

## HUMAN RIGHTS WATCH

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September 15, 2010

Members of the United Nations Committee on the Elimination of  
Discrimination Against Women  
Office of the United Nations High Commissioner for Human Rights (OHCHR)  
Palais Wilson  
52 rue des Pâquis  
CH-1201 Geneva, Switzerland

## Re: Pre-Sessional Review of Zambia

Dear Committee Members:

We write in advance of the Committee on the Elimination of Discrimination Against Women's ("the Committee") upcoming pre-sessional review of Zambia to highlight areas of concern we hope will inform your consideration of the Zambian government's ("the government") compliance with the Convention on the Elimination of All Forms of Discrimination Against Women ("the Convention"). This submission documents treatment of women in detention that is inconsistent with Articles 2 and 12 of the Convention, and proposes issues that Committee members may wish to raise with the Zambian government.

Our April 2010 publication, *Unjust and Unhealthy: HIV, TB, and Abuse in Zambian Prisons*, documents information on health and abuse of women in detention. Our research for that report included interviews with 42 female prisoners (38 adults and four juveniles).

The female detainees we interviewed reported being subjected to brutal beatings while in police custody, sometimes rising to the level of torture, in order to extract confessions; others were offered release in exchange for sex. In prison, female inmates described humiliating punishments. Despite heightened vulnerability, women in prison had been tested for HIV and tuberculosis (TB) at lower rates than their male counterparts. Pre-natal health services for pregnant inmates were non-existent or inadequate, with no nutrition support provided.

For more extensive discussion of these issues, please refer to that report.<sup>1</sup>

In your upcoming Committee pre-sessional review of Zambia, Human Rights Watch therefore urges you to question the government of Zambia about the following key issues, which at present are seriously undermining the health and human rights of Zambian women and girls:

1. *Sexual and gender-based violence faced by women in police and prison detention facilities;*
2. *Government mechanisms to ensure incarcerated women's equal and non-discriminatory access to medical facilities, including HIV and TB testing and treatment; and*
3. *The availability of services for pregnant and lactating women in detention including: pre-natal and post-natal health care, Prevention of Mother-to-Child Transmission of HIV, and nutrition support for pregnant and lactating women.*

### ***Violence Against Women in Detention (Article 2)***

In the Committee's Concluding Comments after Zambia's last review, the Committee recommended that the government "assign the issue of violence against women high priority and to recognize that such violence constitutes a violation of the human rights of women under the Convention."<sup>2</sup> The government acknowledges in its report that "gender based violence, especially against women and children, continues to be an area of concern that requires immediate attention."<sup>3</sup> Women in Zambian police custody and prisons are particularly subject to abuse.

Contrary to the contention of a Ministry of Home Affairs official that the use of force to extract confessions has been stopped, and a police representative claim that the use of force is "not policy" and only used by a "few rotten eggs"<sup>4</sup>—reports of previous physical abuse of individuals held in police custody among those prisoners we interviewed, and particularly among female prisoners, indicated a widespread and systematic pattern of brutality.

Prisoners repeatedly reported that they were beaten in police custody in order to try to coerce a confession, often leading to serious injuries. As one female inmate at Lusaka Central Prison, who had previously been held in police custody, reported:

When I was in police custody, they beat me, a torture I have never experienced in my lifetime. They beat me, undressed me, whipped me. They put handcuffs on me so hard that the blood couldn't flow. They turned me upside down and hung me upside down, with a steel cord between my legs. They swung me and beat me. They saw I was crying and screaming and put a cloth in my mouth to suffocate me. I fainted—I couldn't handle the pain. They were abusing me with their language, calling me a prostitute. They put me somewhere where I couldn't talk to anyone. They were trying to get me to say something—I don't know. They were just torturing me for four days, beating me. After, there was lots of blood where I was beaten. My hands were green and swelling.

They hit me on my ears and face with a metal band. There were scratches on my face. They said, "you have to give us information about who had killed the person." They tried to find out who had killed the person—I didn't know. The police are supposed to investigate a case, not to torture.

After, they were scared to take me to a doctor because I still had injuries. They only took me after one month, when the swelling was down. When I went to the doctor, the police followed me into the doctor's room and listened to me. The police told the doctor that I was lying. "Just a simple torture that she was given, not much," he said.<sup>5</sup>

Additionally, we received reports that police officers tried to coerce female detainees into sex in exchange for their release. One female prisoner who had been detained in police custody reported: "They arrested and they beat me, asking questions. They beat me up when I said I didn't know anything. They said, 'we want you to say this, then we will let you go.' They didn't sexually abuse me, but they asked me to have sex with them. They said they would release me if I did, and I said no."<sup>6</sup>

The government claims in its report that:

Through amendments to the Zambia Police Act, the State party established the Police Public Complaints Authority (PPCA).... In this regard, it is worth noting that the PPCA has power to investigate all complaints referred to it by an aggrieved person directly or indirectly affected by police action; an association acting in the interest of its members; and the person acting on behalf of an aggrieved person, body or organisation. In the State Party's view, the PPCA provides an avenue for all individuals including women and children to report any abuse of authority by police officers for redress.<sup>7</sup>

However, our investigation suggests that domestic grievance mechanisms in Zambia for addressing this kind of abuse are currently insufficient. In 2009, the Police Public Complaints Authority, established to adjudicate complaints against the police, reported receiving 245 complaints between January and November. In only 27 of these cases was the perpetrator punished or a settlement mediated. According to the United States Department of State, many complainants dropped their complaints after direct intervention by those they were accusing of brutality. Methods varied from direct intimidation to offers of financial compensation to drop a complaint. At the same time, many cases of alleged police brutality also went unreported due to lack of awareness of the complaints authority or fear of retribution.<sup>8</sup> The Zambian Human Rights Commission has noted that "[i]n practice, the Authority has not been effective because of poor funding, lack of adequate personnel, lack of transport, insufficient accommodation and resistance from the Police."<sup>9</sup>

Furthermore, the Police Public Complaints Authority does nothing to address the abuses faced by women in prison. Female inmates reported particular forms of brutal punishment that they were subjected to in prisons. In addition to beatings, female prisoners reported being stripped naked, smeared with mud, and placed in the hot sun of the prison central courtyard to be viewed by all female prisoners for an entire day as punishment at the explicit direction of the officers. One female inmate described this punishment as "aimed at humiliating or insulting our personality" and asked: "How can they make me strip naked before younger women who could be my daughter, without taking to consideration how I would feel as a woman, as a mother?"<sup>10</sup>

*Human Rights Watch urges the Committee to question the government of Zambia about sexual and gender-based violence faced by women in police and prison detention facilities.*

***Non-Discrimination in Health Care for Women in Detention (Convention Article 12(1))***

Medical care for all inmates in Zambian prisons is grossly inadequate. Only 15 of Zambia's 86 prisons include health clinics or sick bays, and many of these clinics have little capacity beyond distributing paracetamol. In February 2010, the Zambia Prisons Service 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 inmates.

For those prisons without a clinic—and for more serious medical conditions at those with a clinic—access to care is controlled by medically unqualified and untrained prison officers. Lack of adequate prison staff for the transfer of sick prisoners—as well as lack of transportation and fuel—and security fears also conspire to keep inmates from accessing medical care outside of the prisons, in some cases for days or weeks after they fall ill.

HIV and TB present particular challenges. Even while largely unknown and unmeasured, TB transmission is a constant and serious threat in the prisons' cramped, dark, unventilated cells. Suspected prevalence rates are very high, with the Zambia Prisons Service reporting an incidence rate for TB of 5,285 cases per 100,000 inmates per year.<sup>11</sup> Rates in Zambia outside of prison in 2007 were less than one-tenth as high.<sup>12</sup> The prevalence of HIV in Zambian prisons was last measured at 27 percent for all inmates and 33 percent for female inmates.<sup>13</sup> To the credit of Prisons Service officials and non-governmental organization (NGO) partners, in recent years the prisons have expanded HIV testing. However, proper treatment is impossible in the absence of prison-based health services.

At its last review of Zambia, the Committee expressed concern over “the increasing rate of HIV/AIDS and the absence of measures for the care of women and girls infected with HIV/AIDS.” The Committee urged Zambia to “ensure that women and girls infected with HIV/AIDS are not discriminated against and are given appropriate assistance.”<sup>14</sup> The government, in its recent report to the Committee, has noted that the HIV infection rate is higher among women than men among 15-49 year olds, and that the “HIV/AIDS infection rate has been rising among women in the age group 30 to 39 years although on the overall, the infection rate has been regressing....The biological make up and the socio-economic status of the females make them more vulnerable to the infection.”<sup>15</sup>

Yet despite the Committee's previously expressed concerns, and despite the heightened vulnerability for women and girls to HIV acknowledged by the government, the women we interviewed in detention had received lower levels of testing for HIV and tuberculosis than their male prisoner counterparts. For TB, we found that women had lower testing rates at each prison we visited where inmates had been tested, and overall only 11 percent of adult female prisoners we interviewed had been tested for TB, compared with 28 percent of adult male prisoners. HIV testing rates in prison among inmates we interviewed were also

consistently lower for female prisoners: Between all prisons we visited, 45 percent of adults females had been tested, compared to 62 percent of adult males.

Such a disparity may be attributable to a combination of factors: women had, on average, been detained and incarcerated in their current facility for a shorter time than their male counterparts, and female inmates were less educated than male inmates and perhaps less aware of and able to request testing. However, the separation of female facilities from male ones, when health facilities are located in the male rather than the female enclosure, may also lead to discrimination in women's ability to access prison-based testing and treatment for these diseases. Ensuring that female inmates in detention have equal and non-discriminatory access to HIV and TB testing at community clinics and as prison-based services are scaled up is an essential component of the elimination of discrimination against women in the field of health care.

*Human Rights Watch urges the Committee to question the government of Zambia about its mechanisms to ensure incarcerated women's equal and non-discriminatory access to medical facilities, including HIV and TB testing and treatment.*

### ***Appropriate Pre-Natal Services (Convention Article 12(2))***

The Convention obligates States Parties to ensure to women "appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation." At its last review of Zambia, the Committee recommended that the government "formulate policies and allocate adequate resources to improve the status of women's health, in particular with regard to maternal and infant mortality. It urge[d] the State party to increase women's access to healthcare and family planning services."<sup>16</sup>

However, despite the Convention's obligation and Committee's previous statements, pre-natal services, as well as nutrition for pregnant and lactating female prison inmates in Zambia, are currently entirely inadequate. The government, in its recent report, claims that to reduce maternal mortality and morbidity, it "is recruiting more qualified health personnel to ensure increased supervised deliveries which will in turn ensure effective management of complications related to child birth." But it includes no mention of women in detention and improving services for this population.<sup>17</sup>

Pre-natal care availability has improved in Zambia's general population.<sup>18</sup> However, prison-based pre-natal care does not exist at any of Zambia's prisons, and pregnant inmates must therefore leave the prison confines in order to access services. Pregnant women therefore have to wait for and are restricted in accessing care in outside facilities as a result of the security concerns and lack of transport noted above.<sup>19</sup> Some pregnant women reported being unable to access medical care including pre-natal services entirely, even six months into their pregnancy.<sup>20</sup>

In other cases, pre-natal care existed but was inadequate. The chief medical inspector at one prison claimed that the World Health Organization (WHO) Prevention of Mother-to-Child Transmission (PMTCT) of HIV protocols were used, though admitted that protocols are

updated and additional training on the updates is not provided.<sup>21</sup> HIV-positive pregnant inmates reported treatment directly in violation of the most recent WHO guidance.<sup>22</sup>

There is no PMTCT program in the prison medical directorate,<sup>23</sup> though PMTCT has been scaled up in recent years in the general population: Between 2004 and 2007, the estimated percentage of women living with HIV who received ART for preventing mother-to-child transmission increased from 18 to 47 percent.<sup>24</sup>

Nutrition for pregnant and lactating female inmates is also entirely inadequate.

Food to Zambian prisoners is generally insufficient, and consists usually of rice at breakfast, followed by a single meal of maize meal and kapenta (tiny dried fish commonly eaten in Zambia) and/or beans at four p.m.. Despite the fact that farm prisons grow tomatoes and other vegetables, the occasional cabbage was the only government-provided vegetable, and most of the vegetables grown on the farms are sold to generate prison income.<sup>25</sup> The quantity of meals was reported by prisoners across facilities and confirmed by the officer in charge at Mumbwa to be approximately 400 to 450 grams of maize meal per day (400 grams of maize meal is equivalent to roughly 1,400 calories<sup>26</sup>)—in addition to small quantities of beans and/or kapenta.<sup>27</sup> The quantity and quality of food are so inadequate that researchers heard frequent reports of malnutrition, and even of the nutrition deficit disorder beri beri.

There is no special diet for pregnant women<sup>28</sup> or for women who are nursing.<sup>29</sup> Despite international standards calling for special provision for children incarcerated with their parents<sup>30</sup> and the legal provision that, subject to the commissioner's conditions, "the infant child of a woman prisoner may be received into the prison with its mother and may be supplied with clothing and necessaries at public expense," and may stay up until age four,<sup>31</sup> there is no food at all allocated to the children under age four who live with their mothers in prison facilities; they are expected to share out of the portion of the mother.<sup>32</sup> In situations where women are unable to breastfeed, the prison does not offer infant formula.

*Human Rights Watch urges the Committee to question the government of Zambia about the availability of services for pregnant and lactating women in detention including: pre-natal and post-natal health care, PMTCT, and nutrition support for pregnant and lactating women.*

We hope you will find these comments useful and would welcome an opportunity to discuss them further with you. Thank you for your attention to our concerns, and with best wishes for a productive session.

Sincerely yours,



Joseph Amon  
Director, Health and Human Rights Division  
Human Rights Watch

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- <sup>1</sup> Prisons Care and Counselling Association, AIDS and Rights Alliance for Southern Africa, and Human Rights Watch, *Zambia – Unjust and Unhealthy: HIV, TB, and Abuse in Zambian Prisons*, April 2010, <http://www.hrw.org/en/reports/2010/04/27/unjust-and-unhealthy-o>.
- <sup>2</sup> Committee on the Elimination of Discrimination against Women, “Concluding Comments of the Committee on the Elimination of Discrimination against Women: Zambia,” para. 239.
- <sup>3</sup> Committee on the Elimination of Discrimination against Women, “Consideration of Reports Submitted Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: Combined Fifth and Sixth Periodic Reports of States Parties: Zambia,” p. 12.
- <sup>4</sup> PRISCCA, ARASA, and Human Rights Watch interview with Gezepi Chakulunta, HIV/AIDS focal point person, Ministry of Home Affairs, Lusaka, February 4, 2010; PRISCCA, ARASA, and Human Rights Watch interview with Donald Mwandila, Hospital Admin, Zambia Police Service Medical Directorate, Lusaka, February 4, 2010; PRISCCA, ARASA, and Human Rights Watch interview with K.N. Chikwanda, Staff Officer Medical, Zambia Police Service Medical Directorate, Lusaka, February 4, 2010.
- <sup>5</sup> PRISCCA, ARASA, and Human Rights Watch interview with Tandiwe, Lusaka Central Prison, October 4, 2009.
- <sup>6</sup> PRISCCA, ARASA, and Human Rights Watch interview with KT-04-01, Lusaka Central Prison, October 4, 2009.
- <sup>7</sup> Committee on the Elimination of Discrimination against Women, “Consideration of Reports Submitted Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: Combined Fifth and Sixth Periodic Reports of States Parties: Zambia,” pp. 33-34.
- <sup>8</sup> US Department of State Bureau of Democracy, Human Rights, and Labor, “2009 Human Rights Report: Zambia,” March 11, 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135983.htm> (accessed May 14, 2010).
- <sup>9</sup> Zambia Human Rights Commission, “Strategic Plan 2007-2011,” October 2006, [http://www.hrc.org.zm/media/strategic\\_plan.pdf](http://www.hrc.org.zm/media/strategic_plan.pdf) (accessed May 14, 2010), p. 16.
- <sup>10</sup> PRISCCA, ARASA, and Human Rights Watch interview with Ngosa, Kamfinsa Prison, October 1, 2009.
- <sup>11</sup> Zambia Prisons Service, “Draft Operational Plan,” 2008, p. 9.
- <sup>12</sup> World Health Organization, “Zambia: TB Country Profile: Surveillance and Epidemiology,” 2007, [http://apps.who.int/globalatlas/predefinedReports/TB/PDF\\_Files/zmb.pdf](http://apps.who.int/globalatlas/predefinedReports/TB/PDF_Files/zmb.pdf) (accessed March 2, 2010).
- <sup>13</sup> Oscar O. Simooya et al., “‘Behind Walls’: A Study of HIV Risk Behaviors and Seroprevalence in Prisons in Zambia,” *AIDS*, vol. 15(13), 2001, pp. 1741-44.
- <sup>14</sup> Committee on the Elimination of Discrimination against Women, “Concluding Comments of the Committee on the Elimination of Discrimination against Women: Zambia,” 2002, <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/495a9b3b204b1e20c12572ba003foc75?Opendocument> (accessed August 26, 2010), paras. 244-45.
- <sup>15</sup> Committee on the Elimination of Discrimination against Women, “Consideration of Reports Submitted Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: Combined Fifth and Sixth Periodic Reports of States Parties: Zambia,” 2010, <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C%20ZMB.5-6.E.pdf> (accessed August 26, 2010), pp. 96-97.
- <sup>16</sup> Committee on the Elimination of Discrimination against Women, “Concluding Comments of the Committee on the Elimination of Discrimination against Women: Zambia,” para. 243.
- <sup>17</sup> Committee on the Elimination of Discrimination against Women, “Consideration of Reports Submitted Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: Combined Fifth and Sixth Periodic Reports of States Parties: Zambia,” p. 18.

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- <sup>18</sup> The UN Population Fund has reported that between 72 and 90 percent of women in Zambia’s general population receive prenatal care. UN Population Fund, “Recognizing the Needs in Zambia,” undated, [http://www.unfpa.org/fistula/docs/eng\\_zambia.pdf](http://www.unfpa.org/fistula/docs/eng_zambia.pdf) (accessed March 2, 2010).
- <sup>19</sup> PRISCCA, ARASA, and Human Rights Watch interview with NCI-03-01, Lusaka Central Prison, October 3, 2009.
- <sup>20</sup> PRISCCA, ARASA, and Human Rights Watch interview with Helen, Lusaka Central Prison, October 4, 2009. The names of all prisoners interviewed have been changed to protect their privacy and security.
- <sup>21</sup> PRISCCA, ARASA, and Human Rights Watch interview with Yutamu Lungu, chief medical inspector, Kamfinsa Prison, October 1, 2009.
- <sup>22</sup> PRISCCA, ARASA, and Human Rights Watch interview with Tasila, Kamfinsa Prison, October 1, 2009.
- <sup>23</sup> PRISCCA, ARASA, and Human Rights Watch interview with Dr. Chisela Chileshe, director, Zambia Prisons Service Medical Directorate, Lusaka, February 6, 2010.
- <sup>24</sup> World Health Organization, UNAIDS, and UNICEF, “Epidemiological Fact Sheet on HIV and AIDS: Core Data on Epidemiology and Response: 2008 Update: Zambia,” October 2008.
- <sup>25</sup> PRISCCA, ARASA, and Human Rights Watch interview with Noah, Mumbwa Prison, October 5, 2009. The revenues from prison farm labor reportedly are placed into a fund called the Prison Industry Revolving Fund (PIRF). This scheme was created with the understanding that “the government is not managing to feed [prisoners] well because of other demands on the treasury.” Reportedly, the yearly food budget for 2009 was 10 billion kwacha (US\$2,110,510), but the Prisons Service would ask for 65 billion kwacha (\$13,718,300) if it were not for the existence of the PIRF. The “excess” produced at the farms is sold to generate income. PRISCCA, ARASA, and Human Rights Watch interview with Frederick Chilukutu, deputy commissioner of prisons, Zambia Prisons Service, Lusaka, October 12, 2009.
- <sup>26</sup> Email communication from Dr. Jessica Fanzo, director of nutrition, Center for Global Health and Economic Development, Earth Institute at Columbia University, to PRISCCA, ARASA, and Human Rights Watch, April 7, 2010.
- <sup>27</sup> PRISCCA, ARASA, and Human Rights Watch interview with officer in charge, Mumbwa Prison, October 5, 2009.
- <sup>28</sup> PRISCCA, ARASA, and Human Rights Watch interview with Tasila, Kamfinsa Prison, October 1, 2009.
- <sup>29</sup> PRISCCA, ARASA, and Human Rights Watch interview with NCI-01-01, Kamfinsa Prison, October 1, 2009; PRISCCA, ARASA, and Human Rights Watch interview with Joyce Simukali, prison officer, Kamfinsa Prison (Women’s Side), October 2, 2009.
- <sup>30</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted December 9, 1988, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988), prin. 31.
- <sup>31</sup> Prisons Act, *Laws of Zambia*, vol. 7, chapter 97, 1996, [http://www.parliament.gov.zm/index.php?option=com\\_content&task=view&id=21&Itemid=49](http://www.parliament.gov.zm/index.php?option=com_content&task=view&id=21&Itemid=49) (accessed February 22, 2010), sec. 56. Zambian policy also provides that these children shall be provided with food. See Zambia Prisons Service, “Zambia Prisons Service HIV and AIDS/STI/TB Strategic Plan (2007-2010),” p. 7 (“Similarly, there are some infants and young children who are imprisoned along with their mothers. By definition these children are under the care of the State—in this case Prisons Service. It is important to recognise these children’s rights and their needs, i.e. necessary facilities and actions to promote the health and wellness of these children and reduce their vulnerability to HIV and AIDS, STIs and TB.”); Zambia Prisons Service, “HIV & AIDS/STI/TB Workplace Policy of the Zambia Prisons Service,” July 2006, p. 25 (“Children born with HIV should receive appropriate treatment and nutrition through linkages with public health systems and other cooperating partners.”).
- <sup>32</sup> PRISCCA, ARASA, and Human Rights Watch interview with NCI-03-04, Lusaka Central Prison, October 3, 2009; PRISCCA, ARASA, and Human Rights Watch interview with NCI-04-05, Lusaka Central Prison, October 4, 2009; PRISCCA, ARASA, and Human Rights Watch interview with Agnes, Kamfinsa Prison, October 1, 2009.