

# **LOCKING UP MY RIGHTS**

**ARBITRARY ARREST,  
DETENTION AND TREATMENT  
OF DETAINEES IN  
MOZAMBIQUE**

**SUMMARY OF FINDINGS**

**AMNESTY  
INTERNATIONAL**



Amnesty International Publications

First published in 2012 by  
Amnesty International Publications  
International Secretariat  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom  
[www.amnesty.org](http://www.amnesty.org)

© Copyright Amnesty International Publications 2012

Index: AFR 41/004/2012  
Original Language: English  
Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publishers.

Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

**AMNESTY  
INTERNATIONAL**



**In February 2012 a joint delegation of Amnesty International and the Mozambique Human Rights League visited three prisons in Maputo and two in the northern province of Nampula, as well as other detention facilities in Mozambique,**

The information obtained by the delegation indicates that the Mozambique authorities violate the rights of those detained and arrested – rights under both international and national law. The authorities have failed to adequately ensure that all individuals who come into contact with the criminal justice system are treated with humanity and dignity and in accordance with the presumption of innocence.

**VIOLATIONS OF RIGHTS**

**Prolonged pre-trial detention** The delegation found hundreds of cases of prolonged detention without trial both in police cells and in prisons.

In the prisons visited, the delegation found many cases of prolonged pre-trial detention of up to 24 months – far in excess of the time limits set out in Mozambique law, which is 11 months at most.

**Arbitrary arrests** Arrests are arbitrary if (i) they do not follow the grounds and procedures set out in national law, (ii) there is no reasonable suspicion that a crime has been committed by the person being arrested, (iii) people are detained beyond the expiry of their sentence, and/or (iv) the detention is solely for the purpose of suppressing human rights. According to the Mozambique law, police must have an arrest warrant in order to arrest an individual. An arrest may only be carried out without a warrant when a person is caught in *flagrante delicto*, that is, caught in the act of committing a crime, or is pursued running from the scene of the crime, or caught soon after the commission of a crime with objects or some other clear indication that the individual participated in the commission of the crime.

However, lawyers and civil society members told Amnesty International that the police frequently arrest individuals without having sufficient evidence, and investigate later. During the visit to places of detention in February 2012, the delegation found at least three cases where police officers did not appear to have sufficient evidence that a crime had been committed, or that there were any grounds for suspicion. The delegation documented at least 10 cases where the police had detained individuals who were not caught in *flagrante delicto*, without an arrest warrant. There have been cases where the *Juiz de Instrução Criminal*, the judicial authority responsible for overseeing the initial phase of a criminal process, has approved arrests and detentions even where the police did not comply with the national procedures.

The delegates were also informed by detainees in one prison that the authorities there often refuse to release those who have completed their sentence unless they receive money.

Amnesty International has further received reports of cases of arrests and detentions which appear to be politically motivated and aimed solely at suppressing their rights to freedom of expression and assembly.

**Failure to inform of rights and progress of case** Many of the people the delegates spoke to had not received any information regarding when they would appear before a court or the progress of their case. Some complained of lack of information regarding their rights, reasons for their detention and lack of information on free legal representation via the Institute for Legal Representation and Assistance (*Instituto de Patrocínio e Assistência Jurídica*, IPAJ), which aims to provide economically disadvantaged citizens with free legal representation and assistance. In some cases, detainees receive information in a language they do not sufficiently understand or a manner they do not understand.

**Access to lawyers** In a number of cases, including those where individuals are accused of serious crimes, lawyers either have not been assigned to cases or, if assigned, they do not effectively represent their clients, often failing to communicate with them for long periods or to follow their case. In some cases, those who are assigned to represent accused people were undertrained, underqualified, or unqualified.

**Coercive practices in breach of the presumption of innocence** Many of the detainees the delegation met had had their first interview with the police without a lawyer present. Some reported that they had been beaten, or threatened with beatings, to force them to incriminate themselves and others. Some stated they were forced to sign documents the content of which they did not know.

**Failure to promptly present detainees before a competent authority** Under Mozambique law, a detainee must be taken before the *Juiz de Instrução Criminal* to have the lawfulness of their detention determined within 48 hours of arrest. However, the delegation obtained information indicating that frequently police do not present people to the *Juiz de Instrução Criminal* or other competent judicial authority within that period.

**Failure to release suspects pending trial** The delegation encountered a number of cases of pre-trial detainees held for long periods seemingly without the opportunity of being granted conditional release – particularly young, mainly unemployed or informally employed men, many of whom are detained for petty crimes such as theft. Mozambique law provides for the possible release of detainees pending trial, subject to guarantee to appear before trial such as the payment of bail or the requirement to report regularly to a police station or judicial officer. International human rights law require that a competent authority give serious consideration to releasing suspects pending trial, subject to guarantee to appear before trial.

**Arrest and detention of children** In Mozambique children between the ages of 16 and 18 may be detained and brought before a court of law. However, the delegation came across several youths who claimed they were, and appeared to be, younger than 16 years old. A few others stated that they had been younger than 16 years at the time of their arrest. Prison authorities claimed that the burden of proof was on

the detainees to prove their age. However, according to information obtained from the Ministry of Justice where there is doubt as to the age of a detainee, such detainee should undergo a medical examination to determine their age and if the examination shows that the detainee is indeed younger than 16 years, they must be released. This is also the procedure the Committee on the Rights of the Child has advocated in cases where there is lack of proof of age. The Committee on the Rights of the Child has further stated that where the result of the examination is inconclusive, the child shall be given the benefit of the doubt.

Amnesty International and the Human Rights League are concerned about the number of children the delegation found in the places of detention and the length of time they are kept there. Many of them did not have a lawyer and had been in detention for longer than the legally prescribed period.

**Lack of justice/compensation for unlawful detention** The majority of those arbitrarily arrested and detained do not file *habeas corpus* petitions or seek compensation. Most are unaware that they have a right to do so and do not have a lawyer to assist them.

### CONDITIONS OF DETENTION

**Overcrowded and insanitary conditions** The delegation visited police cells and the cells in prisons where they found overcrowded and insanitary conditions. Some cells had little natural light and little privacy. In some of the facilities there were no beds and/or no running water.

**Inadequate diet** Detainees in most of the police cells they visited were not given meals and had to depend on food brought in by family or the generosity of other detainees. All prison inmates receive food from the state, but the food is unvaried and nutritionally inadequate. There appeared to be very few vegetables, if any, in their diet.

**Medical care** Detainees do not receive a medical examination upon arrival at police stations or prisons. Some of those interviewed by the delegation stated that they had not received medical treatment despite obvious injuries sustained at the time of their arrest. Most of the medical posts in the prisons were very small with only one or two beds and had had limited amounts of medicine.

**Mixing pre-trial detainees with convicted prisoners and children with adults** The delegation came across many cases of detainees being held in the same cells as convicted prisoners. It found detainees who said they were as young as 14 detained in the same overcrowded cells as adults.

**Ill-treatment by officials and other prisoners** Many inmates said they had been beaten or threatened with beatings by police while held at police stations. One woman detainee told a delegation member that she had been kept for seven days alone in a dark cell without food. She also said at one point she was sexually assaulted by four male police officers. Others reported that prison officials or other inmates ill-treated them with the acquiescence of prison officials.

**Women prisoners and women held in prison with their young children** The delegation visited a prison which also holds pregnant women and women with very young children. The children stay in the prison with the mothers until the age of five. In deciding what happens to children once they turn five years old the primary consideration must be the best interests of the child.

Some women stated that the prisons did not provide sanitary pads and that they had to rely on charitable institutions to provide such.

**Detained foreign nationals** The delegation encountered a number of detained foreign nationals. These detainees experienced additional constraints due to the language barrier: they faced particular challenges as they were unable to understand the prison officials, and faced even more difficulties than prisoners generally in accessing legal assistance. Undocumented non-nationals are held for indefinite period of times whilst awaiting funding from family and friends for their repatriation. One undocumented non-national had been in detention for over three years at the time of writing the report and his detention seemed likely to continue indefinitely.

Mozambique's justice system commonly operates to the disadvantage of those from poor social groups, who are often the targets of arbitrary arrest and subjected to ill-treatment by police officers. All too often they end up in prolonged unlawful detention and are not informed of their rights in a language they can understand, and often not at all. As they cannot afford a lawyer, they are almost invariably represented by unqualified individuals or poorly qualified lawyers; and are rarely granted release pending trial.

Amnesty International calls on the Mozambique authorities to bring an end to arbitrary arrests and detentions in the country and to improve conditions of detention for both detainees and prisoners.

**For more details on the delegation's findings, the response of the Mozambique authorities and recommendations by Amnesty International, see the report *Locking up my rights: arbitrary arrest, detention and treatment of detainees in Mozambique* (Index: AFR 41/001/2012)**

**AMNESTY**  
**INTERNATIONAL**



[www.amnesty.org](http://www.amnesty.org)