

# AFRICA PRETRIAL JUSTICE MONITOR



Africa Pretrial Justice Monitor

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### Notice Board

**Sub-Committee on Torture (SPT) issues provisional statement:** The SPT has issued a brief provisional statement on “the role of judicial review and due process in the prevention of torture in prisons.” The statement deals with the role of due process in custodial settings post-sentencing and the value of judicial review in such circumstances. It was adopted at the SPT’s 16th session and is available at the Association for the Prevention of Torture’s Website: [http://www.apt.ch/en/news\\_on\\_prevention/guidance-on-judicial-review-and-due-process/](http://www.apt.ch/en/news_on_prevention/guidance-on-judicial-review-and-due-process/)

**International Centre for Prison Studies (ICPS) Digest:** The 11th issue of the ICPS News Digest, covering the period September-October 2012, is now available. It contains information on prison populations in a number of African countries, including Nigeria, Cameroon and Tanzania. The News Digest can be downloaded at [http://www.prisonstudies.org/images/news\\_events/newsdigest%20septemberoctober%202012.pdf](http://www.prisonstudies.org/images/news_events/newsdigest%20septemberoctober%202012.pdf)

**Committee against Torture commences examination of Togo report:** On 12 November 2012 the Committee against Torture began its consideration of the second periodic report submitted by Togo. A copy of the report is available at [http://www2.ohchr.org/english/bodies/cat/docs/advanceversions/cat-c-tgo-2\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/advanceversions/cat-c-tgo-2_en.pdf)

**Report on pre-trial detention in Mozambique:** Amnesty International and the Mozambique Human Rights League have published a report entitled “Locking up my rights: arbitrary arrest, detention and treatment of detainees in Mozambique.” The report, based on the findings of research undertaken at three prisons in Maputo, sets out the shortcomings of the Mozambique criminal justice system, with a focus on arbitrary arrest and detention. The report is available at [http://www.amnesty.dk/sites/default/files/mediafiles/113/Mozambique\\_LOCKING\\_UP\\_MY\\_RIGHTS.pdf](http://www.amnesty.dk/sites/default/files/mediafiles/113/Mozambique_LOCKING_UP_MY_RIGHTS.pdf)

**Penal Reform International (PRI) Newsletter:** PRI have published their Autumn Newsletter, covering the period September-November 2012. The newsletter contains reports on research (launched at the PRI Violence against Children Conference in September 2012) examining law and policy in relation to violence against children during arrest and pre-trial detention in eight countries, including Tanzania and Uganda. The newsletter, with links to the reports, is available at <http://us2.campaign-archive1.com/?u=9bbf03ee88683fbb10143c20e&id=2b9f9ae6a8&e=38958f83cd>

**South African policy on remand detention:** The South African Department of Correctional Services has released a draft version of its “White Paper” on Remand Detention in South Africa. The document categorises remand detainees as distinct from the general prison population, thus recognising their specific needs and requirements. More information and a copy of the White Paper is available at <http://www.ppja.org/countries/south-africa/Draft%20White%20Paper2012.pdf/view>

### Country Reports

#### CAMEROON

**Majority of inmates awaiting trial:** Africa Review reported that about 80% of inmates in Cameroon’s prisons are pre-trial detainees due to excessively lengthy investigative processes and court backlogs. The report notes that a study by the Cameroon branch of Avocats Sans Frontières (ASF) estimates that this figure has increased by 20% over the last two

years. It states too, that despite the enactment of the "new" 2007 Criminal Procedure Code, based on the "presumption of innocence," the situation in prisons is systematically getting worse. Reported by Yuh Timchia, 15 November, 2012, at <http://www.africareview.com/News/Majority> Cameroon prisoners still awaiting trial/-/979180/1533876/-/125ix68z/-/index.html

## CONGO

**Government accused of torture:** AFP reported that torture is practised "systematically and everywhere" during arrests and whilst suspects are detained in police custody. It noted that although Congo has signed the United Nations Convention against Torture, it had not yet fully aligned its legislation with its provisions. Reported by Junior Kannah, 1 November 2012, at <http://za.news.yahoo.com/torture-systematic-everywhere-congo-ngo-183004744.html>

## EGYPT

**Calls to end torture:** Reuters reported that thousands of pro-democracy activists assembled in Cairo on 3 November 2012 demanding an end to the rough treatment in Egyptian prisons and calling for a ban on torture in the new constitution. Reported by Shaimaa Fayed, 3 November 2012, at <http://uk.reuters.com/article/2012/11/03/uk-egypt-torture-idUKBRE8A20BZ20121103>

## LIBYA

**Migrants forced to pay for release:** News24 reported that a group of asylum seekers from Eritrea, recently rescued off the coast of Malta, were forced to pay to be released from a Benghazi prison, only to be held against their will and forced onto an overcrowded boat with little food and water. Reported by News24, 18 November 2012, at <http://www.news24.com/Africa/News/Migrants-forced-to-pay-for-release-20121118>

## MALAWI

**Most detainees unaware of right to bail:** The Sunday Times reported that the Blantyre-based Centre for Human Rights, Advice and Assistance, an organisation which focuses on the rights of prisoners, has said that most prisoners are unaware of their right to bail, a condition that leads to congestion in the prisons. Malawi's prisons reportedly hold over 12 000 inmates against a projected population of only 5 500. Reported by Jack Mcbrams, 4 November 2012, at <http://www.bnltimes.com/index.php/sunday-times/headlines/national/12219-most-prisoners-unaware-of-bail-rights-ngo>

**Magistrates' fueling overcrowding in prisons:** The Sunday Times reported that a High Court Judge stated that magistrates are contributing to the congestion of prisons by rejecting bail applications. The remarks were reportedly made at the opening of a workshop for magistrates on access to justice. Reported by Golden Matonga, 9 November 2012, at <http://www.bnltimes.com/index.php/daily-times/headlines/national/12334-magistrates-unjustifiable-bail-rejections-fueling-prison-congestions>

**Sex workers unite:** News Track India reported that sex workers in Malawi, who are frequently arrested and charged with minor offences, such as loitering and disorderly conduct, have united to fight harassment and improve access to healthcare by launching a registered alliance. Reported by News Track India, 10 November 2012, at <http://www.newstrackindia.com/newsdetails/2012/11/10/112--Aids-ravaged-Malawi-s-%20ex-workers-unite-to-improve-health-care-access-.html>

## MOROCCO

**Prison statistics released:** La Vie Eco reported on the statistics of the Moroccan prisons population, presented by the country's penitentiary administration to the Moroccan parliament in November 2012. The data reveals, amongst others, that the prison population has grown by 16.5% in the past four years, that 46% of detainees are awaiting trial, that 60% of detainees are sentenced to less than two years imprisonment and that 2.4% of detainees are female. MPs reportedly called on the government to develop a strategy to improve the prison system in the country. Original report in French. Report by MAP, 21 November 2012, at <http://www.lavieeco.com/news/actualites/46-des-70-675-pensionnaires-des-prisons-au-maroc-sont-en-detention-provisoire-23857.html>

## MOZAMBIQUE

**Thousands unlawfully imprisoned:** allAfrica.com reported that Amnesty International released a report which shows that thousands of people are being held in Mozambique's prisons despite not having been found guilty of a crime. It noted that many of those imprisoned are poor, have no access to lawyers and thus languish in prisons with no recourse to justice. Moreover, the prisons are reportedly overcrowded with poor sanitation, medical care and few opportunities for learning and training. Reported by allAfrica.com, 22 November 2012, at <http://allafrica.com/stories/201211220233.html?viewall=1>

## NIGERIA

**Calls for criminal justice reform:** Vanguard reported that the Attorney General and Minister of Justice, Mohammed Bello

Adoke, has called for the “urgent reform of the criminal justice sector in Nigeria,” stating that “efficient justice delivery is central to the national economic growth and development.” The Attorney General reportedly made these statements at the opening ceremony of a two-day national consultative workshop on the proposed Administration of Criminal Justice Bill, where delays in the criminal justice system, pre-trial detention and awaiting trial inmates were on the agenda. Reported by Ikechukwu Nnochiri, 10 November 2012, at <http://www.vanguardngr.com/2012/11/adoke-calls-for-urgent-reform-of-nigerias-criminal-justice-sector/>

**Concern over extra-judicial killings:** The Nigerian Human Rights Commission recently raised the issue of the extra-judicial killing of detainees, of which 5000 are reportedly summarily killed by the police every year. The officers responsible for such killings are reportedly never punished. The Deputy Commissioner of Police reportedly acknowledged that the allegations of such killings were true, but that the numbers were incorrect. Reported by John Didymus, 25 November 2012, at <http://www.digitaljournal.com/article/337615#ixzz2DeYI4315>

## SOUTH

## AFRICA

**Human Rights Commission brings court application to assist asylum seekers:** IOL reported that the South African Human Rights Commission filed an urgent application in the Johannesburg High Court on 3 November 2012 on behalf of 33 asylum seekers in detention in Lindela repatriation centre. The Commission sought to prevent the asylum seekers from being deported and alleged that their detention was unlawful as it had exceeded the statutory limit of 120 days. Reported by Candice Bailey, 4 November 2012 at <http://www.iol.co.za/news/crime-courts/urgent-court-bid-to-stop-asylum-deportations-1.1417293#UJcWs8WIBXs>

**Police officer charged in fatal escape case:** Beeld reported that a police officer has been charged with three counts of murder, twenty-nine counts of attempted murder, assistance in an escape attempt and the unlawful possession of explosives. The police officer reportedly smuggled explosives into a van full of prisoners with the intention of assisting them escape. Reported by Beeld, 5 November 2012, at <http://www.beeld.com/Suid-Afrika/Nuus/Vangwa-ontploffing-Polisieman-in-arres-20121105>

**Legal Aid South Africa appears before Parliament:** News24 reported that the Portfolio Committee on Correctional Services summoned Legal Aid South Africa (LASA) to appear before it and to respond to the criticism that they were “forcing” their clients to plead guilty. Representatives from LASA reportedly denied that this was the practice amongst LASA lawyers. Reported by News24, 14 November 2012, at <http://www.news24.com/SouthAfrica/News/Legal-Aid-denies-guilty-plea-claims-20121114>

**Lengthy pre-trial detention:** The Citizen reported that two unsentenced detainees have been made to wait 18 months for their trial to resume after the presiding magistrate retired during their trial. The report states that the two accused are calling for the case to be withdrawn on the ground that their right to a fair trial has been infringed. Reported by Grethe Koen, 17 November 2012, at <http://www.citizen.co.za/citizen/content/en/citizen/local-news?oid=353531&sn=Detail&pid=334&Two-Upington-detainees-awaiting-trial-%96-since-2009>

**Police acknowledge wrongful arrest:** News24 reported that the Minister of Police has acknowledged that the arrest of Sunday Times journalist Mzilikazi wa Afrika was wrongful and agreed to pay wa Afrika R100 000 in damages and the newspaper's legal costs. Wa Afrika was reportedly arrested in 2010 after he co-wrote an article on the R500 million lease agreement for new police headquarters in Pretoria, which former Police Commissioner General Bheki Cele is said to have signed. Reported by News24, 18 November 2012, at <http://www.news24.com/SouthAfrica/News/Cops-admit-arrest-was-wrongful-20121118>

**Police sued for wrongful detention:** The Saturday Star reported that a man who spent four months in prison without charges having been brought against him and who claims that the police “made no real effort to get him to his court appearances” is suing the police R1.1m in damages for wrongful detention. The man was reportedly arrested on 29 October 2010 and kept in custody at the Rustenburg Police Station's holding cells. Reported by The Saturday Star, 24 November 2012, at <http://thestar.newspaperdirect.com/epaper/showarticle.aspx?article=dfef3568-cbcf-4e81-9c2b-d0ffbc8e9c7f&key=zu2%2fJl%2fZdN%2f6Ky8Q250bbw%3d%3d&issue=6988201211240000000001001> (subscription required)

**Police ordered to pay R1 million in damages:** The Herald reported that a group of “rogue policemen” were ordered to pay a family R1 million for being “heavy-handed” and torturing two of the family members that they ended up arresting. Reported by The Herald, 27 November 2012, at <http://herald.newspaperdirect.com/epaper/showarticle.aspx?article=9c99c9e3-a20e-4200-98d5-0ec316558a33&key=CY5SK9m6lr9fzg7OT9VtTA%3d%3d&issue=8147201211270000000001001> (subscription required)

## SUDAN

**Justice system fails prisoners:** AFP reported that many of the prisoners on death row claim that they were not given adequate legal representation or representation at all. The report sets out the poor conditions in which the prisoners are detained, without basic necessities, sanitation, adequate clothing, bedding or nutrition. Reported by Hannah McNeish, 1 November 2012, at <http://www.google.com/hostednews/afp/article/ALeqM5g->

[zLqjV9bxSmS534CEYZxrhN7gA?docId=CNG.2e298d49afcc3d35e8ec4c52af974a57.251](http://www.zimabwe.com/zLqjV9bxSmS534CEYZxrhN7gA?docId=CNG.2e298d49afcc3d35e8ec4c52af974a57.251)

## ZIMBABWE

**Police officer faces assault charges:** The Herald reported that a policeman was arrested for allegedly assaulting a suspect in custody until she bled from the ears. The suspect was reportedly facing allegations of theft. Reported by The Herald, 6 November 2012, at [http://www.herald.co.zw/index.php?option=com\\_content&view=article&id=56548:assaulting-suspect-lands-policeman-in-the-dock&catid=46:crime-a-courts&Itemid=138#.UJ1jWG9kxGQ](http://www.herald.co.zw/index.php?option=com_content&view=article&id=56548:assaulting-suspect-lands-policeman-in-the-dock&catid=46:crime-a-courts&Itemid=138#.UJ1jWG9kxGQ)

**Police arrest activists:** The Mail and Guardian reported that three employees from a human rights group were arrested in a crackdown on non-governmental organisations allegedly opposed to the policies of one of the three parties in the government of national unity. Reported by Mail and Guardian, 7 November 2012, at <http://mg.co.za/article/2012-11-07-activists-arrested-in-zim-in-fresh-crackdown-on-ngos/>

**Human rights groups fear torture:** Business Day reported that there are fears that violence and torture aimed at human rights groups will increase as the country edges closer to presidential elections set to take place next year. Reported by Business Day Live, 26 November 2012, at <http://www.bdlive.co.za/world/africa/2012/11/26/zimbabwean-rights-groups-fear-rise-in-intimidation>

## 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](http://www.soros.org/initiatives/justice/focus/criminal_justice/projects/globalcampaign)

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