

Police Torture Victims Awarded \$493,000

On July 21, 2010, twenty-one people tortured by the police were awarded a total of \$493,000 (Kshs. 39.2 million) by Kenya's High Court.

The 21 plaintiffs were tortured between 1982 and 1997 in what is now known as the Nyayo House Torture Chamber in Kenya's capital of Nairobi. After their arrest for a variety of offenses, each of the twenty-one received the same treatment. They were stripped naked and held incommunicado in a small completely dark waterlogged basement cell. When interrogated to obtain information or extract a confession, they were blasted with pressurized cold water, subjected to extreme heat and cold air, and denied sleep and nutrients during long interrogation sessions.

Some of the plaintiffs confessed and were sentenced to a prison term after pleading guilty. While those who didn't confess continued to be held in the dungeon and interrogated – some for more than two years.

The twenty-one plaintiffs filed separate lawsuits against Kenya's Attorney General seeking compensation for breach of their fundamental rights and freedoms under various sections of the Constitution of Kenya.

Because they made similar claims all the lawsuits were combined.

The Attorney General's four primary defenses were: the fundamental rights of Kenyans are not absolute so the plaintiff's treatment was not illegal; the lawsuits were filed after expiration of the one-year statute of limitations; the lawsuits did not disclose the complete facts of their claims; and their claims of mistreatment should be handled by Kenya's Truth, Justice and Reconciliation Commission. The High Court ruled in regard to those defenses:

- Kenya is a signatory to the "UN Convention against Torture, and other Cruel, Inhuman and Degrading Treatment or Punishment" that was ratified by Kenya, and its definition of torture is applicable to the Kenyan Constitution's protection of fundamental rights and freedoms. Nyayo House was a government institution and the acts of physical and mental torture alleged by the plaintiffs were committed by government employees.
- "There was no limitation period for seeking redress for violation of the fundamental rights and freedoms of the individual under the Constitution of Kenya."
- The plaintiffs had given sufficient particulars of their arrest and confinement to enable the A.G. to know the nature of the plaintiff's claims.

- The plaintiffs were "seeking declaratory relief and monetary redress for violation of their fundamental rights and freedoms under the Constitution," not to simply have the truth of what was done to them exposed publicly.

The High Court ruled it had the Constitutional authority to award damages for violation of a plaintiff's fundamental rights and freedoms by the A.G.'s deliberate endangerment of their health and infliction of mental pain that amounted to torture. The High Court also opined that in addition to actual damages it could award punitive damages based on the rights violated and the period of time the violations occurred.

In conclusion the High Court determined the twenty-one plaintiffs had each established substantial violations of their fundamental rights and freedoms under the Kenyan Constitution. The High Court awarded damages to the plaintiffs that varied from \$12,579 (Kshs. 1 million) to \$37,736 (Kshs. 3 million).

Note: Kshs. Are Kenyan shillings.

Sources:

Harun Thungu Wakaba and 20 others v The Attorney General [2010] eKLR
"Torture Victims awarded close to Kshs. 40 million in damages," Kenya Law Reports weekly e-newsletter, July 30, 2010.

Aquariums cont. from page 10

200,000 political prisoners are incarcerated at any given time in its forced labor camps – which is about 1% of the country's population.

Aquariums of Pyongyang is the first published true-life account about the inner workings of the North Korean Gulag. It makes it evident that there is a rule of law in North Korea, but it is the rule that a person is subject to summary arrest and indeterminate confinement as a slave laborer with no option for challenging their imprisonment. Chol-hwan describes a Kafkaesque world in which innocence is irrelevant and no one knows whether he or she will ever be allowed to emerge from being buried alive in hell on earth.

Aquariums of Pyongyang is available from *Justice:Denied's* BookShop for \$15.95. (check, money order or stamps) Use the order form on page 15, or order with a credit card from Justice Denied's website at, <http://justicedenied.org/books.html>

Gladys and Jamie Scott Getting National Publicity In Bid For Mississippi Pardons

For years Nancy Lockhart was a lone voices in the wilderness advocating on behalf of the innocence of Gladys and Jamie Scott. In 1994 the sisters were convicted of robbing two men in Scott County, Mississippi of \$11. The men were not injured. Three boys confessed to the robbery and agreed to plea deals giving them jail sentences of less than a year in exchange for testifying against the sisters, who insisted at their trial they were not involved in the robbery. Both sisters were convicted and sentenced to life in prison.

One of the boys has signed an affidavit the sisters didn't have anything to do with the robbery and he only testified they were so

he would get a short jail sentence. There are also two other affidavits clearing the sisters of the crime.

The Scott sisters filed a pardon petition, and the outrageousness of their case has attracted national attention, even being featured on MSNBC. Even without their credible claim of innocence, life in prison for a non-violent \$11 robbery is draconian.

More than three hundred people rallied in support of the Scott Sisters at the capital in Jackson, Mississippi on September 15, 2010. The *Jackson Clarion-Ledger* published a major article with pictures.

For current information about the Scott Sisters and who you can contact to help them in their effort to be pardoned. See their website maintained by their mother, <http://www.freethescottsisisters.blogspot.com>



Jamie & Gladys Scott