

May 2021

Policy Brief

Practices of Detention in Liberia's Prison

“It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.” Nelson Rolihlahla Mandela

Hosting pretrial detainees in prisons, is a contravention of Article 21 of the 1986 Constitution of Liberia¹. Pre-trial detainees in Liberia prison over the years have constituted the highest numbers of inmates in all the 16 prisons across the country which is in violation of Article 21 constitutional provision. Keeping detainees in the same prison cell over a period exposed detainee to hardcore criminal activities; and besides, this is also a contravention to the Nelson Mandala Rules for Prisoners. However, if the capacity is available for prisons to host pretrial detainees especially those who have committed heinous crimes, the observation of the separation of inmates' categories must be ensured. The Standard Minimal Rules for the Treatment of Prisoners; now the Nelson Mandala Rules for Prisoners clearly defined the separation of the categories of prisoners that Liberia must practice as a founding member of the United Nations².

In line with the law, the Liberia National Police (LNP) is charged with the responsibility of keeping and investigating accused persons while in their facility within 48 hours, however, this is not the practice³. From RHRAP assessments on prisons and detention sites, despite the low capacity of prisons including inadequate availability of prison cells for hosting the huge influx of inmates, the hosting of pretrial detainees is contributing to the increased crisis including health and prison's overcrowdings. However, the sanitation condition of prisons except for the Monrovia Central Prison (MCP) are far better as compared to police withholding cells that are very offensive and not conducive for human⁴. The need to construct human friendly police withholding cells across the country with adequate capacity to host all categories of accused persons is highly essential in promoting an effective Criminal Justice System.

The Criminal Justice System (CJS) of Liberia is heavily challenged at various levels thus hampering the effective implementation of the rule of law and the protection of the fundamental human rights of residents in Liberia. The slow adjudication of cases on the dockets not only in Bong, Lofa, Nimba Margibi Counties, but the entire country remains challenged. Minor cases that can be resolved at community levels using Alternative Dispute Resolution (ADR) are being sent to court despite the courts' slow adjudication of cases and the inadequate access to a speedy trial. For example: As of May 26, 2021, prolonged pretrial detainees within the Liberian prisons across the country constituted 70% of the total number of 2,697 inmates nationwide. In Bong, Lofa, and Nimba, which is call Reginal Hub 1, were 627 inmates with 438 prolonged pretrial detainees constituting 69.8% for the three-prisons' population which

¹ “..... nor shall any person be seized and kept among convicted prisoners or treated as a convict, unless such person first shall have been convicted of a crime in court of competent jurisdiction”.

² Rule 11 of the Nelson Mandala Rules for Prisoners

³ Every person arrested or detained shall be formally charged and presented before a court of competent jurisdiction within forty-eight hours. Should the court determine the existence of a prima facie case against the accused, it shall issue a formal writ of arrest setting out the charge or charges and shall provide for a speedy trial. There shall be no preventive detention.

⁴ In July 2020, RHRAP completed a scoping exercise on various police withholding cells and court where information was gathered about the deplorable conditions of police withholding cells in Montserrado funded by LPAC/UDAID.

EVIDENCE BASED POLICY BRIEF ON DETENTION IN LIBERIA

May 2021

is alarming⁵. Despite the presence of Public Defenders within these counties that are paid by taxpayers' money, citizens are not aware of government-paid Public Defenders' roles which also caused delays in the adjudication of pretrial detainees' cases especially for indigents. Majority of the residents in rural communities if not the entire country lacks adequate knowledge on how the Criminal Justice System (CJS) works thus contributing to community residents lack of confidence in the justice system which also contribute to mob justice across the country. For example: The Maryland County Central Prison was broken and set ablaze by angry crowd and inmates ran away. This was due to the delay in the adjudication of case involving an 18-year-old boy Moses Mlamah who murdered a 22-year-old motorcyclist, Moccidious Nyemah on March 25, 2021, in Bassiken in the Pleebo District of Maryland County; and body parts taken away for ritual purposes⁶. On April 20, 2021, a popular warehouse located in the Fulton Dumber Field Community around the ECOWAS parking station in Ganta was burnt down during the early morning hours of April 20, causing panic amongst residents of Ganta⁷. For the past years, there has been an increased in mob justice in Liberia. In May 2019, the attention of the Liberian National Bar Association (LNBA) was drawn to the act of mob justice in Liberia and provided a position statement⁸.

Recommendations:

- ⇒ The Government of Liberia should consider the construction of adequate police withholding cells across the country with the capacity to host all pretrial detainees and stop using the prison as detention sites.
- ⇒ Inservice training for Law Enforcement Officers on practices of human rights in policing and corrections to ensure the implementation of the rule of law and fundamental human rights.
- ⇒ That the Government of Liberia consider the passage of the Alternative Disputes Resolution (ADR) bill that is currently languishing at the House of Representative.
- ⇒ That the Government of Liberia increase the number of Public Defenders in the various political subdivisions and keep citizens informed about the workings of Public Defenders

With the current economic status of Liberia where the government is hugely challenged at various levels, this policy brief also seeks to recommend to bilateral partners to Liberia, National and International Non-Governmental Organizations with interest in promoting genuine democracy in Liberia to consider developing programs that will support the recommendations provided in this evidence-based policy paper.

Conclusion:

This is an evidence-based policy brief that seek to inform or remind national government about some lapses within the Criminal Justice System (CJS) with primary focused on detention to consider developing mechanisms that will improve the CJS in Liberia. It also brings attention to other actors such as bilateral partners to Liberia, Civil Society Organizations (CSO), International Nongovernmental Organizations amongst others to consider developing programs that will seek to address the above recommendations. To this end, this policy paper should be taking as a working tool that will promote collaborative problem-solving mechanism between and amongst various actors in the promotion and protection of fundamental human rights, rule of law and genuine democracy in Liberia. Finally, as a member of the Economic

⁵ RHRAP County Monitors collected these statistics; RHRAP is currently monitoring police withholdings cells, courts, & prisons in Lofa, Bong, and Margibi Counties with funding from the National Endowment for Democracy (NED) & the European Union (EU).

⁶ <https://africa.cgtn.com/2021/04/02/liberias-maryland-county-under-curfew-following-prison-break-and-protests/>

⁷ <https://liberianewsagency.com/2021/04/29/lnp-sends-to-court-4-persons-for-their-role-in-burning-a-warehouse-in-ganta/>

⁸ <https://frontpageafricaonline.com/news/liberia-bar-asso-condemns-mob-justice-against-sinoe-women-speaks-on-ongoing-impeachment-proceedings-in-the-senate/>

EVIDENCE BASED POLICY BRIEF ON DETENTION IN LIBERIA

May 2021

Community of West African States (ECOWAS), African Union (AU) and the United Nations (UN), Liberia must always strive to implement international human rights instruments⁹ on detention sites and prison's conditions most of which are inline with its statutory laws. Liberia has signed and ratified "The Kampala Declaration on Prison Conditions in Africa, Nelson Mandala Rules for Prisoners, The African Charter, etc."

RHRAP Brief Introduction

The Rural Human Rights Activists Programme (RHRAP), Inc. is a human rights and peace organization that was established in December 1997 by a group of activists who believed that the message of human rights should be spread into the rural areas so as to educate the rural inhabitants on issues of human rights, peace and social developments. It is a non-profitable, non-governmental and non-political organization and it is a membership organization. RHRAP has over two decades of experience working as a Civil Society Organization working on accountability projects including human rights, rule of law and democracy in Liberia.

Rural Human Rights Activists Programme (RHRAP)
Broad and Gaurley Streets, Raymond Building
2nd Floor-Apt 15
Monrovia, Liberia
Cell:0886515953/0770457621
Email: lormarhrap@gmail.com, lorma@rhrapliberia.org
Website: www.rhrapliberia.org

⁹ The Kampala Declaration on Prison Conditions in Africa, Nelson Mandala Rules for Prisoners, The African Charter, etc.