



REPUBLIC OF ZAMBIA

REPORT

OF

THE

COMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS

ON THE

**CONSIDERATION OF THE ZAMBIA CORRECTIONAL SERVICE BILL, N.A.B. NO.
35 OF 2021**

FOR

THE

FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

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REPORT OF THE COMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS ON THE CONSIDERATION OF THE ZAMBIA CORRECTIONAL SERVICE BILL, N.A.B. NO. 35 OF 2021, FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

1.0 MEMBERSHIP OF THE COMMITTEE

The Committee consisted of Dr M Malama, MP (Chairperson); Ms A M Chisangano, MP (Vice-Chairperson); Mr E J Muchima, MP; Brig Gen M Sitwala (Rtd) MP; Mr K Mbangweta, MP; Mr L Nyirenda, MP; Ms M Miti, MP; Mr F Ngambi, MP; Mr A B Malama, MP; and Ms M Lubezhi, MP

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

The Committee has the honour to present its Report on the Zambia Correctional Service Bill, N.A.B. No. 35 of 2021, for the Fifth Session of the Twelfth National Assembly, referred to it on 16th April, 2021.

2.0 FUNCTIONS OF THE COMMITTEE

The functions of the Committee are as set out under Standing Order No. 157 (2) of the National Assembly Standing Orders, 2016, pursuant to which the Committee is mandated to consider Bills that may be referred to it.

3.0 MEETINGS OF THE COMMITTEE

The Committee held ten meetings to consider the Zambia Correctional Service Bill, N.A.B. No. 35 of 2021.

4.0 PROCEDURE ADOPTED BY THE COMMITTEE

In order to acquaint itself with the ramifications of the Zambia Correctional Service Bill, N.A.B. No. 35 of 2021, the Committee sought both written and oral submissions from the stakeholders listed at Appendix II.

5.0 BACKGROUND

The *Prisons Act, Cap 97 of the Laws of Zambia* was enacted in 1965 to establish prisons, a prison service that would, *inter alia*, cater for the welfare of prisoners and provide for the management and control of prisoners through the Zambia Prison Service.

Following the amendment of the *Constitution of Zambia Act, Chapter 1 of the Laws of Zambia*, in 2016, Article 193 established the Zambia Correctional Service and set out some of its functions. The Article further provided that the rest of its functions should be contained in an Act of Parliament. Additionally, the Government considered the fact that the principal Act did

not adequately address the current trends in prison reform, including the improvement in the efficacy of the penal system in the country.

In this regard, the Government introduced the Zambia Correctional Services Bill to give effect to the provisions of the Constitution which required the enactment of consequential legislation. The Bill was also aimed at domesticating the United Nations Standard Minimum Rules for Treatment of Prisoners (also known as the Nelson Mandela Rules). Furthermore, it established the National Parole Board and provided for its functions, established the Directorate of Extension Services and provided for the correction and reformation of inmates.

6.0 OBJECTS OF THE ZAMBIA CORRECTIONAL SERVICE BILL, N.A.B. NO. 35 OF 2021

The objects of the Bill were to:

- a) continue the existence of the Zambia Prison Service and rename it as the Zambia Correctional Service and redefine its functions;
- b) provide for the establishment, management and control of prisons and correctional centres;
- c) provide for the correctional and reformation of inmates;
- d) establish the Directorate of Extension Services and provide for its functions;
- e) provide for Aftercare Orders;
- f) establish the National Parole Board and provide for its functions;
- g) domesticate for United Nations Standards Minimum Rules for the Treatment of prisoners;
- h) repeal and replace the Prisons Act, 1965; and
- i) provide for matters connected with, or incidental to the foregoing.

7.0 SUMMARY OF THE SALIENT PROVISIONS OF THE BILL

Preliminary Provisions

Clause 1 – Short title and commencement

This clause provided for the short title and date of commencement of the Bill.

Clause 2 – Interpretation

This clause sought to define various words and phrases used in the Bill to make law easier to understand.

Clause 3 – Purpose of sentence of imprisonment

This clause provided for the purpose of imprisonment or similar measures derivative of a person's liberty.

Clause 4 - Guiding principles

This clause provided for the guiding principles of the Service.

Clauses 5 to 9- Administration of service

Clauses 7 to 9 sought to provide for the functions of the Service; the appointment of Commissioner-General, Deputy Commissioner-General and Commissioner by the President; the appointment of correctional officers and other officers by the Commission; and the Commissioner-General to designate a correctional officer to be in-charge of a prison or correctional centre.

Clauses 10 to 12- Declaration and control of prisons and correctional centres

These clauses provided for declaration of prisons and correctional centres, among others, and the deployment of correctional officers to prisons or correctional centres.

Clauses 13 to 20- Correctional health service

These clauses provided for correctional health services, appointment of a health practitioner; medical inspection of an inmate; observation of an inmate charged with capital offence, examination of inmate in separate confinement or in a health facility; powers of the officer-in-charge to order examination of inmate; registration of death of an inmate and notification of death of an inmate.

Clauses 21 to 28- Functions, powers and privileges of correctional officers

Clauses 21 to 28 provided for functions, powers and privileges of correctional officers; and non-liability for acts done under authority, where the defence to any suit instituted against a correctional officer is that the act complained of was done in obedience to a warrant purporting to be issued by a judge, magistrate or other competent authority.

Clauses 29 to 35-Admission and control of inmates

These clauses provided for admission of inmate; admission of expectant mother and circumstantial child; particulars of inmate to be recorded on admission; provision of information to inmate; access to legal aid; search of inmate; custody and disposal of money and other effects of inmate.

Clauses 36 to 47- Classification, custody and removal of inmate

These clauses provided for the classification, custody and removal of inmates.

Clause 48 - Liability for escape from health facility

This clause provided for liability for escape from health facility, designated health facility or quarantine centre.

Clause 49- Serving Sentence in health facility

This clause provided for serving a sentence in health facility, quarantine centre or mental facility.

Clauses 50 to 52- Rehabilitation, reintegration and employment of inmates

These clauses provided for rehabilitation, reintegration including educational, work and social programmes and employment of inmate after discharge.

Clause 53- Escapes, prohibited articles and areas

This clause provided for a penalty for introduction or removal of prohibited articles into and from a prison or correctional centre and for unauthorised communication with an inmate.

Clause 54-Power of arrest

This clause set out the power of arrest of a correctional officer to arrest without warrant a person and delivers that person into the custody of a police officer.

Clause 55- Unauthorised communication

This clause provided for unauthorised communication in a prison or correctional centre and set out the penalty for a person found guilty of such offence.

Clause 56- Removal of a person loitering

This clause provided for removal of a person found loitering within one hundred metres of a prison or correctional centre or other place where inmates may be and sets out the penalty for a person found guilty of such offence.

Clause 57-Removal of offender

This clause provided for the removal of a person who committed an offence under Clause 56 from the place where the person had committed the offence by a correctional officer or a police officer and set out a penalty of being arrested if that offence was repeated by that person.

Clause 58- Unlawful possession of articles supplied to correctional officer

This clause provided for unlawful possession of articles supplied to a correctional officer and set out the penalty for a person found guilty of such an offence.

Clause 59- Assisting an inmate to escape

This clause provided for the offence of assisting an inmate to escape and set out the penalty for a person found guilty of such an offence.

Clause 60- Harboursing or employing an inmate

This clause provided for the offence of harboursing or employing an inmate and set out the penalty for a person found guilty of such an offence.

Clause 61- Offences in connection with uniform and decoration

This clause provided for offences in connection with uniform and decoration and set out the penalty for a person found guilty of such offence.

Clause 62- Display notice stating offence

This clause provided for an Officer-in-Charge to display a notice stating the offence.

Clauses 63 to 65- Civil and unconvicted inmates

These clauses provided for the maintenance of unconvicted inmates from a private source and prohibition of food to be transferred to another inmate.

Clauses 66 to 74- Discipline of inmates

Clauses 66 to 74 provided for minor and major offences and punishment of minor offences by the officer-in-charge; Separation of an inmate charged with an offence; hearing of major offences; punishment imposed by court and punishment in a different prison or correctional centre.

Clause 75- Remission of sentence

This clause provided for remission of part of sentence of an inmate.

Clauses 76 to 84-Discharge and parole

These clauses provided for the Officer-in-Charge to be responsible for discharge of an inmate; discharge of a terminally ill inmate; travelling expense of an inmate on discharge; continuation of Parole Board; functions of the Parole Board; eligibility of an inmate; and release on licence of an inmate serving life imprisonment.

Clauses 85 to 88-Extension services and compulsory aftercare orders

These clauses provided for extension services and compulsory orders; eligibility for extension services; and failure to comply with a compulsory Aftercare Order and commission of further offence during currency of the Order.

Clause 89: Report on long term inmates

This clause provided for the report on a long term inmate.

Clauses 90 to 92- Inmate under sentence of death

These clauses provided for confinement of a condemned inmate; access to a condemned inmate; and attendance at execution by official.

Clauses 93 to 100- Visiting justices and civil society

These clauses provided for the visit of a judge, inspectors, ministers of religion and civil society to prisons or correctional centres.

Clause 101 to 105- General Offences

These clauses provided for the offences of mutiny or sedition; absence from duty and desertion by a correctional officer; inciting a correctional officer to desert and a correctional officer not to be a member of trade union.

Clauses 106 to 111- General provisions

These clauses provided for discipline of correctional officers; a correctional officer not to engage in illegal dealings with an inmate; submission of list of detained persons to the High Court; reward for apprehension of escaped inmate and commutate.

8.0 SUMMARY OF SUBMISSIONS AND CONCERNS BY STAKEHOLDERS

All the stakeholders who made submissions to the Committee were in support of the Bill. They, however, expressed concern over the provisions highlighted below.

i. Preamble

The stakeholders noted that part of the preamble read “provide for the correction and reformation of inmates”. However, the terms ‘correction’ and ‘reformation’, though being at the core of the proposed amendment of the Act, had not been defined in the Bill. In this regard, the stakeholders recommended that these terms be defined.

ii. Clause 2- Definitions

The stakeholders observed that one of the definitions in this clause was that of ‘circumstantial child’, which was defined as ‘a child born in a prison or brought in a prison or correctional centre, by virtue of the mother’s incarceration. They contended that for purposes of clarity, the definition ought to be tied to an age so as not to open the window to wide interpretation. As it stood, even a ten year-old may fall within the definition.

iii. Clause 4- Setting out the guiding principles of the Bill

The stakeholders noted that although the clause had cited several principles such as respect for human dignity, among others, there was no mention of ‘equality’ and ‘non-discrimination’ which were universally accepted to cut across all human rights standards. In this regard, they recommended that these principles be included in the Bill.

iv. Clause 4 (1) (d)- Setting out the guiding principles of the Bill

The stakeholders noted that the provision that the Zambia Correctional Service should give consideration of alternative to custody in a prison or correctional centre, including community service;” was clearly outside the mandate of the Zambia Correctional Service as the power to determine the appropriate sentence rested with the Judiciary. In this vein, they recommended that this provision be deleted.

v. Clause 18-Mandatory subsection of inmate to medical examination

The stakeholders observed that this clause seemed to give wide discretionary powers to an officer-in-charge to order an inmate to submit oneself to medical examination and treatment as often as that officer-in-charge considered necessary”. Stakeholders contended that this had the potential to violate an inmate’s right to undergo medical examination which was anchored on voluntariness. The general rule was that a person was entitled to receive or decline to be medically examined. Therefore, they recommended that some criteria be set out to remove potential excesses.

vi. Clause 23 (3) (B) - Order of a person who refuses to be searched to leave a correctional facility.

The stakeholders reasoned that it was unclear by what means the removal of the person was to be carried out. In this regard they proposed that in order to forestall wider interpretation, there was need to define the basic means to be used.

vii. Clause 30 (1) -Admission of expectant mother and circumstantial child

Some stakeholders were concerned with the use of ‘may’ in the provision that ‘an expectant mother admitted to a prison or correctional centre *may* be provided with necessities and care at the public expense as prescribed. In this regard, they proposed that the word *may* be replaced with *shall*. They contended that some prisoners had no relatives nearby to provide them with

special needs. Therefore, considering that the provision of special and prenatal care was a necessity for every pregnant woman, these needs should not be left to the discretion of the officer in charge.

viii. Section 30 subsection 2(a)-Handover of the circumstantial child

Some stakeholders proposed that the handover of the circumstantial child to a relative or friend of the female inmate should be done in collaboration with a Social Welfare Officer because the Department of Social Welfare was better placed to assess the capacity of relatives and friends to provide the necessary care to the child.

ix. Clause 36 (3)-Separation of inmates

Stakeholders noted that the use of the terms, ‘inmates suspected or certified as being mentally ill’ might be derogatory and offensive. In this regard, they proposed that these terms be replaced with ‘inmates with or suspected to have mental disability’.

x. Clause 36 (3)-Separation of inmates

The stakeholders noted that, in providing for the separation of inmates, this clause had omitted the need to separate ‘prohibited immigrants’ and ‘inmates detained under civil proceedings’. They noted that these were among the most vulnerable categories in correctional facilities. In this regard, they recommended that these groups of inmates be included in the separation.

xi. Clause 50- Rehabilitation, reintegration and employment of inmate

Stakeholders observed that in its current form, this provision had not taken care of the discrimination suffered by former inmates with regard to employment. In this vein, the stakeholders proposed that this clause be expanded to include a clause 50 (2) which should read, ‘subject to the constitution, a person shall not be barred from consideration for employment by a public or private organisation or institution by reason of having previously served a term of imprisonment’.

xii. Clause 51-General requirement to work

Some stakeholders contended that the *Prisons Act* provided for an earning scheme of K1 and K2 respectively. However, the Ministry of Finance was not disbursing the resources to the Ministry of Home Affairs for the Zambia Prisons Service to pay those who were entitled to this facility. The stakeholders were of the view that this facility should be retained but with an improvement in the amount to at least K5.

In this regard, the stakeholders recommended that the provision be reworded to read, ‘the Commissioner General may direct inmates to perform tasks on public works as may be considered necessary. Such inmates shall be entitled to an earning scheme of K5 per day.’

xiii. Clause 66 (g)- Minor offence

Some stakeholders observed that, whereas clause 66(g) provided that an inmate committed a minor offence if that inmate ‘compiled or wrote any documents or writing without the permission of the Commissioner-General,’ the Bill had not defined a document or provided guidelines on what writings required permission from the Commissioner-General. Therefore, they contended that to subject an inmate to disciplinary actions on an ambiguous minor offence

was contrary to Rule 4(2) of the United Nations Standard Minimum Rules for the Treatment of Prisoners, which the Bill sought to domesticate. Further, the Bill had not provided the procedure to be followed when applying for the needed permission from the Commissioner-General if inmates needed to write anything.

In this regard, the stakeholders recommended that the definition of ‘document’ and the procedure to be followed in seeking permission to write such a document and the timeframe for getting feedback on the permission should be provided for in the Bill.

xiv. Clause 67- Punishment of minor offence by Officer-in-Charge

Some stakeholders observed that clause 67 (1) provided that an officer-in-charge who finds an inmate guilty of a minor offence may impose punishment as prescribed.. However, the provision did not outline the procedure to be applied or used for the officer in-charge to arrive at finding an inmate guilty and was also silent on whether an inmate would be accorded an opportunity to be heard as provided for under Rule 41(1)(2) of the UNSMRTP which provided that as cited below.

- a) Any allegation of a disciplinary offence by a prisoner shall be reported promptly to the competent authority, which shall investigate it without undue delay.
- b) Prisoners shall be informed, without delay and in a language that they understand, of the nature of the accusations against them and shall be given adequate time and facilities for the preparation of their defence.
- c) Prisoners shall be allowed to defend themselves in person, or through legal assistance when the interests of justice so require, particularly in cases involving serious disciplinary charges. If the prisoners do not understand or speak the language used at a disciplinary hearing, they shall be assisted by a competent interpreter free of charge.

In this regard, the stakeholders recommended that these procedures be provided for in the Bill.

xv. Clause 71-Punishment imposed by court

Stakeholders observed that this clause provided that ‘an inmate who commits a major offence is liable to the sentence of imprisonment specified for the offence in the penal code. Specifically, clause 71(2) provided that a sentence of imprisonment imposed for an offence on an inmate by a court of competent jurisdiction—

- (a) who is a convicted criminal inmate, shall commence on the date of expiry of the sentence of imprisonment being served by the inmate at the time of the offence; and
- (b) who is not a convicted criminal inmate, shall commence on the date the sentence of imprisonment is imposed.

What the provision had not addressed, however, was when the sentence of imprisonment would commence for an inmate serving a sentence of life imprisonment if such an inmate committed another major offence.

In this regard, the stakeholders recommended that the provisions of section 37 of *the Penal Code Act Chapter 87 of the Laws of Zambia* should be maintained as it provided for a sentence of imprisonment to take effect from and included the whole of the day on which it was pronounced unless the court shall, at the time of passing sentence expressly order that it shall take effect from some day prior to that on which it was pronounced.

xvi. Clause 77 (3)- Refusal by court to release a terminally ill inmate who is on remand

Some stakeholders observed that, whereas the Bill had provided that when the court refused to consent to the release of an appellant inmate under subsection (2), the court shall, within seven days of receipt of the notice, give the reasons for its refusal, the clause had not provided for an appeal procedure in the event that the court refused to release an appellant. In this vein, the stakeholders proposed that in order to avoid a situation where the reasons given by a court become an end in themselves, there was need to provide for appeal to a higher court.

xvii. Clause 79- Travelling expenses of inmate on discharge

This clause provided that an inmate who was discharged or released from prison or correctional centre shall be entitled to travelling expenses to be determined by the Commissioner- General. Stakeholders were of the view that in order to avoid delays, the responsibility of determining and disbursing travelling expenses of inmates discharged, should be left to the officer-in-charge and not the Commissioner -General.

xviii. Clause 90-Confinment of inmate sentenced to death

Some stakeholders expressed concern over this clause which provided that an inmate sentenced to death shall be kept separately from other inmates and shall be placed under constant observation of a correctional officer, day and night. They reasoned that this was contrary to Rules 43 and 45 respectively, of the UNSMRTP, which provided that:

In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

- (a) Indefinite solitary confinement;
- (b) Prolonged solitary confinement;
- (c) Placement of a prisoner in a dark or constantly lit cell;
- (d) Corporal punishment or the reduction of a prisoner's diet or drinking water;

Rule 45 provided that:

‘Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorisation by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.’

xix. General observation

The stakeholders noted that whereas the Bill had made reference to the domestication of the United Nations Standard Minimum Rules on the Treatment of Prisoners (Mandela Rules), there was no indication as to which ones were in focus. In this vein, they proposed that the Rules suggested below be considered.

a) Rule 13

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

b) Rule 14

In all places where prisoners are required to live or work:

- i. the windows shall be large enough to enable the prisoners to read or work by natural light and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
- ii. artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

c) Rule 15

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

d) Rule 16

Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

e) Rule 17

All parts of a prison regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

f) Rule 22

- i. Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
- ii. Drinking water shall be available to every prisoner whenever he or she needs it.

g) Rule 23

- i. Every prisoner who was not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.
- ii. Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided.

h) Rule 47

- i. The use of chains, irons or other instruments of restraint which were inherently degrading or painful shall be prohibited.
- ii. Other instruments of restraint shall only be used when authorised by law and in the following circumstances:
 - a. as a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority;
 - b. by order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert

the physician or other qualified healthcare professionals and report to the higher administrative authority.

i) Rule 48

When the imposition of instruments of restraint is authorised in accordance with paragraph 2 of rule 47, the following principles shall apply:

- i. instruments of restraint are to be imposed only when no lesser form of control would be effective to address the risks posed by unrestricted movement;
- ii. the method of restraint shall be the least intrusive method that is necessary and reasonably available to control the prisoner's movement, based on the level and nature of the risks posed;
- iii. instruments of restraint shall be imposed only for the time period required, and they are to be removed as soon as possible after the risks posed by unrestricted movement are no longer present;
- iv. instruments of restraint shall never be used on women during labour, during childbirth and immediately after childbirth.

j) Rule 49

The prison administration should seek access to, and provide training in the use of, control techniques that would obviate the need for the imposition of instruments of restraint or reduce their intrusiveness.

k) Rule 58

Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals:

- a. by corresponding in writing and using, where available, telecommunication, electronic, digital and other means; and
- b. by receiving visits.
- c. Where conjugal visits are allowed, this right shall be applied without discrimination, and women prisoners shall be able to exercise this right on an equal basis with men. Procedures shall be in place and premises shall be made available to ensure fair and equal access with due regard to safety and dignity.

l) Rule 59

Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.

m) Rule 62

- i. Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the state to which they belong; and
- ii. Prisoners who are nationals of states without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the state which takes charge of their interests or any national or international authority whose task it is to protect such persons.

n) Rule 63

Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorised or controlled by the prison administration.

9.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

While supporting the Bill, the Committee shares some of the concerns that were raised by stakeholders and highlights its observations and recommendations on the specific provisions outlined below.

i. Clause 2- Definitions

The Committee observes that the definition of 'circumstantial child', which in the Bill reads, 'a child born in a prison or brought in a prison or correctional centre, by virtue of the mother's incarceration, is not capped by age and is, therefore open to wide interpretation.

The Committee, therefore, recommends that for purposes of clarity, the definition should be tied to a maximum age of for instance three years.

ii. Clause 4 (1) (d)- Setting out the guiding principles of the Bill

The Committee notes that the determination of which sentence an offender receives, as provided in this clause is outside the mandate of the Zambia Correctional Service, as the power to determine the appropriate sentence rests with the Judiciary.

In this regard, the Committee recommends that this provision should be deleted.

iii. Clause 36 (3)-Separation of inmates

The Committee observes, with concern, the use of the derogatory term 'inmates suspected or certified as being mentally ill' in the Bill.

In this regard, the Committee recommends that this term be replaced with 'inmates with or suspected to have mental disability'.

iv. Clause 50- Rehabilitation, reintegration and employment of inmate

The Committee is of the view that in its current form, clause 50 has not taken care of the employment discrimination suffered by former inmates.

In this vein, the Committee recommends that this provision should make reference to adopt the provision in the Constitution, which provides that 'subject to the constitution, a person shall not be barred from consideration for employment by a public or private organisation or institution by reason of having previously served a term of imprisonment'.

v. Clause 66 (g)- Minor offence

The Committee observes with concern the provision at 66(g) which makes it an offence for an inmate to compile or write any documents or writing without the permission of the Commissioner-General,' without defining a document or providing guidelines on what writings require permission from the Commissioner-General. The Committee notes that this is contrary to

Rule 4(2) of the United Nations Standard Minimum Rules for the Treatment of Prisoners, which the Bill seeks to domesticate.

In this regard, the Committee recommends that the definition of ‘document’ and ‘writing’ coupled with the procedure to be followed in seeking permission to write such a document and the timeframe for getting feedback on the permission should be provided in the Bill.

vi. Clause 71-Punishment imposed by court

The Committee notes the provisions of clause 71(2) on the date of commencement of a sentence of imprisonment imposed for an offence on an inmate by a court of competent jurisdiction.

However, the Committee is concerned that the provision does not cater for a situation where the sentence of imprisonment will commence for an inmate serving on the sentence of life imprisonment if such an inmate commits another major offence.

In this regard, the Committee recommends that section 37 of *the Penal Code Act, Chapter 87 of the Laws of Zambia* should be used, considering that it provides for a sentence of imprisonment to take effect from and includes the whole of the day on which it was pronounced, unless the court shall, at the time of passing sentence expressly order that it shall take effect from some day prior to that on which it was pronounced.

vii. Clause 77 (3)- Refusal by court to release a terminally ill inmate who is on remand

The Committee notes that the Bill has provided that when the court refuses to consent to the release of an appellant inmate under subsection (2), the court shall, within seven days of receipt of the notice give the reasons for its refusal. However, the clause has not provided for an appeal procedure in the event that the court refuses to release an appellant.

The Committee, therefore, recommends that in order to avoid a situation where the decision of a lower court becomes final, the clause should provide for appeal to a higher court.

10. CONCLUSION

The enactment of the Zambia Correctional Service Bill will strengthen the operations of the Zambia Correctional Service and give effect to the paradigm shift from being a punitive institution to a correctional one, as espoused in the Constitution. It is gratifying to note that the Bill also aims at domesticating the United Nations Standard Minimum Rules for Treatment of Prisoners. This will result in improved treatment and rehabilitation of inmates and their reintegration into society. This Bill is, therefore, progressive.

The Committee wishes to thank all stakeholders who rendered both written and oral submissions before it. The Committee also wishes to place on record its gratitude to you Mr Speaker and the Clerk of the National Assembly, for the guidance and services rendered to the Committee throughout its deliberations.

We have the honour to be, Sir, the Committee on National Security and Foreign Affairs, tasked to scrutinise the Zambia Correctional Service N.A.B. 35 of 2021, for the Fifth Session of the Twelfth National Assembly.

Dr M Malama, MP;
(Chairperson)

Ms A M Chisangano, MP;
(Vice-Chairperson)

Mr E J Muchima, MP;
(Member)

Brig Gen M Sitwala, (Rtd) MP;
(Member)

Mr K Mbangweta, MP;
(Member)

Mr L Nyirenda, MP;
(Member)

Ms M Miti, MP;
(Member)

Dr F N'gambi, MP;
(Member)

Mr A B Malama, MP; and
(Member)

Ms M Lubezhi, MP.
(Member)

May 2021
LUSAKA

Dr M Malama, MP
CHAIRPERSON

Appendix I - List of National Assembly Officials

Ms C Musonda, Principal Clerk of Committees

Mr H Mulenga, Deputy Principal Clerk of Committees (FC)

Mrs C K Mumba Senior Committee Clerk (FC)

Mr C Chishimba, Committee Clerk

Mr M Chuba, Committee Clerk

Mrs V Banda, Typist

Mr M Kantumoya, Parliamentary Messenger

Appendix II - List of Witnesses

Ministry of Home Affairs

Hon Stephen Kampyongo, MP, Minister of Home Affairs
Mr Masiye W Banda, Permanent Secretary
Goodson Sinyenga, Director Planning and Research
Melai M Kambita, Legal Counsel
Moses Musonda, Zambia Correctional Service Secretary
Kwaleye Mukelebai, Deputy Head Legal Counsel Drug Enforcement Commission

Ministry of Justice

Mwiimbu Siwiwaliondo, Senior Parliamentary Counsel
Diana Shamabobo, Principal Parliamentary Counsel
Lastone Banda, Parliamentary Counsel

Human Rights Commission

Kims Banda, Chief Investigations and Legal Services
Joel Mulemwa, Investigations Officer

Drug Enforcement Commission

Dr Musonda Simwayi, Commissioner
Mr Joseph Kaluzi, Senior Assistant Commissioner, Anti-Drug Operations Department
Mr Samuel Silomba, Acting Senior Assistant Commissioner, Human Resource and Administration
Dr Isaac Masiye, Assistant Commissioner, National Education Campaign Department
Mr Rosten Chulu, Acting Assistant Commissioner, Research Information and Planning
Mr Mukelebai Kwaleyela, Chief Investigations Officer

Anti-Corruption Commission

Silumesi Muchula, Chief Legal and Prosecutions Officer for Ag Director-General

Health Professional Council of Zambia

Mr Bwembya Bwalya, Registrar
Mr Lloyd Bwalya, Legal Counsel
Mr Charles Mafumo, Director Finance
Dr. Muchenala Chibesa, Director Inspectorate
Dr. Kawa Mmembe, Director Registration
Mr Mulenga Kolala, Director Corporate Service

Pharmaceutical Society of Zambia

Mr Mangisha Pelekelo
Mr Wazani Zulu
Mr Kennedy Saini, President
Ms Esnart Mwape, Delegation Leader
Mr Oliver Ng`andwe

Zambia Medical Association

Dr Samson Chisela, President
Dr.Masiku Phiri, Secretary General
Ms Angela Ng`andu, Finance and Administration manager

National Health Research Authority

Mr Makomani Siyanga, Acting Director General
Mr Moses Lupiya, Legal Manager, Board Secretary
Mr Lyoko Nyambe, Acting Director Medicines Control
Prof G Biemba, Director National Health Research Authority

Prisons Care and Counselling Association (PRISCCA)

Dr G Malembeka, Executive Director

Chainama Hills College Hospital

Dr Margret Chibowa, Senior Medical Superintendent
Dr Francisca Bwalya, Acting Head Clinical Care

Zambia Civic Education Association of Zambia

Mr Mcfarlane Chisanga, Legal Officer

The Parole Board

Mr. Lloyd Chilundika, Deputy Commissioner General
Mr. Evaristo Kalonga, Commissioner
Ms. Cecilia Bwalys Soko, Assistant Commissioner

Ministry of Health

Dr Kennedy Malama, Permanent Secretary
Dr. Crispin Sichone, Director Health Policy
Dr. Abel Kabalo, Director Health Promotion Environment and Social Determinants
Mrs Nsam Mayowe, Principal State Advocate
Mr Siyanga Makomani, Acting Director General-ZAMRA
Mr Evans Malikana, Deputy Director –Health Policy

Zambian Hemp Growers and Industrial Association

Mr Peter Sinkamba, President

The Non-governmental Gender Organizations' Coordinating Council (NGOCC)

Ms Monica Kanjimana, Program Officer

Law Association of Zambia

Ms Tukuza Tembo Mulenga, Committee Member

Women and Law in Southern Africa (WILSA)

Ms Maureen Tresha, Executive Director