



Africa Criminal Justice Reform  
Organisation pour la Réforme de la Justice Pénale en Afrique  
Organização para a Reforma da Justiça Criminal em África



# Methodologies of Human Rights Research and Reporting Case studies from Mozambique



TRAINING PROGRAMME FOR CIVIL SOCIETY FROM MOZAMBIQUE, CAPE TOWN 25-28 June 2018



UNIVERSITY of the  
WESTERN CAPE



# Research in Mozambique

- An Audit of Pre-trial Detention – 2014
- The Constitutionality of the Criminal and Prison Law in Mozambique - 2015
- Children in Conflict with the Law. Looking for a Strategy for Protection – 2015
- Militarisation of Police Training at Matalane and ACIPOL is worrying - 2015
- The Socio-economic Impact of of Pre-trial Detention – 2016



# Research – Methodology

Problem statement & or Research question

Creation of a proposal (partnership)

Exploratory study

Creation of tools to conduct the research

Field work

Findings

Draft research report



# An Audit of Pre-trial Detention – 2014

- Problem statement
  - excessive use of PTD & problematic conditions of detention (Rapporteur on Prison 1997 and 2001)
- Creation of a proposal
  - Campaign of OSISA
  - Partner with LDH
- Exploratory study
  - Adapt/contextualise tools
- Finalisation of tools to conduct the research
- Training & Field work
  - Collect information, fill questionnaires & factsheets
- Findings & Draft research report

# Findings and recommendations

- LEGISLATION
  - Sufficiently progressive legislation
  - Some incompatibility between the constitution/legislation and international standards
  - Human rights approach to legislation needs to be reinforced
- INSTITUTIONS
  - PIC problematic
  - Deficit number of prosecutors/judges in the country
  - Human rights training needs to be reinforced
- PRE- TRIAL DETENTION IN PRISON
  - Not respected legal frames
  - Overcrowding
  - Problematic access to health care
  - Lack/insufficient independent mechanisms of complaints

# The Constitutionality of the Criminal and Prison Law in Mozambique - 2015

**Constitucionalidade da Legislação  
Penal e Penitenciária em África**

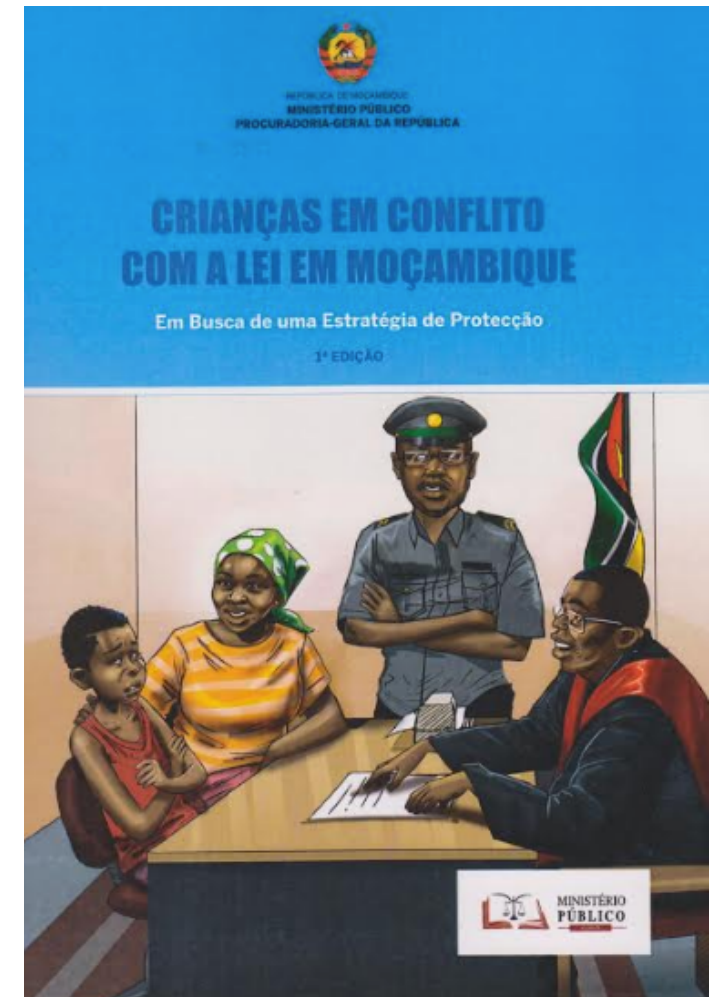
**Moçambique**

# Findings and recommendations

- Mozambique has ratified most of the treaties
- ARREST
  - Use of the force
  - Right to privacy
- POLICE CUSTODY
  - Separation of detainees
  - Condition of detention
- TRIAL
  - Right to a speedy trial
- REDRESS FOR HR VIOLATION
  - Financial compensation
- FOREIGNERS
  - People VS citizens

# Children in Conflict with the Law. Looking for a Strategy of Protection – 2015

- Problem statement
- Creation of a proposal
  - ACJR/CESAB
- Exploratory study
  - Adapt/contextualise tools
- Finalisation of tools to conduct the research
- Training & Field work
  - Collect information, fill questionnaires & factsheets
- Findings & Draft research report





# Findings and recommendations

- Progressive legislation on the matter;
- Good practices that should be reinforced on the prevention of the criminality (e.g social activities in the neighbors by NGOs; use of community courts for minor cases);
- For children with no criminal responsibility, juvenile courts has no places for reintegrate and reeducate children in the country. Judges rely on the family, most of the time dysfunctional. A program financed by UNICEF is trying to create programs to support kids.
- For children with criminal responsibility we have the same issues for adults, plus the fact that often these kids are not treated as kids, but rather as adults (there is a way to say...if the kid has a beard his not a kid anymore);
- Mozambique need the "famous" strategy for preventing criminality. Juvenile courts as the one in Maputo should be replid in the all country (for children with no criminal responsibility). Courts for juveniles and family matters should be created (for juveniles with criminal responsibility) with a all process of restructuring the system and train specialized personnel. The role of NGOs and community courts is important.

# Militarisation of the Police Training at Matalane and ACIPOL is worrying - 2015

- Problem statement
- Creation of a proposal
  - REFORMAR/CIP
- Exploratory study
  - Adapt/contextualise tools
- Finalisation of tools to conduct the research
- Training & Field work
  - Collect information, fill questionnaires & factsheets
- Findings & Draft research report

# Findings and recommendations

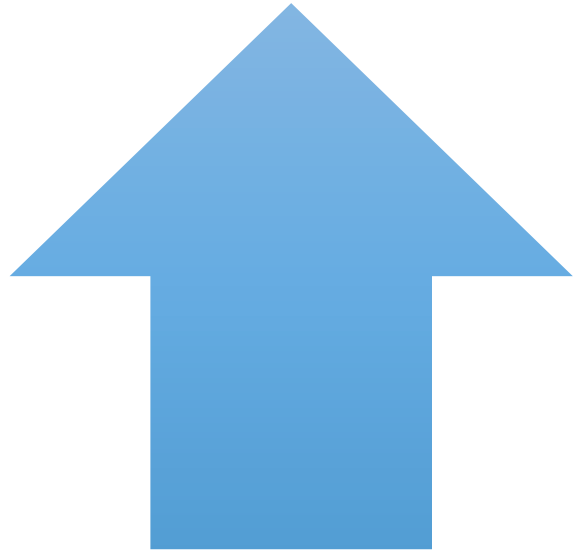
- Entry requirements
- Numbers
- Training
  - Theory
  - Practice
  - Use of the AK47
- Duration
- Trainees

# The Socio-economic Impact of of Pre-trial Detention – 2016

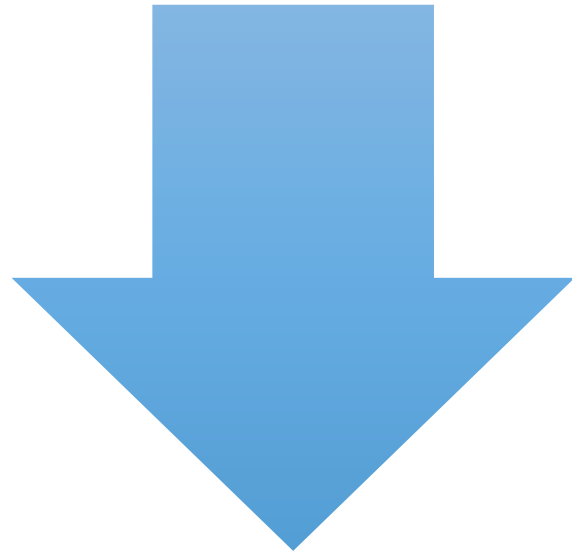
- Problem statement
- Creation of a proposal
  - ACJR/CDH
- Exploratory study
  - Adapt/contextualise tools
- Finalisation of tools to conduct the research
- Training & Field work
  - Collect information, fill questionnaires & factsheets
- Findings & Draft research report

# Findings and recommendations

- Detainees are found economically assisting families
- People are affected by detention of their relatives detained
- Right to trial not respected so that time in pre-trial detention exacerbates its socio-economic impact
- Economic impact
- Social impact



Advocacy through  
reporting to  
international  
mechanisms



Research findings

# Reporting

- A State obligation
- A recommendation for NGOs
  - Checking regularly deadlines
  - It should be done regularly



## Reporting status for Mozambique

Treaty	Signature Date	Ratification Date, Accession(a), Succession(d) Date
<input type="checkbox"/> CAT - Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment		14 Sep 1999 (a)
<input type="checkbox"/> CAT-OP - Optional Protocol of the Convention against Torture		01 Jul 2014 (a)
<input type="checkbox"/> CCPR - International Covenant on Civil and Political Rights		21 Jul 1993 (a)
<input type="checkbox"/> CCPR-OP2-DP - Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		21 Jul 1993 (a)
<input type="checkbox"/> CED - Convention for the Protection of All Persons from Enforced Disappearance	24 Dec 2008	
<input type="checkbox"/> CEDAW - Convention on the Elimination of All Forms of Discrimination against Women		21 Apr 1997 (a)
<input type="checkbox"/> CERD - International Convention on the Elimination of All Forms of Racial Discrimination		18 Apr 1983 (a)
<input type="checkbox"/> CMW - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	15 Mar 2012	19 Aug 2013
<input type="checkbox"/> CRC - Convention on the Rights of the Child	30 Sep 1990	26 Apr 1994
<input type="checkbox"/> CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict		19 Oct 2004 (a)
<input type="checkbox"/> CRC-OP-SC - Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography		06 Mar 2003 (a)
<input type="checkbox"/> CRPD - Convention on the Rights of Persons with Disabilities	30 Mar 2007	30 Jan 2012





# Moz. Deadlines

- CAT – November 2017
- ICCPR – November 2017
- CEDAW – May 2010 (submitted May 2018)
- CERD – May 2010
- CMW – May 2018
- CRC – May 2016 (submitted May 2018)
- CRPD – February 2014



# How to report

- Collect/use research findings
- Organize an event with stakeholders/ communication through mail - difficulties
- Decide what to write about
- How to write – follow guidelines
- Language issues (English to UN bodies, Portuguese domestically)

# Reports to CAT

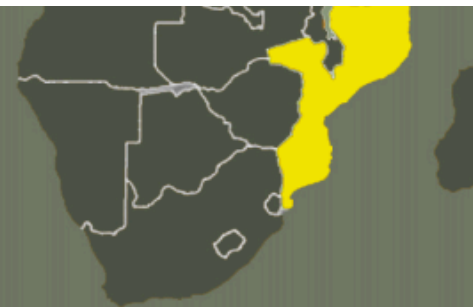


**Submission by the Article 5 Initiative on Policing and Imprisonment for the review of the Mozambique Consolidated Report 1994-2010 to the UN Committee Against Torture to be considered at the 51<sup>st</sup> Session of CAT**

## MOZAMBIQUE

Follow-Up Report to the review under the Convention against Torture

September 2016



This report is submitted by REFORMAR - Research for Mozambique in cooperation with the Human Rights League and the Civil Society Prison Reform Initiative (CSPRI)

**REFORMAR**



# Reports to the HRC



## **Mozambique Thematic Report on the Implementation of the ICCPR in relation to criminal justice**

In preparation for the Civil Society Submission to the United Nations Human Rights Committee

By REFORMAR – Research for Mozambique

March 2018

## **Mozambique Thematic Reports on the Implementation of the International Covenant on Civil and Political Rights**

In preparation for the Civil Society Submission to the United Nations Human Rights Committee

March 2018

This report was prepared with the valuable input and contribution from:



With support of cooperation partners:



# Thematic Report on the Implementation of the ICCPR in relation to criminal justice

- **Article 6 – Right to life**
- **Article 7 – Torture and other ill treatment**
- **Article 9 – Arrest**
  - Arrest warrant
  - Legalisation of detention
  - Use of force
  - Right to privacy
  - Police custody
- **Pre-trial detention**
- **Bail**
- **Habeas Corpus and redress**
- **Article 10 - Treatment of people deprived of their liberty**
  - **Overcrowding**
  - **Segregation of prisoners**
  - **Hygiene, health care and food**
  - **Punishment and ill treatment**
- **Article 14**
  - **Judicial integrity**
  - **Right to be informed of the charges**
  - **Right to be tried without delay**
  - **Juveniles in courts**
  - **Right to legal representation**
- **Article 25 – Right to vote**

Thank you/Obrigada

