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Zambia postpones same-sex conduct trial

The postponement of the trial against two Zambian men charged with same-sex sexual conduct whilst they continue to languish in prison is compounding their suffering, Amnesty International said.

“These men should not be facing the courts in the first place. Postponing the trial condemns these men to even more time in prison simply because of outrageous charges against them based on their perceived sexual orientation,” said Simeon Mwanza, Amnesty International’s Zambia researcher.

The trial, which was due to start yesterday, was deferred as the presiding magistrate, Mr John Mbudzi, had to attend an urgent family matter. No new date has been confirmed yet.

Philip Mubiana, a hair dresser and James Mwape, a brick layer, were charged with committing acts “against the order of nature”. They have been in custody for more than four months after being denied bail. If convicted they face a minimum of 15 years in jail.

Laws prohibiting consensual, private, same-sex sexual activity criminalise the legitimate exercise of the rights to freedom of expression, conscience, expression and privacy. These are protected in numerous treaties ratified by Zambia including the International Covenant on Civil and Political Rights and the African Charter on Human and People’s Rights.

“This is a real test for the authorities to demonstrate their commitment to the principle of non-discrimination which underlines the enjoyment of all human rights. Zambia’s human rights record is on trial.”

In a separate case, human rights activist Paul Kasonkomona faces charges of “idle and disorderly conduct” after giving a television interview in April urging Zambia to recognize the rights of lesbian, gay, bisexual, transgender and intersex individuals.

“Zambian authorities must immediately and unconditionally drop the unfair charges against Mubiana, Mwape and Kasonkomona as they are nothing short of a gross violation of their most basic human rights,” said Simeon Mwanza.

Amnesty International adopted Mubiana and Mwape as prisoners of conscience, arrested solely for their real or perceived sexual orientation.