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SADC MODEL LAW ON CORRECTIONAL CENTRE OVERSIGHT

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ACRONYMS

ACHPR	African Commission on Human and Peoples' Rights
ACERWC	African Committee of Experts on the Rights and Welfare of the Child
ACRWC	African Charter on the Rights and Welfare of the Child
ART	Antiretroviral Therapy
CD	Communicable Disease
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COVID-19	Coronavirus Disease
CPTA	Committee for the Prevention of Torture in Africa
CRPD	Convention on the Rights of Persons with Disabilities
DCS	Department of Correctional Services
ECD	Early Childhood Development
HBV	Hepatitis B
HCV	Hepatitis C
HIV	Human Immunodeficiency Virus
ICCV	Independent Correctional Centre Visitors
IOM	International Organisation for Migration
JICS	Judicial Inspectorate for Correctional Services
LGBTQIA+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex and Asexual
MDR-TB	Multi-drug-Resistant Tuberculosis
NCD	Non-Communicable Disease
NHRI	National Human Rights Institution

OP-CAT	Optional Protocol to the Convention Against Torture
OPD	Organisation for Persons with Disabilities
PEP	Post-Exposure Prophylaxis
PMTCT	Prevention of Mother-to-Child Transmission
PPE	Personal Protective Equipment
PrEP	Pre-Exposure Prophylaxis
PTSD	Post-Traumatic Stress Disorder
PTD	Pre-Trial Detention
RPMLOC	Regional Parliamentary Model Laws Oversight Committee
SADC	Southern Africa Development Community
STI	Sexually Transmitted Infection
TB	Tuberculosis
UNCAT	United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UDHR	Universal Declaration of Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNSMR	United Nations Standard Minimum Rules for the Treatment of Prisoners
WHO	World Health Organisation
XDR-TB	Extensively Drug-Resistant Tuberculosis

CHAPTER 1: EXPLANATORY NOTE ON SADC MODEL LAW ON CORRECTIONAL CENTRE OVERSIGHT

1 Overview

This Model Law provides a framework for independent oversight of correctional centres, grounded in international and regional human rights standards and adaptable to national contexts.

The SADC Model Law on Correctional Centre Oversight (Model Law) is a guiding legislative tool for SADC Member States seeking to strengthen independent oversight of correctional centres and other places of detention. It provides a normative framework grounded in international, continental and regional human rights standards, while allowing flexibility for domestication in accordance with national constitutional systems.

1.1 Introduction

The Model Law is intended to:

- guide the scope and content of best practice provisions on correctional centre oversight for incorporation into national laws;
- encourage Member States to enact oversight legislation where none exists, or to review and align existing laws with this Model Law;
- support implementation of oversight frameworks, particularly where gaps remain;
- provide a benchmark for policymakers, legislators and practitioners on effective oversight;
- promote a coherent regional approach to improving detention conditions and the treatment of persons deprived of liberty; and
- stimulate debate, awareness and advocacy.

The Model Law is a governance tool to assist Member States to develop, enact or reform oversight laws in line with their international, continental and regional human rights obligations, particularly those relating to the rights of persons deprived of liberty and the prevention of rights violations.

1.2 Scope

The SADC Parliamentary Forum, as the principal inter-parliamentary body in Southern Africa, develops Model Laws and related instruments that strengthen parliamentary accountability over the Executive. Implementation is monitored through the Regional Parliamentary Model Laws Oversight Committee (RPMLOC).

Recognising the importance of oversight in protecting the rights of persons deprived of liberty and promoting rehabilitation, the Forum has developed this Model Law on Correctional Centre Oversight in response to Member States' human rights commitments and persistent concerns regarding conditions and abuse in detention.

The Model Law focuses on correctional centres. However, deprivation of liberty occurs in a wide range of settings, including police detention, immigration facilities, psychiatric institutions, care centres, and other custodial environments. Many of the oversight functions set out in this Model Law are therefore applicable more broadly, and Member States are encouraged to strengthen oversight across all places of detention.[1]

In this regard, the Optional Protocol to the Convention against Torture (OP-CAT) requires independent oversight of any place under State jurisdiction or control where persons are deprived of their liberty.[2]

1.3 Guiding principles

Oversight shall be guided by human dignity, prohibition of torture, independence, accountability, transparency, and non-discrimination, including respect for persons facing additional barriers.

Oversight of correctional centres must be guided by the following principles:

- respect for human dignity;
- the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;
- legality and accountability in the administration of detention;
- independence of oversight institutions;
- transparency in correctional administration;
- restorative justice principles, including rehabilitation, reintegration and accountability;
- child justice principles, including detention as a measure of last resort and for the shortest appropriate period;
- the best interests of the child; and
- non-discrimination and equality before the law.

[1] This includes but is not limited to care centres for children and young people, psychiatric institutions, rehabilitation centres, immigration detention facilities, orphanages, court holding cells, reform schools, halfway houses when on parole, older persons homes, police detention, military detention facilities, port of entry holding cells, refugee camps and even detention in vehicles to and from such facilities.

[2] Tanzania and Zimbabwe are the only SADC countries that have not ratified the Convention Against Torture. By the end of 2025, only 5 SADC countries have acceded to or ratified the Optional Protocol to the Convention Against Torture: Democratic Republic of Congo, Madagascar, Mauritius, Mozambique, and South Africa.

2 International, continental and regional legal framework

This section summarises the binding and persuasive legal standards underpinning correctional centre oversight in Southern Africa.

2.1 The absolute prohibition of torture and the duty to prevent torture and other ill treatment

The prevention of torture and ill-treatment is a central objective of correctional centre oversight. The prohibition of torture is a peremptory norm of international law, meaning that there is no excuse for committing acts of torture.

The definition of torture in Article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) applies to this Model Law. UNCAT remains the primary binding instrument protecting all persons from torture in all circumstances and has been ratified by the majority of SADC Member States.

The UNCAT defines torture as:

> *"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."*

UNCAT imposes obligations on States to prevent torture and ill-treatment, to investigate credible allegations, and to ensure accountability. Article 1 must also be read with Article 16(1) of the Convention, which extends these obligations to acts of cruel, inhuman or degrading treatment or punishment that do not amount to torture.

Article 11 further requires States to systematically review interrogation methods, detention practices, and arrangements for the custody and treatment of persons deprived of liberty. This Model Law supports such review through strengthened oversight mechanisms.

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) establishes a system of preventive visits by independent bodies. National Preventive Mechanisms

(NPMs), often designated within National Human Rights Institutions (NHRIs), play a key role in monitoring places of detention.[3]

NHRIs more broadly have an important oversight and accountability function in respect of human rights, including in relation to places of deprivation of liberty such as correctional centres. NHRIs should comply with the Paris Principles to maintain independence and effectiveness. These Principles provide the minimum requirements for an NHRI to be considered credible and effective in the promotion and protection of human rights.

At the regional level, the African Commission on Human and Peoples' Rights (ACHPR) has developed complementary standards, including the Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines), which emphasise the importance of independent, accessible and effective oversight mechanisms. They require States to:

> *"40. Establish and support effective and accessible complaint mechanisms which are independent from detention and enforcement authorities and which are empowered to receive, investigate and take appropriate action on allegations of torture, cruel, inhuman or degrading treatment or punishment.*
>
> *41. Establish, support and strengthen independent national institutions such as human rights commissions, ombudspersons and commissions of parliamentarians, with the mandate to conduct visits to all places of detention and to generally address the issue of the prevention of torture, cruel, inhuman and degrading treatment or punishment, guided by the UN Paris Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights.*
>
> *42. Encourage and facilitate visits by NGOs to places of detention.*
>
> *43. Support the adoption of an Optional Protocol to the UNCAT to create an international visiting mechanism with the mandate to visit all places where people are deprived of their liberty by a State Party."*

The Istanbul Protocol provides an international standard for the investigation and documentation of torture and ill-treatment. It serves as an essential tool for oversight bodies.

Recent ACHPR resolutions, including those addressing the rights of intersex persons and protection against violence based on sexual orientation or gender

[3] Mauritius: National Preventative Mechanisms Act, 12 of 2012.

identity, reaffirm the universal application of human rights and the prohibition of torture and ill-treatment.[4]

2.2 The duty to meet minimum standards for detention

The UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) are the primary global standard governing detention conditions and treatment. Rules 83 to 85 specifically address internal and external inspection mechanisms.

Additional standards address the needs of specific groups. The Bangkok Rules provide gender-sensitive standards for women in detention. Regional instruments, including the African Charter on Human and Peoples' Rights (the African Charter), affirm the right to dignity under Article 5, which prohibits torture and ill-treatment. Persons deprived of liberty retain all rights except those lawfully limited by detention, as underscored by the ACHPR in their 2017 adoption of the Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa.

General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4) emphasises the State's heightened duty of care towards persons in custody, including protection from violence and provision of adequate living conditions and healthcare. Deaths in custody give rise to a presumption of State responsibility, requiring prompt, independent investigation. The General Comment provides that:

> *"(36) When the State deprives an individual of liberty, its control of the situation yields a heightened level of responsibility to protect that individual's rights. This includes a positive obligation to protect all detained persons from violence or from emergencies that threaten their lives, as well as to provide the necessary conditions of a dignified life, including food, water, adequate ventilation, an environment free from disease, and the provision of adequate healthcare (including maternal healthcare and the provision of antiretroviral drugs). The State should provide necessary information on places of detention, the identity and age of those detained, as well as the authorities responsible.*
>
> *(37) Where a person dies in State custody, there is a presumption of State responsibility and the burden of proof rests upon the State to prove otherwise through a prompt, impartial, thorough and transparent investigation carried out by an independent body. This heightened*

[4] See: ACHPR Resolution 552 on the Promotion and Protection of the Rights of Intersex Persons in Africa, and Resolution 275 on the Protection against Violence and Other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity.

responsibility extends to persons detained in prisons, in other places of detention (official and otherwise), and to persons in other facilities where the State exercises heightened control over their lives."

Regional instruments of the ACHPR further address the rights of specific groups, including children, persons with disabilities, older persons, and women. These require, among other things, the use of detention as a last resort for children, reasonable accommodation for persons with disabilities, and appropriate healthcare and support for women and older persons.

More specifically:

- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) requires States to ensure women's access to healthcare, including pre- and post-natal care. It also provides for the special protection of women in distress (article 24), requiring consideration of their physical, economic and social needs, including in detention.

- The African Charter on the Rights and Welfare of the Child (ACRWC) provides that detention of children must be used only as a measure of last resort.[5] Article 30 requires special treatment for pregnant women and mothers of infants and young children in conflict with the law, emphasising rehabilitation, family integration and social reintegration.[6] These protections should be interpreted broadly to include children whose primary caregivers are detained.

[5] UN Convention the Rights of the Child, Article 37: "States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances; (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action."

[6] States must "(a) ensure that a non-custodial sentence will always be first considered when sentencing such mothers; (b) establish and promote measures alternative to institutional confinement for the treatment of such mothers; (c) establish special alternative institutions for holding such mothers; (d) ensure that a mother shall not be imprisoned with their child; (e) ensure that a death sentence shall not be imposed on such mothers."

- The Protocol to the Africa Charter on the Rights of Persons with Disabilities in Africa requires reasonable accommodation and accessibility for persons with disabilities. It further provides, under Article 9, that persons with disabilities deprived of liberty must be treated on an equal basis with others, and that all rights under the Protocol apply in detention settings.

- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa requires States to ensure that law enforcement officials are effectively trained to protect the rights of older persons. It also requires that older persons in care settings receive care that meets national, regional and international standards, including adequate care and pain management.[7]

The African Commission's Luanda Guidelines also provide additional standards on conditions of detention and the protection of groups vulnerable to human rights abuses in detention settings, including persons with disabilities, foreign nationals, children, and women. The Guidelines specifically refer to the need for independent oversight of places of detention, and provide:

> ***"35. Judicial oversight of detention and habeas corpus***
> *All persons in police custody and pre-trial detention shall have the right, either personally or through their representatives, to take proceedings before a judicial authority, without delay, in order to have the legality of their detention reviewed. If the judicial authority decides that detention is unlawful, individuals have the right to release without delay.*
>
> ***36. Standards of individual conduct for officials***
> *a. States should have in place, and make known, laws, policies and standard operating procedures to set enforceable standards of conduct for police officers, correctional centre officials and other law enforcement or judicial officers that are consistent with internationally recognized standards of conduct for law enforcement personnel and other law enforcement officials responsible for the care or supervision of persons who are in conflict with the law and deprived of their liberty.*
> *b. Non-compliance with the rules on arrest and custody should be a disciplinary offence, subject to disciplinary and, where appropriate, criminal procedures, which accord with international law and standards on fairness.*
>
> ***37. Complaints mechanisms***
> *a. States shall establish, and make known, internal and independent complaints mechanisms for persons in police custody and pre-trial detention.*

[7] Article 11 of the Protocol on the Rights of Older Persons in Africa.

b. Access to complaints mechanisms shall be guaranteed for all persons in police custody and pre-trial detention, without fear of reprisals or punishment.
c. Detainees shall have the right, and be provided with the facilities, to consult freely and in full confidentiality with complaints mechanisms, subject to reasonable conditions to ensure security and good order in the place of detention.

41. Oversight mechanisms
States shall establish, and make known, oversight mechanisms for authorities responsible for arrest and detention. These mechanisms shall be provided with the necessary legal mandate, independence, resources and safeguards to ensure transparency and reporting, to ensure the thorough, prompt, impartial and fair exercise of their mandate.

42. Monitoring mechanisms
a. States shall ensure access to detainees and places of detention for independent monitoring bodies or other neutral independent humanitarian organisations authorised to visit them.
b. A detained person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with the above principle, subject to reasonable conditions to ensure security and good order.
c. Access to places of detention shall also be provided to lawyers and other legal service providers, and other authorities such as judicial authorities and National Human Rights Institutions, subject to reasonable conditions to ensure security and good order.

43. Inquiries
States shall establish mechanisms, including within existing independent oversight and monitoring mechanisms, for the prompt, impartial and independent inquiry of disappearances, extra-judicial executions, deaths in custody, torture and other cruel, inhuman or degrading treatment or punishment, and other serious violations of human rights."

3 Conceptual framework for oversight

This section explains the principles underlying effective oversight of correctional centres and the rationale for the legislative provisions in Chapter 2 of this Model Law.

Correctional centre oversight is a core element of constitutional governance and the rule of law. Where persons are deprived of liberty and under State control, the risk of abuse and systemic failure is heightened. Independent oversight serves both preventive and corrective functions to mitigate against this risk.

This framework clarifies why key safeguards, such as independence, access to information, investigative powers, and protection against reprisals, must be established in primary legislation.

3.1 Understanding correctional centre oversight

Correctional centre oversight encompasses a range of complementary functions aimed at ensuring legality, accountability, transparency and respect for human dignity in places of detention.

Oversight may be understood as:

- **Preventive**, seeking to identify risks and address structural or operational deficiencies before they result in harm;
- **Reactive**, responding to complaints, incidents, allegations of abuse, deaths in custody or emerging crises;
- **Systemic**, examining patterns, policies, resource allocation, overcrowding, governance failures or structural discrimination; and
- **Case-based**, focusing on individual complaints or specific incidents requiring investigation or remedy.

Effective oversight includes, but is not limited to, regular and *ad hoc* inspections; monitoring of detention conditions and treatment; investigation of allegations of torture, ill-treatment or other violations; review of institutional policies and practices; engagement with detainees and staff through confidential interviews; public reporting and recommendations; and follow-up to assess implementation of recommendations.

Oversight is distinct from detention management. While correctional authorities are responsible for administering facilities, oversight bodies operate independently of management structures to assess compliance with constitutional, statutory and human rights standards.

A comprehensive oversight framework typically involves multiple actors. This includes judicial authorities, national human rights institutions, specialised correctional oversight bodies, parliamentary committees, official visitors, and civil society. Each has mandates which may differ, but their functions should be complementary.

3.2 Operational and systemic oversight

Oversight operates at both operational and systemic levels.

Operational oversight focuses on day-to-day practices within detention facilities. It addresses issues such as:

- conditions of detention;
- use of force and restraints;
- disciplinary procedures;
- access to healthcare;
- segregation and solitary confinement practices;
- access to legal representation and family contact;
- immediate response to incidents of violence or self-harm.

Operational oversight often involves regular visits, direct observations, interviews with detainees and staff, and real-time recommendations to facility management.

Systemic oversight, by contrast, examines broader structural and policy-related factors that give rise to recurring violations or chronic deficiencies. These may include:

- overcrowding and remand backlogs;
- inadequate budget allocations;
- staffing shortages;
- infrastructure issues;
- legislative gaps;
- discriminatory policies affecting vulnerable groups; and
- failures in interdepartmental coordination (for example, between justice, health and social services).

Systemic oversight requires analysing data, trends, and patterns across facilities and over time. It frequently results in recommendations directed not only at correctional authorities but also at the Executive, departments, the legislature, and the treasury.

An effective oversight framework integrates both operational and systemic approaches, ensuring that individual complaints inform broader policy reform and that structural analysis is grounded in experiences within facilities.

3.3 Independence and institutional design

Independence is fundamental to credible and effective oversight. Without it, oversight bodies risk becoming extensions of the Executive authority rather than mechanisms of accountability.

Independence includes:

- **Structural independence**: Oversight bodies must be legally and functionally separate from correctional authorities and Executive control. Their mandates, powers and reporting lines must be clearly defined in law.
- **Financial autonomy**: Oversight bodies must have adequate, secure and independently managed funding to prevent financial pressure from undermining their effectiveness.
- **Security of tenure**: Members and leadership of oversight institutions should enjoy protection against arbitrary removal, with appointment and dismissal procedures clearly regulated by law.
- **Transparent and merit-based appointment processes**: Appointment mechanisms should promote public confidence, diversity and competency, and guard against political interference.

Oversight bodies must also have unrestricted access to places of detention, authority to publish reports independently, protection from retaliation for oversight officials, the ability to make binding or enforceable recommendations where appropriate, and clear follow-up measures to ensure implementation.

Oversight mechanisms may take various institutional forms, including judicial oversight, NPMs under OPCAT, inspectorates, ombuds institutions, or national human rights institutions. However, each must meet minimum standards of independence and effectiveness.

3.4 Parliamentary oversight

Parliament plays a central role in ensuring accountability in correctional systems. While independent oversight bodies conduct inspections and investigations, Parliament ensures political and financial accountability.

Parliamentary oversight typically includes:

- scrutiny of correctional budgets and expenditure;
- review and tabling of oversight reports;
- public hearings on conditions of detention;
- summoning ministers and senior officials to account for systemic failures;
- monitoring implementation of recommendations; and
- legislative reform to address identified gaps.

Parliamentary committees responsible for justice, correctional services, or human rights should regularly engage with oversight bodies and ensure that their findings inform budgetary decisions and legislative amendments.

Effective parliamentary oversight strengthens the entire accountability chain by linking inspection findings to policy reform, resource allocation, and Executive responsibility.

3.5 Oversight during emergencies

The deprivation of liberty creates a situation of heightened vulnerability to human rights violations. During states of emergency, public health crises, armed conflict, or internal unrest, this vulnerability may intensify.

International and regional human rights law establishes that the prohibition of torture and ill-treatment is absolute and non-derogable. Oversight mechanisms must therefore remain functional and effective even during emergencies.

States should ensure that:

- oversight bodies retain access to places of detention;
- emergency regulations do not suspend inspection powers;
- restrictions on visits are strictly necessary, proportionate, and time-bound;
- alternative monitoring methods (including remote monitoring where necessary) are developed without compromising confidentiality;
- reporting obligations continue;
- complaints mechanisms remain accessible to detainees and staff.

The African Commission on Human and Peoples' Rights has recognised the critical importance of independent oversight during states of emergency or disaster:[8]

> *"18.1 Oversight and accountability mechanisms should enjoy special measures of protection during states of emergency and disaster. They should be afforded the institutional guarantees necessary for their more effective functioning given the heightened risk of violations during emergencies or disasters on account of the extraordinary power vested in the executive arm of government.*
>
> *18.2. States must ensure that state organs and mechanisms responsible for oversight and accountability are in place and effectively functioning to receive, investigate and make determinations on complaints of human and peoples' rights abuses during emergency or disaster measures.*
>
> *18.3. States should ensure that oversight mechanisms, such as the courts, parliament, human rights organisations and human rights lawyers, human rights defenders, NHRIs, NPMs, ombudsmen and other special mechanisms are recognised as essential services providers, are adequately resourced, and are able to perform their work during emergencies or disasters."*

[8] Guidelines on Adhering to Human and Peoples' Rights under the African Charter in the Context of States of Emergency or Disaster, 2023

Experience demonstrates that risks of abuse, overcrowding, neglect and excessive use of force often increase during emergencies. A resilient oversight framework must therefore anticipate such risks and preserve independent scrutiny under all circumstances.

4 Gaps in existing SADC frameworks

Legal frameworks across SADC vary significantly. While constitutional reforms have strengthened rights protections, these are not always reflected in legislation governing correctional systems.

Dedicated independent oversight mechanisms remain the exception, as is the case in South Africa with the Judicial Inspectorate for Correctional Services and in Malawi with the constitutionally entrenched Inspectorate of Prisons. More commonly, States rely on internal monitoring systems or fragmented oversight arrangements.

Parliamentary oversight is often diffuse, with correctional issues addressed through broader committees rather than specialised structures. While visits to oversight facilities by parliamentarians are important, effective oversight also requires analysis of reports, data and performance indicators, which are not always part of the parliamentary oversight mandate. Doing so would inform Members of Parliament and allow them to engage critically with detention management on systemic challenges.

Multiple actors may have overlapping mandates, including judicial officers and NHRIs. Coordination is therefore essential to avoid duplication and enhance impact.

4.1 Different understandings of oversight

Oversight is often associated with facility visits, but it is broader in scope. Effective monitoring typically assesses six broad areas:

- **Conditions of detention:** Refers to the physical conditions and daily regimes under which detainees are held, including both qualitative and quantitative aspects of their environment. Monitoring should assess compliance with applicable international standards, particularly the Nelson Mandela Rules, the UN Convention on the Rights of the Child, UNCAT, and the Bangkok Rules.

- **Release mechanisms:** Includes parole and other early release mechanisms such as correctional supervision, medical parole, remission of sentence and amnesties. These processes are typically governed by delegated legislation,

including regulations and standing orders. Transparent, fair and lawful decision-making is critical for compliance with legal standards and maintaining public confidence.

- **Protection of human rights**: Encompasses both proactive and reactive measures to uphold the rights of persons deprived of liberty, as guaranteed in international and regional human rights instruments, and national law. This includes ensuring minimum standards are met, addressing violations, and implementing corrective measures. Oversight mechanisms, lay visitors, and the prosecution service play a critical role.

- **Healthcare:** The right to life and access to healthcare are fundamental in all correctional systems. Healthcare underpins the realisation of other rights and should be monitored across preventive, promotive, protective, curative and rehabilitative dimensions. Given that most detainees return to the community, inadequate healthcare in detention has broader public health implications.

- **Governance and management:** Assessed from a governance perspective, including the adequacy of policy frameworks, resource allocation, and the capacity of management to implement these effectively. Good governance requires transparency, accountability and ethical administration. It must ensure that detainees' rights are recognised, protected and promoted, both in current conditions and in preparing them for reintegration.[9]

- **Rehabilitation and reintegration:** Reflects the objective that detention should promote social responsibility and human development beyond punishment. This includes providing services and programmes that uphold dignity, support personal development, and prepare detainees for return to society. Education, vocational training and life skills are key components in reducing the risk of reoffending.

Operational monitoring should be complemented by systemic analysis, including legislative quality, reporting practices, and accountability mechanisms. Effective oversight also requires scrutiny of disciplinary systems and criminal accountability for serious violations, including torture and deaths in custody.

4.2 Inconsistent oversight mechanisms

Within SADC, there is no uniform approach to correctional centre oversight. Some States have established independent mechanisms in law, while others rely primarily on internal systems.

[9] C Tapscott, "A Study of Best Practice in Prison Governance," CSPRI Research Report (Bellville: Community Law Centre, 2005), 3.

This diversity reflects different legal traditions and historical developments. The aim of this Model Law is not rigid standardisation, but the promotion of consistent human rights standards through effective oversight.

4.3 Importance of independent oversight

Judicial decisions have highlighted the importance of independence. For example, South Africa's Constitutional Court considered issues relating to the independence of the Judicial Inspectorate for Correctional Services (JICS), which remained within the programmatic and budgetary control of the Department of Correctional Services, despite having a mandate to inspect and report on the treatment of persons deprived of liberty by the same Department.[10] The Court found that JICS's effective functioning depended on the Department, thereby undermining independence. The Constitutional Court noted:

> *"53. To effectively scrutinise correctional centres and remand detention facilities, an oversight body should maintain an arms-length relationship with the Department. It should be sufficiently insulated from undue influence or "capture" by the very departmental officials whose conduct it is charged with monitoring. In addition, it must gain the confidence and trust of inmates. Inmates' confidence in the work done by a correctional centre oversight body will depend largely on the extent to which that body is perceived as being independent.*
>
> *54. It follows that establishing the Judicial Inspectorate, without also ensuring that it has adequate independence to perform its oversight role effectively, does not constitute a reasonable step to protect the rights of incarcerated persons. Section 7(2), read with various rights in the Bill of Rights (including those contained in sections 10, 11, 12 and 35), requires the State to ensure that the Judicial Inspectorate has adequate independence. This conclusion does not require that anything be "read into" the Constitution. The overarching standard of reasonableness imposed by section 7(2) requires, in relation to steps taken by the State to ensure oversight of the Department, that the oversight body is sufficiently independent. The requirement of independence thus flows directly from the State's constitutional obligation to act reasonably and effectively in fulfilling its constitutional obligations."*[11]

In Malawi, the Constitution specifically provides that the Inspectorate of Prisons "shall exercise its powers, functions and duties independent of any direction or

[10] *Sonke Gender Justice NPC v President of the Republic of South Africa and Others*, (Case No. CCT307/19) [2020] ZACC 26 (Constitutional Court December 4, 2020).

[11] *Sonke Gender Justice NPC v President of the Republic of South Africa and Other* paragraphs 53–54.

interference by any other person or authority".[12] To facilitate this independence, Malawi's Prisons Act of 2025, states that the Inspectorate of Prisons receives its budget directly from Parliament and it reports directly to the Auditor General on its finances.[13]

Institutional independence, including administrative, structural and functional independence, is therefore essential for building trust and ensuring effective accountability.

4.4 Constitutions of SADC Member States

National constitutions provide the foundation for the domestication of the Model Law. Legislative drafting must comply with constitutional principles, including the hierarchy of laws.

Most constitutions in SADC include a bill of rights aligned with international standards. These, together with regional and international instruments, provide the normative framework for oversight.

4.5 Subsidiary and delegated legislation

The Model Law provides a framework for primary legislation. Member States should adopt subsidiary and delegated legislation, such as regulations, rules and directives, to operationalise statutory oversight mechanisms. These instruments enable detailed implementation while maintaining flexibility within the legislative hierarchy.

5 Structure of the model law

5.1 Form

The Model Law is structured into three parts:

- Chapter 1: sets out the policy context, conceptual framework, normative foundations, and guiding principles underpinning correctional centre oversight.
- Chapter 2: contains the principal legislative framework establishing the legal mandate, powers, independence safeguards, and accountability mechanisms of oversight bodies.
- Schedules: contain thematic standards, benchmarks, and programmatic guidance to inform oversight practice and the development of regulations or standard operating procedures.

[12] Constitution of Malawi, section 169(2).

[13] Prisons Act No. 8 of 2025, section 141.

This structure reflects best practices in legislative drafting and supports clarity, flexibility, and effective implementation.

5.2 Style and legislative approach

The Model Law distinguishes between:

- normative and policy guidance (Chapter 1);
- binding primary legislative provisions (Chapter 2); and
- detailed operational standards (Schedules).

It is designed to be adapted by Member States and used as the basis for drafting or reforming national legislation.

5.3 Law-making and drafting process

The Model Law does not prescribe national legislative processes, which vary across jurisdictions. It provides guidance on content rather than drafting technique.

National legislatures should consider their legal frameworks, legislative hierarchy and procedural requirements when adopting or adapting the Model Law.

5.4 Reference notes

The Model Law is based on extensive research and draws on international and regional instruments, case law and best practice. References are provided to support its provisions and demonstrate its evidentiary basis.

5.5 Parts of the model law

Chapter 1 provides the normative foundation for the Model Law. It:

- explains the purpose and rationale for correctional oversight;
- clarifies key oversight concepts, including preventive and reactive oversight;
- describes the relationship between operational and systemic oversight;
- explains institutional independence requirements;
- outlines the role of parliamentary oversight;
- addresses oversight during states of emergency;
- situates the Model Law within regional and international human rights standards.

Chapter 2 constitutes the core legislative component of the Model Law. It:

- establishes the statutory duty to ensure independent oversight;
- defines the institutional architecture of oversight mechanisms;
- secures independence and structural safeguards;
- sets out oversight powers, including access, investigation, inspection, and reporting;
- establishes complaint and investigation procedures;
- protects against reprisals;
- defines offences for obstruction;
- establishes parliamentary reporting and accountability mechanisms;
- authorises regulation-making for procedural implementation.

Chapter 2 does not regulate the operational management of correctional services, nor does it prescribe programmatic detention standards. Instead, it defines how correctional systems are to be scrutinised, monitored, and held accountable.

Schedules provide a guide to some oversight benchmarks and thematic standards relevant to monitoring detention systems. These include international and regional human rights standards, measures to protect persons facing additional barriers, and the oversight of healthcare.

These Schedules are designed to provide structured guidance for oversight bodies and to inform regulations and standard operating procedures without overloading the principal Act with operational detail. This allows Member States to update standards in line with evolving practice.

The separation between Chapters 2 and the Schedules ensures clarity of legislative purpose, respects legislative hierarchy, and strengthens institutional independence.

5.6 Interpretation and definitions

Alternatives to immigration detention: any legislation, policy or practice, formal or informal, aimed at preventing the unnecessary detention of persons for reasons relating to their migration status.[14]

Assistive devices: include wheelchairs, callipers, crutches, white canes, orthopaedic appliances, qualified readers, taped texts, audio recordings, visual and pictorial recordings, braille and tactile equipment or materials, large print,

[14] IOM Glossary on Migration, IML Series 34, 2019. Examples of alternatives to detention include measures ranging from policy or legislative developments that help prevent unnecessary detention, to effective screening and identification procedures, to community-based or casework-oriented models, to bail, bond, and surety options, to open or semi-open centres, to reporting requirements, and to case resolution options.

and other devices that support persons with disabilities in participating effectively in all aspects of life.

Caregiver: a person who provides unpaid care for a family member, friend or partner who is ill, frail or living with a disability. This should be differentiated from a professional caregiver's role.

Child: any person below the age of eighteen years.

Children in conflict with the law: children alleged as, accused of or recognised as having committed a criminal offence.

Communicable disease: a disease resulting from an infection due to pathogenic agents or toxins generated by the infection, following the direct or indirect transmission of the agents from the source to the host.

Communication: includes languages, display of text, braille, tactile communication, large print, accessible multimedia, as well as written, audio, plain-language, human-reader, and augmentative and alternative modes, means, and formats of communication, including accessible information and communication technology. [15]

Correctional centre oversight: systematic monitoring, evaluation, and reporting on the conditions, treatment, policies, and practices within correctional centres, to ensure compliance with human rights standards, promote transparency, and accountability.

Correctional centre: any place established under law as a place for the reception, detention, confinement, training or treatment of persons liable to detention in custody or to placement under protective custody, and all land, outbuildings and premises adjacent to any such place and used in connection therewith and all land, branches, outstations, camps, buildings, premises or places to which any such persons have been sent for imprisonment, detention, protection, labour, treatment or otherwise, and all quarters of correctional officials used in connection with any such correctional centre.

Disability: any long-term physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder the full and effective participation of disabled people in society on an equal basis with others. This includes disabilities that are not immediately apparent (invisible disabilities), such as chronic pain, fatigue, autism, dementia, or mental health conditions.

[15] Convention on the Rights of Persons with Disabilities, 2006, section 2.

Discrimination based on disability: any distinction, exclusion or restriction based on disability which has the purpose or effect of impairing or nullifying recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.[16]

Discrimination: means any distinction, exclusion or restriction which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.[17]

Diversion: referral of persons away from formal court proceedings to community-based solutions, with or without conditions.[18]

Early childhood development: holistic services including health, nutrition, stimulation, protection and early education.

Foreign nationals: individuals who are not citizens or legal permanent residents of the country in which they are detained, including holders of temporary permits from other countries, undocumented migrants, refugees, asylum seekers and prisoners of war.

Gender: the socially constructed roles, behaviours, expressions and identities of girls, women, boys, men, and gender-diverse people. It influences how people perceive themselves and each other, how they act and interact, and the distribution of power and resources in society. Gender is usually conceptualised as a binary (girl/woman and boy/man). Yet, individuals and groups vary in how they understand, experience, and express it.

Gender-affirming practices: steps taken by an intersex, transgender or gender-diverse person to affirm their gender socially, psychologically, medically and/or legally. This includes their gender expression, preferred pronouns, any gender-affirming healthcare they may use, and steps towards legal gender recognition.

Gender-based violence: any intentional act or failure to act – whether threatened or actual – against a person based on their gender that results, or is likely to result, in physical, sexual or psychological harm. Gender-based violence is committed against women, girls, men, boys, and people with gender nonconforming identities. It may be perpetrated by intimate partners, family

[16] Convention on the Rights of Persons with Disabilities, 2006, section 2.

[17] Protocol to the African Charter on Human And Peoples' Rights Relating to the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa, 2024.

[18] Malawi: Child Care, Protection and Justice Act, 2010.

members, friends, colleagues, social contacts, strangers and people in positions of authority.[19]

Gender expression: the presentation of a person's gender through physical appearance, including dress, hairstyles, accessories and cosmetics; mannerisms; speech; behavioural patterns; names and personal references. A person's gender expression may or may not conform to that person's gender identity.

Gender identity: each person's perspective of their own gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.

Head of the Correctional Service: the person who is legally responsible for the administration and management of correctional centres within a Member State, however designated under national law. This can include, for example, a Commissioner General, a Commissioner, a Director-General, a Chief of Prisons, etc.

Health professional: any person who has completed a course of study in the field of health. The person is usually licensed by a government agency and/or certified by a professional organisation, including, but not limited to, medical, psychological, pharmaceutical, psychiatric, nursing, social work, and dental professionals.

Incarcerated person: any person involuntarily confined to a correctional centre.

Intersex: a variety of conditions (genetic, physiological or anatomical) in which a person's sexual and/or reproductive features and organs do not conform to dominant or typical definitions of 'female' or 'male'. Intersex status is distinct from sexual orientation, gender identity or gender expression, and does not in itself determine any of these.

Investigation: an inquiry or examination where there is reasonable ground to believe that an offence or misconduct has occurred.

Key populations: groups who, due to specific higher-risk behaviours and/or systemic marginalisation, are at increased risk of HIV irrespective of the epidemic

[19] SADC Regional Strategy for HIV Prevention, Treatment and Care and Sexual and Reproductive Health and Rights among Key Populations 2024-2030, 2025.

type or local context. They also often have legal and social issues related to their behaviours that increase their vulnerability to HIV.[20]

LGBTQIA+ persons: individuals in custody who identify as lesbian, gay, bisexual, transgender, queer, intersex, asexual, non-binary, or another sexual orientation or gender identity. The group faces heightened risks in detention and requires specific safeguards to ensure safety and equality.

Marginalised persons: a category of persons prescribed, as such, by each Member State or persons who find themselves in objectively marginalised situations.

Member State: a Member State of the Southern African Development Community.

Minister: a Minister, in a Member State, responsible for matters relating to correctional services.

Ministry: the Ministry, in a Member State, responsible for correctional services.

Model Law: this SADC Model Law on Correctional Centre Oversight.

National Human Rights Institutions (NHRI): independent government-established bodies with a constitutional and/or legislative mandate to protect and promote human rights. These can include National Human Rights Commissions, Public Protectors and Ombuds Persons.

National Preventive Mechanism: a system in which one or more designated bodies monitor the treatment and conditions of people who have been deprived of their liberty. Such a mechanism aims to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Non-custodial measures: when legal systems provide alternatives to detention to reduce the use of imprisonment, and to rationalise criminal justice policies, considering the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.[21]

Official visitors: persons who are allowed access to correctional centres, for oversight, and have the power to visit a correctional centre and conduct inspections as necessary, including conducting unannounced visits to any detention facility. Official visitors must perform their functions independently

[20] SADC Parliamentary Forum Minimum Standards for the Protection of the Sexual and Reproductive Health of Key Populations in the SADC Region, 2018.

[21] The United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), 1990.

and are not subject to any control or restrictions regarding communications with correctional centre management or authorities. Official visitors can include designated local oversight bodies and regional and international bodies.

Person deprived of liberty: any individual who is held in a correctional centre or other place of detention by order of a competent authority, including sentenced detainees, pre-trial detainees, persons held in administrative or immigration detention, and any other person whose liberty has been restricted under the authority of the state**.**

Person who is neurodivergent: a person whose brain and cognitive functions differ from what is considered 'typical' and includes people on the autism spectrum.

Persons facing additional barriers: individuals whose ability to access their rights, services, or protections is impeded by situational, structural, or systemic factors, including but not limited to children and youth, women and pregnant persons, older persons, persons with disabilities, mental health conditions or chronic illnesses, persons subject to discrimination based on gender, sexual orientation, or other status, foreign nationals or persons with limited language proficiency, and any other person whose circumstances, including their detention, place them at heightened risk of harm, abuse or neglect.

Persons living with mental health conditions: individuals diagnosed with mental health conditions or exhibiting behaviour that may warrant a diagnosis.

Persons with disabilities: persons who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.[22]

Psychosocial support: actions that address both the psychological and social needs of individuals, families and communities.

Reasonable accommodation: necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. [23]

Rehabilitation: the process of helping a person in a correctional centre to develop the skills that they will need to survive outside of the correctional centre

[22] Convention on the Rights of Persons with Disabilities, 2006, section 1.

[23] Convention on the Rights of Persons with Disabilities, 2006, section 2.

upon parole or release. This may include skills related to economic programmes, education, vocational skills, mental health, and well-being.

Reintegration: the process of helping an incarcerated person return into society safely, facing minimal to no threats that prevent harm or becoming a reoffender.

Restorative justice: an approach to addressing crime that seeks to repair harm by promoting dialogue and understanding between victims, offenders and, where appropriate, affected communities. It includes processes and programmes through which victims, offenders and other affected persons participate voluntarily in resolving matters arising from the offence, often with the assistance of a trained facilitator. It may result in outcomes such as reparation, restitution, community service, or other measures that promote accountability, healing, and reintegration. [24]

Sexual and reproductive rights: the universal human rights relating to sexuality and reproduction, bodily autonomy and integrity and safety of the person, the right to sexual privacy, the right to make free and responsible reproductive choices, the right to sexual information based on scientific enquiry, and the right to sexual and reproductive healthcare.

Sexual harassment: any unwelcome sexual advance, request for sexual favour, verbal, display of images, or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another.

Sexual orientation: a person's lasting emotional, romantic, sexual or affection / attraction to others (heterosexual, homosexual/same-sex sexual orientation, bisexual or asexual).

Sexual violence: any non-consensual sexual act, a threat or attempt to perform such an act, or compelling someone else to perform such an act on a third person. Acts are considered non-consensual when they involve violence, the threat of violence, or coercion. Coercion can be the result of psychological pressure, undue influence, detention, abuse of power or someone taking advantage of a coercive environment, or the inability of an individual to consent freely. This definition must be applied irrespective of the sex or gender of the victim and the perpetrator, and of the relationship between them. Sexual violence is not limited to physical violence and does not necessarily involve physical contact.[25]

[24] Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, UN Economic and Social Council Resolution 2002/12.

[25] African Commission on Human and Peoples' Rights, The Guidelines on Combating Sexual Violence and its Consequences in Africa, 2017.

Solitary confinement: the physical isolation of individuals who are confined to their cells for twenty-two to twenty-four hours a day. In many jurisdictions, persons deprived of liberty are allowed out of their cells for one hour of solitary exercise. Meaningful contact with other people is typically reduced to a minimum. The reduction in stimuli is not only quantitative but also qualitative. The available stimuli and occasional social contacts are seldom freely chosen, generally monotonous, and often not empathetic.[26]

Stateless person: someone who is not recognised as a citizen by any country under the operation of its laws.[27]

Torture: defined in article 1 of the UN Convention against Torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from them or a third person information or a confession, punishing them for an act they or a third person has committed or is suspected of having committed, or intimidating or coercing them or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

Visiting justices: a category of official visitors comprising oversight personnel with legal expertise, such as judges and magistrates, and may include designated prosecutors. Visiting justices are independent, impartial judicial officers who have the statutory power to visit and inspect correctional facilities at any time to monitor conditions of detention, ensure humane treatment of those in such facilities, and provide an independent avenue for such persons to raise complaints. Such visiting justices must have access to any part of the correctional centre.

[26] The Istanbul Statement on the Use and Effects of Solitary Confinement, 2007.

[27] Convention relating to the Status of Stateless Persons, 1954. Protocol to the African Charter on Human And Peoples' Rights Relating to the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa, 2024.

CHAPTER 2: THE SADC MODEL LAW ON CORRECTIONAL CENTRE OVERSIGHT

EXPLANATORY NOTE:
This Chapter contains the principal legislative provisions of the SADC Model Law on Correctional Centre Oversight. It establishes the legal foundation for independent oversight by defining the mandate, powers, functions, institutional safeguards, reporting obligations, and accountability mechanisms necessary to ensure effective monitoring of places of deprivation of liberty.

It is intentionally confined to matters that must be addressed in primary legislation to guarantee structural independence, legal authority, and enforceability. It does not regulate the operational management of correctional services, nor does it prescribe programmatic standards for detention administration. Those substantive and thematic areas are addressed, where relevant, in the Schedules as guidance benchmarks against which oversight bodies can assess compliance.

By clearly distinguishing between oversight authority (contained in this Chapter) and detention management standards (reflected in the Schedules or other legislation), the Model Law preserves legislative coherence, prevents duplication with correctional services legislation, and safeguards the independence of oversight institutions.

Chapter 2, therefore, defines not how correctional centres are run, but how they are scrutinised, held accountable, and aligned with constitutional, regional and international human rights obligations.

PREAMBLE

We, the Members of the SADC Parliamentary Forum:

WHEREAS the Constitutions of the Member States of SADC affirm the inherent dignity and equal worth of all persons;

RECOGNISING the Universal Declaration on Human Rights and other international instruments affirming the inherent, equal and inalienable rights of all human beings as the foundation of freedom, justice and peace;

AFFIRMING that every person, regardless of their sex, gender, nationality, social origin, class, religion, marital status, age, language, custom, political affiliation, tribe, colour, pregnancy, disability, economic, or other status, is entitled to fundamental human rights, including the right to non-discrimination, survival,

development, education, health and welfare, participation, peace, dignity, tolerance, equality and solidarity;[28]

RECALLING the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the Istanbul Protocol, and other UN standards providing for the humane treatment persons deprived of liberty, and recognising the particular needs of persons at risk of victimisation due to age, gender, health or other status; [29]

ACKNOWLEDGING that the prohibition of torture is a peremptory norm of international law, and that States have duties under the Convention against Torture and its Operational Protocol to prevent, investigate, and remedy torture and ill-treatment through effective independent oversight;[30]

NOTING that international[31] and regional instruments, including the Luanda Guidelines[32] and Robben Island Guidelines,[33] emphasise States' responsibility to protect persons in the criminal justice system and ensure detention facilities comply with human rights standards, including the rights of children,[34] older

[28] SADC Model Law on Gender-Based Violence, 2021.

[29] UN Standard Minimum Rules for the Treatment of Prisoners (UNSMR), Rules 1 and 2; The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), Adopted by the UN General Assembly in December 2010; United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), Adopted by General Assembly resolution 45/110 of 14 December 1990; Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol).

[30] UN Convention Against Torture (CAT), Article 12 ; and Optional Protocol to the UN Convention Against Torture (OP-CAT), Article 1.

[31] Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Adopted by General Assembly resolution 37/194, 18 December 1982.

[32] Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (Luanda Guidelines), 2015.

[33] Resolution on Guidelines and Measures for the Prohibition of Torture, Cruel, Inhuman and Degrading Treatment or Punishment in Africa (The Robben Island Guidelines), 2002.

[34] Convention on the Rights of the Child, 1989.; and United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Adopted by General Assembly resolution 45/113 of 14 December 1990; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), 2012.

persons,[35] women,[36] persons with disabilities,[37] foreign nationals,[38] and other groups facing additional barriers, including on the basis of sexual orientation, gender identity and persons who are intersex;[39]

AFFIRMING that correctional systems should promote healing, rehabilitation, restorative justice, community service, reintegration and the rule of law;

RECOGNISING that effective oversight bodies must be independent, legally mandated, adequately resourced, empowered to inspect, investigate, and report, ensure confidential reporting, and have preventive and referral functions;[40]

ACCEPTING that a Model Law draws on international and regional best practices and serves as guidance for legislators, administrators, policy makers, civil society, adjudicators and other concerned stakeholders in the region;

URGING Member States to ratify, domesticate, and implement the international and regional human rights instruments listed in Schedule 1, and to harmonise national legislation relating to oversight of places of deprivation of liberty;

ACTING in accordance with the powers vested in the Treaty, we adopt this Model Law on Correctional Centre Oversight as a guide to legislative efforts in the SADC Region.

PART 1: DOMESTICATION OF THE MODEL LAW

1. Legislative and policy reform

1) Member States must undertake research and public consultation to support legislative and policy reforms necessary to give effect to the objectives of this Law.

2) Member States must review and amend correctional system laws, regulations, policies, standing orders and oversight frameworks as necessary to ensure

[35] The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, 2018.

[36] The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), 2005.

[37] The Protocol to the Africa Charter on the Rights of Persons with Disabilities in Africa, 2018; and Convention on the Rights of Persons with Disabilities (CRPD), 2006.

[38] Convention relating to the Status of Stateless Persons, 1954; Convention on the Reduction of Statelessness, 1961.

[39] Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity, 2014.

[40] Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

compliance with this Law and applicable regional and international standards.[41]

3) Member States must take effective legislative, administrative, judicial and other measures to prevent torture and other forms of ill-treatment, including by criminalising torture in accordance with applicable international obligations.[42]

4) Member States must cooperate to harmonise laws and standards, strengthen institutional capacity, and promote peer review and regional reporting on the implementation of this Law.

2. Application and scope

2.1 Application

1) This Law applies to all persons without discrimination on any ground, including race, colour, sex, gender, age, language, religion, nationality, political or other opinion, cultural belief or practice, property, birth, family status, sexual orientation, gender identity, ethnic or social origin, health status, disability, or other status.

2) In implementing this Law, due regard must be given to the circumstances and needs of women, children and other persons who may face discrimination, marginalisation or heightened vulnerability in detention.[43]

2.2 Scope

1) This Law applies primarily to the oversight of correctional centres.

2) Member States are encouraged to apply the principles and standards contained in this Law to all places of deprivation of liberty, including child and youth care facilities, psychiatric institutions, rehabilitation centres, immigration detention facilities, orphanages, police and military detention facilities, court holding cells, reform schools, halfway houses, facilities for older persons, refugee reception and holding facilities, port-of-entry detention facilities, transport vehicles used for detention purposes, and any other place where persons are deprived of their liberty.

3. Objectives

[41] SADC Model Law on Gender-Based Violence, 2021.

[42] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 10.

[43] SADC Model Law on Gender-Based Violence, 2021.

3.1 General objective

1) The objective of this Law is to provide a framework for effective, transparent and accountable oversight of correctional centres.

3.2 Specific objectives

1) This Law seeks to:

a) give effect to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and other relevant international and regional instruments, recognising the inherent dignity of all persons deprived of liberty and their right to be free from torture and other cruel, inhuman or degrading treatment or punishment;
b) establish a framework for the management of detainee requests, complaints and internal inspections;
c) prescribe procedures and standards for internal and external complaints mechanisms that enable detainees to report abuse, discrimination and other grievances safely and without fear of retaliation;
d) clarify the mandates, powers, access rights, reporting obligations and coordination arrangements of oversight mechanisms;
e) specify the categories, functions and powers of official visitors;
f) clarify the role and responsibilities of visiting justices and prosecutors;
g) establish the mandate, independence and powers of National Human Rights Institutions in relation to correctional centre oversight;
h) establish independent correctional centre visiting committees and define their functions and powers;
i) establish independent correctional centre oversight bodies and define their mandates, powers and safeguards for independence;
j) provide for commissions of inquiry with appropriate investigative and subpoena powers to address systemic or serious concerns;
k) require oversight mechanisms to identify and address the needs of persons who face additional barriers or vulnerabilities in detention;
l) recognise and support the public health oversight role of healthcare professionals;
m) strengthen the prevention of torture, ill-treatment and sexual violence in correctional centres;
n) promote post-custodial oversight to support rehabilitation, reintegration and continuity of care;
o) establish training, monitoring, reporting and accountability measures necessary for effective oversight; and
p) clarify the role of parliamentarians in overseeing correctional centres.

4. Guiding principles

1) This Law establishes principles and standards to guide the development and implementation of comprehensive oversight systems for correctional centres.

2) In implementing this Law, Member States and oversight mechanisms must be guided by the following principles:[44]

   a) Accountability: State institutions and officials must account for their decisions, actions and omissions and be subject to appropriate oversight, review and sanctions where necessary;
   b) Transparency: Oversight mechanisms must operate openly and transparently, including through public reporting, disclosure of methodologies and effective investigation of alleged violations;
   c) Human dignity and human rights: All persons deprived of liberty retain their fundamental rights and inherent dignity, which must be respected, protected and fulfilled in accordance with applicable human rights standards;
   d) Independence: Oversight mechanisms must be institutionally, operationally and financially independent and must have unrestricted access to places of detention, relevant information and persons deprived of liberty;
   e) Access to rights and remedies: Persons deprived of liberty must be informed of their rights and have access to effective remedies and fair procedures for challenging violations of those rights;
   f) Protection of vulnerable persons: Attention must be given to the needs and rights of persons who may face discrimination, marginalisation or heightened vulnerability in detention;
   g) Reporting, investigation and referral: Allegations of abuse, misconduct, corruption, torture, ill-treatment or criminal conduct must be promptly reported, independently investigated and, where appropriate, referred to competent authorities for further action;
   h) Monitoring and implementation: Regular, systematic and evidence-based monitoring must be undertaken to assess compliance and promote continuous improvement;
   i) Complementarity and coordination: Oversight mechanisms must cooperate and coordinate their activities while maintaining their independence and distinct mandates;
   j) Contact with the outside world: Persons deprived of liberty must be permitted to maintain regular contact with family members, legal representatives and, where appropriate, the wider community;

[44] UN Standard Minimum Rules for the Treatment of Prisoners; Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

k) Public participation: Civil society organisations, communities and other stakeholders should be encouraged to contribute to oversight, monitoring and accountability processes;
l) Do no harm: Oversight activities must not endanger the health, safety, privacy, dignity or well-being of persons deprived of liberty or any other person;
m) Alternatives to detention: Non-custodial measures should be available and considered wherever appropriate, consistent with public safety and the interests of justice;
n) Engagement and dialogue: Constructive engagement between correctional authorities and oversight mechanisms is essential to achieving meaningful reform;
o) Evidence-based decision-making: Policies, practices and decisions must be informed by reliable evidence and an assessment of actual and potential consequences;
p) Objectivity and impartiality: Persons conducting oversight activities must act independently, impartially and without prejudice;
q) Welfare and rehabilitation: The physical, mental and social well-being of persons deprived of liberty must be a primary consideration in decision-making and implementation;
r) Avoidance of conflicts of interest: Oversight mechanisms must identify, disclose and manage actual, potential and perceived conflicts of interest;
s) Whistle-blower protection: Persons who provide information to oversight mechanisms must be protected from retaliation and other adverse consequences;
t) Non-discrimination: Correctional authorities and oversight mechanisms must prohibit and address all forms of unfair discrimination;
u) Multidisciplinary and inclusive oversight: Oversight mechanisms should include persons with diverse professional expertise and lived experience necessary to perform their functions effectively.

PART 2: ESTABLISHMENT OF THE OVERSIGHT FRAMEWORK

EXPLANATORY NOTE:
These are the core institutional principles that should guide the development of independent oversight of correctional centres. While SADC Member States may adopt different institutional arrangements (including a single specialised oversight body or a cooperative framework involving multiple institutions), all oversight architectures must comply with certain fundamental safeguards to ensure independence, effectiveness and credibility.

The provisions that follow therefore identify the minimum legal guarantees, powers and institutional protections that should apply to oversight mechanisms responsible for monitoring places of detention. They are intended to guide the strengthening of existing oversight systems and to assist States that do not yet

have independent correctional oversight mechanisms in establishing institutions that meet regional and international human rights standards.

5. Duty to establish an independent oversight framework

1) Member States must establish and maintain an independent, effective and adequately resourced framework for the oversight of correctional centres.

2) The oversight framework may include:

   a) strong internal compliance mechanisms;
   b) an independent correctional inspectorate;
   c) a National Preventive Mechanism under the Optional Protocol to the Convention against Torture;
   d) a National Human Rights Institution;
   e) judicial oversight mechanisms;
   f) official visitor systems; and
   g) parliamentary oversight structures.

3) Member States may adopt one or more complementary oversight mechanisms, provided that the framework ensures independence, effectiveness, accessibility, coordination and accountability.

4) Where multiple oversight mechanisms operate, Member States must promote cooperation, coordination and information-sharing while preserving the institutional independence and distinct mandates of each mechanism.

6. Functions of oversight bodies

1) Oversight bodies must perform preventive, monitoring and investigative functions in accordance with the principles set out in this Law.

2) Without limiting subsection (1), oversight bodies must:

   a) conduct regular, independent and, where appropriate, unannounced inspections of places of detention;
   b) monitor the treatment of persons deprived of liberty and conditions of detention;
   c) assess compliance with constitutional requirements, domestic law and applicable regional and international standards;
   d) receive, register and investigate complaints;
   e) identify systemic risks, patterns of abuse and structural causes of rights violations;
   f) make recommendations aimed at corrective action, prevention and institutional reform;

g) monitor the implementation of recommendations;
h) collect, analyse and publish relevant information, data and trends;
i) issue urgent alerts where conditions present an immediate risk to life, health, safety or dignity; and
j) report publicly and directly to Parliament or other competent oversight authorities.

7. Institutional independence and access

1) Oversight bodies must be guaranteed:

a) legal, operational and functional independence from the authorities responsible for correctional administration;
b) adequate and secure funding, including direct parliamentary appropriation or equivalent safeguards;
c) security of tenure for members and office-bearers;
d) transparent, merit-based and participatory appointment processes;
e) immunity from civil or criminal liability for acts performed in good faith in the exercise of their functions; and
f) protection against interference, retaliation or arbitrary limitation of their powers, resources or mandate.

8. Powers of access and inspection

2) Oversight bodies must have unrestricted and timely access, without prior notice, to:

a) all places of detention and associated premises;
b) all persons deprived of liberty, regardless of legal status or classification;
c) correctional officials, contractors and service providers;
d) registers, records, electronic information, surveillance systems and other relevant documentation; and
e) medical, disciplinary and classification records, subject to applicable confidentiality requirements.

3) Oversight bodies may conduct private, confidential interviews with any detainee, staff member, or other relevant person without surveillance or the presence of correctional officials.

4) Oversight bodies may determine:

a) which facilities to visit;
b) which persons to interview;
c) which records or information to examine; and

d) the methodology to be used in conducting inspections, investigations and monitoring activities.

5) Any restriction on access or inspection powers may be imposed only where strictly necessary, proportionate and lawful, and must:

a) be recorded in writing;
b) state the reasons for the restriction; and
c) be promptly reported to Parliament.

9. Protection against reprisals

1) No person shall suffer intimidation, harassment, discrimination, punishment or any other disadvantage for:

a) lodging a complaint;
b) providing information;
c) communicating or cooperating with an oversight body;
d) participating in an investigation; or
e) refusing to participate in unlawful conduct.

2) Oversight bodies must establish accessible, confidential and secure reporting mechanisms.

3) Allegations of reprisals must be promptly and independently investigated.

4) Reprisals against any person for engaging with an oversight mechanism constitute misconduct and, where applicable, may give rise to disciplinary, civil or criminal liability.

10. Continuity of oversight during emergencies

1) Oversight functions must continue during a declared state of emergency, a public health crisis, or other exceptional circumstances.

2) Oversight bodies retain access to facilities, information and persons deprived of liberty during such periods, subject only to restrictions that are strictly necessary, proportionate and lawful.

3) Any restriction imposed under subsection (2) must be recorded in writing, justified and promptly reported to Parliament.

11. Data collection, monitoring and early warning

1) Oversight bodies must collect, analyse and, where appropriate, publish disaggregated data relating to:

   a) deaths in custody;
   b) use of force;
   c) solitary confinement and other restrictive measures;
   d) duration of pre-trial detention;
   e) access to healthcare;
   f) allegations of torture or other ill-treatment;
   g) violence involving detainees or staff;
   h) access to legal assistance;
   i) contact with family members and the outside world;
   j) suicide and self-harm;
   k) sexual violence and abuse; and
   l) discrimination.

2) Oversight bodies may issue interim reports, recommendations, or risk alerts when conditions pose an immediate or foreseeable threat to life, health, safety, or human dignity.

3) Reports, recommendations and risk alerts must be communicated without delay to the responsible Minister, Parliament and any other competent authority.

4) Oversight bodies must publish periodic reports on their activities, findings and recommendations, subject to lawful confidentiality requirements.

12. Duty to cooperate

1) Correctional authorities and all public officials must cooperate with oversight bodies in the exercise of their functions.

2) No person may obstruct, hinder or improperly influence an oversight body in the performance of its mandate.

3) A person who intentionally obstructs or interferes with the lawful activities of an oversight body commits an offence.

13. Regional cooperation

1) Member States must cooperate to strengthen correctional oversight throughout the SADC region.

2) Such cooperation may include:

a) the exchange of information, expertise and good practices;
b) participation in peer review processes;
c) contributions to regional reporting and monitoring mechanisms; and
d) joint training, research and capacity-building initiatives.

14. Review of oversight effectiveness

1) Member States must review the effectiveness of their correctional oversight framework at intervals not exceeding five years.

2) The review must assess at a minimum:

a) institutional independence;
b) adequacy of resources;
c) operational effectiveness;
d) compliance with legal and human rights standards;
e) implementation of recommendations; and
f) measurable impact on detention conditions and the protection of rights.

3) Review findings and recommendations must be made public and tabled before Parliament.

PART 3: INTERNAL COMPLIANCE MANAGEMENT

EXPLANATORY NOTE:
Internal compliance management forms the first line of oversight within correctional systems. Internal inspectors, investigation units and compliance officers play an important role in monitoring adherence to domestic law, institutional policies and applicable regional and international standards. Their primary function is to identify operational, administrative and systemic deficiencies, promote accountability, and ensure that corrective measures are implemented.

External oversight bodies should assess whether internal inspections are conducted regularly, independently within the institutional structure, and in accordance with established standards and procedures.

15. Internal inspections

1) Every correctional centre must be subject to regular compliance inspections conducted by appropriately qualified internal inspectors.

2) Inspections must be undertaken by persons with the expertise necessary to assess operational, administrative, security, health, human rights and

correctional management issues. They may, where appropriate, be conducted by a multidisciplinary team.

3) Internal inspectors must be granted access to all areas of the correctional centre, relevant records, and any information reasonably required to perform their functions.

4) Inspections must assess at a minimum:

   a) compliance with domestic law, institutional policies, and applicable regional and international standards; [45]
   b) the treatment, safety, welfare and living conditions of persons deprived of liberty, including the situation of persons facing additional barriers or heightened vulnerability;
   c) population levels, overcrowding, classification practices and accommodation arrangements;
   d) access to healthcare, mental healthcare, sanitation, nutrition, education, recreation, rehabilitation and reintegration programmes;
   e) safety and security measures, including emergency preparedness, disaster management and disease prevention and response;
   f) the use of force, disciplinary measures, segregation, solitary confinement and other restrictive practices;
   g) deaths in custody, serious injuries, incidents of violence and other significant events;
   h) parole, early release and pre-trial detention processes;
   i) labour programmes and other detainee activities; [46]
   j) infrastructure, maintenance and environmental conditions; and
   k) any other matter prescribed by law or relevant standards.

5) Internal inspectors must review relevant registers, records, and data, and may conduct interviews with detainees, staff members, and other persons where necessary.

6) Where an inspection identifies an immediate risk to the life, health, safety or rights of any person, the correctional centre must take prompt protective and remedial measures. [47]

16. Inspection reports and follow-up

[45] Scotland Commission for Human Rights, India: Model Prison Manual, 2016.

[46] Scotland: Prison Act, 1989.

[47] Zambia: Children's Act, 2022, allows the Director of Social Welfare of Chief Inspector to release a child on probation.

1) Following each inspection, the internal inspectors must prepare a written report setting out:[48]

   a) the findings of the inspection;
   b) areas of compliance and non-compliance;
   c) identified risks and systemic concerns; and
   d) recommendations for corrective action.

2) Where infrastructure, detention conditions, or operational practices fail to comply with applicable standards, the report must include specific recommendations and reasonable implementation timeframes.

3) The head of the correctional centre must consider the report and take appropriate steps to address the identified deficiencies.

4) A record of all inspection reports and corrective measures must be maintained and made available to authorised oversight bodies upon request.

17. Frequency of inspections

1) Internal compliance inspections must be conducted at least twice each calendar year.

2) At least one inspection conducted during each calendar year must be unannounced.

3) Additional inspections may be conducted where circumstances indicate heightened risk, significant incidents, recurring complaints or persistent non-compliance.

18. Reporting and coordination

1) Inspection reports must be submitted to the responsible Ministry or correctional authority.

2) A summary of inspection findings and recommendations must be made available to relevant external oversight bodies to promote accountability, transparency and coordinated remedial action.

3) Nothing in this section limits the powers of external oversight bodies to conduct independent inspections or investigations.

PART 4: REQUESTS, COMPLAINTS AND REMEDIES

[48] India: Model Prison Manual, 2016.

19. Requests and complaints management

EXPLANATORY NOTE:
Persons deprived of liberty have the right to submit, in writing, individually or collectively, complaints, petitions, claims and statements regarding the execution of measures depriving them of their liberty. [49]

An effective requests and complaints system is crucial to detainee safety, effective conflict resolution and general harmony of the correctional centre. Complaints systems support detainees to ensure that their human rights are protected. Some key principles in a complaints system include accessibility, confidentiality, and efficiency.

Effective oversight cannot exist without strong protections for those who report abuse. Independent oversight is especially critical where correctional centre staff may be complicit in abuse, including sexual violence.[50] *Systems in place in some SADC Member States include anonymous complaints boxes, logbooks for persons deprived of liberty to express themselves, relevant mandatory case management procedures, and set time periods within which complaints should be addressed.*

It is important to ensure access to internal and external complaints mechanisms. Pre-trial detainees can file complaints with the court, but only while they are in an active trial process; when they are in remand awaiting trial, they may have fewer options. Similarly, sentenced detainees have fewer options outside a correctional centre for submitting or expressing complaints.

All complaints should be managed with the gravity and urgency required, with the burden of proof not resting on the complainant. Systems must be in place for the referral of complaints, including criminal complaints to the police, complaints in respect of rights violations to the NHRI or another suitable mechanism, and the record-keeping of such complaints and referrals, all of which must be available for inspection by oversight bodies.

19.1 Right to make requests and complaints

1) Every person deprived of liberty has the right to submit requests and complaints, individually or collectively, without fear of intimidation, retaliation or other adverse consequences.[51]

[49] Mozambique: Penalty Execution Code, Law 26 of 2019, article 129(1).

[50] Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

[51] The United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015. See also Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025. Manual on the Effective Investigation and

2) Requests and complaints may relate to any aspect of detention, including conditions of detention, treatment by staff or other detainees, discrimination, access to services, healthcare, legal assistance, or alleged violations of rights.[52]

3) Correctional centres must establish fair, accessible, confidential and effective procedures for the submission, investigation and resolution of requests and complaints.

4) Mechanisms must be available to report incidents of discrimination, stigma, harassment, or abuse. Appropriate information and awareness programmes must support them.

19.2 Information on rights and procedures

1) Upon admission, every detainee must be provided, in a language and format they understand, with information concerning:

   a) the laws, rules and regulations applicable to the correctional centre;
   b) their rights and obligations;
   c) available legal assistance, including legal aid services;
   d) procedures for making requests and complaints; and
   e) any other information necessary to enable them to understand and exercise their rights.[53]

2) Where a detainee is unable to understand the information provided, reasonable steps must be taken to ensure effective communication, including interpretation, translation, assistive technologies or other appropriate support services.[54]

19.3 Internal requests and complaints procedures

1) A detainee may submit a request or complaint to the head of the correctional centre or a designated official.

2) The receiving official must:

Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 10.

[52] Minimum Standards for HIV, TB, Hepatitis B and C and Sexually Transmitted Infections Prevention, Care and Support in Prisons in the SADC Region, 7.3.1.

[53] The United Nations Standard Minimum Rules for the Treatment of Prisoners. See also Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

[54] The United Nations Standard Minimum Rules for the Treatment of Prisoners. See also Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

a) record the request or complaint;
b) acknowledge receipt where practicable;
c) ensure that it is considered promptly and impartially;
d) inform the complainant of the outcome; and
e) maintain a record of all actions taken.

3) Where a complaint alleges assault, torture, ill-treatment, sexual violence or any other serious misconduct, the correctional centre must immediately:

a) ensure the safety of the complainant;[55]
b) arrange for an independent medical examination and access to appropriate healthcare, counselling and support services;
c) preserve relevant evidence; and
d) refer the matter to the appropriate authority for investigation where required by law.

4) Requests and complaints must be resolved within reasonable timeframes prescribed by law, regulations or policy.

5) A complainant who is dissatisfied with the outcome, or who has not received a response within the prescribed period, must have access to an appeal or escalation procedure.[56]

19.4 Accessibility and confidentiality

1) Requests and complaints may be submitted:

a) orally or in writing;[57]
b) individually or collectively; and
c) in any language.

2) Where a complaint is made orally, it must be recorded in writing and, where practicable, verified with the complainant.

3) Detainees who are illiterate or who have disabilities, communication barriers or other support needs must be provided with reasonable assistance to access the complaints process.

[55] Malawi: Prisons Act, 2025.

[56] Eswatini: Correctional Services Act, 2017.

[57] The United Nations Standard Minimum Rules for the Treatment of Prisoners. See also Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

4) Requests and complaints must be able to be submitted confidentially and without censorship.

5) Every detainee must have regular and reasonable opportunities to submit requests and complaints.

19.5 Records and oversight

1) Every correctional centre must maintain a secure and confidential register of requests and complaints, including:

   a) the nature of the request or complaint;
   b) actions taken;
   c) outcomes achieved; and
   d) the time taken to resolve the matter.

2) The head of the correctional centre must regularly review the register and take reasonable steps to ensure that requests and complaints are addressed promptly.

3) Oversight bodies must have access to the register and may review it to assess the effectiveness, fairness and integrity of the complaints system.[58]

20. External complaints mechanisms

1) Every person deprived of liberty has the right to communicate directly and confidentially with external oversight bodies and other competent authorities.[59]

2) External complaints mechanisms must be independent, accessible, impartial and effective.

3) Complaints may be submitted anonymously where appropriate.

4) Complaints may be lodged with:

   a) National Human Rights Institutions;
   b) National Preventive Mechanisms;
   c) official visitors;
   d) judges, magistrates and prosecutors;
   e) designated correctional oversight bodies;

[58] India: Model Prison Manual, 2016.

[59] The United Nations Standard Minimum Rules for the Treatment of Prisoners. See also Position Paper on a Moel Law for Correctional Centre Oversight in SADC, 2025.

f) commissions of inquiry;
g) healthcare professionals;
h) independent correctional centre visiting committees;
i) relevant international or regional mechanisms; and
j) any other body authorised by law to receive complaints.

5) A complaint may be submitted simultaneously to both internal and external mechanisms.

6) Complaints may be submitted by the detainee, a legal representative, a family member, or any other person acting in the detainee's interests where the detainee is unable or unwilling to act personally.[60]

7) Upon receiving information indicating torture, ill-treatment or other serious human rights violations, the competent authority must ensure that a prompt, impartial, effective, gender-responsive, child-sensitive and trauma-informed investigation is undertaken. [61]

21. Remedies and protection measures

1) Complaints mechanisms must provide access to effective remedies, including restitution, rehabilitation, compensation, guarantees of non-repetition and any other appropriate relief.[62]

2) Alleged perpetrators must, where appropriate, be subjected to disciplinary, administrative, civil or criminal proceedings.

3) Persons accused of serious misconduct may be removed from positions of authority or influence over complainants, witnesses, investigators or affected persons pending the outcome of investigations.[63]

4) Effective measures must be taken to protect complainants, witnesses, informants and whistle-blowers from reprisals.[64]

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[60] The United Nations Standard Minimum Rules for the Treatment of Prisoners. See also Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

[61] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 256, 259.

[62] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 10. African Commission on Human and Peoples' Rights General Comment No. 4 on the Right to Redress for Victims of Torture and other Cruel, Inhuman or Degrading Punishment or Treatment.

[63] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 195.

[64] Article 33 of the UN Convention against Corruption.

5) Attention must be given to the needs and circumstances of persons who may face heightened vulnerability, discrimination or barriers to reporting abuse.[65]

22. Complaints and disclosures by staff

1) Correctional staff have the right and duty to report unlawful conduct, abuse, corruption, misconduct or human rights violations.

2) Staff may make reports or disclosures through internal or external mechanisms and are entitled to confidentiality and protection from retaliation or adverse employment consequences. [66]

3) Oversight bodies may investigate, monitor or refer staff complaints and disclosures and must, where appropriate, monitor the outcome of any resulting proceedings.

PART 5: OVERSIGHT MECHANISMS

EXPLANATORY NOTE:
Most jurisdictions provide for oversight of correctional centres through correctional services legislation, national human rights institution legislation, or related laws. This Part sets out best practices for strengthening oversight mechanisms, enhancing implementation of oversight recommendations, and ensuring accountability through appropriate disciplinary and criminal processes where correctional centre staff violate the law.

23. Official visitors[67]

EXPLANATORY NOTE:
Correctional services legislation should provide broad access to correctional centres for official visitors to facilitate effective oversight. Legislation may distinguish between visitors authorised to conduct unannounced visits and those required to provide prior notice. In all cases, official visitors should enjoy unrestricted access to correctional centres, including during states of emergency or disaster.

[65] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 10.

[66] Eswatini: Correctional Services Act, 2017.

[67] Eswatini: Correctional Services Act of 2017, section 122. The Act is one of the most comprehensive in its designation of who can be official visitors to correctional centres, including: Ministers, Members of Parliament, Judicial officers, the Human Rights Commission, International bodies, High Commission officials, and chiefs. Mozambique: Penal Execution Code of 2019, section 78 also includes the Bar Council's head as an independent visitor.

23.1 Categories of official visitors

1) Official visitors authorised to conduct unannounced visits include, but are not limited to:

   a) members of the Executive;
   b) members of national and provincial parliaments and district councils; [68]
   c) visiting justices and prosecutors;
   d) representatives of the child justice review board;
   e) district health officers, environmental health officers, and other officers responsible for compliance with environmental and health standards;
   f) National Human Rights Institutions;
   g) members of visiting committees; and
   h) staff of designated independent oversight bodies.

2) Official visitors required to provide prior notification of their intended visit and its purpose include, but are not limited to:

   a) legal practitioners and professional legal bodies;
   b) health professionals and professional associations;
   c) disability councils, children's councils, and similar bodies;
   d) traditional and community leaders;
   e) election management bodies and election observers;
   f) international and regional institutions;[69]
   g) designated civil society organisations;
   h) organisations providing services to persons facing additional barriers in detention;
   i) journalists;
   j) lay visitors;
   k) offenders' aid societies; [70] and
   l) international organisations and diplomatic representatives, including the International Committee of the Red Cross, the International Organization for Migration, the United Nations High Commissioner for Refugees, and embassy or consular officials.

3) Official visitors should receive appropriate orientation and training regarding their oversight responsibilities.

23.2 Powers of official visitors

[68] Brazil: Law of Penal Execution No. 7 of 1984; Botswana: Prison Act No. 29 of 1979.

[69] Eswatini: Correctional Services Act, 2017. In the Democratic Republic of Congo, MONUSCO has monitored conditions in detention. In Comoros, the International Committee of the Red Cross is designated to conduct visits.

[70] Namibia: Correctional Service Act, 2012, sections 122 – 125.

1) Official visitors may visit correctional centres, conduct inspections, and report on their findings.

2) Official visitors shall perform their functions independently and without interference.[71]

3) Subject to their statutory mandate, official visitors shall have access to all relevant persons, places, records, and information within a correctional centre.

4) Access to correctional centres shall not be restricted during a state of emergency, state of disaster, or similar exceptional circumstances.

23.3 Visitor records

1) Upon completion of a visit, an official visitor shall record in the visitors' book any observations, recommendations, or concerns considered relevant.

2) Appropriate follow-up measures shall be undertaken to monitor the implementation of recommendations and safeguard persons interviewed during the visit.[72]

24. Visiting justices[73]

EXPLANATORY NOTE:
For purposes of this Part, "visiting justices" includes judges, magistrates, and, where applicable, prosecutors authorised to oversee correctional centres. Visiting justices play a critical role in preventing unlawful detention, protecting detainees' rights, and promoting accountability within correctional facilities.

24.1 Duties of the judiciary

[71] Angola: Republican Gazette, 2008.

[72] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 316.

[73] Namibia: Correctional Service Act, 2012. Provides for certain persons to serve as visiting justices ex officio, including judges of the Supreme Court or High Court; Ministers of Government; members of the National Assembly or the National Council; and the Permanent Secretary. Magistrates are visiting justices ex officio for their magisterial district. The Act also provides for the Minister, on recommendation of the Governor of a Regional Council, to appoint by notice in the Gazette fit and proper persons within the region to serve as visiting justices in that region.

1) Judicial officers shall safeguard the rights of persons deprived of liberty and ensure compliance with constitutional and legal protections.[74]

2) Judicial officers may require any person deprived of liberty to be brought before them without delay, where necessary to verify their treatment or detention conditions.[75]

3) Allegations of torture, cruel, inhuman or degrading treatment, denial of due process, or other serious rights violations shall be promptly referred to the appropriate investigative or prosecutorial authority.[76]

4) The Senior Magistrate in each district shall receive regular reports concerning:

   a) persons held in police custody who have not appeared before a court; and
   b) persons held in prolonged pre-trial detention.

5) Courts shall prioritise cases involving unlawful or prolonged detention.

6) Heads of correctional centres shall submit periodic detainee registers to the relevant judicial authority, identifying the legal basis for detention and the date of admission.[77]

7) Courts may convene camp courts at correctional centres to address case backlogs, bail applications, and prolonged detention.[78]

8) Each court jurisdiction shall maintain a roster for correctional centre visits by visiting justices.[79]

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[74] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 135.

[75] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 137.

[76] Angola: Republican Gazette, 2008, section 43.

[77] Zimbabwe: Prison Act, section 124.

[78] Malawi uses camp courts to ease the burden on the justice system and address overcrowding in correctional centres. Camp courts save the time and expense of transporting persons deprived of liberty to the courtroom while facilitating access to justice. The process begins with local paralegals compiling a list of remandees whose cases require attention. This list is submitted to a magistrate and simultaneously served on the police stations responsible for the respective cases. The magistrate or judge then holds hearings inside the correctional centre. Camp courts have played a significant role in securing bail and facilitating the release of detainees. In the past twenty-five years, camp courts have expanded in scope and impact. Initially limited to misdemeanours and other minor offences, camp courts are now used for homicide cases, with High Court judges visiting prisons to facilitate releases, bail, or the extension of remand warrants. The camp court model is used across places of detention, including reformatories.

[79] Current practice in Malawi.

9) Judicial performance assessments may take into account participation in correctional centre oversight activities.[80]

24.2 Duties of prosecutors in civil law countries in relation to correctional centre oversight

1) The representative of the Public Prosecutor at every court executing sentences is responsible for:

   a) visiting correctional centres regularly and whenever necessary or convenient for the exercise of their powers;
   b) verifying the legality of decisions by the correctional centre, which must be communicated for this purpose, and to challenge those decisions which it considers illegal;
   c) supporting the execution of sentences, including taking measures to calculate periods of detention in the case of cumulative sentences, promoting legal commutation of sentences, and giving an opinion on the pardoning of sentenced detainees;[81]
   d) promoting the transfer, to the country of nationality of residence, of a person subject to a measure of deprivation of liberty.[82]

24.3 Duties of visiting justices

1) Visiting justices must conduct regular (at least quarterly) visits to correctional centres in their jurisdiction to ensure that national laws and the rules, standing orders, and administrative directives for such facilities are observed.[83]

2) During each visit, a visiting justice must:

   a) allow all persons deprived of liberty to present their grievances or requests;[84]

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[80] E Uzebu-Imarhiagbe, "Women Judges Making a Difference: Evidence from Midwestern Nigeria, 1991-2010," *Journal of the Historical Society of Nigeria* 29 (2020): 103–20.

[81] Democratic Republic of Congo: Order relating to prisons, 1965, requires monthly inspections by prosecutors to verify legality of detention and prisoner records.

[82] Mozambique: Penalty Execution Code, Law 26 of 2019, section 201.

[83] See India: Punjab Prison Manual, section 42, 1996. See also the India: Model Prison Manual, 2016 which specifies that each judge should visit each correctional centre in their jurisdiction once a month. Madagascar: Prison Administration Code, 1995, requires monthly visits by judges and prosecutors. It further requires that Presidents of Criminal Courts visit correctional centres during each session. Madagascar: Code of Criminal Procedure requires monthly visits by judicial officials.

[84] India: Model Prison Manual, 2016.

b) visit every person deprived of liberty in solitary confinement or a separate cell;
c) inspect and assess the quality and quantity of food ordinarily served to persons deprived of liberty;
d) ascertain conditions of health, cleanliness, and security for persons deprived of liberty;
e) examine any sick detainees and inspect the medical facilities;
f) inspect several wards, cells, yards, punishment cells and other apartments and divisions of the correctional centre;[85]
g) inspect detainees at labour and examine the record for the manufacturing process conducted, the value of correctional centre labour, and the number of detainees employed;[86]
h) monitor the treatment and complaints of persons facing additional barriers;
i) verify that all persons deprived of liberty, including pre-trial detainees, have access to legal representation and family contact;
j) observe and report on access to educational, vocational, recreational, and rehabilitative programmes;
k) check whether the early release process is transparent and procedures are clear to persons deprived of liberty;
l) check whether there are clear indicators for early release, and monitoring of compliance with release conditions;
m) consider the release of incarcerated pregnant women and women with children, if the best interests of the child require it; and
n) perform any other functions as may be prescribed.[87]

3) A visiting justice must inspect records at the correctional centre to ascertain the following:

a) detainees' management, discipline and treatment;
b) the adequacy of the record-keeping systems, including the maintenance of registers for admissions, releases, transfers and medical treatment;
c) the existence of illegal detentions, detentions for an undue length of time or detentions that exceed legal custody limits;
d) whether the correctional centre's complaints and requests management processes are effective for detainees;[88]
e) the number of foreign nationals detained in a correctional centre under immigration laws;

[85] Kenya: Prison Act Chapter 90, 2009.

[86] Kenya: Prison Act Chapter 90, 2009; Scotland: Prison Act, 1989.

[87] Namibia: Correctional Services Act, 2012.

[88] Position Paper on Correctional Centre Oversight in the SADC countries, 2025.

f) up-to-date completion of the death register and the recording of legally required investigations and reports;[89]
g) up-to-date completion of the injury register and the recording of legally required investigations and reports; and
h) up-to-date completion of the sexual violence register and the recording of any legally required investigations and reports.

24.4 Powers of visiting justices

1) Visiting justices may enter and inspect a correctional centre at any time, with or without notice.[90]

2) Visiting justices shall have unrestricted access to all areas of a correctional centre and to all relevant records.

3) Visiting judges may order the immediate release of any person unlawfully detained, including persons:

a) serving indefinite incarceration;[91]
b) detained beyond lawful pre-trial custody limits;[92]
c) otherwise detained without lawful authority.

24.5 Reporting by visiting justices

1) Following each visit, a visiting justice shall record findings and recommendations in the visitors' book.[93]

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[89] Zimbabwe: Prisons and Correctional Services Act, 2023

[90] Zambia: Correctional Services Act, section 93. Namibia: Correctional Services Regulations, 2016, regulation 241: Access to correctional facility by judges of Supreme Court or High Court or by magistrates (1) A judge of the Supreme Court or High Court must, in his or her official capacity, at all times be afforded entry to a correctional facility as well as access to any section of the correctional facility and he or she may interview any offender and may report to the Commissioner-General in respect of any matter which he or she considers should be brought to the Commissioner-General's notice. (2) A magistrate must, in his or her official capacity, at all times be afforded entry to a correctional facility within the area of his or her jurisdiction, as well as access to any section of such correctional facility, to see every offender and, if he or she desires, to interview any offender, and he or she may report his or her findings in respect of that visit to the Commissioner-General. (3) A judge or a magistrate desiring to visit a correctional facility must sign the official visitor's book of the correctional facility, and, subject to satisfactory identification, his or her signature is sufficient authority for entry to the correctional facility in terms of subregulation (1) or (2).

[91] In reference to the laws in SADC countries that allow for detention at the President's pleasure.

[92] Madagascar: Code of Criminal Procedure, section 334 ter, prohibits pre-trial detention exceeding 30 months; Malawi: Criminal Procedure and Evidence Code, 1967 section 161 (A-J). Comoros: Penal Code, 2020.

[93] Namibia: Correctional Services Act, 2012.

2) A written report shall be submitted to the head of the correctional centre and the head of the correctional service within seven days of the visit.[94]

3) Reports shall identify individual and systemic concerns and, where appropriate, recommend remedial action.

4) A summary of each report shall be made publicly available, subject to privacy and security considerations.[95]

5) The receiving authority shall respond in writing within a prescribed period, outlining measures taken or proposed in response to the report.

6) Visiting justices shall monitor implementation of recommendations and escalate serious unresolved concerns to the Chief Justice, relevant Minister, or designated oversight body.

25. National Human Rights Institutions (NHRIs)

EXPLANATORY NOTE:
Independent National Human Rights Institutions (NHRIs), including Human Rights Commissions and Ombud institutions, play a critical role in monitoring places of detention, investigating complaints, and promoting accountability. Other independent bodies may exercise oversight functions in relation to specific groups, including persons with disabilities, children, or health service users.

States shall ensure that NHRIs are established and operate in accordance with the Paris Principles, including guarantees of independence, pluralism, adequate resources, and effectiveness.

As most NHRIs are established under separate enabling legislation, the provisions below may be incorporated into or aligned with existing legislation to strengthen oversight of correctional centres.

25.1 Independence, cooperation and resources

1) An NHRI and its staff shall perform their functions independently, impartially, and free from political or other interference.[96]

[94] Zimbabwe: Prisons and Correctional Services Act, 2023, India: Model Prisons and Correctional Services, 2023.

[95] India: Punjab Prison Manual, section 42, 1996.

[96] Pakistan: The National Commission for Human Rights Act, 2012.

2) No person or authority may interfere with, obstruct, hinder, intimidate, or improperly influence the NHRI or any person acting on its behalf in the exercise of its functions.[97]

3) All State institutions and private entities shall cooperate with and provide reasonable assistance to the NHRI in the performance of its functions.[98]

4) In conducting oversight of correctional centres, the NHRI may engage suitably qualified legal, human rights, medical, psychosocial, and other experts as necessary.

5) The NHRI may consult and cooperate with academic institutions, professional bodies, civil society organisations, and other oversight mechanisms to strengthen the effectiveness of its oversight activities.

6) The NHRI shall develop and periodically review priorities and objectives for correctional centre oversight and may consult relevant stakeholders in doing so.

Budgetary Independence

7) The State shall provide the NHRI with adequate financial, human, and technical resources to enable it to discharge its functions effectively, including its mandate to oversee correctional centres.

8) Funds allocated to the NHRI shall be sufficient to safeguard its operational independence. They shall not be subject to executive control or approval in the exercise of their statutory functions.[99]

9) The NHRI shall have authority to administer and expend its allocated budget without prior approval, subject only to applicable laws governing public financial accountability.

25.2 Duties of NHRIs in relation to correctional centre oversight

1) The NHRI shall:

   a) monitor and assess conditions of detention and the treatment of persons deprived of liberty;
   b) collect and analyse data relating to detention conditions and compliance with applicable national, regional, and international standards;

[97] South Africa: South African Human Rights Commission Act, 2013.

[98] Lesotho: Human Rights Commission Act, 2016.

[99] Pakistan: The National Commission for Human Rights Act, 2012.

c) monitor the treatment and protection of persons facing additional barriers;
d) investigate complaints concerning alleged human rights violations, abuse of authority, or unlawful, unfair, or degrading treatment in correctional centres;[100]
e) monitor compliance with statutory reporting and record-keeping obligations;
f) receive and consider complaints submitted by persons deprived of liberty, directly or through accessible and confidential complaint mechanisms;
g) recommend individual and systemic measures to prevent and remedy human rights violations;
h) promote reforms to legislation, policies, procedures, and practices affecting persons deprived of liberty;[101]
i) monitor the effectiveness of internal complaint and grievance mechanisms;
j) coordinate and share information with other oversight bodies to promote accountability and avoid duplication;[102]
k) promote training for oversight personnel on the rights and needs of persons facing additional barriers; and
l) ensure that accessible and child-friendly mechanisms exist for children and other vulnerable persons to submit complaints.

2) Following an investigation, the NHRI shall:

a) provide the complainant or their representative with an appropriate summary or copy of its findings, subject to confidentiality and protection requirements;
b) publish its findings and recommendations, together with any response received from the relevant authority, unless publication would prejudice the rights or safety of any person;[103]
c) ensure that reports and recommendations are available in accessible formats and languages; and
d) take appropriate measures to protect complainants, witnesses, whistle-blowers, and other cooperating persons from retaliation.

25.3 Powers of NHRIs in relation to correctional centre oversight

1) The NHRI shall have the power to:

a) enter and inspect any correctional centre without prior notice;[104]

[100] Lesotho: Human Rights Commission Act, 2016.

[101] The United Nations Standard Minimum Rules for the Treatment of Prisoners. See also Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

[102] Scotland: Scottish Public Services Ombudsman Act, 2002

[103] Pakistan: The National Commission for Human Rights Act, 2012.

[104] Scotland: Scottish Human Rights Commission Act, 2006.

b) access all areas, records, documents, and information relevant to the treatment of persons deprived of liberty;
c) conduct private and confidential interviews with any person deprived of liberty or any other relevant person;[105]
d) receive complaints and conduct investigations into individual or systemic human rights violations;
e) make findings and recommendations and require written responses from relevant authorities; and
f) report its findings to Parliament and any other competent authority.

2) The NHRI may:

a) summon any person to appear before it and produce documents or information relevant to an investigation;
b) require any person to answer questions relevant to an investigation;[106]
c) direct a correctional centre or responsible authority to take remedial measures and report on implementation;[107]
d) institute or intervene in legal proceedings relating to the exercise of its functions;[108]
e) refer matters to law enforcement, prosecutorial, disciplinary, or regulatory authorities; and
f) recommend compensation, restitution, rehabilitation, or other appropriate remedies for victims of human rights violations.[109]

3) A person commits an offence if that person:

a) refuses, without lawful excuse, to provide information or documents lawfully requested by the NHRI;[110]
b) obstructs or hinders the NHRI in the exercise of its functions;
c) intimidates, harasses, victimises, or retaliates against any person for cooperating with the NHRI; or

[105] Scotland: Scottish Commission for Human Rights Act, 2006.

[106] Kenya: Kenya National Commission on Human Rights Act, 2011.

[107] Lesotho: Ombudsman Act No 9 of 1996. The Ombud is empowered by law to "at any reasonable time and upon sufficient notice to the specified authority concerned (b) enter and inspect police, military or correctional centre cells, government hospitals, asylums, or any other places or centers where any person is detained or kept whether for safe custody or in terms of any law". Both the Constitution and the law empower the Ombud to investigate complaints and recommend compensation or any other appropriate remedy. Failure or refusal to implement the recommendations within a specified time, results in a report to Parliament which shall take appropriate action. It is further an offence to obstruct the Ombud's investigations or provide false information.

[108] Lesotho: Human Rights Commission Act, 2016.

[109] Lesotho: Human Rights Commission Act, 2016.

[110] Nigeria: National Human Rights Commission (Amendment) Act, 2010.

d) fails, without reasonable excuse, to comply with a lawful directive or order of the NHRI.

25.4 Enforcement of NHRI recommendations

1) A correctional centre or other authority to whom an NHRI recommendation is directed shall, within 30 days or such shorter period as the NHRI may specify, provide a written response setting out:

   a) the measures taken or proposed to implement the recommendation; and
   b) the timeframe for implementation.

2) Where a recommendation is not implemented, the NHRI may:

   a) issue further directives;
   b) refer the matter to the relevant supervisory, disciplinary, regulatory, or prosecutorial authority; or
   c) institute proceedings before a competent court.

3) The NHRI may apply to the High Court for appropriate relief, including orders enforcing its recommendations or protecting the rights of affected persons.[111]

4) Recommendations made by the NHRI may include:[112]

   a) corrective measures to address identified violations;
   b) amendments to legislation, policies, procedures, or practices;
   c) measures to prevent recurrence;
   d) disciplinary action against responsible officials;
   e) referral for criminal investigation or prosecution;
   f) compensation, restitution, rehabilitation, or other reparations;
   g) interim measures to protect affected persons; or
   h) any other remedy necessary to secure compliance with human rights obligations.

25.5 Reporting by NHRIs in relation to correctional centre oversight

1) Every NHRI responsible for oversight of a correctional centre shall submit an annual report to the legislature.

2) The report shall include:

   a) the number and nature of complaints received and investigated;

[111] Lesotho: Human Rights Commission Act, 2016.

[112] Lesotho: Human Rights Commission Act, 2016.

b) findings and recommendations made;
c) responses received from relevant authorities;
d) systemic concerns identified;
e) activities undertaken in the exercise of its oversight mandate; and
f) recommended legislative, policy, or administrative reforms.

3) The NHRI may publish thematic, investigative, inquiry, policy, or special reports on matters within its mandate.

4) All reports shall be made publicly available in accessible formats and transmitted to relevant oversight institutions and parliamentary committees.[113]

5) The legislature may consider any NHRI report and may require relevant public authorities to respond to its findings and recommendations.

26. Independent visitors

EXPLANATORY NOTE:
Independent visitors, including independent monitoring boards, visiting committees, and lay visitors, provide an important community-based oversight mechanism for correctional centres. Their proximity to correctional facilities enables regular monitoring, early identification of concerns, and follow-up on detention conditions. Where provided for by law, independent visitors should complement, and not replace, other oversight mechanisms.

26.1 Functions and powers of independent visitors

1) Members of the visiting committee may enter and inspect a correctional centre at any reasonable time, with or without prior notice. They shall have access to all areas of the facility and to persons deprived of liberty.[114]

2) A visiting committee shall visit each correctional centre within its jurisdiction at least three times per year and shall:

a) inspect accommodation, sanitation, healthcare, food preparation, and other facility conditions;
b) receive and consider complaints from persons deprived of liberty;
c) examine relevant registers, records, and documents;[115]
d) assess compliance with applicable laws, regulations, and standards; and

[113] Pakistan: The National Commission for Human Rights Act, 2012.

[114] England: Prison Act, 1952, Ghana: Prison Service Act, 1972. Botswana: Prisons Act, 1979 requires visits at least every three months.

[115] Ghana: Prison Service Act, 1972; Mauritius: Reform Institutions Act, 1988.

e) identify cases of unlawful detention, prolonged detention, or other matters requiring urgent attention.[116]

3) A visiting committee shall promptly bring any concern requiring remedial action to the attention of the head of the correctional centre and, where appropriate, to the responsible authority.[117]

4) The visiting committee shall maintain records of all visits, findings, recommendations, and follow-up actions.[118]

26.2 Appointment and training

1) Independent visitors shall be appointed through a transparent process designed to ensure independence, integrity, and the absence of conflicts of interest.[119]

2) Members of visiting committees shall receive initial and ongoing training on:

a) correctional law and applicable human rights standards;
b) monitoring and inspection methodologies; and
c) the rights and needs of persons facing additional barriers.[120]

26.3 Reporting

1) Following each visit, the visiting committee shall record its observations and recommendations in the correctional centre visitor register.

2) The visiting committee may submit reports and recommendations to the head of the correctional centre, the responsible Ministry,[121] or any designated oversight body.

3) Reports shall be made publicly available to the greatest extent possible, subject to privacy, security, and confidentiality requirements.[122]

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[116] India: Punjab Prisons Manual, 1996

[117] Ghana: Prison Service Act, 1972.

[118] Scotland: Prisons Act, 1989.

[119] South Africa: Correctional Services Act, 1998.

[120] England: Prison Rules, 2016.

[121] England: Prison Rules, 2016, South Africa: Correctional Services Act, 1998.

[122] For example, see the reports on correctional centre visits by the prison inspectorates of Scotland and New Zealand. The Independent Monitoring Boards of England and Wales publish their correctional centre visit reports and annual reports online. They also publish the Minister's written response to their reports and the remedial actions the ministry intends to take to address concerns raised by the independent monitoring boards. Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

4) The responsible authorities should facilitate regular engagement between correctional centre management, oversight bodies, and relevant stakeholders to promote the implementation of recommendations.[123]

27. Designated independent correctional centre oversight bodies

EXPLANATORY NOTE:
Designated independent correctional centre oversight bodies provide specialised, independent oversight of correctional systems. They serve as external monitoring, complaint-handling, and compliance mechanisms and should operate independently of correctional authorities.

27.1 Establishment, composition and administration[124]

1) A designated independent correctional centre oversight body shall be established by law and shall operate independently of any correctional authority.

2) Members shall be appointed through an independent process and collectively possess expertise in law, human rights, correctional administration, investigations, public administration, finance, and the rights of persons facing additional barriers.

3) The oversight body shall determine its own procedures and methods of work.

4) The oversight body shall maintain records of complaints, investigations, findings, decisions, recommendations, and measures taken in response thereto.[125]

5) The State shall provide adequate funding and resources to ensure the operational independence and effectiveness of the oversight body.

27.2 Functions and powers

[123] Mauritius: Reform Institutions Act of 1988. Boards of Visitors are established for each institution, composed of not less than three magistrates, a lawyer and four other members. The Boards can hear any complaints, inquire into abuse and repairs, and inspect any part of the institution and all records. In addition, the law provides for Discharged Persons' Aid Committees, which interview detainees before discharge, endeavor to assist detainees in finding employment, and assist in their reintegration.

[124] Malawi: Constitution of the Republic of Malawi, 1994.

[125] Zimbabwe: Zimbabwe Independent Complaints Commission Act No. 5 of 2022, section 25.

1) The oversight body shall function as an independent external complaints, monitoring, and compliance mechanism for correctional centres.[126]

2) The oversight body shall:

   a) monitor and report on conditions of detention, treatment of persons deprived of liberty, and the administration of correctional centres;
   b) receive, investigate, and determine complaints concerning correctional centres;
   c) conduct inspections and visits, with or without prior notice, to any correctional facility;
   d) require the production of information, records, and documents relevant to its functions;
   e) require any person to provide information relevant to an investigation;
   f) monitor implementation of recommendations issued by courts and oversight bodies and require corrective action plans where appropriate;
   g) oversee compliance by private entities and contractors providing services within correctional centres; and
   h) perform any other function conferred by law[127]

3) In the exercise of its functions, the oversight body shall not be subject to the direction or control of any person or authority.[128]

4) The oversight body shall submit an annual report to the legislature. It may submit special reports on matters of urgency or public importance.[129]

27.3 Principles governing monitoring and investigations

1) All monitoring and investigations shall be conducted in accordance with the following principles:

   a) independence;
   b) promptness;
   c) thoroughness;
   d) participation and protection of victims and witnesses; and
   e) transparency, subject to confidentiality and data protection requirements.

2) Monitoring and investigations shall employ gender-sensitive, child-sensitive, disability-inclusive, and trauma-informed approaches.

[126] Malawi: Constitution of the Republic of Malawi, 1994.

[127] Malawi: Constitution on the Republic of Malawi, 1994.

[128] Malawi: Constitution of the Republic of Malawi, 1994.

[129] Malawi: Constitution of the Republic of Malawi, 1994.

3) Reports and recommendations shall address the particular needs and vulnerabilities of women, children, persons with disabilities, LGBTQIA+ persons, and other persons facing additional barriers.

27.4 Complaints and investigations[130]

1) The oversight body shall acknowledge and assess complaints promptly and, where appropriate, initiate an investigation without undue delay.

2) Where a complaint raises an immediate risk to life, safety, health, or liberty, the oversight body shall take urgent action, including, where necessary, seeking interim relief from a competent court.

3) The complainant shall be kept informed of the progress of the matter at reasonable intervals.

4) Where additional time is required to complete an investigation, the oversight body shall notify the complainant of the reasons for the delay and the anticipated completion date.

27.5 Hearings or inquiries[131]

1) The oversight body may conduct hearings or inquiries as necessary to effectively resolve a complaint or investigation.

2) Any person whose conduct is the subject of an investigation shall be afforded a reasonable opportunity to respond and may be represented by a legal practitioner or other representative permitted by law.

3) For a hearing or inquiry, the oversight body shall have the powers of a commission of inquiry established under applicable law.

4) The strict rules of evidence shall not bind the oversight body. However, they shall observe the requirements of procedural fairness and natural justice.

5) Hearings may be conducted in private where necessary to protect privacy, security, safety, or the public interest.

27.6 Findings, orders and recommendations[132]

[130] Zimbabwe: Zimbabwe Independent Complaints Commission Act No. 5 of 2022, section 14.

[131] Zimbabwe: Zimbabwe Independent Complaints Commission Act No. 5 of 2022, section 15.

[132] Zimbabwe: Zimbabwe Independent Complaints Commission Act No. 5 of 2022, section 16.

1) Upon completion of an investigation, hearing, or inquiry, the oversight body may make findings and issue orders or recommendations as appropriate.

2) Without limiting subsection (1), the oversight body may:

   a) require corrective action;
   b) recommend amendment of a law, policy, procedure, or practice;
   c) recommend disciplinary proceedings against any responsible official;
   d) refer a matter for criminal investigation or prosecution;
   e) recommend compensation, restitution, rehabilitation, or other remedies;
   f) recommend the release of a person unlawfully detained; or
   g) recommend any other measure necessary to prevent recurrence or remedy a violation.

3) A copy of any report containing findings or recommendations shall be provided to the head of the correctional centre, the Head of the Correctional Service, and the responsible Minister.

4) Subject to applicable law, findings of fact contained in a report of the oversight body shall be admissible in subsequent civil, criminal, or disciplinary proceedings.

27.7 Compliance and enforcement[133]

1) Any authority to whom an order or recommendation is directed shall, within the period specified by the oversight body, provide a written response indicating the measures taken or proposed to implement it.

2) Where disciplinary action is recommended, the responsible authority shall:

   a) initiate appropriate proceedings within 30 days;
   b) provide periodic progress reports where the proceedings remain ongoing; and
   c) notify the oversight body of the outcome upon conclusion of the proceedings.

3) Where an authority fails, without reasonable excuse, to implement an order or respond to a recommendation, the oversight body may:

   a) issue a special report to the legislature;
   b) refer the matter to a competent authority; or
   c) apply to a court for appropriate relief.

[133] Zimbabwe: Zimbabwe Independent Complaints Commission Act No. 5 of 2022, section 17.

4) Special reports submitted under subsection (3) shall be tabled before the legislature as soon as reasonably practicable.

28. Commissions of Inquiry in relation to correctional centre oversight[134]

EXPLANATORY NOTE:
A Commission of Inquiry may be established to investigate serious incidents or systemic issues affecting the correctional system. Such commissions complement the oversight mechanisms provided for in this Model Law, and their findings and recommendations should inform the work of those mechanisms.

28.1 Establishment of a Commission of Inquiry

1) Under domestic law, the President, the Minister, or the Parliament may be empowered to establish a Commission of Inquiry, appoint one or more Commissioners, and authorise them to inquire into any matter relating to correctional centre oversight.[135]

2) Commissioners should be appointed based on their integrity, impartiality, competence, independence and relevant expertise.[136]

28.2 Functions and powers of a Commission of Inquiry

1) Commissioners shall conduct a full, impartial and thorough inquiry into the matters set out in the Commission's Terms of Reference.[137]

2) For the inquiry, Commissioners shall have the powers of the High Court to summon witnesses, require the production of books, plans, records, and other documents, and examine witnesses and interested parties under oath.

3) Commissioners shall have the authority to conduct on-site visits and inspections.[138]

28.3 Reporting by a Commission of Inquiry

[134] An example is the South African Jali Commission of Inquiry, which was appointed in 2001 to investigate and report on incidents of corruption, maladministration, violence or intimidation within the Department of Correctional Services. The terms of reference for the Commission enabled it to make recommendations on steps to prevent the recurrence of such incidents, and on steps to be taken against any employee who, in the Commission's findings, is implicated in impropriety.

[135] Malawi: Commissions of Inquiry Act, 2014.

[136] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 241.

[137] Malawi: Commissions of Inquiry Act, 2014.

[138] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 250.

1) The Terms of Reference for every Commission of Inquiry relating to the correctional system shall specify procedures for sharing reports and relevant information with other oversight bodies.

2) The Commission shall publish its final report within a reasonable period and ensure that it is made publicly available in accessible formats and languages.[139]

3) The Commission shall provide a complete record of its proceedings and the reasons for its findings, conclusions and recommendations.[140]

4) Within 90 days of receiving the final report, the State shall publish an official response indicating the measures it has taken or intends to take to implement the Commission's recommendations and the time frame for doing so.[141]

PART 6: PROTECTION OF PERSONS FACING ADDITIONAL BARRIERS

EXPLANATORY NOTE:
Certain persons deprived of liberty may face heightened risks of discrimination, violence, torture, ill-treatment, neglect, or exclusion within correctional settings. Oversight bodies should pay particular attention to the treatment, protection, and well-being of such persons and assess whether correctional centres have implemented appropriate measures to safeguard their rights and meet their needs.

Correctional centres should ensure that all persons deprived of liberty undergo individualised risk and needs assessments and are assigned to appropriate accommodation, support services, and management regimes. Where possible, non-custodial measures and lower-security placements should be prioritised.

Oversight mechanisms should reflect principles of diversity and inclusion and include personnel with expertise in, among other areas, trauma-informed care, child justice, paediatric health, the health and care needs of older persons, disability rights, and issues relating to sexual orientation, gender identity, gender expression, and sex characteristics.

[139] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 240. UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

[140] Malawi: Commissions of Inquiry Act, 2014.

[141] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 251.

Overcrowding increases vulnerability and undermines the State's duty of care towards persons deprived of liberty. The State should therefore ensure that detention is used only as a measure of last resort and that alternatives to detention are actively considered and utilised wherever appropriate.

Categories of persons who may face additional barriers are set out in the Schedule to this Model Law.

29. Duty to oversee the protection of persons facing additional barriers

1) Every oversight mechanism shall assess the extent to which a correctional centre complies with its duty of care towards all persons deprived of liberty, with particular regard to persons facing additional barriers.

2) Every oversight mechanism shall assess whether the correctional centre has established and implements an effective process for conducting individualised risk and needs assessments, including at a minimum the following:

   a) Upon admission, a risk and needs assessment shall be conducted within 72 hours to identify immediate security risks, health and welfare needs, vulnerabilities, and any requirements for urgent referral, protection, or appropriate placement.
   b) Pending completion of the assessment, the detainee may be accommodated in a designated admission unit for a period not exceeding 15 days to enable the correctional centre to determine:
      i. the healthcare and other support services required, subject to clinical assessment;
      ii. the detainee's security classification and accommodation requirements, taking into account risks to the detainee, other persons, and the public; and
      iii. any assistance required to address urgent personal, family, legal, or employment-related matters.[142]
   c) Relevant information arising from the assessment shall be recorded in the detainee's case file and promptly brought to the attention of the unit manager or other responsible official to ensure appropriate protective and management measures are implemented.
   d) Where uncertainty exists regarding the accommodation, support, or protection required for a person facing additional barriers, the correctional centre should seek an assessment from a qualified social worker or another suitably qualified service provider or organisation with relevant expertise.

[142] Mozambique: Penalty Execution Code, Law 26 of 2019, section 26(1).

e) All newly admitted detainees shall receive an orientation, delivered by the head of the correctional centre or a designated official, on their rights, obligations, available services, and applicable procedures.

3) To promote the equal protection of persons facing additional barriers, oversight mechanisms shall assess whether correctional centres:

a) provide effective and accessible mechanisms for complaints, justice, redress, and legal assistance;
b) maintain policies and procedures that protect individuals from discrimination, stigma, harassment, and verbal, physical, or sexual violence;
c) comply with applicable international and regional human rights standards;
d) ensure that management systems, institutional policies, accommodation arrangements, programmes, services, and standard operating procedures are responsive to the needs of persons facing additional barriers; and
e) provide healthcare services equivalent to those available in the community, free of charge where required by law, and without discrimination.[143]

4) In assessing compliance with subsection (3)(c), oversight mechanisms shall have regard to relevant international and regional human rights instruments, including:

a) the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules);
b) the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);
c) the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules);
d) the United Nations Convention on the Rights of Persons with Disabilities;
e) the African Charter on the Rights and Welfare of the Child;
f) the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;
g) the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (the Luanda Guidelines);
h) the Guidelines on Combating Sexual Violence and its Consequences in Africa; and
i) the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines).

[143] UNSMR, rule 24.

5) Oversight mechanisms shall assess whether correctional centre staff receive regular and adequate training on:

   a) the identification, protection, and appropriate management of persons facing additional barriers, including those at heightened risk of discrimination, violence, exploitation, or neglect; and
   b) applicable human rights standards, including gender equality, disability rights, mental health, child justice, professional ethics, and relevant international and regional human rights law.

PART 6 – ALTERNATIVES TO DETENTION

EXPLANATORY NOTE:
Overcrowding remains one of the most serious and persistent challenges facing correctional systems. It undermines the rights and dignity of persons deprived of liberty and strains institutional resources. It contributes to poor living conditions, violence, inadequate healthcare, and limited access to rehabilitation and reintegration services. International and regional standards recognise that detention should be used only as a measure of last resort and for the shortest appropriate period.

States should adopt legislative, judicial, administrative, and policy measures to reduce correctional centre populations and prevent overcrowding. Such measures may include expanded use of alternatives to detention, timely case processing, diversion programmes, non-custodial sentencing options, early and conditional release mechanisms, and effective rehabilitation and reintegration initiatives to reduce recidivism.

Oversight mechanisms play an important role in monitoring the causes and consequences of overcrowding, identifying barriers to release and reintegration, and making recommendations to ensure that detention is used lawfully and proportionately, in accordance with human rights standards.

Member States should ensure that justice institutions are adequately resourced to reduce delays in criminal proceedings and pre-trial detention and should adopt strategies to prevent and reduce overcrowding. Legislation should enable correctional authorities to identify appropriate cases for expedited judicial review, taking into account factors such as the nature of the offence, personal circumstances, inability to pay bail, and prolonged detention.

30. Alternatives to detention and addressing overcrowding

1) Within 14 days after the end of each quarter, the head of every correctional centre shall provide the Registrar of the High Court with a list of all persons

detained in the correctional centre, excluding sentenced prisoners serving terms of imprisonment, specifying for each detainee:

a) the date of admission, and
b) the legal authority for the detention.[144]

2) Oversight mechanisms shall monitor correctional centre occupancy levels and assess the factors contributing to overcrowding or overcapacity. Where necessary, they shall make recommendations to the relevant authorities to reduce overcrowding and promote the use of alternatives to detention.

3) Oversight mechanisms may establish indicators or benchmarks for monitoring progress in reducing overcrowding. They may require correctional authorities to report on measures taken to address overcapacity.

4) In assessing the use of alternatives to detention, oversight mechanisms shall consider whether appropriate measures are available and effectively implemented, including:

a) diversion programmes and other non-custodial measures, including mediation, counselling, community service, restorative justice programmes, and other human rights-based responses to minor offences, particularly for children, young persons, and persons with mental health conditions or substance dependence;
b) restorative justice approaches, including family group conferencing, victim-offender mediation, and sentencing circles, where appropriate;
c) non-custodial sentences, including community service, probation, correctional supervision, and wholly or partially suspended sentences;
d) early release, parole, furlough, temporary release, and other conditional release mechanisms;
e) timely processing of documentation and status determinations for migrants,[145] refugees,[146] and asylum seekers[147] to avoid unnecessary detention; and

[144] Zimbabwe: Prison Act, section 124(2).

[145] African Commission Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers, 2023, principle 8(1).

[146] General Comment No.5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence (Article 12(1)), section 49.

[147] General Comment No.5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence (Article 12(1)), section 48.

f) the placement of migrant children, and where appropriate, their parents or caregivers, in community-based care and support arrangements rather than detention.[148]

5) Where overcrowding is linked to sentencing practices or systemic delays, oversight mechanisms may make recommendations to the judiciary, legislature, or relevant ministry concerning:

a) the expedited review of cases involving prolonged detention;
b) the impact of mandatory minimum sentencing laws and other sentencing provisions that contribute to excessive detention;
c) the decriminalisation of petty offences; [149]
d) the decriminalisation of status offences;
e) measures requiring courts to consider the necessity and proportionality of imprisonment, including the availability of alternatives to detention; and
f) the increased use of non-custodial measures for children, pregnant women, primary caregivers, and other persons for whom detention may have disproportionate consequences.

6) Oversight mechanisms shall assess whether persons deprived of liberty receive accessible and timely information regarding their rights, including rights relating to legal representation, equal treatment, sentence review, parole, early release, and available complaints and remedies procedures.

PART 7: OVERSIGHT OF HEALTH SERVICES

EXPLANATORY NOTE:
Persons deprived of liberty often experience a disproportionately high burden of disease arising from overcrowding, violence, poor nutrition, inadequate sanitation, poor ventilation, limited access to healthcare, and other adverse conditions of detention. Correctional centres face a wide range of health challenges, including communicable and non-communicable diseases, mental health conditions, substance use disorders, reproductive and maternal health needs, injuries, environmental health risks, and broader social and structural determinants of health.

Persons deprived of liberty are entitled to a standard of healthcare equivalent to that available in the community and to access such healthcare without discrimination. The State has a duty to ensure that correctional health services are adequately resourced, professionally independent, and integrated into the national public health system.

[148] African Commission Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers, 2023, principle 8(5).
[149] Principles on the Decriminalisation of Petty Offences in Africa, 2018.

Oversight mechanisms play a critical role in monitoring compliance with these obligations, identifying barriers to healthcare, and promoting conditions of detention that protect and promote the physical and mental health of persons deprived of liberty.

Detailed provisions relating to specific health risks and categories of persons in detention are set out in the Schedules to this Model Law.

31. Duty to oversee health services in correctional centres

1) Every oversight mechanism shall assess the extent to which correctional centres fulfil their duty to protect, promote, and maintain the physical and mental health of persons deprived of liberty.

2) In performing this duty, oversight mechanisms shall assess whether health services in correctional centres:

   a) provide access to healthcare equivalent to that available in the community and without discrimination;
   b) are delivered by appropriately qualified health professionals acting independently and in accordance with professional and ethical standards;
   c) are adequately staffed, resourced, and equipped to meet the healthcare needs of the correctional centre population;
   d) are integrated into the national public health system, including access to medicines, laboratory services, vaccination programmes, referral systems, and health information systems; and
   e) ensure continuity of care upon admission, during transfers, and upon release.

3) Oversight mechanisms shall assess whether correctional centres have effective systems in place to:

   a) conduct health screening and assessment upon admission to identify urgent healthcare needs, vulnerabilities, and ongoing treatment requirements;
   b) provide timely access to emergency and routine healthcare services;
   c) facilitate prompt referral to external healthcare providers where specialised or emergency treatment is required;
   d) maintain accurate, confidential, and secure medical records; and
   e) ensure continuity of treatment for persons receiving healthcare before admission.

32. Monitoring conditions affecting health

1) Oversight mechanisms shall assess whether conditions of detention support or undermine the health and well-being of persons deprived of liberty, including:

   a) overcrowding and population levels;
   b) the availability, quality, and nutritional adequacy of food and drinking water;
   c) sanitation, hygiene, ventilation, lighting, and accommodation conditions;
   d) safety and security within the correctional centre;
   e) environmental conditions, including exposure to extreme temperatures, pollution, or disease vectors; and
   f) access to exercise, outdoor activities, recreation, and health promotion programmes.

2) Oversight mechanisms shall assess whether structural or systemic factors impede access to healthcare, including:

   a) shortages of medicines, medical equipment, or diagnostic services;
   b) inadequate numbers of healthcare personnel;
   c) delays in medical referrals, transfers, or transportation to healthcare facilities; and
   d) security measures that interfere with clinical independence, patient confidentiality, or timely access to care.

3) Where conditions or systemic factors adversely affect health outcomes, oversight mechanisms shall document their findings and make recommendations for corrective action.

33. Oversight of the professional duties of health professionals

1) Oversight mechanisms shall assess whether health professionals working in correctional centres:

   a) act independently and in accordance with applicable professional and ethical standards;
   b) respect and protect patient confidentiality;
   c) accurately document injuries, illnesses, treatments, and relevant clinical findings; and
   d) identify, document, and report suspected torture, ill-treatment, abuse, or neglect in accordance with applicable law and professional obligations.

2) Oversight mechanisms shall assess whether health professionals have access to safe and effective mechanisms for reporting concerns relating to:

   a) detention conditions that adversely affect health;

b) torture, abuse, neglect, or other forms of ill-treatment; and
c) systemic deficiencies in healthcare services.

3) Oversight mechanisms shall assess whether health professionals receive regular training on:

a) human rights and medical ethics in detention settings;
b) trauma-informed care;
c) the identification and documentation of torture and other forms of ill-treatment; and
d) responding to the health needs of persons facing additional barriers.

34. Access to health information and monitoring data

1) Oversight mechanisms shall have access, subject to applicable safeguards for privacy and confidentiality, to anonymised health information and relevant registers necessary for the performance of their functions.

2) Oversight mechanisms shall monitor trends relating to:

a) morbidity and mortality;
b) communicable and non-communicable diseases;
c) mental health conditions and substance use disorders;
d) suicide, self-harm, injuries, and deaths in custody; and
e) nutritional status and other indicators of population health.

3) Information collected under this section shall be used to identify systemic risks, monitor health outcomes, and inform recommendations for policy, legislative, and operational reform.

35. Schedules for specific health risks and categories

1) Detailed provisions relating to the oversight of specific health risks and categories of persons deprived of liberty are set out in the Schedules to this Model Law, including:

a) communicable diseases;
b) non-communicable diseases;
c) mental health conditions and substance use disorders;
d) reproductive, maternal, and child health;
e) the health and care needs of older persons;
f) injuries and violence-related health conditions;
g) environmental and occupational health risks; and
h) structural and systemic determinants affecting health in detention.

PART 8: SAFEGUARDING PERSONS DEPRIVED OF LIBERTY FROM TORTURE, ILL-TREATMENT, VIOLENCE, AND DEATH

36. Prevention of torture and other forms of ill-treatment

EXPLANATORY NOTE:
Persons deprived of liberty may be exposed to torture and other cruel, inhuman, or degrading treatment or punishment, whether through acts of violence, neglect, discrimination, abusive disciplinary practices, or conditions of detention that fail to meet minimum standards. Certain groups may face heightened risks, including children, women, older persons, foreign nationals, members of minority groups, LGBTQIA+ persons, persons in pre-trial detention, and newly admitted detainees.

Oversight mechanisms play a critical role in identifying, preventing, documenting, and responding to torture and other forms of ill-treatment. They should pay particular attention to detention conditions, the treatment of persons at heightened risk, the use of force, restraints and segregation, and the effectiveness of complaint and protection mechanisms.

1) Oversight mechanisms shall assess whether correctional centres have effective measures to prevent, identify, document, and respond to torture and other cruel, inhuman, or degrading treatment or punishment.

2) In conducting this function, oversight mechanisms shall assess:

   a) the accessibility, confidentiality, and effectiveness of complaints and reporting mechanisms;
   b) the adequacy of records relating to allegations and incidents of torture, ill-treatment, violence, and abuse;
   c) the existence of effective protections for complainants, witnesses, whistle-blowers, and survivors;
   d) the treatment of persons who may face heightened risks of violence, abuse, discrimination, or retaliation; and
   e) whether body searches are conducted lawfully, respectfully, and only when necessary, proportionate, and consistent with human dignity.

3) Oversight mechanisms shall assess whether conditions of detention amount to, or create a risk of, cruel, inhuman, or degrading treatment or punishment, including conditions arising from:

   a) overcrowding;[150]
   b) inadequate accommodation, ventilation, sanitation, or hygiene;

[150] Malawi: *Masangano v Attorney General and Others*, (2009) MWHC 31.

c) denial of, or unreasonable restrictions on, food, drinking water, healthcare, legal assistance, family contact, or other essential services;[151]
d) violence, including sexual violence; and
e) systemic non-compliance with applicable legal and human rights standards.

4) Oversight mechanisms shall monitor and assess the use of force, restraints, segregation, and solitary confinement, including:

a) whether such measures are lawful, necessary, proportionate, and not used as punishment;
b) whether their use is properly authorised, recorded, reviewed, and subject to oversight; [152]
c) the duration, conditions, and reasons for their use;
d) their impact on physical and mental health;
e) whether they are imposed on persons for whom such measures are prohibited or restricted under law or international standards; and
f) whether patterns of discriminatory or excessive use can be identified.

5) Where allegations or indicators of torture, ill-treatment, or abuse are identified, oversight mechanisms shall:

a) document and report their findings;
b) recommend measures to protect victims and persons at risk;
c) refer matters for independent investigation where appropriate;
d) recommend legal, policy, administrative, or operational reforms; and
e) monitor implementation of recommendations and corrective measures.

37. Prevention of gender-based violence[153]

EXPLANATORY NOTE:
Gender-based violence includes all forms of physical, sexual, psychological, or economic harm, coercion, abuse, or discrimination directed against a person based on sex, gender, sexual orientation, gender identity, gender expression, or sex characteristics. Sexual violence constitutes a particularly serious form of gender-based violence in custodial settings. It requires specific prevention, reporting, investigation, and support measures.

[151] Zambia: *Mwanza and Another v Attorney General*, (2019) ZMSC 33.

[152] Namibia: Correctional Services Regulations, 2013, regulation 206.

[153] Improving Prison Oversight to Address Sexual Violence in Detention, by Melissa Rothstein and Lovisa Stannow, 2009.

1) Correctional centres shall establish accessible, confidential, and survivor-centred mechanisms for reporting gender-based violence, including sexual violence.

2) All persons deprived of liberty shall be informed, in accessible formats and languages, of their right to report gender-based violence and the procedures for doing so.

3) All allegations of sexual violence shall result in:

   a) immediate access to medical, psychosocial, and protective services;
   b) prompt referral for independent investigation;
   c) measures to ensure the safety of the survivor and other persons at risk; and
   d) prompt, impartial, and effective administrative and criminal investigations.

4) Correctional centres shall ensure that all staff receive regular training on:

   a) the prevention and detection of gender-based violence;
   b) trauma-informed and survivor-centred responses;
   c) reporting obligations; and
   d) the protection of survivors and witnesses.

5) Correctional centres shall maintain anonymised data on allegations, investigations, outcomes, and disciplinary or criminal measures relating to gender-based violence.

6) Oversight mechanisms shall assess:

   a) compliance with legal, regional, and international standards relating to gender-based violence;
   b) the effectiveness of reporting, protection, investigation, and accountability mechanisms; [154]
   c) whether survivors receive timely and appropriate support services;
   d) whether intake, classification, and risk-assessment procedures identify persons at heightened risk of victimisation or perpetration; and
   e) whether systemic factors, including overcrowding, staffing shortages, or unsafe conditions, increase the risk of gender-based violence.

7) Oversight mechanisms shall be empowered to refer cases for criminal investigation, disciplinary proceedings, or other appropriate action.

[154] The Guidelines on Combating Sexual Violence and its Consequences in Africa, 2017, section 9.

8) Where gender-based violence is systemic or presents a heightened risk within a facility, oversight bodies should recommend targeted institutional measures, including:

   a) the establishment of specialised victim support services;
   b) the designation of trained personnel to receive and manage complaints; and
   c) structural or operational reforms to reduce risk factors, including overcrowding and unsafe conditions.

9) Detailed guidance on the prevention, identification, and response to gender-based violence in detention settings is set out in Schedule 4.

38. Oversight of deaths in custody

EXPLANATORY NOTE:
Where a person dies in State custody, the State bears a heightened duty to account for the death and to demonstrate that it has fulfilled its obligations to protect life. All deaths in custody must be subject to prompt, thorough, impartial, and independent investigation.[155]

1) Upon the death of a person deprived of liberty, the officer in charge shall immediately notify:

   a) the Head of the Correctional Service or designated senior official;[156]
   b) the responsible medical officer;
   c) the competent judicial or investigative authority; and
   d) the deceased person's next of kin or, where this is not possible, another appropriate relative or nominated contact.

2) Every death in custody shall be promptly reported and investigated in accordance with applicable law.

3) Any investigation into a death in custody shall be independent, impartial, effective, and capable of determining:

   a) the cause and circumstances of death;
   b) whether any act or omission contributed to the death;
   c) whether legal or disciplinary action is warranted; and
   d) whether systemic failures contributed to the death.[157]

[155] General Comment No. 3 of the African Charter on Human and Peoples' Rights: The Right to Life (Article 4), section 37.

[156] Namibia: Correctional Services Regulations, 2013, regulation 184.

[157] Namibia: Correctional Services Regulations, 2013, regulation 185.

4) Oversight mechanisms shall review all deaths in custody and assess:

   a) compliance with notification requirements;
   b) the adequacy and independence of investigations;
   c) whether evidence was properly preserved;
   d) the accuracy and completeness of death registers and medical records; and
   e) whether lessons learned and recommendations have been implemented.

5) Oversight mechanisms shall have access to all records relating to deaths in custody, including death registers, medical records, post-mortem reports, investigation reports, and related documentation.

6) Oversight mechanisms shall monitor and analyse data relating to deaths in custody to identify trends, risk factors, and systemic deficiencies. They shall make recommendations to prevent future deaths.

PART 9: REHABILITATION AND REINTEGRATION

EXPLANATORY NOTE:
Correctional centres should provide safe, accountable, and rehabilitative environments that support the successful reintegration of persons deprived of liberty into society. Rehabilitation and reintegration programmes should be implemented in a manner consistent with the principles of dignity, equality, non-discrimination, and "do no harm," and should be responsive to the diverse needs of persons deprived of liberty.

Oversight mechanisms play an important role in assessing the availability, accessibility, quality, and effectiveness of rehabilitation and reintegration programmes, identifying barriers to participation, and promoting measures that reduce recidivism and facilitate successful reintegration into the community.

39. Oversight of rehabilitation and reintegration programmes

1) Oversight mechanisms shall assess the availability, accessibility, quality, and effectiveness of rehabilitation and reintegration programmes in correctional centres.

2) In conducting this function, oversight mechanisms shall assess:

   a) the range of programmes available, their capacity, frequency, and accessibility;
   b) whether information about programmes is communicated effectively to persons deprived of liberty;

c) whether programmes are accessible to persons with disabilities and persons facing language, literacy, or other barriers to participation;
d) whether participation opportunities are allocated fairly and without discrimination; and
e) whether programmes are responsive to the needs of different categories of persons deprived of liberty.

3) Oversight mechanisms shall assess whether correctional centres provide access to programmes and services, including:

a) literacy and educational programmes;
b) vocational training and skills development;
c) employment and work opportunities;
d) psychosocial, behavioural, and life-skills programmes;
e) substance use treatment and recovery programmes;
f) recreational, sporting, cultural, spiritual, and arts-based programmes; and
g) other programmes that promote rehabilitation and social reintegration.

4) Consideration shall be given to the needs of:

a) children and young persons;
b) persons awaiting trial;
c) persons with disabilities;
d) persons with mental health conditions or psychosocial disabilities;
e) older persons;
f) persons with serious or terminal illnesses; and
g) foreign nationals. [158]

5) In assessing vocational training and work programmes, oversight mechanisms shall consider whether:

a) individual skills, educational needs, and employment goals are assessed;
b) enrolment and work allocation processes are fair, transparent, and non-discriminatory;
c) participants receive recognised certification, qualifications, or records of achievement;
d) working conditions are safe and consistent with applicable labour standards;
e) remuneration and incentives are fair and lawful; and
f) programmes support employment, entrepreneurship, or livelihood opportunities following release.

[158] Eswatini: Correctional Services Act, section 93.

40. Oversight of reintegration and post-release support

1) Oversight mechanisms shall assess whether correctional centres have effective measures in place to prepare persons deprived of liberty for release and reintegration into society.

2) In conducting this function, oversight mechanisms shall assess:

   a) the availability and effectiveness of counselling, mental health, psychosocial, and social work services;
   b) the availability of peer-support programmes and community-based support services;
   c) the extent to which rehabilitation and reintegration planning begins before release;
   d) the availability of referral mechanisms to healthcare, social protection, education, employment, housing, and community services upon release; and
   e) whether appropriate support is available to persons with complex needs, including children, persons with disabilities, persons with mental health conditions, and persons recovering from substance dependence.

3) Oversight mechanisms shall assess whether correctional centres facilitate, with the informed consent of participants:

   a) restorative justice programmes;
   b) victim-offender mediation programmes, where appropriate;[159]
   c) family reunification and mediation initiatives; [160] and
   d) community-based reintegration programmes.[161]

4) Oversight mechanisms shall assess the availability, accessibility, and suitability of transitional support services, including:

   a) halfway houses and transitional accommodation;
   b) employment and livelihood support programmes;

[159] Eswatini: Correctional Services Act, section 108(1).

[160] Seychelles: Prisons Act of 1991, section 18. Provides for correctional centre welfare officers who must address the welfare of detainees within the correctional centre and after their release.

[161] Botswana 2024 Rehabilitation and Reintegration Strategy. The Strategy adopts a community-based approach that aims to assist ex-offenders to successfully rejoin their communities without difficulty and to have the community receive and support them as they settle and contribute positively to the socio-economic development of their communities. For this purpose, Community Based Reintegration Committees are envisaged across the country.

c) community reintegration committees and other local support structures;[162] and
d) specialised services for children and other persons requiring additional support.

5) Oversight mechanisms may encourage measures that promote social inclusion and reduce stigma and discrimination against former detainees, including:

a) public education and awareness initiatives;
b) partnerships between correctional centres, civil society organisations, employers, and community groups;
c) measures to strengthen and maintain family and community ties during detention;
d) programmes that prepare families and communities for reintegration; and
e) the use of open or community-based correctional facilities where appropriate and authorised by law.

6) Oversight mechanisms shall assess whether persons released from correctional centres have access to appropriate post-release support, including:

a) mental health and psychosocial services;
b) substance use treatment and recovery services;
c) healthcare and social welfare services;
d) peer-support networks and community-based organisations; and
e) other services necessary to support successful reintegration and reduce the risk of reoffending.

PART 10: TRAINING AND MANDATORY REPORTING

EXPLANATORY NOTE:
Effective oversight of correctional centres requires appropriately trained personnel who understand the legal, ethical, operational, and human rights dimensions of detention oversight. Training should equip oversight personnel to identify and respond to risks of abuse, torture, discrimination, corruption, neglect, and other human rights violations, while maintaining independence, professionalism, and accountability.

41. National standards for training

[162] Lesotho: Children's Protection and Welfare Act No. 7 of 2011, section 121. Lesotho, Village Child Justice Committees are responsible for handling restorative justice processes at village level. The Committees comprise a village chief and six members elected by the committee.

1) The Head of the Correctional Service, in consultation with the responsible Ministry and representatives of oversight bodies, health professionals, civil society organisations, and other relevant experts, shall develop and publish national standards for the training of persons involved in oversight, monitoring, inspection, and investigation of correctional centres.

2) National training standards shall provide for:

   a) initial induction training before the assumption of oversight responsibilities;
   b) continuing professional development and periodic refresher training;
   c) specialised training for persons performing investigative, monitoring, healthcare, child protection, or other specialised functions; and
   d) regular review and updating of training materials to reflect developments in law, policy, and practice.

3) Training programmes should, where practicable, be accredited or recognised as continuing professional education.

42. Minimum training requirements

1) Persons exercising correctional centre oversight functions shall receive training appropriate to their responsibilities before undertaking independent oversight activities.

2) Training shall include applicable domestic law and relevant international and regional standards, including those contained in Schedule 1.

3) Training programmes shall cover, at a minimum:

   a) human rights and constitutional protections;
   b) the prohibition of torture and other cruel, inhuman, or degrading treatment or punishment;
   c) restorative justice, child justice, and alternatives to detention;
   d) the lawful use of force, restraints, segregation, and solitary confinement;
   e) inspection, monitoring, investigative, and interviewing techniques;
   f) the treatment of persons facing additional barriers, including child-sensitive, gender-sensitive, disability-inclusive, and trauma-informed approaches;
   g) healthcare issues commonly arising in detention settings, including mental health;
   h) nutrition, sanitation, accommodation, and environmental conditions in places of detention;
   i) rehabilitation, reintegration, and correctional programming;
   j) access to information, recordkeeping, and data management;

k) reporting and mandatory reporting obligations;
l) complaint handling, whistle-blower protection, and victim support;
m) principles of independence, impartiality, confidentiality, informed consent, and professional ethics; and
n) relevant developments in correctional policy and practice.

4) Judicial officers should receive periodic training on their role in safeguarding the rights of persons deprived of liberty and promoting compliance with applicable legal and human rights standards. [163]

43. Mandatory reporting and correctional data[164]

EXPLANATORY NOTE:
Mandatory reporting refers to the legal obligation to report specified incidents, events, and conditions affecting the safety, welfare, and rights of persons deprived of liberty. Effective reporting systems promote transparency, accountability, evidence-based policymaking, and compliance with domestic and international obligations.

1) Legislation shall clearly prescribe:

a) the incidents, events, and information that must be reported;
b) the authorities to whom reports must be submitted;
c) the form and content of reports; and
d) the applicable reporting timeframes and procedures.

2) Correctional centres shall maintain accurate, complete, and reliable records. They shall ensure that relevant personnel receive appropriate training in data collection, recordkeeping, and reporting.[165]

3) In addition to incident-based reporting, correctional centres shall collect, maintain, and publish disaggregated statistical information relating to:

a) correctional centre populations, occupancy levels, staffing, and demographic characteristics;
b) rehabilitation, education, employment, diversion, release, and recidivism outcomes;
c) health indicators, including physical and mental health trends;
d) complaints, inspections, investigations, and oversight findings; and

[163] SADC Parliamentary Forum Minimum Standards for the Protection of the Sexual and Reproductive Health of Key Populations in the SADC Region, 7.3.3.

[164] Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

[165] Minimum Standards for HIV, TB, Hepatitis B and C and Sexually Transmitted Infections Prevention, Care and Support in Prisons in the SADC Region, 7.7.1.

e) financial and resource allocation information relevant to correctional administration.

4) Correctional centres shall establish systems for collecting and analysing information to monitor institutional performance, identify trends, support policy development, and assess the effectiveness of rehabilitation, healthcare, and other correctional programmes.[166]

5) Correctional centres shall collect and analyse disaggregated data necessary to monitor the implementation and effectiveness of gender-responsive policies, programmes, and services.

6) Oversight mechanisms shall assess compliance with mandatory reporting requirements, including:

a) the completeness, accuracy, and timeliness of reports;
b) the adequacy of recordkeeping systems;
c) the reliability and accessibility of correctional data; and
d) accountability measures for non-compliance with reporting obligations.

7) Oversight mechanisms shall verify compliance with mandatory reporting requirements relating to:

a) deaths in custody;
b) disappearances;
c) serious injuries;
d) allegations or incidents of torture, ill-treatment, or sexual violence;
e) use of force, restraints, segregation, and prolonged solitary confinement;
f) hunger strikes, self-harm, suicide attempts, and deaths by suicide;
g) escapes and major security incidents;
h) outbreaks of infectious disease or other significant public health events;
i) pregnancies and births occurring in detention; and
j) prolonged pre-trial detention and other indicators prescribed by law.

8) Oversight mechanisms shall have access to disaggregated information concerning complaints, investigations, findings, and outcomes relating to allegations of torture, ill-treatment, abuse, or other serious rights violations.[167]

9) The Head of the Correctional Service shall submit an annual report to Parliament on compliance with mandatory reporting obligations, including

[166] Namibia: Correctional Services Regulations, 2013, regulation 328.

[167] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 193.

disaggregated national and sub-national data and an analysis of significant trends.

10) Oversight mechanisms shall report annually on compliance with mandatory reporting requirements. They may make recommendations for legislative, policy, administrative, or budgetary reforms based on their findings.

PART 11: PARLIAMENTARY OVERSIGHT[168]

44. Parliamentary oversight of correctional services

EXPLANATORY NOTE:
Parliament plays an essential role in promoting accountability, transparency, and respect for the rights of persons deprived of liberty. Through its legislative, oversight, and budgetary functions, Parliament helps ensure that correctional services operate lawfully and effectively, in accordance with constitutional and human rights standards.

1) Parliament shall exercise oversight over:

   a) the administration, management, and performance of correctional services;
   b) the treatment and conditions of persons deprived of liberty;
   c) the implementation of legislation, policies, and programmes relating to correctional services; and
   d) the effectiveness of oversight mechanisms established under this Act or any other law.

2) In conducting its oversight functions, Parliament shall:

   a) consider reports submitted by correctional authorities, oversight bodies, and other relevant institutions;
   b) monitor the implementation of recommendations arising from inspections, investigations, audits, and inquiries;
   c) conduct hearings, inquiries, or other proceedings concerning matters relating to correctional services and places of detention;
   d) require Ministers, public officials, and other relevant persons to account for the administration of correctional services; and
   e) consider the adequacy of measures taken to prevent and address human rights violations in places of detention.

[168] SADC Parliamentary Forum Minimum Standards for the Protection of the Sexual and Reproductive Health of Key Populations in the SADC Region, 7.4.3.

3) Parliament shall ensure that information obtained through oversight activities informs legislative reform, policy development, and resource allocation.[169]

45. Powers of parliamentary committees

1) A parliamentary committee responsible for correctional services, justice, human rights, health, social development, women, children and persons with disabilities, or public accounts may exercise such oversight powers as are conferred by the Constitution, national law, or parliamentary rules.

2) Without limiting subsection (1), a parliamentary committee may:

   a) require the attendance of persons and the production of documents or information;
   b) receive reports, submissions, and evidence from public authorities, oversight bodies, civil society organisations, experts, and affected persons;
   c) conduct inquiries into matters relating to correctional services, places of detention, or oversight mechanisms; and
   d) make recommendations to Parliament, the Executive, or any competent authority.

3) Parliamentary committees may consult or appoint independent experts and advisers to assist in the performance of their functions.

46. Access to information, visits, and financial oversight

1) Parliament and its committees shall have access to information required to perform their oversight functions, subject only to limitations prescribed by law that are necessary and proportionate.

2) Information made available under subsection (1) may include:

   a) inspection, monitoring, and investigation reports;
   b) information relating to complaints, incidents, deaths in custody, healthcare, rehabilitation programmes, and conditions of detention;
   c) statistical and performance data relating to correctional services; and
   d) budgetary, financial, audit, and expenditure information.

3) Parliament shall exercise oversight over the allocation and use of public resources for correctional services, including oversight mechanisms, through

[169] SADC Parliamentary Forum Minimum Standards for the Protection of the Sexual and Reproductive Health of Key Populations in the SADC Region, 7.3.5.

the consideration of budgets, audit reports, expenditure reports, and performance information.

4) Members of Parliament, or committees authorised by Parliament, may visit places of detention in accordance with applicable law and parliamentary rules for the purpose of exercising oversight functions.

5) Visits conducted under subsection (4) shall complement and not interfere with the functions of independent oversight mechanisms established under this Act or any other law.

47. Public, regional, and international engagement

1) Parliament may promote public awareness, transparency, and informed public participation on matters relating to correctional services and the rights of persons deprived of liberty.

2) In conducting its oversight functions, Parliament may engage with civil society organisations, professional bodies, academic institutions, oversight mechanisms, and other stakeholders.

3) Members of Parliament may participate in regional and international initiatives on correctional reform, detention oversight, and human rights, including the exchange of best practices and engagement with relevant regional and international bodies.

SCHEDULE 1: INTERNATIONAL AND REGIONAL LAWS AND STANDARDS

International law and standards

Basic Principles on the Role of Lawyers, 1990

Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, UN Economic and Social Council Resolution, 2002

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1988

Convention against Corruption (UNCAC), 2003

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979

Convention on the Reduction of Statelessness, 1961

Convention on the Rights of Persons with Disabilities (CRPD), 2006

Convention on the Rights of the Child (CRC), 1989

Convention relating to the Status of Stateless Persons, 1954

Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1975

International Convention for the Protection of All Persons from Enforced Disappearance (CPED), 2006

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), 1990

International Covenant on Civil and Political Rights (ICCPR), 1966

International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

Istanbul Statement on the Use and Effects of Solitary Confinement, 2007

Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol), 2022

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), 2002

Optional Protocol to the Convention on the Elimination of Discrimination against Women (OP-CEDAW), 1999

Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD), 2006

Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OP-CRC-IC), 2011

Optional Protocol to the Covenant on Economic, Social and Cultural Rights (ICESCR-OP), 2008

Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP1), 1966

Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Adopted by General Assembly resolution 37/194, 18 December 1982

Principles relating to the Status of National Institutions (Paris Principles), 1993

Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, 1989

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (ICCPR-OP2), 1989

United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMR 2015, Mandela Rules)

United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules), 1990

United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990

United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) 2010

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), 2012

Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity (Yogyakarta Principles), 2006

Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Compliment the Yogyakarta Principles (Yogyakarta Principles Plus 10), 2017

Regional law and standards

ACHPR General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4), 2015

ACHPR General Comment No. 4 on the Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2017

ACHPR Guidelines on Adhering to Human and Peoples' Rights under the African Charter in the Context of States of Emergency or Disaster, 2023

ACHPR Guidelines on Combating Sexual Violence and its Consequences in Africa, 2017

ACHPR Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (Luanda Guidelines), 2015

ACHPR Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers, 2023

ACHPR Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003

ACHPR Principles on the Decriminalisation of Petty Offences in Africa, 2018

ACHPR Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines), 2002

ACHPR Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity, 2014

ACHPR Resolution on the Obligations of African States in the Context of the Externalization of Migration Governance and the Extra-Regional Transfer of Migrants to Africa, 2025

ACHPR Resolution on the Promotion and Protection of the Rights of Intersex Persons in Africa, 2023

ACHPR Resolution on the Respect for the Principle of Non-Refoulement of Asylum Seekers and Refugees, 2021

African Charter on Human and Peoples' Rights, 1986

African Charter on the Rights and Welfare of the Child (ACRWC), 1999

AU Convention on Ending Violence Against Women and Girls, 2025

General Comment No.5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence (Article 12(1)), 2019

Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa, 2002

Protocol to the African Charter on the Rights of Persons with Disabilities in Africa, 2018

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, 2018

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), 2005

Protocol to the African Charter on Human And Peoples' Rights Relating to the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa, 2024

SADC Minimum Standards for the Protection of the Sexual and Reproductive Health of Key Populations in the SADC Region, 2018

SADC Minimum Standards for HIV, TB, Hepatitis B and C and Sexually Transmitted Infections Prevention, Care and Support in Prisons in the SADC Region, 2009

SADC Model Law on Gender-Based Violence, 2021

SADC Model Law on HIV in Southern Africa, 2008

SADC Regional Strategy for HIV Prevention, Treatment and Care and Sexual and Reproductive Health and Rights among Key Populations 2024-2030, 2025

SCHEDULE 2: PERSONS FACING ADDITIONAL BARRIERS

EXPLANATORY NOTE:
The categories set out in this Schedule are indicative and non-exhaustive. Oversight mechanisms should pay particular attention to any person or group that may face heightened risks of discrimination, violence, neglect, exploitation, or barriers to accessing rights and services in detention.

1. General duty

1) Oversight mechanisms shall assess whether correctional centres:

   a) identify persons facing additional barriers through individualised risk and needs assessments;
   b) provide appropriate protection, accommodation, healthcare, support services, and reasonable accommodation where required;
   c) ensure equal access to complaints mechanisms, legal assistance, rehabilitation programmes, and other services; and
   d) comply with applicable national, regional, and international standards.

2) In conducting inspections, oversight mechanisms shall pay particular attention to the needs and treatment of the categories identified in this Schedule.

2. Pregnant persons, caregivers and children living in detention[170]

EXPLANATORY NOTE:
The implementation of sentences imposed on women must take into account their specific needs, particularly in terms of health, hygiene, and maternity protection.[171] Persons who are pregnant and caregivers with children in detention face unique health and welfare risks.[172] States have specific duties in regional and

[170] Bangkok Rules, UN Convention on the Rights of the Child, African Charter on the Rights and Welfare of the Child.

[171] Mozambique: Penalty Execution Code, Law 26 of 2019, article 9(3)

[172] The African Charter on the Rights and Welfare of the Child (ACRWC), particularly article 30, provides for the special treatment of pregnant persons and mothers of young children in conflict with the law, and

international law in relation to women, persons who are pregnant and caregivers who are detained with their minor dependents. In addition, the incarceration of a primary caregiver may have harmful consequences for minor dependents or dependents with disabilities or severe illness.

Member States should ensure that non-custodial sentences are always considered first when dealing with pregnant persons, parents of infants or young children and caregivers.[173] *Where possible, community-based rehabilitation, probation, parole, or halfway houses shall be preferred over imprisonment. Member States should review sentencing procedures to ensure that the impact of incarceration on children and other dependents is considered at all stages.*

1) Oversight mechanisms shall assess whether:

   a) non-custodial measures are considered for pregnant persons, primary caregivers, and persons with dependent children or dependents with disabilities;
   b) pregnant persons have access to appropriate prenatal, maternal, postnatal, and reproductive healthcare and are not coerced to terminate pregnancies or be sterilised;
   c) childbirth occurs in appropriate healthcare facilities whenever possible;
   d) pregnant persons, persons who are no longer pregnant and new parents receive adequate nutrition, healthcare, and trauma-informed physical and psychosocial support;
   e) children living in detention with caregivers have access to healthcare, nutrition, birth registration, early childhood development, and education services;
   f) the best interests of the child guide decisions affecting children; and
   g) arrangements are in place to maintain family contact and provide appropriate care for dependants where a caregiver is detained.

3. Children in conflict with the law

EXPLANATORY NOTE:
Detention and incarceration of children has extreme negative impacts on their physical, mental and social well-being, worsening pre-existing psychological conditions, interrupting education, increasing exposure to gangs and violence, and denying them access to family care, health services and legal representation.[174]

General Comment of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) elaborates on the rights and protections owed to children of incarcerated and imprisoned parents and primary caregivers.

[173] *S v M* (CCT 53/06) [2007] SACC 18.

[174] United Nations Children's Fund, Estimating the Number of Children Deprived of Liberty in the Administration of Justice, UNICEF, New York, 2021.

Despite the negative consequences of even one day in detention, children continue to be found in correctional centres even though it is international law that alternative measures should be considered first, with deprivation of liberty as a last resort, and for the shortest period.[175] *Instead, States are encouraged to divert children away from the criminal justice system.*[176]

Less than half of children under 5 in Southern Africa have birth certificates.[177] *This means that children are often incarcerated with adults in the absence of documentation and a proper assessment of their age. Once incarcerated, children are at risk of trauma and abuse. They would have less access to legal aid and internal and external complaints mechanisms to make requests or complaints. Children are also often found in immigration-related detention. A child's perceived status, for example, as a child who lives on the street, an undocumented person, an LGBTQIA+ person, or a gang member, often impacts the presumption of innocence and the services to which that child has access in detention.*

Oversight bodies play a critical role in identifying children who are in the penal system and ensuring their appropriate treatment and placement. Due to the vulnerability of children deprived of their liberty, oversight bodies should have access to all facilities where children are detained, including safety homes and places which house children with disabilities, foster children, and orphans.[178]

1) Oversight mechanisms shall assess whether:

a) deprivation of liberty is used only as a measure of last resort and for the shortest appropriate period;
b) children are identified promptly, and age-assessment procedures are available where age is uncertain;
c) children are accommodated separately from adults, except where otherwise authorised by law and in their best interests;
d) children have access to legal assistance, education, healthcare, psychosocial support, recreation, and family contact;
e) child-sensitive complaints and reporting mechanisms are available;
f) personnel working with children are appropriately trained and vetted; and

[175] Convention on the Rights of the Child, Article 37(b).

[176] Convention on the Rights of the Child, Article 40.

[177] United Nations Children's Fund, A Statistical Update on Birth Registration in Africa, UNICEF, New York, 2022.

[178] Mauritius: The Ombudsperson for Children Act No. 44 of 2003 provides for access to any place where children are detained. Malawi: Child Care, Protection and Justice Act, 2010, section 150 gives the Child Justice Review Board access to all places where children are deprived of their liberty, including reformatory centres, safety homes and foster homes. It can review cases of child offenders and matters of children kept for care and protection. The law allows a judge on their own motion to release a person on bail if their custody time limit has expired.

g) alternatives to detention, diversion, and early release mechanisms are actively considered.

4. Young adults (18-21)

EXPLANATORY NOTE:
Young adults occupy a unique and complicated position within the criminal justice system. They often fall within the developmental and legal gap between adolescence and adulthood. Young adults are at increased risk of physical and sexual violence in correctional centres.

1) Oversight mechanisms shall assess whether young adults:

a) have access to age-appropriate education, vocational training, rehabilitation, and psychosocial support;
b) are protected from violence, exploitation, and abuse;
c) maintain family and community connections;
d) have access to legal assistance and participation in decisions affecting them; and
e) benefit from programmes that promote social reintegration and reduce recidivism.[179]

5. Foreign nationals, refugees, asylum seekers and stateless persons

EXPLANATORY NOTE:
Foreign nationals, refugees, asylum seekers and stateless persons are at increased risk of illegal detention, discrimination, and lack of access to services in places of detention, including access to consular support, interpreters, legal aid, and fair treatment. Immigration detention should be non-punitive and used only as a last resort.[180]

Agreements where States and regional organizations seek to externalize their migration and asylum policies to other States for the management of migration flows (including, inter alia, mechanisms for readmission, extraterritorial asylum processing, the funding and training of interception units, and the creation of transit or relocation centres), cannot delegate, transfer, or dilute the international obligations of States Parties under the African Charter and international law, particularly the principle of non-refoulement, the prohibition of collective expulsions, the right to an effective and fair individual procedure, and judicial

[179] Mozambique: Penalty Execution Code, Law 26 of 2019, section 9(1).

[180] General Comment No.5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence (Article 12(1)), section 48.

oversight.[181] *Such practices may expose affected persons, including migrants, asylum seekers, refugees, and members of the African diaspora, to serious risks of refoulement, arbitrary detention, discrimination, and violations of the right to dignity and security.*[182]

5.1 Specific considerations for oversight mechanisms

1) Migrants,[183] refugees[184] and asylum seekers[185] may not be detained arbitrarily based on their status. For this reason, oversight bodies should assess the legal framework governing the detention of any foreign national or stateless person.[186]

2) Oversight mechanisms shall assess whether:

   a) detention is lawful, necessary, and subject to regular review;
   b) persons are informed of the reasons for detention and their rights in a language they understand;
   c) access is provided to interpreters,[187] legal assistance, consular representatives,[188] and relevant protection agencies where applicable;[189]
   d) foreign nationals and stateless persons enjoy equal access to services and conditions of detention without discrimination;
   e) children are not detained solely because of their migration status;
   f) prolonged or arbitrary detention is identified and addressed;
   g) alternatives to detention are considered where appropriate.

6. Persons with disabilities

EXPLANATORY NOTE:

[181] Resolution on the Obligations of African States in the Context of the Externalization of Migration Governance and the Extra-Regional Transfer of Migrants to Africa, 2025.
[182] Resolution on the Obligations of African States in the Context of the Externalization of Migration Governance and the Extra-Regional Transfer of Migrants to Africa, 2025.
[183] African Commission Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers, 2023, principle 8(1).
[184] General Comment No.5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence (Article 12(1)), section 49.
[185] General Comment No.5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence (Article 12(1)), section 48.
[186] Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.
[187] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), UNOHCHR, updated 2022, 298.
[188] Mozambique: Penalty Execution Code, Law 26 of 2019, section 9(4).
[189] Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

Persons with disabilities require individualised accommodations. Each correctional centre must identify and reduce potential barriers that may be preventing people with physical, intellectual and psychological disabilities from accessing services and programmes.[190] *Oversight mechanisms must examine accessibility, access to specialised equipment, reasonable accommodation measures, access to justice, and staff training to avoid discriminatory practices.*[191]

Regulatory bodies established under disability-related legislation and organisations of people with disabilities may also be tasked with conducting inquiries into the welfare of people with disabilities. Adequate monitoring of the treatment of people with disability in all places of detention will necessitate additional legislated powers, resources and a substantial cultural shift within existing and newly established monitoring bodies.

1) Oversight mechanisms shall assess whether:

   a) persons with disabilities are identified upon admission and receive individualised assessments;
   b) reasonable accommodation and accessibility measures are provided;
   c) facilities, programmes, and services are accessible and inclusive;
   d) healthcare, mental healthcare, assistive devices, and specialised services are available where required;
   e) staff receive appropriate disability-related training;[192] and
   f) persons with disabilities can access complaint mechanisms, legal assistance, and rehabilitation programmes on an equal basis with others.

7. LGBTQIA+ persons

EXPLANATORY NOTE:
LGBTQIA+ persons in detention often face heightened risks of discrimination, stigmatisation, harassment, sexual violence, and physical abuse from other detainees, staff, or visitors. Correctional environments are frequently male-dominated and structured around rigid hierarchies and traditional gender norms, which may exacerbate vulnerability for persons whose sexual orientation, gender identity, or gender expression does not conform to prevailing expectations.

Transgender and gender-diverse detainees may be placed in facilities inconsistent with their gender identity, denied access to gender-affirming clothing or healthcare, or subjected to disciplinary measures for expressing their lived

[190] Australia: Officer of the Inspector of Custodial Services: People in custody with an intellectual disability, 2024.
[191] Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.
[192] Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

gender.[193] *In some instances, authorities respond to safety risks by imposing involuntary segregation or isolation, which can amount to punitive treatment rather than protective support.*

Where complaint mechanisms are inaccessible or ineffective, abuse may go unreported. The absence of proper recordkeeping and risk-reduction strategies may allow patterns of discrimination or violence to persist without detection or accountability.

1) Oversight mechanisms shall assess whether:

   a) LGBTQIA+ persons are protected from discrimination, harassment, violence, and abuse;
   b) placement and classification decisions prioritise safety, dignity,[194] and individual circumstances;[195]
   c) protective measures do not result in unnecessary isolation or reduced access to services;[196]
   d) persons have equal access to healthcare,[197] education, work, rehabilitation programmes, and recreational activities;
   e) complaints mechanisms are accessible, confidential, and effective;
   f) incidents of violence or discrimination are properly recorded and investigated; and
   g) staff receive training on equality, non-discrimination, and the rights of LGBTQIA+ persons.[198]

2) Where oversight mechanisms identify systemic discrimination, violence, or unsafe practices, they shall make recommendations for corrective measures and, where appropriate, refer matters for investigation.

SCHEDULE 3: HEALTHCARE OVERSIGHT

EXPLANATORY NOTE:

[193] *September v Subramoney NO and Others (EC10/2016) [2019] ZAEQC 4; [2019] 4 All SA 927 (WCC) (23 September 2019)*

[194] *Sweden: Swedish Prison and Probation Service Regulations and General Advice on Prisons (Kriminalvårdens föreskrifter och allmänn a råd om fängelse) (2011)*

[195] *Sweden: Swedish Prison and Probation Service Regulations and General Advice on Prisons (Kriminalvårdens föreskrifter och allmänn a råd om fängelse) (2011); Prisons Act (Fängelselag) (2010); Remand Prisons Act (Häkteslag) (2010)*

[196] *September v Subramoney NO and Others (EC10/2016) [2019] ZAEQC 4; [2019] 4 All SA 927 (WCC) (23 September 2019)*

[197] *India: Model Prisons and Correctional Services Act (2023)*

[198] *September v Subramoney NO and Others (EC10/2016) [2019] ZAEQC 4; [2019] 4 All SA 927 (WCC) (23 September 2019)*

Persons deprived of liberty often experience a higher burden of communicable and non-communicable diseases, mental health conditions, injuries, disabilities and other health-related risks than the general population. Overcrowding, inadequate living conditions, limited access to healthcare services, and systemic deficiencies within correctional and public health systems may exacerbate these risks. Oversight bodies must therefore assess not only the availability, accessibility, acceptability and quality of healthcare services, but also the conditions of detention that affect physical and mental health.

The provisions in this Schedule identify health-related risks and categories of persons whose health needs require particular attention during oversight visits and provide guidance on assessing compliance with national, regional and international standards.

1. Older persons and infirm persons

EXPLANATORY NOTE:
The execution of sentences imposed on people over 60 years of age must respect their specific needs, state of health, and autonomy, by guaranteeing them the necessary assistance in their daily activities and ensuring accommodation conditions, security measures, and programmes that are specifically suitable.[199]

Older and/or infirm persons also need access to physical and mental healthcare, as well as facilities adapted to mobility, health conditions, and well-being.[200]

1.1 Specific considerations for oversight mechanisms

1) Oversight bodies should assess whether:

   a) older and infirm detainees have access to appropriate healthcare, rehabilitation, assistive devices and wellness services;
   b) accommodation, programmes and detention conditions are adapted to their physical, cognitive and mobility needs;
   c) compassionate or medical release mechanisms exist, are accessible and are implemented in practice; [201] and

[199] Mozambique: Penalty Execution Code, Law 26 of 2019, section 9(2).

[200] Position Paper on a Model Law for Correctional Centre Oversight in SADC, 2025.

[201] Angola: Criminal Procedure Code prohibits pre-trial detention of seriously ill persons, persons over seventy with health concerns, essential caregivers and late-stage pregnant women. If such conditions are present, a judge may suspend pre-trial detention. Zambia: Correctional Service Act, 2021, allows for discharge of terminally ill detainees on recommendation of health provider by Commissioner with approval of Minister.

d) terminally ill detainees and detainees with severe cognitive impairments are considered for release on medical grounds, and whether palliative care is available where release is not possible.

1.2 Actions and follow-up

1) Where an oversight body identifies a detainee who may qualify for compassionate or medical release, it should recommend an urgent assessment and monitor the outcome.

2. Persons with communicable diseases

EXPLANATORY NOTE:
A range of communicable diseases are prevalent in correctional centres in Africa, posing a serious threat to public health. This is due to the poor quality of health services in correctional centres and poor conditions, including the physical environment, diet, ventilation, and sanitation, which predispose detainees to communicable diseases.[202] Some key challenges include admission and registration procedures, low awareness of the risks of delayed diagnosis, shortage of trained health personnel, transportation bottlenecks, lack of laboratories in correctional centres, long turnaround times for sputum tests, lack of working x-ray machines, and high staff turnover. The taking of treatment can also be affected by the availability of regular food.

Tuberculosis (TB) is the leading cause of illness and death in correctional centres, driven by overcrowding, lengthy lock-up periods, poor ventilation, and delayed diagnosis. Malaria is frequently identified among the top five conditions treated in correctional centre health facilities. Poor structural facilities and a lack of mosquito control led to constant exposure to mosquito bites. HIV prevalence is higher in correctional centres than in the general population, exacerbated by unsafe sex, sexual violence, and interrupted treatment. Hepatitis B and C are common due to shared needles, poor infection control, lack of screening and lack of access to vaccination. High HIV, TB, and malaria prevalence, combined with poor nutrition, makes detainees highly vulnerable to severe outcomes.

Respiratory and gastrointestinal infections like pneumonia, influenza, cholera, diarrhoea, and typhoid are frequent due to unsanitary conditions in correctional centres. Skin and parasitic diseases, such as scabies, lice, and fungal infections, also thrive in overcrowded environments with limited hygiene.

New forms of infection, such as COVID-19, can be easily introduced and spread in closed settings, highlighting the absence of evidence-based and proportional

[202] SADC Minimum Standards for HIV and AIDS, TB, Hepatitis B and C and Sexually Transmitted Infections Prevention Treatment Care and Support in Prisons in the SADC Region, 2009.

policies to address such outbreaks. This led to instances in which detainees were cut off from all contact with relatives for prolonged periods, impacting their ability to access food from relatives.

2.1 Specific considerations for oversight mechanisms

1) Oversight bodies must ensure that members of visiting teams comply with applicable infection prevention and control measures, including health screening and the use of personal protective equipment where appropriate.

2) Oversight bodies should assess compliance with applicable national and regional standards for the prevention, diagnosis, treatment, and management of communicable diseases, including HIV, tuberculosis (TB), hepatitis, sexually transmitted infections (STIs), malaria, and other infectious diseases.[203]

3) Oversight bodies should assess whether:

   a) admission procedures identify health needs, risk factors and continuity-of-care requirements;
   b) detainees receive timely health screening, information on health services and access to voluntary testing and counselling, subject to informed consent;
   c) persons deprived of liberty receive healthcare equivalent to that available in the community and in accordance with national treatment guidelines;
   d) continuity of care is maintained during detention, transfer and release;
   e) appropriate discharge planning, referrals and medication are provided before transfer or release;
   f) diagnostic and treatment delays are identified and addressed;
   g) prevention measures, including vaccination, infection control, condoms, condom-compatible lubricants, post-exposure prophylaxis and harm-reduction interventions permitted by law, are available and accessible; and
   h) the facility is adequately prepared for outbreaks and public health emergencies.

4) Oversight bodies should assess environmental factors contributing to the spread of communicable diseases, including overcrowding, inadequate ventilation, poor sanitation, insufficient water supply and inadequate vector-control measures.

5) Oversight bodies must retain access to places of detention during public health emergencies, subject only to necessary health and safety measures.

[203] SADC Minimum Standards for HIV and AIDS, TB, Hepatitis B and C and Sexually Transmitted Infections Prevention Treatment Care and Support in Prisons in the SADC Region, 2009.

2.2 Actions and follow-up

1) Where diagnostic, treatment or referral delays are identified, oversight bodies must immediately notify the relevant authorities and monitor corrective action.

2) Where structural conditions contribute to the spread of communicable diseases, oversight bodies should make recommendations for remedial measures, including infrastructure improvements and population reduction strategies where appropriate.

3) Where disease-control measures unnecessarily restrict detainees' rights, oversight bodies should recommend less restrictive alternatives consistent with public health objectives.

3 Persons with non-communicable diseases

EXPLANATORY NOTE:
Hypertension, diabetes and cardiovascular diseases are rising in prevalence but are rarely diagnosed or treated in correctional centres. Within correctional centres in Africa, nutritional disorders such as chronic malnutrition and deficiencies (iron, vitamin C, protein) are widespread. In general, the diet provided in correctional centres falls short of a person's daily nutritional needs. A lack of adequate nutrition also affects individuals' ability to take prescription medication regularly.

3.1 Specific considerations for oversight mechanisms

1) Oversight bodies should assess whether detainees have access to screening, diagnosis, treatment and continuity of care for non-communicable diseases.

2) Oversight bodies should assess the adequacy, nutritional value, safety and availability of food and drinking water, including:

   a) inspecting food preparation and storage areas;
   b) assessing meal quality, frequency and variety;
   c) identifying cases of malnutrition and severe malnutrition; and
   d) examining factors affecting food and water security within the facility.

3) Oversight bodies should assess whether detainees who require therapeutic diets, nutritional supplements, or specialised medical treatment receive appropriate support.

3.2 Actions and follow-up

1) Food shortages or conditions posing an immediate health risk must be reported without delay to the facility head and relevant authorities.

2) Oversight bodies must monitor the implementation of recommendations relating to nutrition, water, and the treatment of non-communicable diseases, and escalate systemic deficiencies where necessary.

4 People with mental health conditions and substance use disorders

EXPLANATORY NOTE:
Persons deprived of liberty have high rates of depression, anxiety, psychosis, and PTSD, which are often untreated. Oversight mechanisms should not treat mental health in isolation, as it intersects with both communicable and non-communicable diseases. Substance use disorders are also common, and few treatment programmes exist.

Psychosocial support or cognitive care must be available to all who require it. For persons living with mental health conditions, imprisonment can exacerbate their mental health and impact their ability to seek medical and mental health care, and access complaints and request mechanisms.

4.1 Specific considerations for oversight mechanisms

1) Oversight bodies should assess whether:

   a) mental health screening is conducted upon admission and thereafter as necessary;
   b) qualified professionals provide appropriate mental health and substance use treatment and support services;
   c) crisis intervention, suicide prevention and self-harm prevention measures are in place; [204]
   d) staff receive training on mental health, substance use disorders and de-escalation techniques;
   e) individualised discharge planning and continuity of care arrangements are established before release; and
   f) rehabilitation and reintegration programmes adequately address substance use disorders.

2) Oversight bodies should assess whether any use of restraints, isolation or other restrictive interventions involving persons with mental health conditions complies with applicable legal and ethical standards.

4.2 Actions and follow-up

[204] Zimbabwe: Prisons and Correctional Services Act, 2023.

1) Oversight bodies should review complaints, injury and mortality records to identify possible failures in mental healthcare.

2) Any harmful, abusive or unlawful intervention affecting a person with a mental health condition or substance use disorder must be documented and referred to the appropriate authority.

5 Reproductive, maternal and child health

EXPLANATORY NOTE:
Female detainees and persons who can become pregnant face inadequate prenatal and postnatal care, limited sanitary products, and poor infant facilities. Both male and female detainees have high rates of sexually transmitted infections and unmet contraceptive needs.

5.1 Specific considerations for oversight mechanisms

1) Oversight bodies should assess whether sexual and reproductive healthcare services are available, accessible and provided without discrimination.

2) Oversight bodies should assess whether:

   a) persons have access to confidential sexual and reproductive health information, counselling and services;
   b) pregnant persons receive appropriate antenatal, intrapartum and postnatal care;
   c) childbirth occurs in appropriate healthcare facilities whenever possible;
   d) restraints are prohibited during labour, childbirth and the immediate postpartum period;
   e) emergency obstetric care is available without delay;
   f) menstrual health products and services are available free of charge and in sufficient quantity;
   g) coerced pregnancy testing, contraception, sterilisation or termination of pregnancy are prohibited;
   h) prevention of mother-to-child HIV transmission services are available where required; and
   i) infants residing with detained caregivers receive appropriate healthcare and developmental support.

5.2 Actions and follow-up

1) Any denial of essential reproductive or maternal healthcare must be reported immediately, and corrective measures must be taken.

2) Allegations of shackling during childbirth, coerced medical procedures or denial of emergency care must be referred for investigation and appropriate action.

6 Persons with injuries and violence-related health conditions

EXPLANATORY NOTE:
Physical injuries resulting from inter-detainee violence, gang activity, excessive use of force, harsh disciplinary measures, sexual violence, and torture are common in correctional centres. Many incidents go unreported due to fear of retaliation, lack of confidential complaint mechanisms, or distrust of authorities.

Death by suicide, non-fatal suicide attempt, and non-suicidal self-injury rates *are markedly higher in correctional centres than in the general population, often linked to overcrowding, solitary confinement, untreated mental illness, substance withdrawal, trauma, and lack of psychosocial support.*

Victims of violence may face delayed or inadequate medical care, poor documentation of injuries, intimidation, victim-blaming, or placement back into unsafe environments. Correctional centre management should identify solutions for showers, bathrooms and sleeping arrangements to guarantee safety, respect and dignity, and to minimise sexual harm and psychological stress. This includes adequate lighting, privacy-respecting supervision policies, and risk-based housing classification. In some cases, injuries may be concealed, misclassified, or insufficiently investigated, contributing to impunity and repeat harm.

6.1 Specific considerations for oversight mechanisms

1) Oversight bodies should assess whether:

   a) effective violence-prevention measures are in place;
   b) allegations of violence trigger prompt medical examination, psychosocial support and independent investigation;
   c) injuries are documented in accordance with recognised medico-legal standards;
   d) persons at risk of suicide or self-harm are identified and protected;
   e) victims are not punished or subjected to retaliatory treatment; and
   f) emergency medical care is always available.

2) Oversight bodies should assess data relating to injuries, assaults, deaths, suicides and self-harm to identify trends and systemic risks.

6.2 Actions and follow-up

1) Serious violence, torture, ill-treatment, sexual violence, suicide attempts or patterns of self-harm must be reported immediately and referred for independent investigation where appropriate.

2) Oversight bodies should monitor the protection of victims and the implementation of measures to prevent recurrence.

7 Environmental and occupational health risks

EXPLANATORY NOTE:
Overcrowding, lack of climate adaptation, ageing infrastructure, and inadequate maintenance expose detainees to extreme heat, cold, dampness, poor ventilation, and unsanitary living conditions. These conditions contribute to respiratory illness, skin infections, dehydration, heat stroke, vector-borne diseases, and the worsening of chronic and communicable diseases.

Limited access to clean water, functioning sanitation systems, waste disposal, and adequate lighting further undermines health and dignity. Climate change has intensified heatwaves, flooding, water scarcity, and extreme weather events, disproportionately affecting correctional centres that lack preparedness and adaptation strategies.

Hazardous correctional centre labour, including agricultural work, construction, kitchen duties, cleaning with chemicals, or industrial workshop tasks, may expose persons deprived of liberty to extreme temperatures, unsafe equipment, toxic substances, dust inhalation, repetitive strain injuries, and infections. Occupational health and safety standards are often poorly regulated, and protective equipment may be insufficient or unavailable. Detainees may also feel compelled to do unsafe work due to incentives or coercion.

7.1 Specific considerations for oversight mechanisms

1) Oversight bodies should assess whether detention conditions meet minimum standards of health, safety and dignity, including:

   a) ventilation, lighting and temperature control;
   b) access to safe drinking water;
   c) adequate sanitation and waste management;
   d) pest and vector control; and
   e) preparedness for climate-related and environmental risks.

2) Oversight bodies should assess occupational health and safety measures for detainee labour, including risk assessments, training, supervision, protective equipment, and injury reporting.

7.2 Actions and follow-up

1) Conditions posing an immediate threat to life or health must be reported urgently, and remedial action must be taken.

2) Oversight bodies should recommend infrastructure improvements, climate adaptation measures and occupational safety reforms where necessary.

8 Structural and systemic determinants

EXPLANATORY NOTE:
Health problems in correctional centres are often rooted in structural and systemic factors rather than individual behaviour. Chronic overcrowding, underfunded and understaffed health services, weak referral pathways to public hospitals, fragmented coordination between justice and health sectors, poor record-keeping, and lack of reliable data systems undermine access to timely and adequate care.

Stigma and discrimination, including against people living with HIV, persons with mental illness, persons who use drugs, foreign nationals, LGBTQIA+ persons, and persons with disabilities, further limit access to services and contribute to neglect or mistreatment.

Bureaucratic delays, lack of transportation for medical referrals, security-driven decision-making that overrides clinical judgment, and poor continuity of care during transfers or upon release all contribute to preventable illness, deterioration of health conditions, and avoidable deaths in custody.

8.1 Specific considerations for oversight mechanisms

1) Oversight bodies should assess whether:

   a) healthcare services are adequately staffed and resourced;
   b) correctional healthcare is integrated into the national health system;
   c) effective referral pathways exist;
   d) reliable health data is collected and analysed;
   e) clinical independence and confidentiality are respected;
   f) discrimination or stigma impedes access to healthcare; and
   g) continuity of care is maintained during transfer and release.

8.2 Actions and follow-up

1) Where systemic deficiencies are identified, oversight bodies must document them and make recommendations to the relevant authorities.

2) Oversight bodies should advocate for policy, legislative, budgetary or administrative reforms necessary to ensure equitable access to healthcare.

9 Monitoring and oversight duties of health professionals

EXPLANATORY NOTE:
The duty and responsibility of health professionals working within or visiting correctional centres is to protect, promote and maintain the health of the correctional centre population. Due to potential bias, health professionals working in correctional centres should report to the Department of Health.

Health professionals also have mandatory reporting obligations regarding abuse within the correctional centre. Data within the correctional centre must also be fed into the national health system database.

9.1 Monitoring and reporting duties of health personnel

1) Health professionals shall regularly conduct inspections of the correctional centre and advise the head of the facility on:

   a) the quantity, quality, nutritional value, preparation, and service of food; [205]
   b) provision and quality of water, including the presence of stagnant water;
   c) the hygiene and cleanliness of the facility and the person deprived of liberty;
   d) the sanitation, temperature, lighting, and ventilation of the facility;
   e) the suitability and cleanliness of the clothing and bedding;
   f) prevalence and trends in common illnesses, communicable diseases, malnutrition, disability, and pregnancies among the correctional centre population;
   g) check vaccinations;
   h) pharmacy stock, condition of medical equipment;
   i) the availability and appropriateness of mental health services;[206]
   j) any other additional criteria.

2) Inspection reports shall be submitted promptly to the facility head and other designated authorities and shall protect patient confidentiality.

3) Health professionals must document and report:

   a) torture, ill-treatment and abuse;

[205] Mozambique: Penalty Execution Code, Law 26 of 2019, section 45.

[206] Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

b) serious threats to health or safety;
c) suicide risks and serious mental health concerns;
d) conditions that may adversely affect detainees' physical or mental health; and
e) matters subject to mandatory reporting under national law.

4) Health professionals shall maintain accurate and confidential medical records and identify healthcare needs without discrimination.

5) Oversight bodies must report serious professional misconduct, breaches of ethics or persistent failures by health personnel to fulfil their duties.

9.2 Training

1) Health professionals working in correctional centres shall receive initial and periodic training on:

a) clinical ethics and confidentiality;
b) identification and documentation of torture and ill-treatment;
c) trauma-informed care;
d) mental health and substance use disorders;
e) healthcare needs of persons facing additional barriers; and
f) health conditions prevalent within correctional settings.

9.3 Protection of whistle-blowers

1) Health professionals and other persons who report misconduct, abuse or systemic risks in correctional centres must be protected from reprisals.

9.4 Access to data and records

1) Health professionals and authorised officials shall have access to the information necessary to monitor healthcare delivery and public health trends, subject to applicable confidentiality and data protection requirements.

SCHEDULE 4: GUIDELINES ON THE PREVENTION AND RESPONSE TO GENDER-BASED VIOLENCE IN CUSTODIAL SETTINGS

EXPLANATORY NOTE:
This Schedule guides correctional authorities and oversight bodies on measures to prevent, identify, and respond to gender-based violence in places of detention.

1. Scope of gender-based violence

1) Gender-based violence in custodial settings includes, but is not limited to:

a) sexual abuse, assault, and exploitation;
b) sexual harassment and coercion;
c) violence based on sexual orientation or gender identity;
d) degrading treatment, humiliation or invasive searches;
e) denial of services or protection on discriminatory grounds; and
f) any other act or omission that causes harm based on sex, gender, sexual orientation, gender identity, or related status.

2. Risk factors in detention settings

1) Authorities and oversight bodies shall recognise that the risk of gender-based violence is heightened by:

a) overcrowding and resource scarcity;
b) inadequate staffing levels and insufficient staff training;
c) absence of effective classification and separation systems;
d) power imbalances between staff and persons deprived of liberty;
e) discrimination against groups at heightened risk; and
f) lack of safe, accessible, and confidential reporting mechanisms.

3. Prevention measures

1) Correctional centres shall establish, and oversight bodies shall monitor the implementation of:

a) comprehensive anti-violence policies;
b) appropriate staff-to-detainee ratios;
c) regular, mandatory and specialised staff training;
d) safe and appropriate accommodation and classification systems;
e) environmental safeguards to reduce opportunities for abuse, including elimination of blind spots and unsupervised areas; and
f) measures addressing structural drivers of risk, including overcrowding.

4. Survivor-centered response

1) Responses to gender-based violence shall:

a) prioritise the safety, dignity and autonomy of survivors;
b) ensure confidentiality and informed consent at all stages;
c) avoid re-traumatisation;
d) provide timely access to medical, psychological and legal services; and
e) ensure protection from intimidation, retaliation and reprisals.

5. Persons at heightened risk

1) Attention shall be given to persons at heightened risk, including:

a) women and girls;
b) children and young adults;
c) LGBTQIA+ persons;
d) persons with disabilities;
e) older persons;
f) infirm persons;
g) persons with limited social support, including those without regular visitors and resources;
h) foreign nationals; and
i) persons in pre-trial detention.

6. Data collection and analysis

5) Oversight bodies shall monitor whether correctional centres collect, maintain and analyse data on gender-based violence that is disaggregated by sex, age, legal status and other relevant factors, and that is managed in a manner that protects confidentiality and privacy.

7. Oversight and accountability

1) Oversight bodies shall:

b) assess compliance with applicable legal and human rights obligations;
c) identify systemic risks, patterns and contributing factors;
d) evaluate the adequacy and effectiveness of prevention and response measures; and
e) make recommendations for reform and monitor their implementation.