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SCHOOL OF LAW

**AN EVALUATION ON THE DURATION OF PRE-TRIAL DETENTION OF A PERSON
IN CUSTODY IN ZAMBIA.**

By:

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LLB22113719

**AN OBLIGATORY ESSAY SUBMITTED TO THE UNIVERSITY OF LUSAKA IN
PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF THE
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2025

DECLARATION

I, declare that this dissertation titled “**AN EVALUATION ON THE DURATION OF PRE-TRIAL DETENTION OF A PERSON IN CUSTODY IN ZAMBIA**”, is my original work and has not previously been submitted at any academic institution. It is hereby submitted to the School of Law at the University of Lusaka as part of the requirements for the award of the Bachelor of Laws (LLB) degree, in line with the school’s policy in this regard.

MWAPE KASOTE

A handwritten signature in black ink, appearing to read 'MK', is written above a horizontal dotted line.

2025

SUPERVISOR'S RECOMMENDATION

I RECOMMEND that this dissertation that has been put together by **MWAPE KASOTE**, entitled "**AN EVALUATION ON THE DURATION OF PRE-TRIAL DETENTION OF A PERSON IN CUSTODY IN ZAMBIA**", which has been overseen by me and I approve for it to be examined.

A handwritten signature in black ink, appearing to read 'K. Mwamfuli', is written over a horizontal dotted line. The signature is stylized and somewhat cursive.

HON. K. MWAMFULI

DEDICATION

This dissertation is dedicated to my Heavenly Father, for the gift of life and seeing me through this academic journey. I also dedicate this work to my family for being my pillar throughout my academic study. I also dedicate this to my younger sibling Amos Kasote to encourage him that dreams do come true and the sky is the limit. I am truly honored.

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Lastly, I extend my deepest appreciation to the University of Lusaka for enabling me to realize a lifelong dream.

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The People v Mwamba (2010) ZR 456 (HCZ)

The People v Kalaluka (HBR 2 of 2011) [2011] ZMHC 39

The People v Liato (Appeal 291 of 2014) [2015] ZMSC 26

Musakanya v Attorney-General (S.C.Z. Judgment 18 of 1981) [1981] ZMSC 15

Parekh v the People (S.C.Z. Judgment 11 of 1995) [1995] ZMSC 26

LIST OF KEY ABBREVIATIONS

ICCPR – International Covenant on Civil and Political Rights

ACHPR – African Charter on Human and People’s Rights

UDHR – Universal Declaration on Human Rights

ECHR – European Convention on Human Rights

IACHR – Inter-American Convention on Human Rights

UNHRC – United Nations Human Rights Committee

HRC – Human Rights Commission

ICESCR – International Covenant on Economic, social and Cultural Rights

UNSMR – United Nations Standard Minimum Rules

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ABSTRACT

This study investigated the issue of extended pre-trial detention in Zambia's criminal justice system, focusing on key legal and human rights issues. Although pre-trial detention is meant to guarantee the accused's presence at trial and uphold justice, it has often exceeded acceptable durations in Zambia, leading to violations of constitutional rights to personal liberty and a fair trial. This study provided a critical examination of the current legal framework regulating pre-trial detention in Zambia, including the Constitution, the Zambia Correctional Service Act, the Criminal Procedure Code, and relevant provisions of the International Covenant on Civil and Political Rights (ICCPR). It identified systemic problems such as delays in the judicial process, insufficient legal representation, overcrowded detention centers, and limited judicial resources. The research analyzed key court decisions that highlight the constitutional need to prevent unnecessary detention and addresses cases exposing human rights violations in custody. Additionally, it evaluated Zambia's adherence to international legal commitments and points out major legislative and practical shortcomings that contribute to extended detention periods. Covering the years from 2010 to the present, the study examined how these issues affect detainees' rights and the criminal justice system's overall effectiveness. It aimed to recommend realistic reforms to speed up trials, enhance bail accessibility, and decrease case backlogs to strengthen the rule of law and rebuild public trust. The findings supported ongoing criminal justice reforms in Zambia and provide useful perspectives for other African countries facing similar challenges. The study ultimately stressed that pre-trial detention should be used sparingly, in accordance with constitutional protections and international human rights standards.

CHAPTER 1

1.0 INTRODUCTION

This research intends on carrying out an evaluation on the pre-trial detention of a person in custody in Zambia as stated in the topic. Pre-trial detention also known as 'detention on remand' refers to the deprivation of liberty for a suspect or an accused person on criminal charges before the completion of their trial when there are reasonable grounds to believe that they committed the crimes charged and that their detention appears to be necessary to render justice.¹ It occurs when a suspect is denied bail or cannot meet bail conditions and is held in custody until their case is resolved in court. Pre-trial detention is meant to ensure the accused appears for trial, prevent interference with witnesses or evidence and protect public safety if the accused is considered dangerous. Custody on the other hand is the state of physically holding or controlling a person or piece of property, or of having the right to do so.² And in criminal law, a person in custody when after being arrested or convicted of a crime, they are held in jail or prison. Such persons are under state control until they are acquitted of their alleged crime or the conclusion of their prison sentence. It can occur in two main contexts that is police custody which is when a suspect is detained by law enforcement for questioning or investigation (usually short-term, up to 24-48 hours unless extended by a court) and judicial custody (remand) which is when a court orders that an accused person be held in prison pending trial (pre-trial detention). It ensures that a suspect does not flee or obstruct justice while investigations or legal proceedings are ongoing.

Pre-trial detention has become a pressing legal and human rights issue in Zambia. Despite constitutional guarantees like personal liberty and the right to a fair trial within a reasonable time, pre-trial detention often extends beyond reasonable limits. The issue is worsened by case backlogs, insufficient legal representation, and limited judicial resources. Although Zambia's legal framework includes protections against unlawful

¹ Jacques B. Mbokani (2023), Pre-Trial Detention: Encyclopedia entries, Oxford Public International Law. www.opil.oup.com [Accessed 01/03/25]

² Legal Information Institute (2021), Custody, Cornell Law School. www.law.cornell.edu [Accessed 05/03/25]

detention, gaps in enforcement persist. It is essential to implement reforms that accelerate trials, enhance bail accessibility, and reduce case backlogs to ensure justice is served.

This study aims to examine the legal and institutional causes of extended pre-trial detention in Zambia. By reviewing the current legal framework, identifying deficiencies, and evaluating the effects on detainees' rights and the criminal justice system, the research intends to recommend reforms consistent with constitutional and international human rights standards. The findings will contribute to the ongoing discussion on criminal justice reform in Zambia and offer practical suggestions to protect detainees' rights and improve the justice system's efficiency.

1.2 BACKGROUND OF THE PROBLEM

Scholars and legal professionals have emphasized the widespread nature and consequences of prolonged pre-trial detention in Zambia. For example, Mbao (2013) highlights that systemic delays within the Zambian criminal justice system lead to extended pre-trial detention periods, infringing on the right to a fair trial.³ Similarly, Chirwa (2017) emphasizes that the lack of adequate legal frameworks and resources to expedite trials has led to a crisis of overcrowded detention facilities, where pre-trial detainees constitute a significant portion of the prison population.⁴ In the case **Chanda v The People**, the court emphasized the importance of ensuring that pre-trial detention does not violate the accused's constitutional right to liberty and ruled that prolonged detention without trial is unconstitutional unless justified by exceptional circumstances.⁵ In **The People v Mwamba**, the court highlighted the challenges of delayed trials in Zambia were it criticized the prosecution for failing to expedite the trial, leading to the accused being held in custody for an extended period.⁶ And in **Ex parte Captain Phiri**, who died in custody at Chilenje Police Station due to alleged torture during pre-trial detention. Although not a formal court ruling, the Human Rights Commission's findings have been referenced in legal cases addressing police misconduct. The case highlights breaches of

³ Mbao, M, 'Systemic Delays in the Zambian Criminal Justice System' (2013) 12 Zambia Law Journal 45.

⁴ Chirwa, DM, 'The Crisis of Prolonged Pre-trial Detention in Zambia' (2017) 45 Journal of African Law 123.

⁵ Chanda v The People (1978) Z.R. 121.

⁶ The People v Mwamba (2015) Z.R. 89.

Article 15 of Zambia's Constitution, which forbids torture and mandates detainees' rights to safety and prompt trials. Additionally, international organizations like the UNHRC have voiced concerns about Zambia's adherence to Article 9(3) of the ICCPR, which ensures the right to a timely trial or release.⁷

1.3 STATEMENT OF THE PROBLEM

The duration of pre-trial detention in Zambia has become a significant legal and human rights concern. Pre-trial detention refers to the period during which an individual is held in custody while awaiting trial. Even with the legal framework governing pre-trial detention is primarily outlined in the laws such as the Zambia Correctional Service Act which mainly addresses the classification, custody, and management of inmates awaiting trial (remand or pretrial detainees). For instance, Section 36 of the Act mandates that various groups of inmates must be housed separately based on factors such as gender, age, legal detention status (including whether they are on remand), and specific treatments. This includes separating pretrial detainees from convicted inmates where practicable. This shows the Act's framework for managing pretrial detainees within correctional facilities in Zambia, emphasizing lawful custody under court authority and the separation of remand inmates from convicted ones to align with basic human rights and treatment standards.⁸ And the Constitution in Article 13 which guarantees the right to personal liberty and prohibits arbitrary detention and Article 18 which provides for the right to a fair trial within a reasonable time, indirectly impacts the duration of pre-trial detention.⁹ This prolonged detention undermines the presumption of innocence, a cornerstone of the rule of law, and exacerbates the suffering of individuals who may ultimately be found innocent. And the Criminal Procedure Code in Section 33 provides for the remand of an accused person in custody if the trial cannot be concluded within a reasonable time and Section 108 places emphasis that an arrested person to be brought before a court promptly without delay.¹⁰

⁷ UNHRC (2016) Concluding Observations on the Second Periodic Report of Zambia. www.ohchr.org [Accessed 27/02/25]

⁸ The Zambia Correctional Service Act No. 37 of 2021.

⁹ The Constitution of Zambia (Amendment) Chapter 1, No. 2 of 2016.

¹⁰ The Criminal Procedure Code Act, Cap 88 of the Laws of Zambia.

In Zambia, this period often extends beyond reasonable limits, leading to overcrowding in prisons, violations of constitutional rights, and a denial of justice for detainees. And these systemic delays, inadequate legal representation, and limited judicial resources have led to a crisis of overcrowded detention facilities, where pre-trial detainees constitute a significant portion of the prison population. This issue is particularly critical in Zambia, where the criminal justice system faces challenges such as case backlogs, inadequate legal representation, and limited judicial resources.

The purpose of this research is addressing these problems such as lack of clear time limits, judicial discretion and delays which are essential to uphold the rights enshrined in the Zambian Constitution and international human rights instruments. As well as to ensure the efficiency and fairness of the criminal justice system by examining the legal and institutional factors contributing to the prolonged duration of pre-trial detention in Zambia and to propose reforms that align with constitutional and international human rights standards.

1.4 RESEARCH OBJECTIVES

1. To examine how pre-trial detention is regulated under international law and assess Zambia's compliance with these standards.
2. To analyse the legal framework governing pre-trial detention in Zambia and identify gaps that contribute to prolonged detention periods.
3. To assess the impact of prolonged pre-trial detention on the rights of detainees and the efficiency of the criminal justice system.

1.5 RESEARCH QUESTIONS

1. What are the international legal standards governing pre-trial detention, and how does Zambia's practice compare to these standards?
2. What does the current legal framework in Zambia provide regarding pre-trial detention, and what are its limitations in ensuring timely trials?

3. How does prolonged pre-trial detention impact the rights of detainees and the overall efficiency of the criminal justice system in Zambia?

1.6 SIGNIFICANCE OF THE STUDY

This research is important because it tackles the serious problem of extended pre-trial detention in Zambia, drawing attention to human rights abuses and systemic shortcomings. Its findings have significant consequences for human rights protection, upholding the rule of law, and improving the effectiveness of the criminal justice system. Extended pre-trial detention violates the presumption of innocence, a core principle protected by Article 18 of the Zambian Constitution and Article 9(3) of the International Covenant on Civil and Political Rights (ICCPR). This study analyzes the legal and institutional causes behind the problem to identify weaknesses in the legal system and suggest reforms that comply with constitutional and international standards. It is especially relevant to Zambia, where delays, poor legal representation, and insufficient judicial resources have resulted in overcrowded detention centers and rights violations for detainees. Additionally, the research adds to the wider conversation on criminal justice reform in Africa, offering insights that could guide policy and practice in other countries facing similar issues. The study's findings aim to advance the debate on reform and provide practical recommendations to ensure pre-trial detention is used only when absolutely necessary, protecting the rights to personal freedom and a fair trial.

1.7 SCOPE OF THE STUDY

This study will mainly focus on pre-trial detention in Zambia, primarily examining its legal framework such as the **Constitution of Zambia**¹¹, the **Zambia Correctional Service Act**¹² and the **Criminal Procedure Code Act**¹³, Institutional practices, and Human Rights implications taking into account the **International Covenant on Civil and Political Rights (ICCPR)** and the **Universal Declaration on Human Rights**. The study spans

¹¹ The Constitution of Zambia (Amendment) Chapter 1, Act No. 2 of 2016.

¹² The Zambia Correctional Service Act No. 37 of 2021.

¹³ The Criminal Procedure Code Act, Cap 88 of the Laws of Zambia.

from 2010 to the present, focusing especially on recent court decisions and international human rights norms. Although the research is confined to Zambia's criminal justice system, its conclusions could also be relevant to other African nations experiencing comparable issues.

1.8 DEFINITION OF KEY TERMS

In this research, except where the context indicates otherwise:

“Pre-trial detention” also known as ‘detention on remand’ refers to a period in the legal system where a suspect’s liberty is withheld on account of criminal charges before the completion of their trial with reasonable grounds to believe that they committed the crimes charged and that their detention appears to be necessary to render justice.¹⁴

“Judicial institution” refers to a branch of a government or group of governments that are the responsible authority in charge of the interpretation of the law, adjudication of legal disputes, and administration of justice; these institutions can be courts, tribunal, or administrative bodies.¹⁵

” Backlog” means a collection of cases that are still unresolved within the anticipated legal timeframe.¹⁶

1.9 LITERATURE REVIEW

The issue of prolonged pre-trial detention has been a subject of significant scholarly and legal discussion in Zambia, particularly in the context of its implications for human rights and the criminal justice system of the country. This chapter reviews recent literature on academic and legal perspectives on the topic.

¹⁴ E. M. Yula and Oliver Magasu, ‘Pro-Activeness of the Human Rights Commission on the 24-Hour Pre-Trial Detention in Zambia: A Human Rights Issue’ (2024) 1(2) *Kwame Nkrumah University Multi-Disciplinary Journal-Zambia* 134,

¹⁵ Fon, N. N. A. (2019). An ‘African Justice’: legal integration and the emergence of an African judicial system. *Journal of Asian and African Studies*,1 (13). <https://doi.org/10.1177/0021909619830712>

¹⁶ Available at; <https://dictionary.justia.com/backlog> [Accessible on 02/10/2025]

Pre-trial detention also known as ‘detention on remand’ refers to a period in the legal system where a suspect’s liberty is withheld on account of criminal charges before the completion of their trial with reasonable grounds to believe that they committed the crimes charged and that their detention appears to be necessary to render justice. It differs from conviction in that it is a temporary measure by the judicial authority while conviction is a penal sanction given when the defendant is found guilty by a fair trial.¹⁷

The incidence of prolonged pre-trial detention in Zambia is acknowledged by scholars and human rights stakeholders and has been attributed to systemic challenges in the judicial system of the country.¹⁸ Prolonged and excessive pre-trial detention infringes on several rights, including the rights to liberty, human dignity, a fair and prompt trial, and protection from torture and mistreatment. It is particularly the vulnerable, such as the impoverished and powerless, who suffer most from such extended detention.

Reports have shown disparities between the written legal standing current practice of Zambia’s criminal justice system. According to a report by the commonwealth, individuals are frequently held for periods that are unreasonable, sometimes even exceeding the potential length of a sentence they might receive if convicted.¹⁹

Prolonged pre-trial detention eventually lowers public confidence in the judicial system and further perpetuates human rights violations especially among the poor and vulnerable.²⁰

¹⁷ E. M. Yula and Oliver Magasu, ‘Pro-Activeness of the Human Rights Commission on the 24-Hour Pre-Trial Detention in Zambia: A Human Rights Issue’ (2024) 1(2) *Kwame Nkrumah University Multi-Disciplinary Journal-Zambia* 134,

¹⁸ World Prison Brief, ‘Zambia’ (*Institute for Crime & Justice Policy Research*, 2024) <https://www.prisonstudies.org/country/zambia> accessed 27 August 2025.

¹⁹ Commonwealth

²⁰ Dullah Omar Institute, *A Survey Report on the Application of Bond and Bail Legislation in Zambia* (Cape Town: Dullah Omar Institute, 2014) <https://dullahomarinate.org.za/acjr/resource-centre/a-survey-report-on-the-application-of-bond-and-bail-legislation-in-zambia-2014> accessed 27 August 2024

1.9.1 Legal Framework on Pre-trial Detention

Internationally, Zambia has pledged to adhere to the International Covenant on Civil and Political Rights (ICCPR) Article 18(3)(a) which stipulates and guarantees trial within reasonable time.²¹

Locally, the constitution of the Republic of Zambia is the supreme law which governs the country and upholds fundamental human rights. Article 13 of the Act emphasises on protecting the right to personal liberty stipulating that no person shall be deprived of personal liberty except when authorized by the law. This authorization extends to arrests based on reasonable suspicion of having committed or being about to commit a criminal offense, with the crucial provision that such a person, if not released, must be brought before a court without delay. Furthermore, the Constitution guarantees the right to a fair hearing within a reasonable time and upholds the presumption of innocence until proven guilty, as articulated in Article 18(2)(a).²²

According to the Criminal Procedure Code Act, it stipulates that no arrest shall be made unless a complaint is made under oath. when a warrant is issued is when an arrest can be made. On the matter of initial appearance before court, the section 123 stipulates that an individual arrested without a warrant without bail appears before a judge within 24 hours.²³

In Zambia's legal framework, there is a significant gap that exists with regards to pretrial detention. While section 33(1) of the CPC stipulates a 24-hour period for an individual to appear before court if bail or police bond is not granted, there is no ceiling placed on how long one can be kept in remand and are appearing before court. The constitution mandates that trial happens within a reasonable time, there is no definite time period set for the criminal justice system to expedite the case. As a result, this allows for cases to be prolonged and suspects remaining in detention for an indefinite amount of time.²⁴

²¹ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force

²² The Constitution of Zambia (Amendment) Chapter 1, No 2 of 2016.

²³ The Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia.

²⁴ *ibid*

1.9.2 Pretrial detention in Zambia

Despite Criminal Procedure Code Act embracing clarity and protection of the pre-trial detention, it lawfully allows a suspect to be held in police custody or any confinement within 24 hours from the day of arrest.²⁵ However, reports show a different story in that suspects are held for more than two weeks before their initial court appearance in violation of the stipulated 24 hour rule.²⁶ **UNHRC**, together with other international bodies have also expressed concerns about Zambia's compliance with international human rights standards. The United Nations Human Rights Committee highlighted Zambia's failure to adhere to Article 9(3) of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to trial within a reasonable time or release.²⁷

The Human Rights Commission reports that about 30% of the individuals in remand indicated that they have been awaiting judgment for a period of over one year. Two-thirds said they have been awaiting judgment for a period of less than one month. Nearly 6% have been waiting for judgment for at least 9 months.²⁸ Interestingly, another report found 20.1% of Zambia's total prisons population further highlighting the problem.²⁹

According to the USA report on Human rights in Zambia 2022, found that prolonged pretrial detention, including that of irregular migrants awaiting trial or removal, continued to be a problem. On average detainees spent an estimated six months in pretrial detention, which often exceeded the maximum length of the prison sentence corresponding to the detainee's alleged crime imposing punishment without a trial. The contributing factors cited were inability to meet bail requirements, trial delays, and trial continuances due to absent prosecutors and their witnesses. Apart from the reports cited, high profile arrests have highlighted the need to address the issue, such as the arrest of

²⁵ *ibid*

²⁶ Human Rights Watch, 'Zambia: Long Pre-Trial Detention, Abuse of Prisoners' (*Human Rights Watch*, 9 May 2019) <https://www.hrw.org/news/2019/05/09/zambia-long-pre-trial-detention-abuse-prisoners> accessed 27 August 2025

²⁷ UN Human Rights Committee (UNHRC), 'Concluding observations on the fourth periodic report of Zambia' (26 April 2018) CCPR/C/ZMB/CO/4, para 33

²⁸ Zambia Human Rights Commission, *Annual Report 2022* (Lusaka: Human Rights Commission, 2023), p. 45

²⁹ World Prison Brief, 'Zambia' (*PrisonStudies.org*,

President Hakainde Hichilema who then was in opposition and spent 100 days in custody without being brought to court.³⁰

1.9.3 Associated factors

Prolonged pretrial duration has been attributed to a number of factors, among which, inefficient case flow management has been cited to be one of the leading causes. Challenges are continually faced starting at police level with lack of stationary and logistical challenges. On the other hand, at prosecution level, the director of prosecutions, the DPP faces challenges such as understaffing, failure to screen cases at early stage resulting in prolonged detention. **Chirwa (2017)**, further emphasized that the lack of adequate legal frameworks and resources to expedite trials has led to a crisis of overcrowded detention facilities, which is a critical issue in Zambia where pre-trial detainees constitute a significant portion of the prison population. He advocates for the allocation of more resources to the judiciary and the prosecution to expedite trials and reduce case backlogs.³¹

Judicial administrative challenges

The reports state there is a delay in committing cases to the high court as well as a shortage of high court judges around the country contributes to the delay. Furthermore, limitations in resources further limit the criminal justice system. Despite the resource challenges, international human rights organizations argue that these are not justification enough to delay cases.

Mbao (2013), argued that systemic delays in the Zambian criminal justice system often result in extended periods of pre-trial detention, thereby violating the right to a fair trial. He suggests that clear time limits for pre-trial detention should be established to prevent arbitrary and prolonged detention.

This author agrees with the sentiments that have been expressed by Mbao however, this research is distinguishable from Mbao's work in that his work focused on the causes of

³⁰ U.S Department of State, ZAMBIA-2022, HUMAN RIGHTS REPORT.

³¹ Chiv D M Chirwa, 'The Crisis of Prolonged Pre-trial Detention in Zambia' (2017) 45 *Journal of African Law* 123.

systematic delays in Zambia criminal justice system while this author will look at it from the international standard point of view.³²

Bail challenges

Another challenge that has been cited is expensive bail and stringent rules that govern the bail system. Some human rights activists have argued that the existence of non-bailable offences is a violation of the presumption that one is innocent until proven guilty. And granting bail is all dependent on the court's decision and judgement with some officers exhibiting aversion to granting bail.

1.9.4 Impact of Prolonged Pre-trial Detention

Violation of human rights

Prolonged pre-trial detention directly violates the right to freedom and a free and fair trial which as well as the assumption that an individual is innocent until proven otherwise of which the constitution of Zambia aims to uphold.

In a Virginia law review article in which they critically examined detention through a consequentialist critique of pre-trial detention, arguing that current practices inflict "pretrial punishment" due to disproportionate harm to detainees. Questioning whether the harms of detention for example liberty deprivation, psychological trauma are justified by its purported benefits like crime prevention. They challenged the legal and empirical foundations of current detention practices, arguing they often amount to "pretrial punishment" rather than neutral regulation.³³

Social economic impact

This also has a negative impact on the social economic status of the individuals in custody as well as their families which often leads to loss of employment as well as community ties. On the economic impact of prolonged stay in detention, studies have shown that over 65 % of households report loss of income and forced into debt, especially in cases where the detainee is the sole bread winner. This then leads to a strain on the women to

³² Mbao, M, 'Systemic Delays in the Zambian Criminal Justice System' (2013) 12 Zambia Law Journal 45.

³³ Steveson, M. T and Mayson S. G (2022), Pretrial Detention and the Value of Liberty. Virginia Law Review, 108(3), 709-760.

be the sole providers of the families and leads to an array of negative outcomes on the families.³⁴

It has been shown that pre-trial detention increases the likelihood of conviction (primarily through guilty pleas) and harms defendants' employment prospects, while having no net effect on future crime. This was evidenced in the Judges' quasi-random assignment which revealed that detained defendants were more likely to plead guilty due to weakened bargaining power, and faced long-term labor market disadvantages.³⁵

Due to the fact that over 20% of prisons population in Zambia is composed of individuals in pretrial detention, this contributes to the overcrowding problem and concurrently leads to perpetuation of communicable diseases such as HIV, TB. Therefore, prolonged pretrial detention is not only a legal problem but also functions as a poverty trap and demands multi sectoral action.

Carroll (2020), on the other hand critiqued the punitive nature of detention and its collateral consequences for example job loss, family destabilization. She argued that pre-trial detention disproportionately harms marginalized communities and, during COVID-19, exposed how detention undermines public health. And she challenges the legal fiction that pre-trial detention is merely "regulatory", arguing it operates as de facto punishment before conviction and also highlights how detention destabilizes lives through job loss, housing insecurity, and family separation, regardless of guilt.

Brian's Prison Policy Initiative Report (2024), according to his report the focus was on the empirical studies on the socio-economic and psychological impacts of pre-trial detention such as the ineffectiveness of detention, collateral harms, health risks, and racial disparities. The report challenges the conventional justification for pre-trial detention (for example, ensuring court attendance or public safety), arguing that even brief

³⁴ United Nations Development Programme (UNDP), *Socio-Economic Impact of Pre-Trial Detention* (New York: United Nations, 2015) <https://www.undp.org/publications/socioeconomic-impact-pretrial-detention> accessed 27 May 2025

³⁵ Will Dobbie, Jacob Goldin and Crystal S. Yang, 'The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges' (2018) 108(2) *American Economic Review* 201 <https://www.aeaweb.org/articles?id=10.1257/aer.20161503> accessed 12 March 2025.

detention periods inflict severe and irreversible harms, while failing to achieve its stated goals.³⁶

The literature presented shows a gap in knowledge for empirical analysis and evidenced based solutions that bridge legal provisions and practical realities to uphold constitutional guarantees and in the international human rights standards, which allows to go beyond.

In summation, this research seeks to address the insufficient clarity on enforceable detention time limit, the impact of judicial discretion and systemic challenges contributing to prolonged pre-trial detention in Zambia.

1.10 RESEARCH METHODOLOGY

1.10.1 RESEARCH APPROACH

This study uses a qualitative research method, which enables gathering and analyzing information from various sources.³⁷ This approach is chosen because it permits collecting a large amount of material to exam and interpret the institutional and legal factors, and the Zambian statutes related to how long pre-trial detention lasts. Accordingly, the research will review, evaluate, and critique current Zambian laws, court decisions, reports, books, articles, and other scholarly works.

1.10.2 RESEARCH DESIGN

The research will adopt an evaluative design, focusing on assessing Zambia's laws and institutional factors connected to the length of pre-trial detention within the Zambian legal system.

1.10.3 DATA COLLECTION

Secondary data will be used and gathered through the analysis of secondary sources such as books, journals, commentaries, cases, reports and other writings on the subject matter.

³⁶ 36 Brian Nam-Sonenstein, 'Research Roundup: Evidence That a Single Day in Jail Causes Immediate and Long-Lasting Harms' *Prison Policy Initiative*, 19 February 2024.

https://www.prisonpolicy.org/blog/2024/02/19/research_roundup/ accessed 27 March 2025

³⁷ JW Creswell; *Research Design Qualitative, Quantitative and Mixed Methods Approaches* (SAGE Publishers 2014)

1.10.4 DATA ANALYSIS

Data for this study will be gathered from secondary sources, including books, journals, commentaries, court cases, reports, and other relevant literature. The study will use content analysis for data examination, incorporating methods such as document review, case studies, interviews, and focus group discussions. This approach will help the researcher systematically analyze the qualitative data to gain a comprehensive understanding of the topic.

1.10.5 RESEARCH TYPE, SIZE AND SAMPLING TECHNIQUES

This study will mainly apply inductive and analytical approaches, concentrating on examining the laws and their enforcement concerning pre-trial detention in Zambia.

1.10.6 ETHICAL CONSIDERATIONS

The researcher herein shall endeavor to abide by all relevant ethical guidelines established by the University of Lusaka, as well as all relevant laws from the beginning to the end of this research.

1.11 RESEARCH OUTLINE

CHAPTER ONE introduces the research by outlining the background, problem statement, research objectives, and questions.

CHAPTER TWO reviews how international law regulates pre-trial detention and evaluates Zambia's compliance with these standards.

CHAPTER THREE analyzes Zambia's legal framework on pre-trial detention, identifying gaps that lead to extended detention periods.

CHAPTER FOUR examines the effects of prolonged pre-trial detention on detainees' rights and the criminal justice system's effectiveness.

CHAPTER FIVE summarizes the research findings and offers recommendations to address the issues highlighted throughout the study.

CHAPTER 2

PRE-TRIAL DETENTION: INTERNATIONAL LEGAL STANDARDS AND ZAMBIA'S COMPLIANCE

2.0 INTRODUCTION

The global prison population has surged dramatically in recent years. Without corresponding increases in prison staff and facilities, this growth has led to overcrowded and often harsh prison conditions. Currently, about two-thirds of countries worldwide face overcrowded prisons.³⁸ Acknowledging the serious negative effects of overusing pre-trial detention, international and regional standards impose strict, though often theoretical, limits on its application.

This Chapter aims to extensively discuss the international standards regulating pre-trial detention and assess Zambia's compliance with the said standards.

2.1 INTERNATIONAL FRAMEWORK FOR PROCEDURAL RIGHTS IN PRE-TRIAL DETENTION

2.1.1 General Overview

The **Universal Declaration of Human Rights**³⁹ in **Article 11** guarantees that everyone charged with a crime is presumed innocent until proven guilty according to the law.

Article 9 of the International Covenant on Civil and Political Rights (ICCPR)⁴⁰ states that no one should be subjected to arbitrary arrest or detention, or deprived of liberty except as allowed by law.

³⁸ The Institute for Crime & Justice Policy Research: Available at; www.prisonstudies.org (Accessed on 20/08/2025)

³⁹ GA Res 217 A (III), UN Doc A/810 (10 December 1948).

⁴⁰ Mar. 23, 1973, 999 U.N.T.S. 171

Similar protections are found in **Article 5** of the **European Convention on Human Rights**⁴¹, in **Article 7** the **Inter-American Convention on Human Rights**⁴² and in **Article 6 of the African Charter on Human and Peoples' Rights**.⁴³

United Nations standards further detail pre-trial detention, emphasizing that it should be a last resort with alternatives encouraged. Pre-trial detainees have the right to legal advice and aid, must be treated as unconvicted persons, and held under appropriate conditions.⁴⁴ These rights are reinforced by regional instruments such as the European Prison Rules and the Luanda Guidelines for Africa. Various human rights bodies, including the Inter-American Commission on Human Rights, the European Committee for the Prevention of Torture, and the UN Special Rapporteur on Torture, have also provided guidance.⁴⁵

The European Court of Human Rights⁴⁶ and the Inter-American Court of Human Rights⁴⁷ have developed extensive case law on pre-trial detention, addressing issues not explicitly covered in international law. These include the presumption in favor of release, regular reviews of detention, limits on detention duration, and the requirement to provide reasons when denying release or extending detention.

The UN has issued guidance urging states to align their national systems with these standards. For example, in 2014, the UN Human Rights Committee's general comment No. 35 clarified state obligations around judicial oversight of detention, including the right to be promptly brought before a judge, trial within a reasonable time, and restrictions on

⁴¹ Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR), opened for signature 4 November 1950, 213 UNTS 221 (entered into force 3 September 1953)

⁴² 18 July 1978, 1144 UNTS 123.

⁴³ 21 October 1986, 1520 UNTS 217.

⁴⁴ Available at; https://www.prisonstudies.org/sites/default/files/resources/downloads/pre-trial_detention_final.pdf (Accessed on 20/08/2025)

⁴⁵ *ibid*

⁴⁶ European Court of Human Rights: Guide on Article 5 of the Human Rights Convention. Available at; https://www.echr.coe.int/Documents/Guide_Art_5_ENG.pdf (Accessed on 21/08/2025)

⁴⁷ Inter-American Commission on Human Rights: Measures to Reduce Pre-Trial Detention. Available at; <http://www.oas.org/en/iachr/reports/pdfs/PretrialDetention.pdf> (Accessed on 21/08/2025)

pre-trial detention.⁴⁸ The Committee also provides guidance on how to implement the right of persons deprived of their liberty to take proceedings for release from unlawful detention. In 2015, the UN Working Group on Arbitrary Detention finalized guidelines on remedies and procedures for those deprived of liberty to challenge unlawful detention, helping states avoid arbitrary imprisonment.⁴⁹

2.1.2 International Covenant on Civil and Political Rights

Article 7 of ICCPR⁵⁰, prohibits torture and cruel, inhuman, or degrading treatment or punishment, ensuring protection against such abuses that no person "shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." This provision in the realm of detained persons is complimented by **Article 10** of the same convention which reads as follows;

"Article 10. 1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status."

It can be said that **Article 10 of the ICCPR**⁵¹ prohibits less serious forms of treatment compared with that prohibited by Article 7 of the same Convention. Various factors, either

⁴⁸ Available at; <https://digitallibrary.un.org/record/786613> (Accessed on 22/08/2025)

⁴⁹ Available at; <https://www.ohchr.org/EN/Issues/Detention/Pages/DraftBasicPrinciples.aspx> (Accessed on 22/08/2025)

⁵⁰ Mar. 23, 1973, 999 U.N.T.S. 171

⁵¹ Ibid

alone or combined, can create detention conditions that qualify as degrading treatment. These include overcrowded cells, poor hygiene and sanitation, insufficient food or water, the spread of infectious diseases due to authorities' failure to take proper precautions, inadequate ventilation or heating, lack of natural light, and little or no access to exercise and recreational activities for detainees.⁵²

The United Nations Working Group on Arbitrary Detention has highlighted the inadequate conditions of detention may not only constitute inhuman treatment, but also adversely affect the right to a fair trial. Conditions of detention have an impact on equality between the prosecution and the defence.⁵³ They highlighted that "where conditions of detention are so inadequate as to seriously weaken the pre-trial detainee and thereby impair equality, a fair trial is no longer ensured, even if procedural fair-trial guarantees are otherwise scrupulously observed."⁵⁴ The Working Group added that it "is fully aware that the inadequate infrastructure, nourishment, hygiene and medical assistance in detention centres in many countries are in part due to the economic difficulties of these countries' Governments. Nonetheless, Governments are responsible to ensure that conditions of detention do not result in violations of human rights."⁵⁵

It follows therefore that State parties to the ICCPR, including Zambia, are obligated to put in place measures in detention facilities to comply with both Article 7 and Article 10 of the ICCPR.

Furthermore, **Article 9(1) of the ICCPR** prohibit arbitrary arrest. Deprivation of liberty is allowed only on legal grounds that comply with international detention standards and must not be based on any form of discrimination. Detention should be a rare measure, used only when necessary, and kept as brief as possible.⁵⁶

⁵² Available at; <https://www.unodc.org/e4j/en/terrorism/module-9/key-issues/international-covenant-on-civil-and-political-rights.html> (Accessed on 23/08/2025)

⁵³ 53 (E/CN.4/2005/6, paras. 69-70), Available at; <https://docs.un.org/en/E/CN.4/2005/6> (Accessed on 23/08/2025)

⁵⁴ *ibid*

⁵⁵ *ibid*

⁵⁶ Jordan J Praust (2003), "Judicial Power to Determine the Status and Rights of Persons Detained Without Trial", *Harvard International Law Journal* 44: 503, 505-6

International law provides several procedural protections against arbitrary detention, including:⁵⁷ The right to be informed of a criminal charge;

- i. The right to be informed of the charges;

Article 9(2) of the ICCPR,⁵⁸ requires that individuals at the time of their arrest be informed of the reason for their arrest and any charges brought against them. This position was affirmed by the Human Rights Committee in **Kelly v Jamaica**,⁵⁹ wherein the committee stated that the Police must make detainees reasonable aware of the precise reasons for the arrest, and enable detainees to take immediate steps to secure their release, including accessing a lawyer or judicial authority.

- ii. The right of prompt access to judicial authorities;

Article 9(3) of the ICCPR enacts that the detainees have the right to be ‘promptly’ brought before a court or other judicial officer to have their detention reviewed, which is consistent with the principle that pre-trial detention be the exception rather than the rule. The United Nations Human Rights Council has interpreted ‘promptly’ as not exceeding a few days⁶⁰ and, in its review of Angola, urged the Angolan government to ensure that police detention not exceed 48 hours.⁶¹ Longer periods of detention in police custody may be permitted if a detainee is charged with a serious offence, providing that the other procedural safeguards for detention are observed.⁶²

- iii. The right to challenge the lawfulness of arrest and detention;

Detainees also have the right to appeal their detention to a judicial authority on the grounds that their detention is arbitrary or unjust.⁶³ Detainees have the right to challenge

⁵⁷ International Covenant on Civil and Political Rights, articles 9(2)-(5).

⁵⁸ Ibid

⁵⁹ Communication No. 253/87 para 5.8

⁶⁰ United Nations Human Rights Committee, General Comment No 8: Right to Liberty and Security of the Persons (art 9) (30 June 1980) [2]. *Kone v Senegal*, Communication No 386/89, [para 8.6]

⁶¹ United Nations Human Rights Council, Report of the Working Group on Arbitrary Detention: Mission to Angola, Addendum, A/HRC/7/4/Add.3, 29 February 2008, p.3

⁶² Joseph, Sarah, and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary*, 3rd Edition (2013; online edition, Oxford Law Pro), page 330

⁶³ United Nations Commission on Human Rights, 61st Session, Report of the Working Group on Arbitrary Detention, E/CN.4/2005/6, 1 December 2004, [para 59]

their arrest and detention before a judicial body if they believe it is arbitrary or unjust. This fundamental protection against arbitrary detention cannot be limited or removed by any state, even during emergency.⁶⁴ Where one does succeed on such a law suit against the State, **Article 9(5) of the ICCPR** entitles such victims unlawful arrest or detention to compensation.⁶⁵

2.1.3 African Charter on Human and Peoples' Rights

The Article 6 of the African Charter on Human and Peoples' Rights (ACHPR) ensures the right to liberty and personal security, forbidding any arbitrary arrest or detention. To elucidate the application of this rights, the African Commission on Human and Peoples' Rights adopted the *Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa* (Luanda Guidelines) in 2014. These guidelines advocate for pre-trial detention to be a measure of last resort, emphasizing that detainees should be brought promptly before a judicial authority and that alternatives to detention, such as bail, should be considered. The guidelines also state that detention should not be used as punishment and must comply with international standards that uphold detainees' dignity and rights.⁶⁶

The African Commission, in its oversight role, has raised concerns about prolonged and arbitrary pre-trial detention. In its feedback on Zambia's Combined 1st to 7th Periodic Report, the Commission pointed out problems including the overuse of pre-trial detention, lack of adequate legal representation for detainees, and slow judicial processes. These practices contravene the provisions of the African Charter, particularly **Article 7**, which guarantees the right to a fair trial within a reasonable time.⁶⁷ The Commission's observations underscore the necessity for Zambia to align its detention practices with regional human rights standards to uphold the rights of individuals under its jurisdiction.

⁶⁴ United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, A/RES/43/173, 76th plenary meeting, 9 December 1988, principles 11, 32 and 37

⁶⁵ Ibid

⁶⁶ Available at; <https://achpr.au.int/en/special-mechanisms-reports/guidelines-conditions-arrest-police-custody-and-pre-trial-detention-i> (Accessed on 24/08/2025)

⁶⁷ Available at; <https://achpr.au.int/en/decisions-communications/rencontre-africaine-pour-la-defence-des-droitslhomme-raddho-zambia-7192>(Accessed on 24/08/2025)

2.2 INTERNATIONAL INSTRUMENTS TO WHICH ZAMBIA HAS RACTIFIED TO

On January 17, 1983 Zambia ratified the African Charter on Human and Peoples' Rights⁶⁸ and thus Zambia's human rights policies and practices are monitored by the African Commission on Human and Peoples' Rights (ACHPR), which reviews the State's reports concerning its human rights situation and decides complaints of alleged violations.

Further, Zambia is a State Party to the International Covenant on Civil and Political Rights (ICCPR), having ratified it on April 10, 1984. This means Zambia is obligated to uphold the rights and freedoms enshrined in the Covenant.⁶⁹

2.3 ASSESSMENT OF ZAMBIA'S COMPLIANCE WITH INTERNATIONAL AND REGIONAL STANDARDS

The widespread and prolonged use of pre-trial detention in Zambia reflects weaknesses in the criminal justice system's ability to manage case processing effectively and efficiently. Such excessive detention infringes on several fundamental rights, including the right to liberty, dignity, a fair and timely trial, and protection from torture and other mistreatment.⁷⁰

Reports show a that suspects in Zambia are held for more than two weeks before their initial court appearance in violation of the stipulated 24-hour rule.⁷¹ The United Nations Human Rights Committee (UNHRC), together with other international bodies have also expressed concerns about Zambia's compliance with international human rights

⁶⁸ [African Charter on Human and Peoples' Rights | African Commission on Human and Peoples' Rights](#) (Accessed on 24/08/2025)

⁶⁹ Available at; <https://www.omct.org/en/resources/reports/zambia-report-submitted-to-the-economic-social-and-cultural-rights-committee#:~:text=Zambia%20ratified%20the%20United%20Nations,collective%20bargaining%2C%20ILO%20Conventions%20No.> (Accessed on 24/08/2025)

⁷⁰ World Prison Brief, 'Zambia' (*PrisonStudies.org*, 2025) Available at; https://www.prisonstudies.org/sites/default/files/resources/downloads/report_pretrial_audit_zambia_2011.pdf (accessed 27 August 2025)

⁷¹ Human Rights Watch, 'Zambia: Long Pre-Trial Detention, Abuse of Prisoners' (*Human Rights Watch*, 9 May 2019) Available at; <https://www.hrw.org/news/2019/05/09/zambia-long-pre-trial-detention-abuse-prisoners> (accessed 27 August 2025)

standards. The UNHRC in its 2018 report highlighted Zambia's failure to adhere to Article 9(3) of the ICCPR, which guarantees the right to trial within a reasonable time or release.⁷²

Also, the Human Rights Commission reports that about 30% of the individuals in remand indicated that they have been awaiting judgment for a period of over one year. Two-thirds said they have been awaiting judgment for a period of less than one month. Nearly 6% have been waiting for judgment for at least 9 months.⁷³ Interestingly, another report found 20.1% of Zambia's total prisons population further highlighting the problem.⁷⁴

According to the USA report on Human Rights in Zambia 2022, it was found that prolonged pretrial detention, including that of irregular migrants awaiting trial or removal, continued to be a problem. On average detainees spent an estimated six months in pretrial detention, which often exceeded the maximum length of the prison sentence corresponding to the detainee's alleged crime imposing punishment without a trial. The main factors contributing to prolonged pre-trial detention include the inability to meet bail conditions, delays in trials, and postponements caused by absent prosecutors and witnesses.⁷⁵

In its 2023 Concluding Observations on Zambia's fourth periodic report, the Human Rights Committee highlighted several ways in which Zambia's pre-trial detention practices do not align with the ICCPR's standards. The Committee expressed concern that suspects are often held for long periods before trial, especially in rural areas where subordinate or circuit courts are rarely available, worsening delays. These delays contradict Article 9 of the ICCPR, which mandates that anyone arrested or detained on criminal charges be promptly brought before a judge and tried without unnecessary delay. By pointing out these issues, the Committee emphasizes that Zambia's legal protections are not effectively enforced.⁷⁶

⁷² UN Human Rights Committee (UNHRC), 'Concluding observations on the fourth periodic report of Zambia' (26 April 2018) CCPR/C/ZMB/CO/4, para 33

⁷³ Zambia Human Rights Commission, *Annual Report 2022* (Lusaka: Human Rights Commission, 2023), p. 45

⁷⁴ World Prison Brief, 'Zambia' (*PrisonStudies.org*, 2025) <https://www.prisonstudies.org/country/zambia> (accessed 27 August 2025)

⁷⁵ U.S Department of State, ZAMBIA-2022, HUMAN RIGHTS REPORT.

⁷⁶ Human Rights Committee: Concluding observations on the 4th periodic report of Zambia. Available at; <https://digitallibrary.un.org/record/4008499> (accessed 27 August 2025)

The Committee also raised serious concerns about bail, legal aid, and access to defense. While Zambian law allows bail, especially for non-capital offenses, detainees often fail to secure it due to strict requirements, such as needing sureties who are government employees. These conditions undermine the presumption of innocence and restrict reasonable opportunities for release. Similarly, while there is a formal legal aid scheme, the Committee pointed out that many indigent detainees are not aware of this right, and that state capacity to provide timely, effective legal assistance remains limited. These gaps are contrary to ICCPR Articles 9 concerning suspects' rights to be informed of charges, to have prompt access to counsel, and to have competent assistance if they cannot afford a lawyer.⁷⁷

Lastly, the Committee raised questions about the enforcement of constitutional and statutory safeguards and about remedial options in cases of unjustified pre-trial detention. Among its recommendations, the Committee called on Zambia to review and amend laws and practices that allow prolonged detention without trial, ensure that court orders, for instance bail orders, are respected by law enforcement agencies, and strengthen mechanisms through which detainees can challenge the lawfulness of their detention.⁷⁸ This highlights an ongoing conflict between formal legal standards such as constitutional rules and criminal procedure laws and actual practice. Even when rights are established in law, their enforcement relies heavily on factors like institutional capacity, judicial independence, and administrative procedures. The Human Rights Committee's findings offer a clear legal standard to assess Zambia's level of compliance, or non-compliance, regarding pre-trial detention.⁷⁹

2.4 CONCLUSION

Similar to arrest procedures, international human rights law offers a detailed framework for the lawful and rights-respecting use of pre-trial detention in police custody for

⁷⁷ Ibid

⁷⁸ Ibid

⁷⁹ SCRIBD (2025), Zambia 2023 Human Rights Report. Available at: <https://www.scribd.com/document/876394090/528267-Zambia-2023-Human-Rights-Report> (accessed 27 August 2025)

individuals accused of crimes. States are required to incorporate this framework into their national laws and practices, supported by guidelines and decisions from the United Nations Human Rights Council to help ensure compliance.

CHAPTER 3

PRE-TRIAL DETENTION IN ZAMBIA: LEGAL FRAMEWORK AND SYSTEMIC GAPS

3.0 INTRODUCTION

Pre-trial detention in Zambia is regulated by a wide range of Acts of Parliament, chief among them being, the Constitution of Zambia and the Criminal Procedure Code. This chapter seeks to extensively analyze the legal framework governing pre-trial detention in Zambia and identify gaps which are causing or contributing to the prolonged detention periods. To archive this, the chapter will begin by looking at the conceptual framework, then the legal framework which will discuss constitutional provisions and statutory provisions, it will also discuss statutory provisions in Acts of Parliaments such as the Criminal Procedure Code, and it will also discuss judicial approach to cases pertaining to pre-trial detention which will be done by analyzing key cases on the subject, and the chapter will end with a discussion on the practical realities and challenges attributed to the gaps in our legal system.

3.1 CONCEPTUAL AND THEORETICAL OVERVIEW

3.1.1 The Concept of Pre-trial Detention

Detention is one of the pillars of criminal justice system which always begins with an arrest. Worldwide, “arrest” is defined as the act of detaining an individual suspected of committing an offense, typically carried out by an authorized authority. Detention refers to the state of depriving a person arrested of their freedom of liberty.⁸⁰

Pre-trial detention which is also known as jail, preventive detention or remand, is a process of detaining a person until their trial after they have been arrested or charged with a crime.⁸¹

⁸⁰ ICRC (2002) The Law of Conflict Available at; https://www.icrc.org/sites/default/files/external/doc/en/assets/files/other/law12_final.pdf [Accessed on 24/09/2025]

⁸¹ Stevenson, M. T (2018). “Distortion of Justice: How Inability to Pay Bail Assets Case Outcomes.” The Journal of Law, Economics and Organizations United Nations Human rights Council.

Much as this definition suggests other names for pre-trial detention, in common law jurisdictions, such as Zambia, remand is the term which is commonly used.⁸²

Thus, from the time a person is arrested and charged until the process is concluded with a trial leading to conviction or acquittal or is in some other way discontinued (whether because no charges are brought or they are dropped for whatever reason at some point before trial), a person will be subject to pre-trial detention for so long as he or she is not at liberty. This will be so wherever the person is held: police cell, prison or other place of detention. The use of the term preventive in some countries to describe detention for this purpose does not alter its essential character as an element of the criminal process.⁸³

3.1.2 Justifications for pre-trial detention

Arrest and detention are the fundamental pillars of criminal justice and embody the authority of the state to maintain law and order while protecting the rights of the person. This process is crucial for investigating and prosecuting crimes, as it enables the detention of individuals suspected of wrongdoing and helps safeguard the public. The core debate around arrest and detention centers on balancing public safety with the protection of civil rights. While law enforcement has the responsibility to enforce laws, prevent crime, and protect communities, this must be weighed against respecting individual freedoms. The delicate balance between ensuring public safety and protecting civil liberties is at the heart of the debate around arrest and detention. On one hand, law enforcement is tasked with enforcing, preventing crime, and protecting communities from harm. And on the other hand, individuals have the right not to be subjected to arbitrary interference, not to be subjected to arbitrary detention, and to be treated in accordance with the law.⁸⁴

The conditions and cases of pre-trial detention have been regulated by the legislator for specific purposes, namely, to protect the general public, to ensure the proper conduct of

⁸² Yula, Emmanuel & Magasu, Oliver. (2025). "PRO-ACTIVENESS OF THE HUMAN RIGHTS COMMISSION ON THE 24-HOUR PRE-TRIAL DETENTION IN ZAMBIA: A HUMAN RIGHTS ISSUE."

⁸³ OSCE (1999) Pre-trial Detention in the Organisation for Security and Co-operation in Europe Available at; <https://www.osce.org/files/f/documents/1/5/42851.html> [Accessed on 24/09/2025]

⁸⁴ Aditya Dev Mishra, (2024) "ARREST AND DETENTION: A CRITICAL ANALYSIS", Indian Journal of Law and Legal Research Volume VI Issue II | ISSN: 2582-8878

the criminal proceedings by ensuring appearance at trial, to prevent interference with witnesses or investigations.⁸⁵ In the Zambian context, the justification for pre-trial detention were spelt out by the Court in **Kapwepwe and Kaenga v The Attorney-General**,⁸⁶ wherein Baron, J.P., as he then was at page 260 said:

"The machinery of detention or restriction without trial (I will hereafter use 'detention' and cognate expression 'to include restriction' and cognate expressions) is, by definition, intended for circumstances where the ordinary criminal law or the ordinary criminal procedure is regarded by the detaining authority as inadequate to meet the particular situation. There may be various reasons for the inadequacy; there may be insufficient evidence to secure a conviction; or it may not be possible to secure a conviction without disclosing sources of information which it would be contrary to the national interest to disclose; or the information available may raise no more than a suspicion, but one which some one charged with the security of the nation dare not ignore; or the activity in which the person concerned is believed to have engaged may not be a criminal offence; or the detaining authority may simply believe that the person concerned, if not detained, is likely to engage in activities prejudicial to public security."

3.2 ZAMBIAN LEGAL FRAMEWORK ON PRE-TRIAL DETENTION

3.2.1 The Constitution of Zambia

The Constitution of Zambia provides several protections relevant to pre-trial detention. To begin with, **Article 13 of the Constitution**⁸⁷ provides for the protection of the right to personal liberty. Paragraph (3) of the said provision reads as follows;

"(3) Any person who is arrested or detained:

⁸⁵ Lumen Publishing (2020), A General Overview on Ethnicity of Pre-trial Detention. Available at; <https://lumenpublishing.com/journals/index.php/jess/article/view/4377/2857> [Accessed on 24/09/2025].

⁸⁶ Kapwepwe and Laenga v The Attorney- General Z.R (1972) at page 248

⁸⁷ The Constitution (as amended), Chapter 1, No. 2 of 2016 of the Laws of Zambia

(b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in Zambia; and who is not released, shall be brought without undue delay before a court; and if any person arrested or detained as mentioned in paragraph (b) is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial."

Speaking on this provision, the Supreme Court in **Musakanya v Attorney-General**,⁸⁸ stated that these provisions are designed to ensure for the benefit of a person who is arrested and detained on a criminal charge, or a reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in Zambia by way of compelling his release with or without any conditions attached thereto or, alternatively, by bringing him to trial within a reasonable time. The clear purpose of these provisions thus being two-fold, first to promote a speedy trial; and second, to induce the individual's release, free from any conditions, or, "upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial". In other words, the provisions envisage the bringing to court of a detained person in order to stand trial.

It is imperative to note that while **Article 13 of the Constitution**⁸⁹ provides for protection of the right to personal liberty, the same provisions list instances when this right may be interfered with, meaning that this right is not absolute. Also, **Article 25 of the Constitution**⁹⁰ allows for the derogation from this right during war or a declaration of a state of emergency under **Article 30 of the Constitution**.⁹¹

Speaking on the instances when a person may lose their right to personal liberty, the Supreme Court in **Parekh v the People**,⁹² the Court held that before the stage when a

⁸⁸ Musakanya v The Attorney-General (S.C.Z. Judgment 18 of 1981) [1981] ZMSC 15

⁸⁹ The Constitution (as amended), Chapter 1, No. 2 of 2016 of the Laws of Zambia

⁹⁰ Ibid

⁹¹ Ibid

⁹² Parekh v The People (S.C.Z. Judgment 11 of 1995) [1995] ZMSC 26

trial becomes unreasonably delayed, it is constitutionally permissible to authorise deprivation of liberty, if authorised by law, and without making any provision for bail under any circumstances.

The Court in the **Parekh v the People** (Supra),⁹³ also opined that **Article 18 of the Constitution**,⁹⁴ apart from confirming the presumption of innocence, also requires a fair and expeditious hearing within a reasonable time. As such, an accused person is clearly entitled to be tried and to have a decision rendered in his trial within a reasonable time.

3.2.2 Criminal Procedure Code Act and Other Legislation

The Criminal Procedure Code Act sets out the procedures to be followed when a person is arrested. **Section 26(a) of the Criminal Procedure Code Act**⁹⁵ enacts that any police officer may arrest any person whom he suspects upon reasonable grounds of having committed a cognisable offence or a person found in circumstances where there are reasonable grounds for suspecting the person has, or is, about to commit a serious offence.⁹⁶ For an arrest to be lawful, several conditions must be met when a police officer effects an arrest, chief among the conditions, is enshrined in **Section 21 Criminal Procedure Code Act**⁹⁷ which stipulates that the person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Further, **Section 33 of the Criminal Procedure Code Act**⁹⁸ enacts that when a person is arrested without a warrant (except for an offence punishable with life imprisonment), the officer-in-charge of the police station shall (if it's not practicable to bring them before a competent court within 24 hours) inquire into the case. Unless the offence appears serious, the person should be released on bond (with or without sureties) to appear in court. If detained, the person must be brought before a competent court as soon as practicable.

⁹³ Ibid

⁹⁴ The Constitution (as amended), Chapter 1, No. 2 of 2016 of the Laws of Zambia

⁹⁵ The Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia

⁹⁶ Ibid, Section 26(f)

⁹⁷ Ibid

⁹⁸ Ibid

The Zambia Police Act⁹⁹ establishes the office of a custody officer who is responsible for the welfare of accused persons in police custody.¹⁰⁰ This entails that the police are legally entitled to take custody of accused persons prior to being presented to court. In practice, all major police stations have cells where accused persons who are not granted bail are detained.¹⁰¹

With regard to prisons, the **Zambia Correctional Service Act in Section 10**,¹⁰² entitles the Minister of Home Affairs to designate any building, enclosure, or place as a prison. A prison may, therefore, be a place which was not purposely built as such. Also, **Section 11 Zambia Correctional Service Act**¹⁰³ empowers the Commissioner General where it appears to him that the number of inmates in any prison or correctional centre is greater than the capacity of the prison or correctional centre and that it is not convenient to transfer the excess number to another prison or correctional centre. In practice, there is no evidence of the Commissioner General ever exercising this power.

Section 29 of the Zambia Correctional Service Act¹⁰⁴ further indicates categories of those who shall be admitted into prison custody, namely, those accompanied by remand warrants from courts, court-martials, and police. As such, a person can be admitted to prison without having been presented before a judge. This implies that prisons are legally entitled to keep in custody persons presented to them with the above documentation. The danger, however, is that without a direct and specific indication of an authorised place of detention, detention in places other than police stations and prisons may not necessarily be unlawful.¹⁰⁵

⁹⁹ The Zambia Police Act, Chapter 107 of the Laws of Zambia

¹⁰⁰ The Zambia Police Act (as amended by Act No 14 of 1999), ss 18A and 18B.

¹⁰¹ Kaaba, O'Brien. (2016). Constitutionality of Criminal Procedure and Prison Laws in Africa: Zambia. Available at; https://www.researchgate.net/publication/328829885_Constitutionality_of_Criminal_Procedure_and_Prison_Laws_in_Africa_Zambia#pf25 [Accessed on 27/09/2025]

¹⁰²The Zambia Correctional Service Act No. 37 of 2021

¹⁰³ ibid

¹⁰⁴ Ibid

¹⁰⁵ Ibid

3.3 ZAMBIAN LEGAL FRAMEWORK ON BAIL PENDING TRIAL

Sections 123 to 133 of the Criminal Procedure Code Act¹⁰⁶ provide the legal regime on bail before the courts (during pre-trial detention and during trial). Bail may be granted by a Subordinate Court, the High Court or Supreme Court, which will determine the amount on a case-by-case basis. Bail may also be guaranteed by sureties, that is, persons who undertake that the accused will appear at trial. However, the proviso to **Section 123 (1) of the Criminal Procedure Code Act**¹⁰⁷ list offenses which are non bailable, these are; murder, treason, misprision of treason or treason-felony, and aggravated robbery. Speaking on this provision, the Court in **the People v Kalaluka**,¹⁰⁸ opined that the bail provided for in *Section 123 the Criminal Procedure Code Act*¹⁰⁹ is wide and is not restricted to bail pending trial because in some cases there might not be any trial at the end of a long and inordinate detention. Sub Section (1) lists four (4) institutions that can grant bail in the particular circumstances laid out. These are Subordinate Court, High Court, Supreme Court and Law Enforcement Agencies, in particular, the police.

Flowing from **Section 123 (1) of the Criminal Procedure Code Act**,¹¹⁰ as to how the jurisdiction of the Courts and the police is divided, the Court in **the People v Kalaluka**,¹¹¹ clarified that courts have the jurisdiction to grant bail to a person appearing or brought before it while the police ordinarily grant bail to those arrested or detained before being brought before any court. The converse is also true that the police cannot grant bail to a person who is appearing before court as the jurisdiction shifts. Flowing from this position, the Court explained that while the position applies to the Subordinate Court, that is, it does not have jurisdiction to grant bail to persons not appearing before it, the same does not apply to the High Court which flowing from its inherent and original jurisdiction in respect of all matters including those dealing with fundamental or constitutional rights such as the right to freedom/liberty which is at issue in such matters has power to grant

¹⁰⁶ The Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia

¹⁰⁷ Ibid

¹⁰⁸ The People v Kalaluka (HBR 2 of 2011) [2011] ZMHC 39

¹⁰⁹ The Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia

¹¹⁰ Ibid

¹¹¹ The People v Kalaluka (HBR 2 of 2011) [2011] ZMHC 39

bail to a person who is not appearing or brought before any court and has been inordinately detained.

Thus, in cases where a person is arrested or detained but not brought before any court in breach of the provisions of **Section 33 of the Criminal Procedure Code**,¹¹² only the police and the High Court may be able to grant that person bail in accordance with *Section 123 of the Criminal Procedure Code*.

Further, **Article 13(3) of the Constitutional**¹¹³ provides for what is known as Constitutional Bail. The said provision provides that when a person has been arrested on suspicion of committing a criminal offence they should be tried without reasonable delay and if there is undue delay, they should be granted bail. Speaking on this, the Court in **Parekh v the People**,¹¹⁴ had the following to say;

“Where any trial is unreasonably delayed through no fault or stratagem of the accused, the arrested person must be released on what one might call “constitutional bail”. Such bail is available and clearly overrides any prohibitions in the lesser laws so that Article 13(3) would apply to any unreasonably delayed case, whatever the charge”

When determining whether to grant bail, the Court outlined several factors in **Anupbhai Munabhai Patel v the Attorney General**,¹¹⁵ these include the seriousness of the accusations and potential punishment, the strength of the evidence supporting the charge, the reliability of any sureties if bail is approved, the potential harm to the applicant if bail is denied, and the potential harm to the state if bail is granted.

¹¹² The Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia

¹¹³ The Constitution (as amended), Chapter 1, No. 2 of 2016 of the Laws of Zambia

¹¹⁴ Parekh v The People (S.C.Z. Judgment 11 of 1995) [1995] ZMSC 26

¹¹⁵ Anupbhai Munabhai Patel v The Attorney-General 1993/HC/366

3.4 PRACTICAL REALITIES AND CHALLENGES

3.4.1 The police officers are given uncontrolled discretion to arrest;

As earlier stated, **Section 26(a) of the Criminal Procedure Code Act**¹¹⁶ empowers any police officer to arrest any person whom he reasonably suspects of having committed an offence. In the case of **The People v Liato**,¹¹⁷ the Court in defining what amounts to “reasonable suspicion” stated that reasonable suspicion involves less than a belief but more than a mere possibility. There must be some factual basis for the suspicion meaning that reasonable suspicion is not arbitrary, there must be a factual basis upon which it is anchored. While the Court has defined what amounts to reasonable suspicion, the law has not set a criterion to control how the police officers may exercise this discretion. This is backed up by the case of **Kapwepwe and Kaenga v The Attorney-General**,¹¹⁸ wherein the Court stated that

“...one must not lose sight of the fact that there is no onus on the detaining authority to prove any allegation beyond reasonable doubt, or indeed to any other standard, or to support any suspicion. The question is one purely for his subjective satisfaction. These are far-reaching powers.”

It thus follows that police officers have discretion to arrest any individual if in their view they reasonably suspect that a person has or is about to commit an offence. This discretion can easily be abused by the authorities as the law has not put in place how such discretion can be controlled, which can lead to people being detained for absurd reasons or suspicions which are not based on any concrete facts.

3.4.2 The Law does not define what amounts to “reasonable time” within which a person should be tried;

As mentioned earlier, in **Article 13** of the **Constitution**¹¹⁹ guarantees the right to a trial within a reasonable time. However, neither the Constitution nor any related laws specify

¹¹⁶ The Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia

¹¹⁷ The People v Liato (Appeal 291 of 2014) [2015] ZMSC 26

¹¹⁸ Kapwepwe and Laenga v The Attorney- General Z.R (1972) at page 248

¹¹⁹ The Constitution (as amended), Chapter 1, No. 2 of 2016 of the Laws of Zambia

a set timeframe for concluding cases. In reality, many cases last for years, violating the right to a speedy trial.¹²⁰ For example, in **Benard Lubuto v The Republic of Zambia**,¹²¹ the Human Rights Committee ruled that the eight-year duration to resolve the case violated the applicant's right to a fair and timely trial. This clearly demonstrates the need for the law to categorically spell out what amounts to a "reasonable time" as envisaged in *Article 13 of the Constitution*.¹²²

3.4.3 Conditions for lawful arrests are not complied with;

Much as the law has set in place several conditions that must be met for an arrest and subsequent detention to be lawful, in practice these requirements are often not met when police effect arrests, especially when such arrests take place during large-scale operations, and when such arrests target marginalised groups. In a context where there is excessive use of pre-trial detention, it is imperative that consideration is also given to the offences which are used by the police to arrest and detain persons, and whether such detention and offences are indeed necessary.¹²³

3.4.4 The 24-hour rule is often ignored in practice without strict remedies;

As previously mentioned, **Section 33(1)** of the **Criminal Procedure Code**¹²⁴ requires that anyone arrested without a warrant for an offense (except those punishable by death) be brought before a competent court within 24 hours. If this is not feasible, an inquiry should be held, and unless the offense is serious, the individual must be released on bond. While the law is categorical on how arrested individuals should be treated, in practice authorities routinely hold detainees for much longer periods while prosecutors and police collect evidence before presenting cases to a court.¹²⁵ Recently, the Law Association of Zambia (LAZ) expressed its concern regarding this issue of prolonged detention, it pointed out that in complete disregard of *Section 33(1) of the Criminal Procedure Code*, "in the recent past, LAZ has, through its Prison Decongestion program established that a number of

¹²⁰ Ibid

¹²¹ Benard Lubuto v The Republic of Zambia (2001) AHKR 37 (HRC 1995)

¹²² The Constitution (as amended), Chapter 1, No. 2 of 2016 of the Laws of Zambia

¹²³ Ibid

¹²⁴ The Criminal Procedure Code Act, Chapter 88 of the Laws of Zambia

¹²⁵ Refworld (2017), Country Reports on Human Practices- Zambia. Available at;

<https://www.refworld.org/reference/annualreport/usdos/2017/en/116283> [Accessed on 28/09/2025]

accused persons are held for long periods in Police detention on cases that are bondable before being presented before Courts of law, in disregard of the provisions of the Criminal Procedure Code.”¹²⁶

3.5 CONCLUSION

This chapter has demonstrated that while Zambia’s constitutional and statutory framework provides for safeguards against arbitrary and pro-longed detention, most notably the 24-hour rule, the right to liberty, and access to bail, the enforcement and practical realization of these protections remain problematic.

The discussion of gaps, practical realities and challenges has shown that prolonged pre-trial detention is not merely the result of legislative gaps but also enforcement and implementation of what the law provides for. The persistence of these challenges indicates that Zambia’s compliance with both domestic constitutional standards and international human rights obligations is partial and inconsistent. Hence to address these issues, there is a need for clearer legislation, proactive judicial involvement, increased resources for prosecution, and effective implementation of rules regarding pre-trial detention and bail.

¹²⁶ Law Association of Zamb; “SUSPECTS MUST BE ACCORDED DUE PROCESS IN LINE WITH THEIR CONSTITUTIONAL RIGHT TO BE PRESUMED INNOCENT UNTIL PROVEN GUILTY”. Available at; <https://www.facebook.com/share/p/17VFwvQS5n/?mibextid=wwXlfr> [Accessed on 28/09/2025]

CHAPTER 4

ASSESSMENT OF THE IMPACT OF PROLONGED PRE-TRIAL DETENTION ON THE RIGHTS OF DETAINEES AND THE EFFICIENCY OF THE CRIMINAL JUSTICE SYSTEM IN ZAMBIA

4.0 INTRODUCTION

Prolonged pre-trial detention remains a significant issue in Zambia's criminal justice system, raising important concerns about balancing public safety, judicial effectiveness, and the safeguarding of fundamental human rights. Although constitutional protections and international laws guarantee the presumption of innocence and the right to a fair and prompt trial, many detainees in Zambia remain in custody for long periods without being convicted. This situation not only violates individual rights but also puts considerable pressure on the country's legal, correctional, and social systems.

This chapter provides a critical analysis of how extended pre-trial detention impacts detainees' rights particularly their liberty, dignity, and access to justice and examines the broader effects on the efficiency of Zambia's criminal justice system.

4.1 THE IMPACT ON THE SOCIO-ECONOMIC RIGHTS OF THE DETAINEES

International agreements like the ICESCR recognize socio-economic rights, requiring states to respect, protect, and promote rights. The duty to 'respect' entails an obligation not to interfere with the resources of individuals, their freedom to find a job, or their freedom to take necessary action and to use their resources to satisfy needs.¹²⁷ This duty to respect socio-economic rights intersects with fair trial rights when states make and enforce criminal procedure and criminal laws. Respect for socio-economic rights by states in the context of pre-trial detention means that criminal procedural laws and practices must be designed and implemented in such a way as to ensure that the impact of

¹²⁷ Zambia Human Rights Commission, "Annual Report: 2005." Available at: http://www.hrc.org.zm/media/2005_annual_report.pdf [Accessed on 02/10/2025]

interference with socio-economic rights on all persons is minimised, by ensuring that detention of an accused only occurs when absolutely necessary and for the shortest possible duration.¹²⁸ The following are some of the social economic rights that are violated as a result of pro-longed pre-trial detention.

4.1.1 The Right to Access Clean Water and Basic Hygiene

The UN Standard Minimum Rules on the Treatment of Prisoners specify that sanitary facilities shall “enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner” and furthermore that “adequate bathing and shower installations shall be provided so that every prisoner may be enabled and 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.”¹²⁹ Sanitation and water facilities in Zambia’s prisons do not meet international standards and indeed violate prohibitions on inhuman and degrading treatment.¹³⁰ Toilets are insufficient in number and are filthy, in some prisons, they consist only of a hole in the ground and at others simply a bucket.¹³¹ At Mwembeshi Correctional Facility, inmates reported that there were no toilet facilities at all in the cells, and a bucket was used overnight. The lack of a sewer system, the officer in charge concluded, is “dehumanizing.”¹³²

The UNSMR requires that prisoners keep themselves clean and that the prison authorities should provide them with water and toilet articles that are necessary for health and cleanliness.¹³³ Yet research shows that in Zambian prisons, ‘water is unclean or unavailable’ and that ‘soap and razors are not provided by the government’.¹³⁴ Also, the UNSMR stipulates that the sanitary installations that prisoners use must be adequate to

¹²⁸ Mutingh, L & Redpath, J. 2016. The socio-economic impact of pre-trial detention in Kenya, Mozambique and Zambia. Research paper. Open Society Foundation for South Africa. 1-137. Pages 100-101

¹²⁹ UN Standard Minimum Rules for the Treatment of Prisoners, paras. 12-14.

¹³⁰ HRC (2010), Unjust and Unhealthy- HIV, TB, and Abuse in Zambian Prisons. Available at; <https://www.hrw.org/reports/zambia0410webwcover.pdf> [Accessed on 02/10/2025]

¹³¹ Zambia Human Rights Commission, “Annual Report: 2005.” Available at; http://www.hrc.org.zm/media/2005_annual_report.pdf [Accessed on 02/10/2025]

¹³² PRISCCA, ARASA, and Human Rights Watch interview with officer in charge, Mwembeshi Prison, October 6, 2009.

¹³³ Rule 15, the Standard Minimum Rules for the Treatment of Prisoners, 1955.

¹³⁴ Human Rights Watch (HRW), Prison Care and Counselling Association (PRISCCA), AIDS and Rights Alliance for Southern Africa (ARASA) (2010) “Unjust and Unhealthy: HIV, TB and Abuse in Zambian Prisons” p 5.

enable every prisoner to comply with the needs of nature when necessary, and in a clean and decent manner.¹³⁵ The Zambian Prison Rules state that, every prisoner shall take or be made to take a bath on admission to a prison and at such times subsequently as may be ordered.¹³⁶ Unfortunately, most prisons in Zambia do not have adequate toilet and bathroom facilities to cater for the rapidly growing prison population and so sanitation is a nightmare for prisoners.¹³⁷

4.1.2 The Right to Health and Access to Medical Care

Prisoners typically come from the poorest sectors of society and consequently already suffer from health inequalities. Incarceration commonly aggravates existing health problems. Overcrowding, poor nutrition, lack of exercise, limited access to health care, violence, risky sexual practices, high rates of intravenous drug use, sharing razor blades, and tattooing make prisons a perfect habitat for the spread of infectious diseases.¹³⁸ There is also a high risk of TB transmission. Sick and healthy are routinely mixed together, and multiple inmates reported frequent coughing.¹³⁹ International standards require proper ventilation to meet the requirements of health and require that windows be large enough to allow the entrance of fresh air.¹⁴⁰ However, ventilation requirements are not met at Zambian prisons. In one study report, it was pointed out that several of the prisons that were visited lacked adequate ventilation, and had only air vents.¹⁴¹ “We are all breathing the same confined air, contributing to all airborne diseases,” Hastings, 32, indicated.¹⁴² Esther, 47,¹⁴³ confirmed: Ventilation is very poor. I have very small window and cell captains block windows with their shoes, etc. and in this season, it is so bad,

¹³⁵ Rule 12, the Standard Minimum Rules for the Treatment of Prisoners, 1955.

¹³⁶ Rule 103(1) of the Prison Rules, The Prisons Act, Act No. 56 of 1965, as amended by Act No. 14 of 2000, CAP 97 of the Laws of Zambia.

¹³⁷ Zambia Human Rights Commission Annual Report 2005. Available at: http://www.hrc.org.zm/media/2005_annual_report.pdf [Accessed on 02/10/2025]

¹³⁸ Status Paper on Prisons, Drugs and Harm Reduction (WHO: Europe, EUR/05/5049062, May 2005), 3.

¹³⁹ PRISCCA, ARASA, and Human Rights Watch interview with Inonge, Lusaka Central Prison, October 3, 2009.

¹⁴⁰ UN Standard Minimum Rules for the Treatment of Prisoners, paras. 10 and 11(a).

¹⁴¹ PRISCCA, ARASA, and Human Rights Watch interview with KT-04-06, Lusaka Central Prison, October 4, 2009.

¹⁴² PRISCCA, ARASA, and Human Rights Watch interview with Hastings, Mukobeko Maximum Security Prison, September 29, 2009.

¹⁴³ PRISCCA, ARASA, and Human Rights Watch interview with Esther, Lusaka Central Prison, October 4, 2009.

some people faint in the night. In the last month, five times. When we are full, which is at least once a month, we have to sleep sitting up.”

Once released from prison, detainees infected with a communicable disease while incarcerated pose a public health risk to the communities to which they return. The effect of this on poor households can be devastating and may impoverish households reliant on the good health and labour of each of their members. The excessive use of pretrial detention in marginalized communities may also have a broader debilitating effect on the social fabric, reducing social capital.¹⁴⁴

4.3 OTHER EFFECTS OF PROLONGED PRE-TRIAL DETENTION

4.3.1 Disrupting Families and Communities

The impact of a person’s detention on his or her family depends on a number of factors. These include the detainee’s employment status at the time of detention, the size of the family if any dependent on the detainee, and the ability of the extended family and/or the state to take over the responsibilities to care for that family.¹⁴⁵

*Megan Stevenson and Sandra G. Mayson*¹⁴⁶ in their article have provided a good example of the impact pretrial detention has on a detainee and his family, which is symbolic of the far-reaching impact detention can have.¹⁴⁷ The example is about a defendant who was a 29 years old truck driver living with his wife, his retired-father-in-law, and his eight years old son in a rented house. He was arrested and charged in connection with a robbery that had allegedly been planned in his house. The police successfully opposed bail. Altogether the defendant appeared five times at the magistrates’ court and was refused bail on each occasion. Finally, when the case was committed for trial, the police withdrew their objection and bail was granted. After almost

¹⁴⁴ Open Society, Justice Initiatives (2008), Pretrial Detention. Available at; https://www.justiceinitiative.org/uploads/2f65cc09-c4da-4a48-9929-c8bff4110f53/Justice_Initiati.pdf [Accessed on 05/10/2025]

¹⁴⁵ Ibid

¹⁴⁶ Office of Justice Programs (2025), Bail or Custody. Available at; <https://www.ojp.gov/ncirs/virtual-library/abstracts/bail-or-custody> [Accessed on 05/10/2025]

¹⁴⁷ Ibid

four weeks in pretrial detention, the defendant no longer had a job to return to, and the rent of the house where he had lived for seven years was in arrears. Three weeks later he and his family were evicted. The defendant had to live separately from his wife and child for three months, while his father-in-law was given hostel accommodation. The mental strain of the situation caused the defendant's wife to suffer a nervous breakdown and so disturbed his son that he had to be given psychiatric treatment. The defendant found it difficult to get work and could not obtain unemployment benefits because he was awaiting trial and was therefore not, according to the local labour bureau, available for work. Four months after his arrest the defendant was tried and acquitted. Over a year later the defendant and his wife still lived in temporary accommodation, the father-in-law was still living in a hostel, and the defendant's son was still receiving psychiatric treatment.¹⁴⁸

4.3.2 Overcrowding

The major problem in most Zambian prisons is overcrowding. Overcrowding means an excessive inmate population at a particular correctional centre (prison), which has limited accommodation.¹⁴⁹ In Zambia, it is common to find that cells hold two or even three times their specified capacity. In a survey conducted by *Todrys et al* in 2010, it was established that the Zambian prison population stood at 16,666 with an occupancy rate at 300 percent.¹⁵⁰ The findings of the United Nations Eighth Survey on Crime Trends and the Operations of Crime Justice Systems show that Zambian prisons are among the most overcrowded in the world: out of the 128 countries that participated in the study, Zambia had the 6th highest occupancy rate.¹⁵¹ There has been a steady increase in the size of the prison population without any expansion of infrastructure.¹⁵² For instance, the Mukobeko prison, which was built in 1950 with a capacity of 400, was housing over 1,731

¹⁴⁸ *ibid*

¹⁴⁹ Judicial Inspectorate of Prisons in South Africa 2008-2009 Annual Report p 17

¹⁵⁰ K. W. Todrys, et al. (2011) 'Imprisoned and Imperilled Access to HIV and TB Prevention and Treatment, and Denial of Human Rights in Zambian Prisons' *Journal of the International AIDS Society* 14: 8. p 6 and 7

¹⁵¹ Zambian Crime Stats. Available on; <http://www.nationmaster.com/country/za-zambia/crime> [Accessed on 15/10/2025]

¹⁵² Zambia Bureau of Democracy, Human Rights, and Labour 2009 Human Rights Report: Zambia Available on; <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135983.htm> [Accessed on 15/10/2025]

prisoners in 2010, while the Lusaka Central Prison housed 1,500 prisoners and detainees, even though it was only designed to hold 200 prisoners.¹⁵³

4.3.3 The Impact on Family Economy, Especially in Poor Communities

Detention, like incarceration, disproportionately affects individuals and families living in poverty. When an income-producing parent is detained, the family must adjust to the loss of that income. The impact can be especially severe in poor, developing countries, like Zambia, where the state does not provide reliable financial assistance to the indigent and where it is not unusual for one breadwinner to financially support an extended family network. It stands to reason that a family experiences financial losses as a result of the detention of one of its members. This is especially the case when the period of detention is long, families maintain regular contact with their detained member, and the detained family member functioned in a responsible parenting role prior to the detention.¹⁵⁴ Interviews conducted by *Mutingh, L & Redpath, J.*¹⁵⁵ during their research reviewed that affected household members confirm the impact of the detention occasioned by their arrest. More than half of households were entirely reliant on the detainee's former contribution for total household income. More than half had to sell an asset; and a third had to borrow money as a result of the detention. One in 25 sold land; and one in four sold livestock. Travel costs alone for visiting were almost one-sixth of household income, and travel times were such that it is likely that visiting a detainee would consume a day, preventing income earning activities from occurring. Nine out of ten visitors brought food on visits, with a median cost of around one-tenth of household income. The median travel costs for a single visit represented 17% of median household income. Consequently, many had ceased to visit due to the high costs associated with the visits.¹⁵⁶

¹⁵³ Human Rights Watch (HRW), Prison Care and Counselling Association (PRISCCA), AIDS and Rights Alliance for Southern Africa (ARASA) (2010) *Unjust and Unhealthy: HIV, TB and Abuse in Zambian Prisons* p 29

¹⁵⁴ Open Society, Justice Initiatives (2008), *Pretrial Detention*. Available at; https://www.justiceinitiative.org/uploads/2f65cc09-c4da-4a48-9929c8bff4110f53/Justice_Initiati.pdf [Accessed on 05/10/2025]

¹⁵⁵ Jeremy Travis and Michelle Waul, "Prisoners Once Removed: The Children and Families of Prisoners," in: Jeremy Travis and Michelle Waul, eds., *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families and Communities* (Washington, D.C.: The Urban Institute Press, 2003).

¹⁵⁶ *Ibid*

4.3.4 The Impact of Detention on Children

Studies have found that children of incarcerated parents are more likely to exhibit low self-esteem, depression, emotional withdrawal from friends and family, and inappropriate or disruptive behaviour at home and in school and are at high risk for future delinquency and/or criminal behaviour.¹⁵⁷

The potential deleterious effects on such children are numerous. Children experience the loss of a parent irrespective of the cause as a traumatic event. Depending on the child's age, this may lead to a child's inability to form attachments with others, anger, and antisocial behaviour. The trauma of the loss of a parent can stunt a child's development, especially as detention can bring about a great deal of uncertainty in a child's life. Children may also react to the stigma of having a parent in detention with feelings of shame and a loss of self-esteem. These consequences are exacerbated by the fact that many children of detained parents live in debilitating circumstances to begin with, often coming from poor, marginalized communities.¹⁵⁸

For juvenile pretrial detainees, who may be experiencing their first separation from parents or caregivers, the feelings of depression, anxiety, and hopelessness are common among prisoners are exacerbated. In the United States it has been found that for one third of incarcerated youth diagnosed with depression, the onset of the depression occurred after they began their incarceration and that poor mental health and the conditions of detention together increase the likelihood that incarcerated teens will engage in self-harm and suicide.¹⁵⁹

¹⁵⁷Jeremy Travis and Michelle Waul, "Prisoners Once Removed: The Children and Families of Prisoners," in: Jeremy Travis and Michelle Waul, eds., *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families and Communities* (Washington, D.C.: The Urban Institute Press, 2003), 15.

¹⁵⁸Open Society, Justice Initiatives (2008), *Pretrial Detention*. Available at; https://www.justiceinitiative.org/uploads/2f65cc09-c4da-4a48-9929-c8bff4110f53/Justice_Initiati.pdf [Accessed on 08/10/2025]

¹⁵⁹ Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (Washington, D.C.: Justice Policy Institute, 2006), 2.

4.4 EFFECTS OF PROLONGED PRETRIAL DETENTION ON THE OVERALL EFFICIENCY OF ZAMBIA'S CRIMINAL JUSTICE SYSTEM.

4.4.1 Erosion of the Presumption of Innocence and Liberty Interests

The basic tenet of criminal law is that the indictment or formal charge against any person is not the evidence of guilt. This right of an accused person is generally based on the maxim of "innocent until proven guilty" which is embodied in the Zambian Constitution in Article 18(2)(a).¹⁶⁰

Protecting the restrictions on the use of pretrial detention, as well as the process leading up to a pretrial detention determination, is vital to preserve one of the cornerstones of a rights-based criminal justice system, the presumption of innocence. That is, the right of any defendant to be presumed innocent of the allegations against him until found guilty by a competent court.¹⁶¹

In practice there is a blurring of the boundaries between pre-trial detention and the sentence of imprisonment. In other words, the abuse of pre-trial detention can also be observed in Zambia, whereby a period of pre-trial detention is regarded as a short term of imprisonment served in anticipation, has developed into a strategy which is used systematically by the criminal justice system. Where pre-trial detention is used, overtly or covertly, for such purposes it seems fairly clear that the "presumption of innocence" the idea that a person should be considered innocent until proven guilty is being breached.¹⁶²

The excessive use of pretrial detention also undermines the presumption of innocence in other, less explicit, ways. If a defendant is held in custody, or if bail money is set at an amount the defendant cannot meet, several significant consequences may result, for instance, persons in pretrial detention are more likely to be found guilty of the offense charged compared to defendants with similar back grounds and charges who have been released awaiting trial.¹⁶³ The defendant who remains in prison may have difficulty

¹⁶⁰ The Constitution of Zambia Chapter 1 of the Laws of Zambia.

¹⁶¹ Ibid

¹⁶² Vagg and Dünkel, "Conclusion," in Dünkel and Vagg, *Waiting for Trial* (Max Planck Institute, 1994), 927.

¹⁶³ Clive Davies, "Pre-Trial Imprisonment: A Liverpool Study," *The British Journal of Criminology* 11 (January 1971), 32–48; Marian R. Williams, "The Effect of Pretrial Detention on Imprisonment Decisions," *Criminal Justice Review* 28, No. 2 (Autumn 2003), 299–316.

participating in his own defence. An incarcerated defendant cannot look for friendly witnesses and may have limited contact with a defence lawyer. Defendants held in detention often have a heightened incentive to plead guilty, even though they may have a valid defence, simply to gain their freedom particularly if they can receive a sentence of time served or receive credit for their jail time against a relatively short prison sentence.¹⁶⁴

4.4.2 Discrimination against the Poor

In many developing countries, such as Zambia, the formal criminal justice system often fails to provide justice and security to the indigent or protect their rights. According to Vivien Stern of the International Centre for Prison Studies¹⁶⁵, justice systems in poor countries exacerbate the poverty of the destitute “by bearing down most heavily on them and subjecting them to gross injustices, whilst not providing them with the protection they need.”¹⁶⁶ Pretrial detention regimes can be particularly discriminatory against the indigent. Poor people do not have access to private counsel, and many developing countries lack a comprehensive legal aid system for defendants too poor to afford their own lawyers.¹⁶⁷

4.4.3 Promoting Crime

The excessive and arbitrary use of pretrial detention may bring about conditions that increase the number of potential offenders in a society. There is significant evidence to show that the prison environment fosters criminal behaviour. That is, an unintended by-product of prisons is that they serve as schools or breeding grounds for crime.¹⁶⁸ Prisons psychologically harm inmates, making their adjustment to society upon release more difficult, with one likely consequence being a return to crime. Much of the literature on the effects of incarceration argues that the confined spaces of prisons reinforce certain forms of negative behaviour. For example, by examining the social learning conditions that

¹⁶⁴ Available at; https://www.justiceinitiative.org/uploads/2f65cc09-c4da-4a48-9929-c8bff4110f53/Justice_Initiati.pdf [Accessed on 11/10/2025]

¹⁶⁵ Vivien Stern, *Alternatives to prison in developing countries*, (London: International Centre for Prison Studies and Penal Reform International, 1999), 87.

¹⁶⁶ *Ibid*

¹⁶⁷ World Prison Brief (2011), *Pre-trial Detention in Zambia: Understanding Case flow Management and Conditions of Incarceration*. Available at; <https://www.prisonstudies.org/resources/pre-trial-detention-zambia-understanding-caseflow-management-and-conditions-incarceration> [Accessed on 11/10/2025]

¹⁶⁸ Paul Gendreau, Claire Goggin, and Francis T. Cullen, *The Effects of Prison Sentences on Recidivism* (Ottawa: Solicitor General Canada, 1999), www.prisonpolicy.org/scans/e199912.htm, [Accessed on 11/10/2025]

existed in various prisons, it was found that prisoners faced “overwhelming positive reinforcement” by the peer group for a variety of antisocial behaviours, so much so that even staff interacted with the inmates in a way that promoted a criminal environment.¹⁶⁹

4.4.4 Diminished Case-flow Management and Investigative Incentives

Prolonged detention reduces the pressure on investigative and prosecutorial agencies to move cases forward promptly. When suspects can remain in custody for lengthy periods, there is less urgency to complete investigations, prepare dockets, or prioritize trials. Poor case-flow management practices (incomplete dockets, inefficient file transfers, and lack of electronic tracking) exacerbate this problem.¹⁷⁰

4.4.5 Erosion of Public Confidence and Rule-of-Law Legitimacy

When members of the society are noticing that people are being unreasonably detained for long periods, months or years without trial, members of the public lose trust and confidence in the fairness and effectiveness of the criminal justice system. This breeds cynicism, generates perceptions of state arbitrariness, and may undermine cooperation with law enforcement all of which reduce the system’s capacity to prevent and solve crime.¹⁷¹

4.5 CONCLUSION

The issue of prolonged pre-trial detention in Zambia is more than a procedural flaw it is a human crisis that touches the lives of thousands who remain behind bars without conviction. This paper has shown how extended detention not only infringes on the rights of detainees but also clogs the machinery of justice, undermining public trust and institutional integrity. The consequences ripple far beyond the prison walls, affecting families, communities, and the broader social fabric.

¹⁶⁹ L. H. Bukstel and P. R. Kilmann, (1980), “Psychological effects of imprisonment on confined individuals,” *Psychological Bulletin* 88, No. 2. 472.

¹⁷⁰ Jeremy Travis and Michelle Waul, “Prisoners Once Removed: The Children and Families of Prisoners,” in: Jeremy Travis and Michelle Waul, eds., *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families and Communities* (Washington, D.C.: The Urban Institute Press, 2003).

¹⁷¹ *ibid*

CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

5.0 INTRODUCTION

Prolonged pre-trial detention remains a pressing concern within Zambia's criminal justice system, raising critical questions about the balance between public safety, judicial efficiency, and the protection of fundamental human rights. Despite constitutional guarantees and international legal standards that uphold the presumption of innocence and the right to a fair and timely trial, many detainees in Zambia languish in custody for extended periods without conviction.

It is against this backdrop that this chapter seeks to provide a summary of the entire research and provide recommendations that are designed to aid in the resolution of the problem that has been identified in this dissertation.

5.1 SUMMARY OF CHAPTERS

This research consists of five chapters, and the following is the summary of what has been discussed in each chapter.

5.1.1 CHAPTER ONE

This chapter provided an overall introduction and formed the foundation of the study. It traced the history of the problem of pro-longed pre-trial detention in Zambia demonstrating how Zambia has failed to solve this problem for years. This chapter went on to lucidly bring out the research problem which has been the subject of this entire research. Further, it brought out the three objectives of this research which were also formulated into research questions and formed the focus of the other chapters of this research. It further went on to highlight the significance and scope of the study and proceeded to give context by defining the key terms used in this research. The Chapter concluded by justifying the research gap through literature review and indicating the research methodology employed in this research.

5.1.2 CHAPTER TWO

This Chapter focused on interrogating the international human rights framework for the lawful and rights-based approach to the use of pre-trial detention in police custody for persons in conflict with the law. Prisoner numbers worldwide have seen unprecedented growth in recent decades. This interrogation was necessitated by the failure to match these increases with the necessary extra investment in prison staff and infrastructure, inevitably, brought about overcrowded, inhumane prison conditions. In recognition of the severe consequences of the misuse of pre-trial detention, its use is limited, at least in theory, by provisions contained in international and regional standards. This Chapter also extensively assesses Zambia's compliance with the said international standards, which revealed the rampant non-compliance and violation of the human rights of the detainees.

5.1.3 CHAPTER THREE

The discussion under this Chapter demonstrated that while Zambia's constitutional and statutory framework provides for safeguards against arbitrary and pro-longed detention, most notably the 24-hour rule, the right to liberty, and access to bail, the enforcement and practical realization of these protections remain problematic.

In sum, the chapter highlighted that the legal framework governing pre-trial detention in Zambia, though robust on paper, suffers from gaps and weak enforcement mechanisms that perpetuate prolonged detention periods. Addressing these shortcomings requires not only legislative clarity and judicial activism but also investment in prosecution capacity, and effective enforcement of the provisions on pre-trial detention and bail pending trial. Only then can the constitutional promise of right to personal liberty and the presumption of innocence be meaningfully realized.

5.1.4 CHAPTER FOUR

This chapter critically assessed the impact of prolonged pre-trial detention on the rights of detainees particularly the erosion of liberty, dignity, and access to justice and evaluated how such practices affect the overall efficiency of Zambia's criminal justice system. The Chapter has revealed how pro-longed detention not only infringes on the rights of detainees but also clogs the machinery of justice, undermining public trust and institutional integrity.

The consequences ripple far beyond the prison walls, affecting families, communities, and the broader social fabric.

5.2 RECOMMENDATIONS

5.2.1 Training of Police Officers

This research established that there is lack of implementation of the 24-Hour Pre-trial Detention rule in Zambia and also ignorance by the police officers of provisions of the *Criminal Procedure Code Act Chapter 88* of the Laws of Zambia which provides for police bond. To counteract these problems, this research recommends that police officers should be receiving intensive training Human Rights based education when undergoing training at Lilayi Police College. And there should be an extensive continuous human rights-based education to all the investigative wings in Zambia so as to better the understanding of officers and possibly improve their efficiency in line with criminal investigative operations in readiness for prosecution, and trial. Also, retraining of police officers on the right to bail of detainees, specifically police bond, as guaranteed in the Constitution would also help to deal with the problem of pro-longed detention.

5.2.2 Respect for the Social-Economic Rights of the Detainees

Respect for socio-economic rights by Zambia would mean that Zambian criminal law, criminal procedural laws and practices are designed and implemented in such a way as to ensure that socio-economic impact on all persons, including detainees is minimised. This would place an obligation on Zambia to decriminalise trivial offences, to ensure alternative methods of securing attendance at trial are available, to ensure individuals are tried within a reasonable time, and, beyond simple compliance with fair trial rights, reconsider the appropriateness of pre-trial detention in the light of inevitable and severe impacts causing disproportionate harm to detainees and affected households.

5.2.3 Ensuring that the Right to Freedom of Liberty is strictly only taken away in circumstances provided for by the law

As it stands, most of the human rights in the Constitution of Zambia under Part 3 (the Bill of Rights) which touch on the liberty of persons are coupled with several broadly drafted

exceptions. This makes it difficult for members of the society to know and enforce their human rights. This research therefore recommends the amendment of the bill of right to provide clarity on provisions that relate to freedom of liberty to ensure that members of the public and law enforcement agencies understand the parameters of these rights.

5.2.4 Enactment of an Act regulating the grant of bail

As this research has shown, the rules and regulations on the grant of bail in Zambia are scattered across various Acts of Parliament and the law is unclear on the considerations to consider in granting a bail application. Zambia can draw lessons from England which has put in place a *Bail Act 1976 Chapter 63 of the Law of England* which clearly spell out the circumstances when bail may be granted or refused, what form of surety or security is sufficient for bail to be granted and the criteria in ascertaining bail money. Zambia can draw lessons from this structured, rights-balanced framework by adopting clear statutory criteria for granting or denying bail, regulating bail conditions, and ensuring both fairness to accused persons and accountability within the justice process.

5.2.5 Increase of funding for Institutions directly responsible for the pro-longed pre-trial detention.

Zambia needs to increase the funding provided to institutions that are directly responsible for administering justice as it relates to detainees. This includes the police force which face many challenges such as shortages of vehicles to transport suspects to court, lack of proper infrastructure such as cells which contain adequate sanitation facilities, lack of medical facilities to inmates when they need it and lack of food. These challenges are among the root causes of pro-longed pre-trial detention in Zambia and can easily be solved by increasing the budgetary funds allocation. Other departments include the Judiciary of Zambia, which is faced with an unjustifiable backlog, year-in year-out, caused by the limited number of judges. Another department which needs an increase in the provision of funds is the National Prosecution Authority of Zambia, which due to lack of available manpower is slow in the prosecution of offences, leading to pro-longed pre-trial detention.

5.2.6 Sensitization of Human Rights in prisons and holding cells

Zambia must pass a law requiring that upon admission, a detained person must be informed in writing of his/her human rights as they relate to a fair trial, right to bail and any other matters that will help detainees to understand their human rights and responsibilities. They should equally be informed the fact that they may challenge their detention and have access to legal representation. A signboard detailing this information should be placed inside the prison yard where it is visible to all detainees.

5.2.7 Enhancement of medical Services

Zambia must introduce a law whereby all new detainees must be screened for communicable diseases and injuries upon admission. To achieve this, since there is a shortage of health care professionals in correctional facilities in Zambia, Prison officials and waders must undergo basic paramedic training so they can screen new detainees on admissions, deal with medical emergencies, conduct health inspections of facilities and provide training and education on the prevention of HIV and TB.

5.3 CONCLUSION

Through the adoption of the above suggestions, the author is confident that the problem identified in this research can be resolved. To be specific, these recommendations will ensure that the issue of pro-longed pre-trial detention in Zambia, and its resulting effect on the detainees is resolved.

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 declare that this dissertation titled 38 "AN EVALUATION ON THE
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 t this dissertation that has been put together by MWAPE KASOTE, entitled "AN
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 IN CUSTODY IN ZAMBIA , which has been overseen by me and I
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 ON. K. MWAMFULI iii DEDICATION This dissertation is dedicated
 to my Heavenly Father, for the gift of life and seeing me

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L400 – DIRECTED RESEARCH (OBLIGATORY ESSAY)

RESEARCH CLEARANCE FORM

NAME: Mwape Kasote STUDENT NUMBER: L2B2213719

SUPERVISOR: K. Mwanfuti TOPIC: An Evaluation on the

Duration of Pre-trial Detention of a Person
in custody in Zambia.

Stage	Comments	Supervisor's Signature & Date	Student's Signature & Date
Research Proposal	Prisons Act has been Repealed	<u>Mwanfuti</u> 29/07/25	<u>M Kasote</u> 25 Jul 2025
Chapter 1 – Introduction	Add to research gap.	<u>Mwanfuti</u> 04/08/25	<u>M Kasote</u> 01 Aug 2025
Chapter 2 –	Cite all work in footnotes	<u>Mwanfuti</u> 18/08/25	<u>M Kasote</u> 15 Aug 2025
Chapter 3 –	Use Oxford Referencing	<u>Mwanfuti</u> 14/09/25	<u>M Kasote</u> 10 Sept 2025
Chapter 4 –	Research widely.	<u>Mwanfuti</u> 10/10/25	<u>M Kasote</u> 06 Oct 2025
Chapter 5 – Conclusions & Recommendations	Good.	<u>Mwanfuti</u> 16/11/25	<u>M Kasote</u> 08 Nov 2025
Table of Contents, Bibliography and Appendices	All work to be reflected in Bibliography.	<u>Mwanfuti</u> 17/11/25	<u>M Kasote</u> 13 Nov 2025
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