



Liberia's Compliance with the International Covenant on Civil & Political Rights: Detention Conditions and Lengthy Pre-trial Detention

Submitted by

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and

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The Advocates for Human Rights (“The Advocates”) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates has a long history of assisting the Liberian diaspora community in the United States. From 2006 to 2009, The Advocates worked with the Truth & Reconciliation Commission of Liberia to give the Liberian diaspora a voice in the process of investigating human rights abuses during the country’s long period of civil conflict and to make recommendations to promote peace and reconciliation. This work resulted in the publication of a book-length report by The Advocates entitled *A House with Two Rooms*. Since then, The Advocates has continued its close connections to Liberia, including site visits, advocacy at the United Nations, work with the Liberian diaspora and representation of numerous Liberian refugees seeking asylum.

The Liberia Law Society (“LSS”) is a professional body committed to promote peace, justice and respect for the rule of law and new and innovative approaches to the myriad of national challenges. Founded in 2005, LSS intends to increase access to justice, facilitate strategic thinking and critical analysis of issues and seeks to offer workable alternative policy options. It seeks to promote non-violence, to address impunity, to promote social justice, respect for human rights and human development.

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EXECUTIVE SUMMARY

1. This report focuses on Liberia's obligations under the International Covenant on Civil and Political Rights (the "Covenant"). Specifically, it addresses the treatment of persons deprived of their liberty in deplorable conditions, as well as the serious problem of prolonged pre-trial detention in Liberia.
2. While Liberia has repeatedly acknowledged its substantial deficiencies in prison overcrowding, appalling prison conditions and prolonged pre-trial detention, its efforts to address these problems have been woefully insufficient. The prison system as a whole is at 165.7% capacity, with some prisons and detention centers at two or three times their capacity. Corrupt or arbitrary arrests continue to aggravate the situation of prison overcrowding. Prisoners lack adequate food, medical care and sanitation.
3. The problem of pre-trial detention in Liberia is devastating in scope. Pre-trial detainees make up the majority of the population in Liberian prisons and detention centers. Multiple factors contribute to Liberia's pre-trial detention problem. Rights to due process and fair trial, including the rights to counsel and speedy trial, are rarely enforced. There is a shortage of judges, magistrates, prosecutors and public defenders. Pre-trial detainees languish in prison for years with no access to a court.

Liberia fails to uphold its obligations under the ICCPR related to the treatment of persons deprived of their liberty and rights to due process and fair trial.

I. Treatment of Persons Deprived of Their Liberty (List of Issues Paragraph 18)

4. In the List of Issues to the initial report of Liberia, the Human Rights Committee ("Committee") asks the Government of Liberia to provide current data on overcrowding in prisons and any additional measures taken to tackle the problem.¹ The Committee further asks the government to provide information related to the high rates and lengthy periods of pre-trial detention.
5. In its initial State Party report to the Committee, the Government of Liberia acknowledges that it faces a major challenge with prison overcrowding.² The State Party report points to a number of initiatives which it maintains are intended to address prison overcrowding. It

¹ U.N. Human Rights Committee, *List of Issues in relation to the initial report of Liberia*, (hereinafter referred to as "List of Issues"), (August 21, 2017) CCPR/CLBR/Q1, ¶ 18.

² U.N. Human Rights Committee, *Initial Reports of States Parties Due in 2005: Liberia*, (hereinafter referred to as "State Party Report"), (December 9, 2016) CCPR/C/LBR/1, ¶ 81.

states that it has expanded the jurisdiction of magistrate courts to help with case backlogs,³ started a Magistrate Sitting Program in Montserrado County and a “jail delivery program” in other counties, to fast track cases (which it claims has “effectively lowered the rate of pre-trial detention”),⁴ trained sixty additional Associate Magistrates,⁵ given more training to twenty-eight existing public defenders and added eight more,⁶ built an unspecified number of new corrections facilities,⁷ and plans to build a new 1200-bed prison in Cheesemanburg but has been stymied by a lack of funding.⁸

6. The State Party report also notes that prison conditions are inspected by the Ministry of Justice,⁹ and also by the Independent National Commission on Human Rights (INCHR).¹⁰ On December 20, 2016, the INCHR issued its *Report on Prisons and Prisoners* based on its own monitoring of Liberian prison conditions, interviews of concerned stakeholders and review of secondary sources.¹¹ The INCHR report found that prison conditions in Liberia are “appalling,” “have deteriorated on several fronts” and that “the prison population continues to grow at a steady rate.”¹²
7. **Independent sources support the INCHR assessment that the Liberian prison population has continued to grow.** As of 14 September 2016, the Liberian prison population was 2,023 and its incarceration rate per 100,000 population was 44.¹³ In 2007, the prison population was 1,022 and the incarceration rate per 100,000 population was 29.¹⁴ The official capacity of Liberia’s system of fifteen prisons is 1,022, leading to an occupancy rate of 165.7%.¹⁵
8. Liberia’s own INCHR found that Liberia’s largest corrections facility, the Monrovia Central Prison, was built to accommodate 374 inmates, but at the time of its report in late 2016, it held 1,032 inmates, approximately triple its capacity.¹⁶

³ *Id.* ¶ 81.

⁴ *Id.* ¶ 75.

⁵ *Id.* ¶ 82.

⁶ *Id.* ¶ 84.

⁷ *Id.* ¶ 92.

⁸ *Id.* ¶ 90.

⁹ *Id.* ¶ 86.

¹⁰ *Id.* ¶ 87.

¹¹ Independent National Commission on Human Rights, *Report on Prisons and Prisoners: A Call to Sustained Coordinated Collaboration and Coherent Efforts in Addressing the Appalling Conditions of Prisons and Prisoners*, (hereinafter referred to as “INCHR Report on Prisons and Prisoners”), (Dec. 20, 2016), 10–14, available online <http://inchrliberia.php/our-reports/report-on-prisons-and-prisoners>.

¹² *Id.* ¶ 16.

¹³ World Prison Brief, “Liberia,” accessed Feb. 8, 2018, www.prisonstudies.org/country/liberia.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ INCHR Report on Prisons and Prisoners, *supra*, ¶ 17.

9. The INCHR also reports that a great many Liberian prisons lack adequate toilet facilities for inmates, and some lack any functioning toilets at all. Toilet facilities were found to be inadequate and unsanitary at Monrovia Central Prison,¹⁷ the Metro Police Depot in Monrovia,¹⁸ Voinjama Central Prison,¹⁹ police cells in Sanniquillie in Nimba Country,²⁰ Harper Central Prison,²¹ the Tubmanburg Prison,²² and the River Cess Country detention center.²³
10. **Numerous prisons reportedly have insufficient beds and mattresses, shortages of food, poor sanitary conditions, building structural deficiencies and inadequate or no access to medical care.**²⁴ Independent sources have also reported overcrowding, food shortages, lack of sanitary facilities and inadequate medical care throughout Liberia’s prison system.²⁵ Prison officials steal food and other items from inmates, who often have to pay for food to supplement their meals or who depend on food from visitors.²⁶
11. **There are also credible reports of inadequate medical treatment and refusal to grant compassionate release for inmates who are ill,** as well as prisoners having long waits for medical care or medications.²⁷ An inmate at Voinjama Central Prison reportedly died of prostate cancer in prison, one month after his request for compassionate release was denied.²⁸

A. List of Issues, Para. 18, Rights to Due Process and a Fair Trial (arts. 2, 9, 14 and 15).

12. In its initial State Party report, Liberia notes its constitutional provisions requiring that detainees have the right to legal counsel,²⁹ the right to have legal aid counsel appointed if the detainee cannot afford legal counsel,³⁰ the right of habeas corpus,³¹ and the right to a speedy trial.³² Nevertheless, the Government of Liberia acknowledges that prolonged pre-trial

¹⁷ *Id.* ¶ 18.

¹⁸ *Id.* ¶ 19.

¹⁹ *Id.* ¶ 21.

²⁰ *Id.* ¶ 25.

²¹ *Id.* ¶ 26.

²² *Id.* ¶ 31.

²³ *Id.* ¶ 35.

²⁴ *Id.* ¶¶ 17–35.

²⁵ U.S. Department of State, *2016 Human Rights Report, Liberia*, 3 (hereinafter referred to as “U.S. State Department Report”).

²⁶ *Id.*

²⁷ *Id.* at 5.

²⁸ *Id.*

²⁹ State Party Report, *supra*, ¶ 74.

³⁰ *Id.*

³¹ *Id.* ¶ 72.

³² *Id.* ¶ 75.

detention is a major cause of prison overcrowding,³³ with the vast majority of persons in Liberian prisons in pre-trial detention.³⁴

13. The Advocates conducted interviews in Liberia in January of 2013 on the subject of prisons and pre-trial detention.³⁵ This first-hand information, as well as the INCHR and numerous other secondary sources, confirm that the rights to due process and fair trial in domestic law are rarely available in fact.
14. **The problem of pre-trial detention in Liberia is devastating in scope.**³⁶ Pre-trial detainees make up the majority of the population in Liberian prisons and detention centers. The INCHR found in December of 2016 that out of a nationwide total of 2,354 inmates in Liberia's prisons and detention centers, 1,297 or about 55% had not received a trial or been convicted of a crime.³⁷ As a result, pre-trial detainees can spend years in prison awaiting trial. Some detainees spend more time waiting for trial than the maximum sentence for their alleged crimes.³⁸ In Monrovia Central Prison alone, the INCHR identified 211 pre-trial detainees as of 9 May 2016, some of whom had been in prison since January of 2010 with no appearance in court.³⁹
15. **Pre-trial detainees as a percentage of the prison or detention center populations appear higher in outlying towns.** The INCHR found that 84 of the 132 inmates at the Gbarnga Central Police Station,⁴⁰ 40 of 72 at Voinjama Central Prison,⁴¹ 110 of 178 at the Sanniquellie Central Prison,⁴² 29 of 76 at Harper Central Prison,⁴³ 73 of 124 at Kakata Central Prison,⁴⁴ 28 of 30 at Greenville Central Prison,⁴⁵ 27 of 64 at Buchanan Central Prison,⁴⁶ 28 of 44 at

³³ *Id.* ¶ 96.

³⁴ *Id.* ¶ 81.

³⁵ Interviews with Liberian civil society activists and foreigners working on justice system issues in Liberia, Jan. 2013.

³⁶ *Id.*

³⁷ INCHR Report on Prisons and Prisoners, *supra*, ¶ 6 (The 2016 report of the U.S. State Department estimated this figure at 63% of the total Liberian prison population as of 14 September 2016).

³⁸ Bonnie Allen, *Pre-trial detainees in Liberia get fast track to freedom*, Deutsche Welle (Aug. 18, 2011), available at <http://www.dw.de/pre-trial-detainees-in-liberia-get-fast-track-to-freedom/a-15318920>.

³⁹ INCHR Report on Prisons and Prisoners, ¶ 10.

⁴⁰ *Id.* ¶ 20.

⁴¹ *Id.* ¶ 21.

⁴² *Id.* ¶ 23 (Prison populations fluctuate. The INCHR reported that the equivalent figures from differing sources for different dates at this prison in Nimba County were 119 of 190 in August 2016, 92 of 144 in February 2016, and 151 of 172 in March 2016). ¶ 24. The report notes that this prison was built to hold a capacity of 74 inmates. *Id.*

⁴³ *Id.* ¶ 26.

⁴⁴ *Id.* ¶ 29.

⁴⁵ *Id.* ¶ 30.

⁴⁶ *Id.*

Tubmanburg Prison,⁴⁷ 58 of 213 at Zwedru Correction Palace,⁴⁸ and 17 of 48 at River Cess County's detention center,⁴⁹ were pre-trial detainees.

- 16. Lengthy pre-trial detention carries tremendous personal costs for detainees and their families.** Crowded in dark, dirty cells, without adequate food, sanitation or health care, some detainees suffer permanent damage to their physical or mental health.⁵⁰ As the director of a Liberian NGO who works with detainees explained, "People are rejected by society when they are arrested, regardless of whether they are innocent."⁵¹ Prolonged pre-trial detention also has a devastating impact on families as "the families of the prisoners become vulnerable."⁵² As one NGO staff member who works in the prisons put it, "[W]e have seen cases where children, even wives, of prisoners get into trouble and are [also] imprisoned."⁵³
- 17. Multiple factors have caused Liberia's pre-trial detention problem.** Much of the circuit courts' infrastructure was destroyed during the Liberian conflict, such that "trials and everything move at a glacial pace."⁵⁴ The judiciary is inadequately funded and courts often lack the financial and infrastructure resources, including personnel, necessary to decide cases or keep track of Liberia's large number of detainees.⁵⁵ Judicial inefficiency, corruption, insufficient transport and court facilities, and poorly trained attorneys and judges further contribute to trial delays.⁵⁶ The U.S. Department of State confirms the INCHR report's findings that a shortage of trained prosecutors and public defenders, insufficient capacity of the court system, inadequate police procedures and judicial corruption aggravated the pre-trial detention problem.⁵⁷
- 18. In addition, there is problematic lack of coordination between the police and the court system.**⁵⁸ Further, many Liberians remain uneducated about legal rights and legal procedure, and "there are many misconceptions about the law among police and even lawyers."⁵⁹ Addressing the problem of pre-trial detention by releasing inmates is not

⁴⁷ *Id.* ¶ 31.

⁴⁸ *Id.* ¶ 33.

⁴⁹ *Id.* ¶ 35.

⁵⁰ Amnesty International, *Good Intentions are Not Enough: The Struggle to Reform Liberia's Prisons* (September 2011) at 2.

⁵¹ Interview with staff member of an NGO that works in the prisons in Liberia (Jan. 26, 2013).

⁵² Interview with staff member of an NGO that works in the prisons in Liberia (Jan. 26, 2013).

⁵³ Interview with staff member of an NGO that works in the prisons in Liberia (Jan. 26, 2013).

⁵⁴ Interview with justice sector staff member, U.S. Department of State (Jan. 24, 2013).

⁵⁵ *Liberia: Resurrecting the Justice System*, Report of the International Crisis Group at 3, 5 (Apr. 6, 2006).

⁵⁶ U.S. Dep't of State, Country Report on Human Rights Practices for 2013, Liberia at 7, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

⁵⁷ U.S. State Department Report, at 10.

⁵⁸ Human Rights Watch, *Country Report: Liberia* (January 2014) at 2.

⁵⁹ Interview with justice sector staff member, U.S. Department of State (Jan. 24, 2013).

universally popular in Liberian society, as some Liberians fear the release of violent criminals.⁶⁰

19. **The right to counsel is rarely effective as there is a very significant shortage of legal aid lawyers, and even those sometimes require payment for work.** Individuals interviewed by The Advocates reported that a major contributor to the overcrowding problem was on the inflow side. There was much corruption among the police and magistrates, such that persons could achieve by bribery the arrest of an enemy or someone who owed them money, and such targets would be added without undue ceremony to the prison population and left there, sometimes for years, without having a day in court.⁶¹ “Police officers or magistrates frequently detained citizens for owing money to a complainant.”⁶² In response to this practice, Chief Justice Francis Korkpor issued an order on 8 August 2016 stopping judges and magistrates from issuing criminal warrants of arrest without prosecutorial approval or based on case-specific police reports; nevertheless, some magistrates continued to take payments from complainants for the issuance of writs of arrest.⁶³
20. **Due to insufficient understanding, police sometimes made arrests in good faith for things that are not crimes, such as not paying a bill or “alcohol incapacitation.”**⁶⁴ Security forces have announced programs such as “Operation Visibility,” aimed at raising police presence, especially during major holidays.⁶⁵ During such operations, security forces including the Liberian National Police have made arbitrary arrests of suspected drug dealers and users based only on a supposed high probability that they will commit a crime.⁶⁶
21. **The “fast track” programs intended to deal with pre-trial detention backlogs that are described by Liberia in its report to the ICCPR⁶⁷ do not appear to have made significant improvements in the pre-trial detention problem,** although the Magistrate Sitting Program did effect a significant number of releases in 2015.⁶⁸ The U.S. State Department has criticized the Magistrate Sitting Program, reporting that it “suffered from poor coordination among judges, prosecutors, defense counsels, and corrections personnel;

⁶⁰ Betty K. Johnson Mbayo, *Overly Crowded Monrovia Central Prison Unable to Accept More Detainees*, Front Page Africa, Dec. 2017, <https://www.frontpageafricaonline.com/index.php/news/6350-overly-crowded-monrovia-central-prison-unable-to-accept-more-detainees> (The article laments the overcrowding and desperately poor conditions of the prison, but also warns that releasing prisoners could represent a danger to the community and a failure of the justice system to protect the public).

⁶¹ *Id.*

⁶² *Id.* 7.

⁶³ *Id.* 7–8.

⁶⁴ *Id.*

⁶⁵ U.S. State Department Report, *supra*, 9.

⁶⁶ *Id.*

⁶⁷ State Party Report, *supra*, ¶¶ 2, 75, 81, 82, 84.

⁶⁸ U.S. State Department Report, *supra*, 9.

deficient docket management; inappropriate involvement of extrajudicial actors; and lack of logistical support.”⁶⁹

22. **Further, the Government of Liberia fails to meet the United Nations Standard Minimum Rules for the Treatment of Prisoners (“The Nelson Mandela Rules”) requirement that prisons maintain a prisoner file management system on site, which may be either an electronic database or a registration book.**⁷⁰ The file management system must document a number of facts about each prisoner, including the reason for detention and the date and time of both arrest and admission to the facility.⁷¹
23. While the United Nations Mission in Liberia (UNMIL) had provided major support for the record-keeping efforts of Liberia’s Bureau of Corrections and Rehabilitation (BCR), that support was withdrawn as part of the general drawdown of UNMIL operations.⁷² The BCR then ceased preparing its complete prison roll, ceased efforts to modernize the roll and ceased transferring paper records from field facilities to headquarters.⁷³ The roll, which is not always accurate, does not include court appearance dates and other relevant information.⁷⁴ As of 2016, the BCR did not have its own funding allocation under the national budget, but rather was funded by the Ministry of Justice.⁷⁵ Its funding has been inadequate to bring Liberian prisons and detention centers into compliance with international human rights standards.⁷⁶

III. Suggested Recommendations

24. **The Advocates for Human Rights and the Liberia Law Society suggest the following recommendations for the Government of Liberia related to the treatment of persons deprived of their liberty:**
- Increase the budgetary and political priority placed on alleviating the severe human rights abuses in Liberian prisons and detention centers resulting from corrupt and arbitrary arrests, insufficient budgets, corruption in the prison system, deficiencies in the justice system, overcrowding and prolonged pre-trial detention.
 - Assign clear responsibility and accountability for improving prison conditions to the head of the Bureau of Corrections and Rehabilitation (BCR), and provide the BCR with the necessary authority and funds to do the job.

⁶⁹ *Id.* 11.

⁷⁰ U.N. General Assembly Resolution 70/175, Rule 6, U.N. Doc. A/Res/70/175 (Dec. 17, 2015). Also available online at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/175.

⁷¹ *Id.*, Rule 7.

⁷² U.S. State Department Report, *supra*, 5.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* 4.

⁷⁶ *Id.*

- Allocate funding for the BCR in the national budget directly, rather than funding the BCR through the Ministry of Justice.
- Seek support from international partners, both governmental and civil society organizations, to obtain the substantial funding and logistical support that will be necessary to address Liberia's serious deficiencies in its corrections system.
- Resume the record-keeping work that was abandoned after the UNMIL drawdown, so that the BCR has accurate and up-to-date records of its inmates as required by the Nelson Mandela Rules. Contact civil society organizations that may be of assistance, for example the Prison Fellowship which has been creating its own prisoner data base.
- Step up efforts to train police and magistrates on proper procedures for arresting and detaining suspects.
- Analyze arrest records to identify patterns indicative of corruption or overly zealous issuance of writs of arrest.
- Through the Liberia National Police and the Ministry of Justice, investigate, remove from office and where appropriate prosecute corrupt police officers and magistrates who make or approve arrests based on bribes, personal animus, civil debt obligations or other improper purposes.
- Through the BCR and the Ministry of Justice, investigate, remove from office and where appropriate prosecute corrupt prison officials who steal from inmates, abuse or neglect inmates, take bribes, or convert to their own uses resources intended for the prisoners or the prison system.
- Appoint prisoner *ombudsmen* in each Liberian prison or detention center, to monitor inmates and help protect their rights under the Liberian Constitution to counsel, a speedy trial, and humane prison conditions.
- Require the BCR to report to the government on a regular basis on the progress made in improving prison/detention center conditions and reducing prolonged pre-trial detention.
- Launch a public education campaign on the evils of prolonged pre-trial detention and the necessity to devote substantial resources to eliminating the human rights abuses in Liberia's prison system. Include in the campaign valid assurances that violent criminals who have been convicted and who represent a danger to the public will not be released simply to reduce overcrowding.
- Direct the ICNHR to continue its monitoring of Liberia's prisons and detention centers, and to report its findings on a regular basis to the government and the public.
- Continue to cooperate with other appropriate monitoring organizations.
- Resume construction of the new prison facility in Cheesemanburg and construct such other new facilities as are necessary to provide decent conditions for prisoners who are appropriately detained.

25. The Advocates for Human Rights and the Liberia Law Society suggest the following recommendations for the Government of Liberia related to the rights of due process and fair trial:

- Continue increasing the numbers of prosecutors, legal aid defense counsel, magistrates and judges, to deal with the problem of prolonged pre-trial detention.
- Create incentives for lawyers in private practice to offer *pro bono* representation of detainees, for example by waiving bar fees for lawyers who agree to accept a certain number of *pro bono* clients.
- Create similar incentives for doctors and other health care providers to offer *pro bono* services to inmates.