

PRESS RELEASE

Penal Code Review Bill: serious human rights violations

Constitutional rights and principles are not being respected

Maputo, 14 March 2014

We, the undersigned civil society organizations, as human rights activists, are concerned about the violation of the rights of women, children and other groups, by some of the provisions of the Penal Code Review Bill, which document has already been approved by the Parliament as a whole in December 2013, lacking the discussion and approval of each of its provisions.

In the moment that the Parliament is about to start a detailed discussion of the provisions of the Bill, it is our duty to report that there are many provisions contained therein that, if approved, will violate directly or indirectly the rights of the citizens, by setting up situations of discrimination and by denying the rights inherent to the human person that are recognized by the Mozambican Constitution and the regional and international instruments that the country has ratified.

As we can't in this space refer to all the discriminatory provisions, we want to mention only some of the most problematic aspects:

Article 223 - Effects of marriage – This provision establishes that the rapist can have his penalty suspended if he marries the rape victim. This will only aggravate the victim's suffering in the name of the family honor. In fact, this provision not only opens space for situations of rape to not be penalized, but also protects the rapist,

Article 218 - Rape of a minor of 12 years – The Mozambican law defines as a child anyone below the age of 18. Therefore, we cannot understand why only children below the age of 12 are covered by this provision. On the other hand, the provision does not also consider other forms of rape, such as anal, oral or the insertion of objects into the vagina or the anus of children of both sexes.

Article 217 - Rape – This provision only considers rape the "illicit intercourse", failing therefore to protect married women raped by their husbands. It also does not consider as rape other forms of sexual intercourse, such as anal, oral or the insertion of objects into the vagina and anus in people of both sexes.

Article 24 - Concealers – By not criminalizing the concealers of a crime when they are relatives of the perpetrator, this provision allows parents, spouses, uncles, cousins and other relatives to modify or get rid of the crime traces, hide or disable the evidence, instruments or objects used to commit a crime,

with the purpose to prevent or impair the investigations. This is very serious and can interfere significantly in the Police investigations and increase the impunity of the criminals.

Article 46 - Age of criminal liability – This provision wants to decrease the age of criminal liability from 16 years to 10 years, opening the possibility of a child of 10 year to be criminally responsible. This provision is a gross violation of the rights of children and represents a throwback from the current situation.

Taking all the above issues into consideration, we urge the Members of Parliament to respect the Constitution of Mozambique and repeal all the provisions in the Penal Code Review Bill that violate the rights of the citizens.

Signatories:

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