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Zambia urged to release two men charged with same-sex sexual conduct

The Zambian authorities must immediately release two young men who have been denied bail after being arrested on charges of having sex “against the order of nature”, Amnesty International said.

According to state media, police in Kapiri Mposhi in central Zambia on Monday arrested Phil Mubiana and James Mwansa, both aged 21, in Ndeke village.

Sources have told Amnesty International that one of the men’s neighbours reported them to the police, resulting in the arrest – their second for alleged same-sex sexual conduct, considered a crime under Zambia’s penal code.

“The arrest of the two men solely for their real or perceived sexual orientation amounts to discrimination and it is in violation of their rights to freedom of conscience, expression, and privacy. Laws criminalizing homosexuality and gender identity criminalize the legitimate exercise of these human rights, which are protected in treaties ratified by Zambia, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights,” said Simeon Mawanza, Amnesty International’s Zambia researcher.

According to Amnesty International’s sources, the detained men have low literacy levels and a poor understanding of the Zambian legal system or their personal rights. The authorities reportedly subjected the men to anal examinations without their consent, and may have also forced them to make confessions to speed up the trial.

“Anal examinations conducted to ‘prove’ same-sex conduct are scientifically invalid, and furthermore, if they were conducted without the men’s consent, contravene the absolute prohibition of torture and other cruel, inhuman and degrading treatment or punishment under international law,” said Simeon Mawanza.

“Such examinations are in every case highly invasive, abusive, and profoundly humiliating. In addition, the doctors who conduct these examinations, by doing so forcibly, violate their ethical obligations towards people they examine. Any persons subjected to such abuse should be afforded appropriate remedy and must be protected from further abuse.”

The two men were reportedly first arrested on 25 April 2013 and were detained at Kapiri Mposhi police station before police released them on bail on 2 May.

Since being detained again, the men have yet to see a lawyer and have pleaded not guilty to the charges against them. They are being held at Mpima Remand Prison and are due to appear before the court on 22 May.

It is believed that they were detained in an overcrowded cell at Kapiri Mposhi and denied access to food

and water for about 12 hours.

“Amnesty International considers individuals imprisoned solely for their consensual sexual relationship in private as prisoners of conscience and calls for their immediate and unconditional release,” said Simeon Mawanza.

These arrests in Kapiri Mposhi are the second recent case of the Zambian authorities carrying out arrests to suppress sexual minorities and their supporters.

Last month in Lusaka a human rights activist was arrested after he appeared on television supporting LGBTI rights. He was subsequently released on bail.