

OPEN SOCIETY JUSTICE INITIATIVE

THE GLOBAL CAMPAIGN FOR PRETRIAL JUSTICE AFRICA REGIONAL RETREAT

3-5TH December 2010

Johannesburg - South Africa

Retreat Report



THE GLOBAL CAMPAIGN FOR PRETRIAL JUSTICE – AFRICA REGIONAL RETREAT 2010

3-5TH December 2010 – Johannesburg South Africa

Contents

INTRODUCTION.....	3
IN BRIEF	3
THE OPERATING ENVIRONMENT	4
The Draft Law on Legal Aid in Sierra Leone	4
The Kenyan Constitution	5
A Comparative Study on Access to Justice and Legal Aid in East Africa	5
PRETRIAL DETENTION AND TORTURE, CORRUPTION, HEALTH AND SOCIO-ECONOMIC DEVELOPMENT	5
LITIGATION	6
DOCUMENTATION	6
ADVOCACY MATERIALS.....	7
PARTNERSHIPS AND PLANNING	7
OUTCOMES AND NEXT STEPS	8
Annex 1: Notes from Practical Sessions.....	10
Annex 2: Group Planning.....	13
SOUTHERN AFRICA.....	14
EAST AFRICA.....	14
WEST AFRICA.....	15
Annex 3: Regional and International Advocacy Opportunities 2011.....	16
Annex 4: Human Rights Day Statement.....	17
Annex 5: Participants.....	18
Annex 6: Country Summaries – The Operating Environment.....	20
Annex 7: Powerpoint Presentations.....	21

INTRODUCTION

The retreat brought together 30 organisations from ten countries in Sub-Saharan Africa as well as a number of international and regional organisations. It was convened by the Open Society Justice Initiative and the OSF Global Criminal Justice Fund as part of the ongoing Global Campaign for Pretrial Justice.

The timing of the retreat coincided with a critical juncture for the Campaign: based on initial consultations a number of research and pilot projects are underway to document the scale and consequences of the problem and demonstrate innovative, low-cost solutions; as the preliminary results emerge the consolidation and evolution of the Campaign is critical. The retreat aimed to address a number of questions specifically linked to this evolution:

- To what extent can the Campaign further contribute to individual programme goals and learn from the specific challenges faced in particular countries and regions?
- How can the Campaign develop further at the national and regional level? Is there a need to tailor specific aspects of the Campaign to suit different environments, situations and audiences?
- In what ways can we build regional resources, research initiatives and focal points?
- What strategies are needed to jointly target governments and donors and ensure complementary messages?

IN BRIEF

The retreat built on the strong energy, commitment and interest amongst organisations. Individuals noted that the Campaign objectives are closely linked to the practicalities of their day to day work and there was strong enthusiasm to build on this emerging forum of exchange and support. A number of specific trends can be identified:

- The SWOT analysis revealed organisations to have consistently built strong programmes and institutional relationships at the local level. Difficulties were faced when trying to access national level decision makers and thus address systemic problems.
- Momentum is developing at the regional level. Clear trends can be identified and changes are having an impact beyond national boundaries. Draft legal aid policies are, for example, being discussed for the first time in a number of countries and governments are increasingly recognising the problems of overcrowding and deplorable conditions of detention.
- A vast amount of information is being tracked and accumulated by organisations. How to effectively systematise this information and use it to influence policy makers presents more of a challenge.

The retreat covered a number of areas primarily:

- The operating environment
- The links between pretrial detention and torture, corruption, health and socio-economic development
- Litigation
- Documentation and developing advocacy materials

- Partnerships and planning

THE OPERATING ENVIRONMENT

Key points that emerged from the SWOT analysis:

- Organisations appreciate the dynamic and flexible way in which they are able to work.
- Many organisations identified the strong institutional relationships developed at the local level: they also recognized, however, that a lot of their work is dependent on individuals and that significant effort goes into continuously building new relations as personnel change.



- By contrast more difficulties were identified in accessing national level stakeholders and this impacted on the ability to effectively raise systemic problems.
- Across the board organisations found the prison service to be a strong ally but significant difficulties were faced with the police leading in some cases to stunted programme implementation.
- A lack of trust amongst some civil society organisations was identified as an obstacle to building strong

advocacy coalitions.

- Challenges were faced in relation to donor priorities and funding modalities in particular the fact that civil society funds are increasingly being channelled through justice sector institutions.
- Law reform and policy making processes provide opportunities for civil society to bring evidence and policy ideas to the evaluation and drafting processes.

The retreat looked at a number of current reform processes.

The Draft Law on Legal Aid in Sierra Leone

Simeon Koroma - Timap for Justice

A Law on Legal Aid has been approved by cabinet and should be introduced to Parliament early in 2011. If it is passed it will be one of the most progressive pieces of legislation since independence. It incorporates a number of key rights and innovations:

- An automatic right to legal aid for all people in Sierra Leone. Legal aid is defined in broad terms covering legal advice and assistance. Legal representation will be subject to a specific application process.
- Legal advice and assistance can be provided by lawyers, law students and paralegals.
- If a person is unrepresented and sentenced to more than three months imprisonment there is an automatic right to have that decision reviewed.

The Kenyan Constitution

Khalid Hussein - MUHURI

67% of Kenyans voted in favour of the new Constitution which came into force on 27th August 2010. Chapter four covers a 'Bill of Rights' and includes amongst others:

- Article 22 Enforcement of the Bill of Rights
- Article 48 Access to Justice
- Article 49 Rights of Arrested Persons
- Article 50 The Right to a Fair Hearing
- Article 51 Rights of Detained Persons

Article 48 states *"the State shall ensure access to justice for all persons and, if any fee is required, it shall be reasonable and shall not impede access to justice."*

Article 49 provides that *"(i) an arrested person has the right to (c) communicate with an advocate and other persons whose assistance is necessary... [and] (f) be brought before a court as soon as reasonably possible but not later than (i) twenty-four hours after being arrested..."* The same article provides that *"(ii) a person shall not be remanded in custody for an offence if the offence is punishable by a fine only or by imprisonment for not more than six months."*

A Comparative Study on Access to Justice and Legal Aid in East Africa

Karol Limondin – The Danish Institute for Human Rights

The preliminary findings of a study on Access to Justice and Legal Aid, which will be finalised and published early in 2011, were presented. The study was carried out by researchers from state legal aid bodies, the legal profession and NGOs/paralegal organisations in Kenya, Uganda and Tanzania and will form a basis for planning and advocacy in the East Africa region.

The study highlights similar developments across the region, which enables opportunities for cross fertilisation of ideas and experiences. For example in Kenya and Uganda the National Legal Aid and Awareness Programme (NALEAP) and the Uganda Law Council (ULC) are working with other institutions and organisations to draft legal aid policies. They are also considering specific articles that will institutionalize the role of paralegals. In all three countries there are civil society legal aid networks that work on a variety of initiatives including the development of paralegal training programmes and codes of conduct.

PRETRIAL DETENTION AND TORTURE, CORRUPTION, HEALTH AND SOCIO-ECONOMIC DEVELOPMENT

Papers on these four themes were commissioned as part of the Global Campaign for Pretrial Justice and were authored by leading experts in each respective field. The papers seek to demonstrate the spiralling consequences of excessive and arbitrary pretrial detention and engage allied communities. They are designed to be a starting point to spark further research, advocacy and action. A number of ideas emerged during the discussion:

- The papers provide a good basis for international advocacy and can be used effectively to support/complement national advocacy and project proposals. Many organisations identified the need for national level contextualization incorporating national legislation, current practices and identified gaps and specific advocacy oriented recommendations.
- Specifically on the socio-economic paper it would be useful to look at experiences and ways to engage economists and decision makers in the Ministry of Finance. Budget monitoring processes from other sectors might be instructive.
- Different approaches to introduce the concepts and findings to different audiences were discussed: serialised extracts for the media; concrete actions for training manuals and toolkits etc.
- Whilst recognising the merits of desegregating the issues many intersections were identified: the socio-economic dimension of corruption; bribes linked to threats of torture; the medical complications arising from torture etc. A short document that articulates the interconnections and thus the full gravity of the problem would be useful.

LITIGATION

Three presentations that looked at individual cases and public interest cases inspired the session:

- *What is strategic interest / public interest litigation (Interights – Judy Oder)*
- *Litigation on torture cases (IMLU – Vincent Kodongo)*
- *Combining service delivery with public interest litigation (FHRI/PAS – Elinor Chemonges)*

The Southern African Litigation Centre also gave a short summary of their work in Malawi.

A number of key lessons emerged from the session and the discussion:

- It is crucial to partner with other organisations and / or respected lawyers who might bring experience, different angles, critical mass. Organisations working in close partnership with the government need to consider the implications of litigating against the government. A more tactical approach might be to encourage another organisation to take up the issue.
- It's important to be strategic in selecting issues and approaches – there is no point litigating an empty academic point and it is important to assess the environment and chances of success.
- The litigation itself is only part of the story - we need to identify strategic and cost effective ways to engage the judiciary and other key justice sector actors.
- It's crucial to manage clients' expectations and find various ways to engage the media (write op-eds, invite journalists to attend trainings etc.)

DOCUMENTATION



This interactive session was premised on the ‘*advocacy feedback loop*’. How can we ensure that the information and lessons learnt from project implementation effectively contributes to policy change? Can the Global Campaign act as a catalyst in this process? The retreat collectively determined the type of information / ‘ideal’ information collected through client forms and what is done with this information.

A variety of information is being recorded either through open questions or standard tick boxes that enable a uniform assessment of responses e.g. re levels of education. This includes:

- Client information and contact details
- Case status, stage, assistance to date
- Family contacts / sureties
- Education / literacy
- Economic status
- Health status
- Questions re treatment / torture
- Specific questions re minors

The real challenge for many organisations is how to utilise this information both for individual cases but also for advocacy and planning. Examples of uses amongst some organisations include: to inform discussions with justice sector stakeholders, to share with court user committees, to generate statistics and use for advocacy. Building on the information gathered (see annex 1) the Global Campaign team agreed to identify specific questions and indicators that will be useful for advocacy as well as ways to regularly collate and analyse this information.

ADVOCACY MATERIALS

Three groups put together a proposed outline for:

- A country fact sheet on pretrial justice
- A project summary
- A success story

See annex 1 for examples.

PARTNERSHIPS AND PLANNING (for planning see annex 2)

The session started with two examples of partnerships:

- Uganda Prison Service and the Paralegal Advisory Service (*Robert Omita and Elinor Chemonges*);
- APCOF's regional work (*Sean Tait*).

The subsequent group discussions looked at partnerships with communities, the police, justice sector coordination groups and donors. The discussions reflect a variety of ongoing partnerships as well as a need to think more innovatively about different ways to approach key target groups:

Communities: ongoing education and outreach initiatives include information sessions, radio programmes and the development of posters and materials that address common fears and misconceptions. In Uganda, for example, paralegals work with the police on a regular talk-back radio show that utilises the free airtime that the police receive. Particularly in close knit communities it is important to ensure that both accused and victims receive support whilst at the same time avoiding conflicts of interest – one way is through outreach activities and partnerships with community based paralegals or mediators.

Police: we need to better understand the policing discourse in order to identify the most effective entry points. As civil society organisations we rarely applaud the police or stand up for their rights. We need to look for change makers, utilise the skills of the police (e.g. during paralegal training sessions), and see how

to use oversight mechanisms and existing codes of conduct (see planning sessions for work being coordinated by APCOF).

Government /Justice Sector: some organisations – particularly those that represent or host a network or justice / paralegal organisations – sit as a civil society representative at justice sector stakeholder meetings. This provides opportunities to input into planning processes, propose civil society consultations, raise ongoing challenges and gain a fuller perspective of the challenges faced by government.

The role of civil society in relation to the government was also discussed:

- Is it better to engage in service delivery or should we keep open a watch dog role?
- If we build collaborative partnerships with government how do we also maintain the independence of legal aid services?
- What kinds of coalitions can we build in order to raise issues that an individual organisation might not be able to raise on their own?
- How should organisations shift as governments take increasingly responsibility and what happens if services become bureaucratized or mediocre? Again the role of watchdog organisations comes into play i.e. the cycle of reform has to be continuously revisited.

Donors: challenges were identified re changing donor priorities, funds being channelled through government and difficulties to access the right people in donor agencies either at country or headquarters level. The group also discussed how as organisations we need to be more creative in our engagement with donors – beyond a proposal/reporting relationship. We need to better understand the constraints donors face, provide information that is relevant for future planning and utilise the potential convening power of like minded donors and initiatives such as the Global Campaign.

OUTCOMES AND NEXT STEPS

The retreat reflected a great richness of experience and identified many upcoming opportunities. Organisations are keen to take an active role in the activities and development of the Global Campaign - one group identified it as a *'think tank'* to support national level efforts, others saw a convening role to build a more open donor dynamic, bolster organizational efforts and help strategize at a regional level.

A number of **short to medium-term initiatives** emerged:

- Country 'Pretrial Justice' fact sheets
- Programme summaries / advocacy success stories
- National supplements to the linking papers including specific advocacy recommendations
- Specific advocacy oriented questions that can be incorporated into client intake forms
- Regular updates on the operating environment (building on the table at annex 6).

These activities have multiple purposes: to share more detailed information amongst our organisations, to profile successful initiatives, to support specific advocacy oriented activities and to feed into the development of national advocacy plans.

From the planning sessions a number of **Africa regional events** emerge as good targets for advocacy:

- The sessions and NGO forums of the African Commission on Human and Peoples Rights and the specific work of the Special Rapporteur on Prisons and Places of Detention. Partnering with APCOF for these events would build on the police/pretrial nexus (see planning sessions).
- The meeting of the African Correctional Services Association in Kampala – to use this as an opportunity to profile solutions and build a core constituency amongst reform minded leaders.

The Global Campaign is working to develop ways to facilitate and **promote information sharing**. In February 2011 CSPRI will start a newsletter similar to the [30 Days/Dae/Izinsuku](#) focused on pretrial justice. We will also start a list-serve to maintain communication amongst the retreat participants.

All of these activities require proactive inputs. Some require minimal financial investment and build on current programmes – others require more structured development for example:

- incorporation of the Global Campaign in individual organisational strategies
- planning and budgeting for cross regional advocacy initiatives
- development of joint project proposals
- development of national advocacy plans

The Campaign will continue to grow organically based on experience and inputs. The ideas and energy emerging from the retreat are thanks to everyone’s commitment and we look forward to an exciting 2011 where we are collaboratively work to raise the voice of pretrial justice.

At the end of the retreat organisations adopted a statement in preparation for Human Rights Day 2010 on the global theme: Stand Up Stop Discrimination (see annex 4).



Annex 1: Notes from Practical Sessions

Note: these are consolidated notes from the sessions rather than models or templates.

DATA COLLECTION

INTAKE INFORMATION

(depends on the time of contact – organisations have different forms for first contact, follow up etc.)

- **Client information and contacts:** name, age, address, sex, civil status, nationality (if not a citizen status e.g. refugee) religion, family relations (minor dependants, parents, occupational status)
- **Case information:** charge / reason for arrest / bail status of charge, type of case (criminal, civil, administrative)
- **Arrest:** date of arrest, circumstances, whether client was informed of his rights at point of arrest
- **History:** previous attempts to resolve the conflict – previous legal advice from somewhere else, access to legal counsel; quality of legal representation (i.e. dates & length of time of contact with lawyer; years experience of lawyer), prior convictions / interactions with CJS
- **Case status:** date of court appearance(s) & type of court; date of last court appearance and date of next scheduled appearance, whether lawyer appeared at previous court hearing, geographic location of court, reasons for postponement, case resolution
- **Education:** formal education level of client, literacy status
- **Economic status:** annual income, occupation, occupation of dependants, property ownership
- **Community ties:** potential sureties and their location, relations in community, social status, relationship with the complainant
- **Health:** physical and mental health status, disability, history of drug / alcohol abuse by client
- **Detention:** conditions of detention, food, overcrowding, torture / inhuman treatment
- **Minors:** whether represented by an adult, juvenile court etc.
- **Torture:** alleged perpetrator, type of torture, photos of injuries, remedial interventions by state agencies, verification whether police / medical report has been produced, date, time and place of abuse, circumstances surrounding the abuse, state's response / remedial action, prison records
- **Consent forms:** type of services to be provided, publicity

HOW IS THE INFORMATION USED?

- Local level – e.g. regular court-user committee meetings
- Generate information of interest to government – e.g. reduction in case loads, changes in detention crowding levels, changes in “failure to appear” rates, how state's practices comply with – or violate – national prison rules, international standards, etc.
- Incorporate analysis of collected information in civic education campaigns

- To analyse the case load of own organisations and the effectiveness of programmes, identify obstacles and effectively plan and structure future interventions
- Develop advocacy strategies to remedy abuses / misconduct
- Tool to determine specific intervention (e.g. filing specific application with courts)
- Identify trends and patterns which could be useful for litigation purposes
- At a regional / global level: synchronizing the type of information collected across organizations and countries would permit the collection of comparative data across borders and allow for regional comparisons.

CHALLENGES:

- Reliability of information provided by clients
- Confidentiality issues (negotiating privacy, away from prison officers)
- Time consuming to collect a large amount of information
- Difficult to reach / trace individuals once released from detention

COUNTRY FACT SHEETS

Agree similar format, core information + country specific information, annual updates

- **Geo-political:** Pop / Km2, GDP, Language
- **Budget:** proportion of budget spent on justice – comparison re health, defence – budget trends over 5 years, extent to which the country / justice sector relies on international aid
- **Legal:** key provisions under national law, signatories to International and regional treaties
- **Sentencing:** existence or not of the death penalty, use of non-custodial sentences
- **Detention figures:** prison population, detention rate per 100,000 population, % in pretrial detention, no. of minors, no. of women, trends over 5 years, figures on deaths on custody
- **Justice Institutions:** no. of prisons, ministerial responsibility, no. of judges, prosecutors, lawyers, paralegals
- **Oversight bodies:** police complaints commission, national human rights commission etc.
- **HIV/AIDS / Disability**
- **Conditions of detention** (consider photos)
- **Projects, pilots, organisations working on pretrial justice**

PROJECT SUMMARIES

- Identify target audience: government etc.
- Use clear, simple language, be brief

- When – at the beginning / mid-term / at end of project
 - Beginning: raise awareness
 - Midterm: discuss the progress
 - End: Report / Success story

Contents

- **Outline the problem**
- **Baseline information / statistics**
- **Objectives**
- **2 line project summary plus**
 - **Who:** actors, organisations, partnerships
 - **What:** activities (can include photos)
 - **When:** timeframe
 - **Where:** geographic location (include a map if relevant)
 - **How:** approaches, strategies
- **Results / Preliminary Results**
- **What you want your target audience to do**
- **Where to find further information**

ADVOCACY SUCCESS STORIES

1. **Who is your target audience?**
e.g. international donor community, government and judiciary or communities
2. **What is the objective?**
e.g. to gain the support of the community, to change government policy, to attract donors
3. **What type of information is needed?**
e.g. statistics, narrative stories
4. **What strategies can be used**
 - a. Before / After
 - i. *What happened before our intervention*
 - ii. *What are the key features of the intervention*
 - iii. *What is the current situation / what has changed*
 - b. Pick one person's story to show success – it can be powerful to put a face to the change
 - c. Frame your work within another context that may be more popular / persuasive

NB be sure to acknowledge key contributors to the success / purely focus on the story
5. **Analysis / Conclusions**
6. **For further information**

Annex 2: Group Planning

These notes are from the group sessions – they highlight upcoming opportunities and projects that organisations are involved in. It is not meant to be exhaustive compendium or provide all the background on specific events – but rather a reflection of sessions and a starting point for further discussions.

CONTINENTAL DEVELOPMENTS / OPPORTUNITIES

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

African Commission sessions take place annually in May and November usually in different cities across the continent / in Banjul where the Secretariat is located. Prior to the session there is an NGO forum – the theme varies from session to session. NGOs with observer status can file a case before the Commission and make statements during the open sessions. Amongst the retreat participants APCOF, CSPRI, Replace and Open Society Foundations have observer status.

Advocacy opportunities:

- Follow up and implementation on the Resolution on Policing adopted in 2006.
- Call for a resolution of the Commission to minimise the use of pre trial detention and promote safe guards for when it is unavoidable. Follow up re the existence of a draft African Charter on Prisoners' Rights discussed in the Ouagadougou Declaration (2002).
- Follow up with the Special Rapporteur on Prisons and Conditions of Detention in Africa – re above resolutions, upcoming country visits and reports, specific cases and awareness raising sessions.

Activities could involve initial awareness and advocacy sessions at the NGO Forum, statements during the public sessions and targeted advocacy with Commissioners and governments.

The next session is from 28th April – 12th May 2011 – location still to be announced by the ACHPR.

AFRICA CORRECTIONAL SERVICES ASSOCIATION (ACSA) – MEETING KAMPALA OCTOBER 2011

This is a relatively new association and is a branch of the International Corrections and Prisons Association (ICPA). In 2010 ACSA adopted a [5-year strategic plan](#) and identified 3 key challenges for correctional services in Africa:

- *massive overcrowding that reaches 300 percent in some prisons/correctional centres*
- *poorly functioning criminal justice systems that result in up to 93 percent of inmates being awaiting trial detainees in some countries*
- *old and dilapidated facilities that militate against the tenets of human rights and undermine the core business of rehabilitation.*

The Kampala meeting presents an opportunity for the Campaign to highlight the scale and consequences of the problem and offer tested experiences and solutions from across the region. It will be crucial to provide country specific fact sheets and success stories and engage with a core group of reform minded heads of correctional services prior to the meeting and before the agenda is set. This might include Botswana, Malawi, Mozambique, South Africa, Uganda and Zambia. Contact Robert Omita UPS.

AFRICA PEER REVIEW MECHANISM

This was only briefly discussed. 30 States have acceded to the APRM – Liberia was the latest to sign on 29th January 2011. 13 countries have already gone through the review process. Possible next countries include: Ethiopia, Zambia, Sierra Leone and Tanzania. Initiatives are underway to ensure more active civil society participation and greater monitoring and follow up. For more information contact OSISA / AfriMap.

SUBREGIONAL / NATIONAL DISCUSSIONS

SOUTHERN AFRICA

Identified the Global Campaign as a 'think tank' to support country initiatives

10th Anniversary of the Southern Africa Police Commissioners Cooperation Organisation (SARPCCO) Code of Conduct

Adopted in 2001 the SARPCCO code of conduct represents an agreed standard of operation by the police agencies of Southern Africa. Assessments of compliance have, however, been minimal and so the 10th Anniversary presents an opportunity to take stock and identify workable strategies for implementation. The nexus between pretrial justice and police conduct could be further developed. Working with the police has proved a challenge for many organisations and so the code of conduct might provide one entry point for more effective engagement. APCOF will organise a regional workshop in the first quarter of 2011.

Aids and Rights Alliance for Southern Africa (ARASA) - Meeting October/November 2011

Linking up with ARASA could provide an opportunity to further expand the link between health and pretrial detention and bring to the attention of the HIV/AIDS community the impacts of excessive pretrial detention. At a regional level this builds on the Human Rights Watch, ARASA, PRISCA report, [Unjust and Unhealthy: HIV, TB, and Abuse in Zambian Prisons](#) and the upcoming Amnesty International Report on health conditions in Malawian prisons. PRISCA will follow up and attend the ARASA meeting.

Malawi: Adoption of the Legal Aid Bill, Amendments to the Legal Education and Legal Practitioners Bill. Publication of independent research on the role and impact of paralegals working at police stations. Pretrial Detention Audit.

Zambia: Upcoming parliamentary elections, ongoing work to develop the role of paralegals in Zambia. Pretrial Detention Audit.

Mozambique: Ongoing legislative reforms, Liga will organise a national conference on prison reform.

South Africa: Advocacy around the Correctional Matters Amendment Bill, CSPRI and other organisations are preparing to petition the Constitutional Court to seek clarification on how long a person can be held awaiting trial. For further information contact CSPRI. Discussed the possibility to simultaneously file similar petitions in courts across the region.

EAST AFRICA

East African Bill of Rights

The East African Community is in the process of developing a Bill of Rights - the draft Bill was initiated by the National Human Rights Commissions and facilitated by Kituo cha Katiba (Centre for Constitutional Development), a regional organisation that has observer status with the EAC. LRF (who are part of the East

African Civil Society Forum) will follow up to confirm the stage of the draft bill and the next steps.

Common principles for policing in East Africa

APCOF is partnering with the Commonwealth Human Rights Initiative in collaboration with the East African Police Commissioners Coordinating Committee (EAPCCO) and the East African Community (EAC) to articulate the common principles for policing among the five states of the Eastern Africa Community. See the [project brief](#) for further information.

Kenya: Adoption of implementing legislation following the adoption of the new Constitution (including Prisons Bill, Bail Bill, Legal Aid Bill, Prevention of Torture Bill). Follow up re the National Legal Aid and Awareness Programme. IMLU and the Kenya National Commission for Human Rights will present 2 studies on torture during the first quarter of 2011. Organisations are keen to use their combined and complementary expertise to develop contextualised supplements to the linking papers (IMLU, Kituo, LRF, and MUHURI)

Uganda: The next JLOS sector strategy/ investment plan cycle starts in January 2011. A Criminal Justice Paralegal Advisory Services Strategy 2011/12-2015/16 will be finalized and adopted. Work is progressing on the development of a legal aid policy. Contact FHRI/PAS.

Rwanda: Development of a national legal aid policy. Final two years of the Economic Development and Poverty Reduction Strategy (EDPRS) 2008-2012 – monitoring of justice sector indicators and preparations for inputs to evaluation. Contact LAF.

WEST AFRICA

Organisations in the region agreed to share contact and project information based on a format to be developed and that could be used more broadly by the group – Contact ABA Liberia

The socio-economic impact of arbitrary pretrial detention

Country studies looking at the socio-economic impact of arbitrary pretrial detention are planned for 2-3 countries in the region in collaboration with UNDP, Unicef and the Open Society Justice Initiative. Further studies could take place in other countries or regions building on these initial pilots. Contact Open Society Justice Initiative.

Liberia: Law Reform including the possibility to extend the jurisdiction of the Magistrates Courts, exchange and lessons learnt with other programs in the region.

Nigeria: Criminal Justice Reform upcoming meetings include: National Conference on Criminal Justice Reform in Nigeria; Reform of Legal Aid Meeting, the Nigeria Bar Association (NBA) Annual General Conference and the NBA Consultative Forum with Development Partners, including Office of the Senior Special Adviser to Nigeria's President on MDGS.

Sierra Leone: Adoption of the Law on Legal Aid and a revision of the Criminal Procedure Law. Publication of independent research being carried out by the Centre for the Study of African Economies at Oxford University on the criminal justice system and the impact of paralegals.

Annex 3: Regional and International Advocacy Opportunities 2011

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
REGIONAL												
CURE REGIONAL CONFERENCE – ABUJA												
AFRICAN COMMISSION SESSIONS / NGO FORUMS / SIDE MEETINGS												
ACSA REGIONAL MEETING UGANDA												
10 TH ANNIVERSARY OF THE SARPCCO CODE OF CONDUCT												
REGIONAL '30 DAYS' PRETRIAL JUSTICE NEWSLETTER												
INTERNATIONAL												
ICPA CONFERENCE SINGAPORE												
UNODC - COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE												
UNODC – EXPERT MEETING AND INTERGOVERNMENTAL MEETING ON UN GUIDELINES ON LEGAL AID IN CJS												
UN - WORKING GROUP ON ARBITRARY DETENTION SESSIONS												
UN - COMMITTEE AGAINST TORTURE (CAT) SESSIONS												
UN - HUMAN RIGHTS COUNCIL												
20 TH ANNIVERSARY OF THE WORKING GROUP ON ARBITRARY DETENTION												
INTERNATIONAL HUMAN RIGHTS DAY												
SOME AFRICA RELATED GLOBAL CAMPAIGN ACTIVITIES (in addition to those above)												
PUBLISH AND LAUNCH LINKING PAPERS @ DIFFERENT EVENTS												
PRELIMINARY FINDINGS FROM RESEARCH IN MALAWI & SIERRA LEONE												
PILOTS IN MALAWI, NIGERIA AND SIERRA LEONE												
PUBLISH HUMAN RIGHTS & PTD REPORT												
COUNTRY STUDIES ON THE SOCIO-ECONOMIC IMPACTS OF PTD												
PRETRIAL JUSTICE UPDATE												

Annex 4: Human Rights Day Statement



PRETRIAL DETENTION AND DISCRIMINATION

As we celebrate Human Rights Day 2010 an estimated three million people around the world are behind bars awaiting trial. During the course of 2010 this daily cohort will likely have amounted to over nine million people many of whom will have spent months or even years in detention typically languishing under worse conditions than those convicted of crimes and sentenced to prison.

People from the poorest and most marginalised sectors of society are most at risk: they are more likely to be arrested and detained and then face multiple layers of discrimination at the hands of law enforcement agents. Manfred Nowak, the outgoing United Nations Special Rapporteur on Torture, expressed particular concern regarding the inhuman and degrading conditions of many places of detention, noting that '*victims are often already marginalised members of society who face double discrimination when they are detained*'. In many countries minorities continue to form a disproportionate part of the detained population and where, for example, disabled or intersexual people are arrested, discrimination is compounded by a lack of appropriate conditions and frequent exposure to humiliation and abuse.

To address these and related issues organisations have come together to work at a national, regional and international level on a [Global Campaign for Pretrial Justice](#). The Campaign seeks to ensure a more rational use of pretrial detention and a respect for the rights and dignity of pretrial detainees. It promotes early access to legal aid, alternatives to pretrial detention and accessible, fair and transparent justice systems.

From 3-5 December 2010, thirty four organisations met in Johannesburg, South Africa, to further develop the Campaign at the continental level. We join human rights advocates across the globe in the struggle against discrimination and draw particular attention to the multiple layers of discrimination faced by many poor and marginalised individuals who are unnecessarily and arbitrarily held in pretrial detention.

Kenya: Kituo cha Sheria, Independent Medico Legal Unit, Legal Resources Foundation, and Muslims for Human Rights (MUHURI), Liberia: American Bar Association, and Catholic Justice and Peace Commission, Malawi: Catholic Commission on Justice and Peace and Paralegal Advisory Service Institute, Mozambique: Eduardo Mondlane Legal Aid Clinic, Mozambican Human Rights League (LDH), and Mozambican Legal Aid Board (IPAJ), Nigeria: Cure, PRAWA, Nigerian Bar Association, and Rights Enforcement and Public Law Centre (Replace), Rwanda: The Legal Aid Forum, Sierra Leone: Timap for Justice, South Africa: African Policing Oversight Forum (APCOF), Civil Society Prison Reform Initiative (CSPRI), Indiba Africa, Southern African Human Rights Defenders Trust, and Southern Africa Litigation Centre, Uganda: Foundation for Human Rights Initiative (FHRI), Paralegal Advisory Service (PAS), and Uganda Prison Service, Zambia: Prisons Care and Counseling Association (PRISCCA), Regional: Interights, The Danish Institute for Human Rights, Unicef, Open Society Foundations: Global Criminal Justice Fund, Open Society Justice Initiative, Open Society Initiative for East Africa, Open Society Initiative for Southern Africa, and Open Society Foundation for South Africa.

Annex 5: Participants

Name	Organisation	Email
KENYA		
Gertrude Angote	Kituo cha Sheria	angote@kituochasheria.or.ke
Hussein Khalid	Muslims for Human Rights (MUHURI)	h.khalid@muhuri.org
Vincent Kodongo	Independent Medico Legal Unit (IMLU)	vkodongo@imlu.org
Jacqueline Mbogo	Open Society Initiative for East Africa (OSIEA)	jmbogo@osiea.org
Jedidah Waruhiu Wakonyo	Legal Resources Foundation (LRF)	jwaruhiu@lrf-kenya.org
LIBERIA		
Momolu Kandakai	Catholic Justice and Peace Commission	mgekandakai65@yahoo.com
Anthea Zervos	American Bar Association Liberia	anthea.zervos@gmail.com
MALAWI		
Peter Chinoko	Catholic Commission on Justice and Peace (CCJP)	chinokopeter@yahoo.com
Clifford Msiska	Paralegal Advisory Services Institute (PASI)	cliffmsiska@gmail.com
MOZAMBIQUE		
Firoza Gani	Centre for Legal Practice/IPAJ	firosagani@yahoo.com.br
Nadja Gomes	Mozambican Human Rights League - LIGA	nadiadoc2004@yahoo.com.br
Pedro Sinai Nhatitima	Centre for Legal Practice/IPAJ	nhatitima@hotmail.com
NIGERIA		
Uju Agomoh	PRAWA	uagomoh@prawa.org
Felicitas Aigbogun-Brai	Rights Enforcement and Public Law Centre (REPLACE)	faigbogun@gmail.com
Joseph Daudu	Nigerian Bar Association	daudujb@hotmail.com
Osita Okoro	Nigerian Bar Association	ositaokoro@nigerianbar.org
RWANDA		
Andrews Kananga	Rwanda Legal Aid Forum (LAF)	legalaidrwnda@gmail.com
SIERRA LEONE		
Simeon Koroma	Timap for Justice	smkoroma@yahoo.com
SOUTH AFRICA		
Leopoldo Amaral	Open Society Initiative for Southern Africa (OSISA)	LeopoldoA@osisa.org
Abeda Bhamjee	Southern Africa Litigation Centre	abeda.bhamjee@gmail.com
Louise Ehlers	Open Society Foundation for South Africa	louise@ct.osf.org.za
Andrew Faull	Institute for Security Studies	afaull@issafrica.org

Berber Hettinga	Civil Society Prison Reform Initiative (CSPRI)	bhettinga@uwc.ac.za
Anil Naidoo	Indiba Africa (Facilitator)	anil@indiba-africa.co.za
Jamil Mujuzi	Open Society Foundation for South Africa	Jamil@ct.osf.org.za
Sean Tait	African Policing Oversight Forum (APCOF)	sean@apcof.org.za
UGANDA		
Elinor Chemonges	Foundation for Human Rights Initiative / Paralegal Advisory Services Uganda	eawchem@yahoo.com
Robert Omita Okoth	Uganda Prison Service	romitaokoth@yahoo.co.uk
ZAMBIA		
Godfrey Malembeka	Prisons Care and Counseling Association (PRISCCA)	prisccazm@gmail.com
<i>Philip Sabuni</i>	<i>Caritas Zambia</i>	psabuni@zec.org.zm
REGIONAL		
Sylvester Uhaa	CURE	uhaasj@yahoo.co.uk
<i>Tito Byenkya</i>	<i>East Africa Law Society</i>	ceo@ealawsociety.org
INTERNATIONAL		
Bridget De Lay	UNICEF	bdelay@unicef.org
<i>Alison Hannah</i>	<i>PRI</i>	ahannah@penalreform.org
Karol Limondin	The Danish Institute for Human Rights (DIHR)	kli@humanrights.dk
Judy Oder	Interights	JOder@interights.org
OSF		
Gene Guerrero	OSF-DC	gguerrero@osi-dc.org
Mary Miller-Flowers	OSF- Rights Initiatives	mmillerflowers@osi-dc.org
OPEN SOCIETY JUSTICE INITIATIVE		
Jamie Chandler	Justice Initiative	jchandler@justiceinitiative.org
Madeleine Crohn	Justice Initiative	mcrohn@justiceinitiative.org
Marina Ilminska	Justice Initiative	milminska@osieurope.org
Marion Isobel	Justice Initiative	misobel@osieurope.org
Kersty McCourt	Justice Initiative	kmccourt@justiceinitiative.org
Zaza Namoradze	Justice Initiative	namoradz@osi.hu
Denise Tomasini-Joshi	Justice Initiative	dtomasini@justiceinitiative.org
Martin Schönteich	Justice Initiative	mschoenteich@justiceinitiative.org

(Those in italics were in the end unable to attend)

Annex 6: Country Summaries – The Operating Environment

	Constitutional Provision on Legal Aid	Legal Aid Policy	Legal Aid Law	Legal Aid Board	Public Defender Office	Number of Lawyers	Pro Bono Requirement	CS legal aid/paralegal network
MALAWI	Yes	Draft	New Law adopted 2011	Provided for in the Legal Aid Law	Yes	200	No	Informal networks around issues
MOZAMBIQUE	Yes	Yes	Yes	Yes	Yes	700 (100 full time)	No	Yes
SOUTH AFRICA	Yes	Yes	Yes. Paralegal regulation pending	Yes – Legal Aid South Africa	Yes	20,000 (1700 working for Legal Aid South Africa)	Yes	National Alliance for the Development of Community-based Advice Offices (NADCAO)
ZAMBIA	Yes	No	Yes	Yes	No	700	Under the Law Association of Zambia (not mandatory)	Paralegal Advice Network (PAN)
LIBERIA	Yes	Draft	No	No	Yes	550-600	No	Yes
NIGERIA	Yes	No – Legal Aid Council proposed a policy	Yes (the current law is under review)	Yes: Governing Council	Yes in some states – e.g. Lagos	73,000 +	Yes recently introduced by the Nigerian Bar Association	Several networks organised around themes
SIERRA LEONE	No	Yes	Legal Aid Bill should be adopted in 2011	No – but provided for in draft	No	200-250	No	Ad hoc initiatives around activities
KENYA	Yes 2010	Draft	Draft	No	Yes pilot	8066 (2009)	Yes (through	Paralegal

	Constitution (in criminal cases if substantial injustice)				through NAPEAP pilot projects	4200 hold practicing cert.	the Law Society of Kenya but requirements not specified)	Support Network (PASUNE)
RWANDA	Limited (in criminal proceedings to a fair and public hearing + all the necessary guarantees of defence)	No – process is starting	No	No	No (but draft appended to the law on the bar – may lead to a PDO once passed)	611	Yes (but requirements specified)	Legal Aid Forum
TANZANIA	No (right to a fair hearing – but no direct mention of legal assistance)	No	No	No	No	1118 (2009) 897 hold practicing certs. Zanzibar approx 40 hold a practicing certificate	Yes under the Tanzania Law Society but not mandatory and only for civil cases	Tanzania Legal Aid Providers (TANLAP) / Tanzania Paralegal Network (TAPANET)
UGANDA	Limited (criminal cases with death or life imprisonment)	Draft	No	No – but Uganda Law Council	Yes pilot through justice centres	3645 (2009) 1200 hold a practicing certificate	Yes pilot phase	Legal Aid Service Providers Network (LAPSNET)

Annex 7: Powerpoint Presentations