

AFRICA PRETRIAL JUSTICE MONITOR



Africa Pretrial Justice Monitor

April 2012

The Africa Pretrial Justice Monitor is published by the Civil Society Prison Reform Initiative, Community Law Centre, University of the Western Cape, with the support of the Open Society Foundations Rights Initiative Global Criminal Justice Fund.

In this Issue:

Notice Board

Country Reports

Notice Board

The African Commission's 51st Ordinary Session: The African Commission on Human and Peoples' Rights (ACHPR) held its 51st ordinary session from 18 April – 2 May 2012 in Banjul. Issues pertaining to pretrial detention, the delivery of justice, conditions of detention and torture were widely discussed during the NGO Forum, which was held a few days before the session, and a number of statements on these topics were delivered at the session itself. Some of these statements are available at <http://www.cspri.org.za/news/cspri-news/submission-to-the-51st-ordinary-session-of-the-achpr>, http://southernafricalitigationcentre.org/library/item/salcs_statement_on_malawi_at_the_african_commission, <http://www.osisa.org/hrdb/regional/osisa-statement-african-commission> and <http://www.osisa.org/law/regional/africa-must-limit-pre-trial-detention>

Report on the role of lawyers and paralegals in relation to pretrial justice: The Open Society Justice Initiative has released a report titled "Improving Pretrial Justice: The Roles of Lawyers and Paralegals," the purpose of which is to "demonstrate the positive impact that early intervention by lawyers and paralegals can have on pretrial justice generally...and to provide a guide to the ways in which lawyer and paralegal schemes can be established." The report contains a number of examples and case studies from the African region. The report is available at http://www.soros.org/initiatives/justice/articles_publications/publications/cape-ptj-20120416

Article on legal aid in Ghana: The Commonwealth Law Bulletin has released volume 38 of 2012 entitled "An overview of legal aid for criminal cases in Ghana: the history and challenge of providing legal aid," authored by Renee Aku Sitsofe Morhe. The article explores the challenges facing lawyers in the provision of legal aid services in Ghana and has been described as "an important addition to the global debate on the provision of better legal aid services for the indigent in society." More information is available at <http://www.tandfonline.com/doi/abs/10.1080/03050718.2012.646737>

Parliament and penal reform: Penal Reform International has published a report entitled "What can Parliamentarians do to work on Penal Reform." It discusses, generally, certain issues relevant to pretrial justice and includes particular discussions on the prevention of torture and the provision of legal aid. It is available at <http://www.penalreform.org/publications/what-can-parliamentarians-do-work-penal-reform>

Book on torture by former Special Rapporteur on Torture: The former Special Rapporteur on Torture, Manfred Nowak, has written a book titled "Torture: the banality of the unfathomable." Nowak recounts his experiences as the rapporteur from 2004-2010, which included country visits to many African countries, including Ethiopia, Egypt and Zimbabwe. The book is currently only available in German. More information is available at <http://www.irct.org/media-and-resources/irct-news-1.aspx?PID=13717&M=NewsV2&Action=1&NewsId=3529>

19th Session Human Rights Council: The Human Rights Council, which held its 19th session from 27 February – 23 March 2012, has released a draft report on the proceedings. The report includes discussions on torture and arbitrary detention in various African countries, including Togo, Tanzania, Zimbabwe, Libya and Swaziland. The report is available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/Documentation.aspx>

Country Reports

BURUNDI

Burundian prisons 300% full: Iwacu reported that according to a human rights non-governmental organisation, Burundian prisons are currently 300% full, with more than 50% of prisoners awaiting trial. The NGO reportedly insisted that Burundi implement its domestic legislation and grant bail to all detainees who so qualify, as well as uphold its international commitments to improve conditions of detention. Original report in French. By Jean Jules Nzanyumwete, 25 April 2012, at <http://iwacu-burundi.org/spip.php?article2490>.

DEMOCRATIC REPUBLIC OF CONGO

Street children detained: Radio Okapi reported that police in Mbuji-Mayi arrested 15 street children accused of theft and the extortion of goods and money. Non-governmental organisations reportedly protested the fact that the children were then brought before a Judge in a regular court, as opposed to a juvenile court. Original report in French. Reported by Radio Okapi, 3 April 2012, at <http://radiookapi.net/en-bref/2012/04/03/mbuji-mayi-la-police-incarcere-15-enfants-de-la-rue-la-prison-centrale/>

THE GAMBIA

Gay men arrested: News24 reported that Gambian police arrested 15 men "suspected of homosexuality" at a bar in a suburb of the capital Banjul. The Gambia's treatment of gays has reportedly long drawn criticism from international observers, who accuse the nation of "egregious homophobia." Reported by news24.com, 10 April 2012, at <http://www.news24.com/Africa/News/Gambia-cops-arrest-15-gay-men-20120410>

MALI

Detention condemned: Amnesty International issued a statement expressing concern over the continued detention of ten Malian politicians and government officials who were arrested during the immediate aftermath of the coup that removed President Amadou Toumani Touré from power. Reported by Amnesty International, 29 March 2012, at <http://www.amnesty.org/en/news/mali-end-attacks-and-arrest-peaceful-protesters-amid-military-coup-2012-03-29>

MOROCCO

Detained as a result of mistaken identity: Le Monde reported that Rachid Alamin, a Franco-Moroccan, was arrested in Tangier due to the fact that he has the same name as a man accused of drug trafficking. He has reportedly been detained since November 2011. Original report in French. By Flora Genoux, 6 April 2012, at http://www.lemonde.fr/societe/article/2012/04/06/un-francais-incarcere-depuis-quatre-mois-au-maroc-pour-une-affaire-d-homonymie_1681746_3224.html.

NIGERIA

Nigeria's first "prison" court: The Tribune reported that the first court to be built on prison premises under the state's "rapid justice system programme" has been commissioned. The court is the first in the series of the programme to ensure speedy dispensation of justice in the state. Reported by The Tribune, 3 April 2012, at <http://www.tribune.com.ng/index.php/news/38647-mimiko-commissions-africas-first-court-in-prison>

Remand detainees worsen prison overcrowding: allAfrica.com reported that 36 217 out of a prison population of about 74 000 prisoners are awaiting trial, many of whom are forced to wait years before being brought to trial. The report stated that the "troubles" with the criminal justice system are a result of out-dated governmental and administrative policies. Reported by John Egbeazien Oshodi, 4 April 2012, at <http://allafrica.com/stories/201204040346.html>

Secret detention facility: Associated Press reported that a secret detention centre would be opened for the purposes of holding and interrogating "suspected high-level members of a radical Islamist sect responsible for hundreds of killings this year alone." The report added, however, that Nigeria's security forces have a notorious human rights record, with a documented history of abusing and even killing prisoners. Reported by Associated Press, 23 April 2012, at <http://www.google.com/hostednews/ap/article/ALeqM5jfXpOuoNSJS1X7SQfdxeFOou2m4A?docId=f799b70355764ca29329f68ea1a7f94e>

SOUTH AFRICA

Suspect in remand detention for seven years: The Citizen reported that a detainee, Uakareraije Maundu, has been awaiting trial at Diepkloof prison for seven years, and is the prison's longest held remand detainee. Maundu was charged with possession of stolen goods, which only carries a sentence of five years. The trial, which commenced in 2008, has reportedly been postponed more than 50 times. Reported by Grethe Koen, 11 April 2012, at [http://www.citizen.co.za/citizen/content/en/citizen/local-news?oid=271131&sn=Detail&pid=146826&Diepkloof%E2%80%99s-longest-awaiting-trail-detainee-still-there-after-7-years-%3E](http://www.citizen.co.za/citizen/content/en/citizen/local-news?oid=271131&sn=Detail&pid=146826&Diepkloof%E2%80%99s-longest-awaiting-trial-detainee-still-there-after-7-years-%3E)

Lower courts struggling to administer justice: The Mail and Guardian published an opinion piece in which the author argues that fundamental administrative errors and overloaded court rolls are plaguing the country's lower courts. Accordingly, it is argued that a

“judicial review should be investigating the chronic material and human resource obstacles to justice at the courts with the highest caseload” in order to best remedy the problems associated with slow-moving justice, in particular, lengthy periods of remand detention. The article featured in the Mail and Guardian on 13 April 2012, as is available at <http://witsjusticeproject.wordpress.com/2012/04/13/oil-the-wheels-of-justice-where-it-matters-most-robyn-leslie/>

Policemen to be prosecuted: Die Burger reported that twelve police officers from the Western Cape are to be charged with the murder of Sidwell Mkwambo, who was killed whilst in police custody in 2009. Reported by Die Burger, 14 April 2012, at http://www.dieburger.com/Suid_Afrika/Nuus/Twaalf_Valke_nou_aangekla_van_moord_20120414

Report on lethal shooting by police: The Business Day reported that the newly constituted Independent Police Investigative Directorate would be submitting a report to the Parliamentary Committee on Justice and Constitutional Development on the use of lethal force by the police following the shooting of a fleeing suspect. Reported by Business Day, 16 April 2012, at <http://www.businessday.co.za>

Torture of suspects remains a problem: Times Live reported that due to “mounting pressure on the police to reduce crime” police officers are resorting to torture to secure convictions. The article also explained that experts in the field has stated that not only was torture on the rise, but had yet to be criminalised in South Africa which exacerbated the problem. Reported by Times Live, 30 April 2012, at <http://www.timeslive.co.za/local/2012/04/30/predator-police-in-reign-of-terror>

SUDAN

Prisoners of war released: IOL reported that on 25 April 2012 South Sudan released Sudanese prisoners of war as a “gesture” it hopes will put an end to tensions between Khartoum and Juba, whose armies have been embroiled in a cross-border warfare. The prisoners of war were reportedly captured during the “battles of Heglig” from 10-15 April 2012. Reported by Yara Bayoumy and Michael Martina, 25 April 2012, at <http://www.iol.co.za/news/africa/s-sudan-frees-prisoners-to-defuse-tensions-1.1284028>

WESTERN SAHARA

Sahrawi political prisoners “secretly” detained: IOL reported that the South African government has expressed its disappointment that the United Nations Security Council, when renewing the mandate of a peacekeeping force in the disputed territory of Western Sahara, did not ask UN troops to monitor alleged rights abuses. “Dozens” of Sahrawi political prisoners are being secretly detained in Moroccan prisons, the report noted, which the UN renewal resolution does not address. Reported by Michelle Nichols, 25 April 2012, at <http://www.iol.co.za/news/africa/un-renews-western-sahara-mission-1.1283132>

SWAZILAND

Detained journalists released: Bizcommunity reported that two South African television journalists detained by police in Swaziland on 11 April 2012 in connection with covering the protests in the region, had been released. Reported by bizcommunity.com, 12 April 2012, at <http://www.bizcommunity.com/Article/203/66/73683.html>

Activists detained: IOL reported that Swazi riot police detained at least seven activists on 13 April 2012 in connection with participating in a “pro-democracy church service” in Manzini. Reported by IOL, 15 April 2012, at <http://www.iol.co.za/news/africa/swazi-activists-detained-1.1276093>

UGANDA

Editorial on lengthy detention without trial: The Observer Newspaper published an editorial about the Uganda High Court having released four men who had been facing terrorism charges since the September 2009 Buganda riots in early April 2012. The editorial questions in an editorial why the men were kept in detention for 30 months when there was no evidence with which to try them. The Observer, 12 April 2012, at http://www.observer.ug/index.php?option=com_content&view=archive&Itemid=96&limitstart=80

Torture legislation passed: The Observer reported that on 26 April 2012, Parliament passed a law that defines and criminalises torture as well as provides for the sanctions against and compensation for incidents of torture. The law also regulates the use of information obtained through torture. Reported by the Observer, 27 April 2012, at http://www.observer.ug/index.php?option=com_content&view=article&id=18439:parliament-passes-law-to-criminalize-torture&catid=34:news&Itemid=114

Global Campaign for Pretrial Justice

On any given day, an estimated three million people around the world are behind bars awaiting trial. Many will spend months and even years in detention - without being tried or found guilty - languishing under worse conditions than people convicted of crimes and sentenced to prison. To address the over-reliance on pretrial detention and promote greater access to legal assistance, the Global Campaign for Pretrial Justice is working to gather empirical evidence to document the scale and gravity of the problem; pilot innovative practices and methodologies, to identify effective, low-cost solutions; and build a forum for sharing knowledge among practitioners, researchers and policymakers. For more information on the Global Campaign for Pretrial Justice, please visit http://www.soros.org/initiatives/justice/focus/criminal_justice/projects/globalcampaign

Fair Use Notice

Africa Pretrial Justice Monitor contains copyrighted material, the use of which has not always been specifically authorised by the copyright owner. The material is being made available for purposes of education and discussion in order to better understand prison and related issues in Africa. We believe this constitutes a "fair use" of any such copyrighted material as provided for in relevant national laws. The material is made accessible without profit for research and educational purposes to subscribers/readers. If you wish to use copyrighted material from this Newsletter for purposes of your own that go beyond "fair use", you must obtain permission from the copyright owner. CSPRI cannot guarantee that the information contained in this newsletter is complete and correct or be liable for any loss incurred as a result of its use. Nor can the CSPRI be held responsible for any subsequent use of the material.



CSPRI welcomes your suggestions or comments for future topics on the email newsletter.

Tel: (27) 021-9592950

<http://www.communitylawcentre.org.za/clc-projects/civil-society-prison-reform-initiative/>

If this email was forwarded to you and you would like to receive these newsletters in the future, please click [here](#) to subscribe.