

AI Index: PRE 01/558/2012
22 November 2012

Mozambique: Thousands unlawfully held in substandard prisons

Thousands of people are being held in Mozambique's prisons despite not having been found guilty of a crime, Amnesty International said in a report released today, which exposes how many inmates are arrested on spurious grounds and held for years without access to a lawyer.

The report *Locking up my rights: Arbitrary arrest, detention and treatment of detainees in Mozambique* describes how people from poor social groups are particularly at risk of being locked up for months, sometimes years, in squalid, overcrowded cells without having committed a crime.

The report – which is a collaboration between Amnesty International and the Mozambique Human Rights League – also shows how, in the majority of cases, these economically disadvantaged individuals are not informed of their rights or are unable to understand them; cannot afford an attorney and are therefore almost invariably represented by unqualified individuals or poorly qualified attorneys; and are rarely granted freedom whilst awaiting trial.

Amnesty International found one individual who had been held in a maximum security prison for 12 years without having been convicted of a crime or having any kind of court hearing. It did not appear that he had even been charged.*

“Mozambique's haphazard approach to justice has resulted in hundreds of detainees simply becoming ‘lost’ in the system and languishing in prison with no rights and no recourse to justice,” said Muluka-Anne Miti, Amnesty International's Mozambique researcher.

“In some cases prisoner's records had been lost entirely or contained serious discrepancies.”

Under Mozambique's national laws all detainees are supposed to appear in front of a competent judge within 48 hours who should verify whether or not their arrest is lawful. In addition every detainee should have access to a lawyer free of charge. In the overwhelming number of cases though, this simply does not happen.

“We met detainees, some of them children, who had been arrested without there being any obvious sign of a crime having been committed, let alone sufficient evidence they had committed such an infringement,” said Muluka-Anne Miti.

Ana Silvia (not her real name) was 15 when she was arrested for the murder of her mother even though there were no obvious signs of a suspicious death, no signs of Ana Silvia's involvement and no autopsy was carried out. Ana Silvia told Amnesty International that after the police accused her of killing her mother they asked her father if they could beat her to make her tell the truth. Her father refused but Ana Silvia was sent to prison anyway.

Amnesty International encountered several children who both claimed and appeared to be under 16 years old. When questioned about this, prison authorities said that the burden of proof was on the detainees to

prove their age. But only a tiny minority of people in Mozambique have birth certificates - those from very poor families are unlikely to have any kind of documentation.

In Nampula Provincial Prison Amnesty International found 16 years-olds in one cell who did not have legal representation. In other prisons, children who had not been convicted of a crime were held in the same filthy, overcrowded cells with convicted adults.

In general Mozambique's prisons are overcrowded with poor sanitation and medical care and few opportunities for learning and training; and none at all for those who have not yet been tried. In Nampula Provincial Prison, Amnesty International found 196 people crammed into a cell of about 14 metres by 6 metres. The detainees inside were sitting with their shoulders touching and their legs bent at the knees as this was the only way they could all fit in the room.

“Access to justice in Mozambique is systematically denied to those without money. The prisons are full of poor young men still awaiting trial who haven't been told their rights or offered legal counsel,” said Muluka-Anne Miti.

“The Mozambique justice system simply doesn't work for poor people who can spend years languishing in prison without the authorities knowing, or caring, that they are there.

“The aim of a criminal justice system is to ensure that justice is done which includes ensuring that those who have not committed a crime are not unlawfully detained. Mozambique's authorities must take this responsibility more seriously.”

Notes to Editors

- *Jose Capitine Cossa was released in September 2012 after an appeal by Amnesty International and the Mozambique Human Rights League. The Attorney General admitted that his detention had been irregular.
- 38 per cent of Mozambique's prison population are awaiting trial (approx 2,438 out of a total population of approx 6,415)
- In July 2012 Amnesty International sent a Memorandum to the Attorney General urging him to look into some specific cases highlighted in the research. In response to the Memorandum 4 individuals were released due to irregularities in their detention. 1 case was tried and acquitted. He stated he had no records of 9 cases and 13 remain in prolonged detention awaiting trial.