

MOZAMBIQUE 246a

News reports & clippings

20 March 2014 pm

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NOTE OF EXPLANATION: This mailing list is used to distribute two publications, both edited by Joseph Hanlon. This is my own sporadic "News reports & clippings", which is entirely my own responsibility. This list is also used to distribute the *Mozambique Political Process Bulletin*, published by CIP and AWEPA, but those organisations are not linked to "News reports & clippings"

Joseph Hanlon

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Objectionable articles

already removed

from draft penal code

- but no one was told

The objectionable articles in the draft penal code were removed by the parliamentary legal and constitutional affairs commission more than a month ago, but no one was told, Teodoro Waty, chair of the committee, told reporters this afternoon. Thus, he said the demonstration today was unnecessary. This newsletter this morning had a report on complaints about the code.

No draft of the code is available, so it is unclear what changes have been made. But Waty told reporters "In the Commission, we discussed the draft code and we reached consensus to withdraw all articles that call human rights into question. I guarantee that 100 per cent of the articles presented in the civil society petition are no longer in the draft. They were withdrawn before February".

Similarly, there is also still no final draft available of the revised election laws, so it is still impossible to know what changes have been made to those laws.

This is the AIM article on the penal code.

90314E DISCRIMINATORY ARTICLES REMOVED FROM DRAFT PENAL CODE

Maputo, 20 Mar (AIM) - The legal and constitutional affairs commission of the Mozambican parliament, the Assembly of the Republic, has removed from the draft penal code several articles that violated women's rights, the commission's chairperson, Teodoro Waty, told reporters on Thursday.

The most notorious of these articles, carried over from Article 400 of the Portuguese penal code of 1886, stated that cases of rape or other sexual offences will be dropped if the rapist marries his victim. If the rapist has already been sentenced, the marriage would suspend the sentence, which would only be enforced if the couple divorced or separated.

This article has been in the Code for 128 years - but since independence it has never been used. In its initial redraft of the Penal Code, the Commission missed the opportunity to scrap this and several other ancient Portuguese provisions that were both antiquated and outrageous.

Similarly, the article on rape initially retained from the Portuguese code the concept of "illicit copulation" as the only form of rape. Since copulation in marriage is regarded as licit, the code did not recognise, let alone outlaw, marital rape.

Waty told AIM that the Commission withdrew the articles in question several weeks ago, because it regarded them as "offending against Mozambican dignity and culture".

He was speaking after civil society organisations marched through the streets of Maputo and handed in a petition to the Assembly protesting against the discriminatory articles that violate the rights of women and children.

"In the Commission, we discussed the draft code and we reached consensus to withdraw all articles that call human rights into question", said Waty. "I guarantee that 100 per cent of the articles presented in the civil society petition are no longer in the draft. They were withdrawn before February".

He accused the civil society organisations of not following the activities of the parliamentary commissions. That "could make it look as if the civil society organisations are stopped in time. I invite all the organisations to attend the debates in the Commission".

But the commission did not make its decisions public, and the women's rights organisations can hardly be blamed for not knowing something which the commission appeared to keep under wraps.

Nonetheless, Waty thought the presence of the demonstrators in the Assembly was "positive". He added that a public report on the revision of the Penal Code is being finalised and will be presented to the Assembly plenary in a matter of days.

Outside the Assembly, unaware of the secretive removal of the offending articles, prominent defenders of women's rights denounced the draft code. Alice Mabota, chairperson of the Mozambican Human Rights League (LDH), accused the parliamentary commission of failing to respect fundamental rights guaranteed under the Mozambican constitution.

“If the Mozambican parliament lets these articles through in their current state, we Mozambican women promise to take off our clothes and demonstrate in the streets, in order to show our revulsion”, she warned.

The chairperson of the Assembly, Veronica Macamo, met a delegation of the demonstrators, headed by Teresinha da Silva, coordinator of the Mozambican chapter of Women and Law in Southern Africa (WLSA), and promised that “cultural and civic matters” would be protected in the Penal Code, since the Assembly works in accordance with the Constitution,

“We have received your concern and we shall respect your points of view”, said Macamo. “The Commission on Constitutional and Legal Affairs is currently going through the Penal code article by article, and I believe it will respect all your viewpoints”.

Thus it seems that even Macamo was not aware that the commission had already eliminated the offending articles weeks ago.

The Penal Code was inherited from Portuguese colonial rule, and since independence, in 1975, it has only undergone piecemeal amendment. The current revision is the first attempt to overhaul the code from beginning to end.

(AIM)

Ht/pf (648)

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