



**Alternative report of FIACAT,  
ACAT Liberia and the WCADP –  
3<sup>rd</sup> Universal Periodic Review of  
Liberia**

*October 2019*

## Authors of the report

### ACAT Liberia

Action by Christians for the Abolition of Torture (ACAT-Liberia) is a national non-governmental organization founded in May 2004. It is a national human rights organisation that works to promote, defend and protect human rights by advocating for a reform in the criminal justice system (police, court and correction), the abolition of the death penalty, abolition of torture and the rehabilitation of its victims. ACAT-Liberia is a member of the International Federation of Action by Christians for the Abolition of Torture (FIACAT) based in France. FIACAT has associations in 30 countries on 4 continents around the globe. ACAT-Liberia is also a member of the World Coalition against the Death Penalty, a coalition of over 140 institutions to give a global dimension to the fight against the death penalty.

### FIACAT

*The International Federation of Action by Christians for the Abolition of Torture, FIACAT, is an international non-governmental human rights organisation, set up in 1987, which works towards the abolition of torture and the death penalty. The Federation brings together some thirty national associations, the ACATs, present in four continents.*

#### **FIACAT – representing its members in international and regional organisations**

It enjoys Consultative Status with the United Nations (UN), Participative Status with the Council of Europe and Observer Status with the African Commission on Human and Peoples' Rights (ACHPR). FIACAT is also accredited to the International Organisation of *la Francophonie* (OIF).

*By referring the concerns of its members working on the ground to international bodies, FIACAT's aim is to encourage the adoption of relevant recommendations and their implementation by governments. FIACAT works towards the application of international human rights conventions, the prevention of torture in places of detention, and an end to enforced disappearances and impunity. It also takes part in the campaign against the death penalty by calling on states to abolish capital punishment in their legal systems.*

To give added impact to these efforts, FIACAT is a founding member of several campaigning coalitions, in particular the World Coalition against the Death Penalty (WCADP), the International Coalition against Enforced Disappearances (ICAED) and the Human Rights and Democracy Network (HRDN).

#### **FIACAT – building up the capacities of the ACAT network in thirty countries**

FIACAT assists its member associations in organising themselves, supporting them so that they can become important players in civil society, capable of raising public awareness and having an impact on the authorities in their country.

It coordinates the network by promoting exchanges, proposing regional and international training events and joint campaigns, thus supporting the activities of the ACATs and providing them with exposure on the international scene.

## **THE WORLD COALITION AGAINST THE DEATH PENALTY (WCADP)**

The World Coalition Against the Death Penalty is an alliance of more than 150 NGOs, bar associations, local authorities and unions. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. The World Coalition is striving to achieve these aims in the following ways: by supporting its member organisations, local, national and regional abolitionist forces and by coordinating the international advocacy towards worldwide abolition of the death penalty

## **I. Death Penalty**

1. During the last cycle of the Universal Periodic Review (UPR), many States made recommendations to Liberia regarding the abolition of the death penalty<sup>i</sup>.

2. Liberia acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights (OP2) in September 2005. However, the death penalty was reintroduced in 2008 by an Act signed on 22 July 2008. The government argued that Liberia was not bound by this ratification until properly ratified by the Legislature.

3. Thus, according to the 2008 amended law, the death penalty can be imposed for the following crimes: armed robbery, murder, hijacking, terrorism and treason. However, Section 51.3 subsection 1(b) and subsection 6 (f) of the Penal Code of Liberia states that the death penalty cannot be imposed on a person less than 18 years of age.

4. Since the reintroduction of the death penalty in 2008, no executions took place<sup>ii</sup>. The last known death sentences passed date back from 2016 when two persons were sentenced to death by the 13<sup>th</sup> Circuit Court in Margibi County. There are no clear statistics on the number of persons sentenced to death but there would be around 12 / 14 detainees on death row currently.

Regarding the detention conditions of death row inmates, they are appalling like general detention conditions in Liberia<sup>iii</sup>.

5. It should be noted that in response to the list of issues of the Human Rights Committee, the Liberia government stated in July 2018 that: “*The Republic of Liberia acknowledges its international obligations under the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty. Discussions are being held to repeal the death penalty law from our books.*”. However, no concrete actions were taken since 2008 to repeal the death penalty from national laws.

### ***FIACAT and ACAT Liberia recommend to Liberia to:***

- ***Repeal the death penalty from national law in conformity with its obligations under the Second Optional Protocol to the International Covenant on Civil and Political Rights.***

## **II. Enforced disappearances**

6. In 2015, 6 States recommended to Liberia to ratify the International Convention for the Protection of all Persons from Enforced Disappearance<sup>iv</sup>.

7. Liberia has still not ratified the International Convention for the Protection of All Persons From Enforced Disappearance and no steps seem to have been taken towards the ratification. No explanations have been given to explain this lack of ratification.

8. Several instances of enforced disappearances have been documented over the past years. Individuals considered being whistle blowers, critics and key informants have disappeared only to be found dead or abused. Many people are left afraid to speak the truth and challenge the status quo, or reveal key information that borders on the interest of the country and its people.

9. In January 2016, Harry Greaves was found dead on the beach in Monrovia, having gone missing a couple of days earlier. Harry Greaves fell apart with the Ellen-led government and became very critical of it, contending that he had credible and damaging information about the government

wrong doing that he wanted to divulge. At the peak of these criticisms, the former official of government disappeared only to be found dead.

10. Atty. Michael Allison, a whistle blower also disappeared only to be found dead on the beach a few days later on 12 February 2015.

11. Most recently, in August 2019, a lady by the name of Justina Taylor Gharthey disappeared and was later found unconscious. She claimed that she had been abducted by unknown men who drugged and raped her. The incident occurred after she made allegation against some members of the government which went viral on Facebook.

***FIACAT and ACAT Liberia recommend to Liberia to:***

- ***Ratify the International Convention for the Protection of All Persons From Enforced Disappearance and ensure that all allegations of enforced disappearances are thoroughly and independently investigated and that authors of such acts are adequately prosecuted and sentenced.***

### **III. Impunity**

12. In the last UPR cycle, Senegal recommended to Liberia to continue the implementation of the recommendations of the Truth and Reconciliation Commission (TRC)<sup>v</sup>. Argentina and Slovakia also made recommendations regarding the fight against impunity<sup>vi</sup>.

13. Until now, very little is being done to address the recommendations of the TRC, particularly the establishment of the war and economic crime court. However, with mounting calls and tension from civil societies, citizens and the international community, there are signs that the government is trying to concede and establish the courts. In September this year, President Weah submitted a communication to the national legislature seeking their advice on the subject. As at 23 September 2019, 43 law makers are said to have signed a resolution giving their backing to the establishment of the war and economic crime courts. To establish the courts, at least 49 to 50 law makers out of the 73 will have to vote in favor.

14. Also, it should be noted that no one has been prosecuted and sentenced for serious human violations committed during the war.

15. Regarding police misconduct, the Liberia National Police, with support from UNMIL, have created their own safeguard to arrest police misconduct by the establishment of the Professional Standard Division (PSD) to investigate and punish police misconduct. The division is responsible to receive and investigate complaints of police officers' misconduct-both within the police and from the public. The PSD comprises 3 main sections: 1) The Internal Affairs Section 2) The Public Complaint Section and 3) Inspection and Control Section. The Division is headed by a PSD Chief who is under the direct supervision of the LNP Inspector General of Police and has overall responsibilities to manage the Division. He/she is assisted by the PSD sectional commanders, the PSD team leaders, the PSD supervisors and the PSD members.

16. However, it is not clear how effective it is, but it is commendable that there is a mechanism in place that any can test.

17. In addition, the courts are also available where complaints can be filed against officers as may be necessary. For example, in April 2018, a police officer (Zone Commander) killed a civilian motorcyclist and was investigated by the Police and forwarded to court. He was later found guilty and sentenced to 25 years in jail.

***FIACAT and ACAT Liberia recommend to Liberia to:***

- ***Implement without any further delay the recommendations from the Truth and Reconciliation Commission, in particular by establishing the war and economic crime courts;***
- ***Strengthen its efforts to prevent and combat police misconduct in particular and ensure that police officers are adequately being held responsible for their misconduct.***

**IV. Detention**

***A. Custody and pre-trial detention***

18. In 2015, 4 States addressed recommendations to Liberia regarding detention awaiting trial and the right to a fair trial within a reasonable time<sup>vii</sup>.

19. The Constitution of Liberia provides that an accused placed in police custody should be forwarded to court in 48 hours<sup>viii</sup>. It also guarantees the Miranda rights of the accused<sup>ix</sup>. The Liberian law (Chapter 18 Section 18.2 of the Criminal Procedure Law) also provides that an accused that has been forwarded to court and placed behind bars at a prison facility should be heard within two court's terms.

20. These provisions, particularly regarding the 48 hours in custody, are not always respected. Many persons overstay in custody both in police detention facilities and prisons. There are many detainees behind bars who have over stayed their statutory period. As a result, there is a huge number of pre-trial detainee languishing in prisons all across the country. Some of these pre-trial detainees have stayed longer than they would have served were they to be convicted of the crimes for which they were accused.

21. In 2016, there were 1428 pre-trial detainees against the total prison population of 2104<sup>x</sup>. This accounts for 68% of the total prison population. In its 2017 report, the Independent National Commission on Human Rights (INCHR) stated that there were 2 168 detainees including 1456 awaiting trial (being 67% of the prison population)<sup>xi</sup>.

22. In some cases, pre-trial detainees are separated from convicts. However, in most cases, this is not the case. They are all placed in the same cells. This is often attributed to the overcrowding of the prisons.

***FIACAT and ACAT Liberia recommend to Liberia to:***

- ***Ensure the respect in practice of the rights of the person held in custody, the time limits set out for custody and pre-trial detention and the separation of pre-trial detainees from convicts in detention.***

***B. Detention conditions***

23. Spain and Morocco both addressed recommendations to Liberia regarding its prison system during the last cycle<sup>xii</sup>.

24. Information assessed from the INCHR, prison monitoring report 2016<sup>xiii</sup>, shows that there were 2104 prisoners across the country. The table below provides details on the population, official capacity, sentenced detainees, gender and age.

**Table 1: Prison population 2016**

LOCATIONS OF PRISON FACILITIES	CONVICTED/SENTENCED INMATES				PRE- TRIAL DETAINEES				Normal Capacity	Current Population
	ADULTS		JUVENILES		ADULTS		JUVENILES			
	M	F	M	F	M	F	M	F		
River Cess	0	0	0	0	15	1	0	0	35	16
Sinoe	5	0	0	0	26	5	0	0	40	36
Bomi	13	1	0	0	26	0	0	0	60	40
Grand Cape Mount	12	0	0	0	22	2	1	0	16	35
Montserrado	165	0	0	0	754	14	12	0	374	1,011
Bong	39	3	0	0	98	1	1	0	130	142
Margibi	30	0	0	0	60	3	3	0	60	96
Bondiway	1	1	0	0	22	0	1	0	16	25
Grand Bassa	26	0	0	0	61	2	0	0	45	79
Gbarpolu	7	0	0	0	20	0	0	0	25	27
Maryland	33	3	0	0	30	0	1	0	36	67
Nimba	59	2	0	0	116	6	2	0	74	185
River Gee	6	0	0	0	25	0	0	0	45	31
Lofa	28	2	0	0	42	0	0	0	40	72
Grand Gedeh	184	1	0	0	54	2	0	0	274	242
Grand Kru	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>608</b>	<b>13</b>	<b>0</b>	<b>0</b>	<b>1371</b>	<b>36</b>	<b>21</b>	<b>0</b>	<b>0</b>	<b>2104</b>

*Source: Report on Prisons and Prisoners, INCHR 2016*

25. The above table also highlights the serious overcrowding in Liberian prisons. The overall rate occupancy of Liberian prisons was of 166% at the time with 10 prisons out of 16 being overcrowded.

26. Government has taken some measures in the past, with the support of UNMIL to decongest prison facilities. It primarily included establishing a fast track court at the Monrovia Central Prisons to hear minor cases at the magisterial level. Magistrate courts around Montserrado had days to have sitting at the prison facility to hear these manner cases. In addition, the Government, with support from partners, introduced the Alternative Dispute Resolution (ADR) program that aimed at decongesting the prison facilities by resolving manner cases through bringing the parties together to resolve the cases that either would prevent imprisonment or release already detained inmates from further detention. However, the overcrowding of Liberian prisons remains a reality.

27. Detention conditions in Liberian prisons are far from satisfactory and significantly fall below the minimum standards required by law, best practice or international standards (particularly the

UN standard for the treatment of prisoners). Inmates in Liberian prisons usually eat once a day a meal often lacking basic ingredients; lack or have minimum access to health care/medical services (whether poor or quality); are detained in poorly sanitary facilities (lack proper latrine facilities, beddings, etc.). All these conditions exacerbate the poor health status of inmates, including those on death row.

***FIACAT and ACAT Liberia recommend to Liberia to:***

- ***Reduce prison overcrowding in particular by developing the use of alternatives to detention;***
- ***Improve prison conditions in particular regarding nutrition and access to health care.***

### ***C. Monitoring of places of privation of liberty***

28. Spain and the Czech Republic, both made recommendation to Liberia regarding the ratification and implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>xiv</sup> (OPCAT).

29. Liberia acceded to the OPCAT on 22 September 2004. However, no national preventive mechanism has yet been established despite the Sub Committee for the Prevention of Torture's recommendation during its last visit in 2018<sup>xv</sup> and even though a draft anti torture bill, designating the Independent National Commission on Human Rights as NPM, was submitted to the Legislature in 2010.

***FIACAT and ACAT Liberia recommend to Liberia to:***

- ***Establish without any further delay a National Preventive Mechanisms in conformity with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.***

## **V. INDH**

30. During the 2<sup>nd</sup> cycle of the UPR, several States recommended to Liberia to strengthen the Independent National Commission on Human Rights<sup>xvi</sup>.

31. The Independent National Commission on Human Rights (INCHR) was established by law in 2005 (by an Act of the Liberian National Legislature) as a legal entity and became functional on 28 October 2010 when it was fully constituted. Delay in the functionality of the Commission was a result of delays in the nomination and confirmation of commissioners by the President and the Senate. It was accredited with "A" status by the Global Alliance of National Human Rights Institutions (GANHRI) in March 2017.

32. According to the INCHR Act, members of the Commission are appointed by the President of Liberia, with the consent of the Senate, among the persons on the list of persons recommended by an Independent Committee of experts (Composed of the Chief Justice of Liberia and in consultation with civil society organizations). They serve for a tenure of 5 years (6 years for the Chairperson). Members of the Board of Commissioners are allowed to serve for a period of two terms, provided the President nominates and the Senate confirms any member for a second term. A member who completes his/her second term is not allowed to serve the commission even if nominated by the President. The Commissioners cannot be removed by the President unless their



tenure has elapsed, or for a motive set out in article XIX (1-2) of the Act that created the Commission, or for a breach of the laws of the country. This gives the latitude to the commissioners to discharge their functions without fear or duress from the President. The Commission presents regular reports to the three branches of the Liberian government (the Legislative, the Executive and the Judiciary) that creates a balance whereby no branch can exert unnecessary pressure or interfere with its functions.

33. The Commission receives a budgetary allotment from the government of Liberia. There have been slight increases in its budgetary allotment from 2014/2015 fiscal year to 2016/2017 fiscal year. In 2014/2015 fiscal year, the total amount received by the Commission was of 842, 997.00 USD. In 2015/2016 fiscal year, the Commission was allotted a budget of 992, 736.00 USD out of which it received a total of 980,895.00 USD. In 2016/2017 fiscal year, there was 23.5% increment in the budgetary allotment of the Commission, increasing from 992,736 to 1, 226, 866 USD. The budgetary allotments represented 0.16% of the national budget in 2015/2016 fiscal year and 0.22% of the national budget in 2016/2017 fiscal year. The budget usually allows the commission to mostly pay the benefits of the commissioners and set up a secretariat that runs the daily operations of the entity. However, it is important to note that the Commission is under-funded, as budgetary allotment can only enable it to handle administrative and operational costs. Such situation affects the capacity of the Commission, despite its independence, to function optimally.

***FIACAT and ACAT Liberia recommend to Liberia to:***

- ***Ensure that the Independent National Commission on Human Rights is provided with the human and financial resources necessary for its functioning.***

## **VI. Cooperation with UN Mechanisms**

34. Several States recommended to Liberia to strengthen its cooperation with OHCHR's mechanisms in particular Treaty Bodies and Special Procedures<sup>xvii</sup>.

35. Since its last UPR, it should be noted that Liberia submitted its initial report to the Human Rights Committee in 2016 and was reviewed by the Committee in 2018. It also received the visit of the Sub-Committee on the Prevention of Torture in October / November 2018. However, its initial reports to the Committee against torture, the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights and to the Committee on the Rights of Persons with Disabilities are still due.

36. Regarding its cooperation with the Special Procedures, it should be noted that Liberia extended a standing invitation to all thematic procedures on 25 September 2015.

***FIACAT and ACAT Liberia recommend to Liberia to:***

- ***Submit its overdue initial report to the Committee against Torture.***

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<sup>ii</sup>Report of the Working Group on the Universal Periodic Review of Liberia, A/HRC/30/4, recommendations made by Australia, Congo, Montenegro, Germany, Spain, Rwanda, Togo, Nepal, Costa Rica, Portugal, Norway, Namibia, Switzerland, Uruguay, France, Italy, United Kingdom of Great Britain and Northern Ireland, Argentina, South Africa and Sweden, para 100.23 to 100.42.

<sup>iii</sup>The last known execution took place in 2000.

<sup>iiii</sup>See part IV Detention, C. Detention conditions

<sup>iv</sup>Report of the Working Group on the Universal Periodic Review of Liberia, A/HRC/30/4, recommendations made by France, Montenegro, Portugal, Tunisia, Sierra Leone and Ghana, para 100.17 to 100.19

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<sup>v</sup>Report of the Working Group on the Universal Periodic Review of Liberia, A/HRC/30/4, recommendation made by Senegal, para 100.164.

<sup>vi</sup>Report of the Working Group on the Universal Periodic Review of Liberia, A/HRC/30/4, recommendations made by Argentina and Slovakia, para 100.150 and 100.152.

<sup>vii</sup>Report of the Working Group on the Universal Periodic Review of Liberia, A/HRC/30/4, recommendations made by Slovakia, Spain, Czech Republic and France, para 100.155, 100.156, 100.159 and 100.162.

<sup>viii</sup>Article 21 alinea f) of the Liberian Constitution of 6 January 1986: “f) *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.*”

<sup>ix</sup>Article 21 paragraph c) of the Liberian Constitution provides: “c) *Every person suspected or accused of committing a crime shall immediately upon arrest be informed in detail of the charges, of the right to remain silent and of the fact that any statement made could be used against him in a court of law. Such person shall be entitled to counsel at every stage of the investigation and shall have the right not to be interrogated except in the presence of counsel. Any admission or other statements made by the accused in the absence of such counsel shall be deemed inadmissible as evidence in a court of law.*”

<sup>x</sup>INCHR, [Report on the conditions of prisons and prisoners in Liberia](#), December 20, 2016.

<sup>xi</sup>INCHR, [Human rights situation report 2017](#), June 2018.

<sup>xii</sup>Report of the Working Group on the Universal Periodic Review of Liberia, A/HRC/30/4, recommendations made by Spain and Morocco, para 100.157 and 100.160.

<sup>xiii</sup>INCHR, [Report on the conditions of prisons and prisoners in Liberia](#), December 20, 2016.

<sup>xiv</sup>Report of the Working Group on the Universal Periodic Review of Liberia, A/HRC/30/4, recommendations made by Spain and Czech Republic, para 100.7 and 100.54.

<sup>xv</sup>OHCHR, [Liberia must strengthen its national capacity to prevent torture, UN experts say](#), 2 November 2018

<sup>xvi</sup>Report of the Working Group on the Universal Periodic Review of Liberia, A/HRC/30/4, recommendations made by Costa Rica, Egypt, France, Mexico, Portugal, Republic of Korea, Nepal and Sudan, para 100.83 to 100.90.

<sup>xvii</sup>Report of the Working Group on the Universal Periodic Review of Liberia, A/HRC/30/4, recommendations made by Sierra Leone, Togo, Ghana, Latvia, Turkey, Tunisia and Norway, para 100.105 to 100.112.