

AFRICA PRETRIAL JUSTICE MONITOR



APJM

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NOTICE BOARD

UNODC Legal Aid Handbook: The UNODC has released two new publications. The Handbook on Improving Legal Aid in Africa is an overview of the progress that has been made in accessing legal aid services in the region. It is intended to be of assistance to all those involved in the criminal justice system. A copy of the handbook is available at http://www.unodc.org/documents/justice-and-prison-reform/Webbook_Legal_Aid_in_Africa_Ir.pdf

UNODC Survey Report: The Survey Report on Access to Legal Aid in Criminal Justice Systems in Africa provides practitioners and policymakers with the necessary data to inform the development of legal aid strategies. A copy is available for download at http://www.unodc.org/documents/justice-and-prison-reform/surveylegal_aid_Africa_Ebook.pdf

Benin Torture Report: The United Nations Sub-Committee on the Prevention of Torture has published its report on Benin. The report makes a number of practical proposals to improve the situation of pretrial detainees and to keep track of detainees in the criminal justice system. The report can be viewed at <http://www2.ohchr.org/english/bodies/cat/opcat/docs/ReportVisitBenin-AdvanceCopy.pdf>

ICPS News Digest: The International Centre for Prison Studies has released the 2nd edition of its News Digest. Included in the newsletter is an item on the use of bail in Tanzania. It is available for download at http://www.prisonstudies.org/images/news_events/newsletter2may11.pdf

UN Crime Commission Session: Penal Reform International highlighted the importance of OPCAT ratification, the Bangkok rules and the UN Standard Minimum Rules for the Treatment of Prisoners at the United Nations Crime Commission Session held from 11 - 15 April 2011 in Vienna. More information is available at <http://www.penalreform.org/news/pri-uses-un-crime-commission-session-highlight-smr-review-bangkok-rules-and-opcat>

APT Publications: The Association for the Prevention of Torture has released an updated version of "Implementation of OPCAT in Federal and Other Decentralised States." It is available at http://www.apr.ch/index.php?option=com_k2&view=item&id=1063%3Aimplementing-the-opcat-in-federal-and-other-decentralised-states&lang=en

High Court decision on legal representation: On 1 April 2011 the Namibian High Court handed down *S v Ileni* (CR/27/2011) [2011] NAHC 9. The Court found that the failure to inform the accused of his right to legal representation was a "failure of justice" and set aside the finding of guilty of the trial court. The judgment is available at <http://www.saflii.org/na/cases/NAHC/2011/99.html>

IPJJ side event on violations of children's rights in police custody and pre-trial detention: The Interagency Panel on Juvenile Justice's report on this event, held during the 20th Session of the Commission on Crime Prevention and Criminal Justice (11-15 April), is available at http://www.juvenilejusticepanel.org/resource/items/I/P/IPJJSide-EventPreTrialDetention11_EN.pdf

NGO Forum at the 49th Ordinary Session of the African Commission on Human and People's Rights: The 49th Ordinary Session of the African Commission on Human and People's Rights was held in Banjul, The Gambia. The Forum on the Participation of NGO's, on the 25-27 April, adopted country specific and thematic proposed resolutions which included the following on prisons and torture:

"Urges Member States to take urgent measures to address the problems of high prison population, high number of awaiting trial prisoners and other issues relating to pre-trial justice in their respective jurisdictions and call on the Commission to monitor compliance of member states to this."

"Urges member states to systematically close all secret detention facilities and make public all places of detention and avail the Commission and the National Human Rights Institutions as well as relevant NGOs with this information and allow access to these places of detention by national, regional and international oversight/monitoring mechanisms."

Country Reports

COUNTRY REPORTS

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BURUNDI

Burundi told to release journalist being detained on remand: [Journalism.co.za](http://www.journalism.co.za) reported that pressure was mounting on the Burundi government to release a journalist who has been detained since July 2010. The journalist, Jean Claude Kavumbagu, faces charges of terrorism for questioning the preparedness of the security forces in Burundi to prevent a terrorist attack. If convicted, he faces life imprisonment. Reported by Dennis Itumbi, 15 April 2011, at http://www.journalism.co.za/index.php?option=com_content&view=article&id=4033:burundi-told-to-free-journo&catid=165:media-freedom&Itemid=100009

DEMOCRATIC REPUBLIC OF CONGO

Fight against torture in DRC: Radio Okapi reported that a proposal for a law criminalising torture in DRC is currently under review with the aim of harmonising the different comments expressed in the two Chambers of Parliament. The adoption of such a law has been welcomed by various human rights organisations. Original report in French. Radio Okapi, 15 April 2011, at <http://radiookapi.net/emissions-audio/parole-aux-auditeurs/2011/04/15/lutte-contre-la-torture-en-rdc/>

ETHIOPIA

Canadian detained in Ethiopia: The Winnipeg Free Press reported that a Canadian of Ethiopian origin had been detained in Ethiopia on allegations of planning to "topple the government." The man, reportedly visiting his family in Ethiopia, was arrested when found carrying two way radios. He is being detained on remand at Dire Dawa. Reported by Carol Sanders, 18 April 2011, at <http://www.winnipegfreepress.com/breakingnews/city-man-jailed-in-ethiopia-120187639.html>

LIBYA

Journalists continue to be detained in Libya: The Global Post reported that pro-Gaddafi forces had released two journalists who had been detained for covering the anti-government protests. Several more, however, remain unaccounted for. One of the journalist released said he had been kept in solitary confinement. Reported by Jon Jensen, 14 April 2011, at <http://www.globalpost.com/dispatch/news/regions/africa/110414/james-foley-journalists-libya>

US concerned about journalists detained in Libya: Eyewitness News reported that the United States was

concerned about the well being of journalists detained by Libyan authorities for covering the uprising in that country. Reported by Jean-Jacques Cornish, 18 April 2011, at <http://www.eyewitnessnews.co.za/articleprog.aspx?id=64266>

Detained journalists released: CNN reported that two journalists who had been reported missing were in Libya were found alive. Anton Hammerl, a South African freelance photographer and Clare Morgana Gillis, an American freelance journalist had been detained by Libyan authorities. Reported by CNN, 23 April 2011, at <http://edition.cnn.com/2011/WORLD/africa/04/22/libya.journalists/>

UN raises issues of detained journalists: The Guardian reported that a three-member commission of enquiry from the United Nations met Libyan authorities and impressed on them the need to visit prisons so that they could verify allegations of human rights violations. The report also said the delegation would use the visit to raise the issue of foreign journalists detained in Libya. Reported by the Guardian, 27 April 2011, at <http://www.guardian.co.uk/world/2011/apr/27/libya-un-investigation-human-rights?INTCMP=SRCH>

LESOTHO

Murder suspects detained on remand: IOL reported that seven suspected mercenaries were charged in Lesotho on 20 April 2011 with murder, attempted murder, kidnapping, robbery and "contravening the laws of Lesotho." These charges were allegedly committed in relation to a plot to kill Prime Minister Pakalitha Mosisili in 2009. The delay in bringing the charges was reportedly a result of the delay in extraditing the suspects, six Mozambicans and one South African, from South Africa. Reported by IOL, 20 April 2011, at <http://www.iol.co.za/news/africa/lesotho-pm-murder-plot-suspects-detained-1.1059756>

MALAWI

Suspected witches in remand detention: netnewspublisher.com reported that 45 people have been detained on remand in Malawi on charges of witchcraft. Although all age groups are affected, elderly women are said to be the target of the belief system which is sanctioned by the police and the courts. The report also said that the Director of Public Prosecution, had promised to review the cases of individuals imprisoned for alleged witchcraft. Reported by netnewspublisher.com, 6 April 2011, at <http://www.netnewspublisher.com/suspected-witches-jailed-in-malawi/>

MOZAMBIQUE

Mozambican prisons still overcrowded: Afriqueavenir.org reported that prisons in Mozambique are currently accommodating more than twice the number of inmates they were built for. Remand detainees account for almost 33 percent of the 15 303 people held in prisons built to accommodate only 6674. Reported by afriqueavenir.org, 28 April 2011 at, <http://www.afriqueavenir.org/en/2011/04/28/mozambique-prisons-still-overcrowded-report/>

SOMALIA

Medical personnel detained in southern Somalia: Africa Review reported that ten medical personnel working at Hawa Abdi Hospital in Mogadishu had been abducted and detained by Islamists opposed to the transitional government. Unconfirmed reports said the detainees had been sentenced to between 10 to 15 days, for unspecified crimes. Reported by Abdulkadir Khalif, 21 April 2011, at <http://www.africareview.com/News/Somali+Islamists+detain+medical+personnel/-/979180/1148740/-/yve8h8/-/>

SOUTH AFRICA

Krejcir gets bail: News24 reported that Radovan Krejcir, accused of insurance fraud in the amount of R4.5-million, was granted R500 000 bail. Krejcir's bail conditions require that he cannot travel abroad or leave Gauteng province without the knowledge of the investigating officer. The report also said the accused was not allowed to contact any witnesses until the issue was finalised. Reported by News24, 8 April 2011, at <http://www.news24.com/SouthAfrica/News/Krejcir-to-hear-bail-judgment-20110408>

Mthatha warder refused bail: The Daily Dispatch reported that a Mthatha prison official arrested for allegedly assisting prisoners escape from Mthatha Correctional Services Centre was refused bail reportedly because the state "feared that he would tamper with evidence." Reported by the Daily Dispatch, 13 April 2011, at

<http://www.google.co.za/search?q=Mthatha%20warder%20refused%20bail%2C%20daily%20dispatch&ie=utf-8&oe=utf-8&aq=t&rls=org.mozilla:en-US:official&client=firefox-a&source=hp&channel=np>

Judgment in Mdluli bail application reserved: Eyewitness News reported that Richard Mdluli, head of crime intelligence, would remain in remand detention until judgment in his bail application had been handed down. Prosecutors in the bail application reportedly argued that he was a "threat to witnesses" in the matter. Mdluli has been charged with committing several offences, including plotting to murder. Reported by Barry Bateman, 13 April 2011, at <http://www.eyewitnessnews.co.za/articleprog.aspx?id=63762>

Head of crime intelligence granted bail: AFP reported that Richard Mdluli, head of crime intelligence, was granted bail of R20 000 on 20 April 2010. His three co-accused were released on R10 000 bail each. The four are charged with murder, intimidation, kidnapping, assault, attempted murder, and conspiracy to commit murder. Reported by AFP, 16 April 2011, at <http://www.google.com/hostednews/afp/article/ALeqM5g9ijECSSaVaGRhMdymDnIOaj6ycA?docId=CNG.e8d326e539a101509d60a9ce820aee3d.171>

Prisoner released on bail: The Herald reported that Guy Hill, who has been in custody for a month since being deported from the US, had been released on bail. Hill is facing 49 charges of uttering, fraud and theft involving his mother Betty's Knysna-based company HillPro Construction. Reported by the Herald, 22 April 2011, at <http://herald.newspaperdirect.com/epaper/showarticle.aspx?article=20f4abf5-dd7b-43d8-b44f-9874be3a9250&key=9vqs7lt7LDEj%2bkjmMY7%2bEw%3d%3d&issue=81472011042200000000001001> (subscription needed)

Tatane alleged killers denied bail: Times Live reported that eight policemen accused of killing protester Andries Tatane were refused bail in the Ficksburg Magistrate's Court on 29 April 2011. Four of them were charged with murder and six others were charged with assault with intent to do grievous bodily harm. The case was postponed to 2 June 2011 for further investigation. Reported by Times Live, 29 April 2011 at <http://www.timeslive.co.za/local/article1043132.ece/Tatane-alleged-killers-denied-bail>

SWAZILAND

Pupils to be sentenced in 2016: The Observer reported that two pupils are to be sentenced in five years time for stealing cell phones. A magistrate reportedly ordered that they be brought before the court for sentencing when they had finished school "so as not to prejudice them of opportunities associated with learning." Reported by Lindelwa Malinga, 4 April 2011, at <http://www.observer.org.sz/index.php?news=23212>

Protesters detained for demanding political reforms: Monsters and Critics reported that 100 opposition members and two journalists had been detained for demanding political reforms in Swaziland. Opposition groups expressed fears that those placed under police detention would be subjected to torture. Reported by monstersandcritics.com, 13 April 2011, at http://www.monstersandcritics.com/news/africa/news/article_1632469.php/Dozens-of-Swazi-opposition-members-detained-in-protest

Local security forces threaten and detain journalists covering protests: allAfrica.com reported that the government had been targeting journalists covering the mass demonstration demanding political and economic reforms in Swaziland. The report noted that as many as ten journalists had complained of being detained by the police. The Committee to Protect Journalists condemned the detentions intended to "stop the outside world from getting a picture of the strengthening of the political resolve of the demonstrators." Reported by allafrica.com, 13 April 2011, at <http://allafrica.com/stories/201104130197.html>

Swaziland protest leaders to appear in court: Times Live reported that three opposition figures detained for championing the anti-government protests in Swaziland were to appear in court. Unconfirmed reports said authorities intended to press charges of terrorism. The report also alluded to a heavy clamp down by the police

on protesters. Reported by Times Live, 15 April 2011, at <http://www.timeslive.co.za/africa/article1023128.ece/Swazi-protest-leaders-to-appear-in-court>

Two denied bail: The Times reported that two people allegedly found with explosives during anti-government protests early this month were denied bail on the basis that they would abscond and interfere with investigations. Reported by the Times, 23 April 2011, at <http://www.times.co.sz/News/27927.html>

UGANDA

Uganda opposition leader gets bail: News24 reported that Ugandan opposition leader, Kizza Besigye, charged with inciting violence, had been granted bail. Besigye was reportedly the main opposition candidate in the February 2011 presidential elections and his arrest followed the banning of demonstrations in Uganda, the police having warned that any attempts to carry out protests would be "dealt with firmly". Reported by News24, 11 April 2011, at <http://www.news24.com/Africa/News/Uganda-opposition-leader-gets-bail-20110411>

Calls for pre-trial justice: The Uganda Media Centre reported that efforts by the Commonwealth Lawyers Association lobbying authorities in Uganda to release Ali Amin Kimathi currently detained at Luzira Prison, are being condemned by some sections of society in Uganda. The prisoner, a lawyer by profession, is one of many suspects implicated in the bombing of 80 people gathered to see a world cup soccer match in July 2010. Reported by Obed Katureebe, 18 April 2011, at <http://www.mediacentre.go.ug/details.php?catId=1&item=1268>

Museveni rival remains in detention: Africa Review reported that a Uganda opposition leader charged with "unlawful assembly" would remain in remand detention until he was brought before court on 27 April 2011. The report said the Nabweru Court magistrate, Mr Justine Atukwasa, refused to entertain a bail application reportedly saying there were "other pending matters". Reported by Africareview.com, 21 April 2011, at <http://www.africareview.com/News/Museveni+rival+to+spend+Easter+in+jail/-/979180/1148690/-/l6gqsf/-/>

Prisoners refuse to apply for bail: AllAfrica.com reported that Norbert Mao and six others arrested for demonstrating against high fuel prices had refused to apply for bail, insisting that it was no use as they would be arrested the following day for the same offence. The presiding magistrate remanded them to prison until 2 May 2011. Reported by allafrica.com, 26 April 2011, at <http://allafrica.com/stories/201104190032.html>

Ugandan opposition leader Besigye freed on bail: The East African reported that a Ugandan magistrate had granted opposition leader Kizza Besigye bail on condition that he keeps peace for seven months. The report said the politician and three others were released on a non-cash bond of \$4 166 and surety of \$20 800 each. Reported by the East African, 27 April 2011, at <http://www.theeastafrican.co.ke/news/Uganda+opposition+leader+freed+on+bail/-/2558/1151846/-/13uuerlz/-/>

Kizza Besigye arrested for fourth time: The BBC reported that opposition leader Kizza Besigye had been arrested for the fourth time this month during a "walk-to-work" protest over high prices but had been released on medical grounds until the 2 May 2011 when he would appear in court to take a plea. Reported by BBC, 28 April 2011, at <http://www.bbc.co.uk/news/world-africa-1322227>

ZIMBABWE

Zimbabwe facebook user granted bail: AllAfrica.com reported that a Zimbabwean man arrested for posting a message on Prime Minister Morgan Tsvangirai's Facebook wall, was granted bail by the High Court in Bulawayo. The High Court set aside the ruling from the lower court initially denying him bail. The man had posted a message calling for the overthrowing of Mugabe. The report also said that 25 of the 30 MDC youths arrested by police in Bulawayo had been released. Reported by Lance Gama, 1 April 2011, at <http://allafrica.com/stories/201104010836.html>

Two opposition members released on bail: The Zim Daily reported that two members of the Mthwakazi Liberation Front were released on \$ 2000 bail each. They were reportedly ordered to surrender their passports and report to the police three times a week. A third member of the MLF is reportedly still being detained with "no apparent prospects of immediate release." The three are accused of instigating the creation of a separate

country called Mthwakazi. Reported by the New Zimbabwe, 3 April 2011, at <http://www.newzimbabwe.com/news-4826-Mthwakazi%20pair%20released%20on%20bail/news.aspx>

Remand detainees affected by magistrates' strike: The Zimbabwean reported that a magistrates' strike on 4 April 2011 affected inmates in remand prisons as the court system did not attend to any cases. Magistrates in Zimbabwe are reportedly poorly remunerated but the Minister of Finance was quoted as saying that the Government of National Unity did not have the resources to improve the salaries of magistrates. Reported by the Zimbabwean, 4 April 2011, at http://www.thezimbabwean.co.uk/index.php?option=com_content&view=article&id=38641:intimates-wallow-in-prison-as-magistrates-strike-&catid=31:weekday-top-stories&Itemid=30

Minister to appear before court: The Zimbabwean reported that Energy and Power Development Minister, Elton Mangoma, would appear in Court on 4 April 2011 to answer charges of abuse of tender procedure. The state was reportedly expected to argue for continued remand detention by coming up with "fresh charges". The opposition MDC reportedly believes that the charges were political in nature and part of the President's wider strategy to stunt the growth of the opposition party. Reported by the Zimbabwean, 4 April 2011, at http://www.thezimbabwean.co.uk/index.php?option=com_content&view=article&id=38639:mangoma-to-be-released-today-as-judge-throws-out-states-application-for-his-continued-jailing&catid=69:sunday-top-stories&Itemid=30

Minister released from custody: The AFP reported that Zimbabwe Energy and Power Development, Minister Elton Mangoma, charged with abuse of office, was freed on 4 April 2011 after the High Court rejected a bid by prosecutors to block his release. The report said the Minister's arrest drew an angry reaction from Prime Minister Morgan Tsvangirai, who reportedly called for new elections and said it was time for a "divorce" in the two-year-old unity government. Reported by the AFP, 5 April 2011, at http://www.google.com/hostednews/afp/article/ALeqM5jEBgHnizP0MQDKXc_mAXtzDHz0iA?docId=CNG.3df529c08a659b53ab8d799e80f593f8.4c1

Suspects in remand detention: The Herald reported that the Government planned to send suspects arrested for various crimes to remand prisons as a way of decongesting police holding cells. The policy statement came following the nationwide strike by magistrates which paralysed the justice system. The report said that there were concerns that government was in breach of the constitutional provision limiting the time suspects can be detained before being brought before a magistrate. Reported by Tsungirayi Dhambuzha and Freeman Razemba, 6 April 2011, at http://www.herald.co.zw/index.php?option=com_content&view=article&id=7017:suspects-to-be-put-on-remand&catid=38:local-news&Itemid=131

Activists detained and tortured while on remand: Nehanda Radio reported that democracy activists arrested and detained by the government for advocating "North Africa style" protests in Zimbabwe were tortured while in remand detention. The report added that the activists were kept in solitary confinement at the Chikurubi Maximum Security prison in Harare for 23 hours a day. Reported by Nehandaradio, 14 April 2011, at <http://nehandaradio.com/2011/04/14/hopewell-gumbo-behind-the-headlines/>

Africa University student in remand detention awaits fate: News Day reported that an Africa University student who had been in remand detention since 2009 was convicted of robbing supermarkets around Harare. Sentencing was reportedly deferred as the magistrate indicated he needed more time to consider appropriate punishment. Reported by Charles Laiton, 10 April 2011, at <http://www.newsday.co.zw/article/2011-04-10-africa-university-student-awaits-fate>

82-year old headman dies after being tortured while detained in remand prison: SW Radio reported that an elderly man died after being detained and tortured by ZANU PF militias. The man had been detained for 25 days alongside MDC-T MP Douglas Mzonzora and twenty three supporters. The report also said that two other MDC-T activists tortured by state security agents had died. Reported by Lance Gama, 18 April 2011, at <http://www.swradioafrica.com/news180411/82years180411.htm>

Police detain MDC members trying to visit Mzila Ndlovu: SW Radio Africa reported that four lawyers were detained by the police while on their way to visit an MDC-M politician and a pastor imprisoned in Lupane. The report also said that two MDC-T politicians had been detained at Hwange Police Station without having any charges brought against them. Reported by Irene Madongo, 19 April 2011, at

<http://www.swradioafrica.com/news190411/policedetain190411.htm> , also at
<http://www.voanews.com/english/news/africa/Zimbabwe-Police-Arrest-Human-Rights-Lawyers-120223884.html>

Siwela still in jail 3 weeks after receiving bail: SW Radio Africa reported that Paul Siwela, a leader of the Mthwakazi Liberation Front was still in police detention, three weeks after he was granted bail by the High Court. The report also said that the Supreme Court had delayed setting a date for the hearing of his bail appeal case. Reported by Tererai Karimakwenda, 27 April 2011, at
<http://www.swradioafrica.com/news270411/siwela270411.htm>

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

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