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Amnesty International urges Malawi to decriminalize consensual same-sex sexual conduct

Human Rights Council adopts Universal Periodic Review outcome on Malawi

Amnesty International welcomes Malawi's acceptance of the recommendation to take measures to protect lesbian, gay, bisexual, transgender and intersex (LGBTI) persons against violence and to prosecute the perpetrators.¹ The authorities have also agreed to guarantee effective access to health services for LGBTI persons, including to treatment for HIV/AIDS.² However, Amnesty International regrets the government's rejection of recommendations to repeal provisions in the Penal Code criminalizing consensual same-sex sexual activities between adults.³ LGBTI persons in Malawi engaging in consensual same-sex sexual conduct continue to face prosecution under the Penal Code, societal hostility and blackmail. These laws also act as a barrier for LGBTI persons in accessing much needed sexual and reproductive health services.

Amnesty International regrets Malawi's rejection of recommendations to consider abolishing the death penalty in law.⁴ This is despite a number of progressive steps in Malawi, including an official moratorium on executions in place since 1992 and the current review of all death sentences. Amnesty International strongly encourages the authorities to keep these recommendations under consideration and to work towards abolishing the death penalty in Malawi.

The authorities must immediately act to reduce pre-trial detention, to guarantee fair trial, and to ensure access to adequate food in order to protect the human rights of persons in detention.⁵ The police continue to detain suspects beyond the 48-hour rule without taking them to court. Meanwhile the prisons are congested and detainees survive on one meal a day. Female

¹ A/HRC/30/5, recommendation 110.93 (Austria)

² A/HRC/30/5, recommendation 110.126 (Honduras)

³ A/HRC/30/5, recommendations 113.13 to 113.28 (Brazil, Chile, Germany, Italy, United States of America, Slovenia, France, Australia, Norway, Argentina, Luxembourg, Netherlands, Sweden, Switzerland, Spain, Uruguay).

⁴ A/HRC/30/5, recommendations 113.8 to 113.9 (Nepal, Brazil); 113.29 to 113.37 (Portugal, Rwanda, Chile, United Kingdom of Great Britain and Northern Ireland, Holy See, Italy, Australia, Uruguay, Spain).

⁵ A/HRC/30/5, recommendations 110.25 (Ireland); 110.102 to 110.104 (Holy See, France, Niger)

inmates are not provided with sanitary pads by the prison authorities and have to rely on donations from often poorly funded NGOs. In police custody, juveniles are detained with adults.

Amnesty International expresses its deep concern about the continued practice of imprisoning failed asylum seekers and suspected illegal immigrants. Currently, some 500 people are in custody without the prospect of being released or deported.

Background

The UN Human Rights Council adopted the outcome of the Universal Periodic Review of Malawi on 24th September 2015 during its 30th session. Prior to the adoption of the review outcome, Amnesty International delivered the oral statement above.

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