



Q10009. Malawi – Researched and compiled by the Refugee Documentation Centre of Ireland on 22 May 2009

Treatment of homosexuals including treatment of those detained and prosecuted for sodomy

The *US Department of State* in a section titled 'Other Societal Abuses and Discrimination' reports:

"Societal violence and discrimination based on sexual orientation occurred. A 2008 study by the Center for the Development of People found that approximately 34 percent of homosexual men in the country had been blackmailed or denied services such as housing or healthcare due to their sexual orientation. Additionally, 8 percent surveyed said they had been beaten by police or other security forces due to their sexual orientation.

Homosexuality is illegal, although there were no prosecutions for homosexuality during the year." (US Department of State (25 February 2009) - *2008 Country Reports on Human Rights Practices – Malawi*)

The same report under the heading 'Security forces engaged in rape and sexual abuse', states:

"For example, on August 23, a police officer in Lilongwe, Enock Chawanda, was arrested for sodomizing a suspect; the suspect reported the sodomy to medical personnel and a medical examination confirmed the act. Chawanda was awaiting trial at year's end." (Ibid)

Behind the Mask state:

"status of homosexuality: illegal
age of consent:
laws covering homosexual activity: Section 153 Penal Code, which prohibits "unnatural offences", and Section 156 concerning "public decency", are used to punish homosexual acts. It is reported that, in the past, Europeans who committed homosexual acts with Malawis were prosecuted under Article 156 and expelled as undesirable aliens." (Behind the Mask (Undated) - *Malawi*)

A January 2007 *Behind the Mask* report states:

"A proposal to incorporate homosexuality into the Malawian Constitution was strongly repudiated by that country's Legal Affairs Committee.

Malawi's Human Rights Consultative Committee (HRCC) together with Student Law Society of Malawi (SLS) submitted the proposal during a meeting aimed at getting the public's input on the country's constitution.

These two social and legal consortia pleaded to legislators to also endorse laws that could represent homosexuals. Despite rejection of their submissions, HRCC Chairman Justin Dzonzi said; "We want to retable the issue again with the Legal Affairs Committee, but there are not fixed dates yet. But we hope to take the issue back later this year but not later than November." (Behind the Mask (19 January 2007) - *Malawi parliament rejects homosexuality*)

The same article states:

"Also speaking against homosexuality, MP Adden Mbowani Nkhotakota said that homosexuality could not be legalized in Malawi because it is evil, and stands for everything that is immoral in the country.

"Homosexuality is not only immoral but also stupid. Two people of the same sex can't have sex and be accepted in society. We have Muslims and Christians in Malawi, and in both religions it is sinful. We are not going to let this into our laws," said Mbowan." (Ibid)

The *Immigration and Refugee Board of Canada* state:

"According to The International Lesbian and Gay Association (ILGA), homosexuality in Malawi, both gay and lesbian, is illegal (ILGA 23 Apr. 1999). An ILGA legal survey of Malawi states the following:

Section 153 Penal Code, which prohibits "unnatural offences", and Section 156 concerning "public decency", are used to punish homosexual acts. It is reported that, in the past, Europeans who committed homosexual acts with Malawis were prosecuted under Article 156 and expelled as undesirable aliens (ibid.)." (Immigration and Refugee Board of Canada (25 September 2002) - *Malawi: Treatment of homosexuals; availability of state protection MWI39681.E*)

The *UK Home Office* state:

"On 4 August 2005, Nation Online reported that:

"Pastors in Blantyre have advised Parliament not to waste tax payers money and time discussing legalising homosexuality as it is a useless act. The statement was made on Thursday during a homosexuality debate organised by Blantyre Pastors Fraternity which is under the Evangelical Association of Malawi. All the participants in the debate condemned homosexuality, saying it is a wicked act that contravenes the Bible teaching and the country's culture. Chairman of the fraternity, Reverend Vincent Chirwa said although homosexuality is outlawed, Malawians have to accept the fact that it is being practised secretly and be able to speak against it. He added that the argument that homosexuality is a generic make-up is just there to advance the belief that homosexuality is proper. 'The issue should be about our culture

and not the generic make-up as scientists say. As the church we are saying no to legalising homosexuality because it is against our culture and bible teaching,' said Chirwa." (UK Home Office (March 2006) - *Country of Origin Information Report – Malawi*)

References:

Behind the Mask (Undated) - *Malawi*

<http://www.mask.org.za/index.php?page=malawi>

(Accessed 21 May 2009)

Behind the Mask (19 January 2007) - *Malawi parliament rejects homosexuality*

<http://www.mask.org.za/article.php?cat=malawi&id=1441>

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Immigration and Refugee Board of Canada (25 September 2002) - *Malawi: Treatment of homosexuals; availability of state protection MWI39681.E*

<http://www.unhcr.org/refworld/docid/3f7d4dd838.html>

(Accessed 21 May 2009)

UK Home Office (March 2006) - *Country of Origin Information Report – Malawi*

http://www.homeoffice.gov.uk/rds/pdfs06/malawi_130306.doc

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US Department of State (25 February 2009) - *2008 Country Reports on Human Rights Practices – Malawi*

<http://www.state.gov/g/drl/rls/hrrpt/2008/af/119011.htm>

(Accessed 21 May 2009)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

Sources Consulted:

All Africa

Amnesty International

Behind the Mask

European Country of Origin Information Network

Freedom House

Google

Human Rights Watch

Immigration and Refugee Board of Canada

Lexis Nexis

Refugee Documentation Centre Library

Refugee Documentation Centre Query Database

UK Home Office

UNHCR Refworld

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Yahoo