

UNIVERSAL PERIODIC REVIEW-MOZAMBIQUE (JANUARY 2016) Statement by LAMBDA

Dear colleagues and representatives of the Permanent Missions,

LAMBDA is Mozambican Association for Sexual Minorities' Rights Defence, established in 2006 in Maputo. LAMBDA carries out its work in all Mozambican provinces, with regional offices in Maputo, Beira, and Nampula, and representations in the remaining eight provinces where it runs various programs and projects focused on the human rights of LGBTI persons.

During the 1st cycle of the UPR, the Mozambican government received four recommendations regarding the situation of LGBTI people in the country. Despite having noted all recommendations, last year, Mozambique decriminalized same sex sexual activity between consenting adults through the establishment of a new penal code that erased old Portuguese colonial laws dating back to 1886. The old code could condemn anyone "who habitually engages in vices against nature" to three years' hard labor. Although Mozambique noted the recommendations during the first cycle to repeal criminal sanctions against same sex activity between consenting adults, this achievement was made possible through the long and patient lobbying by LAMBDA, Mozambican LGBT activists, and their African allies.

Although provisions criminalizing same sex sexual activity between consenting adults have been removed from the Penal Code, there are no specific protections against discrimination on the basis of sexual orientation and gender identity. The new Penal Code contains a provision criminalizing various forms of discrimination, including discrimination on the basis of race, sex, religion, age, disability, social status, ethnic origin and nationality, but does not include provisions on sexual orientation or gender identity.

We therefore invite other governments to consider making the following recommendation:

- **Recommendation:** The Mozambican government should include a provision on sexual orientation and gender identity in article 243 of the Penal Code in order to expressly prohibit discrimination on the basis of sexual orientation and gender identity

While this positive advancement is the first step towards wider legal protection for LGBT people in Mozambique, stigma and discrimination against LGBT people persists at alarming rates. LGBT organizations such as LAMBDA that work to eliminate the human rights violations against LGBT persons in Mozambique face legal barriers in carrying out their work. Despite an eight-year campaign, LAMBDA still has yet to receive formal recognition and consultative status with the Mozambican government.

Since 2008 the executive branch, particularly the Ministry of Justice, has refused to recognize LAMBDA, even though the law guarantees the exercise of the right of association. Although the law does not explicitly prohibit the right of association based on sexual orientation, the request for registration submitted to the Ministry of Justice is still pending and the government has not provided LAMBDA with any response.

Additionally, during the first cycle of the UPR in 2011, Mozambique received three recommendations to recognize the right of association of LGBT people. The government noted all of these recommendations. Since that time, despite many local and international campaigns of lobby and advocacy, the violation of freedom of association continues. Registration would mean access to funding and tax exemption status, and would be a step towards acceptance for the country's LGBT community. Furthermore, this positive step has fostered greater consultation and participation of LGBT civil society organizations in implementing the UPR recommendations. The consultative process for the Mozambique's national report was not comprehensive in nature, as it did not incorporate the voices of many civil society organizations, particularly LGBT civil society.

We therefore invite other governments to consider making the following recommendation:

- **Recommendation:** To ensure the right to freedom of association of lesbian, gay, bisexual, and transgender people and facilitate the registration and activities of NGOs working on issues of sexual orientation and gender identity.

Additionally, article 35 of the Mozambican constitution on the principle of equality does not include a provision on sexual orientation. In order for this article and the interpretation of the fundamental rights that are protected therein to align with the rights established under the Universal Declaration of Human Rights and article 2 African Charter, every Mozambican citizen must be guaranteed the rights and freedoms recognized under international human rights law and the charter without any distinction.

We therefore invite other governments to consider making the following recommendation:

- **Recommendation:** The Mozambican government should include a provision on sexual orientation and gender identity in article 35 of the constitution in order to expressly prohibit discrimination on the basis of sexual orientation and gender identity.

Finally, Mozambique is a country highly affected by HIV, with 11.5 % of prevalence. In according to response, the Mozambican government has developed a plan, called PEN. The PEN includes MSM as a key population. Despite this, no specific measures of prevention have been taken by the government in regards to this population.

We therefore invite other governments to consider making the following recommendation:

- **Recommendation:** The Mozambican government should include the MSM in their public prevention campaigns and provide specific inputs prevention in the National Health Service.

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