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#12

# CONDITIONS FOR WOMEN IN DETENTION IN ZAMBIA

Needs, vulnerabilities and good practices

Jo Baker and DIGNITY

**DIGNITY**  
DANISH  
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AGAINST TORTURE



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# Executive Summary

***“These things make you feel inhuman if you concentrate on them, so you try to forget them and accept life.”***

While conditions for women in Zambia’s under-resourced prison system are largely considered better than those for men, a closer look tells a different story. As a minority, it may be that various women’s facilities suffer from less (yet still chronic) congestion, are subject to lighter security restrictions, and allow more flexibility, at the discretion of the warden. Yet as revealed by this study, there is a broad, acute and harmful lack of consideration for the special needs of women in detention, in forms acknowledged by and less visible to officials and personnel in the Zambia Prison Service (ZPS or Prison Service). These gaps are detrimental to the dignity and wellbeing of female detainees and breach many of their human rights.

Key among these gaps are a lack of basic hygiene provisions and gender-specific healthcare. These present particular risk to the health of inmates, among others, who are pregnant, living with HIV, accompanied by young children or for those who, because of stigma or distance from family (which are both, in many cases, worse for men than women), have no outside assistance at all. Although the Prison Service should be commended for the continued opening of prisons to outside support and a human rights approach, it must observe its State responsibility to meet detainees’ basic needs.

Female inmates were largely found to be isolated from family, including children, and from other forms of outside support, which research has indicated is likely to be more harmful to women than men, in general, from a psychological and material perspective. For the women interviewed in Zambia, this was often the greatest cause of anxiety and despair (as summarized in the section, What Matters Most). Female inmates lack access to vocational, educational and recreational activities that are made available to men; they are also unremunerated, even though many women face extreme anxiety about supporting themselves and any dependents on release, in the context of rejection from their husbands, families and communities. Key, also, are discriminatory barriers to complaint and information that place them at risk. The Offender Management role has been seen to fill critical gaps in admissions screenings and orientation for female inmates, in identifying special needs

and connecting them with needed services and counselling, but it is under resourced and under supported institutionally.

Men and women are separated in law and to a great extent, in practice, and inmates were protected from gender-based violence and harassment by men in the facilities visited by DIGNITY, according to our research. In contrast to reports of police custody, a sharp decline in the use of physical violence and torture against women by prison staff has also been reported in recent years, among other improvements. Yet DIGNITY is concerned that sexual relationships with male staff are not fully and effectively prevented in some facilities, and degrading and harmful disciplinary measures were also found to be used by female staff, including body searching practices.

Attention to staff training, gender awareness and attitudes would make a great difference – particularly among female staff -- as would measures to encourage free, regular and dignified contact with family and children; structured activities to engage and empower women (personally and economically); and greater attention to sanitation and health provisions, particularly for pregnant women, new mothers, and children. While these may be most important for women with long sentences, they are also urgently needed in small rural prisons, where women may have very little. The role of the Offender Managers, if adequately resourced, gender trained and institutionally supported, could be one of the most effective ways to ensure the well-being and dignity of women in detention in Zambia.

## Recommendations

For Zambia to draw much closer to alignment with international standards on humane conditions of detention for women, key recommendations are that it:

### Law and policy

- Incorporate the **core international human rights treaties** into domestic law, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of Discrimination Against Women (UNCEDAW), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol), and the UN Convention Against Torture (UNCAT);
- Amend the national **laws, policies and regulations** that govern the rights of inmates in detention so that they adequately protect the human rights of women, and respond to their particular needs, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and other international standards on detention;
- Ensure that these amendments are comprehensively reflected in the **national budget, strategies, operating manuals and internal policies** of the Zambia Prisons Service;
- Encourage the greater use among judges of **alternatives to imprisonment** for women who have committed less serious crimes and/or pose little risk to society, particularly those who are pregnant, breastfeeding or who have sole responsibility for children;
- Combat gender-based stigma and degradation in prison management by training and appointing gender-sensitive managers of women's prisons and providing **comprehensive core and follow-up training** for all staff – including and particularly female staff – on gender, human rights, communication and dynamic security approaches; and
- Pay particular and urgent attention in law, policy and practice, to the rights and needs of **especially vulnerable groups** among women in detention. These may include older, disabled and foreign women – **including 'prohibited immigrants'** and women who may have been trafficked – pregnant women and new mothers, and women living with HIV.

## Conditions of detention

- Accommodate women detainees in **facilities that meet international standards** for prisoners generally, and that meet standards on women's special needs specifically, with a particular focus on hygiene, sanitation, space and light; and the separate accommodation of pre-trial detainees and convicted prisoners;
- When **classifying** detainees, ensure that pre-trial detainees and convicted prisoners are detained separately;
- Allow mothers to be accommodated with their babies and young children in **safe and separate facilities**, while protecting their right to a balanced and comprehensive programme of activities and preventing their potentially harmful isolation from others;
- Amend prison regulations and train staff to develop a positive, humane contact and **outreach regime**, in line with the Bangkok Rules, including longer and more frequent visits, the reform of visiting facilities to allow space, privacy, dignity and physical contact, *particularly with visiting children*; and formal programmes to maintain contact between detainees and their children, including free telephone calls, if necessary; telephone calls will be of particular importance to protecting the right of 'prohibited immigrants' to contact with the outside world, along with regular facilitated access to a relevant embassy or consulate;
- Ensure that detention facilities feature a health clinic, with capacity **for gender-specific healthcare** including pre- and post-natal care, and care for circumstantial children; ensure that transfers to external clinics and hospitals are fast and dignified;
- Ensure that HIV/AIDs, substance abuse and histories of abuse and violence are **screened for on arrival**, and offer gender-sensitive programmes and adequate antiretroviral treatment and support;
- Ensure that the State provides **basic items required for human dignity** and well-being, including three nutritious and varied meals per day, soap, sanitary towels, cleaning materials, and adequate provisions for the health and wellbeing of accompanying children;
- Ensure that **male and female inmates are held separately**, and that no male member of staff enter the part of the institution set aside for women unless accompanied by a woman officer;
- End all use of arbitrary and degrading disciplinary and search practices and ensure that all prisons are managed in line with international standards on **safety and security**,

which inter alia, prohibit the banning of visits between mothers and their families, and the use of corporal punishment; ensure too, that only prison officers decide on or inflict punishment, in accordance with the Prison Act and Prison Rules;

- To overcome **gendered barriers to information and complaint**, ensure that detainees are comprehensively briefed on their rights and options, and the rules and regime of the facility, and that information is available in forms that they can understand and easily access throughout their time in detention, including those who do not speak local languages, such as 'prohibited immigrants'. Ensure that all inmates are aware of and able to access their right to send confidential complaints to State bodies and independent institutions; and address the culture of silence and impunity regarding **violence against women** by ensuring that any case in detention – including against staff – is responded to with **systems of complaint, support, investigation and prosecution, protection against reprisal, and rehabilitation** in accordance with international standards;
- Provide female inmates with a programme of **activities and training** that is balanced, and comprehensive, and which assists in strengthening their confidence, economic independence, self-assurance and parenting skills;
- Establish a system for the **employment and equitable remuneration** of detainees; and ensure that women have equal access and opportunities to all trades and areas of work that they are physically suited for;
- Support, fund and train more **gender-sensitive Offender Management officers**, who are able to provide individualised support, counselling, and information to inmates, and connect them with needed programmes and services. Empower and enable these officers to pay particular attention to the needs of vulnerable groups among female inmates, and to contribute to the articulation of ZPS priorities and strategies;

## Selected Abbreviations

CAT	UN Committee against Torture
CEDAW	UN Committee on Elimination of Discrimination Against Women
CPT	European Committee for the Prevention of Torture
DIGNITY	DIGNITY – Danish Institute Against Torture
HRC	Human Rights Commission of Zambia
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NGO	Non-Governmental Organisation
OHCHR	Office of the UN High Commissioner for Human Rights
OIC	Officer-in-Charge
OM	Offender Management
OPCAT	Optional Protocol to the UN Convention against Torture
SMR	UN Standard Minimum Rules for the Treatment of Prisoners
UNSPT	UN Subcommittee on Prevention of Torture
SRT	UN Special Rapporteur on Torture
SR VAW	UN Special Rapporteur on Violence Against Women, its Causes and Consequences
UN	United Nations
UNCAT	UN Convention against Torture
UNCED	International Convention for the Protection of All Persons from Enforced Disappearance
UNCEDAW	UN Convention on the Elimination of All Forms of Discrimination Against Women
UNCRC	UN Convention on the Rights of the Child
UNHRC	UN Human Rights Committee
UNODC	UN Office on Drugs and Crime
WHO	World Health Organisation
ZPS	Zambia Prisons Service

## Introduction

While all human beings are vulnerable when deprived of their liberty, certain groups are at particular risk of abuse and other human rights violations. Women in detention constitute one such group. For women, the discrimination that they face in broader society reaches deep into places of detention, such as prisons, which are largely still designed and managed for men, by men. As a minority – although a growing one in many counties – detained women are often overlooked, at the expense of their dignity, wellbeing and their fundamental human rights. As now well established in international law, women’s specific needs also require different and sometimes greater attention in order for women to enjoy their rights equally to men. As established in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),<sup>1</sup> there are concrete ways in which this must be done.

This study seeks to generate an understanding of the particular needs and vulnerabilities of women in detention in Zambia, to identify ‘what matters’ most to them – where the impact of detention mostly lies – and to document positive and negative practices in relation to international standards.

The study consists of two parts. Part one presents the *context* of prisons and pre-trial detention centres in Zambia – including facts and figures, the legal and institutional framework, and recent reforms and developments – with focus on the extent to which women are included or excluded in these. Part two outlines the research *findings* by firstly summarizing the conditions that, according to the detained women interviewed, impact them most. Secondly, it presents the findings on conditions based on visits to one prison and three pre-trial detention centres for women, along with the experiences of these conditions by current and formerly detained women. The section on conditions is divided into the following seven thematic sections, structured around categories identified by the Bangkok Rules: admission and classification, physical and material conditions, safety and security, healthcare, information and complaints, contact with the outside world, and work, education and recreation. All quotes, unless specified, are from women detainees or former detainees.

It is hoped that the findings in this study will provide insight into the needs, vulnerabilities and rights of a long-neglected group in Zambia, encouragement for those who work with this group, and where needed, impetus for change.

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<sup>1</sup> United Nations Rules for the Treatment of Female Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules) Un Doc. E/RES/2010/16, 16 March 2011, <http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf>



For a more detailed understanding of the gendered issues and forms of discrimination encountered by women in detention across the world, and the related international standards, please refer to the main study: *Women in Detention: Needs, Vulnerabilities and Good Practices* (referred to in this report as Main Study).<sup>2</sup> In this study, published in 2014, DIGNITY uses the same thematic structure to examine and compare the spectrum of experiences of detained women across five countries, including Zambia, to better understand the impact that these issues have. Under each theme, the study firstly presents the international human rights standards relative to women in detention. Secondly, it analyses the jurisprudence of four key United Nations Treaty Bodies across six years (2008-13) so as to establish to what extent it reflects the relevant international human rights standards. Thirdly, the lived experiences of the women in detention – including common needs, challenges and rights violations – are explored, theme by theme, and portrayed on the basis of answers to the question ‘what matters most’, along with negative and positive practices encountered in their management. Finally, the study highlights the most common gaps in protection that women in detention encounter across the world, and gives recommendations for gender sensitive reform.

## Methodology

This country study bases its findings on observational visits to two of the larger prisons operated by Zambia Prisons Service (ZPS) and one maximum security men’s prison, in May 2013, and on private, semi-structured in-depth interviews among detainees, as well as meetings and structured interviews with prison staff and others working in and around prison communities in the country – 39 persons in total. The desk review was updated in December 2014, and includes a review of national legislation, policy and procedure in relation to the country’s international human rights obligations, on the basis of research and reporting from the UN human rights machinery, NGOs, the national human rights institution, and academics.

The facilities visited for observation and interviews are Lusaka Central women’s section in the capital city, Lusaka, and Kabwe Female Medium Prison, in the capital of its Central Province, as well as an observational tour of Mukobeko Maximum Prison for men, also in Kabwe.

Research for this study has applied a mixed-methods approach. Firstly, we have partially applied a human rights-based methodology ordinarily used for *detention monitoring*, founded on the standards set by the core international human rights treaties and soft law.

<sup>2</sup> *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014. [http://www.dignityinstitute.org/media/1991156/wid\\_final\\_0814\\_web.pdf](http://www.dignityinstitute.org/media/1991156/wid_final_0814_web.pdf)

A number of these are particularly relevant to the situation of detention for women. These include the norms and standards on non-discrimination, to allow the experiences of women specifically to be identified and analysed,<sup>3</sup> and UN standards specific to detention. In particular, we have referenced the Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules, or SMRs) of 1957 (under revision as the Mandela Rules<sup>4</sup>), and The Bangkok Rules, adopted by the General Assembly in 2010 to address the particular needs and rights of detained women [for more detail on the international legal framework, see Main Study].

Secondly, and in parallel, this study builds substantially on *qualitative research* methodologies, with a focus on life stories and narrative interviewing. This is a more immersive and subjective approach, and it provides the opportunity for informants to share their own personal story and experiences, and hereby express what matters most to them.

Each inmate interview session began with semi-structured interviews based on interview guides, to allow the issues and experiences that matter most to the subject to arise naturally. The more structured set of human rights-based questions on prison conditions – drawn from international standards – were woven into the latter half of the interviews.

Interviews with prisoners were conducted in private. Confidentiality was ensured, and no informants have had their names revealed to authorities or anyone outside the research team. All persons interviewed provided their informed consent. In recognition of the fact, that many prisoners experience psychological crisis and trauma and/or physical and social stress, researchers used an interviewing technique developed for torture survivors to complement the life story approach. This aims to protect inmates from re-activating trauma, whilst at the same time gaining access to potentially painful, yet important information.

<sup>3</sup> Non-discrimination and equality of rights for women is well established as a fundamental principle of international law, starting with the preamble to the UN Charter, and the basic principle of non-discrimination on grounds of sex is prescribed in several conventions, among them ICCPR Article 3 and ICESCR Article 3. However a full working understanding of discrimination against women has developed in both hard and soft law. Of particular importance is CEDAW, which pioneered the understanding of non-discrimination as any “distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women” of their human rights and fundamental (Art. 1). UNCEDAW also provides the legal basis for special measures being taken to ensure de facto equality between men and women, including policies and practices that make up for practical disadvantages faced by women prisoners (Art. 4). The same principles are reflected in Principle 5 (2) of the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment.

<sup>4</sup> The proposed revision of the SMRs (Mandela Rules) were adopted by the UN Commission on Crime Prevention and Criminal Justice (24<sup>th</sup> session, May 2015), E/CN.15/2015/L.6/Rev.1, available at: [http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ\\_Sessions/CCPCJ\\_24/resolutions/L6\\_Rev1/ECN152015\\_L6Rev1\\_e\\_V1503585.pdf](http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf). The final version of the revised SMRs (Mandela Rules) are to be adopted by the UN General Assembly.

In consulting those who work with imprisoned women, which includes NGO staff, prison officers and lawyers, DIGNITY used structured and semi-structured human rights-based interview guides. As noted above, researchers were also able to informally tour and observe most areas of the prison and pre-trial detention centre during the visit, but a full monitoring procedure was not followed. We have had no reason to doubt the information provided by the informants. Nevertheless, it has not been possible to exhaustively triangulate the validity and reliability of all information on general conditions of imprisonment, such as availability of food.

### Terminology

The terms 'prisoner', 'detainee' and 'inmate' are used interchangeably to denominate any person who is deprived of his or her liberty, including individual women detained in jails awaiting arraignment, trial or sentencing; and those who have been convicted and are serving a prison sentence. The terms 'pre-trial detainee' or 'remandee' refer to persons who are detained in custody before and during trial.

# National Context

## Facts and figures

Zambia has a total of 54 standard prisons, which are run by the ZPS under the Ministry of Home Affairs. All prisons are permitted to detain women prisoners in separate sections (although not all accommodate female prisoners at any one time), and some sections are larger and more formal than others.<sup>5</sup> Just three are recognised as formal female prisons, rather than sections within male prisons, and only one of these is standalone: the Kabwe Female Medium Prison.<sup>6</sup> At the time of our research visit in 2013 the female population stood at around 3%, with just over 500 women in the system out of a total of 17,500 prisoners.<sup>7</sup>

The average length of a woman's sentence in Zambia is around two years according to officials, with fewer than 5% of female inmates serving more than five years. Yet pre-trial detention periods can be longer than this. DIGNITY met with women who were into their sixth year of remand, some of whom said that they had not seen progress in their cases nor appeared in court for three years. Studies have indicated that remand time is generally shorter for women than men,<sup>8</sup> yet in 2013 a greater proportion of detained women, two thirds, were in remand compared to the national average of 23%.<sup>9</sup>

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<sup>5</sup> The 88 prison establishments are made up of 54 standard prisons, 34 smaller open-air satellite prisons and a juvenile reformatory institution. Of these, only the standard prisons can reportedly detain women. See International Centre for Prison Studies, *World Prison Brief: Zambia*, last accessed Jan 2015. <http://www.prisonstudies.org/country/zambia>

<sup>6</sup> The others are Livingstone Female Prison and Kamfinsa Female State Prison.

<sup>7</sup> 2013 statistics were obtained by DIGNITY from ZPS records (May 2013). In early 2014 the World Prison Brief reported 17,038. See International Centre for Prison Studies, *World Prison Brief: Zambia*, last accessed Jan 2015. See also Todrys, Katherine W, Amon, Joseph J, *Health and human rights of women imprisoned in Zambia*, BMC International Health and Human Rights, 2011, Vol 11: 8

<sup>8</sup> A 2010 study by Human Rights Watch (HRW) in Zambian prisons reported that most women interviewed were also remanded for less time than men: on average for a month, and up to 28 months, compared to the average 7 months up to 67 for men. See HRW, *Unjust and Unhealthy: HIV, TB and Abuse in Zambian Prisons*, 2010.

<sup>9</sup> According to the ZPS records (May 2013) there were 208 women remanded in the prison system, 13 in juvenile remand, and 16 foreign migrants, known as 'prohibited immigrants'. Out of 290 convicted women, 2 were sentenced to life and 4 were condemned to death. This is in contrast to a total of 17,216 male inmates, numbering 11961 convicted (123 lifers, 393 condemned – just prior to 113 of them being pardoned to life -- and 229 juveniles); and 3989 non-convicted (including 232 Juveniles', 228 'prohibited immigrants' and 61 classified as mentally ill patients).

There is little quantitative information available on the profiles of detained women in Zambia.<sup>10</sup> However, research has established commonalities among imprisoned women across the world, some of which are likely to apply. These include a disproportionate experience of mental disorders, a high level of drug or alcohol dependence, histories of sexual and other forms of gendered physical violence before prison, and primary responsibility for children and other family members.<sup>11</sup> Further deductions can be made using the status of women in the country generally (below). However, targeted research into the profiles of this group in Zambia, combined with the findings below, would be an important step in designing informed and effective rehabilitation, treatment and reintegration programmes, in line with the Bangkok Rules.

### The status of women in Zambia

There is considerable inequality between the sexes in Zambia, despite the State being party to core international treaties to protect women's human rights. This is fuelled by entrenched gender norms, high rates of gender-based violence,<sup>12</sup> and discrimination in most sectors.<sup>13</sup> For example, following her visit in 2011, the UN Special Rapporteur on Violence Against Women, its Causes and Consequences (SR VAW) reported that approximately 50% of women in Zambia were married by the age of 18, that women were largely economically dependent on male relatives and husbands, faced inequality in decision-making and access to resources, and that while commendable gender parity

<sup>10</sup> For recent data from remand in Zambia, on age, ethnicity and type of offence, but not disaggregated by gender, see The Open Society Initiative for Southern Africa et al. *Pre-trial detention in Zambia: Understanding caseload management and conditions of incarceration*, 2011, [http://www.osisa.org/sites/default/files/sup\\_files/open\\_learning\\_-\\_pre-trial\\_detention\\_in\\_zambia.pdf](http://www.osisa.org/sites/default/files/sup_files/open_learning_-_pre-trial_detention_in_zambia.pdf)

<sup>11</sup> United Nations Office on Drugs and Crime & World Health Organisation (UNODC & WHO), *Women's health in prison: Correcting gender inequity in prison health*, 2009.

<sup>12</sup> The UN Country Team for Zambia reported that more than half of Zambian women and girls (53%) report having experienced beatings or physical mistreatment since the age of 15, according to the Zambia Demographic and Health Survey. See also Centre for Human Rights, Faculty of Law, University of Pretoria, *Submission to the UPR of Zambia*.

<sup>13</sup> As noted by the Special Rapporteur on Violence Against Women, its causes and consequences following her visit in 2011, and reports by the CEDAW Committee. During the 2012 Universal Periodic Review, the CEDAW Committee remained concerned at the persistence of adverse cultural norms, practices, traditions, patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all life spheres. It urged Zambia to put in place a strategy to eliminate violence, harmful practices and stereotypes against women. See UN Doc. A/HRC/22/13, Report of the Working Group on the Universal Periodic Review, Zambia, 2012

has been achieved in primary education, fewer girls than boys completed secondary and tertiary education.<sup>14</sup>

The CEDAW Committee in 2011 reported concerns about the *de facto* discrimination faced by particular groups of women, including women in detention, who tend to suffer social marginalization, exclusion, violence, poverty and isolation in all areas of Zambian society, and particularly in rural areas. The CEDAW Committee, among others, has also highlighted the impediments, inequality and impunity that women face in the criminal justice system - including in the local and customary courts - and the need for legal literacy programmes for women.<sup>15</sup>

Zambia is placed 119th out of 138 countries in the latest Global Gender Gap Report by the World Economic Forum, indicating high levels of inequality. Here it performed better in areas of health and educational attainment, compared to economic participation and opportunity, and political participation.<sup>16</sup>

## Legal framework

Under Zambian law, regional law and international human rights law, prisoners retain their human rights and fundamental freedoms, except for such restrictions necessitated by the incarceration. Core among these rights are the right to humane treatment and respect for their inherent dignity as human beings.

### International and regional framework

Zambia has ratified most of the core international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the UN Convention on the Elimination of all Forms of Discrimination against Women (UNCEDAW), and the Convention Against Torture (UNCAT). It has signed but not ratified the Optional Protocol to UNCAT (OPCAT), and has accepted the individual complaints procedures of inter alia, the Optional

<sup>14</sup> While 60% of women aged 15-49 interviewed in the ZDHS (Zambian Demographic and Health Survey 2007) were employed (compared with almost 100 per cent of men), men were more likely to earn cash, while women were more likely to be unpaid for their work, while women who earned cash generally earned less than their husbands or partners. SRVAW

<sup>15</sup> UN Doc. CEDAW/C/ZMB/CO/5-6, Committee on the Elimination of Discrimination against Women, Concluding observations on Zambia, 2011

<sup>16</sup> World Economic Forum, *Global Gender Gap Report: Zambia*, 2014, <http://reports.weforum.org/global-gender-gap-report-2014/economies/#economy=ZMB>

Protocol to the ICCPR, and UNCAT Art. 22. The country has also signed non-binding UN instruments that ensure that prisoners are treated humanely while deprived of their liberty and enjoy certain minimum standards, such as the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, and the Basic Principles for the Treatment of Prisoners. However, few of the above standards have been sufficiently incorporated into domestic law.<sup>17</sup>

Key regional instruments include the Protocol to the African Charter on Human and People's Rights, and its Protocol on the Rights of Women in Africa, the latter of which provides that women in detention should be held in an environment "suitable to their condition" and ensures their right to be treated with dignity.<sup>18</sup> The Southern African Development Community Protocol on Gender and Development, which Zambia has signed, commits States by 2015 to "ensure the provision of hygiene and sanitary facilities and nutritional needs of women, including women in prison".<sup>19</sup> The Robben Island Guidelines, signed by Zambia, also provide for the prohibition and prevention of torture, cruel, inhuman or degrading treatment in Africa, including gender-related forms.<sup>20</sup>

#### National framework

The Constitution of Zambia, Part III, guarantees respect for human dignity and protection from inhuman treatment to all, including accused persons. The Constitution also provides for the protection of persons deprived of their personal liberty and circumstances under which personal liberty may be suspended. Human rights guarantees for detainees (along with provisions on the management, treatment and care of inmates in places of detention) are also found in other laws, such as the Police Act, No. 43 of 1965;<sup>21</sup> the Prisons Act, No. 56 of 1965;<sup>22</sup> the Criminal Procedure Code Act, No. 23 of 1922;<sup>23</sup> and the Juveniles Act, No.4 of 1956.<sup>24</sup>

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<sup>17</sup> See UN Doc. A/HRC/22/13, Report of the Working Group on the Universal Periodic Review, Zambia, 2012, and UN Doc. A/HRC/WG.6/14/ZMB/3, Working Group on the Universal Periodic Review, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Zambia [stakeholders' submission], 2012; Also see Zambia Human Rights Commission, *Annual Report 2013*

<sup>18</sup> Protocol to the African charter on human and peoples' rights on the rights of women in Africa, 2003

<sup>19</sup> Southern African Development Community (SADC) protocol on gender and development, 2006

<sup>20</sup> ACHPR Res 61 (XXXII) 02 Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines) 2008

<sup>21</sup> As amended by Act No. 14 of 1999, Chapter 107 of the Laws of Zambia

<sup>22</sup> As amended by Act No. 17 of 2004, Chapter 97 of the Laws of Zambia

<sup>23</sup> As amended by Act No. 9 of 2005, Chapter 88 of the Laws of Zambia

<sup>24</sup> As Amended by Act No.13 of 1994, Chapter 53 of the Laws of Zambia

The Zambia Prison Service was established by the Constitution (Art. 106), with the aim of providing custody for prisoners, providing correctional services to inmates and managing prisons generally, as detailed largely in Art. 107 of the Constitution, the Prisons Act and subsidiary Prisons Rules (1966), and the Prison Service Principle Guidelines. Involvement by other ministries and departments, such as the department of social welfare and the department of health, is minimal.<sup>25</sup>

The Prison Act and Prison Rules govern both convicted and non-convicted prisoners and afford them largely the same rights and conditions, with a few exceptions.<sup>26</sup> According to the Prison Rules, convicted and non-convicted prisoners must be segregated. Among the distinctions are the requirement for convicted prisoners to work (which is optional for remand prisoners);<sup>27</sup> and the permission for non-convicted prisoners to purchase or receive extra supplies from private sources, to wear their own clothing, and to be allowed to see a registered medical practitioner of his/her own choice, at any reasonable time.<sup>28</sup>

The laws, policies and regulations governing the Prison Service have not been gender-sensitized, and the Criminal Procedure Code; the Penal Code Act, No. 42 of 1930;<sup>29</sup> the Probation of Offenders Act (as amended by G.N. No. 276) of 1964, and Zambia's Prison's Act feature just a few specific provisions on women in detention, and in the wider criminal justice system.

According to the former two Codes, detained women and those on probation must be held under the supervision of female officers; pregnant women under trial will have a death sentence commuted to life imprisonment; and any search of female inmates shall be made by a woman officer without the presence of male officers so as to protect decency (the latter also featuring in the Prison Act). In the Prison Act and Rules, female prisoners must be supervised and disciplined only by female prison officers, monitored only by female visiting officials and held separately from male prisoners; they shall not be employed outside a prison except on the recommendation of the medical officer on

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<sup>25</sup> For example, in 2010 Human Rights Watch noted that there was little coordination between prison health officials and the Ministry of Health, the National Health Strategic Plan made no mention of prisons, and that prison-based medical care under the medical directorate (aside from seconded Ministry of Health employees and medications) came out of the prison budget, under the Ministry of Home Affairs. See *Unjust and Unhealthy*, 2010. While the Department of Social Welfare is mandated to look after children who are in prison with their incarcerated mothers and any other vulnerable ones, it has little other involvement.

<sup>26</sup> Most of these are found in sections on Civil and Unconvicted Prisoners in the Act (Part XII), and the Rules (Part IX)

<sup>27</sup> Section 75 (3) of the Prisons Act

<sup>28</sup> However, in consultation with the HRC, DIGNITY was informed that in practice, convicted prisoners are often allowed to purchase extra supplies from private sources.

<sup>29</sup> As amended by Act No. 15 of 2005, Chapter 87 of the Laws of Zambia



medical grounds, and only on such work as may be prescribed; their hair shall not be cut unless the medical officer considers it to be necessary for reasons of health or cleanliness; and they should be allowed visitors or relations in addition to receiving letters from their children. For pregnant female prisoners, there is a provision that they should be provided with ante-natal and post-natal care, as well as baby clothes and other necessities at government expense; and female prisoners with infants are afforded the right to keep their infants with them in prison until they are four years old, supplied with clothing and necessities at the public expense.

The provisions above correspond to a number of important international standards, such as the separation of men and women, and recognize some important differences between the needs of male and female prisoners. However, the laws do not come close to comprehensive provision and protection of women in detention as called for by the Bangkok Rules, and they require significant amendment in order to do so. Among key gaps, they do not recognise the disproportionate exposure of detained women to gender-based violence prior to detention (and in police custody), nor the duty of the State to provide legal assistance, support and rehabilitation, and they do not respond to the higher risk of HIV among women and the need to identify and treat other gender-specific health issues, particularly during admissions process, and among pregnant women and new mothers. The laws do not provide for women's specific hygiene needs, and do not provide for the equal right of women to work, gain skills training and be equitably remunerated, nor their need for adequate recreation and exercise programmes.

"Our Prison Act is quiet on women," commented one ex-senior officer. "We must use new data on women and enshrine them." DIGNITY found that the management of each prison in Zambia tends to be very much at the discretion of the Warden, yet there is no formal or systematic training of such wardens – or other staff – on gender and women's human rights.

Zambia's Human Rights Commission, established by the Constitution and governed by the Human Rights Commission Act,<sup>30</sup> is mandated with investigating human rights violations and the mal-administration of justice, proposing effective measures to prevent human rights abuse, and visiting prisons and other places of detention to assess and inspect conditions and to make recommendations.<sup>31</sup> The Commission is empowered by Statutory Instrument to make rules and regulations and was accredited with 'A' status with reservation by the

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<sup>30</sup> The 1991 Constitution (as amended in 1996), enshrines in Part XII, Article 125, the establishment, independence and autonomy of the HRC, and Art. 126 provides for enabling legislation: Human Rights Commission Act No. 39 of 1996, Chapter 48 of the Laws of Zambia.

<sup>31</sup> Human Rights Commission of Zambia, *Establishment of the Commission*, accessed January 2015, <http://www.hrc.org.zm>

International Coordination Committee of National Human Rights Institutions in 2003, 2006 and 2011, indicating compliance with the Paris Principles,<sup>32</sup> although the Committee on the Rights of the Child has also since reported otherwise.<sup>33</sup>

## Recent challenges, reforms and developments

### Challenges

Zambia's penal system faces many challenges, particularly in terms of congestion and lack of resources,<sup>34</sup> understaffing, poor working conditions for staff,<sup>35</sup> and the high number of persons in remand. In recent years it has operated at over three times its capacity.<sup>36</sup> The excessive and prolonged use of pre-trial detention is attributed largely to poor case flow management and the minimal use of alternatives to detention.<sup>37</sup> Inmates are known to

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<sup>32</sup> Principles relating to the Status of National Institutions. The category A(R) (accreditation with reserve) was granted where insufficient documentation was submitted to confer A status, and is no longer in use by the ICC. It is maintained only for those National Human Rights Institutions (NHRIs) that were accredited with this status before April 2008. See Office of the High Commissioner of Human Rights, *Chart of the Status of National Institutions, Accredited By The International Coordinating Committee Of National Institutions For The Promotion And Protection Of Human Rights* as of 28 January 2014. [http://www.ohchr.org/Documents/Countries/NHRI/Chart\\_Status\\_NIs.pdf](http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf)

<sup>33</sup> Many positions do not receive regular and predictable allocation of financial or technical resources and it remains highly reliant on donor funding. See report of the UN Country Team, *UN submission to the Universal Periodic Review of Zambia, 2012*

<sup>34</sup> According to the Open Society Initiative for Southern Africa et. al, *Pre-trial detention in Zambia: Understanding case flow management and conditions of incarceration*, 2011, under-funding permeates nearly all operational areas, with the cost per prisoner per day is estimated to be less than US\$2; see also African Commission on Human and People's Rights, *Report Of The Special Rapporteur On Prisons And Conditions Of Detention In Africa*, 2012

<sup>35</sup> In 1964 the staff complement stood at 1,800 personnel and over 40 years later, in 2009, it was recorded at 1,856, despite a huge swell in the prison population. African Human Security Initiative, *The Criminal Justice System in Zambia, Enhancing the Delivery of Security in Africa*, Monograph No 159, April 2009. On working conditions see: Human Rights Commission of Zambia, *Report of the prison and police cell inspections*, August 2013 and African Commission on Human and People's Rights, *Report Of The Special Rapporteur On Prisons And Conditions Of Detention In Africa*, 2012

<sup>36</sup> Approximately 17,500 inmates held in a system with capacity for 5,700 inmates at the time of DIGNITY's visit. As of 2014 the World Prison Brief has reported a capacity level of 6,100 and an occupancy level of 279%. International Centre for Prison Studies, *World Prison Brief: Zambia*, last accessed January 2015, <http://www.prisonstudies.org/country/zambia>

<sup>37</sup> Interviews with PRISCCA, and African Human Security Initiative, *The Criminal Justice System in Zambia, Enhancing the Delivery of Security in Africa*, Monograph No 159, April 2009. Other factors leading to excessive use of pre-trial detention are the committal system for offences triable by the High Court. See full report by HRC on this site ([www.hrc.org.zm](http://www.hrc.org.zm))

have waited 14 years for their trial.<sup>38</sup> The integration of remand prisoners with convicted criminals in many facilities, in the same conditions, breaches international standards and the country's own Prison Rules.

Other areas of concern, many consistently raised by international human rights bodies, include severe overcrowding and poor physical conditions, such as extremely poor hygiene and inadequate food, and the poor health conditions of inmates.<sup>39</sup> This includes a lack of basic nutritional necessities, the use of a reduced diet as a form of punishment, the denial of basic sanitary installations and necessities, such as soap and clean water, a lack of healthcare, and a lack of provision for women nursing children. The current prison system does not meet the provisions of the UN Standard Minimum Rules for the Treatment of Prisoners (SMRs), nor provide adequate facilities for rehabilitation and the reintegration of ex-prisoners into society, although steps are being taken towards this goal.

As found in this study, the Prison Service also fails to meet the particular needs and protect the human rights of women with gender-sensitive measures, in line with the Bangkok Rules. There is some awareness of this. Although women have not featured strongly in research and advocacy regarding the prison system thus far, it has been acknowledged by the Human Rights Commission and Prison Service officials,<sup>40</sup> that Zambian prison facilities were primarily designed for men, and that gender-responsive penal reforms are required so that planning and delivery of services in prisons meet the different needs of men, women and children. In most cases, a lack of resources was cited as the main barrier in doing so.

### Reforms and developments

Some positive reforms have taken place in recent years to reduce the size of the detained population and improve access to justice, which indicates some political will for reform. These have focused largely on the criminal justice system, however. They include the transformation of the Directorate of Public Prosecutions into an independent National Prosecution Authority;<sup>41</sup> an initiative to improve cooperation and communication between the five institutions of the criminal justice system; the appointing of more judges to the High Court; the use of private practitioners to increase the capacity of the Legal Aid Board; and legislative reform efforts such as the adoption of the National Prosecutions Authority

<sup>38</sup> Ibid

<sup>39</sup> See UN Doc. A/HRC/WG.6/14/ZMB/3, Working Group on the Universal Periodic Review, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Zambia [Stakeholders' submission], 2012; and UN Doc. CAT/C/ZMB/CO/2, Committee Against Torture, Concluding Observations on Zambia, 2008

<sup>40</sup> Interviews by DIGNITY with ZPS officials; and Human Rights Commission of Zambia, *Annual Report, 2010*; Human Rights Commission of Zambia, *Report of the prison and police cell inspections*, August 2013

<sup>41</sup> Lusaka Times, *Directorate of Public Prosecutions (DPP) transformed into an independent National Prosecution Authority (NPA)*, 9 May 2013

Act No. 34 of 2010 and the introduction of community crime prevention methods under the Police (Amendment) Act, No. 14 of 1999.<sup>42</sup> In 2014, a Legal and Justice Sector Reforms Commission was appointed from among civil society members to conduct a public inquiry into the state of the sector and recommend appropriate reforms.<sup>43</sup> The Chief Justice has also appointed a commission of 20 men and women to visit and appraise the performance of courts, with a special focus on those that are underperforming.<sup>44</sup>

Yet in comparison, few substantial reform initiatives have focused on conditions and treatment in detention in the past five years. Prior to that, efforts had begun in about 2002 to shift the focus of the prison system to rehabilitation, including with the construction of open air prisons, the initiation of a programme to provide alternatives to prison for juveniles, and the creation of an Offender Management unit, which is responsible for inmate welfare and reintegration [see box below].<sup>45</sup> However, since then, local NGOs and the Human Rights Commission of Zambia (HRC) have campaigned consistently for prison reform, for new detention facilities to be built and for existing infrastructure to be refurbished. Yet they report that these areas of concern have largely gone unresolved and efforts to improve the infrastructure capacity have been minimal.<sup>46</sup> Zambia's Fifth National Development Plan included the goal of improving the working environment of the prison service by 2010,<sup>47</sup> but steps were limited; they mostly involved the release of funds from the national budget to purchase items such as uniforms, utility vehicles and

<sup>42</sup> The Open Society Initiative for Southern Africa et al., *Pre-trial detention in Zambia: Understanding caseload management and conditions of incarceration*, 2011

<sup>43</sup> Interviews with PRISCCA staff; Lusaka Times, *Legal Justice Sector Reforms Commission commences sittings*, July 2014

<sup>44</sup> Interview with PRISCCA staff

<sup>45</sup> African Commission on Human and People's Rights, *Report Of The Special Rapporteur On Prisons And Conditions Of Detention In Africa*, 2012

<sup>46</sup> Interviews with PRISCCA staff; Human Rights Commission of Zambia, *Report of the prison and police cell inspections*, August 2013. The report observes that while some construction has taken place, in Kalabo, Luwingu and Mbala Prisons, and a new cell for female inmates at Chipata Prison, it notes that the few that have been constructed or upgraded are still not adequate for the existing inmate population, and overlooked important provisions and facilities to cater for the needs of certain groups, including those with disabilities, and with circumstantial children. Also refer to the advocacy of organizations such as the Prisons Care and Counselling Association (PRISCCA) in Southern African Centre for the Constructive Resolution of Disputes et al, *Submission to the Human Rights Council on Zambia's civil and political rights* (2012).

<sup>47</sup> On 21 September 2007 the government, through the authority of the President, released about K17 billion to purchase various items required for prison administration. These included cargo trucks, utility vans, buses, ambulances, speed boats, irrigation systems and uniforms. These funds were allocated from outside the normal prisons' budget. African Human Security Initiative, *The Criminal Justice System in Zambia, Enhancing the Delivery of Security in Africa*, Monograph No 159, April 2009

farming equipment. Efforts were also made to engage prisoners productively in farming activities to supplement their food requirements, and to separate juveniles from adults.<sup>48</sup>

DIGNITY has been informed that since its initial research visit, guidelines and a training manual have been developed to facilitate the capacity building of officials - including those in the ZPS, police and Ministry of Justice - to establish and implement protection-sensitive processes to protect vulnerable migrants in Zambia, who are known in the Prison Service as 'prohibited immigrants' (PIs).<sup>49</sup> The document has been used to develop a national referral mechanism, which commendably aims to ensure that the detention of vulnerable irregular migrants should be used only as a last resort and not for an excessive period of time, and where necessary, special detention facilities must be used, separate from convicted prisoners. The guidelines reiterate the right of irregular migrants to a fair hearing, with the assistance of an interpreter where necessary. However, the guidelines only apply to migrants seeking international protection on immigration grounds, and not irregular migrants imprisoned for criminal offences. DIGNITY would emphasize that for such a group, special measures - including the assistance of an interpreter - remain necessary in order to fully protect their rights. Meanwhile, those migrants who are on trial or imprisoned for criminal offences may also include victims of trafficking, who under international law, should not be detained, charged or prosecuted.<sup>50</sup> The guidelines promisingly address the gender dimension of migration and the need to address the negative elements that disproportionately affect women, such as human trafficking, sexual and physical violence and exploitation. It is hoped that these will be well utilized by the ZPS, to protect those 'PI' women currently detained.

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<sup>48</sup> African Human Security Initiative, *The Criminal Justice System in Zambia, Enhancing the Delivery of Security in Africa*, Monograph No 159, April 2009

<sup>49</sup> See Guidelines: Protection Assistance For Vulnerable Migrants In Zambia, 2014. The Guidelines were developed as part of a Joint Programme that is being implemented by the International Organization for Migration, United Nations High Commission for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF), supporting the Government of the Republic of Zambia to build the capacity of national actors in responding to mixed migration). <https://www.iom.int/files/live/sites/iom/files/Country/docs/Manual-Protection-Assistance-for-Vulnerable-Migrants.pdf>

<sup>50</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 8 January 2001, A/RES/55/25

## The Offender Management Unit

The Offender Management (OM) Unit is a special unit headed by an assistant commissioner of prisons. It was formed in 2002 with the goal of effectively reforming and rehabilitating inmates, and reintegrating them into society,<sup>51</sup> and has been credited with a significant reduction in the number of recidivism cases.<sup>52</sup> The main objective of the programme is to involve prisoners in training and education, and help them to acquire vocational skills, via Offender Management officers and programmes. On paper, this includes an inmate care programme that comprises religious care, sport, recreation and HIV/AIDS awareness, to ensure the physical and spiritual development of prisoners. A reintegration phase involves conditional releases and family tie-in activities as well as the provision of aftercare services. It also covers the care of special groups, such as terminally ill prisoners, the elderly, and female inmates with children.

This mandate holds the promise of filling many urgent gaps in the system, including those which are discriminatory, or which disproportionately affect women. Such gaps, as found below in our qualitative research, include protecting the relationships and communication lines of female inmates with families and children, for example; making provision for their basic needs; and providing skills training and income, for self-support inside and after detention.

DIGNITY met Offender Management officers who are doing their best to fulfil this role. Some had provided counselling, directed women towards opportunities for recreation or education, sourced necessities for sick or pregnant women, and commendably, sought information on inmates' children by visiting and liaising with families and orphanages. Others had worked to link prisoners with their relatives when nearing the time of their release, and continued to check on women after their release.

However, these positions are extremely understaffed and underresourced, and in the facilities visited, do not come close to fulfilling the Unit's mandate in a comprehensive manner. Each OM officer in a facility often cares for hundreds of male and female inmates. DIGNITY was informed that the OM role is often marginalized within the system and the facilities, and that staff feel disempowered. No particular training on gender, psycho-social support or issues of violence against

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<sup>51</sup> See more at [zambiaprison.gov.zm/directorates/](http://zambiaprison.gov.zm/directorates/)

<sup>52</sup> African Human Security Initiative, *The Criminal Justice System in Zambia, Enhancing the Delivery of Security in Africa*, Monograph No 159, April 2009

women is provided,<sup>53</sup> and the manual governing Offender Management operations reportedly does not adequately respond to the needs of particular groups.<sup>54</sup>

Most of the prisons and pre-trial facilities in Zambia also lack female OM staff, even though they may detain women,<sup>55</sup> and some facilities locate the OM desks in male sections of the prisons. This may result in female detainees being marginalized or discouraged from approaching staff, and will reduce the chances of welfare staff being able to respond with gender-sensitivity. Among inmates interviewed for this study, some were not aware who their OM officer was. Yet this unit, with sufficient resources and training, offers an opportunity for the ZPS to meet a series of important international standards in its management of women detainees.

Fewer reforms or measures still, have taken place to improve the situation of women in detention as a special group. In terms of the criminal justice system, efforts have reportedly been made to use police bond more frequently for women in places where there are no female detention facilities,<sup>56</sup> and according to prison service officials, a decline in the female prison population came about through an increase in alternative sentencing, presidential amnesties, an increase in the use of parole and bail, and pre-trial mediation by NGOs.<sup>57</sup> However, except for the alternative sentencing, none of these approaches have systematically considered or enshrined mitigating factors related to gender. Non-custodial options, such as community sentences and fines, remain a choice at the discretion of judges,

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<sup>53</sup> On her visit to Zambia, the SR VAW found that in respect to the provision of psychosocial support, many social workers in broader society have no specific training in addressing cases of violence against women, have little institutional support, large caseloads, and extremely limited resources, thus resulting in difficulties in providing adequate services to victims.

<sup>54</sup> This view is based upon interviews with unit staff, since a copy of the manual was not made available for assessment.

<sup>55</sup> DIGNITY were informed that there are a handful of female offender management staff, out of around 45 in total.

<sup>56</sup> African Human Security Initiative, *The Criminal Justice System in Zambia, Enhancing the Delivery of Security in Africa*, Monograph No 159, April 2009. The CPC provides in Section 33 that a person who is arrested without a warrant for an offence other than that punishable with death, shall be released upon executing a bond, where the officer in charge of the police station determines that it is not possible to take such person before the appropriate court within 24 hours of arrest and where the officer has determined that the matter is not of a serious nature. In practice, police bond is found to be minimally applied. See Zambia Human Rights Commission and Open Society Initiative for Southern Africa (OSISA), *A Survey Report on the Application of Bond and Bail Legislation in Zambia, 2014*

<sup>57</sup> Interviews with prison staff and NGOs; Kateule Chandi, Chrisantos, *The phenomenon of congestion in Zambian prisons and its impact on the Zambian justice system*, 2011, University of Zambia

and according to PRISCCA, are not effective due to limited knowledge and sensitization of the issues among the judiciary. "Sentencing guidelines leave much to be desired and it depends too much on mood," said one staff member. "This is where the Gender Ministry is supposed to be doing its work. We need a statutory instrument or standing orders to create non custodial options for certain circumstances and groups, backed by law."

In past reports Zambia's Human Rights Commission has reported that prisons do not provide women with basic necessities specific to their sex,<sup>58</sup> that there was gender inequality in accessing educational programmes and enjoying recreational activities; and that the rights of mothers and their children were not protected in prison. Representatives of the ZPS have acknowledged that these are gaps – even in terms of meeting those few rights afforded women by Zambian law – but report that there are no resources with which to address them.<sup>59</sup>

It should be noted that while the government has a system of Gender Focal Points in place in all ministries and provincial administrations, and a Ministry of Gender, these have not resulted in measures to improve conditions for women in detention.<sup>60</sup> A series of national laws and measures for the advancement of women, such as the Anti-Gender Based Violence Act No. 1 of 2011, and the National Plan of Action on Gender-Based Violence, while commendable, have not resulted in change for this group, even though a disproportionate number of its members will likely be survivors of gender-based violence.<sup>61</sup>

The Prison Service has commendably made efforts to boost the proportion of women among its personnel. At the time of the research visit by DIGNITY, women were a minority although represented at all levels, including deputy commissioner and acting commissioner.<sup>62</sup> DIGNITY was informed that the use of a 50% quota in two recent waves of recruitment (in

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<sup>58</sup> It cited appropriate accommodation, sanitary napkins, soap or additional nutrition for pregnant and breast feeding prisoners

<sup>59</sup> Authorities such as the Deputy Director for Public Relations acknowledge that female inmates - particularly those who are pregnant or who have young children - face particular difficulties in prison. However, a lack of funding makes it impossible to provide facilities and services as set out in the legislation. ISS Africa

<sup>60</sup> Interviews with ZPA officials. At the time of the study the ZPS Gender Focal Point position stood empty. In 2012 the Special Rapporteur on Violence Against Women reported that while Focal Point positions are meant to be nominated at a senior level, in practice, these functions are reportedly often delegated to junior officers. UN Doc. A/HRC/17/26/Add.4, Report of the Special Rapporteur on violence against women, its causes and consequences - Mission to Zambia, 2011

<sup>61</sup> See section on facts and figures, pertaining to profile of women in detention around the world.

<sup>62</sup> There were six female senior officials out of around 35 at the time of research. Two were chief superintendents, three senior superintendents and one a superintendent. There were 16 Officers in Charge (OICs) out of 54, many of whom also governed the male section of the facility.



2012 and 2013) had resulted in 300 new female recruits out of 600.<sup>63</sup> However, there is little evidence that such staff are gender-sensitive; training on the human rights and basic needs of women are not included in the curriculum;<sup>64</sup> the Bangkok Rules are not known among prison staff and officials, and have not been referenced by the HRC in its reports on prisons – although these have placed some focus on inequalities, female detainees and their special needs.<sup>65</sup> There is also still a strong common perception that the Prison Service, as an employer, is for men; senior officials reported that there are few qualified women who show interest in the field, and one alluded to the sexual harassment of women among staff as a ‘silent problem’.

A woman’s prison is reportedly in the planning stages in Livingstone, with budget allocated. It has been contracted to hold 200 women, with a large number of single cells intended for use by women with children, and according to one official, will relieve other prisons’ substandard female ‘annexes’ once finished – mainly those in Livingstone prison. However, the schedule for completion is unclear, and DIGNITY has been told that the planning and decision making process did not systematically include input from women wardens, inmates or gender experts.

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<sup>63</sup> This was influenced by the Southern African Development Community (SADC) and its Protocol on Gender and Development. However, in pursuing this strategy officials informed us that discriminatory laws were being violated by necessity, including one that forbids a woman from firing a gun.

<sup>64</sup> The Commission informed DIGNITY that it has provided gender sensitivity training to the Prison Service, with the most recent training held in May, 2015, for over 40 prison officers in Lusaka Province.

<sup>65</sup> See ‘Treatment of Vulnerable Persons in Detention’ in HRC of Zambia, *Prisons Report 2013*

# Key Findings

## What matters most?

One aim of this research project was to step outside of the human rights framework momentarily and simply determine which issues impact female detainees in Zambia the most, particularly as women. While these findings are woven into our thematic chapters below on prison conditions, this section gives an overview of what matters most.

*“How it hurts, not being able to look out for your own child.”*

Most of the detainees interviewed by DIGNITY were mothers, and of all the issues raised, **concern for children inside and outside of detention** stood out as the greatest sources of anxiety, depression and despair. Inmates would fall silent, become tearful or begin to shake or move nervously when talking about their children. Their voices would quieten. The subject appeared at times to be too painful to discuss. Many women explained that they had been left by their husbands prior to or during detention, and that their children were either cared for by the former husbands as part of new families, by relatives, or were placed in orphanages temporarily. The detainees rarely, if ever, saw them or received information about them. Interviews revealed intense worry among detainees about their children’s education and health, and about them being impacted by stigma, due to their mothers’ incarceration. A few also revealed deep fears about child abuse, particularly at the hands of male relatives or step relatives, which is a largely taboo subject and a source of despair and helplessness.<sup>66</sup> Women spoke of **the pain of being out of contact with their children**, and of being unable to fulfil a care-giving and protection role. One inmate highlighted how hard it is for the inmates to sleep through the crying of cell-mates’ children at night, particularly when worrying about their own. Those with young children inside prison with them also spoke of feeling helplessness and despair because the poor conditions made it impossible for them to keep their children clean, healthy and well fed. However, few appeared to believe that they could demand rights in these areas.

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<sup>66</sup> This risk has been observed and reported by human rights organizations. The compilation of stakeholder information to the UPR process included concern by NGOs that there had been an increase in the “defilement” of girls, with perpetrators including fathers, uncles and grandfathers. See UN Doc. A/HRC/WG.6/14/ZMB/3, Working Group on the Universal Periodic Review, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Zambia, [stakeholders’ submission], 2012

*"With the heart of a mother, we just want to be with them, always."*

Women appear to be deeply affected by the sense of **distance from and abandonment by relatives and partners**, and spoke of both the emotional and material costs of this. Without extra provisions or money they cannot source basic necessities for a dignified life, ranging from sanitary pads to money for postal stamps. Some such 'abandoned' women also feel that they receive less respect and attention from staff than other inmates. One inmate recommended that the Prison Service appoint women to places of detention near to their families and support, as required by the Bangkok Rules, and explained that those without this support were prone to neglect and ill treatment from personnel and other inmates in the prison hierarchy.

*"Keep us in prisons near home so that we can have family support, because when you don't have you are prone to abuse or they don't really care about you inside."*

*"It's difficult not seeing your family. There is no one to see you. If no one sends you money you can't even send a letter."*

Signs of **depression and low self-esteem** were evident. Many women spoke about having little interest in life and little to occupy themselves with, other than their fears and anxieties. Many worried constantly about life after prison, particularly the attitude of society, and how they would be able to make a living to support them and their children. Some of the women indicated that they felt ashamed and stigmatized by staff, and by society in general; a few spoke of blaming themselves for becoming victims in violent relationships.

*"Most, when they're about to leave, they start to lose weight. They're worrying about how they are going to face society. For men, it's not so bad. But women think, how can I sustain my children? This fear of the unknown is hard." – OM officer*

*"You lead a lonely life after prison. There's stigma, even at church. I changed churches. I couldn't stand it."*

Although welfare staff informed DIGNITY that many of the detainees are victims of **domestic violence or police abuse**, the impact of this in the context of coping with detention was difficult to determine from interviews. Just a few detainees spoke of being abused themselves; these were mainly women who had killed and were recalling the events that led to and followed their crime, years before. These women spoke in a sad but largely detached manner, and their stories involved extreme violence and degradation, by both husbands and police.

When discussing security measures and discipline, a number of women emphasized the pain of verbal abuse and disrespect from prison officers more strongly than their experiences in

prison of physical deprivation and corporal punishment,<sup>67</sup> indicating the especially **deep impact of verbal degradation**. Others stressed the harm caused by **degrading intimate searches**. While some inmates had appeared to accept both degradation and the stifling of their expression and right to complain as a part of prison life, many also expressed a wish for a shift in staff attitudes, and prioritised this when asked about changes that would make the most difference to them. One inmate for example, responded with "having someone to run to when you need help." There appeared to be just a few personnel with caring or respectful attitudes in the two facilities visited, according to inmates, and these were mostly OM welfare staff. These were spoken of with deep appreciation, almost reverence, by detainees. Importantly, a few inmates in each facility commented that female officers generally treated them more harshly and abusively than male officers.

Women with more education found it particularly hard to accept the **deterioration of their health**. "Gradually our lives are deteriorating, and we aren't free to do anything about it," said one inmate with medical training who was living with HIV. "You think, 'there lies my future'. You see death coming slowly and there's nothing you can do." Other women, however, still expressed this concern by complaining about bad food and poor diets, particularly those detained who were accompanied by their children.<sup>68</sup> Staff most often raised health and hygiene concerns during interviews, particularly the lack of ventilation and the unsanitary toilets, washing and cooking facilities, expressing particular concern for pregnant women, new mothers, and 'circumstantial' (accompanying) children. It is notable that the staff members who were able to most closely reflect the greatest needs and anxieties of the inmates, as relayed above, were the OM welfare staff, suggesting the critical importance of this role to the daily care, support and rehabilitation of inmates – and in articulating Prison Service priorities.

## Conditions of detention

This section presents DIGNITY's findings from interviews with detainees, those who had recently been released from detention (most, relatively close to Lusaka Central), and personnel working with the Prison Service, NGOs and faith-based organizations. It also draws from observational visits to Lusaka Central section for women, which detains pre-trial and convicted inmates, and Kabwe Female Medium Prison for women, which only detains convicted women, mostly those with medium and long-term sentences.

<sup>67</sup> Corporal punishment was reported widely as being rare in recent years. See more in Safety and Security below, in section 3, and our box on torture and cruel, inhuman and degrading treatment, in section 2.

<sup>68</sup> Although the conditions in detention are not suitable for children, women in Zambia may lack better alternatives, and visiting regulations do not adequately allow contact with children kept on the outside.

The primary aim of this research has been to identify the major needs and risks that are common to imprisoned women in Zambia, and the way that this impacts them, in their own words, rather than to identify and expose conditions of detention in particular facilities. However, it has also aimed to find challenges and promising practices that are common in the management of female detainees, with international standards as a benchmark. As detailed above, this section has been researched and analysed using mostly qualitative methodologies, framed around international standards for the treatment of prisoners, with a particular focus on the Bangkok Rules, and life story and narrative interviewing.

The scope of the research did not include police custody. However, since both DIGNITY's review of human rights reports and interviews with inmates in prison and pre-trial detention reported extremely poor conditions and ill treatment, as well as torture, from police custody, findings from these interviews are included in a separate box, below. The indication of torture and ill treatment by police places particular responsibilities at the door of the Zambian Prison Service, under the SMRs.<sup>69</sup>

### Conditions in police custody

*"You are surrounded by men and powerless. There are no women to talk for you. They want to win as men. As they beat you they said things like, 'one man is entitled to 18 wives and you have taken a man out of this world – so you have deprived 18 women'. They think they are above women. They don't respect women's rights."*

The use of torture and other cruel, inhuman or degrading treatment or punishment by Zambia's police force, including extraction of confessions, has been documented by several human rights bodies.<sup>70</sup> DIGNITY interviewed women who reported spending more time in police custody than the legal window of 24 hours, some for up to one month. According to national monitors, many police stations do not have separate cells for women (or juvenile suspects or remandees), which has led to their detention in corridors, offices, or exhibit rooms.<sup>71</sup> Interviews indicated that physical, sexual and verbal violence and degrading treatment are common during police custody,

<sup>69</sup> SMR 24-26.

<sup>70</sup> Human Rights Watch, *Zambia: Police Brutality, Torture Rife*, 2010, Committee Against Torture, Concluding Observations on Zambia, 2008, UN Doc. CAT/C/ZMB/CO/2

<sup>71</sup> The HRC of Zambia, in its *Prisons Report 2013* observes that at Mporokoso, Isoka, Chinsali and Mpulungu Police Stations, women were found being kept at the inquiries section and sleeping in corridors.

particularly during interrogation.<sup>72</sup> Testimonies indicate that ill-treatment often includes acts of gender-based violence, and that women accused of murdering men are at risk of particularly violent and sustained beatings.

Detainees reported being repeatedly slapped and whipped while tied to chairs in police offices; being groped, flashed and forcibly kissed by police officers; and being coerced into sex acts after being told falsely that it would help their case. Some reported cases of women being removed from their cells in the night under the pretence of giving a new statement, and then being raped or otherwise sexually abused, sometimes in vehicles outside of the place of detention. DIGNITY was informed that this practice was particularly common in the case of detained sex workers, who would often then be released. In a number of cases involving women who killed male partners, we were informed that police officers had used torture to obtain a confession, thus preventing a self-defence plea and ensuring a heavier sentence. None of the detainees had chosen to report this ill-treatment officially, and measures are not in place to protect those who do. There is a fear of inaction, and reprisals.<sup>73</sup>

*"They tortured me until I fainted. My wrists were tied until the circulation was cut off, and I was whipped, for three days."*

*"You become confused and so scared, you just submit [to sexual abuse], because you think that maybe this is the end of the world for me."*

Poor and degrading conditions of detention were also reported, notably a lack of bedding, food, water, and contact with the outside. Women spoke of having only a container to use as a toilet, sometimes in sight of other inmates or male officers. Some were escorted by male staff to a bathroom to defecate, and felt this to be deeply humiliating, particularly when this was treated by staff as a privilege that could be delayed or denied. Food was not systematically provided, or not

<sup>72</sup> Similar cases and testimony can be found in the report Human Rights Watch, *Zambia: Police Brutality, Torture Rife*, 2010

<sup>73</sup> UNCT: Whilst Zambia has the Police Public Complaints Authority and a Victim Support Unit, their full implementation as mentioned in UPR Recommendations 58, no 6, is still an issue. According to VSU, there have been increases in the amount of reported cases of abuse during detention undergoing court proceedings: 2008:20%, 2009:29% and 2010:32%. While this is positive, the amount of cases that remain outside the court system is considerably large. One of the reasons cited for this is the high level of withdrawal of cases by the victims or survivors of such violence who fear that they may lose their source of livelihood in the event that the perpetrator is convicted and given a custodial sentence. In addition, law enforcement agencies such as the VSU lack adequate resources and special equipment for forensic evidence collection, testing and support.

provided at all, and cases were heard of food parcels being withheld by officers, and of relatives not being informed of a detention until late in the custody period. In one case the inmate was told that this was to allow visible marks of torture on her body to fade. Most women were not able to speak to or see their relatives, and felt helpless. DIGNITY was also informed of cases in which police offered little help or protection when more powerful inmates beat those less powerful and took their food, in breach of their obligation to protect. Many of these cases indicate the prevalence of torture and ill treatment. Furthermore, the substandard conditions in police custody are a source of serious concern, and when assessed in combination these may amount to cruel, inhuman or degrading treatment.

## 1. Admissions and classification

**Offender Management staff are partially filling large gaps in admissions screenings and orientation needs, but staff must be better trained and supported to protect the rights of women and their dependents. More comprehensive and systematic medical screening and information exchange are required.**

### Global perspective

*For many women, the first days and weeks are among the most distressing and traumatic of their time in detention. This is particularly so for those from societies in which spheres for women are smaller, and limited to their families and communities. There is a fear of the unknown and a strong sense of helplessness, shock and shame. Research has suggested that suicide and self-harm are a particular risk for women at this time.<sup>74</sup>*

*Given the common backgrounds of women offenders in much of the world as mothers, as well as victims of abuse and substance abusers, their needs on entry to detention and in the planning of their rehabilitation are different and arguably greater to those of men.<sup>75</sup> As the Kyiv Declaration on Women's Health in Prison notes, it is not uncommon for a woman to enter detention – separated*

<sup>74</sup> UNODC, *Drug Abuse Treatment Toolkit, Substance abuse treatment and care for women: Case studies and lessons learned*, United Nations, New York, 2004.

<sup>75</sup> Jenni Gainsborough, *Women in prison: international problems and human rights based approaches to reform*, William & Mary Journal of Women and the Law, vol. 14, No. 2 (2008), pp. 271-304.

*from her family and in a state of great anxiety – and on receiving her first health check in a long time, find that she is both pregnant and HIV positive.<sup>76</sup>*

*In order to protect and fulfil the rights of women in detention, receiving staff must implement classification methods that address these needs and circumstances, and ensure that plans for their rehabilitation are effective, individualised, and allow for their reintegration into society. Staff must be trained and gender-sensitive, and admissions processes must attempt to reduce stress and orient women in ways that they understand. This extends particularly to the use of search procedures, and allowing women to arrange for the care of children left outside, two areas that caused the most distress.<sup>77</sup>*

**International standards** on admission and classification of prisoners are found in Art. 10 of the International Covenant on Civil and Political Rights (ICCPR), while standards to combat discrimination against women are found in the UN Convention on the Elimination of Discrimination Against Women (UNCEDAW). These legally binding international provisions are further expanded in soft law standards in the SMRs (Rules 8, and 67-69) (Rules 8, and 67-69 - Rules 2, 6-11 in the revised SMRs), the Body of Principles (Principles 24-26) and the Bangkok Rules (Rules 35, and 40-41).

Admission processes for inmates in prison and pre-trial detention in Zambia are generally largely insufficient when assessed against international standards, particularly for groups with special needs. The standard procedure requires that reception desk staff take detainees' basic details on arrival, including age and occupation, and any known major health concerns, and then assign them to their quarters. Comprehensive medical checks do not take place, and simple check-ups are usually only given to determine an inmate's fitness for sentenced labour, if that sentence applies. Access to efficient or independent medical officers is scarce [see section 4 on healthcare] and comprehensive checks for recent violence are not conducted, despite the high risk among women of gender-based violence in police custody, and domestic abuse. The receiving desk also offers little privacy, and staff may be male. This could discourage a female detainee from volunteering sensitive information, her HIV status, for example, or issues relating to her pregnancy or menstruation. Consequently, many needs may not be identified at this stage – whether signs of inmates' physical and mental illness, infectious or contagious diseases, or signs of abuse or self-harm, as required by the SMRs and the Bangkok Rules – and cannot be incorporated into a plan for their rehabilitation.

<sup>76</sup> United Nations Office on Drugs and Crime & World Health Organisation (UNODC & WHO), *Women's health in prison: Correcting gender inequity in prison health*, 2009.

<sup>77</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014



*“There are things that women wouldn’t disclose to a man. If you walked in for the first time you wouldn’t tell a man about any pregnancy, children or if you need menstrual pads.” – Offender Management officer*

Positive practices are beginning to fill some of these gaps. Offender Management officers aim to speak with all new prisoners on arrival. Those interviewed by DIGNITY tend to ask new female detainees about needed medication and health problems in order to refer them for treatment, the location of their family and the status of their relationships, and about the possibility of pregnancy or the need for child care arrangements; this includes a discussion on whether children should be brought to live in the prison. They may also explain the prison regime and rules. This contact is particularly important for rural women, who may feel more intimidated by and struggle more to understand their new environment. According to one officer, it is much more effective to speak with detainees immediately on arrival, before they are exposed to conflicting advice from inmates, and may be discouraged from speaking with staff. However, this role is not systematically implemented, nor always accessible, and many inmates slip through the cracks. A reliable process is required that ensures new arrivals’ right to information, and refers them to needed health, legal or welfare services. The Offender Management desks must also be freely and physically accessible from the female sections of the prisons.

No inmates among those interviewed had received written information about the regulations governing the prison rules and regime, or their rights with in it, as directed by SMR 35. If an orientation is not offered by an Offender Management officer, information about prison rules and regime will be imparted by senior inmates, unmonitored by staff, and may not be comprehensive or in the interests of the new arrival.

Women spoke of the arrival stage as one of the most intimidating and overwhelming during their time in detention. In one prison, DIGNITY was informed that inmates have a ritual in which new arrivals are forced to publicly introduce themselves and their charge, and then to perform a traditional fertility dance, which has sexual overtones. Staff are reported to be aware of this, but do not prevent it. This is a humiliating experience, which takes place when detainees are most anxious and confused, and it violates the prohibition of degrading treatment.

In Lusaka Central, and reportedly in other facilities, convicted women are not separated from pre-trial detainees, in violation of the ICCPR and SMRs on the separation of categories. Other inmates were concerned with the lack of segregation between older and younger women, women with and without children, those who have contagious diseases, and those who have committed violent crimes. This caused various anxieties – for example among the mothers who worry about their children’s health and safety among the inmates, and among women whose own separation anxiety from children is made worse by the crying of other children each night.

## 2. Physical and material conditions

**Extremely poor conditions and a lack of basic provisions violate women’s human rights on a number of fronts, including the right to health, and may constitute degrading treatment. Particular harm is experienced by those who are pregnant, accompanied by young children or those who have no outside assistance at all, such as foreign migrants and women who are abandoned by their families.**

### Global perspective

*Every detainee will be profoundly affected by their physical environment, from the amount of light that they get, to the quality of the food and cleanliness of cells. Yet, some conditions or deprivations can be more common among particular groups, and can be experienced in different ways, depending on the identity of the prisoner.*

*In 2008, the UN Special Rapporteur on Torture raised the bar for the protection of women by introducing a gender-sensitive interpretation of torture. In the context of detention, he acknowledged that poor hygiene, among other conditions, can have a more adverse impact on women in detention compared to men.<sup>78</sup> Research, including that by DIGNITY, has highlighted the harmful consequences for women in detention, whether the shame of inmates as they struggle to keep themselves clean during menstruation or after giving birth, or the fear, guilt and helplessness felt by mothers when they are unable to keep children who live with them clean and healthy.<sup>79</sup> Such poor conditions can also leave women vulnerable to exploitation and abuse, if, for example, they must barter sexual acts for basic provisions.<sup>80</sup>*

**International standards** relating to detainees’ physical and material conditions of detention can be found in the umbrella provision in Art. 10 of the ICCPR, while standards to combat discrimination against women are found in UNCEDAW. This protection is further strengthened by soft law provisions in Rules 9-20 of the SMRs (Rules 12-23 of the revised SMRs), while Bangkok Rule 5 and its Chapter II on rules applicable to special categories of prisoners now strengthen this protection with gender-sensitive provisions.<sup>81</sup>

<sup>78</sup> UN Doc. A/HRC/73, para 41

<sup>79</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014

<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

## Infrastructure and regime

Prison officials and officers repeatedly acknowledged that prisons in Zambia are not designed with women in mind, and that the informal conditions of imprisonment for most female detainees are unacceptable. Senior officials reiterated that female sections of prisons in Zambia are usually substandard makeshift annexes, built as an afterthought, rather than formal facilities. Findings by the Human Rights Commission of Zambia (HRC or Commission) support this. Its monitoring visits to the country's North Western and Northern Provinces during 2008 found that most of the prisons inspected did not have adequate cells for women, with some featuring improvised spaces that were not suitable as accommodation. The Commission found that there had been no improvement by the time of its follow up visit in 2010, and in 2013 continued to report that Zambian prisons remain designed for male inmates, with no special provisions suitable for women detainees, such as separate accommodation for mothers and children.<sup>82</sup>

Others working in and with the prison system informed our researchers that conditions for women are sometimes slightly better than those of men. This is not a consequence of a particular policy or practice, but simply because some of these sections feature less (but still chronic) overcrowding, and are suitably classified at a lower security level.<sup>83</sup>

Of the two prisons observed for this research, Kabwe Female Medium Prison was purpose-built. It features a number of basic concrete structures, including staff offices, a small workroom and dormitories with basic indoor toilets, situated around a dirt-floor compound. Lusaka Central, in contrast is a makeshift facility on the side of a prison for men. It features little more than a few basic concrete dormitory cells and a dirt compound, surrounded by high chicken wire fences. These dormitories were constructed recently with funds donated by Church groups, and those provided by the State had reportedly been in worse condition. Visitors and staff enter via a door in the wire fence. Neither prison features formal facilities for visits, recreation and exercise, or education; cooking and laundry are performed in the outside courtyard.

In both facilities from 4 or 5pm until 7am women are confined in the large concrete dormitory blocks. The cells are congested and under-resourced, with as many as 40 inmates sharing a few squat toilets and one or two showers.<sup>84</sup> There are not enough beds,

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<sup>82</sup> Human Rights Commission of Zambia, *Annual Report, 2010*; Human Rights Commission of Zambia, *Report of the prison and police cell inspections, 2013*

<sup>83</sup> For example Lusaka Central Prison was designed to accommodate 200 prisoners but holds approximately 1,100 men, with 90 women in an annex. While we were told by staff that the women's prison in the Kabwe compound is under capacity with 82 women out of 103 living spaces, inmates reported sharing single mattresses, which indicates otherwise.

<sup>84</sup> The dormitories at Kabwe benefit from natural light and ventilation, while those in Lusaka are darker and dirtier, with small windows and florescent lighting.

and most inmates sleep on old and unsanitary foam mattresses on the floor, sometimes sharing two to a pallet; not all have sheets and few have mosquito nets. In past cases (as recently as 2009), two pairs of mothers and babies have been reported sharing a single mattress in Lusaka Central.<sup>85</sup> Light, sanitation and ventilation were better in Kabwe, where cells have some adequately-sized windows, while the cells in Lusaka felt claustrophobic, dimly lit by fluorescent lamps. There is no living space or play space for children here once the mattresses are laid out.

*"You should smell the stench. All the kids are sick, with diarrhoea, and you've got this stench coming from the toilet, and someone sleeping with a baby next to it."*

*"I think the worst part about this place when it comes to congestion is that you cannot really get any form of privacy and that is not good. You have to do everything in front of everyone else."*

Inmates are usually required to spend much of the day outside in the open compounds. The women pass the time by sitting on chairs, makeshift benches and containers, cleaning and washing their laundry from cold water faucets, and in some cases, cooking on open fires. Flies and mosquitoes are a constant problem. Mothers with infants share the same facilities with other inmates, and there are no special provisions for nursing inmates and their infants, nor childcare provisions. This contravenes international standards, particularly Section 3 of the Bangkok Rules, and has been a subject of recommendation from the Human Rights Commission for a number of years.<sup>86</sup>

## Hygiene and sanitation

Both staff and inmates in the facilities shared concerns about very poor health and hygiene conditions, particularly for pregnant women, new mothers, and accompanying 'circumstantial children'. Inmates said that there are few cleaning materials and that cases of diarrhoea are common. Flooding can happen in the rainy season, causing illness. In one prison the only flushing toilet was located in the room occupied by mothers and infants, and at least one mattress was located less than two meters from the toilet, which sometimes gets blocked. Inmates were deeply affected by this and found it to be particularly degrading. The Prison Service does not regularly provide inmates with basic necessities, including soap, toothpaste, sanitary pads, and laundry

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<sup>85</sup> Human Rights Watch, *Unjust and Unhealthy, 2010*

<sup>86</sup> i.e. 14. Pregnant women and nursing mothers should be isolated and given special care and attention. They must be given access to antenatal and under-five clinics on a monthly basis or as and when it becomes necessary. 15. Women with children in prison need separate special facilities to cater for children's special and unique needs and to protect them from contracting diseases and infections. For proper development a child needs an enabling environment which is friendly and clean, including special diet and clean water. Human Rights Commission of Zambia, *Report of the prison and police cell inspections, 2013*

detergent, and women remarked on difficulties in dealing with their menstruation, and a sense of shame. Without sanitary pads they try to use and wash pieces of cloth, often with inadequate or no detergent or warm water. This increases their risk of infectious disease. Women are permitted to wear their hair long, but most cosmetics and beauty products are banned.

While visits by DIGNITY did not extend to smaller or rural facilities, research by the HRC has indicated that conditions are worse for women in smaller facilities, compared to these larger ones. In some cases detainees shower in the open, without privacy, and in one reported case, women used the same pit latrine as male prisoners, breaching their basic rights to privacy, dignity and safety. In some facilities toilets were located outside of cells, which is problematic for women who need to use them at night. "They have literally nothing," noted one NGO staff member. DIGNITY urges further research into conditions in these prisons.

### Food and other provisions

Although women detainees in Zambia tend to receive fewer visits from family members compared to men,<sup>87</sup> the Prison Service has commendably become much more open in recent years to women's NGOs and church groups, which offer some basic provisions. Offender Management staff also sometimes try to source supplies privately. However, the State is still not fulfilling its duty under international law to provide basic necessities for a dignified living.

Women tend to cook their own food during two permitted mealtimes. While this allows them a sense of agency, many struggle for all but the most basic provided ingredients – small dried fish, cornmeal and beans – as well as the fuel to cook with. Two small meals per day is not sufficient, and the quantity and quality of the food provided does not meet the SMRs. Inmates link this with a lack of dignity, and health, and raised this concern often. The food is particularly insufficient for pregnant women,<sup>88</sup> and those with children. When firewood is not provided by the authorities, which according to inmates is often, the women must pay for charcoal, or beg for the embers of other inmates' fires. Inmates feel these conditions to be acutely degrading.

*"We have listened to teachers talk to us about nutrition. But we have just three types of food, the same every day. And we know that if we're not eating well it shortens your life and means that you may get more sick."*

<sup>87</sup> According to interviews by prison and NGO staff

<sup>88</sup> One recent report notes that meals consisted of approximately 400 to 450 grams of maize meal per day, which is equivalent to roughly 1,400 calories, with small quantities of beans or fish, yet observes that normal-weight pregnant women require between 1,900 and 2,500 calories per day during the last six months of pregnancy. See Katherine W Todrys and Joseph J Amon, *Health and human rights of women imprisoned in Zambia*, BMC International Health and Human Rights, 2011, Vol 11: 8

DIGNITY was informed that in some cases prisons may give supplements to the diets of women with serious diseases, such as stomach ulcers or HIV, yet not in a consistent manner. This has also been reported for women who are breastfeeding, in some prisons.<sup>89</sup> Although inmates tend to vegetable patches as part of their agricultural work in Kabwe Female Medium Prison, at the time of our visit these were sold to external parties, with the money going directly to the prison administration. This appears to run contrary to the vision of the Prison Service agricultural programme, which indicates that such activities contribute toward prisons being self-sustaining and inmates being able to produce their own food.<sup>90</sup>

Food is often allocated to inmates in groups, with no extra rations for children.<sup>91</sup> This breaches various human rights. Inmate mothers or their dining groups must share their inadequate food rations with their children and risk their own health, or risk tension between group-mates. In one case reported to DIGNITY, a detainee's group mates had tried to ban her from lighting an early fire to cook porridge for her small baby because it would use extra charcoal allocated to them, and she eventually requested that the child be sent to an orphanage.<sup>92</sup> Clothing, soap and detergent are not provided for these children, and most provisions are donated from church organisations and NGOs. This not only endangers the health of the children, and breaches international standards, but causes acute and potentially harmful anxiety and guilt among mothers.

### Torture and other cruel, inhuman or degrading treatment or punishment

As detailed above, reports have indicated that sexual harassment and abuse are most prevalent in police custody [see box, above]. Although this falls outside of the direct jurisdiction of the prisons, indication of torture and ill treatment by police places particular responsibilities at the door of the Zambian Prison Service, under the SMRs.<sup>93</sup>

In the prisons, longer term inmates and NGO staff spoke of a sharp reduction in the use of torture and cruel, inhuman or degrading treatment in prison, particularly in the

<sup>89</sup> The Open Society Initiative for Southern Africa et al., *Pre-trial detention in Zambia: Understanding caseload management and conditions of incarceration*, 2011

<sup>90</sup> African Human Security Initiative, *The Criminal Justice System in Zambia, Enhancing the Delivery of Security in Africa*, Monograph No 159, April 2009

<sup>91</sup> These conditions were also found among prisons in the North and North-western provinces in 2008 and 2009 by the Human Rights Commission. Human Rights Commission of Zambia, *Annual Report, 2010*

<sup>92</sup> We are informed that this was later averted, by a transfer of mother and child to a new facility

<sup>93</sup> SMR 24-26.

preceding four or five years. Before that, the torture and corporal punishment of women had been more common.<sup>94</sup> Practices had included women being stripped naked, rolled in mud or ashes and then immersed in water, and made to stand for full days in the sun; women confined to penal blocks naked; whipped with hose pipe; and fingers squeezed together with pens and sticks placed between them.

The reduction of this ill-treatment was attributed by informants to a commendable increase in human rights training and monitoring, and the greater openness of prisons to NGOs, including human rights organizations. However, researchers did hear of isolated violent actions against inmates by female staff in recent years, including slapping, stripping of inmates, threats of whipping, and being forced to lift heavy rocks or jump like frogs in front of other inmates, as punishment.<sup>95</sup>

Sexual relationships between inmates and male officers were also alluded to on a number of occasions by ex-detainees, (who had been detained in a range of facilities) causing considerable concern. Violence against women and girls remains common in the country, and such cases in detention must be responded to with strong systems of complaint, support, investigation and prosecution, protection against reprisal, and rehabilitation. These are absent, and a strong culture of silence and impunity was indicated (see section 5 on *information and complaints*).

Degrading treatment continues in other forms, as reported below. This includes disdainful staff attitudes and verbal abuse; excessive disciplinary confinement and humiliating tasks; and degrading search procedures [see section 3, safety and security]. Other areas that were found to be degrading by detainees included the struggle to keep clean – particularly among women accompanied by young children, or who are menstruating – and the need to beg for necessities, whether fuel to cook, soap, or extra food for children. These can be considered as amounting to degrading treatment, as also stated by the SRVAW, during her visit to a woman's prison in 2010.<sup>96</sup>

<sup>94</sup> The CEDAW Committee, in its 2011 report, had detailed its concern at the high prevalence of violence against women and girls in the country, including rape and defilement while in detention, and that such violence appears to be socially legitimized and accompanied by a culture of silence, impunity and unawareness, therefore contributing to high levels of underreporting. Committee on the Elimination of Discrimination against Women, Concluding observations on Zambia (2011), UN Doc. CEDAW/C/ZMB/CO/5-6

<sup>95</sup> One case was reported in the past two years in which a young woman was sent into the penal block in the men's section, stripped naked and left to sleep there for a night, reportedly with a female chaperone. This has not been verified, however.

<sup>96</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to Zambia (2011) UN Doc. A/HRC/17/26/Add.4

### 3. Safety and Security

**Men and women in detention are separated both in law and practice, and a decline in the use of physical violence and torture by staff has been reported in recent years, among other improvements. Yet sexual relationships with staff are not effectively prevented in all facilities, and degrading and harmful security and disciplinary procedures were reported, including body searching methods.**

#### Global perspective

*The SMRs require States to ensure that prisons are secure, safe and well organized. Yet implementation gaps remain, and discrimination and gender norms influence the kinds of abuse and exploitation that detained women face globally. This ranges from their experience of security measures and discipline, and their sense of insecurity and fear, to their ability to respond, and achieve change or justice.<sup>97</sup> Meanwhile, since the structural and discriminatory causes of violence against women can reach into and be magnified in places of detention, it is important to understand and prevent the different types, frequency and impact of this abuse, and to stress the obligations of States to do so.*

*Even where facilities comply with international standards on separating male and female detainees and successfully prohibit violence, female detainees may still face abusive treatment and attitudes from staff, including degrading search procedures and the arbitrary use of solitary confinement – even in response to self-harm. To prevent this, required responsive measures range from gender-sensitive admission, complaint and investigation processes, to the training of staff in gender-sensitive communication and security approaches, in line with human rights obligations.*

**International standards** on prisoners' safety and security are found in a range of international human rights treaties, notably the ICCPR, the UN Convention Against Torture (UNCAT), and the Convention on the Rights of the Child (UNCRC). UNCAT provides the main yardstick for the responsibility to protect detainees from gender-based violence, which covers mental, physical and verbal forms perpetrated by States, and also acts of violence by other detainees, if prison officials have failed in their responsibilities to protect. To neglect this responsibility is also a violation of UNCEDAW, as acknowledged by its General Recommendation 19 and reiterated in a raft of soft law documents, such as the UN Declaration on the Elimination of

<sup>97</sup> Baker, Jo, *Women in Prison: The particular vulnerability and risk of abuse*, Essex Human Rights Centre Blog, 30 September 2014, <https://blogs.essex.ac.uk/hrc/2014/09/30/women-in-prison-the-particular-vulnerability-and-risk-of-abuse/>



Violence Against Women.<sup>98</sup> This protection is further boosted for detainees by soft law standards in Rules 27-34 of the SMRs (Rules 1 and 36-54 of the revised SMRs), and Rules 22-24 and 31-32 of the Bangkok Rules.

The separation measures called for by Zambia's Prison Act were found to be implemented in most cases.<sup>99</sup> Although some women's prison wings are overseen by male Officers-in-Charge (OICs) as part of larger male facilities,<sup>100</sup> and receive regular visits from male clinicians, chaplains and administrative or male Offender Management officers, such sections will be overseen by a senior female officer, and interactions between male personnel and female inmates are monitored by regulation. However, exceptions were still reported by inmates, causing concern. DIGNITY was informed that male staff are still sometimes able to ask for sexual favours and carry out sexual relationships with detained women in some facilities,<sup>101</sup> in exchange for better treatment and small favours, such as using cell phones. It was indicated that this risk is more common among women who do not have outside support and therefore have no other source of basic necessities.

It should also be noted that while the protection of female detainees is paramount, some inmates appreciated and looked forward to interactions with male officers. This was particularly the case among those who perceived the attitudes of female staff to be harsher and more disrespectful than those of the male officers, which was reported by inmates from both visited facilities. This indicates the need for more and better skills training among female personnel. Inmates also expressed mixed feelings about recently implemented co-education classes, in which those who wished could join the men's classes [see section 7]. Although these were reportedly well-monitored and secured, and some inmates enjoyed the opportunity to be in the proximity of men, others felt intimidated and were discouraged from taking the classes.

As discussed above, interviews indicated that the use of torture, corporal punishment and other physical abuse had significantly declined in the previous four or five years. Wardens in some institutions had also promisingly stopped the use of inmates to clean private

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<sup>98</sup> Article 2 of the latter provides that violence against women shall be understood to encompass, but not be limited to, the physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs. In UN Resolution 61/143 of 19 December 2006, entitled Intensification of efforts to eliminate all forms of violence against women, the General Assembly urged States to take positive measures to address structural causes of violence against women and to strengthen prevention efforts addressing discriminatory practices and social norms, including with regard to women in need of special attention, such as women in institutions or in detention.

<sup>99</sup> See section on legal framework under National Context

<sup>100</sup> At the time of the study there were just 16 female OICs out of 54 in the Prison Service.

<sup>101</sup> This was indicated by former detainees who were held in a range of pre-trial facilities and prisons between them, some of which were not visited by DIGNITY for this study.

houses and work in gardens, where they had been at greater risk of abuse – particularly sexual abuse.<sup>102</sup> Inmates reported that beatings were rare, with caning of women becoming prohibited and cooking provisions no longer being confiscated. Yet disciplinary practices are still a strong cause for concern, and degrading treatment was observed by researchers. Inmates would frequently fall silent on this issue during interviews.

In particular, verbal abuse and degrading comments are commonly used by some officers toward inmates, although some detainees also spoke of this also having lessened during the past five years. A number of inmates felt dehumanised by the attitude of staff; one explained that the impact of the verbal abuse was worse than being beaten. We were informed, for example, that one OIC regularly told detainees that they were not worthy of respect, and that the prison officers, by law, were not allowed to show them respect. In one case DIGNITY researchers observed a young detainee being aggressively scolded by a female officer as she sat on the floor with her baby, crying. The officer was responding to the inmate's insistence that her child be taken to the clinic at an inconvenient time.

*"Sometime back, the OIC was very tough. Those insults would ring in your brain. But we feel better here these days."*

*"You always have to be careful. [The OIC] says bad things, you have to be nice. You can never complain. You just keep quiet on any complaint."*

Others disciplinary measures also caused concern and indicated ill treatment. These include enforced, arbitrary and humiliating physical exercises, such as jumping like a frog in front of other inmates, or lifting heavy stones. We were informed by inmates that among convicted women, the cancelling of remission days to their sentence had been used disproportionately, and sometimes arbitrarily, with full weeks or months returned to sentences for infractions, such as being late, being slow, being rude, fighting or arguing with other inmates, and also for complaining.

Confinement practices caused particular concern. Inmates, many of whom already appeared to suffer from depression, may be locked inside the communal cell blocks for weeks at a time as punishment, in badly lit and sometimes squalid conditions. During this time they rely on fellow inmates to cook and bring them food. It was indicated that this punishment can be excessively applied for small infractions, and complaining. Those who are confined do not have access to visits from their family (or children) as required by international standards, such as Bangkok Rule 23.

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<sup>102</sup> In 2007 the Prison Service were directed by the executive to not use prisoners for gardening and cleaning work in private vegetable gardens or officers' homes, instead of sanctioned work and skills training, because this constituted a violation of their rights. African Human Security Initiative, *The Criminal Justice System in Zambia, Enhancing the Delivery of Security in Africa*, Monograph No 159, April 2009

Inmates reported degrading search practices that fall far below international standards, including the Bangkok Rules, and breach the prohibition of degrading treatment. Searches are performed only by female staff, but are frequently invasive and performed without privacy; we were informed of strip and cavity searches being conducted communally, in front of many other cell mates. In at least one case staff have used the same glove for each inmate, who were required to lie spread-eagled on the floor while being intimately searched.<sup>103</sup> Searches are conducted by officers on duty, without medical or health staff involved and without adequate training. In some cases personal searches have been combined with cell raids by young cadets, who have a reputation for being more aggressive. One woman noted with shame that the trainee who had searched and degraded her was the same age as her daughter. Various inmates focused on the degradation they feel during these procedures, and the harsh, disrespectful attitude of staff.

*"You queue, strip, lie down on the floor, spread your legs and they ask you to insert a finger in your vagina. We find this very hard. Our self-esteem dives."*

## 4. Healthcare

**There are acute shortages of medication and staff in the prison system generally, and little gender-specific healthcare is provided. Particularly urgent gaps were found in the areas of mental health, sexual and reproductive health, HIV treatment, and care for accompanying children.**

### Global perspective

*Health is a fundamental human right for all. Yet in most countries, prisoners suffer from poorer health than the general population, particularly mental health diseases and infectious diseases, but likely also non-infectious diseases and cancer,<sup>104</sup> largely due to the poor living conditions and the lack of preventive healthcare in places of detention. And this is especially so for women.*

*Studies have revealed that women have a higher prevalence than men of most diseases, including most mental health diseases, HIV, hepatitis and cancer, and that rates of*

<sup>103</sup> Interviews by DIGNITY with inmates, and Todrys, Katherine W, Amon, Joseph J, *Health and human rights of women imprisoned in Zambia*, BMC International Health and Human Rights, 2011, Vol 11: 8

<sup>104</sup> The higher prevalence of disease among prisoners is due to living conditions in the prison, including high risk of transmission of infectious diseases (overcrowding, sharing of needles), less access to effective health care, and intake of prisoners who already suffer health problems. See more in Fazel S. Baillargeon J. The health of prisoners. *The Lancet* 2011;377:956-65.

*deliberate self-harm in the year preceding imprisonment,<sup>105</sup> and during prison, is much higher among women than among men.<sup>106</sup> In her 2013 report on pathways to and consequences of detention for women, the UN Special Rapporteur on Violence Against Women also highlighted the vulnerability of women to psychological distress, substance abuse, personality disorders, histories of abuse and self-harm.<sup>107</sup>*

*International standards have recognized that the different risk factors and backgrounds of women must be responded to with a gender-specific framework for healthcare in order to protect their fundamental human rights.<sup>108</sup> Meanwhile, binding obligations to actively combat gender inequality mean that prison officials must work to improve the level of health knowledge and care histories of women, due to gender barriers in their communities. As recognized in the commentary to the Bangkok Rules, women often arrive at prison with greater primary health-care needs compared to men.*

*It should be noted that the highest indication of depression and the lowest sense of morale have been found by DIGNITY's research to exist in prisons where more authoritarian structures and negative relationships between staff and inmates were reported, and in which women felt stigmatized and isolated from caring relationships. Meanwhile, inmates' morale and sense of identity appeared much better in facilities that connected them with the outside community – from NGOs and spiritual organizations to family members and children – and gave them tools to cope, communicate and prepare for the future.<sup>109</sup>*

**International standards** include the basic principle on the right to health that is found in Art. 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), supplemented by Art. 12 of UNCEDAW. These rights are further expanded in a wide range of soft law standards in SMRs 22-26 (Rules 24-35 and 42 of the revised SMRs) on prison healthcare, and Bangkok Rules 6-18.

<sup>105</sup> Ibid.

<sup>106</sup> Hawton K, Linsell L et al. Self-harm in prisons in England and Wales: an epidemiological study of prevalence, risk factors, clustering, and subsequent suicide. *The Lancet* 2014; 383:1147-54.

<sup>107</sup> Report of the Special Rapporteur on Violence Against Women, Pathways to, conditions and consequences of incarceration, UN Doc. A/68/340, 21 August 2013.

<sup>108</sup> UNODC, *Handbook for Prison Managers and Policymakers on Women and Imprisonment*, United Nations Office on Drugs and Crime, 2008.

<sup>109</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014.

Although Zambia faces healthcare challenges and resource constraints throughout the country,<sup>110</sup> these are magnified in prisons, where conditions are poor and provisions are scarce. Although there is a clinic onsite in larger facilities, some prisons lack an infirmary and operate with only emergency medical kits – often not well stocked.<sup>111</sup> The administration relies on government clinics to meet inmates’ health needs, yet many do not have the capacity to assess detainees’ states of health and to transport them to these clinics.<sup>112</sup> The right of detainees to health at the most basic level is often unmet by the State, and threatens their right to life.<sup>113</sup> In this context, the specific health needs of women are almost entirely neglected,<sup>114</sup> sometimes to an even greater harm and disadvantage.

The two larger facilities visited for this study feature onsite clinics. In these DIGNITY found severe shortages in basic medicine and medical staff,<sup>115</sup> and delays in transfers to hospital. Given the specific health needs of women, these conditions impact them in different and disproportionate ways. In one facility the clinic was located in the male wing, requiring an escort for women. This constituted a direct barrier to care because prison officers without medical training would sometimes deny this escort if they did not consider an inmate’s condition (or the condition of her accompanying child) to be serious enough.<sup>116</sup> In one case, also detailed above, a young woman was seen crying over her baby, who she thought was ill, after being denied access to the clinic. She was harshly scolded by an officer. “Then let me die, and my baby die too,” she responded. At other times capacity problems, particularly understaffing, also block access to the clinic.

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<sup>110</sup> UN Doc. A/HRC/WG.6/14/ZMB/3, Working Group on the Universal Periodic Review, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Zambia [stakeholders’ submission]. This notes that, according to one joint-submission, the health sector faced considerable challenges mainly accessibility to health infrastructure and essential medicines, insufficient quality of health care because of lack of human resources and lack of a coherent policy framework; medical facilities were poorly equipped and patients were not provided the required treatment and amenities. The report urged Zambia to ensure that all its health facilities meet the requirements in terms of equipment and services in accordance with the Ministry of Health guidelines.

<sup>111</sup> The Human Rights Commission of Zambia, *Prisons Report*, 2013; Human Rights Watch, *Unjust and Unhealthy*, 2010

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> The Human Rights Commission of Zambia has also acknowledged that facilities for healthcare are primarily designed for male detainees, see *Prisons Report*, 2013, while HRW made similar findings in *Unjust and Unhealthy*, 2010.

<sup>115</sup> For example, in February 2010, the Zambia Prisons Service reportedly employed only 14 trained health staff—one physician, an administrative rather than a clinical role, one health environmental technician, nine nurses, and three clinical officers — to serve 15,300 prisoners, with 11 prospective staff in training. See HRW, *PRISCCA, ARASA and Human Rights Watch interview with Dr. Chisela Chileshe, director, Zambia Prisons Service Medical Directorate, Lusaka*, February 6, 2010..

<sup>116</sup> USSD, *2013 Human Rights Reports: Zambia*, 2014

Meanwhile, although hospital care is free or heavily subsidized, prescription medication requires payment. Inmates are not permitted to earn money, and women are less likely than men to have earnings or control of their finances in the outside world. This creates another discriminatory barrier to treatment. It is also important, to note that medical requests are often taken during morning roll call, and some women are reportedly too embarrassed to reveal certain conditions. This includes reproductive or sexual health care issues, particularly urinary tract infections (UTIs) and HIV, both of which are common among women in prison, and often more common among women than men.

*“If you offended, certain things you must accept. But I don’t deserve to pass through some of these things. I came to prison healthy. I’m not intending to leave sick.”*

There were no facilities for pre- or postnatal care at the time of our visit, although some pregnant women had visited the clinic at Lusaka Central for basic checkups. These were reportedly not systematic, and the lack of equipment indicated that they were not comprehensive. Arrangements are routinely made for women to deliver their babies outside of prison in a public hospital. However, vehicles are sometimes in shortage and DIGNITY was informed that inmates had faced complications in labour after delayed transfers to hospital.<sup>117</sup> This is a grave violation of the right to health of both the detainee and the child whilst in the direct care of the State. Pregnant women also reported facing stigma when accessing maternity care in public hospitals accompanied by prison officers.<sup>118</sup> Researchers heard no reports, however, of shackles being used during transfers or labour.

Prison sanitation is not sufficient for the postnatal period, and women are not afforded any special provisions or treatment, other than breastfeeding women being provided with nutritional supplements, sometimes, in some larger prisons.<sup>119</sup> Inmates may struggle to source their own soap, and charcoal to heat water, as well as antibiotics and painkillers. DIGNITY was informed that Offender Management staff try to source essential items for new mothers from outside organizations, including clothes and diapers for babies. However, this does not ensure that all women receive basic necessities (see more in Special Groups box, below).

With 14.3% adults living with HIV in 2007, during the country’s latest full demographic and health survey, Zambia has one of the highest prevalence rates in the world: 16.1% of

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<sup>117</sup> As also found by the Special Rapporteur on violence against women, its causes and consequences, in her report on her mission to Zambia, 2011, UN Doc. A/HRC/17/26/Add.4

<sup>118</sup> Ibid.

<sup>119</sup> This was reported by The Open Society Initiative for Southern Africa et al. *Pre-trial detention in Zambia: Understanding caseload management and conditions of incarceration*, 2011

women were living with HIV/AIDS, compared to 12.3% men.<sup>120</sup> HIV rates in prison are almost double those of the general population, and almost double again, at 47%, among women detainees compared to men.<sup>121</sup>

In recent years the prisons have expanded testing and access to anti-retrovirals (ARVs), care and support, but these are almost non-existent in smaller settings that lack general prison-based health services.<sup>122</sup> Services, where available, are also of a lower level than those available to communities outside prison.<sup>123</sup> Some female inmates reported a recent shortage in their medication, and concerns that poor nutrition and small food portions were reducing the effectiveness of ARVs. This may be a particularly acute problem for women who must share their food portions with accompanying children. Inmates also informed researchers that because of the public nature of medical requests, some women have kept their status a secret and not pursued treatment, at great risk to themselves and others. In some cases Offender Management staff have been able to discretely fill this gap, and should be supported and encouraged to do so on a larger scale.

At the time of DIGNITY's visit, there was no systematic HIV Prevention of Mother-to-Child Transmission (PMTCT) programme under the prison medical directorate, as required by Bangkok Rule 14, but we were informed that related activities do take place, particularly in larger prisons. However, these do not reach all women. It is urgent that these be scaled up, and systematized, while ensuring that prenatal testing is understood by women to be optional, and is respected as such by staff.<sup>124</sup> Although action plans have been elaborated

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<sup>120</sup> See UN Doc. A/HRC/17/26/Add.4, Special Rapporteur on violence against women, its causes and consequences, Mission to Zambia, 2011; Zambia Demographic and Health Survey, 2007. However these figures were estimated to be slightly lower in 2013, at 12.5 by UNAIDS. See <http://www.unaids.org/en/regionscountries/countries/zambia>

<sup>121</sup> In 2009 and 2010 2,244 prisoners in Zambia participated in a survey of HIV prevalence and risk behaviours. 27% prisoners tested positive on average. Among women, 47.3% tested positive. See Oscar O. Simooya et al., *Aggressive Awareness Campaigns May Not be Enough for HIV Prevention in Prisons-Studies in Zambia Suggest Time for Evidence Based Interventions*, in *The Open Infectious Diseases Journal*, 2014; Vol 8, 1-7 1

<sup>122</sup> In 2012, the Special Rapporteur on extreme poverty and human rights was pleased to note, with regard to HIV/AIDS, the substantial increase in the numbers of people receiving free antiretroviral treatment, and called on Zambia to urgently push ahead to increase coverage, with the support of development partners. UN Doc. A/HRC/WG.6/14/ZMB/2, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 2012

<sup>123</sup> Ibid

<sup>124</sup> One report indicates that this is not always the case. See Katherine W Todrys and Joseph J Amon, *Health and human rights of women imprisoned in Zambia*, BMC International Health and Human Rights, 2011, Vol 11: 8

to reduce women and girls' vulnerability to HIV infection and mitigate the impact of HIV/AIDS at all levels, this has not necessarily spelt change for detained women.<sup>125</sup>

*"Women have died here because they are scared for people to know that they're HIV positive."*

While tuberculosis is a significant problem in the prison system generally, the lower congestion in female sections compared to male sections means that rates are lower among women. While preventative healthcare and education are mostly absent, there was a commendable pilot scheme in Kabwe Female Medium Prison at the time of our visit that will send women for preventative cervical cancer screening. This has been positively received by inmates. Some Offender Management staff have also given health training on issues affecting women, although these are *ad hoc*, and under resourced. There are no state-sponsored rehabilitation programmes for substance abuse. DIGNITY was informed that Offender Management staff attempt to identify and counsel women who display symptoms and some NGOs have developed related programmes.<sup>126</sup>

Regular mother-and-child clinic visits take place in larger prisons for vaccinations and check-ups for children aged below four-years-old, commendably in line with WHO recommendations, as in the broader community. It is unfortunate that inmate mothers are not permitted to join the routine group information session that is given afterwards, should they wish to. Care is otherwise very limited for young children who are detained with their mothers, and mothers commonly reported the distress of having so little control over their children's poor health, while feeling the full burden of it.

### Mental healthcare

*"They think so much about their children. They worry about their husbands re-marrying. They sleep all day, depressed. They think, this is the end of the road."*  
– Offender Management staff

Signs of depression were common and visible among women inmates. Staff observed that compared to most men, women often take longer to accept their confinement and respond constructively to prison life, and they spend considerably more time thinking and worrying. "Depression is much higher and there is no activity for them, or not much,"

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<sup>125</sup> See Zambia's Ministry of Health, National AIDS Strategic Framework 2010-2015, 2010, which makes no mention of prisoners or detainees [http://www.nationalplanningcycles.org/sites/default/files/country\\_docs/Zambia/zambia\\_national\\_aids\\_strategic\\_framework\\_2011-2015.pdf](http://www.nationalplanningcycles.org/sites/default/files/country_docs/Zambia/zambia_national_aids_strategic_framework_2011-2015.pdf)

<sup>126</sup> DIGNITY was informed that one such NGO programme had not well received among women. Staff believe that this may partly because they do not want to be identified as drug users, and partly because some didn't want to cease their addiction.



said one Offender Management officer. “The men keep themselves more busy.” Most prevalent in their minds, according to the inmates spoken with, are their disrupted roles in society as women, and in their families as mothers, of struggling with self blame, doubt and stigma, and worrying intensely and constantly about their children [see section, What Matters Most].

When asked about emotional support, some inmates spoke of the service and counselling support of visiting chaplains with appreciation. Others noted that Offender Management staff, who are trained in counselling, are occasionally able to give their time. Yet on the whole, this study has found that in practice the Prison Service does not succeed in implementing a rehabilitative approach to detention, in the case of female prisoners, nor addressing their mental health needs in an adequate way. Depression is not treated as a health issue by staff, contrary to the Bangkok Rules and the guidelines from the WHO and UNODC,<sup>127</sup> and there were no mental health specialists in prison at the time of our visit. Mental health practitioners were reportedly being trained to work in the largest prisons at the time, yet DIGNITY was informed that violent psychoses and greater security risks will take priority in their deployment, and that these are largely a problem in prisons for men.

Meanwhile, activities and programmes are minimal and do not match those offered to men [see section 7]. Offender Management staff are under-resourced and constrained, and these factors, combined with the environment of impunity and deprivation, disrespectful attitudes and degrading treatment from some staff, and the minimal contact with the outside world [section 6], prevent steps toward rehabilitation and reintegration. The role of the Offender Management staff could be greatly expanded to fill at least some of these urgent gaps, while staff training and reform of basic policies to many issues highlighted in this report would also make a considerable difference.

*“There’s so much stigma in here on inmates. [The staff] just hate you. They don’t want to help.”*

Researchers did not hear of any cases of active self-harm or suicide attempts among women in Zambian prisons, and were informed that this is extremely rare. The rate is also reportedly low among men. It should be noted, however, that facilities in Zambia rarely if ever afford the privacy to allow these acts. One NGO staff and researcher reported that many of the male inmates she had spoken to in recent years had reported feeling suicidal. In one women’s section a staff member informed us that during the previous year in one prison, three deaths had taken place among the female inmates because of self neglect -- including not eating. She attributed these deaths to ‘depression and self blame’. An inmate

<sup>127</sup> United Nations Office on Drugs and Crime & World Health Organisation (UNODC & WHO), *Women’s health in prison: Correcting gender inequity in prison health*, 2009

reported that these women were acutely neglected by staff, and were allowed to die. This may be considered a form of self-harm and suicide, to which staff responded inadequately.

## Special Groups

The scope of this study did not allow research into the experiences of particular groups of women, or forms of intersectional discrimination, although efforts were made to include a broad range of detainees in interviews, among them, women of varying ages, religions, and marital and motherhood status, and where possible, gay, foreign and indigenous women, as well as those with disabilities or HIV. However, interviews highlighted a few particular groups of women who are particularly vulnerable to human rights violations in the facilities visited, as detailed below.

Further research and consideration is certainly required into the ways in which women belonging to particular groups may experience detention differently. The UNCEDAW Committee has reported its concerns about the de facto discrimination faced by certain disadvantaged groups of women in Zambia, especially older women, women with disabilities, refugee women and women in detention, many of whom, suffer social marginalization, exclusion, violence, poverty and isolation in all areas of Zambian society and particularly in rural areas.<sup>128</sup>

As noted by the UN country team report to the 2012 UPR of Zambia, the country’s penal facilities host large numbers of immigration detainees – both **migrant workers and refugees** – including women and children.<sup>129</sup> Many have served their entire sentence but are forced to remain in detention because there are limited resources for their return to countries of origin. DIGNITY found groups of migrant and asylum seeking women, convicted and in remand, from neighbouring African countries, classified as ‘prohibited immigrants’. Some had been working, others reportedly trying to pass through the country. Their situation was often desperate, and needs to be addressed urgently. Because they have little or no outside support, they are often the poorest inmates, with no access to extra fuel, supplementary food or medicines, sanitary products, or even postage stamps to write to communicate with the outside world (in the absence of prison telephones). Because of language barriers they may struggle to make complaints, access information, form relationships or bargain for favours. No translators are provided by the Prison Service. DIGNITY was informed that asylum seekers may need to bring accompanying children who are older than five into prison with them, yet will have

<sup>128</sup> UN Doc. CEDAW/C/ZMB/CO/5-6, CEDAW, Concluding observations on Zambia, 2011

<sup>129</sup> UN Country Team in Zambia, Report of the UN Country Team, UN submission to the Universal Periodic Review of Zambia, 2012

no provisions or access to social welfare support, or education for them. Researchers also encountered a number of foreign women who appeared to be suffering forms of mental breakdown. Inmates confirmed that a few of the 'prohibited immigrants' or 'PI' women do little other than pray to the wall. "One PI is going crazy. She can't speak a word [of Zambia's national or indigenous languages], and there's not much we can do for her," said a Zambian inmate.

**Pregnant women and new mothers** are able to access treatment for few of their nutritional or healthcare needs, and are not exempt from the common anxieties and deprivations of their environment. Offender Management officers may try to source

items, such as basins, soap, baby clothes and milk powder from well-wishers, such as NGOs and church groups, but no policy or systematic practice exists. They tend to access check-ups only if there are clear signs of a problem. Although women are often transferred to hospital for the labour, they may be returned to the same conditions the same day; delays in the transfer are not uncommon. They will rely largely on other

inmates to bathe and care for them. These conditions are grossly inadequate, place the lives of the women and their children at risk, and breach a range of international obligations, particularly the right to health.

Staff report that a large percentage of the children who live with their mothers in prison are over two-years-old, and there are no state provided facilities or provisions for children. DIGNITY found that **mothers of 'circumstantial children'** can face hostility from other inmates; their group mates may resent sharing a greater portion of food and charcoal, and cell mates may become upset by the constant crying at night. There is a physical toll for those who share their own small food rations with their children. There is also a heavy emotional toll from worrying about the child's health and hygiene, and their safety among inmates and (often impatient, unsympathetic) staff. "I have to watch what he is fed because he may end up eating something that may make him sick," said one inmate of her small son. "And seeing how we are attended to when we need medical attention, my child may end up dying." Mothers with circumstantial children are less likely to work or take education classes because of this role. However, they have the advantage of being in contact with and able to care for their children — a situation denied many of the other inmates.

## 5. Information and complaints

**Comprehensive complaint mechanisms are not in place in all prisons and complaints handling often fall short of international standards. Female detainees in particular are isolated and placed at risk by gendered and discriminatory barriers to complaint mechanisms and information, and a discriminatory culture of impunity.**

### Global perspective

*Barriers to information or complaint can block the full spectrum of rights. Therefore, while this area is often given little attention in penal policy, it is important to recognize such barriers from a gender perspective, and the ways in which these may exacerbate and create gender-based harm and disadvantage. Although women face many vulnerabilities in prison, some differently to men, the latest research by DIGNITY suggests that they may be less likely to complain, make requests or challenge authority compared to men, particularly if they have a history of domestic abuse or sexual violence, are from a minority group, or are keen to protect children accompanying them - or if the channels of complaint and request are not within reach.<sup>130</sup> Furthermore, gender-based violence is considered grossly under-reported in broader society because of gendered biases and barriers, and this can be mirrored in places of detention.*

*DIGNITY's findings also show that information on complaints procedures, the prison regime and its rules may need to be delivered differently to be fully grasped by different groups, due to cultural norms. Some women, particularly in countries where they may receive lower levels of formal education compared to men, are less likely to check their understanding, ask questions and pursue information for the reasons given above, or due to their acute anxiety during the admissions period.*

*There are also areas that disproportionately impact women and may not receive adequate attention, such as information on the welfare and custody of children outside of detention. Measures are therefore required to encourage information flow between staff and inmates. Welfare officers in detention, in particular, can be supported and trained to act as personal bridges between female inmates and service providers,<sup>131</sup> and close many of the protection gaps highlighted above.*

<sup>130</sup> See Chapter V: Information and Complaints, in DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014, [http://www.dignityinstitute.org/media/1991156/wid\\_final\\_0814\\_web.pdf](http://www.dignityinstitute.org/media/1991156/wid_final_0814_web.pdf)

<sup>131</sup> Ibid., and Jo Baker, *Women in prison: Information vacuums, harms and human rights*, 22nd September 2014, <http://www.penalreform.org/blog/women-prison-information-vacuums-harms-human-rights/>

**International standards** on the right to complain of torture and other ill treatment, have your complaint investigated promptly, and to be protected from reprisals, are found in Arts. 12-13 of UNCAT. Standards to combat discrimination against women are found in UNCEDAW. This legally binding international protection is further boosted by soft law standards on information to and complaints by prisoners in Rules 35-36 and 55 of the SMRs (Rules 54-57 and 71 of revised SMRs) and Rules 25 and 31 of the Bangkok Rules. However, when assessing the needs above regarding information against the protection afforded by international legal standards, DIGNITY has found that the latter need to be further developed in order to adequately protect women.

Gendered barriers to information and complaints were evident in the prisons. These include the impact of gender norms and discrimination in Zambian society on women, and the lack of responsive measures to compensate for this. In places where women are raised to respect hierarchy and patriarchy, and to be less vocal than men,<sup>132</sup> they are less equipped to pursue information for themselves, assert their rights, and make complaints – particularly in a prison environment.<sup>133</sup> Literacy rates, legal literacy and awareness of rights are also commonly lower among women, particularly those from rural areas,<sup>134</sup> and it should also be taken into account that women tend to lack the valuable peer support found among many male inmates. For example, staff informed us that male inmates in some prisons will arrange regular lectures or talks among themselves in their cells, so that those with particular expertise or knowledge, such as on health or law, can share it. In women's wings inmates are fewer, the knowledge pool is much smaller and less diverse, and such sessions do not commonly take place, if at all. There is therefore a clear need for special measures to inform women of their rights and options in ways that they understand and are likely to respond to. This would prevent de facto discrimination in this area by the Prison Service, as outlined by UNCEDAW.

DIGNITY's research confirmed that many female inmates did not know about basic rights and services open to them, whether regarding their health, safety, the legalities of their case, or the custody and welfare of their children. Most were not sure who they would

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<sup>132</sup> Interviews with NGO staff, inmates and prison staff. See also information on the status of women in Zambia, in Facts and Figures.

<sup>133</sup> See the pattern of complaints in broader society, as received by the Human Rights Commission of Zambia in its latest available report. The Commission notes that male complainants accounted for the largest number of complaints of the 1,172 complaints received by the Commission in 2010. Records show that 733 males, 216 females and 24 children lodged complaints with the Commission in 2010. Male complainants accounted for the most complaints in all the operational areas. In Lusaka alone, male complainants were responsible for 75% of the complaints registered.

<sup>134</sup> Interviews with NGO staff, inmates and prison staff. See also information on the status of women in Zambia, in Facts and Figures.

ask for this information, or said that they would not be comfortable to ask. DIGNITY was also informed that inmates have been commonly deterred from pursuing this information by staff. In some cases, officers have brushed off requests for help or action, such as an escort to the clinic, with responses such as 'I am tired, let me rest.' In other cases, inmates have been scolded or punished for asking too many questions during morning roll call, and branded as trouble makers by staff.

*"When you complain they label you as an inciter, even when you're just asking a question. They ask in the mornings, does anyone have any complaints? But they hate it if you speak."*

*"Complaining often doesn't work out nicely. So you try all that you can to be calm. For you to have enemies in a place like this ... things don't go away."*

Some inmates nevertheless reported that particular staff members would spend time talking to individuals, and asking about their problems – particularly Offender Management staff. By ensuring better training and resourcing, supporting gender-sensitive staff members, and allowing for a change in the attitude of staff to questions and information, the Prison Service could do much to close this gap, increase the welfare of female detainees, and better protect their rights. [See Dignity's Main Study, Chapter V, for more information and good practices in this area].<sup>135</sup>

There is largely an impression of isolation among inmates, and impunity for violations of their rights by staff. Procedure stipulates that complaints can be raised to senior officers during morning roll call, or during special visits by the Commissioner, an official visitor or a visiting justice. The OIC is obliged by regulation to ensure that requests by detainees to see such visitors are conveyed, and recorded into a complaint book. Yet processes were not found to be independent or confidential, in line with international standards, and are particularly inadequate for complainants of violence or abuse. There was no channel by which prisoners could reliably send confidential complaints outside of the prison. Some female inmates did not believe that a complaint of theirs would be taken to a higher officer. Little was known among inmates and staff about complaints that had been acted upon. Just a few cases were referred to in which officers had been investigated following a complaint; one involved an officer being removed from a prison, yet few knew much about it. This was confirmed when DIGNITY was informed by a Prison Service staff member that, in practice, prison politics are prioritized over the claim of a complainant; if handled at all, a complaint of abuse is most likely to be met with informal discussions and decisions among staff.

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<sup>135</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014, [http://www.dignityinstitute.org/media/1991156/wid\\_final\\_0814\\_web.pdf](http://www.dignityinstitute.org/media/1991156/wid_final_0814_web.pdf)

As detailed above, detainees also informed DIGNITY that women who assert their rights or complain frequently are considered 'trouble-makers' and may face reprisals, which have included basic provisions (erroneously called 'privileges' by staff) being reduced or taken away, and the women being punished (as detailed in section 4 on safety and security). This breaches international standards, and may considerably harm the women's health and wellbeing in an already challenging environment.

*"We are their mothers. You cannot hide anything from us. There are no secrets in prison. They will not say anything against us." – An Officer-in-Charge*

NGOs and some Prison Service staff informed DIGNITY that despite the introduction of commendable new laws dealing with the violence against women,<sup>136</sup> addressing violence against women is considered a low priority in Zambian society among law enforcers and the general public.<sup>137</sup> This mind-set extends into the penal system, and impunity was indicated as a common response during interviews and by human rights reports.<sup>138</sup> At the time of research, measures were not in place in the prison to protect complainants from reprisals, and ensure channels of independent investigation and prosecution, along with rehabilitation, as required by the UN Convention Against Torture, UNCEDAW, and the SMRs. "When you report abuse in Zambia, as a woman you will be blamed more than the man," said one member of a local NGO, speaking of both stigma and possible reprisals. "In prison such a person would already be an outcast and you would have to be careful [as an NGO] about what happens to her. The rule in places like that is which battles to pick, and who with."

Reports have conflicted on the access of women to a lawyer in Zambia. While one indicated that more women than men are represented by a lawyer,<sup>139</sup> local NGO staff informed DIGNITY that legal aid is not offered for minor offences, which make up the majority of crimes committed by women, and that women tend to face more trouble accessing legal help. This was reiterated by the UN Country Team in Zambia during the country's 2012 Universal Periodic Review,<sup>140</sup> and by the visit of the UN Special Rapporteur on VAW to Lusaka Central prison in 2011. The UN Special Rapporteur recommended that measures be taken to strengthen the provision of legal aid to women who have been subjected to violence,

<sup>136</sup> See section on national context

<sup>137</sup> According to the US State Department Zambian law requires medical reports prepared by certified practitioners for the prosecution of cases of violence against women, and the rate of such prosecutions in general is low. See *2013 Human Rights Reports: Zambia, 2014*.

<sup>138</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on Zambia (2011), UN Doc. CEDAW/C/ZMB/CO/5-6

<sup>139</sup> HRW, *Unjust and Unhealthy: HIV, TB, and Abuse in Zambian Prisons, 2010*

<sup>140</sup> The UNCT report cites research that found that between 60-76% of prisoners were never represented by a lawyer, which included 76% women and 73% children.

including those charged with a crime.<sup>141</sup> The vast restrictions on contact with the outside world [section 6, below], including a lack of telephones, block another path to information about detainees' cases.

*Many women, particularly these women who don't read, they are terrified in court. They just want to go and get it over with and so they don't fight their sentence. Men in jail help each other, but women here know so much less. I think quite a few shouldn't be here at all."*

Finally, it is critical to note that restrictions on information have been used to exploit women sexually, particularly in police custody. One inmate spoke of being able to protect herself and a young cell mate from being taken out of their police cell for 'night questioning' by abusive male police officers by asserting her legal rights. This again indicates the importance of rights awareness and legal literacy among women generally, for their safety and security. Mechanisms must be in place in state facilities to protect inmates from these forms of abuse.<sup>142</sup>

## 6. Contact with the outside world

**Inmates were largely found to be isolated from family and outside support, and urgent amendments are required to improve the length, accessibility and conditions of visits. However, some promising practices were found in the flexible management of visits and the efforts of Offender Management staff to communicate with detainees' families.**

### Global Perspective

*Visitors and outside contact are vital to the morale and rehabilitation of inmates generally, while also often helping to prepare them for release, and supplying extra food, medicine or other provisions. This can be of particular value to women because of their identities*

<sup>141</sup> The Special Rapporteur on VAW found that many women detainees meet their defence counsels for the first time in courtrooms and legal aid counsels often do not provide professional services to them. UN Doc. A/HRC/17/26/Add.4, Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to Zambia, 2011

<sup>142</sup> As noted above in the box on Police Custody, DIGNITY received reports of police officers deliberately isolating women and promising their release or threatening to intervene in a way that would harm their case, in order to procure sex acts. Some inmates admitted to being tempted to submit to sexual advances by staff, after a week or two without information on their situation. Staff believe that some did submit, though none of the inmates acknowledged this in interviews. Many appeared to be deeply impacted by the experience.



and responsibilities as primary care-givers and family members, and the greater likelihood that they are not economically independent.<sup>143</sup>

Research by DIGNITY has indicated that most mothers in detention have an intense emotional and psychological need to stay closely involved with their children, which is experienced differently to most men, and which significantly impacts women's health and wellbeing in prison. This of course impacts children, families and communities too. Meanwhile, since women tend to rely more heavily on outside support to meet their basic needs – which are often not met by the State – receiving no or few visits hold a range of implications for their rights. DIGNITY's research suggest that those women who are most vulnerable to abuse or exploitation in prison are often those who do not have support on the outside, and are in need of basic provisions.<sup>144</sup> Women therefore experience particular violations of their human rights as a consequence of limited contact with the outside world.

Yet, there are gendered barriers to outside contact that prison authorities are obliged to help overcome or compensate for. DIGNITY has found that the greater stigma surrounding women and criminality in many societies may result in fewer visits from friends and relatives, which may prevent visits from their children. In countries where women-only facilities are centralized, relatives of detainees may need to travel a great distance from their homes to visit. Yet when women are detained in facilities throughout a country, closer to their homes, they are often housed in makeshift wings that are attached to facilities for men – and visiting and communications facilities for them may be worse, and considered inadequate for children.<sup>145</sup>

**International standards** on prisoners' right to family life and to maintain contact with the outside world include Art 17.2 (d) of the International Convention for the Protection of All Persons Against Enforced Disappearance (UNCED), Arts 17 of the ICCPR, and Art 10.1 of the ICESCR, while standards to combat discrimination against women are found in UNCEDAW. These provisions are supplemented by the Rules 37 -39 of the SMRs (Rules 58-63 and 68-70 of revised SMRs), Principles 15 & 20 of

<sup>143</sup> Bangkok Rules, Commentary to Rule 23; and UN doc. A/68/340, Report of the Special Rapporteur on violence against women, its causes and consequences, para 52.

<sup>144</sup> See Chapter VI: Contact with the Outside World, in DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014.

<sup>145</sup> Jo Baker, *Women in Prison: The Particular Importance of Contact With the Outside World*, Oxford Human Rights Hub, November 2014, <http://ohrh.law.ox.ac.uk/women-in-prison-the-particular-importance-of-contact-with-the-outside-world>

the Body of Principles, and the Bangkok Rules 26 – 28. The importance of prisoners' connection to the outside world and family relationships more generally has also been recognized in international law. Under the ICESCR, the family must be given the widest possible protection and assistance, particularly while it is responsible for the care of dependent children. Maintaining family ties during the imprisonment is recognized as an important, positive factor contributing to social reintegration upon release.<sup>146</sup>

The problem of distance between an inmate and the location of her family is one that largely faces women with longer sentences who are held in the few larger medium security facilities. Most others are held in smaller prisons or prison wings across the country and closer to their homes, as required by the Bangkok Rules and SMRs.

*"For those like me who are from far places, it is difficult for us to get visits, and no one brings us food. This is the most important thing."*

*"Society doesn't expect women to be offenders. It is harder for the women themselves to accept, and harder to cope. They don't want the outside world to see them. They don't want society to know."* – Offender Management staff

Women often spoke about the importance of visits, mostly as a way to fill urgent gaps in nutrition, healthcare, clothing and sanitation. Visitors most commonly bring food, charcoal, small amounts of money and hygiene products. As in many countries, women in Zambia may struggle more than men to receive help from family and friends because of gendered stigma, however, charities and faith-based organizations commonly focus on women, particularly mothers.

While it was clear that many detainees felt acutely isolated from their families, particularly their children, few had a sense that this could be improved. Most felt conflicted about their children visiting them in conditions that they felt were degrading, but did not believe that they had a right to expect otherwise.

Telephones are not available for the use of inmates in Zambia, and the duration of visits in Zambia is lamentably short. The average time allowed to female inmates is reportedly about 15 minutes while in some prisons, visits for men can be as short as five minutes.

However, a flexible approach has been reported in some facilities for women. In Kabwe Female Medium Prison, where most women face long sentences, inmates reported that up

<sup>146</sup> See Article 17(2)(d) of the International Covenant on the Protection of All Persons from Enforced Disappearance. This was preceded by Article 10(1) of the ICESCR, on the importance of maintaining family relationships in general.

to an hour may be allowed, and that some children have been able to stay for full afternoons on certain occasions. This is commendable, in line with the spirit of the Bangkok Rules, and is particularly important for those who have travelled long distances and cannot visit often. The possibility of extending such visits regularly to multiple hours should be considered, and the right to these longer visits must be protected as law or policy. They are particularly important to the emotional and mental wellbeing of female inmates and their families, as highlighted by the Bangkok Rules and research by DIGNITY,<sup>147</sup> and they are particularly important in Zambia given the absence of telephones in prisons.

In Kabwe Female Medium Prison visitors were commendably allowed to sit with inmates inside the prison compound, where light physical contact is permitted, and where children are allowed to visit, and can play freely. In contrast, visiting conditions in Lusaka Central prison were found to be degrading and grossly insufficient. Visitors can only approach and call to inmates through two high wire compound fences – an inner and outer fence, set about a metre apart. Conversations take place in earshot of staff and inmates, do not allow physical contact, and are sometimes arbitrarily cut short by staff without warning. For inmates who are not sure of how much time they will be given, exchanges may be hurried and tense. This is particularly harmful for those with long sentences.

*"It's not good for my daughter to see me here frequently. She'd come and talk to me through the wire for a few minutes [in a previous prison], and I can see she's disturbed by it. I want her to come and visit me here, but I worry about how it might affect her mentally."*

Reports from staff varied and sometimes conflicted on the youngest permitted age for visitors. We were informed that regulations in most facilities greatly restrict visits from children, contrary to the Bangkok Rules, the interests of the detainee, and in some cases, the interests of the child. In practice, family members have sometimes been permitted to bring young children to visit on special application, and this was relatively common in Mukobeko Maximum Prison. Yet detainees on the whole reported minimal contact with their children, at just a few times a year or less. One staff member offered the example of an HIV-positive mother who died in prison without being permitted to see her three children, all of whom were younger than 14-years-old. Other barriers spoken of by inmates included children being unable to visit from care homes, and carers and guardians not being able to afford the travel expense, or objecting to the visit, particularly husbands who remarry.

Nevertheless, DIGNITY was informed that Offender Management staff may commendably

<sup>147</sup> See our section on What Matters, above, and our Main Study, Chapter VI

try to compensate for these difficulties, as called for by Bangkok Rule 26 and 28 on the facilitation and encouraging of extended visits between detainees and their children. This may include liaising with orphanages on visits, which may, positively, be funded by orphanage administration or Zambia's social welfare department, if the distance is not too great, up to three times per year. Inmates have also reported being permitted to see children briefly on administrative visits back to their home towns. Yet these cases were not common or protected by policy. It was suggested by one Offender Management officer that, given the low security risk posed by women, discrete visiting spaces could be arranged outside the main prison compounds so that women can be visited by children in conditions that they did not consider degrading. Overall, significant reforms in this area would make a phenomenally positive difference to the wellbeing of female detainees in Zambia, and are required to protect their rights, and those of their children.

## 7. Work, education and recreation

**Women's prisons often lack any form of vocational, educational or recreational activities, which are more commonly available to men. Efforts have begun to address this gap in larger prisons. The inability to generate income during prison is a particular source of anxiety.**

### Global Perspective

*Every inmate needs purpose and stimulation to stay healthy, and cope with the monotony and distress of prison life. Many prisons are accordingly strengthening their programmes for work and education, as required by their human rights commitments and rehabilitation goals. Yet these may not be equally accessible or suited to women, whether because of safety concerns, the capacity of the prison, or bias and gender blindness among staff. This can lead to harmful and discriminatory consequences for female inmates. Research by DIGNITY has revealed that this is a priority issue for many women in detention, and a key gap.<sup>148</sup>*

<sup>148</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014.

*Women detainees are often provided with fewer, poorer and less varied programmes than male detainees.<sup>149</sup> This may have harmful implications for female prisoners' health and material needs in prison, as well as their rehabilitation and preparedness for release. In many cases female inmates are in even greater need of income or skills training because of the caretaking responsibilities, stigma, abandonment and financial difficulties that they commonly face as women. Our research has also found that certain groups of women, such as foreign migrants, pre-trial detainees, and mothers who have children with them in prison may be further barred from activities and opportunities. This study therefore emphasizes that in order to protect the rights of women in detention and prevent discrimination prisons must design and deliver programmes – which include life skills of particular use to women, such as financial management or primary healthcare – that have women, and different groups of women, in mind.*

**International standards** on the right to work, education, recreation and protection from forced labour, can be found in Arts 6, 11, 13 and 15 of the ICESCR, Art 8 of the ICCPR, and Arts 10, 11 and 13 of UNCEDAW. This legally binding international protection is further boosted by soft law standards relating specifically to prisoners in Rules 71 to 78 of the SMRs (Rule 4, 64-66, 96-103 and 104-105 of revised SMRs), and Bangkok Rules 37 and 42.

According to the HRC, women prisoners are no longer sentenced to hard labour.<sup>150</sup> Those sentenced to simple imprisonment carry out light work such as sweeping the prison premises. However women in the medium security Kabwe prison (other than those considered unfit – those who are ill, infirm or pregnant) undertake agricultural labour for periods of time throughout the year, often from 9:15 until 16:30, with one break for food. Chores are carried out in the prison compound and other prison areas, such as

<sup>149</sup> For example, there may not be the staffing or expertise to allow separate classes for a female minority or to transport women to and from mixed classes; or there may also be a prevailing belief that teaching women is less important, or that only specific (often low income) tasks such as tailoring are appropriate. Women may have lower access to the recreational spaces or facilities offered to men. For example, in the European Committee for the Prevention of Torture's 2010 and 2008 concerning Malta, the UK and Ireland the committee points out among other issues that women prisoners are still offered a limited selection of work activities compared to the male prisoners (paras 16, 29, 51). In its reports from 2009 concerning Austria (para 83) and Hungary (para 67) the CPT finds that female prisoners are offered less out-of-cell time. See also the report of the UN Special Rapporteur on Violence Against Women, *Pathways to, conditions and consequences of incarceration for women*, UN Doc. A/68/340, 21 August 2013, paras 67-68.

<sup>150</sup> As ruled by the Supreme Court in Patrick Mumba, Pamela Mumba Mwansa, Annet Semushi, Jonas Kunda, Emmanuel Chimense, Mwila Feleshano, Frida Feleshano, Mary Feleshano, Monica Feleshano, Jenipher Mwansa and The People (2004) Z.R. 202 (S.C.)

gardens or vegetable patches, and include informal tasks for prison staff, such as laundry or braiding the hair of their children, and sometimes, house and gardening work in private houses. Many inmates find the chores to be a relief from the tedium of their confinement. However, they are largely neither paid nor rewarded, contrary to the provision on equitable remuneration in the SMRs. They are ungoverned by any policy to protect their rights, and can place women at risk of abuse offsite although in some prisons, offsite work has been banned among female inmates for this reason. The inability to earn money is a source of acute anxiety among inmates. They don't see how they will cope and reintegrate into society on release without any savings, particularly if supporting children.

The Zambia Prison Service is reportedly committed to providing sufficient education for inmates, to eradicate illiteracy, provide survival skills and provide basic education to vulnerable inmates.<sup>151</sup> According to the Prison Service, it offers literacy programmes, basic education classes from grade one to nine, and in some cases, higher education to prepare

students for General Certificate of Education (GCE) classes and other external examinations. Distance learning is reportedly permitted, in some cases.<sup>152</sup>

*"Certain prisons make sure that men are fully involved in vocational training activities, but for women there is nothing really there." – Prison officer*

DIGNITY was informed of a common gender bias in Zambian society that still places less focus on educating or training women. "The minute you hit a [university] degree they tell you that you will find it hard to get married," said one NGO staff member. "Women are told to learn to do their chores well, and not to worry about school. And the further out of towns you go, the worse this gets." There are correspondingly limited schooling or skills options for detained women, compared to men, and both prison and NGO staff commented on the need for basic education among female detainees. The Human Rights Commission of Zambia, during its inspection of prisons in North Western Province and in Northern Province in 2008 and 2009, and follow up visits in 2010, found that compared to facilities for men, none of the prisons in either province had any vocational, educational or recreational activities for female prisoners.<sup>153</sup>

This cultural bias is reflected in the higher rate of illiteracy levels among women prisoners generally, according to staff, as well as in the lower interest of women themselves in learning. Where schooling or training is on offer, there is often a lower rate of take up

<sup>151</sup> See Zambia Prisons Service, *Our Services*, last accessed January 2015, <http://zambiaprison.gov.zm/our-services/>

<sup>152</sup> Ibid.

<sup>153</sup> Human Rights Commission of Zambia, *Annual Reports 2010 and 2013, and Report of the prison and police cell inspections, 2013*

from women, according to prison personnel. Some inmates expressed a disinterest in learning.

*"I am not interested in school. How can I go to school and try to improve my life whilst my children are suffering out there?"*

*"There are few here interested in learning. It depends on your background, but many just want it to be for them like it was before."*

However, DIGNITY were informed of a few isolated cases in which long term female inmates are studying for Open University degrees, and some of the larger prisons have seen female inmates being included, at their choice, in classes for male prisoners, which follow the national curriculum.<sup>154</sup> Difficulties raised by female students during interviews include being stigmatized by less-educated inmates, being unwilling to leave children with other inmates while they attend classes, and being discouraged by the idea of mixing with men. Some also feel that they are not taken seriously by staff, with classes sometimes cancelled or women not escorted to them. However, classes were seen as a positive opportunity by a number of detainees.

*"You feel more normal when you're sitting in the class like you're not in prison. You tend to forget you're an inmate. I want to learn, to use the time so that I can study to be a nurse when I leave."*

Of vocational training, staff and detainees note that this is more varied and formal for male inmates. In the men's section of Mukobeko Maximum Prison in Kabwe DIGNITY observed large productive carpentry, metal fabrication and tailoring workshops in action.<sup>155</sup> In the same location in Kabwe, for long term female detainees, there was a small room for tailoring instruction on donated sewing machines, and gardening patches, neither of which appeared to be in use at the time of the visit. Better income-generating options suggested to DIGNITY by inmates and NGO staff included chicken rearing, cooking and catering, hospitality, and trading skills or money management. DIGNITY was informed that any profits are given to the general prison administrative fund, not to inmates directly.

Staff raised the practical difficulties of running such programmes for female inmates: they are found to be more difficult to motivate, their numbers are fewer in small prisons and mixing male and female inmates creates security risks, and the turnover is often higher

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<sup>154</sup> DIGNITY was informed by prison personnel that these are strictly supervised by male and female officers. Subjects include English, Commerce, Civic Education, History, Home Management and Religious Education.

<sup>155</sup> The Prisons Service website also mentions milling, and sculpturing. See Zambia Prisons Service website, *Our Services*, last accessed January 2015

due to shorter average sentences. Yet the lack of provision discriminates against women, and is particularly detrimental to those women who serve long or life sentences, or who are in pre-trial detention for many years. The lack of activity is also, in itself, a challenge for inmates' mental and emotional wellbeing, and their chances of any form of rehabilitation.

*"Because there's so the little or no activity we end up worrying ourselves to death."*

Towards the end of their terms, DIGNITY was informed that female detainees become increasingly nervous about how they will be received by society, and how they will survive and support their children or retrieve their children from state orphanages, especially when stigmatized by the community and abandoned by relatives. In this context, income-generating skills and some economic security are crucial, and likely to prevent recidivism that occurs out of necessity.

There are markedly few recreation and sports options for women, and almost no opportunities for exercise, contrary to SMR 78. In the two larger prisons, women reportedly had weekly access to a netball court and play against staff; yet we were informed that some of these, particularly sports, are not available to those in remand, even those who have been detained for years. In the larger prisons, women's cells often feature donated televisions, which can be watched for a few hours each evening, and one OM officer had established a singing group. Inmates also spoke of relying heavily on Bible studies led by chaplains and members of church groups that visit the prison. This stands in contrast to male sections, which more often have regular games and organized activities, and facilities such as soccer fields (although these are still not sufficient to meet the exercise or recreation needs of the heavily congested male prison population, according to NGO personnel).



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