

International **CURE**

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Prison and Justice Assessments in Africa

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Guinea Bissau Assessment

1. FAIR JUSTICE

1.1 Judicial system capability. The judicial system is competent, with the capacity to handle the judicial functions, but it is not entirely impartial. ^[1]

The constitution and law provide for an independent judiciary; however, in practice, there was little independence, and the judicial branch as a whole was largely nonfunctional. Judges were poorly trained, inadequately and irregularly paid, and subject to corruption. Courts and judicial authorities were also frequently accused of bias and passivity, according to an October report published by the International Federation for Human Rights. The attorney general had little protection from political pressure since the president needs no other approval to replace the incumbent. Trials were often delayed by lack of materials or infrastructure, and convictions were extremely rare. ^[2]

Traditional practices still prevailed in most rural areas, and persons who lived in urban areas often brought judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. Police also often resolved disputes. ²

1.2 Legal assistance to persons living in poverty. They do have a public defender system of providing counsel to indigent (very poor) defendants but payment is required. This includes legal advice, assistance, representation, and mechanisms for alternative dispute resolution. There are paralegal services in police stations, and available to incarcerated in prisons, so as to allow them to understand the law, process and apply this learning in their own case, and assist with appeals. ¹

The law requires arrest warrants, although warrantless arrests often occurred. The law provides for the right to counsel and to counsel at state expense for indigent clients; however, lawyers did not receive compensation for their part-time public defense work and often ignored state directives to represent indigent clients. The law requires that detainees be brought before a magistrate within 48 hours after arrest and that prisoners be released if no timely indictment is filed; however, authorities did not always respect these rights in practice. There was a functioning bail system, and pretrial detainees were allowed prompt access to family members. ²

1.3 Justice for women and juveniles. Women and children are taken very seriously in this country. Children can be sent to imprisonment at age 18. Domestic violence is not taken seriously. This kind of problem is considered to be a family affair. ¹

The law prohibits rape, including spousal rape, but government enforcement was limited. No information

on the extent of the problem was available. Domestic violence, including wife beating, was an accepted means of settling domestic disputes. There is no law that prohibits domestic violence, and politicians were reportedly reluctant to address the subject for fear of alienating more traditional voters or particular ethnic groups.²

1 1.4 Unfair treatment by discrimination. Here there is discrimination in relation to race and ethnicity. Religion and political opinion have no place in the judicial system.¹

1.5 Arbitrary or severe penalties. There are extra-legal, arbitrary, or summary police-penalties or execution practices. Some crimes should be de-criminalized. There is no legal death penalty.¹

2. PRISON SYSTEMS

2.1 Structures and alternatives.

There are no formal prisons, and the government detained most prisoners in makeshift detention facilities on military bases in Bissau and neighboring towns.²

There are gradations of confinement, with different levels of security and freedom. There are alternative punishments rather than incarceration, depending on how you want to settle the case. There are penalties that require financial reimbursement.¹

2.2 Physical space and separations.

Conditions of confinement were poor. Detention facilities generally lacked running water and adequate sanitation. Pretrial detainees were held together with convicted prisoners, and juveniles were held with adults.²

Certainly overcrowding is a major problem in detentions, but those not convicted of a crime are freed after a few days to avoid overcrowding in places of detention.¹

2.3 Pretrial services and process.

Pretrial services exist which assess the needs of the accused and recommend possible treatment or other solutions instead of incarceration? There is a mechanism for releasing pre-trial detainees, to civil society.¹

2.4 Standards. There are no statutory or written prison standards, prison codes, or manuals of prison procedures. There is no independent agency to monitor prisons and jails.¹

3. PROTECTION OF INCARCERATED PERSONS

3.1 Grievances. Members of civil society have the possibility of going into prisons. Officially photos are not allowed.¹

3.2 Abuse of incarcerated persons.

The constitution and law prohibit torture and other cruel, inhuman, or degrading treatment or punishment; however, security forces did not always respect this prohibition. The government rarely punished members of the security forces who committed abuses.²

4. HEALTH SERVICES FOR INCARCERATED PERSONS

4.1 Health Care.

Detainees' diets were poor, and medical care was virtually nonexistent.²

Generally when a prisoner is seriously ill, the prison does provide adequate health care for incarcerated persons. There are no reviews for drug addicts, and there are no medical exams (health checks) for incarcerated persons on admittance and on discharge. Overcrowding is not a serious health hazard. Incarcerated persons eat the same food every day. Each incarcerated person does not have his or her own bed. Incarcerated persons do not get outside in the fresh air every day.¹

4.2 Women-Care. Women are much respected in this country, and their detention is minimal.¹

4.3 Mental Illness and Addictions. The mentally ill are rarely incarcerated.¹

5. RESTORATIVE PRACTICES

5.1 Rehabilitation Programs. There is no rehabilitation curriculum.¹

5.2 Reentry Programs. Nothing is provided.¹

6. SOCIAL RIGHTS OF INCARCERATED PERSONS

6.2 Visitation. Visitors can enter the prison; they are just put on their own, and left to themselves. The prison administration encourages volunteers.¹

The government generally permitted independent monitoring of detention conditions by local and international human rights groups. During the year representatives from the International Committee of the Red Cross (ICRC) and the Office of the Representative of the UN Secretary General visited prisoners. Meetings with prisoners occurred without third parties present, although the government required advance scheduling and did not permit regular repeated visits.²

^[1] A knowledgeable source in Guinea Bissau.

^[2] U.S. Human Rights 2008 Country Reports, <http://www.state.gov/g/drl/rls/hrrpt/2008/af/119006.htm>