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# **DELAYS IN CRIMINAL TRIALS - ZAMBIA CORRECTIONAL SERVICE PERSPECTIVE**

by

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**At**

**The 2016 Annual Judicial Conference**

**14<sup>th</sup> to 18<sup>th</sup> November 2016, Avani Victoria Falls Resort,  
Livingstone**

***“ IT IS SAID THAT NO ONE TRULY KNOWS A NATION UNTIL ONE HAS BEEN INSIDE ITS JAILS. A NATION SHOULD NOT BE JUDGED BY HOW IT TREATS ITS HIGHEST CITIZENS, BUT ITS LOWEST ONE.”***

NELSON MANDELA

# Presentation lay out

- Legal framework
- Objectives of imprisonment
- Trends from 1964 to 2016
- Challenges :Overcrowding, Old and Dilapidated infrastructure, Staff strength, delays in disposal of cases, Effects of delays in disposal of cases
- Strategy
- Issues arising from threats and opportunities
- Conclusion

# Legal Framework

- Article 193 (1)(c) of the Constitution amendment No. 2 of 2016 changed the name from ZPS to ZCS.
- Functions of the ZCS are prescribed under Sub Article (4) :
  - (a) to manage, regulate and ensure the security of prisons and correctional centres;
  - (a) perform other functions as prescribed

# LEGAL FRAMEWORK

- ▶ The ZCS is still applying the Prisons Act , the Prisons Rules of 1966 and the Prison Standing Orders of 1968.

- ▶ Only two amendments were effected in 2000 and 2004

- ▶ To align the Prisons Act with Constitutional provisions : it is imperative to repeal and replace the Prisons Act



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# objectives of imprisonment

- ❑ keeps persons suspected of having committed a crime under secure control before their guilt or innocence is determined by a court.
- ❑ punishes offenders by depriving them of their liberty after they have been convicted of an offence.
- ❑ keeps offenders from committing further crimes while they are in prison
- ❑ Allows offenders to be rehabilitated during their period of imprisonment.

# Trends from 1964 to 2016

Year	Number of Officers	Number of Inmates	Capacity	Overcrowding
1964	800	4,337	3,000	69%
1984	1, 793	10, 651	5, 500	193%
2012	1800	16,000	7,500	213%
2014	2467	18,000	8,150	215%
2016	3,000	20,000	8,350	240%

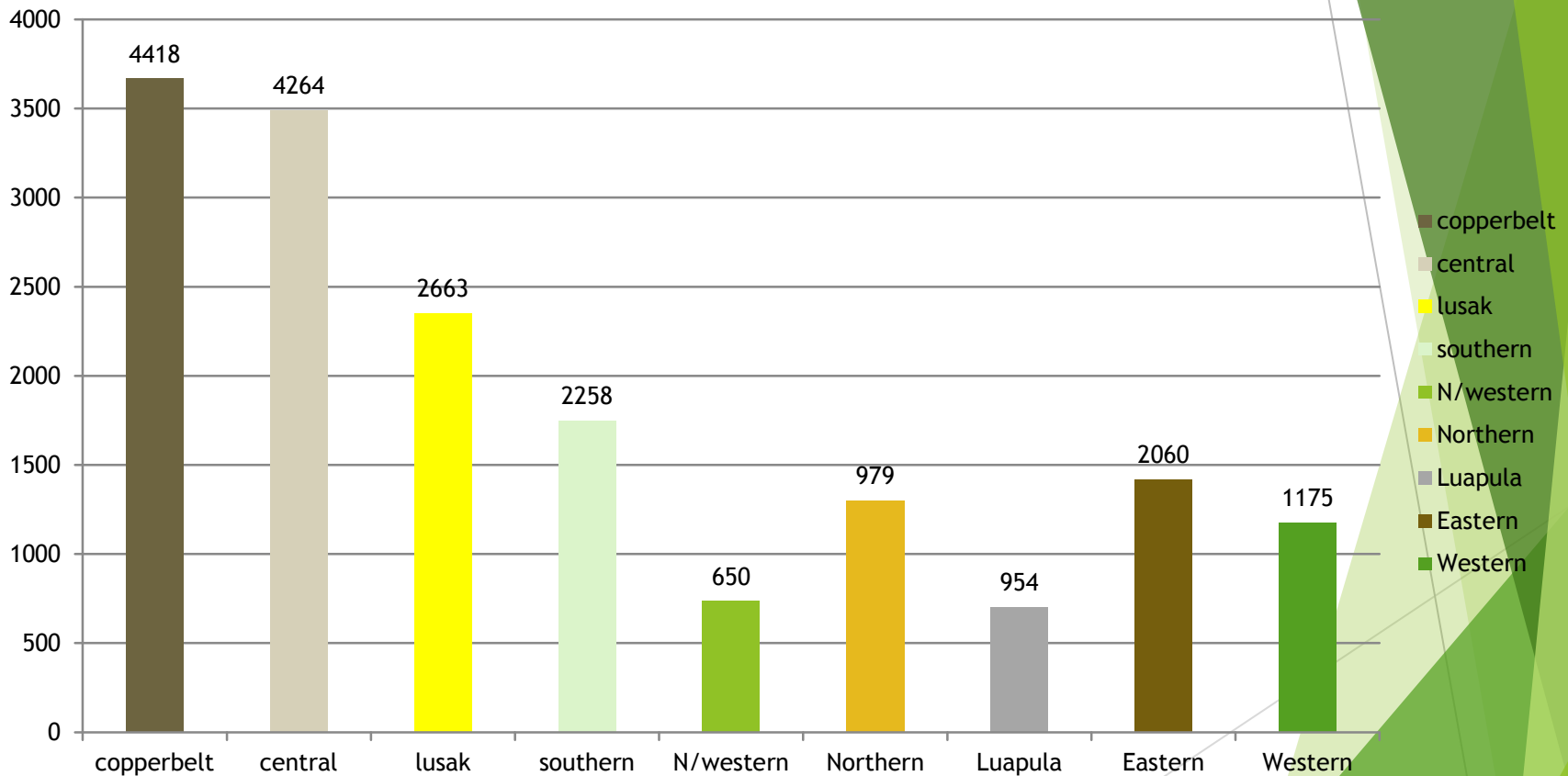


# Distribution of inmates as 15<sup>th</sup> November, 2016: 20,045

<b>Classification of Prisoners</b>	<b>Number of classified Prisoners</b>	<b>%</b>
<b>Male Convicts</b>	<b>14,430</b>	<b>74</b>
<b>Female Convicts</b>	<b>329</b>	<b>1.8</b>
<b>Male Remands</b>	<b>3,503</b>	<b>18</b>
<b>Female Remands</b>	<b>188</b>	<b>0.8</b>
<b>Male Prohibited Immigrants</b>	<b>165</b>	<b>0.1</b>
<b>Female Prohibited Immigrants</b>	<b>9</b>	<b>0.1</b>
<b>Male Condemned</b>	<b>144</b>	<b>0.1</b>
<b>Females Condemned</b>	<b>1</b>	<b>0</b>
<b>Male Juvenile offenders</b>	<b>284</b>	<b>1.3</b>
<b>Female juvenile offenders</b>	<b>2</b>	<b>1.1</b>
<b>Male Juvenile Remand</b>	<b>231</b>	<b>0</b>
<b>Female Juvenile Remand</b>	<b>9</b>	<b>0</b>
<b>MHEP</b>	<b>81</b>	<b>0.4</b>
<b>F/HEP</b>	<b>3</b>	<b>0</b>
<b>M/I IEFER</b>	<b>358</b>	<b>2.9</b>

# Distribution of Inmates: Regions

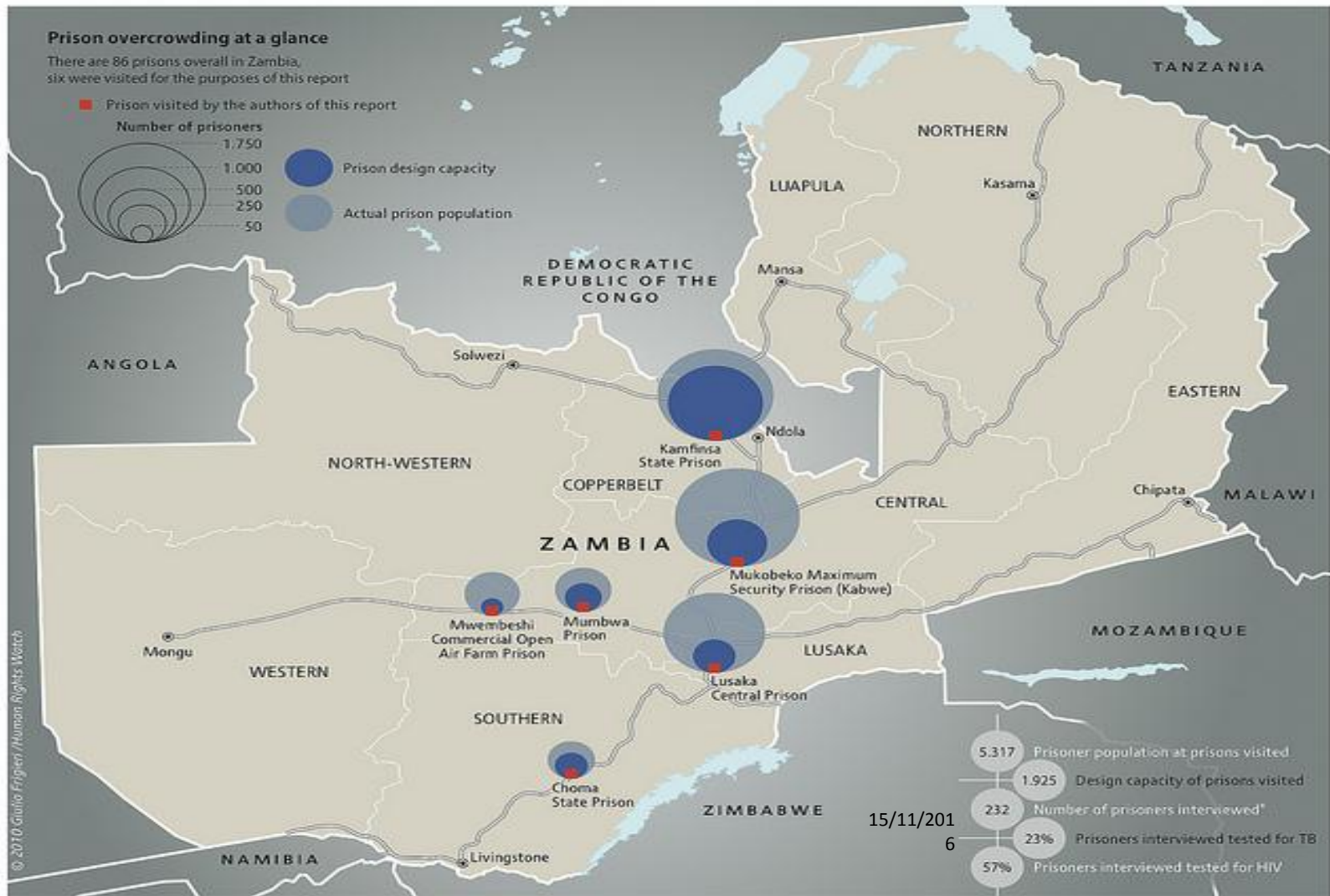
Total No: of Inmates in 9 regions



# Distribution of inmates: Age

AGE	PERCENTAGE
15-24	19.8%
25-34	44.2%
35-44	24.2%
45-55	7.4%
> 55	4.1%
Not stated	0.6%

# Challenges: Overcrowding (240%)



# Challenges: Overcrowding (240%)

- ▶ difficult to classify prisoners,
- ▶ Overburdened sanitary facilities,
- ▶ Inability to effectively offer rehabilitation programmes to increase the prospects of prisoners to reintegrate into the community,
- ▶ Lack of access to a wide range of recreational activities including physical exercises,
- ▶ Increased tension and isolated cases of physical violence.

# Challenges: Old and dilapidated facilities

- Most prisons built during pre – independence era

Facility	Year built	Holding capacity
Kabwe Maximum	1956	426
Kabwe Medium	1953	280
Kabwe Female	1956	35
Lusaka Central	1923	260
Lusaka Remand	1934	120
Mwembeshi Maximum	1978 to 2013	600
Mongu Central	1953	180
Kaoma District	1943	40
New Kalabo	2015	

# Challenges: Old and dilapidated facilities

- Designed to warehouse and control people, not to rehabilitate or care for them:
- Poor living conditions
- Not designed to meet women prisoners specific needs
- The health facilities available were never designed to face the HIV/TB pandemic and other infectious diseases
- Effects humane custody

# Challenges : Inadequate Staff

- ▶ staff establishment of 3,000 personnel; .
- ▶ The number of staff when compared to the prison population of 20,000 does not meet the ratio of 1:4.
- ▶ **Effects:**
  1. insecurity
  2. prisoners not effectively supervised,
  3. high-risk activities such as the use of drugs, physical and sexual violence, and tattooing



# Challenge : delays in disposal of cases

- ▶ Backlog of cases and misplacement of files: It takes long for inmates to be cause listed .
- ▶ E.G In the Zambian case of *The People v John Chisimba*, for example, the victim was arrested on a charge of alleged murder in 1994. In 1998, he was examined by a specialist psychiatrist and neurologist to determine whether he was fit to stand trial. It was concluded that he was, and a report was sent to the court in May 2004. Despite the report being received, the victim had not yet stood trial by June 2006, when the applicant applied for constitutional bail - which was granted. During the bail hearing, it emerged that the prosecution had misplaced the victim's file: hence, the delay in trial.

# Challenge : delays in disposal of cases

- ▶ Lack of legal presentation (Legal Aid lawyers are few)
- ▶ Delays in issuing confirmation orders for juvenile offenders (Improvement especially the case of Lusaka Judge In-Charge initiative)
- ▶ prolonged duration of the trial sometimes the judgment is passed when a person as served many years or dead.
- ▶ **Delay Arising from Correctional authorities** (the unavailability of vehicles to convey the accused persons to court and poor medical facilities available to pre-trial detainees which result in their constant breaking down in health while awaiting trial)
- ▶ Transfers of Judges

## Challenge : delays in disposal of cases

The current delayed appeals

Town	Number
Kasama	41
chipata	28
kabwe	47
kitwe	46
livingstone	17
lusaka	45

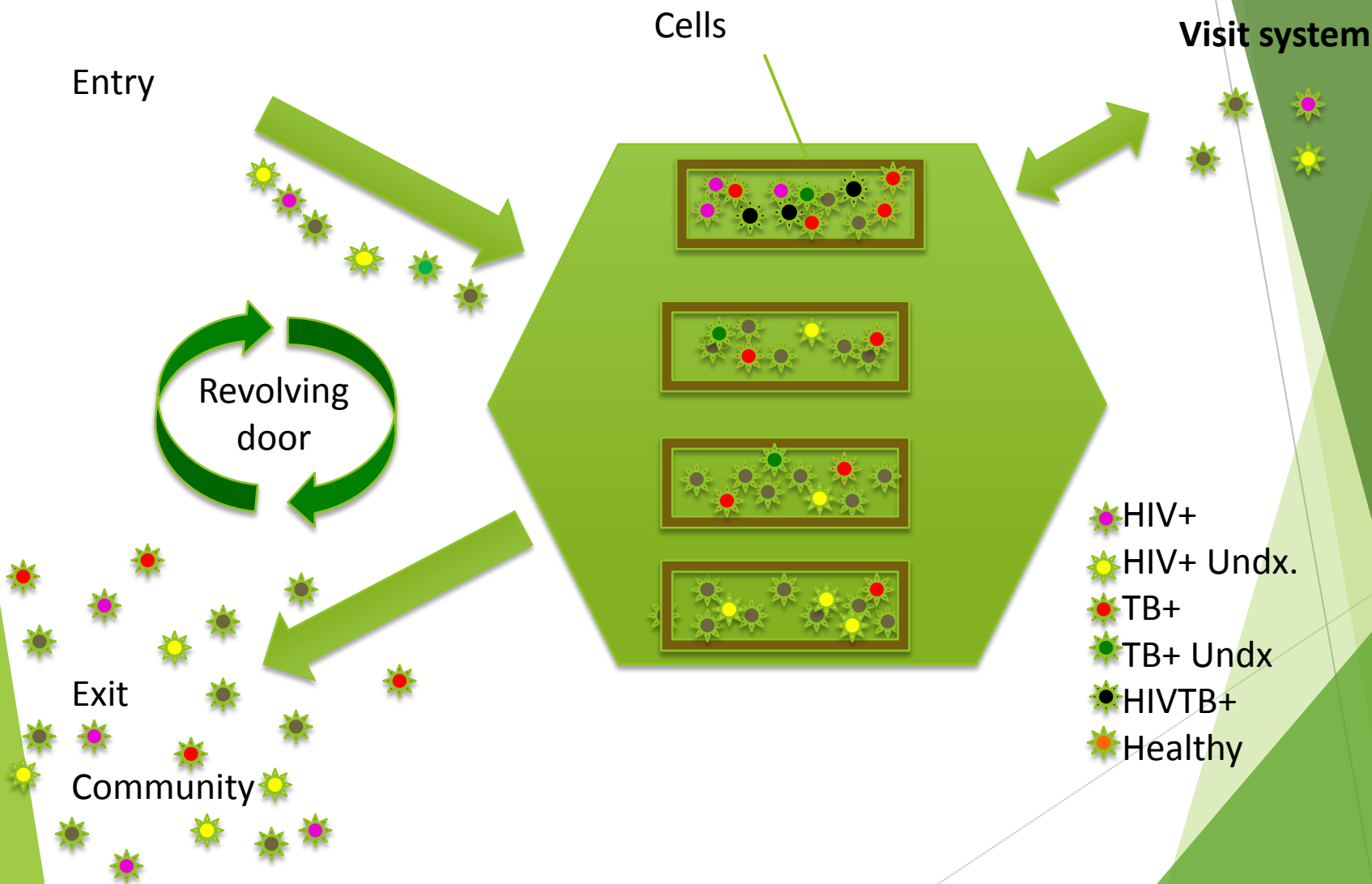
The Current delayed trials

Town	Number
Mongu	19
Ndola	68
solwezi	14
kasama	30
livingstone	17
<b>TOTAL</b>	<b>387</b>

# Effects of delays in disposal of cases

- ▶ Overcrowding has a major impact on the safety and security of Prisoners and Officers.
- ▶ Risk of Violence and protest against administration and other disturbances
- ▶ Lack of meaningful rehabilitation
- ▶ Violation of prisoners rights due to long pretrial detention
- ▶ Balance between security, control and justice collapse (Illegal articles, influences, malpractices, Narcotics)

# Effects of delays in disposal of cases: Spread of Communicable diseases



# Strategy



## Pillar 1

Increasing quality and frequency of Media Reporting on Prisons and Related Issues (TARGET: POLICY MAKERS & GENERAL PUBLIC)



## Pillar 2

Increasing the Stakeholders/Partners' Support & Engagements to promote comprehensive & sustainable prisons & justice sector reforms



## Pillar 3

Strengthening Internal Capacity Building for the ZCS



## Pillar 4

Enhancing Prisoners' Training & Welfare

# Issues Arising from Opportunities and Threats

- ▶ How to enhance capacity, practice and collaboration of the justice sector to increase ZCS's capacity,
- ▶ How to promote justice among inmates,
- ▶ How to increase effective internal and external communication

# Issues Arising from Opportunities and Threats

- ▶ How to push for review of legislations guiding funding accountability in the processing and treatment of persons in custody
- ▶ How to raise awareness on the unintended consequences of human rights abuse in criminal justice administration on public safety and development
- ▶ The need to establish a culture of alternative sentencing in CJS
- ▶ How to reduce the number of inmates awaiting trial




# Issues Arising from Opportunities and Threats

- ▶ How to strengthen the economic and vocational capacity of inmates to sustain critical family linkages and post prison life (re-integration)
- ▶ How to reduce financial vulnerability and truly set a course for creating a learning and performance driven organisation in the ZCS.

# Conclusion

- ▶ The delay in the quick dispensation of criminal justice, arguably remains the most disturbing aspect of criminal justice administration
- ▶ Delayed cases, prison overcrowding and poor prison conditions are still an issue in Zambia Correctional Service.
- ▶ There is need for positive change to enforce and practice prescribed standards
- ▶ The ZPS recognises that the need to manage prisons to ensure that prisoners enjoy their rights is a universal requirement that is enshrined in various human rights instruments and the Laws of Zambia.
- ▶ To achieve this we believe sustaining stakeholders support & engagement is the key.

A photograph of a prison wall. The wall is light-colored and has a relief sculpture of a person in a cage. Below the sculpture, the words "PRISONERS ARE HUMAN BEINGS" are written in large, bold, black capital letters. The wall is partially obscured by a black metal fence in the foreground.

PRISONERS ARE HUMAN BEINGS

**THANK YOU FOR YOUR ATTENTION!**