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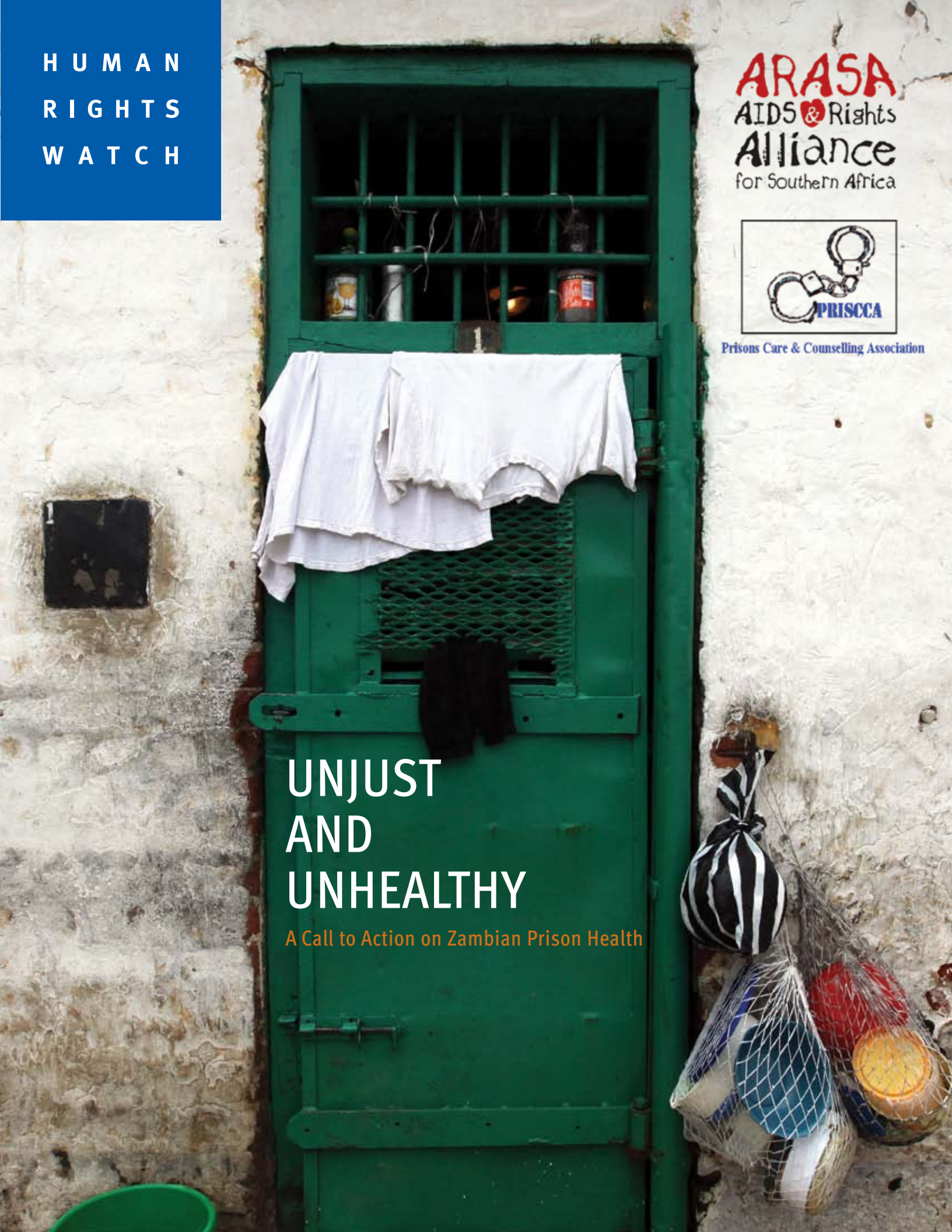
ARASA
AIDS & Rights
Alliance
for Southern Africa

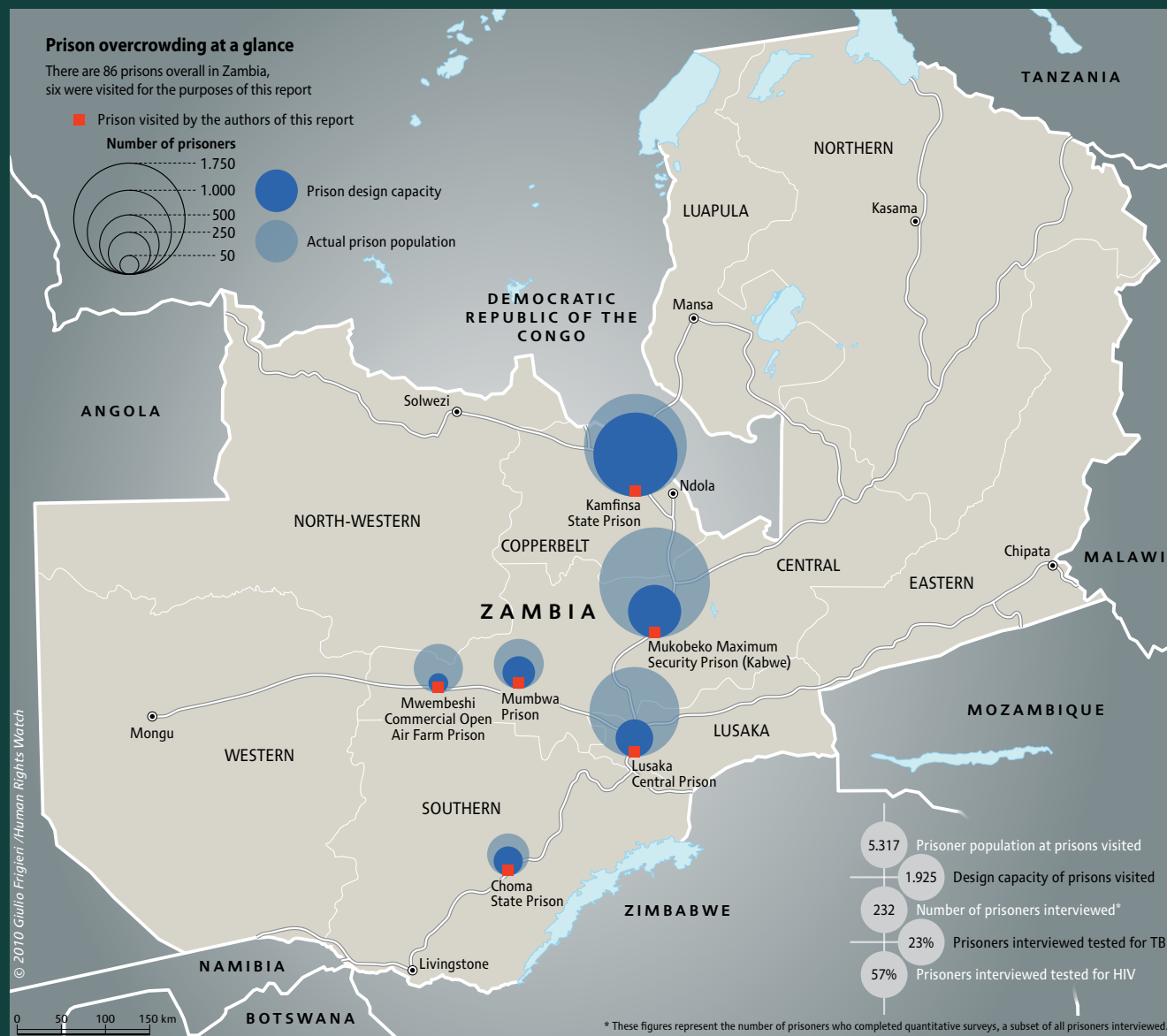


Prisons Care & Counselling Association

UNJUST AND UNHEALTHY

A Call to Action on Zambian Prison Health





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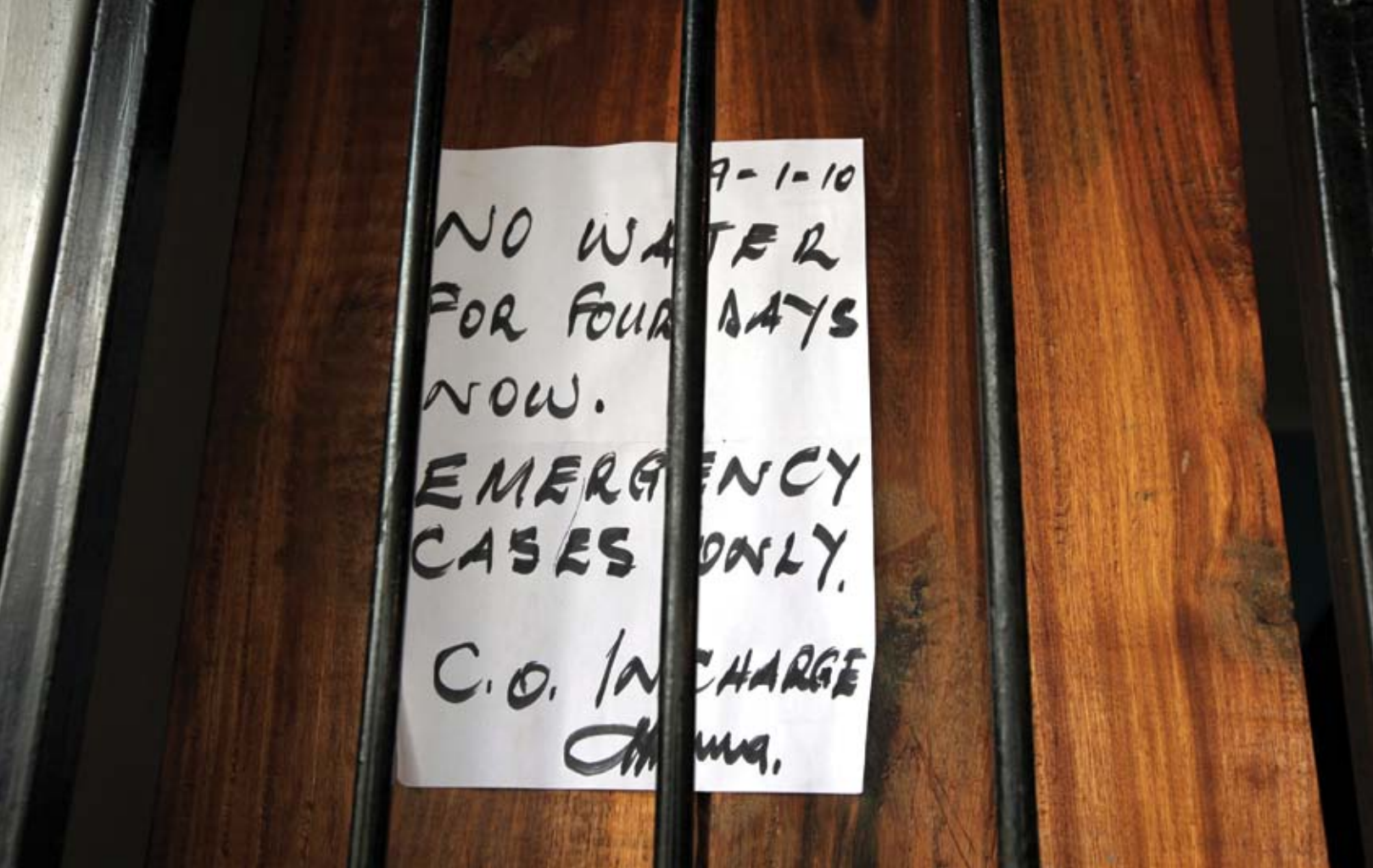
A CALL TO ACTION ON ZAMBIAN PRISON HEALTH

Zambia's prison system is in crisis. Built to accommodate 5,500 prisoners before Zambian independence in 1964, the country's prisons housed 15,300 in 2009. Conditions are deplorable, abusive punishments commonplace, and tuberculosis (TB) and HIV a constant threat. There are almost no medical services available: The prison system employs just one physician for 86 prisons. Exacerbating overcrowding and furthering injustice is the fact that the Zambian criminal justice system leaves inmates unnecessarily and wrongfully imprisoned, through arbitrary arrests, unavailability of bail, lack of non-custodial alternatives, restrictions on parole, and delays in the trial and appeal processes.

Between September 2009 and February 2010, the Prisons Care and Counseling Association (PRISCCA), the AIDS and Rights Alliance for Southern Africa (ARASA), and Human Rights Watch interviewed 246 prisoners, eight former prisoners, 30 prison officers, and conducted facility tours at six prisons throughout the central corridor of Zambia. 232 of the prisoners interviewed completed a survey providing information about the prisoner's incarceration history, medical care, and HIV and TB testing and treatment. Researchers also interviewed 46 representatives from government, international agencies and donors, and non-governmental organizations (NGOs) working on prison and health issues. What we found were serious human rights violations:

- Overcrowding so severe that inmates at some facilities are forced to sleep seated, or in shifts, in cells with little ventilation.
- Nutritionally inadequate food, leading to malnutrition-related deaths and making it difficult for patients with HIV and TB to take their medication.
- Nearly nonexistent prison-based medical facilities, particularly for TB testing and treatment, and significant limits on the ability of inmates to seek care at Ministry of Health facilities outside of the prison confines.
- Isolation in a dark cell as punishment, naked, for days at a time, with water on the floor, limited food, and no toilet facilities, constituting a form of torture.
- Inmates who had been subjected to unnecessary extended pre-trial detention as a result of failure to provide bail and lack of legal representation—in one case an inmate was in detention for over three years before an initial appearance before a judge and in another case an inmate spent 10 years in pre-trial detention.

Immediate, coordinated action is needed to address these abuses.



A sign posted on the door of the clinic adjacent to Lusaka Central Prison. The sign, dated January 19th, indicated that the clinic had been operating without water since January 15th. It was still without water at the time of PRISCCA, ARASA, and Human Rights Watch's visit on February 6th.

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Inmates hang personal items from the walls at Lusaka Central Prison to escape the overcrowding on the floor. Small, barred windows allow for limited ventilation and rapid spread of tuberculosis in the cells.

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HEALTH CONDITIONS AND CARE

These conditions defeat the purpose of rehabilitation. You cannot subject people to this and expect them to reform. It's so tough and rough that it is survival of the fittest. A person who walks in a good person, before serving one fourth of their sentence, they become a beast. They leave deformed. These conditions destroy us mentally and physically. You live every day with bitterness because of the conditions.

— Winston, 35, Mukobeko Maximum Security Prison

In October 2009, the Zambia Prisons Service employed only 14 health staff—including one physician—to serve its 15,300 prisoners. Of Zambia's 86 prisons, only 15 had a health clinic, many of these with little capacity beyond distributing basic pain and fever medications. For prisoners at those prisons without a clinic—and even for prisoners with more serious medical conditions at those with a clinic—access to care is controlled by the whims of medically unqualified and untrained prison officers who decide who is, and who is not, allowed to get medical attention. Lack of adequate prison staff for the transfer of sick prisoners—as well as lack of vehicles for transportation and fuel—and security fears also conspire to keep inmates from accessing medical care. In some cases, even for the most severely ill prisoners, this causes delays of days or weeks.

Conditions in Zambian prisons are ripe for the spread of infectious disease. Some prisons are so overcrowded that inmates are forced to sleep seated, or in shifts. Water is unclean or unavailable; soap and razors are not provided by the government. The food provided by the Prisons Service is so insufficient and nutritionally inadequate that food has become a commodity traded for sex or labor in the prisons. Contrary to international standards, convicted, unconvicted (“remand”), and immigration detainees—children and adults—are held together, exposing the youngest or weakest to the risk of exploitation by others and equally subjecting them all to the prisons' grossly inadequate conditions.

HIV AND TB

TB transmission is a constant and serious threat in the prisons' cramped, dark, unventilated cells. Suspected prevalence rates are very high, but few prisoners have been tested for TB. The TB isolation cells designed to house the ill are in such poor condition that even the physician in charge of the prison medical directorate deems them “death traps”—yet, since they are less crowded than standard cells, inmates who completed TB treatment told us that they sometimes chose to remain in the cells with inmates with active TB so as to avoid the worst of the desperate overcrowding elsewhere.



First-to-Expire First-Out (FEFO)

To ensure that products do not expire before they are distributed, the FEFO policy needs to be followed. The steps to follow are:

- When products arrive, check for the expiry date.
- Place the products in order of date, so that the oldest are at the front of the stock pile to ensure that they are used first.
- Place the oldest stock at the front of the FEFO stock pile.
- A regular inventory check should be carried out to ensure that the FEFO policy is followed.
- Expired products should not be used and any remaining stock should be disposed of.

It is not an offence to use expired products if they are used in an emergency.

A nurse at the clinic adjacent to Lusaka Central Prison, which treats prisoners and members of the community, in the clinic store room. While the clinic is well-stocked with condoms, health staff are not allowed to distribute condoms to prisoners for HIV prevention.

The prevalence of HIV in Zambian prisons was last measured at 27 percent—nearly double that of the Zambian adult population. To the credit of Prisons Service officials and NGO partners, in recent years the prisons have expanded HIV testing. However, access is uneven: Larger prisons have significantly higher levels of testing than smaller prisons. Access to anti-retroviral therapy (ART) for HIV treatment has also improved among the prison population in recent years, particularly in the larger prisons.

Sexual activity between male inmates is common, including both consensual sex between adults, and relationships where sex is traded by the most vulnerable in exchange for food, soap, and other basic necessities not provided by the prison. Rape also occurs. A ban on condoms, though, creates a serious risk of HIV transmission and is a major obstacle to HIV prevention.

I was tested for TB and put into the [isolation] cell. I tested positive. I finished my course of treatment, tested again, and was negative. I am still in the [TB isolation] cell. I would love to move out, to give room to other patients coming in, but the other cells are congested. It's my choice to stay.

— Kachinga, Lusaka Central Prison

Where there are TB patients there is more space, and inmates want to sleep there. You find pregnant women in the cell with TB patients....what can you do?

— Dr. Chisela Chileshe, director, Zambia Prisons Service Medical Directorate

ABUSIVE PUNISHMENT AND ILL-TREATMENT

I went to the penal block one time, but I only stayed for one night because I was coughing up blood and they were afraid I would die. But others stay for two weeks, 21 days, or 30 days. It's dirty there, not fit for humans. That's where they used to keep people to be hung when there were still executions. It has four rooms. It's hell all on its own. They remove your clothes, put you in one of the rooms, and pour two buckets of water in there with you. Then you get a penal diet – it's the same food but just less. One of our friends was taken there and beaten to death.

— Bernard, 40, Mukobeko Maximum Security Prison

Inmate health problems are exacerbated by practices prohibited under international law such as officers' corporal punishment or "penal block" isolation, where prisoners are stripped naked and left in a small, windowless cell while officers pour water onto the floor to reach ankle or mid-calf height. There is no toilet in the cell, so inmates must stand in water containing their own excrement.

Certain inmates—appointed as "cell captains" by officers—are also given disciplinary authority and mete out punishments, through night-time "courts" in their cells and beatings. Beatings are particularly harsh when aimed at inmates engaging in same-sex sexual activity. At prisons with associated farm facilities, punishment is fierce, and inmates' hard labor conditions closely resemble slave labor.



We are enslaved—all because of food. Those who are able to afford food can enslave others. They say, "I will give you whatever you want for food if you sleep with me,"—it happens a lot.

— Orbed, 26, Mukobeko Maximum Security Prison

Prisoners at Mumbwa Prison prepare food for the prison's only daily meal. A single pot of maize meal is used to feed all 354 prisoners for the day.
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CRIMINAL JUSTICE SYSTEM FAILURES

Justice delayed is justice denied. It is better even to be found guilty. When you come out, you've spent 10 years in prison. Remandees are kept here a long time. I have [been detained] four years now, but my case is not disposed of. There is no justice.

— Rodgers, 42, Lusaka Central Prison

Compounding these injustices and poor conditions are problems within the criminal justice system. The Zambian police and Drug Enforcement Commission enjoy broad powers under Zambian law, and reportedly arrest and hold numerous alleged family members, friends, and innocent by-standers as “co-conspirators” when their primary targets cannot be found. Lack of non-custodial sentencing, restrictions on the use of parole, and delays in appeals further contribute to overcrowding.

Prisoners who have yet to face trial—routinely held at every facility with convicted prisoners in violation of international and Zambian law—are held on remand for extended periods, exacerbating prison overcrowding. The large number of remand prisoners is a result of failures in the criminal justice system as a whole, including the Zambian judiciary, police, and prisons services: One prisoner, now convicted and living at Lusaka Central Prison, told us that he had spent 10 years as a remand prisoner awaiting resolution of his case. The incarceration of remand detainees is clearly a major contributing factor to the prisons’ extreme overcrowding: Overall, more than a third of the Zambian prison population is made up of remandees.

Immigration detainees—including administrative detainees held pending deportation—are frequently detained and await deportation without due process, mingled with convicted and remand prisoners. Many who are detained appear to have reasonable claims to legal status, but almost two thirds of immigration detainees we interviewed had never even seen a magistrate or judge. Immigration detainees are routinely told to pay for their own deportation and are held until they pay.

CHILDREN IN CUSTODY

Under international law, children should be detained only as a last resort, and for the shortest appropriate time; children who are detained should be separated from adults. However, in Zambia, children are routinely incarcerated for minor offenses, often after criminal processes in which they have not had any legal representation. Held together with adults (including adults incarcerated on charges of defilement of a minor) at some facilities, detained children are exposed to the risk of rape.

HEALTHCARE NEEDS OF FEMALE PRISONERS

Incarcerated women in Zambia do not have their unique healthcare needs met. Pre-natal services are absent or inadequate, and there is no HIV Prevention of Mother-to-Child Transmission (PMTCT) program under the prison medical directorate. The already nutritionally inadequate prison food is unchanged for nursing or pregnant women. Children under age four who live in prison with their incarcerated mothers receive no separate food allowance, and must share out of the already inadequate portion of their mothers.



[When a fellow prisoner fell ill,] we reported the incident to the officers. We said, “this person is dying.” They said, “this person is an escapee—at one time he escaped from custody, so we can’t take him to the hospital. He will run away.” This person died. He died while we were watching.

— Chiluba, 32, Lusaka Central Prison

LOOKING FORWARD

We need real rehabilitation. Many of the inmates here are not criminally minded. Many crimes are circumstantial. People commit offenses because they want to make a living. They need economic empowerment.

— *Officer in charge, Mwembeshi Prison*

Under international human rights law, prisoners keep their human rights and fundamental freedoms, except for the restrictions necessary because of the imprisonment itself. States are required to ensure prisoners a standard of health care equal to that available to the general population, an obligation acknowledged by the Zambia Prisons Service. The Zambian government has repeatedly committed itself to upholding the human rights of prisoners through its assumption of international and regional obligations.

Good prisoner health is good public health. Prisoners come from and mostly return to the community, carrying infectious diseases from one to the other. Prison officers are exposed to the conditions and health risks in prison and can expose their families and contacts outside of prison. While certainly poverty is an issue in the Zambian general population, the government nevertheless has an obligation to ensure basic minimum health and living standards for detainees.

Zambia's prison system is at a crucial moment for change. Having acknowledged the problems in the prison system, conducted an internal audit, appointed a new medical director, and granted access to human rights monitors, the Zambia Prisons Service has shown a desire and openness to improvement. By collaborating with Parliament, the judiciary, the immigration service, the police, and international agencies, donors, and NGOs, the Zambia Prisons Service has the opportunity to improve the welfare of its prisoners, and to become a regional model in doing so.

Key Recommendations

- The President of Zambia should issue a public statement identifying prison conditions and health care in prisons as a national crisis.
- The Zambian Parliament should
 - Immediately cease the practice of sweeping, group arrests which violate international law, by amending the law to limit the powers to carry out such arrests currently enjoyed by the police and Drug Enforcement Commission;
 - Address overcrowding by taking steps to expand parole eligibility;
 - Allocate funding for supervision of community-based sentences;
 - Secure enough funding for the prison budget to ensure conditions consistent with international standards. Funding should be sought for facility renovation, upgrading water and sanitation facilities, adequate food, the provision of basic necessities, and adequate prison-based health services.

- The Zambia Prisons Service and Ministry of Home Affairs should
 - Prohibit the use of penal block practices, and discipline staff and inmates for abuses against prisoners;
 - Establish the presence of a clinical officer at each prison who can judge prisoner health complaints and facilitate access to outside Ministry of Health medical facilities;
 - Consistently separate children and adults, and convicted, remand, and immigration detainees;
 - Provide condoms to all prisoners and prison officers, in conjunction with education on harm reduction to increase condom acceptance;
 - Establish clear guidelines on the provision of prison-based health services, and scale up those services to conduct health screening of all prisoners upon entry and provide TB and HIV prevention, testing, and treatment services at clinics within the prisons.
- The Ministry of Justice should
 - Issue guidelines for bail administration to encourage granting of bail, considering accurate information about household incomes in Zambia;
 - Ensure all detainees, including those under 18, have access to a lawyer of their choice.
- International agencies, donors, and NGOs should
 - Fund and supplement direct health service programs in prisons including TB testing and treatment, women and children's health, and nutrition support;
 - Assist the Zambian government with securing enough funding for the prison budget to ensure conditions consistent with international standards, including facility renovation, upgrading water and sanitation facilities, adequate food, the provision of basic necessities, and adequate prison-based health services;
 - Provide technical and financial support for legal reform programs to improve coordination among police, immigration, drug enforcement, judiciary, and prison officials including decreasing the length and use of pre-trial detention and implementing non-custodial sentencing alternatives;
 - Develop community reintegration programs, halfway houses, and microfinance initiatives to assist prisoners with reentry and decrease the risk of recidivism.



Convicted prisoners outside a cell at Mumbwa Prison. Inmates at prisons with associated farm facilities, like Mumbwa, often work in the fields seven days a week, where they are frequently beaten and have no toilet facilities or water.

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Overcrowding in Zambia's prisons is so severe that inmates sleep seated; food provision is so inadequate that food is traded for sex; corporal punishment is common. For punishment, prisoners are sometimes placed in a dark cell, naked, with water on the floor, for days at a time with minimal food. Medical care is almost non-existent: The Zambia Prisons Service employs only 14 health staff to serve 15,300 inmates. Whether or not inmates can access routine and even emergency health care is dependent upon the decision of prison officers with no medical training, and is constrained by a lack of staff, prison vehicles, and fuel for transportation. While HIV testing and treatment have improved at some prisons in recent years, tuberculosis screening and care remain grossly inadequate. Compounding poor conditions and health are criminal justice system failures that keep prisoners incarcerated needlessly for years: over one third of Zambia's prisoners have never been convicted of any crime, but are held on remand or as immigration detainees. On their release from prison, prisoners carry untreated—and in some cases, drug-resistant—diseases back to their communities.

The Zambian government should recognize prison conditions and health as a national crisis. It must eliminate abusive punishments, support initiatives to scale up prison medical services, and improve conditions to conform to international standards. The government should enact basic criminal justice reforms to increase the use of bail, decrease arbitrary arrest, and increase the use of non-custodial sentences and parole. International agencies and donors need to prioritize prison health and support the government and non-governmental organizations in improving conditions, medical care, and justice for prisoners.



*The door of a cell at Lusaka Central Prison.
With only small holes for ventilation and
light, tuberculosis spreads rapidly.*
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