



PRISONS OVERCROWDING IN LIBERIA

December 2022

BACKGROUND

Liberia has a long history of prisons overcrowding. As of 1st of November 2022, the prison population stood at 3,256 inmates, 73 % of which were pre-trial detainees. The Monrovia Central Prison (MCP) houses 50 % of the country's prison population and was built to host 374 inmates. As of the beginning of December 2022, MCP was hosting 1,631 inmates, of which around 84 % were pretrial detainees. Against this backdrop, the Bureau for Correction and Rehabilitation (BCR) is severely constrained to provide inmates with adequate food or proper diet, beddings, and sanitary materials, and prevent and manage the spread of communicable diseases. Recent reports indicate a rise in the death of inmates and spread of communicable diseases at the MCP.¹ However, it remains difficult to obtain verified information on the number of deaths within Liberia's prisons. Media reports have also highlighted cases of prisoners dying allegedly of hunger.² Amidst reports of increasing deaths and disease, the superintendent in charge of the MCP declined to admit suspects committed to prison on the 15th December 2022 on account of inadequate space. This raised public attention and debate on the state of the prisons in Liberia.

IMPLICATIONS OF STATE OF PRISONS IN LIBERIA

The current state of the prisons in Liberia falls short of international standards and has serious human rights implications. Prison conditions fail to meet the norms and standards outlined in the Nelson Mandela Rules³ as inmates continue to fall ill due to overcrowding.

The Nelson Mandela Rules which was adopted by the United Nations in 2015, provides for the minimum acceptable treatment for prisoners. The Rules clearly state no prisoner shall be subjected to inhuman or degrading treatment and that the

provision of health care for prisoners is the responsibility of the State.⁴ The irregular and inadequate provision of food at MCP falls short of the standards set out in rule 22 which provides that: "Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served." The inadequate provision of food and congestion have health implications for inmates. Further, access to health care at MCP is poor as resources are low as the BCR is severely constrained to provide basic health care services.

NATIONAL RESPONSES

Justice sector actors have collaboratively taken a number of remedial measures, resulting in several releases from the MCP. Consequently, the number of inmates at the MCP has reduced from 1,631 on the 5th December 2022 to 1,342 as of 28th December 2022. An account of these remedial measures now follows.

Directive of the Chief Justice

The refusal of the BCR to admit further inmates brought to the fore the gravity of the prevailing conditions associated with overcrowding and care of inmates in Liberia's prisons and gained the attention of the relevant authorities. Consequently, a meeting ensued between Chief Justice of Liberia and the Minister of Justice to address the issue.⁵ As a result of the meeting, the Chief Justice issued a directive introducing the following measures with immediate effect:

1. All convicts who were sentenced to imprisonment with restitution attached, and have completed their jail term but restitution remains outstanding, will be brought before court by the Ministry of Justice to enter stipulation to settle the amount due.
2. All magistrates are urged to immediately refrain from committing to jail defendants who are held for the commission of minor offenses. All such defendants

¹ Liberia: Death Toll Reportedly Rising at South Beach over Illnesses but Asst. Min. for Corrections Denies Report – FrontPageAfrica ([frontpageafricaonline.com](https://www.frontpageafricaonline.com))

² Liberia: Prisoners Died of Hunger at Monrovia Central Prison – FrontPageAfrica ([frontpageafricaonline.com](https://www.frontpageafricaonline.com)). According to the US States Department Annual Report for 2020, there had been 23 prison deaths in the country from January to September 2020.

³ The United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules).

⁴ Rule 1: All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.

⁵ Meeting between Minister of Justice and Chief Justice held on 16th December 2022 at the Temple of Justice, Monrovia, Liberia.

should be released to responsible family members or community dwellers in keeping with Section 13.5 of the Criminal Procedure Law of Liberia.

3. All magistrates should release with immediate effect all pre-trial detainees who are held for offenses triable before the magistrate court, and who have remained in jail beyond the period provided by the Rules of Court (30 days).

Magisterial Sitting Programme

The Magisterial Sitting Programme of the Judiciary has been reactivated. This is a robust and proactive measure to address the issue of prisons overcrowding. Through this programme, the BCR and Judiciary identify cases of prolonged pretrial detention and the courts holds pre-trial hearings at prison premises to determine the validity of detention. Between 12th-19th December 2022, 73 inmates have been released through the Magisterial Sitting Programme.

Possible discontinuation of trial

The BCR has prepared a list of 200 pretrial detainees charged with minor offenses who have been incarcerated for lengthy periods, for onward transmission to the Ministry of Justice for review and possible application of nolle prosequi (discontinuation of trial). This will result in the release of such detainees.

Medical response

Following a request from the Minister of Justice, the BCR has drawn up a list of 75 inmates with medically conditions that require attention. The list has been forwarded to the John F. Kennedy Medical Center for medical review, with a view of proceeding with treatment and/or recommendation for release on compassionate grounds.

CONCLUDING RECOMMENDATIONS

While the recent refusal of the MCP Superintendent to accept inmates triggered national responses, the problem of prisons overcrowding and its human rights implications are not new in Liberia. While the measures adopted to address the issue will reduce the prison population, they will not resolve the problem in the long term. There is a need to continue seeking for sustainable solutions to the issue of prisons overcrowding and access to justice for all Liberians. Adequate measures should be taken swiftly, ahead of elections, as the electioneering process is expected to result in increased arrests and put more pressure on the criminal justice system. Further, these measures must be urgently adopted before policy makers turn their focus towards

the elections process. Consequently, a number of recommendations are critical for action.

First, the implementation of the policy on Alternative Dispute Resolution (ADR) is required as this will reduce the case backlog at the courts, as many of the cases in magisterial courts will be resolved at the community level. This will among other things require public sensitization on ADR and building the capacity of traditional leaders on dispute resolution in line with human rights standards.

Second, the magisterial sitting program is an effective measure, as it helps to reduce the number of pretrial detainees in prisons and the case backlog at the courts. This programme needs to be expanded nationwide to the areas where they are most needed, prioritising areas with the highest concentration of inmates.

Third, the introduction of alternatives to imprisonment is key to addressing the issue of prison overcrowding. The prison population consists mainly of indigents who are unable to satisfy bail conditions and remain incarcerated even for petty crimes. Introducing and formalizing alternatives to imprisonment will reduce the prison population and sustainably address the issue of prison overcrowding. To ensure a positive outcome of alternatives to imprisonment, it is crucial to create awareness. This is especially important for increased usage of alternatives to imprisonment and ensuring that communities understand and accept this approach.

Fourth, case management remains a critical tool that is relevant to the reduction of prisons overcrowding. By tracking cases, the status of inmates and reporting on prolonged pretrial detention, a case management system can provide a better overview of the status of cases in the criminal justice system and essentially contribute to reduce prisons overcrowding.

Fifth, it is also important to roll out plea bargaining which was adopted in Liberia by recent legislative reforms. This will require capacity development of justice sector practitioners including judges, magistrates, prosecutors and lawyers to ensure that plea bargaining is fully functional.

Sixth, advocacy for the enactment of the BCR Act is important. The BCR Act is currently before the legislature. With its passage, the BCR will have budgetary autonomy which may translate to increased resources and improved services. The primary objective of the BCR Act is to make the BCR semi-autonomous from the Ministry of Justice. This will allow the BCR more freedom to generate and manage its own funds. The Act will also bring about further discussion for the activation of a parole board, which in the long term will enhance the possibilities to decrease the prison population in Liberia.

SUMMARY OF RECOMMENDATIONS

- Advocacy – for BCR Act and parole board.
- Implement and create awareness in communities on alternatives to imprisonment and Alternative Dispute Resolution.
- Getting both formal and informal sectors working together and strengthening the capacity of traditional leaders on dispute resolution in line with human rights standards.
- Continue with and initiate new Magisterial Sitting Programmes.
- Improve case management and tracking systems.
- Roll out and implement plea bargaining systems.

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