



Mozambique – Researched and compiled by the Refugee Documentation Centre of Ireland on 8 June 2012

Is homosexuality legal in Mozambique? How are homosexuals treated in Mozambique? Do the police offer protection to homosexuals in Mozambique?

An article published on the *Afrol News* website states:

“A recent and still unpublished study on homosexuality conducted in several provinces by the Mozambican Human Rights League (LDH) is documenting to which degree citizens have knowledge of homosexuals in Mozambique. LDH interviewed around 800 persons in Maputo, Beira, Quelimane and Nampula, most of them from higher social classes. The study revealed that the expected taboo of homosexuality in Mozambique has vanished. Among the questioned - in the age group between 18 and 56 - 80 percent confirmed having at least one homosexual friend. Even 96 percent said they personally knew at least one homosexual person, the LDH survey revealed. Yet, discrimination is widespread. A 25-year-old member of the new group, recently graduated in law and wanting to stay anonymous, told 'Savana' he had experienced discrimination based on his sexual orientation. He holds that Mozambican society still does not act peacefully towards homosexuality, leading to discrimination in the family, at school and at work.” (Afrol News (1 November 2006) *Mozambique discovers its gay minority*)

A *Freedom House* report on Mozambique states:

“The constitution guarantees equality before courts and tribunals. Discrimination on grounds of gender, ethnic origin, and nationality are prohibited, and reported instances of such discrimination are lacking. The government has been cautious on the question of sexual orientation, neither supporting the legalization of homosexuality nor actively discriminating against homosexuals.” (Freedom House (25 September 2007) *Countries at the Crossroads 2007 – Mozambique*)

A report from the Mozambican national news agency *Agencia de Informacao de Mocambique* states:

“The Office of the United Nations High Commissioner for Human Rights appears to believe that homosexuality is illegal in Mozambique. The compilation on Mozambique prepared by the Office for the current session in Geneva of the Universal Periodic Review Mechanism, in which Mozambique is one of the countries whose human rights record is being inspected, states categorically that the current Penal Code ‘prohibits homosexuality’ - although it admits that the 2007 Labour Law, contradicts this by banning discrimination against workers on the grounds of their sexual orientation. But does the penal code really outlaw gay sex? That is not the opinion of Mozambican jurists contacted by AIM, who categorically deny that there is any ban on same sex relations anywhere in Mozambican legislation. In point of fact, the word

'homosexual' does not appear in the Penal Code, which is an inheritance from the Portuguese Penal Code of 1886. That document too does not mention homosexuality." (Agencia de Informacao de Mocambique (2 February 2011) *Mozambique: The Nation, Gays and UN Human Rights Bodies*)

See also a report from *Agencia de Informacao de Mocambique* which states:

"The Mozambican Association for the Defence of Sexual Minorities (LAMBDA), the only organisation in the country working for gay, lesbian and transsexual citizens, on Tuesday praised Justice Minister Benvinda Levi for her categorical statement that homosexuality is not illegal in Mozambique. Levi was speaking in Geneva on 1 February at the review of Mozambique's human rights record under the Universal Periodic Mechanism of the UN Human Rights Council. At the meeting, delegates from France, Holland and Spain all called for the repeal of laws that supposedly criminalise gay sex. They had clearly been misled by a UN claim that the Mozambican Penal Code outlaws same-sex relations. In reality there is no specific mention of homosexuality in the Penal Code, or in any other Mozambican legislation, and so Levi could declare that gay sexual relations do not constitute a crime in Mozambique." (Agencia de Informacao de Mocambique (1 March 2011) *Mozambique: Praise for Recognition That Gay Sex Not Illegal*)

Paragraph 85 of a *UN Human Rights Council* report states:

"Regarding questions on the issue of sexual orientation, Mozambique stated that its Constitution makes no reference to sexual orientation. The country is confronted with profoundly entrenched cultural and religious habits and such issues are recent and have only begun to be faced now. It was added that homosexuality is not criminalized, as there is no such definition in the Criminal Code, so that no one can be sanctioned for homosexuality. It was added, regarding freedom of association, that there was no restriction in this regard." (UN Human Rights Council (28 March 2011) *Report of the Working Group on the Universal Periodic Review: Mozambique*)

The 2012 *US Department of State* country report on Mozambique, in a section titled "Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity", states:

"There are no laws criminalizing consensual same-sex sexual activity. However, there were occasional reports of discrimination based on sexual orientation, and the LDH reported cases of discrimination against gay men and lesbians in the courts. The Workers Law includes an article that prevents discrimination in the workplace based on a number of factors, including sexual orientation. The government does not track and report discrimination or crimes against individuals based on sexual orientation or gender identity, nor were such abuses reported in the media." (US Department of State (24 May 2012) *2011 Human Rights Reports: Mozambique*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit 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.

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