
ASSESSING THE IMPACT OF PROLONGED PRETRIAL DETENTIONS BY LAW ENFORCERS AT LILONGWE POLICE STATION

***Saddrey Sambo, Justin Makamo**

School of Social Work, DMI-St John the Baptist University, Malawi.

Article Received: 01 July 2026, Article Revised: 21 July 2026, Published on: 08 August 2026

***Corresponding Author: Saddrey Sambo**

School of Social Work, DMI-St John the Baptist University, Malawi.

Doi: <https://doi-doi.org/101555/ijarp.8278>

ABSTRACT

The 1994 Constitution of the Republic of Malawi enshrines a Bill of Rights, stating that every detained person has the right to be released with or without bail unless the interests of justice require otherwise. Despite these constitutional protections, unlawful and prolonged pretrial detentions persist, impacting the citizenry and the criminal justice system. This study investigates the impact of prolonged pretrial detentions and examines the Malawi Police Service's (MPS) role in minimizing such occurrences. Using a hybrid research methodology with 40 participants at Lilongwe Model Police Station, the study assesses the adequacy and utilization of pretrial detention laws. The main objective is to mitigate the impact of prolonged detentions by identifying causes and suggesting solutions. Findings indicate that prolonged pretrial detention significantly infringes on human rights, causes socioeconomic and psychological distress, and is exacerbated by factors such as lack of departmental coordination, inadequate legal knowledge, and resource constraints. The study concludes that effective utilization of existing laws, such as police bail and Section 161 of the Criminal Procedure and Evidence Code (CP&EC), can substantially reduce these detentions and uphold constitutional values.

KEYWORDS: Pre-trial detention, Malawi Police Service, Human Rights, Lilongwe Police Station, Criminal Justice System, Legal Knowledge, Socioeconomic Impact.

INTRODUCTION

Pre-trial detention is a critical phase in the criminal justice system, yet in Malawi, it often exceeds constitutional limits. The "48-hour rule" is frequently violated, leading to prolonged incarceration without judicial oversight. This study focuses on Lilongwe Police Station to understand the drivers and consequences of this systemic failure. The introduction of the Bill of Rights was meant to safeguard personal liberty, but the gap between law and practice remains wide. Efforts to reform prison conditions in Africa gained momentum with the Kampala Declaration on Prison Conditions, where Malawi and other countries resolved to reduce the proportion of remand prisoners. However, despite these resolutions, prolonged pretrial detentions remain a significant challenge in the Malawian context.

OBJECTIVES

The study was guided by the following objectives:

1. To investigate the impact of prolonged pretrial detentions caused by the Malawi Police Service at Lilongwe Police Station.
2. To assess the factors contributing to prolonged pretrial detentions in the Malawi Police Service.
3. To examine whether the role the MPS plays in the criminal justice system can assist to substantially minimize prolonged pretrial detentions.

LITERATURE REVIEW

The literature review explores the legal, social, and practical dimensions of pretrial detention. Pretrial detention is defined as holding a suspect in a government facility while awaiting legal proceedings. It becomes "prolonged" when there is an undue delay between arrest and trial, often violating the 48-hour rule established in Section 42(2)(e) of the Constitution. Scholars like Schönteich and Muntingh provide a basis for understanding the socioeconomic impacts of detention on poverty-stricken populations. International standards, including the UDHR and ICCPR, establish that pretrial detention should not be the general rule, and the UN 'Tokyo Rules' advocate for detention as a last resort.

RESEARCH METHODOLOGY

The study utilized a hybrid research design combining quantitative and qualitative methodologies. The research was conducted at Lilongwe Model Police Station, with a target population of 375 officers. A sample of 40 participants, including prosecutors, CID officers, and custody officers, was selected using simple random sampling. Data was collected through

structured questionnaires and direct interviews. Thematic analysis was used to process qualitative data, while quantitative data was analyzed using Microsoft Word and Excel. Ethical considerations were strictly maintained through informed consent and respondent anonymity.

Data Analysis and Interpretation

Data was analyzed using descriptive statistics. Demographic data revealed that 70% of respondents were male, and the majority (56%) held an MSCE qualification. Most officers (81%) had over six years of experience. The analysis showed that while officers are qualified, there is a significant gap in their knowledge of constitutional law and recent legal amendments. Findings showed that 60% of respondents identified economic challenges as a primary consequence, while 30% noted psychological impacts.

Interpretation

The findings suggest that prolonged detention is a result of systemic inefficiencies. The interpretation of the "48-hour rule" is often hindered by a lack of coordination between investigators and prosecutors. Furthermore, the "priority of duties" where operational needs take precedence over court appearances indicates a devaluation of the right to liberty. The interpreted lack of agency among police officers results in a systemic failure where administrative hurdles, such as the breakdown of a single vehicle, result in months of unlawful imprisonment.

FINDINGS

Key findings include

- Impacts: 60% of respondents noted economic challenges for detainees, and 30% noted psychological torture.
- Factors: Lack of departmental coordination between CID and Prosecutions, ineffective utilization of Sections 161 and 35(1)(b) of the CP&EC, and logistical issues (e.g., lack of fuel).
- Negligence: Cases where suspects were "forgotten" in the system, including one murder suspect held for four years who died in custody without a trial record.
- Role of MPS: 71% of respondents believe the MPS can minimize prolonged detention by better utilizing their power to grant police bail for minor offenses.

RECOMMENDATIONS

1. Update Training: Incorporate Constitutional Law into the police training syllabus.
2. Promote Police Bail: Encourage the use of Section 35(1)(b) for non-serious crimes at the police station level.
3. Logistics: Ensure reliable transport for suspects to court and prioritize fuel allocation for detainee transport.
4. Sensitization: Conduct workshops for prosecutors on legal amendments, specifically Section 161 of the CP&EC.

CONCLUSION

Prolonged pretrial detention at Lilongwe Police Station is a significant human rights issue driven by knowledge gaps and administrative failures rather than a lack of legal framework. The study concludes that the laws of Malawi provide sufficient safeguards, but implementation is failed by lack of awareness and resources. By adopting the recommended reforms in training and procedural conduct, the Malawi Police Service can uphold the constitutional right to liberty and dignity for all citizens.

12. REFERENCES

1. Constitution of the Republic of Malawi, 1994.
2. Criminal Procedure and Evidence Code (CP&EC), Laws of Malawi.
3. Bail (Guidelines) Act, 2000, Laws of Malawi.
4. Open Society Initiative for Southern Africa (OSISA), "Pretrial Detention in Malawi," 2013.
5. Schönteich, M. (2014). Presumption of guilt: The global overuse of pretrial detention.
6. Muntingh, L., & Redpath, J. (2018). The socio-economic impact of pre-trial detention.
7. Van Hout, M. C., et al. (2023). Judicialisation of the mentally ill in Malawi criminal justice system.
8. Mugenda, O. M., & Mugenda, A. G. (1999). Research Methods: Quantitative and Qualitative Approaches.
9. Universal Declaration of Human Rights (UDHR), 1948.
10. International Covenant on Civil and Political Rights (ICCPR), 1966.