. It is further envisaged that the measurement tool developed will be adapted and utilised to replicate the study in other southern African countries, as well as to track progress and setbacks, over time, in specific countries, through repeat studies.

86. Participant responding to a presentation on the draft research findings at the SADC LGBTIQI+ Activists Forum, 2-4 March 2022, Johannesburg.

87. Out & Proud LGBTI Equality and Rights in Southern Africa, 'Risk and Vulnerability Analysis' 2021.

# 6 RECOMMENDATIONS

- The research findings should be used to **inform advocacy, law reform and strategic litigation** related to, amongst others issues, the decriminalisation of same-sex sexual conduct, legal gender recognition, and the enactment of legal protections against discrimination based on SOGIESC. Specifically, the following structural barriers to social exclusion should be addressed:
  - **Same-sex sexual conduct should be decriminalised.** The findings of this report show that social exclusion based on SOGIESC is widespread in Eswatini, Malawi and Zimbabwe. In all three countries, same-sex sexual conduct is criminalised. The LGBTQI+ Risk and Vulnerability Analysis asserts that “Criminalisation contributes to a climate of impunity for crimes committed against LGBT people by members of the public. The abuse faced by LGBTQI+ people occurs under the collusion of state and society. Societal rules and conventions act to bolster state sanctioned violence and vice versa.”<sup>88</sup> Decriminalisation of same-sex sexual conduct is thus one of the prerequisites for reducing social exclusion based on SOGIESC and promoting the social inclusion of LGBTQI persons.
  - **Legal gender recognition should be available and accessible irrespective of SOGIESC.** The findings in this report show that SOGIESC-based social exclusion is widespread in many aspects of civic, political and economic life. Possessing identity documents that correctly reflect one’s gender identity is a necessity for accessing civic and political rights and the full participation in civic and economic life. Thus, ensuring clear and accessible legal and administrative processes for legal gender recognition is a prerequisite for reducing social exclusion based on SOGIESC and promoting the social inclusion of LGBTQI persons, especially trans, gender diverse and intersex persons.
  - The findings of this report show that social exclusion based on SOGIESC takes place in at different levels, occurs in different dimensions of social life, and violates a range of civic, political, economic and social rights. Therefore, **existing legal protections against discrimination should be interpreted to include a prohibition of discrimination based on SOGIESC.** Where such prohibitions do not exist, legal protections against discrimination, including discrimination based on SOGIESC, should be developed.
- Singular measurements (for example measuring one level or dimension of exclusion only) may limit understandings of the complexities in how social exclusion is experienced in local settings. Rather, **multi-dimensional measurements** of social exclusion should be used to adequately account for its contextual and intersecting dynamics, and to support **cross-sectoral strategies** to address it.
- Applying an **intersectional analysis** to how the experience of social exclusion is connected to particular social positions and/or identity locations, is critical to gaining insights on how certain groups may be disproportionately impacted. This aligns with other reports that stress the need for an intersectional approach, as both useful and necessary to understanding LGBTQI lived experiences of stigma, harassment and violence more broadly.<sup>89</sup>
- Future studies should pay particular attention to the social exclusions facing **intersex persons**, who remain under-represented in research and advocacy for LGBTQI inclusion.
- In future research and policy advocacy, attention should be given to **how social exclusion intersects with violence**, operating as a form and an exacerbator of exclusion.
- The present study should be repeated in the three countries in order to **track shifts over time** in both the experiences and perceptions of SOGIESC exclusion and the structural factors that shape them. The measurement tool could also be **adapted for use in other countries** in order to expand the evidence base of LGBTQI social exclusion, especially in the region.

88. Out & Proud LGBTI Equality and Rights in Southern Africa, *'Risk and Vulnerability Analysis'* 2021:49.

89. Out & Proud LGBTI Equality and Rights in Southern Africa, *'Risk and Vulnerability Analysis'* 2021.





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