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General situation of LGBTI people

Mozambique is one of only three countries in Africa to offer any form of anti-discrimination protection for LGBTI people, with protection on sexual orientation grounds in employment since 2007.

“We can no longer afford to discriminate against people on the basis of age, sex, ethnicity, migrant status, sexual orientation and gender identity, or any other basis — we need to unleash the full potential of everyone,” Joaquim Chissano, former president of Mozambique, wrote in an open letter to African leaders (2014).

General societal attitudes towards LGBTI people and diverse sexual and gender identities are however largely negative. Homosexuality is often referred to as a Western import with no roots in local culture and tradition. Younger people and those living in cities are more tolerant.

Strong traditional gender roles are another challenge for LGBTI people, with many forced to live double lives in normative straight relationships as the only way to be socially accepted. This contributes to the invisibility and silencing of LGBTI people in Mozambique. For several years, LAMBDA (the Mozambican Association for the Defence of Sexual Minorities), the main LGBTI organisation, has tried to register as a non-governmental organisation, but it still remains unrecognised by the Mozambican Government.

Legal and human rights instruments

Constitutional provisions and legal framework

While the Mozambican Constitution enshrines “*the principle of universality and equality*”, it does not specifically mention sexual orientation. It states that all “*enjoy the same rights and are subject to the same duties, regardless of colour, race, sex, ethnic origin, place of birth, religion, level of education, social position, marital status of their parents, profession or political option*”.

In July 2014, a new Penal Code was approved, removing references to “vices against nature”. Although there was no explicit reference to same-sex practices in the old law and no documented prosecutions of LGBTI people, the new law ensures that same-sex acts are not criminalised in Mozambique.

Mozambican law does not explicitly protect LGBTI people from discrimination. However, significant progress was made in 2007 with Article 4 of the Labour Law, outlawing discrimination on the basis of sexual orientation in employment. For most LGBTI people, the main concerns relate to discrimination and lack of access to health, social services, justice, and education. There are no laws protecting against hate crimes based on sexual or gender identity. There is also no legislation on gender recognition or other rights for transgender or intersex people who may wish to change their legal documents.

Regional or international human rights instruments

Mozambique is a member of the UN and has ratified many of the main international human rights instruments. As such it is bound to fulfil, protect and respect the rights enshrined in these instruments. All Mozambicans may turn to the UN Human Rights Committee through procedure 1503, to the Special Rapporteurs for violations of specific human rights, to CEDAW for women's rights violations, and use the UNESCO procedure for human rights violations in UNESCO's mandate. Mozambique is also a member of the African Union and its citizens and NGOs may file complaints to the African Commission on Human and Peoples' Rights. All of these instruments could be used to hold Mozambique accountable to better ensure LGBTI rights.

In May 2014, the African Commission on Human and Peoples' Rights adopted a resolution condemning violence based on sexual orientation and gender identity. The resolution calls on “State parties to ensure that human rights defenders are able to work in

an environment free from stigma, reprisals or criminal prosecution as a result of their human rights protection activities.” It further urges States to recognise acts of violence and abuse by individuals and groups by enforcing appropriate laws prohibiting and punishing all forms of violence including those targeting people on the basis of their sexual identities. They must also ensure the proper investigation and diligent prosecution of perpetrators and have the necessary judicial procedures to respond to the needs of victims. This resolution is a milestone, but it has yet to be followed up at the national level.

In 2011, at the UN Human Rights Council's Universal Periodic Review, it was recommended that Mozambique allow LGBTI organisations to register, that the possible criminal sanctions against sexual activity between consenting adults were removed, and that the right to freedom of association was protected. None of these recommendations were accepted by Mozambique at the time.

Sexual and Reproductive Health and Rights, HIV/AIDS and Gender-based Violence

Numerous healthcare challenges persist in Mozambique, especially in relation to sexual and reproductive rights. Lack of involvement of LGBTI people in decision-making with regard to their sexual and reproductive rights, sexual and gender-based violence, generally poor healthcare provision and services, and limited human resources for sexual health all contribute to the on-going challenges. Discussing sexual and reproductive health is still taboo. Strong social and cultural influences contribute in many cases to unprotected sexual behaviours.

Mozambique is ranked as having the tenth highest HIV prevalence in the world at 11.5% (with significant geographic variation). It is safe to assume that Mozambique does not differ from other countries in the region regarding HIV prevalence among men who have sex with men (MSM), that it is generally higher in this group than the general population. HIV prevalence is estimated to be 28 times higher among people who inject drugs, 12 times higher among sex workers, 19 times higher among gay men and other men who have sex with men and up to 49 times

higher among transgender women than among the rest of the adult population. In sub-Saharan Africa, adolescent girls and young women account for one in four new HIV infections.

Since 2010, the National Strategic Plan for HIV/AIDS includes MSM as a priority for prevention efforts, as a result of LAMBDA's advocacy work. The 2014 UNGASS progress report (Declaration of Commitment on HIV/AIDS) for Mozambique estimated HIV prevalence among MSM in Maputo at 8.2%, Beira at 9.1% and Nampula/Nacala at 3.7%, with HIV prevalence significantly higher among older rather than younger MSM. There is a shortage of information about HIV prevention specifically formulated for MSM and it is difficult to access public health services due to discrimination and hostility from healthcare providers.

Violence against LGBTI people is widespread and often based on non-conforming gender identity or sexuality. Lesbian women with a masculine gender expression and transgender people of all genders are at risk of being raped, while other people with non-conforming gender expressions risk violence due to their gender presentation. Due to laws and policies that do not adequately protect LGBTI communities from the potential gender-based violence that they are exposed to, many individuals risk coming under further scrutiny from healthcare workers who are both ignorant of, and biased against, sexuality or gender identity.

In early December 2013, the INS, the research division of the Mozambican Ministry of Health released their Biological and Behavioral Survey among Men Who Have Sex with Men. The study cited that 2.6 percent of MSM in Maputo have suffered physical abuse in the past year due to their sexual orientation, directly contradicting the Mozambican government's statements to the UN Human Rights Council only two months previously.

Civil society organisations and institutions active in LGBTI work

LAMBDA, the Mozambican Association for the Defence of Sexual Minorities, was formed at the first national conference on LGBTI rights in Mozambique in

2006, and was organised by the Mozambican Human Rights League (LDH). LAMBDA's mission is to promote the civic, human, and legal rights of LGBTI citizens, through public awareness and education, advocacy, and social dialogue. Target groups are all LGBTI citizens, civil society organisations, political and governmental institutions, professionals, such as teachers and medical doctors, and the general public <http://www.lambdamoz.org/>;

Among the main challenges for LAMBDA is that it has not been allowed to register as a non-governmental organisation, which is a violation of the right to freedom of association protected in the Constitution. The formal request to register was submitted in January 2008 but no official reply (neither acceptance nor rejection) has been received. LAMBDA has appealed to the Ombudsman and the Human Rights Commission (in 2013) without reply and to the Minister of Justice (without action). LAMBDA has now launched a campaign and protested publicly against the illegal refusal by the Justice Ministry to register it as a bona fide association. In November 2014, Lambda took out a full page advertisement in the Maputo daily paper "Noticias" protesting at the discrimination it has suffered.

Other organisations, such as *Monaso* <http://www.monaso.org.mz/>; (an umbrella body for HIV/AIDS organisations) and *Amodefa* (the national family planning organisation) <http://www.amodefa.org.mz/>; include LGBTI perspectives in their work on HIV, gender and sexuality. In particular, Monaso works with all kinds of perspectives of sexuality and includes LGBTI perspectives in their workshops.

Other local partners and allies are organisations working in sexual health, HIV/AIDS and Women's Rights, such as:

Women and Law in Southern Africa (WLSA), <http://www.wlsa.org.mz/>,

Mozambique Human Rights League/Liga Mocambicana dos Direitos Humanos (LDH),

NAIMA (a network of NGOs working in health and HIV/AIDS in Mozambique), <http://www.naima.org.mz/>

Pathfinder, work with sexual and reproductive health and rights (SRHR), but not specifically with LGBTI rights

Forum Mulher, and *RENSIDA* (Rede nacional de Associações de pessoas vivendo com HIV/SIDA em Moçambique)

There is currently no specific transgender or intersex activism or advocacy in Mozambique.

Regionally there are *ILGA Africa* <http://africa.ilga.org>, and the *Coalition of African Lesbians*, CAL, <http://www.cal.org.za/new/> .

What Sweden can do? – 8 questions to discuss

Within the broader context of support to human rights enhancement, economic empowerment, entrepreneurship and rural livelihoods, SRHR and gender equality in Mozambique, Sweden has a great opportunity to include issues related to the rights of LGBTI people and their access to justice. When addressing LGBTI perspectives in a non-supportive government context like Mozambique, it is very important to consult local LGBTI organisations to make sure not to conflict with their work. Questions to discuss:

- Could Sweden do more to stay updated on the legal and security situation and the needs and priorities of the LGBTI movement? To offer support and protection to activists and organisations at risk?
- Could Sweden do more to seek effective strategic alliances and continue to raise LGBTI rights in the dialogue with the government?
- Could Sweden do more to encourage and support cooperation and synergies between LGBTI organisations and mainstream Human Rights organisations, both nationally and regionally?
- Could Sweden do more to include LGBTI organisations in social and professional events/networks and in programmes focussing on civil society capacity development and/or human rights enhancement?

- Could Sweden do more to encourage inclusion of LGBTI rights in support to accountability mechanisms (e.g. law reforms, national human rights institutions and law enforcement staff capacity development)?
- In dialogues concerning private sector development, could Sweden raise anti-discrimination, codes of conduct, and employment legislation, with the aim of reducing discrimination against people based on sexual orientation or gender identity?
- Could Sweden do more to raise issues of discrimination in rural development, economic empowerment, education and skills training in order to ensure that LGBTI persons are not excluded or denied access to programmes?
- Could Sweden do more to include gay, lesbian, bisexual, trans and intersex people and the MSM group in supported SRHR and GBV initiatives?

For further advice on dialogue regarding LGBTI issues, download [Sida's Human Rights of Lesbian, Gay, Bisexual and Transgender Persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#). Also refer to the [EU tools](#) and guidelines in the reference list.

More specific advice and support measures, as well as contact information, can also be provided through ILGA or RFSL, should the Embassy wish for a dialogue.

General References

ILGA, 2014, *State-sponsored Homophobia: A world survey of laws prohibiting same-sex activity between consenting adults* (See updated version at [www.ILGA.org](http://www.ilga.org))

RFSL, *LGBT in Development, An introduction in how to include LGBT in programming in development* http://www.rfsl.se/public/LGBT_in_development.pdf

EU news, tools and guidelines: http://eeas.europa.eu/human_rights/lgbt/index_en.htm

EU Guidelines (2013): [Guidelines for supporting LGBTI persons' human rights](#)

Specific references

AmfAr, 2012, 'Achieving an AIDS-free generation for gay men and other MSM': http://www.amfar.org/uploadedFiles/amfar.org/In_The_Community/Publications/MSM-GlobalRept2012.pdf

Ketz Adam, 2013, "From kill the Gays to kill the Gay rights movement: the future of homosexuality legislation in Africa", <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1162&context=njihr>

Reducing vulnerability and risk among men who have sex with men in Maputo, MSM Global Forum: <http://www.msmsgf.org/index.cfm/id/11/aid/1500>

UNGASS progress report (Declaration of Commitment on HIV/AIDS) for Mozambique, 2014

United Nations General Assembly Special Session on HIV and AIDS Progress Report, 2008 - 2009
MOZAMBIQUE, 2010

UNESCO- *Claiming Human Rights - in Mozambique*, <http://www.claiminghumanrights.org/mozambique.html>

The human rights of LGBTI persons have been a Swedish government priority since 2009. As a service to staff, briefs have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include LGBTI rights in diplomacy and programming.