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on Human
& Peoples' Rights



Commission Africaine
des Droits de l'Homme
et des Peuples

PRISONS IN MOZAMBIQUE

REPORT ON A SECOND VISIT

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BY

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SPECIAL RAPPORTEUR ON PRISONS AND
CONDITIONS OF DETENTION IN AFRICA

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PRISONS IN MOZAMBIQUE

INTRODUCTION

Dates of the visit and composition of the delegation

Dr Vera Chirwa, Special Rapporteur (SR) on prisons and conditions of detention in Africa (a mechanism of the African Commission on Human and Peoples' Rights) visited places of detention in Mozambique between 4th and 14th April 2001. Her mission followed a first visit to Mozambique by Prof. E.V.O. Dankwa, then Special Rapporteur, between 14th and 24th December 1997.

The objectives of the second visit were:

- To assess the implementation of the recommendations made by the SR in 1997 and the conditions of detention in Mozambique;
- To document the impact on the conditions of detention of the floods that Mozambique faced in February 2000 and;
- To express the ACHPR's sympathy to Mozambique for the hardships caused by the floods and promote the African Charter on Human and Peoples' rights.

The Special Rapporteur was accompanied by:

- Dr. Alpha Oumar Sankarella Diallo, Physician in chief, Security and Prison Services of Guinea;
- Audrey Pascaud, Assistant, France;
- Maria José Anastácio, Interpreter, Portugal.

The ACHPR wishes to thank them for their important contribution to this visit.

Places visited

The delegation visited the following prisons and detention centres :

- Maputo Central Prison;
- Maputo Civil Prison;
- Machava High Security Prison in Maputo;
- Mabalane Open Prison;
- Maximum Security Prison in Tete;
- Tete Central Prison;

- Women Prison in Moatize;
- Open Prison in Chingozi;
- Police stations in Tete (*2d and 3rd escuadras da policia*).

Consultations undertaken by the delegation

Authorities

Maputo:

- H. E. Minister of Home Affairs, Mr. Almerino Manhenje
- H.E. Minister of Justice, Dr. Jose Ibraimo Abudo
- National Director of Prisons under the Ministry of Justice, Dr. Massai
- Head of the Prison Department under the Ministry of Home Affairs, Mr. Fernando Sumana
- Director of Maputo Civil Prison, Mr. Diamantino Alfredo Guambe
- Director of Machava Maximum Security Prison, Mr. Momade Andy
- Republic Vice General Prosecutor, Dr. Edmundo Carlos Alberto
- Special advisor to the Minister of Justice, Mr. Joao Manuel Martins
- Director of Maputo Central Prison, Mr. Tsucane
- Director of International Co-operation, Ministry of Justice, Dr. Angela Melo
- Police Commander, Ministry of Home Affairs, Mr. Nataniel Macamo
- Assistant, Ministry of Justice, Mr. Al Bachir

Xai-Xai province:

- Deputy Director, Mabalane Penitentiary Prison, Mr. Abrao Bonifacio

Tete province:

- Director of Order and Public Security, Ministry of Home Affairs, Tete Province, Commander José Luis Chenque
- Provincial Director of Prisons, Ministry of Justice, Tete Province, Mr. Marcos Jotamu Bumbane
- Attorney General, Tete Province.

In addition to meetings with officials at national level and at the establishments visited, the delegation also consulted specialist staff at the places visited i.e. contracted physicians, nurses and helpers.

NGOs

The delegation met representatives of: the Mozambican Association of Women Lawyers, the Association of Military Disabled in Mozambique, the Association of Traditional Doctors of Mozambique, the National Association of Co-operation with Prisons, the Mozambican Association of Women for Education, the Mozambican League for Human Rights. The delegation also met with representatives of religious organisations working in prison.

Prisoners

In addition, a number of prisoners were interviewed in private in each prison visited. No interviews were conducted at the police stations visited, as all their cells happened to be empty at the time of the visits.

Co-operation received during the visit

The meetings with national authorities took place in a spirit of trust and co-operation. Fruitful discussions were held with the Minister of Home Affairs, Mr. Almerino Manhenje, the Minister of Justice, Dr. Jose Ibraimo Abudo, the National Director of Prisons under the Ministry of Justice, Dr. Massai, the Head of the Prison Department under the Ministry of Home Affairs, Mr. Fernando Sumana, the Director of Maputo Civil Prison, Mr. Diamantino Alfredo Guambe, the Director of Machava Maximum Security Prison, Mr. Momade Andy, the Republic Vice General Prosecutor, Dr. Edmundo Carlos Alberto and various officials and police officers and prison directors at provincial level.

The Special Rapporteur is particularly grateful to the Minister of Justice and the Minister of Home Affairs as well as to Dr. Edmundo Carlos Alberto for the time they devoted to the delegation.

The delegation received considerable assistance from Dr. Angela Melo, Director of International Co-operation under the Ministry of Justice and her assistants as well as from the Mozambican League for Human Rights. They helped to organise the mission and dealt efficiently with difficulties that arose in the course of the visit.

The delegation had no significant difficulties in gaining access to the establishments visited. In this respect the credential provided to the delegation by the Ministry of Justice proved most useful. There were sometimes brief delays in gaining access to some establishments. However, this was due to staff not

having heard of the delegation and checking with their superiors before allowing entry. A credential for places of detention under the Ministry of Home Affairs and police stations could have allowed easier access to some police stations.

In all the establishments visited, the delegation was received in a very satisfactory way by the officers in charge and by staff. The delegation was allowed to have discussions in private with prisoners of its choice. However, there were indications that officers at the Machava Maximum Security Prison either attempted to conceal from the delegation some information or were not aware of the special conditions of detention of at least one prisoner. The delegation visited all buildings even those said to be closed down. Building number 2, although officially closed and in unsatisfactory condition, was found to be in use with one prisoner held in isolation. The building should be closed.

At the end of each visit, the Special Rapporteur made immediate observations on certain issues to the prison director or officer in charge. At the end of its visit to Mozambique, the Special Rapporteur gave a summary oral account of its findings to the Minister of Justice. The findings of this mission are documented later in this report.

In conclusion, the Special Rapporteur appreciates the general spirit of co-operation, which characterised the delegation's visit to Mozambique. She trusts all the parties concerned will take its recommendations in a constructive way.

Context of the visit

The Mozambican authorities candidly informed the delegation that their country was currently facing serious problems which affected areas covered by the Special Rapporteur's mandate.

Heavy floods that devastated large parts of the country in February 2000 had destroyed houses and state premises including prisons and police stations. Many people were displaced and prisoners had been transferred to other, already overcrowded, places of detention.

At the same time, there had been an increase in criminality¹ during the last few years. A campaign to fight it at national level but more particularly in Maputo and Matola ended up in more people being arrested and sent to prison since the

1. The factors mentioned by the authorities to explain this high criminality are alleged to be the opening of the borders, unemployment, proximity of South Africa and expulsion of Mozambican criminals from South Africa

beginning of 2001. The number of prisoners under the responsibility of both the Ministries of Home Affairs and Justice increased beyond the physical capacity of the prisons under these ministries.

Measures had been taken to deal with these phenomena but both the police force and prison service in the provinces most affected were experiencing great difficulties in coping with the big number of prisoners and meeting minimum conditions. The delegation's observations bore this out.

The authorities also presented to the delegation a UNDP programme "Support to the justice sector" which will focus on the development of prison activities, the improvement of infrastructures and attitudes and also on the development of alternative ways of dealing with offenders. This programme should produce a new prison policy within 3 to 4 months aimed at greatly improving prison conditions.

FINDINGS

A dual prison system

The Special Rapporteur's delegation carried out visits to three types of places of detention and cells :

- Prisons under the responsibility of the Ministry of Justice and its National Directorate of Prisons
- Prisons under the Ministry of Home Affairs and its Prison Department
- Police station cells under the Ministry of Home Affairs

The establishments under the authority of the Ministry of Justice are central, provincial and district prisons, penitentiary prisons and open prisons. There are 12 establishments at central and provincial levels, a women's prison in Maputo, district prisons and 40 open prisons. These prisons accommodate prisoners once they have been charged until their discharge or the end of their sentence. Penitentiary prisons are for prisoners serving long-term prison sentences i.e. 2 years or more. Central and provincial prisons are for prisoners serving sentences of more than three months. They also have a section for preventive detention. District prisons are for people serving correctional sentences imposed by district courts. Open prisons are part of the central and provincial prisons. They are for prisoners with good behaviour in the final stage of their sentence and the main activities within the prisons are agriculturally based or animal breeding.

The Ministry of Home Affairs is responsible for civil prisons, maximum-security prisons for so-called dangerous prisoners and police stations. The Ministry has 16 prisons and two open centres plus police station cells at central, provincial and district levels. One police station in Maputo deals exclusively with young people and domestic violence. The maximum period for police custody is 24 hours with a possibility to renew it for another 24 hours. The prisons under this Ministry are normally located at the provincial level and a few at the district level. They hold prisoners until they are charged. People arrested can spend up to a maximum of 3 months on remand for less serious offences. The remand period is extended to a maximum of one year in the case of persons suspected of drug-trafficking offences. Maximum-security prisons are for remand and convicted prisoners considered dangerous. Civil prisons are for less serious offences such as simple robbery.

The penal reform programme launched by the Government, with the help of UNDP, is intended to put an end to this duality of system and allow for a harmonised and more cost effective system.

Conditions of detention

Prison population

	Remand	% of the total prison population	Convicted	% of the total prison population	Total	%
Ministry of Justice	3666	41.6	2116	24.0	5782	65.6
Ministry of Home Affairs	2756	31.3	274	3.1	3030	34.4
Total	6422	72.9	2390	27.1	8812	100

Source: *The prison system in Mozambique, UNDP report, December 2000.*

According to the figures provided by the prison administration, the prison population has decreased between 1997 (the first visit of a Special Rapporteur) and 2001. In 1997, the total prison population was about 10,800. In 2001, there were 8 812 prisoners. Despite this decrease, overcrowding remains one of the biggest problems.

The actual capacity of the prison system is far from being equivalent to the theoretical capacity of the prisons (that is the capacity when built). Indeed, many prison facilities are not fully used. This is mostly due to sub-standard buildings being closed and awaiting refurbishment. The prison population under the Ministry of Justice is estimated to be four times higher than the actual prison capacity. The prison population under the Ministry of Home Affairs is 3,030 while the theoretical capacity is only 2,419. Many of the places used to detain people (sometimes the cellars or basements of normal houses) are in a very bad state. Some are unfit for human habitation and should be closed. (See Tete Maximum Security Prison in "Areas of concern"). In Tete province, there are 12 prisons but only 5 of them are actually operational.

Another striking feature of the prison population² is its youth: 29.6% of the convicted prisoners are aged between 16 and 20 years. Under 25 year olds

2. Statistics from *The prison system in Mozambique, UNDP report, December 2000.*

represent 47.8% of the convicted prison population, 62.9% of the total prison population. These statistics are from data collected up till 2000 and do not take into account the 2001 campaign to fight crime. This will have led to an increase in the proportion of young people convicted and imprisoned. The authorities mentioned that since young people between 14 and 16 years of age are not considered responsible, some kind of impunity is reigning, as there is no reformatory system for young offenders in Mozambique.

52.9% of convicted prisoners are sentenced to less than 2 years imprisonment. 15.9% of prisoners are serving long terms i.e. more than 8 years. Men are predominant in the former category, women in the latter. This could mean that the justice system is more predisposed to finding non-custodial alternative penalties for women convicted of petty or less serious offences.

Most prisoners have a low level of education. 16% of them (remand and convicted all included) have never been to school. Another large group, 58%, is composed of those who have attended school for between just 3 and 7 years.

Physical Conditions

Premises

Most of the prisons under the Ministry of Justice were built in the 1930s and 1970s. Some date back to the 19th century. Those under the Ministry of Home Affairs date back to the 1940s and 1950s. The old ones are difficult to maintain and to modernise, as their architecture is incompatible with modifications at a low cost. Sometimes the more recent ones are or have been undergoing rehabilitation (Nampula Provincial Prison, Mabalane Penitentiary Open Prison), and new health centres are being built (Machava Prison in Maputo). Some prisons have been completely rehabilitated such as Tete Provincial Prison. It could potentially offer satisfactory conditions of detention provided that there was no overcrowding.

A new prison has been under construction since 1994 in Beira but has not been completed, reportedly for administrative problems. This is a worrying and sad situation. After his visit in 1997, the Special Rapporteur strongly recommended the new Beira Central Prison be finished and prisoners transferred as soon as possible to ensure that they were held in humane conditions.

Roofing in some prisons was a problem. In Maputo Civil Prison, for instance, the delegation was told there was no leakage. As the prison had been cleaned before delegation's visit, it was difficult to find hard evidence of leaks. However, the roofs appeared damaged, the walls of the buildings showed traces of dampness

and there certainly was a risk of rapid deterioration of the walls and ceilings if the roofs were not repaired.

The Mozambique government and prison authorities have decided, instead of building more prisons, to develop a programme of open prisons. This should help reduce the pressure on prison buildings. However, accommodation standards in open prisons should not be compromised notwithstanding that conditions in open prisons are, on the whole, more favourable.

In 2000, the floods had serious consequences for the prison and police station facilities and prisoners. During the floods, the doors of some police stations' cells were allegedly opened and prisoners had to flee to save their lives. Many prisons collapsed or were under water.

Floods and heavy rains have slowed down the upgrading works mentioned above. Projects to build new prisons such as in Sofala were stopped until a new safe location is found.

Prisoners detained in the affected prisons were transferred to other prisons where the conditions of detention were already difficult due to overcrowding. This is, for instance, the case of Xai-Xai Provincial Prison which was closed. Prisoners were transferred to the District Prison in Chokwe. It was reported by the Director of Prisons, under the Ministry of Home Affairs, that, after the floods, in some areas where there was no space available in prison to receive more prisoners, prisoners were allowed to go back home at night and spend their day in a specific open place ("near a tree") where they could have some activities and work. Social control was enough to deter them from escaping or committing another offence.

Overcrowding and the lack of space are factors explaining why basic separations between remand and convicted prisoners, young prisoners and adults, men and women, healthy and sick/contagious prisoners and according to offence, are far from being implemented. The only separation really enforced is for so-called dangerous prisoners who are held in maximum-security prisons.

There is no specialised institution for young prisoners in Mozambique. A large number of them are detained together with adults during the day and also at night. This caused the delegation considerable concern.

In Tete Provincial Prison, all prisoners are locked inside the cells between 16.00 hours and 21.00 hours. At 21.00 some prisoners are allowed to sleep outside.

The delegation appreciates space is at a premium but suggests that one cell could be allocated exclusively to juveniles to avoid them mixing at night with adults in overcrowded cells.

A new prison was built in 1999 for women in Maputo province. Women are completely separated from men at Maputo Civil Prison and the delegation found that one woman was detained separately at Tete Maximum Security Prison. However, the fate of women prisoners generally leaves much to be desired. In Moatize Prison, for instance, supposedly a women's prison, the delegation found that men and women are held together in the same facilities. They are only theoretically segregated at night, as the door of the women's cell cannot be locked.

Despite all the difficulties, the authorities should pay particular attention to the risk of spread of diseases in prison. This is significantly increased with promiscuity (see paragraph on health matters) and the conditions of the most vulnerable categories of prisoners such as women and young people (see also paragraph on safety, security, and abuse/violence).

The regimes of detention in maximum security prisons is largely determined by the general physical state of the institutions. In Maputo Civil Prison the doors of the cells were destroyed during a rebellion in 1992 and were not replaced. Due to overcrowding, many prisoners sleep in the corridors. Tete Maximum Security Prison, for instance, is a normal house in town fenced by a 2.5 m high irregular wall. The prison administration is located in the upper part of the house. The basement is divided into cells to accommodate prisoners. This type of facility is definitely not adapted for the detention of prisoners and there are severe problems of ventilation, water and sanitation, security and restriction of outdoor activities. This is exacerbated when the number of prisoners is as high as is the case there (see para "Areas of concern").

Part of Machava (Maputo) Security Prison's buildings has been closed, due to unsatisfactory conditions. Only 5 of the prison's 10 buildings are actually in use. Consequently, although the theoretical capacity is 600, the prison cannot accommodate more than 300 prisoners.

Maputo Civil Prison facilities are in a very bad state and the director mentioned that all they could do was to clean it. The problems were due to the age of the facilities as well as to overcrowding (theoretical capacity: 250, actual population: 611, up to 700 the month before).

The anti-crime campaign initiated in 2001 has a major impact on prisoner accommodation. Some of the persons arrested and convicted in Maputo were transferred to other provinces' prisons because there was not enough room available in Maputo prisons. Such is the fate of 51 young prisoners from Maputo, sentenced to three years imprisonment, and transferred to Mabalane Penitentiary Prison. There, they were put in the cells of an old building which was no longer in routine use before their arrival, except for disciplinary purposes. These cells are damp, dilapidated, dark, dirty and poorly ventilated. In Maputo Central Prison, the director reported that the anti-crime campaign caused some disorganisation as the prison had to cope with a massive influx of young prisoners. Consequently, they could not properly segregate adults and young people.

Water and sanitation

In virtually all the facilities visited, both prison authorities and prisoners report that water and sanitation is a serious problem. Sewerage systems were often blocked due to overcrowding and run down facilities. The delegation noted intolerable effluent and smells during its visits and dirty or stagnant water was a health hazard in many of the places visited such as in Maputo Civil Prison, Maputo Maximum Security Prison, Tete Provincial Prison, Tete Maximum Security Prison, Maputo Central Prison. In Maputo Central Prison, the sewerage system is under repair and Tete Provincial Director is trying to secure funds to upgrade the provincial prison sewerage system. In some places, rubbish disposal is difficult and it is buried inside the prisons. This can only add to the problems (Maputo Civil Prison, Maputo Maximum Security Prison).

Electricity

Most prisons lack proper and safe electrical systems.

Cells

Prisoners normally sleep in cells or dormitories. But some sleep in corridors (Maputo Civil Prison) or outside in the yard, such as in Tete Provincial Prison, where one fifth of the prisoners sleep outside due to the lack of space inside. However, they all sleep inside when it rains. In some prisons, the cells virtually lack any ventilation. At Moatize Prison, the women's cell lacks aeration. At Tete Maximum Security Prison, only three cells out of ten have a small window. It is so hot and wet inside that prisoners go naked. Light is also a problem as there is only one bulb. Detention in Tete Maximum Security is life-threatening. Police cells are mostly very smelly and dirty, with neither ventilation nor light.

Kitchens

In Maputo Central Prison, Machava Maximum Security Prison and Moatize Prison in Tete Province, kitchen facilities are inadequate. Equipment is defective and wastes energy. Poor organisation has an adverse impact on the number and quality of meals served.

Bathing and toilet facilities

Shower cubicles and toilet facilities are non-existent or insufficient considering the large number of prisoners. Despite attempts to clean them, toilets are often very smelly. Sometimes, toilets or showers cannot be used due to shortage of water (Mabalane Open Prison or Machava Maximum Security Prison) or, as is sometimes the case in Maputo Central Prison, they can be used during the night only and outdoor latrines are used during the day. At night, prisoners in Mabalane may be allowed to go outside but in Machava, they have to use plastic bags. Some prisoners have buckets at Maputo Central Prison and empty them in the morning when they are allowed outside. There were neither toilets nor water in the police cells visited and people are either allowed to go out or have to relieve themselves inside the cells. In Tete Provincial Prison, the Director is looking for funds to have the toilets upgraded.

Dining hall

In most of the prisons, like Tete Provincial Prison, there is no dining hall or it is not big enough for all the prisoners (Machava Maximum Security Prison). It may be damaged (Maputo Central Prison); therefore inmates eat in turn, or outside or in their cells. In Mabalane Penitentiary Prison, the 51 young prisoners held separately eat in their cells while the rest of the prisoners (long term sentenced) go to the dining hall. The dining hall at Maputo Central Prison is used for watching TV.

Outdoor facilities

Access to exercise and outdoor facilities or grounds varies. In some places, there is potentially space that could be used outside restricted periods and areas (Machava Maximum Security, Maputo Central Prison, Maputo Civil Prison and open prisons). In other facilities, such as Tete Provincial Prison and Moatize Prison, space is scarce. Too often prisoners can only sit in the yard and hardly have any exercise due to pressure of numbers. In Tete Maximum Security Prison, the walls are not high enough to ensure security and prisoners' outdoor exercise is consequently very limited.

Religious facilities

In some prisons such as Machava Maximum Security Prison and Tete Provincial Prison, there are religious buildings or cells used for religious ceremonies and other festivities or recreational activities.

Workshops

Some prisons have workshop facilities (carpentry, ironwork, etc.) but activities there are limited due to the lack of raw materials.

Visiting room

There are visiting rooms in the biggest prisons. In smaller places visits take place in the yard or in a cell.

Library

Some prisons such as Machava Maximum Security or Tete Provincial Prison have a library and books.

Disciplinary cell

Most of the establishments visited designate ordinary cells as disciplinary cells. Purpose-built disciplinary cells today can offer bad conditions of detention. Such is the case at Machava Maximum Security Prison where the cells lack space and ventilation and are sometimes intolerably hot. Yet cells barely large enough for one prisoner were reportedly holding up to 4 people at the same time. In Maputo Central Prison, the disciplinary cell is located in a building that is under rehabilitation. However, prison officers claimed it was a cell where water does not leak through the roof. In Maputo Civil Prison, the disciplinary cell (4m by 2m) held 8 prisoners the day of the delegation's visit. The prisoners alleged that more prisoners were sometimes held there. They slept on the bare floor without any covers.

Health facilities

Health facilities (wards) exist in all provincial prisons under the Ministry of Justice visited by the delegation and in Maputo Civil Prison. However, Mabalane Penitentiary Prison, Tete Maximum Security Prison and Moatize Prison do not have any. Two hospitals for prisoners are under construction (UNDP project), one in Talamashata and the second in Maputo Maximum Security Prison. It was reported that prisons without health centre send patients to civilian hospitals or to health centres. The age and unsuitability of prison ward health facilities is a problem. Most of the time, there is no area for the isolation of contagious illnesses. This is partly due to the fact that the prisons themselves are antiquated,

overcrowded and do not have any purpose built hospital wards.

Clothing, hygiene

In some prisons, prisoners receive one uniform when they are admitted (Mabalane, Tete Maximum Security Prison). However, due to overcrowding, prison administrations are less and less able to provide uniforms to new comers and prisoners have to use their own clothing.

Prisoners ideally receive soap on a regular basis but again due to overcrowding, soap distribution is only occasional in most prisons. Prisoners complained they had spent two to three months without soap at Tete Maximum Security Prison. Bathing is normally allowed every day, provided there is water.

Bedding

The prison budget normally allows for equipment purchase every 5 to 6 years. Prisoners should normally be given two blankets upon arrival. However, prison authorities stated openly that there had been almost no purchase of beds since 1975 and that, due to overcrowding, they were facing serious problems in supplying even basic items such as mats and blankets. The situation was reported to be a little better in the provincial prisons. Despite an increase of the budget for the prisons under the Ministry of Justice, problems have remained the same. The situation worsened in the prisons under the Ministry of Home Affairs (the prison budget decreased in 1999). Many prisoners confirmed they had no mats and blankets and sleeping conditions were very bad. The delegation noticed that, while some prisoners had beds and/or mattresses and blankets (Machava Maximum Security Prison), some prisoners detained in other places were sleeping on bare floors (Maputo Civil Prison, Tete Maximum Security Prison, Mabalane Penitentiary Prison).

Food

Between 1 and 3 meals are served per day, depending on the prison. Most of the time, prisoners receive two meals served at one time (prisoners have to keep half of the food for later) at 11.00 or 16.00 depending on the prison. At Maputo Civil Prison, the Director indicated that the food situation was under control although prisoners were receiving small quantities and only one meal per day. The prisoners at Maputo Central Prison mentioned that the Director had actually improved the food provision but food quantity and quality were yet to be improved.

	One meal per day	Two meals per day	Three meals per day
Prisoners under the Ministry of Justice	51%	32%	14%
Prisoners under the Ministry of Home Affairs	61%	36%	1%

Source *The prison system in Mozambique*, UNDP report, December 2000

The meals are composed of beans, maize, rice and some sauce. There is virtually no meat. Fish is served in places that are near to a river. In Tete Provincial Prison and Mabalane Penitentiary prison, prisoners receive tea and bread for breakfast.

Food is served in plates and pans provided by the prison administration but in many establishments, they have holes (Maputo Civil Prison, Tete Central Prison).

The diet is better in open centres. There, prisoners can have more vegetables, meat and fish. However, the young prisoners at Mabalane Penitentiary Prison complained they did not have enough food, considering the physical work they were doing.

Legally, prisoners are not allowed to receive food from outside. However, due to the shortages, this restriction is generally not enforced.

At Maputo Central Prison, there were complaints that families had to pay 1000 Meticaís each time they wanted to bring food to a prisoner. Prisoners from Maputo Civil Prison and Maximum Security Prison also complained that families had to pay to bring food.

Some prisoners cannot receive food from outside because their families live too far away e.g. the 51 young prisoners at Mabalane Penitentiary Prison and some women at Moatize Prison.

Prisoners generally complain about the quantity and quality of food (tasteless, no variety, not enough sauce). If the quantity of food was doubled, most of the prisoners interviewed said that they could eat it all.

In Maputo Central Prison, the officers reported that crops grown inside the prison were partly for prisoners, but the rest was sold at the market. The Director informed the delegation that he intended to create more open centres to improve food supply.

Contacts with outside world

The regime of visits depends on each prison. In some prisons, visits are allowed once a week except the last week of each month. In others, visits are allowed every two weeks. The regime at Maputo Civil Prison allows visits every day except the last week of each month.

Transport is a problem for some families. For instance, the 51 young people from Maputo, detained in Mabalane, could not receive visits because Mabalane was too far away (about 300 km from Maputo, 7 hours by road, 24 hours by train). Moreover, they complained that their families were generally not informed of where they were detained.

There were some complaints about the fact that families have to buy a card (5000 Meticaís) to be allowed to visit their relatives (Maputo Central Prison). In addition, they have to pay 1000 Meticaís per visit, which is considered expensive, and therefore limits the number of visits.

There is a project to build a conjugal cell at Matutine Open Prison where families could visit their relative and spend time with him or her during the weekend.

Prisoners are normally allowed to send and receive letters, and have access to newspapers, magazines and radio. Most of the time, letters go through the social worker of the prison. However women at Maputo Civil Prison complained that they could neither receive nor send any letters to their relatives. According to the UNDP study, prisoners under the Ministry of Justice have more freedom of correspondence and better access to the media.

Recreational activities, vocational training, school, education

There are no specific recreational programmes but, space allowing, prisoners can do sport such as playing football. Some competitions are organised between teams from different prisons.

In some prisons, there are schools (Machava Maximum Security, Tete Provincial Prison, Maputo Central Prison). There are, for instance, 900 students at Maputo Central Prison, 400 of whom are not prisoners and come from the outside community. Generally speaking, prisoners attending school are in a minority.

In some prisons such as Maputo Central Prison and Mabalane Penitentiary Prison, there are workshops where prisoners can work and learn skills. Prisoners with good behaviour also have the possibility of being transferred to open centres.

Prison work and duty

Work is not compulsory. However, in Mabalane the young prisoners complained that they were forced to work and that their food ration was reduced if they refused.

Prisoners are not paid for their work. However in Mabalane, the officers reported that the prison used the money earned to deposit bail of those who were eligible for conditional release.

Prisoners do not work on Sundays.

It is the prisoners' duty to clean their clothes, cells and prison facilities in general. If they refuse to comply with this obligation, they can be sent to a disciplinary cell for up to 15 days (Maputo Central Prison).

Open air and restrictions

Rules vary, depending on the circumstances of each establishment, its population, and the number of guards, the security conditions and the internal organisation.

In Maputo Civil Prison, prisoners are allowed outside from 09.30 to 11.30 every day, from 06.00 to 17.30 in Maputo Central Prison, and from 08.30 to 16.30 every day except weekends in Machava Maximum Security Prison (prisoners are locked in cells at 23.00).

In Tete Maximum Security Prison, the lack of minimal conditions of security means that while officers report that prisoners go out from 08.00 to 12.00 and 14.00 to 16.00, prisoners say they go out only for one hour, and not every day. Disciplinary cases never go out except when they receive family visits.

In Tete Provincial Prison, prisoners are outside from 08.00 to 16.00 when they are all locked up. At 21.00, those sleeping outside are unlocked.

In Moatize, prisoners are theoretically locked up at night but the women's cell does not have a lock.

Rules, discipline and punishment

Prison rules are normally explained to each newcomer. The UNDP study shows that 51% of the prisoners are informed about their rights by fellow prisoners, 39% by the prison administration, 3% by the Attorney General's Office and 3% by NGOs. However, 64% of prisoners say that have not been informed about their rights.

In many places, depending on the size of the prison, one or more prisoners supervise discipline and order. The only official punishment is the disciplinary cell. However, some prisoners at Maputo Civil Prison complained that conditions in the disciplinary cell were far worse than in other cells. It was overcrowded. They had no bedding and no access to water for bathing. They lacked medical care. They also complained that they were sometimes beaten up and thrown in a dirty water tank.

Prisoners are put in disciplinary cells when they have infringed the prison rules. Their rights to visits and to food from outside are sometimes restricted but not the food ration provided by the prison (Maputo Civil Prison, Tete Maximum Security Prison). Bathing is normally allowed every day provided there is water. Prisoners can be confined from one day up to 30 days in disciplinary cells.

Disciplinary measures can also consist of transferring a prisoner to another prison where the conditions are harsher. Tete Maximum Security Prison, for instance, held 4 prisoners from Tete Provincial Prison as a disciplinary measure. These prisoners do not go out except when they receive visits.

In Maputo Central Prison, prisoners in the disciplinary cell complained that they could not go out. They only received water in the morning. Some of them had been in the cell for 2 months. They complained they were forced to labour in the farmland. They also complained of being beaten at night. Many of them had been arrested in the course of the police operation to curb delinquency.

The officers reported numerous escapes and escape attempts. Some ended up in prisoners' deaths or injuries (Maputo Civil Prison, Tete Maximum Security Prison). Some prisoners had also tried to escape from hospital.

The delegation noticed that at Machava Maximum Security Prison, at least five prisoners were held in complete isolation, with many armed guards looking after them. They were locked up all day except for a few minutes when they were allowed outside in handcuffs. The officers explained that they were dangerous prisoners and the safety device was to avoid communication with others and interference in the course of the ongoing inquiry.

Complaint mechanisms

There is a complaint mechanism provided for by the prisons' rules. The Office of the Attorney General is also open to complaints from any citizen.

Lawyers can also complain about the conduct of any institution that breaches the law.

Appeal mechanisms also allow convicted persons to appeal against their sentence. The UNDP report states that 68% of prisoners have raised a complaint through a lawyer and 90% through the complaint mechanism. However, it is difficult to say whether complaint mechanisms are used effectively.

Relationships with staff and between prisoners

By and large, prisoners did not complain about treatment by the guards and officers. They often appreciated that the bad conditions of detention were beyond their grasp and had more to do with the general state of the premises, overcrowding and with the slow justice system.

Prisoners complained more about the prisoners who were appointed to oversee discipline and order inside the prison and who sometimes behaved violently towards them (e.g. beatings).

There are 1,261 prison staff under the Ministry of Justice, of whom most, 1,163, are guards. The Ministry of Justice guards undergo 8 months training and a 90-day prison-based internship before being selected and recruited. The training includes paramilitary training and some human rights sensitisation provided by a human rights non-governmental organisation since 1996. The average salary for a prison guard is 1,150,000 Meticaís per month, all inclusive (approximately 60 USD).

The prison staff under the Ministry of Home Affairs is 792 among whom 715 policemen and 77 civilians. Guards from the Ministry of Home Affairs are policemen without specific prison training.

Health matters

General situation

Health facilities (wards) exist in all provincial prisons. They are dependent on the Ministry of Public Health which supplies personnel and equipment, as well as pharmaceutical products within the scope of the budget allocated to "Assistance for risk groups". The Ministry is also responsible for statistics relating to illness and death in prisons. Not one of the prisons has a full-time doctor. The majority of personnel working in the prison wards are paramedics. The 3 largest prisons in Maputo have contracts with doctors who make prison visits to see inmates 2 or 3 times a week. All other prisons send seriously ill prisoners to civilian hospitals or to health centres. According to the Director of

prisons under the Ministry of Justice, with very few exceptions, prison medical services have always received a donation of pharmaceutical products in the form of "Kit B" from the respective health service. Illnesses such as diarrhoea, tuberculosis and dermatological problems are almost endemic in Mozambican prisons. The major contributory factors are overcrowding, and associated health and promiscuity problems. The Director is aware that the sharing of cells by adults and minors can lead to sexual abuse of the younger prisoners. However, he claims that homosexuality in prisons is consensual and not the result of force. Five of seven prisoners from Mabalane Penitentiary Prison, chosen at random, told the delegation that homosexual practices took place in the prison although they themselves were not involved. All of them seemed to be aware of the risk of HIV transmission when condoms are not used. In a group of people questioned by the delegation at Maputo Central Prison, four minors all stated that certain adults coerced them into homosexual acts by either withholding food or offering money. "They put very little food on our plates and then ask us to go to their cells to do what they want, it's the only way we can get enough to eat" they informed the delegation. In Machava Maximum Security Prison, problems caused by homosexuality are of increasing concern and prison medical personnel discreetly provide condoms to prisoners who need them. However, prison authorities disapprove of even this simple initiative. They argue that it encourage illegal sexual activity. Despite resistance to the practical measures taken by medical personnel, awareness sessions on AIDS regularly take place within the prison.

Infection with HIV/AIDS is growing at an alarming rate in Mozambique generally and at an even higher rate in prisons. In 2000, 50 prison guards allegedly died after developing AIDS in the province of Zambezia. HIV/AIDS testing in prisons has never taken place and infected prisoners are not released on the grounds of prognosis of imminent death due to AIDS. There is no legal provision for such release and nor does it happen in practice.

In prisons under the Ministry of Home Affairs, prison authorities stated that there had been considerable progress in the last three years in measures taken for sick prisoners. Two hospitals for prisoners were presently under construction with the projects being financed by UNDP.

One of the responsibilities of the commission investigating prison policy, which was formed on the basis of the UNDP report recommendations, is to propose solutions to problems which are adversely affecting the efficient treatment of prisoner illnesses.

Among the problems are:

- (1) The age and unsuitability of prison hospital ward facilities. This state of affairs is partly due to the fact that the prisons themselves are antiquated, overcrowded and do not have any purpose built hospital wards.
- (2) The shortage of medical personnel and medicine.
- (3) The shortage of isolation wards for contagious illnesses.
- (4) The lack of structures for the medical and psychological welfare of the ever-increasing numbers of AIDS infected prisoners.

Certain NGOs, particularly religious groups, help prisons by donating foodstuffs and medicines. In Tete province prisoners suffering from tuberculosis and illnesses caused by under-nourishment receive a glass of milk every day from a religious NGO.

According to the NGOs met by the delegation, most prisons in the interior of the country do not have qualified medical personnel. In some cases, it is merely staff with knowledge of first aid who work in prison hospital wards. A field visit carried out in 2000 by those NGOs was able to highlight the poor management practices with regard to prisoners' illness. In Nampula, at that time, the NGOs observed that there was an almost complete absence of medicine in the prison pharmacy. The shortage of transport and the fact that authorisation from the prison warden was not forthcoming has meant that with certain prisoner illnesses, deaths occur without patients ever having been examined in a hospital. In the female prison in Ndavela, a pregnant woman went into labour and gave birth without being sent to hospital or being seen by a midwife. In the same prison, an outbreak of food poisoning happened during the same period. However, there were no deaths.

Findings

The prison hospital ward in Maputo Civil Prison consisted of a first aid room and a doctor's surgery. A third room served as a small pharmacy. There is no room where patients can be hospitalised, nor is there an area for the isolation of contagious illnesses. A doctor visits the prison 2 or 3 times a week to examine prisoners who are on a list of patients waiting to be seen. A retired nurse who is still working full-time at the prison carries out a preliminary examination. The most prominent disorders are, in order of importance: malnutrition, skin complaints, diarrhoea, AIDS and tuberculosis. Basic medicines were present in

the pharmacy at the time of the delegation's visit. During the visit to prison cells, the delegation witnessed numerous sick prisoners who required urgent hospital treatment but who had not yet been examined by the prison medical service. Examples were that of a 22-year-old person, who was suffering from osteomyelitis aggravated by anaemia; an 18-year-old prisoner suffering from a swelling of the pubis after post-operative complications; and a 20 year old with 2 highly infected linear wounds to his left foot, which measured approximately 1 cm in depth and 4 cm in length. He had been injured in prison by a splinter of glass, but after 9 days he had still not been attended to despite several attempts. Despite witnessing these and other cases, prison authorities informed the delegation that the prison doctor is permanently on call for any injuries that occur and that urgent cases were not a problem as they were forwarded to the hospital. Public transport is used on such occasions because the prison does not have its own vehicle. It should be noted that NGOs do not take any role in medical assistance in this prison and that the prisoner information and education programme on HIV/AIDS was not nearly as well developed as that of other prisons visited.

The Maputo Central Prison has a sufficiently large hospital ward, which is equipped and has around twenty hospital beds. A separate building serves as an isolation wing. A nurse, a health worker and three first aid staff are employed full-time in the prison. Hygiene standards seem to be respected in the hospital ward, which also has a well-stocked pharmacy. At the time of the visit, 2 of the 10 patients who had been treated for cholera during the week were still in the ward. This disease had been the cause of two deaths the previous week. However, all the necessary medicines for the treatment of the disease were available. In the isolation wing for contagious illnesses, all patients suffering from tuberculosis had been grouped together and were undergoing intensive treatment. There were 42 patients in the monitoring stage of treatment in this room at the time of visit. They are observed directly by a nurse who is a fellow inmate. Six people died of AIDS during the first quarter of 2001 and 4 new cases have been diagnosed during the same period. Homosexual behaviour is commonplace in this overcrowded prison where certain prisoners are known for their behaviour. However, there is an important information programme underway for prisoners on sexually transmitted diseases and HIV/AIDS. This successful pilot programme carried out by NGOs includes posters that are on display in all prison buildings reminding prisoners of the dangers of AIDS. Slogans on the posters include: "Think about your life", "Avoid AIDS". During its visit to cells the delegation

saw a case of mental illness where the prisoner in question had been in the punishment cell for 2 years. He still had not been seen by a psychiatrist.

In Tete Provincial Prison, the health centre is composed of two rooms with a total area of approximately 20 m², located at the end of one of the buildings. It serves as a medical unit (hospital ward). It is clean and meets minimum requirements with regards to equipment and medicine. A health worker, who is a prisoner, is the only full time member of staff. A nurse has been contracted to visit the prison 3 times a week to examine minor complaints and send the more serious cases to hospital. The most frequent disorders and diseases are malaria, diarrhoea and AIDS. Five AIDS related deaths have been recorded among prisoners in the last 3 years. Ten sick prisoners sent to the hospital in 2000 due to common infections were found to be HIV positive. The high percentage of AIDS infected prisoners in the prison population is explained by the fact that Tete is one of the provinces which has been most affected by AIDS in Mozambique. All of the patients seen during our visit to cells had the necessary medicines for the treatment of their illnesses. During its visit, the delegation was informed by a nurse from a Roman Catholic NGO, based in Tete, that a vaccination campaign for meningitis should be immediately started for prisoners.

In Machava Maximum Security Prison, there is a hospital ward. A doctor has been contracted to examine prisoners 3 times a week. Permanent staff include 2 nurses and a health worker. The hospital ward has the equipment and pharmaceuticals it needs. At the time of the visit there were only 2 cases of tuberculosis, which were at a stage of intensive treatment, and one case of abdominal pain. They were all being treated in the prison hospital ward. Two patients with AIDS were hospitalised in the central hospital. One of the UNDP financed prison buildings has been entirely renovated and now serves as a model in terms of medical treatment facilities for all other prisons. At the time of our visit, renovation work was almost complete and prison authorities said the necessary equipment would be installed after work was finished.

Other prisons visited did not have health centres. For instance, Mabalane Penitentiary Prison does not have any medical services or means of transport that could be used to take patients to hospital. Fellow inmates transport sick prisoners to the health centre. One inmate, a former student of the institute of sciences, who has knowledge of first aid, carries out a preliminary examination of complaints and, after authorisation has been given by the prison warden, accompanies them to the health centre where they are examined and treated free

of charge. Judging by the appointments book for medical visits, the rate of illness is very low in this prison. The death rate is also low. During 2000 there was one single death reported, resulting from cerebral malaria. During the delegation's visit to the cells, three of the four patients seen had managed to obtain medicine through their own efforts. The fourth had decided to wait for his appointment at the health centre and eventually received new medicines. No cases of malnutrition were noted during visit to the prison cells. The only case of dermatosis was a case of vitiligo which was in no way connected to prison promiscuity.

In Tete Maximum Security Prison, the detainees are sent to the provincial hospital for all ailments as the prison does not have any medical service. Skin diseases are the most common problem among prisoners who live in an extremely unhealthy environment with an almost complete lack of ventilation. All the prisoners arriving from Tete Maximum Security Prison and transferred to Tete Provincial Prison are isolated upon arrival in a special room for treatment of dermatological complaints. Only afterwards are they allowed to join the other prisoners.

In Moatize District Prison, 4 of the 39 inmates were suffering from severe malnutrition. One was suffering from subicterè with hepatalgia. Another prisoner was suffering from severe swelling of the left cheek caused by a buccodental infection. None of these complaints had ever been examined in a hospital. However, the Director of Tete Provincial Prison, who accompanied us on our visit, immediately took the necessary measures to ensure that all these cases were forwarded to the hospital without delay.

AREAS OF CONCERN

Overcrowding

Even if the prison population has decreased between 1997 and 2001, overcrowding remains a problem. In the last few months it had worsened. This was not only due to the floods and transfer of prisoners to safer but already crowded prisons, but also to anti-crime operation launched at the beginning of 2001 to arrest people "roaming in the streets, not working and suspected to be criminals".

While the capacity at Maputo Central Prison is 800, the population the day of our visit was about 2000, 900 of who were convicted prisoners. 15m by 15 m cells were accommodating more than 70 prisoners.

At Tete Central Prison, the capacity is 120, yet there were 357 prisoners the day of the visit. 5m x 7m cells meant for 10 to 15 prisoners were accommodating more than 50 prisoners.

At Maputo Civil Prison the theoretical capacity is 250. The actual population was 611 the day of our visit; it had been as high as 700 the month before.

Overcrowding is affecting prisons and police cells. It is probably one of the main causes for the deaths of about 100 prisoners in a police cell in Montepucuz in November 2000. Police said the inmates had suffocated during the night. They had been put in a small cell (7m by 3m) and despite the deaths of ten prisoners the previous night, it was alleged that nothing had been done to prevent the second tragedy. An inquiry was ongoing when the delegation was in Mozambique and the Special Rapporteur would very much appreciate receiving the final report and conclusions.

The sources of this widespread overcrowding are many:

- The buildings' capacity and their age which make updating and improvement difficult or impossible.
- The high proportion of people awaiting trial in prison: 72.3 % of the prison population is on remand. Only 7.9% of the people aged between 16 and 20 years of age are convicted. 13.8% of the 13 to 25 year olds are convicted while they represent 62% of the total prison population. At Maputo Central Prison, several prisoners have been on remand for 2 to 3 years. The delegation found that some of them had been awaiting

trial for 5 years. Some prisoners at Tete Provincial Prison have been on remand for 6 years.

- The detention of young people sentenced for petty offences: as part of the campaign against crime, many people had been arrested since the beginning of 2001 for allegedly not being able to produce an identity card.
- The high proportion of long term sentences: In 2000³, long term prisoners (over 8 years), who contribute to a large extent to overcrowding because they stay very long periods inside prisons, represent 15% of the total prison population. Prisoners over 2 years imprisonment represent 48.1 % of the total prison population. Among those sentenced to 8 years and more, 70.4% are beginning their sentence. Only 25% have served half of it.
- Delays in sentencing, the lack of legal assistance and the lack of magistrates leading to delayed trials. The delegation was informed that there are about 200 lawyers in the country, most of them in Maputo. More lawyers and para-legals are needed. Some delays are also due to judicial holidays that take place in January and February.
- The fact that when people cannot pay fines, the fines are commuted into a number of days of imprisonment.
- The long appeal procedures.
- The fact that courts pass long sentences for minor offences.
- The fact that people remain in prison, despite that they are eligible for conditional release, because they are poor and can not pay for bail.
- Some prisoners alleged that some policemen were corrupt and arrest those who will not or cannot bribe them.

There are many consequences of overcrowding including:

- Failure to adhere to strict separation of prisoners.
- Difficulty in developing release programmes including work and vocational training. A probable consequence is recidivism which creates a vicious circle of overcrowding.
- High promiscuity and spread of diseases.
- Difficulty in developing release programmes including work and vocational training. A probable consequence is recidivism which creates a vicious circle of overcrowding.

3. See figures from. The prisons system in Mozambique. UNDP report, December 2000

- Difficult conditions of work for the staff and officers, and lack of personnel, especially specialised staff.
- Security and surety problems such as escapes, abuse and violence.
- Food and water/sanitation problems.
- Hygiene problems due to lack of soap, of cleaning tools, and limited access to bathing facilities and water.
- Lack of plates and dishes, bedding and blankets, clothes.
- Lack of exercise where outdoor space is limited.
- Difficulty in bringing sick prisoners to hospital due to lack of staff.
- Lack of medicine.
- Unequal treatment: those who receive assistance from outside have better conditions than those who do not and do not receive either basic necessities from the prison administration.

Detention under the Ministry of Home Affairs

The delegation was particularly concerned by the conditions of detention at Tete Maximum Security Prison. The issue was raised at the end of the visit to Mozambique with Mr. Nataniel Macamo, Police Commander from the Ministry of Home Affairs, based in Maputo. The Special Rapporteur would like at this point to draw attention to the constructive spirit in which the Mozambican authorities took note of the observations made regarding this prison and subsequently reacted to them. The day after the discussion with the delegation, Mr. Macamo informed the delegation that the Director of Order and Security in Tete Province had been commanded to take all necessary steps to improve the situation there.

On the day of the visit, it was found that 67 persons were detained at Tete Maximum Security Prison in life-threatening conditions. As mentioned earlier, this prison is located in a normal residential house. The upper part is used for administration and the cellar divided into 10 cells. The Director of Order and Security of Tete Province accompanied the delegation during the visit to the premises. He and the General Prosecutor of the Province stated openly that the place deserved to be closed but there was no alternative for the moment being.

The prisoners were asked to put on clothes and sit outside in the yard during the visit. The visit took place during the day and, despite that, most of the cells were plunged into virtual darkness. There was only one bulb on. The heat, smell

and dampness inside were intolerable. The size of the cells was such that delegation members could hardly believe that 67 prisoners were spending nights and days inside. The toilets inside, as well as the shower cubicles, gave off nauseating smells although they were reportedly cleaned on a daily basis. Only 5 out of the 10 cells had windows bringing fresh air from outside.

Prisoners complained that they were not allowed to go outside every day and when they were, they could stay barely one hour. Cell doors were closed after dinner.

At the end of the visit, it was recommended that disinfectant be poured on a daily basis into the toilets and as many windows as necessary opened to allow sufficient fresh air in. Another immediate action needed is to increase the height of the wall to improve security so that prisoners can be allowed to go outside more often and longer. Officers assured the delegation this would be done.

Police cells visited in Tete town (Second and Third "Esequadras") were not fit for human habitation. They needed to be at least disinfected and cleaned and have ventilation and lighting improved.

Fighting crime operation

As mentioned by Dr. Edmundo Carlos Alberto, Deputy Attorney General, it would be unfair and unethical to say that a sentence is not the right one. However, the Special Rapporteur would like to draw the attention of the Attorney General's Office to the fate of the 51 young people detained in Mabalane who alleged that they were arrested and sentenced to three years imprisonment for not being able to produce identity cards. These 51 persons are part of a wider group of people who have been and are being arrested in the course of the operations to fight criminality in Maputo, in particular.

Some of them explained that at the time of their arrest, they were students, had jobs, a place to stay and were not vagrants at all.

The Special Rapporteur noticed as well the rise in the number of cases dealt with by some police in some regions outside Maputo. In Tete town police stations for instance, the number of cases almost doubled in two years time (283 cases in 1999, 480 in 2000)⁴.

The Special Rapporteur would like to draw the attention of relevant authorities to this situation and invite them to enquire into it and take all necessary actions

⁴ Source: statistics available at the police station

to make sure that petty offenders are not sent to court but are rather dealt with inside the community through mediation for instance. The Special Rapporteur is also appealing to relevant authorities to make sure that young people are not unfairly detained far from their families without any possibility to pursue education and prepare for a constructive future.

Detention of young people

There is normally no juvenile under the age of 16 in Mozambican prisons. However, the delegation was informed that Commissions to strengthen legislation had found and released many young people under this age. The delegation also met with young people who alleged that they were under 16 (and the doctor confirmed that they were very young) but did not have any proof of age. The delegation was also informed that some young people were detained for very petty offences after their families had decided to send them to prison hoping that this would help reform them. This ignores the fact that prisons today are more schools of criminality rather than places of rehabilitation.

Young offenders are, most of the time, detained together with adults and convicted criminals. Rather than a place of reform, this is more likely to lead to abuse by adults and further criminalisation of the young prisoners.

The Special Rapporteur would like to appeal to the relevant authorities and civil society so that diversion, family mediation and specialised institutions are developed in Mozambique to improve the rehabilitation of young offenders while caring for the interests of victims.

Detention of women

The Special Rapporteur could not visit Maputo Women's Prison where 16 women were detained but did visit Maputo Civil Prison's women section (37 women) and visited women detained in prisons outside Maputo.

The Special Rapporteur found that in Moatize District Prison, 5 women were detained in difficult conditions, held together with men under the supervision of a negligent prison director. A nine months pregnant woman had been detained since December 2000 and needed to be sent to hospital. Another woman who had been in detention for over 2 years showed unmistakable signs of depression but had never been seen by a psychiatrist

In Maputo Civil Prison, the delegation found women who complained they did not have sanitary towels to use. Some women were detained with their children who needed regular specific attention from specialist staff. There were also women under remand for long periods (7 months).

There were three foreigners, one of whom complained of lack of assistance because she was too far from her country and family. She also wished to be in contact with her embassy more often. This was made known to the authorities.

The Special Rapporteur would like to draw the authorities' attention to the specific problems faced by women in prison. There are fewer women than men in prison but their situation is more tragic because they are often abandoned by their families and cannot count on assistance from outside. They receive fewer visits than men, which may cause psychological distress. They often are more indigent and rarely have access to legal assistance. Therefore, they need specific attention and support to ensure that their dignity and basic rights are respected.

Detention of foreigners

Despite efforts reported by the authorities to develop relationships with neighbour countries and extradition or transfer agreements, some serious difficulties remain as regards the detention of foreigners.

The delegation found that foreign prisoners⁵ were held with other criminals even when they were detained under the Alien Legislation. Most of them had problems of understanding the language, problems communicating with staff, with the personnel of the administration of justice and with other prisoners. They had no contacts with their family, and were suffering materially and psychologically. They were ignorant of the laws of the country and of their means of defence. They had no or almost no contact with the diplomatic or consular representatives of their country, and had health problems. Almost all of the convicted foreign prisoners wished to be transferred to serve their sentence in their country of origin or another country of their choice. Those on remand under the Alien legislation wished to be sent back to their last country of residence.

The Special Rapporteur would like to remind concerned embassies that it is their duty to protect their citizens even those behind bars and prompt them to take all necessary measures to facilitate family contacts, access to legal assistance, transfer of willing convicted prisoners and ensure that their health condition is satisfactory.

⁵ See in annex the list of foreigners interviewed

AREAS OF GOOD PRACTICE

Reduction of prison population

Although some officials said that there had not been many developments since the last visit of the Special Rapporteur in 1997, the delegation could observe that the prison population had decreased by 2000. An in-depth analysis would be useful to help to identify the reasons for this decrease and the trend.

The delegation was of the opinion that this decrease could be partly explained by:

- the setting up of "Commissions to strengthen legality" which regularly review the legality of detention by touring the prisons and checking prisoners' files. They can decide to release prisoners awaiting trial or even bail those who are found in prison awaiting trial beyond legal limits or those who have served their sentence but cannot pay a fine (12 of them were released from Tete Province recently). The Commissions also release those prisoners who can prove that they are under 16 (at the time of the visit to Maputo Central Prison, the Commission had just released 12 of them).
- more use of alternatives to imprisonment such as conditional/early release. Those who are eligible are the prisoners sentenced to 6 months at least and who have served half of their sentence.
- the building of more courts at provincial and district level which helps expedite cases and reduce the saturation of the court system.

Quality of leadership and prison management: Tete Provincial Prison

One of the things the Special Rapporteur would like to stress is the positive impact of good management and leadership on prison conditions. The Tete Provincial Prison and its Director are a good example. As already mentioned earlier, this prison and its Director could serve as a model for the rest of the country. Despite the difficulties caused by overcrowding the prison has been through a dynamic process of rehabilitation and reorganisation that is still ongoing.

The Director has negotiated the necessary budget to have the cells, administration offices, health centre and outside walls painted and upgraded. Consequently, although too crowded, cells are physically very decent, have flushing toilets

and sufficient ventilation and light. More funds should be secured to have the sewerage system, toilets and washing room revamped. A budget is available for new equipment to be bought every three months (including kitchen utensils, plates and dishes).

The Director also managed to get assistance from the GTZ (German Co-operation) to train staff in security, good treatment of prisoners and agriculture. All prisoners interviewed stressed the quality of management and good relationships with the guards.

Some assistance from UNDP helped develop the library. In co-ordination with the Department of Education, adult literacy programmes recently started in parallel to the school already run inside the prison, attended by 91 students.

The health centre meets minimum requirements with regards to equipment and medicine.

The Director further plans to introduce an electronic file recording system and has developed some close collaboration with NGOs and religious organisations to improve food, health and legal assistance.

Overcrowding remains the most worrying issue. The Director developed an open centre where prisoners can be sent, which helps reduce the prison population and improve and diversify the daily diet of prisoners. But despite the strong determination of the prison Director, overcrowding can only be tackled in collaboration with the police, the judiciary and civil society.

Collaboration with civil society and NGOs

The authorities reported that the relationships with NGOs and religious organisations had improved over the last years. The Mozambican League for Human Rights is, for instance, working with the Ministry of Justice on a programme to improve access to justice by training and posting paralegals in the provinces. The League was also involved in human rights training for prison staff and was allowed to visit prisons on a more regular basis. When problems arose in Montepuez prison where 70 prisoners died in 2000, the League was allowed to inquire about the event. It should be noted as well that NGOs and religious organisations could get involved in prison to provide assistance to prisoners. A religious nurse provides health care and a daily glass of milk to prisoners at Tete Provincial Prison.

The Ministry of Home Affairs confirmed to the delegation that collaboration with NGOs and religious organisations was sought to help improve conditions of detention and in particular food, health care and education possibilities. It recognised as well the importance to involve civil society at large in the development of alternatives to imprisonment and recalled the usefulness of the International seminar on conditions of detention that took place in December 1999 in Maputo.

Open prisons and numerus clausus

In Mabalane Penitentiary Prison - Xai-Xai province, numerus clausus is implemented. This open prison built in 1976 is a good example of productive, cost effective and humane imprisonment. It was the biggest one at that time. It was bombed during the war and is now in use again. Only long-term prisoners are transferred to this prison farm and on condition of good behaviour. There they can work in the lands or in workshops. Accommodation conditions meet minimum requirements. Part of the production goes to the province's prisons for food. Another part is sold on the market to set up a prison fund. Prisoners are not paid directly but the prison pays their bail when they are eligible to conditional release. Prisoners receive three meals per day including tea and bread for breakfast. They eat meat twice a month, and fish quite regularly as well as vegetables.

At Chingozi Open Centre in Tete province, prisoners can engage in agricultural and cattle breeding activities. Good behaviour is the condition for a transfer to this open centre. Families can come and stay around at the centre but they are not accommodated with the prisoners. Prisoners are also allowed to visit their families. The Director plans to have the accommodation building upgraded and more open prisons started in the province.

In both places, prisoners had no complaints and were satisfied with their conditions. Some of them planned to settle in the area after their release. Both experiences show that despite minimal supervision, escapes are rare. Besides, very few of the people who have served their remaining sentence in these places have re-offended.

CONCLUSIONS AND RECOMMENDATIONS

Implementation of 1997 recommendations

In 1997, the Special Rapporteur recommended that:

- screening and trials process be speeded up
- special regimes and units for young people be set up.
- community service be developed.
- corruption be fought.
- beatings of prisoners be stopped.
- sick people be better attended to.
- petty offenders not be prosecuted.
- prison authorities open to NGOs.
- prisoners benefit more from the produce of their work, and that hygiene be improved.

Most of these recommendations can be reiterated following the 2001 visit. However, the areas of good practice mentioned earlier show that the situation is improving. Health conditions have improved, the prison population has decreased which could mean that screening and trials processes are somehow more effective, and finally, the prison authorities have started to collaborate more with civil society organisations.

Requests for information

The Special Rapporteur would be grateful to the Mozambican authorities if they could provide further information on the following issues:

- Any indication on the actual capacity under Home Affairs prisons.
- The findings of the Inquiry Commission on the Montepuez case.
- The achievements so far of "Commissions to strengthen legality": number of persons released, measures taken, etc.
- The New Prison Policy.
- Any further indication of the reasons for the prison population's decrease since 1997.

Further measures proposed by the Special Rapporteur

The Special Rapporteur would like to extend its support to the recommendations contained in the UNDP report *The prison system in Mozambique*, December 2000. The Special Rapporteur would like also to propose a certain number of specific concrete actions.

General recommendations

- (a) Prison rehabilitation should be intensified and the building of prisons started years ago should be completed to allow for the transfer of prisoners to more humane places. All efforts should be made to ensure that prisoners are detained in purpose-built premises.
- (b) Measures towards the separation of different categories of prisoners should be undertaken as overcrowding is brought down.
- (c) Sleeping conditions should be as good as possible for all prisoners and damp-free sleeping accommodation should be ensured.
- (d) The quantity and quality of food and containers should be improved.
- (e) The shower, toilets and washing facilities should be restored to a good state of repair and maintained in a hygienic condition in all places where problems were observed.
- (f) The efforts to increase the number of work and vocational training places should be intensified.
- (g) A better range of activities should be offered to any remand prisoner staying for a lengthy period.
- (h) More prisons' activity programmes (including education, sport and recreational activities) should be introduced as overcrowding is brought down.
- (i) Ventilation should be improved in establishments where problems were observed.
- (j) The visiting conditions should be reviewed in order to ensure that prisoners are able to receive visits and that families do not have to pay guards.
- (k) The new prison policy should investigate the possibility of setting up a national independent monitoring mechanism outside the prison administration that could visit prisons regularly and make all necessary recommendations

Health recommendations

- (a) Doctors should be recruited for the larger prisons in full-time positions and existing para-medical staff should be strengthened to ensure attendance by general practitioners amounting to the equivalent of the presence of a full-time doctor; assistance by an appropriate number of qualified nurses; and ready access for prisoners to a dentist.
- (b) Renovation of existing health infrastructures should be intensified - extension and creation of health infrastructures in the large prisons that do not have such facilities. These structures should include observation beds and an isolation room for contagious diseases. The prison directors may also order that prisoners suffering from an infectious disease, or who are a danger to themselves or others, be accommodated in a special cell. Such a measure is to be lifted as soon as the reason that caused its imposition disappears; if that reason persists, the prisoner concerned is to be transferred to a specialist State hospital for treatment. All other complementary measures should be taken so as to provide full 24-hour medical services.
- (c) AIDS education programmes in prisons should be intensified. Furthermore, voluntary testing for AIDS in prisoners should be encouraged and suitable structures should be put in place for the psychological and medical support of prisoners who decide to take this test, HIV positive prisoners, and those already suffering from AIDS.
- (d) The position of Head Prison Doctor should be created who would be an integral part of national prison management within the Department of Justice and Home Office whose responsibilities would include the organisation of periodical inspection visits to prisons to examine how well prison medical services are functioning.

Young people

- (a) Specialised units for juveniles should be developed and in the meantime strict separation between adults and young people should be maintained.
- (b) Young persons in custody should be provided with a full regime of educational, recreational and other purposeful activities. Physical education should constitute a significant element of that regime.

Moreover, the staff assigned to units accommodating juveniles should be carefully chosen and, more specifically, be persons capable of guiding and motivating young people.

- (c) First young offenders and petty young offenders should be given a chance not to go to prison and diversion measures be implemented to allow them continue their education. Mozambique could develop exchanges with Malawi about juvenile justice.

Foreigners

- (a) Persons detained under the Aliens legislation should be separated from other prisoners.
- (b) Embassies should be systematically informed about the detention of their nationals.
- (c) Appropriate steps should be taken to minimise the difficulties of communication between prison staff and foreign prisoners (preparation and translation into relevant foreign languages of a leaflet describing the routine and regime of the prison, the rights and responsibilities of prisoners and staff, complaints and disciplinary procedures; translation of the most commonly used expressions between prisoners and staff).
- (d) Deportation and transfer of willing prisoners should be organised more systematically.

Women

- (a) The highest priority should be given to the relocation of the male prisoners found in Moatize Women Prison and the relocation of women prisoners found not to be segregated in other Mozambican prisons. Separate sections or even prisons should be strictly observed.
- (b) Expectant or breast-feeding mothers should not be sent to prison.

Overcrowding

- (a) A very high priority should be given to measures to reduce overcrowding in the Mozambican prison system.
- (b) A maximum occupancy level should be established for each place of detention.
- (c) Suspended sentences, conditional release, remission and community service should be promoted and implemented to reduce the prison

population and improve the rehabilitation of offenders

- (d) Police should speed up with the screening process so that those found not involved in any crime should be released from prison.
- (e) Illegal remand detention should be reduced and more prisoners should be bailed.

Disciplinary measures

Disciplinary measures should not amount to inhuman and degrading treatment.

NGOs and other civil society organisations

Collaboration with civil society should be developed.

Staff

A priority should be given to human rights education for officers and guards of all ranks and in-house training of prison staff.

Tete Police stations

Cells there are not suitable for the detention of someone obliged to stay in custody overnight; at the very most they might, if necessary, be used for temporary holding purposes (i.e. detention for a maximum of a few hours), and this subject to the strict condition that they are equipped with adequate lighting and ventilation.

Tete Maximum Security Prison

- (a) A new prison needs to be built and no one should be held in those facilities. The prison should be closed in the long run.
- (b) In the meantime, the prison should be thoroughly cleaned and disinfected on a daily basis, the lighting and ventilation improved
- (c) The toilet/shower facilities should be renovated and kept in a hygienic condition, and detained persons should be provided with the wherewithal to keep themselves clean.
- (d) Means should be sought of enabling persons detained to be offered outdoor exercise on a daily basis

Machava Maximum Security

- (a) The respective regimes applicable, on the one hand, to persons undergoing disciplinary confinement and, on the other hand, to persons held in the segregation unit for other reasons, should be expressly laid down.
- (b) Conditions in the isolation cells should be the same as the one prevailing in any other cell.

Maputo Civil Prison

- (a) Sanitation and sewerage system should be improved at the earliest possible time to get rid off the smell throughout the prison.
- (b) Proper food containers (dishes and plates) should be provided to prisoners in the disciplinary cells.
- (c) General cleanliness should be maintained at the level observed the day of the visit

COMMENTS BY THE GOVERNMENT OF MOZAMBIQUE



REPUBLIC OF MOZAMBIQUE
MINISTRY OF JUSTICE

The Minister's Cabinet

Comments regarding the report of the Special Rapporteur on prisons and conditions of detention, written by Dr Vera Chirwa

Dear Commissioner

The Government of Mozambique thanks the work undertaken by the Commissioner of the African Commission for People and Human Rights and Special Rapporteur on prisons and Conditions of Detention, Dr Vera Chirwa and her team.

Her exact recommendations were and still are under consideration with the view of being implemented in such a way as to improve the conditions of detention and reclusion in Mozambique and of the prison system in our country.

However, we would like to present a few comments for the sake of precision.

In page 8, of the report in Portuguese, it should read that due to the floods which have devastated the country, the prisoners were transferred from Xai-Xai provincial prison to Cgibuto District Prison. It is a fact that in order to save the prisoners from the floods some of the doors of police cells were open. (to be made precise in paragraph 5 and 7).

Still in page 8, paragraph 8, it is important to clarify that there is a separation of detainees and sentenced prisoners by gender. Men are in separate cells from women. And, as far as it is possible, prisoners suffering from contagious diseases are also separated, taking into consideration space limitations.

In page 17, paragraph 6, we believe it would be better to say that the Rapporteur and her team have heard that during the year 2000, fifty (50) prison officers died of AIDS, being important to make reference to the fact that no AIDS test was undertaken in prisons and also that neither the guards or the prisoners were submitted to an autopsy in order to fully ascertain whether AIDS was the cause of deaths. This is only a clarification because if the prisoners were not submitted to any AIDS tests it is not known whether the guards who died in the year 2000 were infected by the disease. On the other hand, the Ministry of Health has no record of that number of deaths.

These are the comments regarding the report. We take this occasion to inform you that the Ministry of Justice had already realized a Study regarding prison conditions in the country. The report was undertaken by consultants financed by UNDP. Terms of Reference were then compiled for a Prison Policy in Mozambique, based in the experience, grants provided by seminars on Reform of the Prison Sector, experiences of other country and the specific needs of the country. A proposal for a Prison System Policy has already been finalized and it will be submitted to the Council of Ministers for approval.

Maputo, 27th September 2001.

The Minister of Justice

José Ibrahim Abudo

The original of these comments was in Portuguese

ANNEX

List of foreigners interviewed

Machava Maximum Security Prison

Mr. Paulo Alexandre De Oliveira, Portugal
Mr. Joseph Dike, Nigeria
Mr. Shabane Maulid Abdul, Tanzania
Mr. Jerry Hona Mudlli, South Africa
Mr. Majahonke Hatjoayo, Swaziland
Mr. Malingo Mukuku, DR Congo
Mr. Ganyua Mwimule, DR Congo
Mr. Dean Jerry Butt, Great-Britain

Maputo Civil Prison

Ms. Maxim Jones
Mr. Manuel Alface Do Santos, Portugal
Mr. Solomon Berhane Asmelash, Eritrea
Mr. Ezra Yesaya Mwakasila, Tanzania
Twaha Ally, Tanzania

Tete Maximum Security Prison

Mr. Daahir Sheekh Mohamed, Somalia
Mr. Abdi Iise Maamud, Somalia
Mr. Muhadj Mikidadi, Burundi
Mr. Maulid Mfaume, Burundi
Mr. Manyongo, Burundi
Mr. Musa, Burundi
Mr. Frasis Ramadhani, Burundi

Tete Provincial Prison

Mr. Charles Hariri, Tanzania
Mr. Jean-Pierre Makaya, DR Congo
Kingstone Mataranyika, Zimbabwe

THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

The Mechanism of the Special Rapporteur

The African Commission on Human and Peoples' Rights (ACHPR, hereafter the Commission) is an organ of the African Union (AU). The Commission's function is to monitor the implementation and respect of the African Charter for Human and Peoples' Rights. The Commission convenes twice a year for sessions during which the main points of its mandate and progress made by member States for a better implementation of the Rights protected by the Charter are discussed.

In accordance with its mandate under Article 45 of the African Charter on Human and Peoples' Rights, the Commission established during its 20th session in Maurice, in October 1996, the position of Special Rapporteur on Prisons and conditions of detention in Africa. Commissioner Prof. E.V.O. Dankwa (Ghana) was appointed as the first Special Rapporteur. His mandate was renewed in 1998 and in 1999 he was elected Chairperson of the ACHPR. During its 28th ordinary session in Benin, in October 2000, the Commission nominated Commissioner Dr. Vera M. Chirwa, to the post of Special Rapporteur on Prisons and Conditions of Detention in Africa.

The Commission has set the terms of reference for the work of the Special Rapporteur as follows:

Methods of work

The Special Rapporteur shall:

- examine the state of prisons and conditions of detention in Africa and make recommendations with a view to improving them;
- advocate adherence to the Charter and international human rights norms and standards concerning the rights of persons deprived of their liberty and the conditions in which they are held, examine the relevant national law and regulations in the respective States Parties as well as their implementation and make appropriate recommendations on their

- conformity with the Charter and with international law and standards;
- make recommendations to the Commission as regards communications submitted to it, by individuals who have been deprived of their liberty, by their families or representatives, by NGOs or other persons or institutions;
- propose appropriate urgent action.

The Special Rapporteur shall conduct studies into conditions or situations contributing to human rights violations of persons deprived of their liberty and recommend preventive measures. The Special Rapporteur shall co-ordinate activities with other relevant Special Rapporteurs and Working Groups of the African Commission and United Nations.

The Special Rapporteur shall submit an annual report to the Commission. The report shall be published and widely disseminated in accordance with the relevant provisions of the Charter.

Means of implementing the mandate

The Special Rapporteur shall seek and receive information from States Parties to the Charter, individuals, national and international organisations and institutions as well as other relevant bodies on cases or situations which fall within the scope of the mandate described above.

In order to discharge his/her mandate effectively the Special Rapporteur should be given all the necessary assistance and co-operation to carry out on-site visits and receive information from individuals who have been deprived of their liberty, their families or representatives, from governmental or non- governmental organisations and individuals

The Special Rapporteur shall seek co-operation with States Parties and assurance from the latter that persons, organisations or institutions rendering or providing information to the Special Rapporteur shall not be prejudiced thereby.

Every effort will be made to place at the disposal of the Special Rapporteur resources to carry out his/her mandate.

Visits

The Special Rapporteur visits various countries in order to obtain in the field, first hand information. He/she meets with the authorities of the country,

Heads of the Prison Services, human rights non-governmental organisations, and representatives of civil society. He/she visits prisons, police and gendarmerie cells, or any other place where people are imprisoned or jailed. During these visits, the Special Rapporteur requests access to all units in the prisons: punishment cells, women or juveniles' units, sickbays, etc. He/she has confidential interviews with prisoners and discussions with prison staff and officials.

Visit Reports

Before leaving the country, the Special Rapporteur has further interviews with the authorities and the Head of the Prisons Service to share and discuss her observations. He/she makes a number of on the spot recommendations on the most pressing problems. The Special Rapporteur then writes his/her report of the visit and submits it to the government of the visited country, which is then invited to make comments or observations, and describe the measures taken since the visit of the Special Rapporteur. The SR's observations and the comments by the government are then published in three of the four working languages of the AU, i.e. English, French and Portuguese. Some reports are also published in Arabic. When the comments by the government are not received within a reasonable period of time, the report might be published without them.

Countries visited by the Special Rapporteur

- Zimbabwe:** February-March 1997.
- Mali:** August 1997.
- Mozambique:** December 1997.
- Madagascar:** February 1998 (not yet published).
- Mali:** December 1998 (2nd visit).
- The Gambia:** June 1999.
- Benin:** August 1999.
- Central African** June 2000.
- Mozambique:** April 2001 (2nd visit).

Reports available in English, French and Portuguese.

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