

# URGENT ACTION

## CONCERNS REMAIN IN DRAFT CRIMINAL CODE

**The latest draft of the Mozambique Criminal Code was approved by the National Assembly (parliament) on 11 July. The Code is now with the President, who has to sign and promulgate it into law, however concerns still remain about certain provisions.**

As of 21 August the President of the Republic of Mozambique has not yet signed the Criminal Code into law. Many civil society organizations in Mozambique are lobbying the President in an attempt to change some of its provisions.

It is a positive step that the version of the Code passed by the National Assembly did not include Article 223, which provided for the suspension of criminal charges for those who married the person they were accused of raping. This means that in the version of the Code presented to the President, rapists are no longer able to escape prosecution by marrying their victim. Another article of the Code has been improved slightly in that it makes sexual offences against those under 16 years of age a public crime. However, it is still concerning that minors between the ages of 16 and 18 are not afforded this special protection, and the Code still requires an official complaint be made by victims who are over the age of 16 before a criminal proceeding can be instituted for sexual offences.

The National Assembly has also not taken on board other suggested alterations to the Code. The latest version still refers to rape of "minors" - with "minors" being those 12 years of age and under. This effectively deprives children aged between 12 and 18 years, who have been subject to coercion, of the special legislative protection they merit under Mozambique's national and international human rights obligations.

### **Please write immediately in Portuguese or your own language:**

- Welcoming the news that the latest version of the draft Code has made sexual offences against those under 16 years of age a public crime, but expressing concern that minors between the ages of 16 and 18 are not afforded this special protection;
- Expressing concern that the Code still requires that adult victims or other relevant people lodge an official complaint before criminal proceedings can be initiated and call on the authorities to remove this provision;
- Expressing concern that the Code still does not effectively address coercive, non-consensual, practices against minors between the ages of 12 and 18 years and call on the authorities to ensure that protection should apply to all those aged under 18, in accordance with international and national laws.

### **PLEASE SEND APPEALS BEFORE 2 OCTOBER 2014 TO:**

#### President

Presidenta Dra. Verónica Nataniel  
Macamo Dhovo  
Assembleia da República  
Palácio do Quarto Congresso  
Avenida 24 de Julho, Maputo  
República de Moçambique  
Fax: +258 21400711; +258 21225179  
Email: arm@parlamento.org.mz  
**Salutation: Exma. Senhora**

**Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:**

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

**AMNESTY  
INTERNATIONAL**



Please check with your section office if sending appeals after the above date. This is the second update of UA 42/14. Further information: [www.amnesty.org/en/library/info/AFR41/003/2014/en](http://www.amnesty.org/en/library/info/AFR41/003/2014/en)

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### ADDITIONAL INFORMATION

Mozambique's Criminal Code dates back to 1886 however the revision of the Code has been in discussion since 2010. In December 2012 the National Assembly approved the draft Criminal Code. This Code contained a number of problematic articles which were relics of the 19th century. Among these relics was an article which enabled rapists to escape prosecution by marrying their victims. During the Criminal Code review process this article was retained in the draft Criminal Code and in December 2013 Mozambique's parliament provisionally approved it.

On 20 March 2014 as a consequence of national lobbying and international pressure, the parliamentary Legal, Human Rights and Constitutional Affairs Commission announced that the article enabling rapists to escape prosecution by marrying their victims would be struck from the draft Criminal Code. Under Article 223 of the proposed draft Code, criminal charges could be suspended against anyone who married the person they were accused of raping. The president of the commission said that although the draft Criminal Code would still be discussed, Article 223 would no longer be included. On 30 April the parliamentary commission met to discuss a new version of the draft Penal Code and Article 223 has been removed from the draft.

Civil society in Mozambique continue to campaign for changes to the Code.

Further information on UA: 42/14 Index: AFR 41/004/2014 Issue Date: 21 August 2014