

# AFRICA PRETRIAL JUSTICE MONITOR



Africa Pretrial Justice Monitor

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### Notice Board

**International Day in Support of Victims of Torture:** In commemoration of International Day in Support of Victims of Torture, 26 June 2012, the United Nations High Commissioner for Human Rights, Navi Pillay, issued a statement which includes a call to all states “that have still not introduced laws that criminalise torture to do so urgently.” The statement is available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12289&LangID=E>. The International Rehabilitation Council for Torture Victims also released a statement on the 26 June 2012. It is available at <http://www.irct.org/media-and-resources/irct-news-1.aspx?PID=13717&M=NewsV2&Action=1&NewsId=3653>

**International Committee of the Red Cross Annual Report:** The International Committee of the Red Cross has released its 2011 Annual Report. The report has a chapter on the African region and includes findings, statistics and discussions on pretrial detention in relation to nearly all of the countries on the continent. The report is available at <http://www.icrc.org/eng/assets/files/annual-report/icrc-annual-report-2011.pdf>

**United Nations Deputy High Commissioner for Human Rights visits Malawi:** The United Nations Deputy High Commissioner for Human Rights, Kyung-wha Kang, visited Malawi during June 2012. The press statement which she delivered in relation to this visit covers the issue of prolonged pretrial detention and the poor conditions of detention to which those in remand detention are subjected. The statement is available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12262&LangID=E%3E>

**Assessment visit to Togo:** Members of the Ludwig Boltzmann Institute of Human Rights, which included former United Nations Special Rapporteur on Torture, Manfred Nowak, carried out an assessment visit to Togo on 14-25 May 2012, with the aim of following up on the 2007 recommendations of the UN Special Rapporteur on Torture and identifying the main problems and shortcomings in the area of torture prevention. More information is available at <http://www.univie.ac.at/bimtor/togo>

**Eritrea state report:** The United States Department of State has released its 2011 country report on Eritrea. The report covers a range of human rights subject areas, including torture, arbitrary arrest, conditions of detention and enforced disappearances. The report is available at [http://www.state.gov/j/drl/rls/hrpt/humanrightsreport/index.htm?dynamic\\_load\\_id=186194#wrapper](http://www.state.gov/j/drl/rls/hrpt/humanrightsreport/index.htm?dynamic_load_id=186194#wrapper)

**New CURE International Newsletter:** CURE International have released their Summer 2012 Newsletter. The newsletter includes a call for papers for their 6th International Conference to be held in January 2013. The conference will cover a range of issues relevant to prisons, including judicial operations and speedy trial initiatives. The newsletter also highlights the new CURE country websites for Ghana (<http://ghana.internationalcure.org>) and Zambia (<http://zambia.internationalcure.org>). The full newsletter is available at <http://www.internationalcure.org/newsletters/INL%20Summer%202012%20p%201-8.pdf>

## Country Reports

### BOTSWANA

**Prison conditions criticised:** IOL reported that two South African nationals, Poloko Bafedile and Muthusi Mmeko, who spent seven months at Lobatse prison in Botswana, described the conditions of their detention as “detestable”. The two were reportedly arrested on charges of murder, which were later dropped. Reported by Poloko Tau, 19 June 2012, at <http://www.iol.co.za/news/africa/innocent-in-cell-from-hell-1.1322619#.T-B7XdmDzcs>

### GHANA

**Lengthy remand detention:** GhanaWeb reported that “thousands of remand prisoners” were being held past the expiry date of their arrest warrants and “warrants of commitment.” Human rights organisations have reportedly “called on the prison authorities and the police to educate remand prisoners about the rights they have under the law.” Reported by GhanaWeb, 17 June 2012, at <http://www.ghanaweb.com/GhanaHomePage/regional/artikel.php?ID=242192>

### KENYA

**Remand detainees and overcrowding:** The Star reported that Vice President Musyoka called on judges and magistrates to order “affordable bail terms in order to decongest prisons.” He reportedly added that overcrowding in prisons is exacerbated by remand detainees who are unable to afford the bail terms imposed on them. The remarks were reportedly made during the launch of the “Community Service Order decongestion programme” held at the Nairobi Remand Prison on 4 June 2012. Reported by The Star, 5 June 2012, at <http://www.the-star.co.ke/national/national/78940-vp-kalonzo-launches-programme-set-to-decongest-prisons-and-remand-facilities%3E>

### LIBYA

**Prisoners detained without charge:** Al-Monitor reported that about 300 prisoners at the “illegal” Tajura prison have been detained since October 2011 without being charged or brought to trial, despite the fact that new interim government recently “took over” the running of the prison. Reported by Mustafa Fetour, 18 June 2012, at <http://www.al-monitor.com/pulse/originals/2012/al-monitor/in-libya-legalizing-kidnapping-a.html>

### MOZAMBIQUE

**Prisons overcrowded:** allAfrica.com reported that Mozambique's prisons are currently holding 16 881 prisoners, which is more than double their capacity. The reported added that 6 415 out of the 16 881 prisoners are remand detainees. Reported by allAfrica.com, 21 June 2012, at <http://allafrica.com/stories/201206210037.html>

**Significant portion of budget spent on pretrial detention:** allAfrica.com reported that 90 percent of the National Prisons Service budget is spent on remand detainees and prisoners serving custodial sentences that could have been sentenced to non-custodial alternatives. Reported by allAfrica.com, 28 June 2012, at <http://allafrica.com/stories/201206280111.html>

### NIGERIA

**Calls to reform criminal justice sector:** The Tribune reported that a conference on the Reform of the Criminal Justice System, hosted by the Nigerian Bar Association, was held during June 2012. It reportedly emerged at the Conference that 29 000 out of more than 41 000 remand detainees across the country were being held “due to bottlenecks in the criminal justice system.” Reported by The Tribune, 5 June 2012, at <http://tribune.com.ng/index.php/news/42037-uduaghan-advocates-reform-of-criminal-justice-system%3E>

**Prisoners tortured to death:** Leadership Nigeria reported that two remand detainees at the Lafia prison were tortured to death by prison officials following the detainees’ attempt to escape. Reported by Leadership Nigeria, 19 June 2012, at [http://leadership.ng/nga/articles/27747/2012/06/19/2\\_lafia\\_prison\\_inmates\\_allegedly\\_tortured\\_death.html](http://leadership.ng/nga/articles/27747/2012/06/19/2_lafia_prison_inmates_allegedly_tortured_death.html)

**Prison population increasing:** Punch reported that the prison population in Nigeria is on the increase. According to the Prisons Service there are reportedly 53100 prisoners in prisons across the country, 47200 of which are remand detainees. The report noted that the Deputy Controller of Prisons had said that “efforts were being made to offload the inmates.” Reported by Leke Baiyewu, 24 June 2012, at <http://www.punchng.com/news/prison-inmates-increase-to-53100/>

### RWANDA

**Gacaca courts praised:** allAfrica.com reported that the United Nations commended the Gacaca courts for reducing the enormous backlog of genocide-related cases and thereby reducing prison overcrowding. Reported by Edwin Musoni, 18 June 2012, at <http://allafrica.com/stories/201206180117.html>

## SOUTH AFRICA

**Alleged renditions to Zimbabwe:** Times Live reported that an investigation into the alleged rendition, torture and murder of Zimbabwean activists has been launched by the Independent Police Investigative Directorate. The renditions, which allegedly occurred in October 2011 at the hands of members of the Gauteng Hawks, were reportedly carried out under the pretext that the Zimbabwean authorities were looking for criminals involved in armed robberies and the shooting of police officers. Reported by Graeme Hosken, 4 June 2012, at <http://www.timeslive.co.za/thetimes/2012/06/04/watchdog-onto-zim-rendition>

**Investigation into alleged torture:** News24 reported that North West police were being investigated in connection with the alleged assault of a boy believed to have had information relating to a criminal matter. Reported by News24, 4 June 2012, at <http://www.news24.com/SouthAfrica/News/Cops-probed-after-torture-claim-20120604>

**Damages awarded in respect of unlawful arrest:** Pretoria News reported that a man was awarded R95 000 in compensation for having been unlawfully arrested, detained and assaulted by police. Reported by Pretoria News, 4 June 2012, at <http://pretorianews.newspaperdirect.com/epaper/showarticle.aspx?article=ca778999-54ac-4f78-a8a8-bfa18432f8b6&key=JmjstQCPyTCog9tunEm4A%3d%3d&issue=6325201206040000000001001> (subscription needed)

**Damages claimed in connection unlawful arrest and detention:** IOL reported that the Minister of Police has been sued for the unlawful arrest and detention of a homeless man. The complainant was reportedly falsely accused of rape and subsequently detained for four months before the charges were dropped. Reported by Zelda Venter, 4 June 2012, at <http://www.iol.co.za/news/crime-courts/vagrant-sues-cops-for-r10m-1.1308645>

**Awaiting trial policeman back on duty:** Die Burger reported that the Rocklands community in the Eastern Cape is concerned that an awaiting-trial policeman, accused of robbery with aggravating circumstances, is back on duty. The community reportedly blames the criminal justice system for the fact that the police officer has been awaiting trial for the past three years. Original in Afrikaans. Reported by Die Burger, 4 June 2012, at <http://www.dieburger.com/Suid-Afrika/Nuus/Rower-aan-diens-by-polisie-20120604>

**Damages awarded in respect of police assault:** Sowetan Live reported that the Johannesburg High Court ordered that the Minister of Police pay R100 000 in damages to a man who was assaulted by police officers whilst in police custody in January 2005. Reported by Sowetan Live, 5 June 2012, at <http://www.sowetanlive.co.za/news/2012/06/05/r100k-for-assault-in-custody>

**Investigation launched:** IOL reported that the South African Human Rights Commission has launched an investigation into the treatment of detainees at the Lindela Repatriation Centre in response to an alleged “riot” by refugees in protest against the conditions of detention. The reported also noted that refugees had been protesting the fact that they were being detained beyond the stipulated lawful time period. Reported by IOL, 7 June 2012, at <http://www.iol.co.za/news/crime-courts/sahrc-investigates-abuse-of-immigrants-1.1314057#.T9MTc7CPIGS>

**Foreign nationals contribute to prison overcrowding:** Sowetan Live reported that the “high number of foreign nationals within South Africa who do not have proper documentation and find themselves in conflict with the laws of the land are contributing to the over-crowding in prisons.” The reported added that Johannesburg Prison is currently accommodating 2191 foreign nations, of which 1552 are remand detainees. The total population of the prison is just under 10000. Reported by Sowetan Live, 11 June 2012, at <http://www.sowetanlive.co.za/news/2012/06/11/home-affairs-blamed-for-crime>

**Alleged police brutality:** IOL reported that the Minister of Police has been sued for the wrongful arrest and torture of a man. The applicant, Lesiba Molopa, a police witness, was allegedly tortured for information relating to a criminal matter under investigation. Reported by Zelda Venter, 12 June 2012, at <http://www.iol.co.za/news/crime-courts/judge-s-clerk-claims-r2-5m-after-police-torture-1.1316944#.T9m0rBePIGR>

**Torture legislation before parliament:** Die Burger reported that draft legislation criminalising torture has been tabled before Parliament. The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Punishment, which was ratified by the South African government in 1998, requires, amongst other things, that torture be criminalised under domestic law. Original in Afrikaans. Reported by Die Burger, 12 June 2012, at <http://www.dieburger.com/Suid-Afrika/Nuus/Wet-teen-marteling-nou-voor-LPs-20120612>

## TANZANIA

**Effective provision of legal services:** The Citizen reported that at a two-day training seminar for providers of legal services held on the 4 June 2012 the manager of the Legal Services Facility stated that “close co-operation between legal aid service providers and government agencies will enhance effective provision of legal services to the needy.” It was also said that close working relations between the the private sector and government at local and national levels would broaden legal service coverage to enable most Tanzanians access to justice. Reported by The Citizen, 5 June 2012, at <http://thecitizen.co.tz/news/-/22922-accesss-to-legal-aid-by-the-needy-majority-stressed%3E>

## UGANDA

**Judiciary to blame for congestion:** New Vision reported that the Commissioner General of Prisons has blamed the criminal justice system for the increasing prison population. He was quoted saying that "prisons are overcrowded because criminal justice systems are not disposing of cases in time." The remark was reportedly made at the African Commissioners of Prisons Executive meeting held during the week of 7 June 2012. Reported by Petride Mudoola, 14 June 2012, at <http://www.newvision.co.ug/news/631951-prisons-boss-blames-judiciary-over-congestion.html>

## ZIMBABWE

**Lack of legal representation:** News Day reported that there are many prisoners in local prisons who were tried and convicted without having had access to legal representation. The report noted that the cost of legal assistance is far too high for the average person in Zimbabwe. Reported by Philip Chidavaenzi, 5 June 2012, at <http://www.newsday.co.zw/article/2012-06-05-many-in-jail-for-lack-of-legal-representation/>

**Police cells inspected:** The Zimbabwean reported that five Supreme Court Judges inspected the Harare Central Police Station cells to ascertain their conditions after Women of Zimbabwe Arise petitioned the court to declare the cells "degrading and uninhabitable." Reported by the Zimbabwean, 15 June 2012, at [http://www.thezimbabwean.co.uk/human-rights/58870/supreme-court-inspects-filthy-police.html?utm\\_source=thezim&utm\\_medium=homepage&utm\\_campaign=latestarticles](http://www.thezimbabwean.co.uk/human-rights/58870/supreme-court-inspects-filthy-police.html?utm_source=thezim&utm_medium=homepage&utm_campaign=latestarticles) also reported at <http://allafrica.com/stories/201206220975.html>

**Bail ruling still to be made:** The Zimbabwean reported that a bail ruling in relation to charges against 29 MDC-T activists in connection with the killing of a police officer has yet to be made. The report added that the activists have been in remand detention for over a year. Reported by The Zimbabwean, 15 June 2012, at [http://www.thezimbabwean.co.uk/news/zimbabwe/58871/police-accused-again-of-tampering.html?utm\\_source=thezim&utm\\_medium=homepage&utm\\_campaign=latestarticles](http://www.thezimbabwean.co.uk/news/zimbabwe/58871/police-accused-again-of-tampering.html?utm_source=thezim&utm_medium=homepage&utm_campaign=latestarticles)

## 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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