Written by Simeon Maganga
Wednesday, 07 November 2012 09:28

Minister of Justice and Attorney General Ralph Kasambara has refuted reports that he issued a statement announcing the country's suspension of anti-homosexual law to pave way for public debate and parliamentary vote on the legislation.

This comes on the back of international media being awash with reports that Kasambara has announced the suspension of the legislation.

On Monday, the US-based human rights watchdog Amnesty International released a statement commending Malawi for the said action.

But Kasambara denied on Monday evening having released any statement to that effect or making any announcement on the matter.

"There was no such announcement and there was no discussion about same sex marriages," Kasambara said.

He further expressed ignorance on whether or not Parliament will discuss same-sex laws as it meets this month.

"None has so far talked or debated about same sex marriages. The Penal Code does not regulate same sex marriages or any marriages at all," he told The Daily Times.

In a later interview, Kasambara insisted "Nobody talked about suspension of any provision of the Penal Code."

He did not, however, refute print media reports that he talked about the said suspension at a minority rights debate organised by the Centre for Human Rights Rehabilitation (CHRR) and Centre for Development of People (Cedep) in Lilongwe on Thursday last week.

Kasambara is reported as having said at that meeting that: "There is a moratorium on such laws, meaning that police will not arrest or prosecute anyone based on these laws. These laws will not be enforced until the time Parliament makes a decision.

"The idea is that if indeed these laws are found to be unconstitutional, it would be embarrassment to [the] government and if they will be found alright then police will be able to act on them. It is better to let one criminal get away with it rather than throw a lot of innocent people in jail."

In its statement of November 5, Amnesty International hailed Malawi and Kasambara for the alleged suspension.

"Today's [Monday] statement by Malawi's Justice Minister that laws criminalising same sex sexual conduct are suspended pending a decision on whether or not to repeal them is a historic step in the fight against discrimination in the country.

"Amnesty International welcomes Minister Kasambara's statement and hopes it serves as the first step towards ending discrimination and persecution based on real or perceived sexual orientation and gender identity in Malawi," reads the statement, quoting its Director for Southern Africa Noel Kututwa. Anti-homosexual laws as contained in Sections 153 and 156 of the Penal Code were invoked in 2010 after Tiwonge Chimbalanga and Steven Monjeza held a public gay engagement.

They were slapped with a 14-year jail sentence but were soon pardoned by the late President Bingu wa Mutharika amid international condemnation.

Gay rights issue has since been a highly contested matter in Malawi with religious groups leading the front of condemning pressure from the West for Malawi to legalise same sex marriages.

Meanwhile, law experts Dunstain Mwaungulu, a former High Court Judge in Malawi, and Gift Mwakhwawa, president of the Malawi Law Society, have said neither the Minister nor the President can suspend a law other than Parliament.—Additional reporting by Theresa Chapulapula & Gregory Gondwe.