

October 31, 2019

**FINDINGS ON THE PRISONS, COURTS, & POLICE
WITHHOLDINGS IN BONG, LOFA & MONTSERRADO
COUNTIES**

Promoting an Effective Criminal Justice System in Liberia



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PURPOSE OF THE REPORT

The purpose of RHRAP monitoring the prisons, police withholding cells and courts is to documents deficits in the application of the rule of law, and fundamental human rights within the justice and judicial sectors including conditions of prisons and other detention facilities and use the findings to remind the government of its obligations to comply with both domestic laws and regulations as well as international human rights instruments that Liberia is signatory to. RHRAP also use such report to engage international partners to help support the gaps identified making such report a working tool.

Over the past three years, RHRAP and its partners have used donor funding to contribute to strengthening the capacity of the Police, Correction Officers in Bong, Lofa, and Nimba Counties. The knowledge and skills are currently been applied by beneficiaries in their various areas of assignments, which rare gradually contributing to the promotion, and protection of the fundamental human rights and the rule of law. Similarly, the purpose of RHRAP's justice and judicial sectors monitoring is intended to thoroughly analyze gaps in the full application of the rule of law, and the respect for the fundamental human rights of community residents and engage state actors for change (policy reform) which will promote an effective Criminal Justice System (CJS) inline with the statutory law and human rights standards. The findings are focused on three counties namely Bong, Lofa, and Lower Montserrado Counties of Liberia and specifically focused on prisons, police withholding cells, and the courts.

I. The Prison Conditions

A. Voinjama Prison Facility

The Voinjama Prison facility is located in the Voinjama District, Lofa County. Voinjama is the political capital seat of Lofa County. The prison condition in Voinjama is far below standards including the separation of prisoner's categories, sanitation and medication. From 2017 to October 2019, 2 inmates have been reported dead from minor illnesses that could have been treated and death avoided. Meal is being provided one time a day with very low nutrition. *"On many occasions if not all, only cooked rice with oil is provided"* Said inmates at the Voinjama prison. The Voinjama Prison is very overcrowded. It was built in 1970 to accommodate 40 inmates but currently hosting 99 inmates with 55 prolonged pretrial detainees, but sometimes host up to 175 inmates making it totally devastating. This is in contravention of the 1986 Constitution of Liberia Article 21 (e).

The timely adjudication of cases on the court dockets in Voinjama remains a serious challenge to the courts (Magisterial and Circuit) in Lofa County. The fifty-five prolonged pretrial detainees have overstayed in person beyond the statutory period (two terms of court) and have not heard their cases in the court, which contributes to the overcrowdings of the prison. Besides, inline with prison rules of Liberia, convicts who have been sentenced for more than 3 years should be sent to the Zwedru Correction Palace in Zwedru, Grand Gedeh County; which is not being done despites being one of the major contributing factorsto prison overcrowdings.

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Unlike other prisons, the Voinjama Prison facility does not have a fence or wall around it making it very easy for jailbreak. The walls of the prison cells are almost damaged (very soft wall) that could collapse in the very short future. *“We could experience jailbreak if this situation is not addressed. “We are appealing to likeminded NGOs like yours to help us address this problem”* says the Voinjama Prison Superintendent. According to the County Solicitor of Lofa County, in person of Cllr. Luther Sumo, there is no funding to enable him take these kinds of inmates to the Zwedru Correction Palace, which could help in reducing the overcrowding of the Voinjama Prison.

“We are seeking help from organization like yours to help us with funding to transfer some convicted inmates to the Zwedru Correction Palace in Grand Gedeh County which will help to reduce the overcrowding of the Lofa County Prison facility”. Says Cllr. Luther Sumo, County Solicitor, Lofa County.

B. Gbarnga Prison

The Gbarnga Prison facility is hugely overcrowded. The prison was built to accommodate 130 inmates, but now it accommodates 268 inmates as of October 31, 2019 with huge number of pretrial detainees in the number of 191. The separation of prisoner’s categories also remains a serious challenge in this prison. Juvenile are mixed with adults; likewise the convicted inmates are mixed with the pretrial detainees which is in total contravention of the 1986 Constitution of Liberia Article 21 (d) which states that *“...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 a court of competent jurisdiction. The Legislature shall make it a criminal offense and provide for appropriate penalties against any police or security officers, prosecutor, administrator or any other public official acting in contravention of this provision; and any person so damaged by the conduct of any such public official shall have a civil remedy therefor, exclusive of any criminal penalties imposed”.*

However, it was observed that female inmates are kept separately from the males. When the Prison Superintendent was asked about the prison overcrowdings, he said *“Although we are aware that this is a violation; but we cannot do anything as Correction Officers until government can address the low capacity for accommodation at the prison. We received inmates on order for commitment”* which we are under obligation to do.

Similarly, there is a complete sanitation crisis at the Gbarnga Prison, which is commonly known by most residents of Bong County as Jorpolu. From RHRAP field monitoring, the overcrowdings of the prison cannot only be attributed to the slow adjudication of cases on the court dockets, but also the low capacity of prison to accommodate inmates. There are over 30 inmates that are convicted for over 3 years. In line with Liberia prison policy, inmates with the duration of over 3 years imprisonment are to be taken to the Zwedru Correction Palace, the only correction center in Liberia, but is not being done. At the two (2) prisons visited there is no health care, although they have space for assigned Nurses, but Nurses are not usually seen at the prison. There are pith latrines within each of the cell with poor sanitation that contributed to poor health of inmates. No recreational facilities, nor any form of educations, which needs

to be addressed. In terms of prison conditions, besides the contravention of its domestic laws, it is frustrating to note that Liberia is yet to meet up with those conditions that are lie-down in international human rights instruments on prisons. For example: The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) Article: 11, 12, 22, 23, 24 amongst others, the Kampala Declaration of Prison Condition in Africa, etc. The government of Liberia has failed to adhere to its own Statement of Mutual Commitment of 2011 which states that: *“The Government of Liberia shall take immediate steps to reduce the unacceptable levels of Pre trial detention cases.”*

Police Withholding Cells

B. Lofa County Police Withholding

The five (5) Police Withholding cells in Lofa County visited are completely appalling including poor sanitation especially the Voinjama, and Zorzor Police Cells. The Zorzor and Salayea Police withholding cells are used to keep convicted persons, which is a total contravention of Article 21 (e) of the 1986 Constitution of Liberia. Comparing the prison and police withholding cells in Voinjama, despite the poor sanitation conditions of the Voinjama Prison, the Voinjama Prison is far better than the police-withholding cell in Voinjama. The capacity of the Voinjama Police Cell is very low to accommodate the increased in crimes. The police station was built in 1971 when the population of Voinjama was under 20,000 inhabitants and now Voinjama has approximately 40,000 plus inhabitants. The 48 hours statutory period for police interrogating an accused person at the Voinjama Police Cell seems to be working and far better than Foya, and Kolahun Districts police withholdings cells. Foya and Kolahun Statutory Districts are very remote with low presence of Police Officers. Some of the inmates interviewed at the Voinjama Prison facility who went through the Voinjama, Kolahun and Foya Police Withholdings Cells before getting to the Voinjama Prison told RHRAP Team about their experiences including overstay (over 48 hours) during police interrogations. This contravened Article 21 (f) of the 1986 Constitution of Liberia. Information dissemination to accused persons on their Miranda rights is not been applied by Police Officers outside of Voinjama, which is in contravention of 21 (c) of the 1986 Constitution of Liberia.

In Kolahun and Foya Districts Lofa County, capacity building training for police officers as in the case of Voinjama is not available. Five officers told RHRAP Team that after their training at the Liberia National Police Academy, they have not benefited from any form of rule of law and human rights training. There are several cases of preventive detentions in police withholding cells, which is in contravention of Article 21 (e) of the 1986 Constitution of Liberia. *“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”.*

The Professional Standard Division of (PSD) of the Liberia National Police is not effective in the entire Lofa County. Community residents have lots of complains about police officers' unlawful behaviors but don't know where go including the procedures.

Police Withholding Cells in Lower Montserrado

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It is very frustrating to see that all police withholding cells in the entire Montserrado and not only in lower Montserrado are very appalling despite series of capacity building supports that were offered by UNMIL prior to their departure. In the capital of Liberia, the rights of an accused including the rights to a lawyer, the 48 hours statutory period for police interrogation, informing the accused about their Miranda rights are violated on a daily basis. Public Defenders are difficulty to access by accused persons. The Montserrado County Solicitor is not monitoring cases especially those cases involving indigents; except for cases that have monetary values making it very vulnerable for marginalized groups. These are some contributing factors for community residents losing trust in the justice and judicial systems, which contribute to lots of mob justices within not only in Montserrado, but also around the country.

The Justice and Judicial Sector

The judicial and justice sectors of Liberia remains very challenged as many community residents have lost confidence in the judicial and justice sectors as a result of various forms of corrupt practices which are contributing factors to the increased occurrences of mob justice within the country. The Kingsville #7 incident is a classical example: where Elijah Kpoluma and Thomas Kollie, ages 9 and 10 years respectively went missing on May 30 and 31, 2019 after they were sent by their parents to sell but did not return home and were declared missing. Aggrieved citizens of Kingsville #7 Community in rural Montserrado County outside Monrovia complained that the missing children were later found dead with parts extracted from their bodies. The bodies of the two children were discovered on June 3, 2019 in the bushes of Kingsville with parts extracted from their bodies. The Police arrested four persons from the community who were accused as perpetrators of the crime; but were later freed based on the lack of evidence according to police. On June 24, 2019, residents of Kingsville #7 Community staged a protest in demand of justice for the mysterious death of the two children in order to get attention from the Government of Liberia. A tussle transpired between Police Officers and the protesters and the Police opened fire at community residents (protesters), which resulted to the injuring of three young men (Abraham Tumay, 17 yrs old, Saah Saah, 18 yrs old, and Dave Mombo, 18 years old). Abraham Tumay was taken to the Du-side Hospital (Firestone Medical Center) in Margibi County and died on June 25, 2019 after sustaining skull fracture and brain damage. The Kingsville Community residents are demanding for justice for the death of the boy and those wounded.

There is an increase in prolong pretrial detention despite the presence of Public Defenders within the county, as well as County Solicitor. According to findings, in many cases, Public Defenders & County Solicitors take interest and make follow-ups only on cases where they can generate money thus leaving indigents who constitutes large number of pretrial detainees. Community residents are accusing Public Defenders and County Attorneys in some cases of extorting money from indigents. Case flows are not adequately monitor starting from the police to court and prison. There are many pretrial detainees at the Voinjama and Gbarnga prisons; and their records cannot be traced from the police and the court.

From RHRAP's field monitoring visitations to Bong, and Lofa, including the capacity building

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workshop with Bong County community residents, community residents are complaining of intimidations in court proceedings, unlawful arrests and detentions of community residents including extortion of money, and excessive finds and bond fees.

There are various complains of police extorting money from community residents to follow up on cases; and sometimes police stations are being used as court hall in adjudicating cases. According to citizens from Bong County, during RHRAP's capacity building workshop in Bong County, it was discovered that Sheriffs usually collect money from citizens whenever they carry arrest warrants. Citizens are accusing Public Defenders of taking money from indigents to plead heir cases, which should not be done because Public Defenders are paid by taxpayer's money.

The use of Miranda rights by state polices during interrogation as required by law continue to be violated in many communities of Liberia thus causing residents to lost trust in the judicial and justice sectors. The procedures and space available in complaining justice and judicial actors including police, judges are not functional at county level; as many community residents are not aware of the processes involve. The issue of 13.5 as provided for by the Criminal Procedure Law (CPL) is being widely misused, as it is purely discretionary. Judges are usually imposing excessive fines on accused persons; and turning civil cases into criminal cases intended to extort money. In line with law, bond fees are to be refundable but are not being done. All of the above are various forms of corruption that needs to be curtailed at various levels if Liberia must achieve an effective Criminal Justice System in the interest of all without favor. The above practices are clear indicators that there is less accountability within the justice and judicial sectors, which contributes not only to residents' lack of trust in the Liberian justice and judicial system but sometimes leads to mob justice in various communities.

The situation encountered by the justice and judicial sectors of Liberia are serious democratic deficits that need to be corrected if Liberia must achieve genuine democracy. To promote genuine democracy in Liberia, justice and judicial sectors accountability must be prioritized and taking seriously if we must gain milestone in the restoration of democracy including the fight against corruption that will create public interest in using the justice and judicial sectors instead of taking the laws into their hands.

Parole and Reintegration

The Parole and reintegration program under the Ministry of Justice as provided for by law are not effective. Parole and Reintegration Officers are not actually performing their duties; and the worse of all, community residents are not aware of Parole and Reintegration Officers and their functions making it difficult for them to benefit nor monitor these processes and report gaps. Reintegration of inmates who have served there jail terms are left alone to go without any form of reiteration package inline with the law. As a result, many of them are usually afraid to go back home where they committed the acts prior to their sentenced. They preferred to stay in Voinjama without support, which leads them back to the involvement in criminal activities and back to jail leading to the increase in recidivists at the prisons.

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As a result of RHRAP's findings, the below are recommended.

- ✓ Quickly address the issue of health care and sanitation of the prisons
- ✓ The Professional Standard Division (PSD) of the Liberia National Police is adequately decentralized into counties and its rural communities to report police unlawful behaviors.
- ✓ Revamp the reporting mechanism for complaining Judges at county
- ✓ Keep synergy of inmates records starting from police – court - prison
- ✓ Establish fast track courts in all parts of the country to timely adjudicate cases to stop prolonged detention
- ✓ Transfer all convicted inmates sentenced from 3 years above to the Zwedru Correction Palace in Grand Gedeh County
- ✓ Quick impact project to construct additional prison cells that will immediately address the deplorable prisons
- ✓ Construction of new prison in Voinjama to immediately prevent the collapse of the prison
- ✓ Government should immediately address to the separation of prisoner's categories