PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PAPER 3/4

TOWARDS A MONITORING TOOL FOR SELECTIVE SITES IN THE CRIMINAL JUSTICE SYSTEM

MOTHER AND BABY UNITS IN CORRECTIONAL CENTRES MONITORING TOOL

27 July 2026

PARLIAMENTARY RESEARCH UNIT (PRU)
WWW.PARLIAMENT.GOV.ZA

PAPER 3/4
TOWARDS A MONITORING TOOL FOR SELECTIVE SITES IN THE CRIMINAL JUSTICE SYSTEM:
MOTHER AND BABY UNITS IN CORRECTIONAL CENTRES MONITORING TOOL

TABLE OF CONTENTS

1. INTRODUCTION

The incarceration of women presents distinct legal and social challenges, particularly when women are primary caregivers to dependent children. In South Africa, a small but significant number of incarcerated women are pregnant or have infants at the time of imprisonment. In response, the Department of Correctional Services (DCS) permits mothers to keep their children with them in prison until the age of two, primarily through the establishment of Mother-Baby Units (MBUs).

MBUs are designed to accommodate the needs of mothers and infants by providing a separate living environment within correctional facilities. While the intention is to protect the maternal bond and promote early childhood development, the presence of children in prisons raises difficult questions about the appropriateness of custodial environments for infants and the extent to which the state can fulfil its constitutional obligations toward children in such settings.
It is a worldwide phenomenon that, when mothers are imprisoned, their young children are allowed to accompany them.[1] However, practices between different countries, and even within different prisons, vary greatly and there are arguments both for and against the incarceration of children with their mothers.

Some argue that, without better alternative care options, these children benefit from the strong emotional attachment that develops because they spend so much time with their mothers. Others contend that prisons are not suitable environments for children to live and grow in. It is generally agreed that allowing young children to accompany their mothers in prison and separating them from their mothers, are both problematic.

[1] Adhikary S, Gillespie K, Kimball H, et al. A systematic review of research examining mothers, infants, family and staff in psychiatric mother-baby units. Acta Psychiatry Scand. 2024;150(5):284-307. doi:10.1111/acps.13727

Most countries that allow young children to be incarcerated with their mothers set an upper age limit, after which time the child is removed. This reflects an assumption that from a certain age the adverse effects of a prison environment on the young child and its development outweigh the benefits of being with the mother. There is no empirical evidence on the optimum age of separation, and it varies between countries.

Section 14 of the Correctional Services Amendment Act 25 of 2008 states that "a female inmate may be permitted, subject to such conditions as may be prescribed by regulation, to have her child with her until such child is two years of age or until such time that the child can be appropriately placed taking into consideration the best interest of the child."[2] During the time that the child is in custody with the mother, the Department of Correctional Services bears the cost of the food, clothing, health care, and development of the child.[3]

Furthermore, the Act notes that "Where practicable the National Commissioner must endure that a mother and a child unit is available for the accommodation of female inmates and the children whom they may be permitted to have with them."[4]

This paper on Mother and Baby Units (paper 3 of 4):

- Critically analyses MBUs in South African prisons by examining their legal foundations, practical implementation, and implications for child welfare.
- Is part of the first phase toward creating a monitoring tool to be used by Parliament when conducting oversight at specialised facilities like mother and baby units in correctional centres.
- Includes a draft checklist which may form the basis for development of this tool.

2. CONTEXT AND BACKGROUND

2.1. Women in South African Correctional Centres

Women constitute a minority of the South African prison population, yet their incarceration has disproportionate social consequences. Many incarcerated women come from economically marginalised backgrounds and are primary caregivers prior to imprisonment.[5] Offences committed by women are often non-violent and linked to poverty, such as theft, fraud, or drug-related offences. The incarceration of mothers frequently results in family disruption, placing children at risk of institutionalisation or informal care arrangements that may lack stability. These realities underscore the need for gender-responsive correctional policies that account for caregiving responsibilities. According to the Department of Correctional Services Annual Report 2024/2025, the total number of inmates as on 31 March 2025 was 166 008, against the approved bedspace of 107 067 which calculated into an occupancy level of 155% and an overcrowding level of 55%. The unsentenced inmate population constituted approximately 37% whilst the sentenced offender population constituted approximately 63% of the total inmate population. Males made up approximately 97% whilst females made up approximately 3% of the total inmate population.[6]

2.2. Children Living with Incarcerated Mothers

[2] The Correctional Services Amendment Act 25 of 2008. Section 14.
[3] Muntingh, L (2010).
[4] Ibid.
[5] Gobena, E. B., Hean, S., Heaslip, V., & Studsrød, I. (2023). The Lived Experience of Motherhood after Prison: A Qualitative Systematic Review. *Women & Criminal Justice*, *33*(6), 442–460. https://doi.org/10.1080/08974454.2022.2030274.
[6] Department of Correctional Services (2025). Department of Correctional Services Annual Report 2024/2025

South African law permits children to remain with their incarcerated mothers until the age of two. This policy is grounded in the recognition of the importance of early bonding, breastfeeding, and maternal care. MBUs serve as the primary mechanism through which this policy is implemented. However, the presence of children in prisons remains controversial. Critics argue that prisons are inherently unsuitable environments for children due to restricted movement, limited stimulation, and exposure to institutional routines. Supporters counter that separation from mothers during infancy can cause long-term psychological harm, making MBUs a necessary, if imperfect, solution.

According to the Judicial Inspectorate for Correctional Services' (JICS) Annual Report 2024/2025, the **number of infants incarcerated with their mothers increased from 66 in the previous performance cycle to 72 in the current cycle**. Mothers are allowed to keep their babies with them until the baby is 24 months old. After that, the baby is either placed with a family or in foster care.[7]

3. LEGAL AND POLICY FRAMEWORK

Several pieces of domestic legislation have an impact on the treatment and imprisonment of female offenders, specifically those that are pregnant or have a young child. In addition, Government has a number of policies and programmes that aim to ensure that offenders receive treatment in line with human rights whilst imprisoned. This section considers some of these.

3.1. The Constitution

The Constitution ensures that every child has the right to family care or parental care.[8] In South Africa some children can live in prisons with their mothers, but such provisions have not been extended to fathers. This reality is given recognition in Section 20(1) of the Correctional Services Act (Act 111 of 1998; the Act), as amended by the Correctional Services Amendment Act 25 of 2008 (the CSAA), which refers to children accompanying their mothers into prison and makes no reference to children accompanying their fathers.

Haffejee, Vetten and Greyling (2006) found that often children suffer more adversely when their mothers are imprisoned than when their fathers are imprisoned.[9] This is because often when fathers are imprisoned, children continue to live with their mothers. However, when mothers are imprisoned, it is rare for children to remain living with their fathers. In their study, where children's mothers were imprisoned, 37% of children lived with their grandparents, 28% lived with another family member, 22% were placed in foster care, and only 13% lived with the women's male partner.[10]

3.2. The White Paper on Corrections (2007)

The White Paper on Corrections provides detail on policy elements of incarcerated South Africans. It notes that the needs of special categories of offenders including women and children younger than 18 years pose a challenge to a prison system that was not created to house them. The White Paper on Corrections notes that the most important features of the Correctional Services Act 111 of 1998 are:[11]

[7] Judicial Inspectorate for Correctional Services (2025). Judicial Inspectorate for Correctional Services' (JICS) Annual Report 2024/2025.
[8] The Constitution of the Republic of South Africa. Chapter 2, Section 28.
[9] Haffejee, S, Vetten, L, Greyling, M (2006).
[10] Ibid.
[11] The Department of Correctional Services (2007). *White Paper on Corrections.* Section 2.7.11

- The entrenchment of the fundamental rights of offenders; and
- Special emphasis on the rights of the women and children.

At its core, it emphasises that "the rehabilitation process must be responsive to the special needs of women."[12]

Section 11.4 of the White Paper deals with female offenders, and notes that because there are fewer female correctional facilities in South Africa it is common that female offenders are often placed further away from their homes than men. The impact on pregnant women and new mothers is obviously significant. Recognising this, the White Paper notes that the Department has an obligation to incarcerate women offenders as close to home as possible, in order to minimise the negative impact on family life, especially if they are mothers. As far as it is practicable, the Department should provide a woman's unit in each and every correctional institution.

The White Paper thus motivates for the creation of Mother and Baby Units within female correctional centres that allow for a separate sleeping area for mother and their children, and a crèche facility.[13] These units are provided with a focus on the best interest of the child. The White Paper states that the focus should be on the normalisation of the environment in order to promote the child's physical and emotional development and care. The interests of the child should be put at the forefront in any policy development regarding babies of offenders that are accommodated inside correctional facilities.[14]

The White Paper also recommends that any policy development should be flexible and should allow for the proper assessment of each case, and of the family circumstances of those family members outside of the correctional facility.

The White Paper thus does not specify any particular treatment for pregnant women but recommends procedures that are in line with the Children's Act and respect the need for bonding between mothers and children.

3.3. The Correctional Services Act (Act 111 of 1998) and Amendment Act (Act 25 of 2008*)*

The Correctional Services Act makes particular reference to the needs of pregnant incarcerated women, and incarcerated mothers. At Section 8 (2) it notes that the diet of each prison must take into account the nutritional needs of pregnant women and children.[15] Section 41 (7) notes that programmes must be responsive to the special needs of women, and they must ensure that women are not disadvantaged.

In South Africa, Section 20(1) of the Correctional Services Act 111 of 1998 (as amended by the Correctional Services Amendment Act 25 of 2008) determines that children may accompany their mothers in prison up until the age of two years, after which time they must be removed from the prison environment. For those children incarcerated with their mothers, this compulsory separation could constitute a violation of the best 'interest of the child' as stipulated in Section 28(2) of the Constitution.

Section 134 of the original Act permitted the Minister to make regulations relating to the safe custody of prisoners; procedures for admission; the classification of prisoners according to age, gender,

[12] Ibid. Section 9.6.4.
[13] The Department of Correctional Services (2007). *White Paper on Corrections.* Section 11.4.3.
[14] The Department of Correctional Services (2007). *White Paper on Families.* Section 11.4.3.
[15] The Correctional Services Act 111 of 1998.

health and security risk considerations; the diet of prisoners with special provision for the nutritional requirements of children, pregnant women, and any other category of prisoners whose physical condition requires a prescribed diet; the permissible non-lethal incapacitating devices and the manner in which they may be used; and other matters where regulations were needed.

In terms of the separation process when a child has reached two years old, a flexible approach to the age of separation is suggested in line with the White Paper on Corrections. A flexible approach would require an individualised analysis of the child's best interests. The Department of Correctional Services should work in collaboration with the Department of Social Development to take the necessary steps towards placement of the child.[16] It is suggested that the potential for flexibility does exist in Section 20 of the Act. However, it is also submitted that since it is merely potential and not policy, prison authorities might have too much discretion in interpreting this section. This may result in a lack of uniform practices, and some children may therefore be disadvantaged.

3.4. The Correctional Matters Amendment Act (Act 5 of 2011)

Section 49A[17] of the Correctional Matters Amendment Act makes particular recommendations about the health of pregnant women who are awaiting the finalisation of their trial (i.e. have not been acquitted or sentenced).

Section 49A (1) notes that all detainees who claim to be pregnant must immediately be referred to a medical practitioner for a full medical examination in order to confirm such pregnancy. Section 49A (2) requires that the National Commissioner [of Correctional Services] must, within available resources, ensure that a unit is available for the accommodation of pregnant remand detainees. Finally, Section 49A (3), makes a provision for every pregnant remand detainee to be provided with adequate food and nutrition to ensure that her health is promoted.

Section 17 of the Correctional Matters Amendment Act adds further categories where regulations may be introduced relating specifically to remand detainees including:[18]

- The diet of a pregnant remand detainee, a child in custody with a remand detainee and an aged remand detainee;
- Accommodation of remand detainees who are pregnant, aged, mentally ill, or mothers with newborn children; and
- The conditions subject to which a remand detainee may be permitted to have her child with her.

Section 134 (5) specifies that the Minister must refer proposed regulations to the relevant Parliamentary Committees in both Houses dealing with the Department. The Act does not specify which Committees would be relevant, but it could include:

- The Portfolio Committee on Correctional Services;
- The Portfolio Committee on the Women, Youth and Persons with Disabilities;
- The Portfolio Committee on Social Development;
- The Select Committee on Social Services;
- The Select Committee on Co-operative Governance and Traditional Affairs; and
- The Select Committee on Security and Constitutional Development.

[16] Muntingh, L (2010).
[17] The Correctional Matters Amendment Act 5 of 2011. Section 49A.
[18] Ibid. Section 17

3.5. Correctional Services Regulation 323 in relation to the Correctional Services Act 111 of 1998[19]

The Regulations in relation to the Correctional Services Act make a number of references to children in the care of their incarcerated mothers, and to pregnant sentenced offenders and remand detainees. A noticeable absence in the regulations is the lack of a section relating to the birth process for pregnant offenders, and the use of restraints during birth and immediately thereafter. The regulations currently do not prohibit the use of restraints on pregnant women.

Compliance with international instruments	The regulations require that inmates are treated in a manner that is in line with binding, international instruments relating to their treatment.[20]
Provisions for the health of pregnant inmates and their children	Throughout the regulations, the term 'cared for child' is used to refer to children in correctional facilities with their mothers. The regulations make specific requirements for the health of both inmates and children. Section 2(3)(a) requires that within twenty-four hours of admission, and before mixing with the general prison population, every inmate and cared-for child must have a health status examination by a correctional medical practitioner or a registered nurse. If the cared-for child or inmate is examined by a nurse, in certain cases they should be referred to the Correctional Medical Practitioner.[21] This occurs if any of the following conditions are identified: (i) The inmate or cared-for child who, upon admission to the Correctional Centre had been injured, was ill or has complained that he or she is injured or ill; (ii) The inmate or cared-for child is using prescribed medication or receives medical treatment; (iii) The inmate or cared-for child is receiving continued or ancillary medical treatment; (iv) The inmate is pregnant; or (v) There exists any other condition with regard to the inmate or cared-for child which the registered nurse on reasonable grounds believes requires the Correctional Medical Practitioner to issue the admission report." Thus, all pregnant women should be referred to a Correctional Medical Practitioner as soon as they arrive, as should any children who come into the prison with inmates. Furthermore, Section 6(1)(d) requires that the Correctional Medical Practitioner must certify whether a pregnant inmate is fit to exercise. In terms of on-going health care, the regulations, Section 7(4) requires that a registered nurse must attend to all pregnant sentenced offenders and remand detainees, as often as is necessary, but at least once per day. For pregnant inmates or remand detainees who would like to terminate their pregnancy, the regulations make provision for an abortion at State expense only in certain circumstances which are defined in the Choice on Termination of Pregnancy Act (No. 92 of 1996). According to the regulations, Chapter 7

[19] Department of Correctional Services (2012) *Regulation 323 in relation to the Correctional Services Act 111 of 1998.*
[20] Ibid. Section 2 (3)(e)
[21] Ibid. Chapter 2 (3)(b)

Provisions for the health of pregnant inmates and their children	(9)(b), an abortion at state expense may be approved only in the circumstances contemplated in Sections 2 (1)(b)(i), (ii), or (iii) and 2 (1)(c) of the Choice on Termination of Pregnancy Act (92 of 1996). The circumstances contained in those sections are detailed below.[22] Section 2 (1)(b) of the Choice on Termination of Pregnancy Act states that a pregnancy may be terminated, from the 13th up to the 20th week of the gestation period if a medical practitioner, after consultation with the pregnant women, is of the opinion that – (i) The continued pregnancy would pose a risk of injury to the woman's physical or mental health; or (ii) There exists a substantial risk that the foetus would suffer from a severe physical or mental abnormality; or (iii) The pregnancy resulted from rape or incest; or (iv) The continued pregnancy would significantly affect the social or economic circumstances of the woman. Section 2(1)(c) of the Choice on Termination of Pregnancy Act states that a pregnancy may be terminated after the 20th week of the gestation period if a medical practitioner, after consultation with another medical practitioner or a registered midwife, is of the opinion that the continued pregnancy – (i) Would endanger the woman's life; (ii) Would result in a severe malformation of the foetus; or (iii) Would pose a risk of injury to the foetus. A concerning absence is that the regulations do not allow for a termination of pregnancy at state expense at the request of the inmate or remand detainee within the first 12 weeks of the gestation period of her pregnancy. The Choice on Termination of Pregnancy Act Section 2(1)(a) provides that a pregnancy may be terminated upon request of a woman during the first 12 weeks of the gestation period of her pregnancy.[23] The regulations also do not specify whether the inmate has the option of terminating the pregnancy at her own expense. Thus, an inmate may arrive at a prison unaware that she is pregnant and be required to carry the pregnancy to full term.
Birth	Section 18 of the regulations covers the use of mechanical restraints on inmates. Of concern is the fact that this section does not explicitly prevent the use of mechanical restraints for pregnant women, or those in labour. Currently the section allows for the use of one or more of the following mechanical restraints: (a) Handcuffs (b) Leg-irons and cuffs (c) Belly chains (d) Plastic cable ties (e) Electronically activated high-security transport stun belts ; or (f) Patient restraints, where applicable.

[22] The Choice on Termination of Pregnancy Act 92 of 1996.
[23] The Choice on Termination of Pregnancy Act 92 of 1996. Section 2 (1) (a).

Placement of children	If a child has been admitted with a female inmate, the regulations require that the Head of a Correctional Centre must facilitate the placement of the child, and that the Department of Social Development must be informed of both the inmate, and of the child.[24] When or if the child is transferred, the medical history file and prescribed medication must be transferred with him.[25]
Family bonds	The regulations recognise that family relations are important for inmates. They note that "The Head of the correctional centre must give special attention to the development and maintenance of good family relationships between inmates and their family members and other relatives."[26]
Access to psycho-social care	The regulations provide for the option of social work services[27] and psychological services[28] for all inmates as needed, and that all such services should be provided by registered providers.
Remand detainees	Section 26 covers pregnant remand detainees specifically. Section 26 (d)[29] requires that: (1) Pregnant women in remand detention must have access to prenatal-intranatal and postnatal services (2) If the medical practitioner or registered midwife prescribes any form of medication or treatment additional to what is normally recommended, the Head of the Remand Detention Facility or Correctional Centre or an official authorised for him or her, as the case may be, must arrange to provide such. (3) The Head of the Remand Detention Centre or Correctional Centre, as the case may be, or a correctional official authorised by him or her must inform the investigating officer and prosecutor of the pregnancy of a remand detainee. (4) The Head of the Remand Detention Facility or Correctional Centre of an official authorised by him or her, as the case may be, must inform the next of kin of the pregnancy of the detainee, if so, requested by the pregnant remand detainee. (5) The pregnant remand detainee may request additional visits with the alleged biological father, next of kin, or other supportive persons over and above the normal visits allowed. (6) Pregnant and lactating remand detainees must be provided with food items according to their nutritional needs as prescribed in the Department of Health's Maternal Health Guidelines as well as the Departmental ration scales and Therapeutic Diet Manual, taking into consideration religious or cultural beliefs. It would be beneficial of all provision in 26 (d) were extended to all pregnant inmates, and not exclusively to remand detainees.

3.6. The Children's Act (Act 38 of 2005)

[24] Ibid. Section 2 (3)(d)
[25] Department of Correctional Services (2012) *Regulation 323 in relation to the Correctional Services Act 111 of 1998.* Section 25
[26] Department of Correctional Services (2012) *Regulation 323 in relation to the Correctional Services Act 111 of 1998.* Section 8 (1)
[27] Ibid. Section 10 (1)(a)
[28] Ibid. Section 10 (3)(a)
[29] Ibid. Section 26 (d)

The Children's Act (Act 38 of 2005) outlines that decisions should be made in the best interests of the child, and that each child has a right to participate in decision-making that concerns him or herself. The Children's Act gives effect to certain rights of children as contained in the Constitution and sets out principles relating to the care and protection of children. Furthermore, it specifies that in all matters concerning the care, protection and well-being of child the standard that the child's best interest is of paramount importance, must be applied.[30] The Act provides for the following, namely: early childhood development programmes; partial and foster care services; prevention and early intervention services for vulnerable children; protection services for abused children; support groups for child-headed households; and partial and secure care facilities for children and adoption.[31]

3.7. International and Regional Human Rights Standards

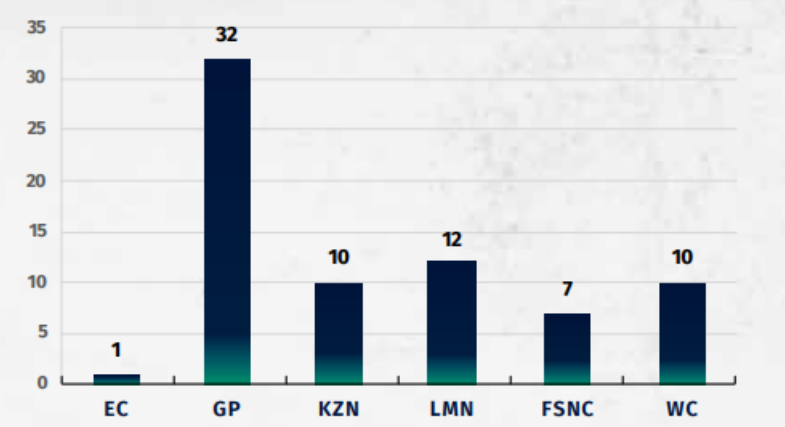
South Africa is a party to several international instruments relevant to MBUs, including the UN Convention on the Rights of the Child and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). These instruments emphasise the need to prioritise non-custodial measures for pregnant women and mothers of young children. Regionally, the African Charter on the Rights and Welfare of the Child reinforces the obligation to ensure children's survival, development, and dignity, regardless of their parents' legal status.

3.8. Best Interests of the Child Principle

The best interests of the child principle requires a contextual, individualised assessment of each child's circumstances. In the context of MBUs, this principle demands careful consideration of whether remaining in prison truly serves a child's developmental needs or whether alternative care arrangements would better protect their rights.

4. MOTHER AND BABY UNITS IN PRACTICE

The number of infants incarcerated with their mothers increased from 66 in the previous performance cycle to 72 in the current cycle. Mothers are allowed to keep their babies with them until the baby is 24 months old. After that, the baby is either placed with a family or in foster care.



Graph 5: Infants accommodated with their mothers during the 2024/2025 performance cycle

[30] The Children's Act 38 of 2005.
[31] Abrahams, K. and Matthews, T. (2011). *Child Rights Manual: Handbook for Parliamentarians*. Cape Town: Parliament of the Republic of South Africa

The is very little data available regarding BMUs in South Africa. The graph above illustrates that Gauteng Province currently has the highest number of babies accommodated with their incarcerated mothers.

As highlighted previously, the Correctional Services Act makes provides that a female inmate may be permitted, subject to such conditions as may be prescribed by regulation, to have her child with her until such child is two years of age or until such time that the child can be appropriately placed taking into consideration the best interest of the child. The CSA in section 20 (3) notes that:

> Where practicable, the National Commissioner must ensure that a mother and child unit is available for the accommodation of female inmates and the children whom they may be permitted to have with them.

MBUs are intended to provide a more child-friendly environment than standard prison cells. In practice, conditions vary significantly between facilities. Some units offer separate rooms, access to outdoor spaces, and basic childcare facilities, while others suffer from overcrowding and inadequate resources. Healthcare services for infants are generally provided through public health systems, though access may be limited by staffing shortages and logistical constraints.

In 2014, the Parliamentary Research Unit conducted research on incarcerated mothers at **Pollsmoor Correctional Facility.** The image provided was taken at the prison in 2014. Here, it can be seen that MBUs are separate from the main prison.

Mothers in MBUs may receive parenting education, healthcare, and psychosocial support. However, such programmes are not uniformly available and often depend on partnerships with non-governmental organisations. Mental health support is particularly critical, given the stress associated with incarceration and caregiving in a restrictive environment. Correctional staff play a central role in the daily functioning of MBUs, yet many lack specialised training in early childhood development. NGOs and social workers often fill critical gaps by providing developmental programmes, material support, and advocacy.

In South African correctional services, B-Orders (or B-Orders) are detailed, internal operational policies and procedures that dictate how the Correctional Services Act and Regulations are implemented. They provide specific, mandatory guidelines for management, treatment, and security, ensuring that correctional officials follow uniform protocols in their daily duties. According to the B-Orders (Chapter 8), a nurse must be assigned at every correctional centre to manage the supervision of all the infants. Officials and prisoners (called 'infant-minders') working in the mother and child unit must be specially trained and selected based on specific criteria. They must complete a departmental course in childcare. 'Infant-minders' may not have been convicted for a violent crime.[32] However, as noted earlier staff shortages and capacity limitations often have an impact in this regard – for

[32] https://www.prison-insider.com/en/countryprofile/afrique-du-sud-2025?s=populations-specifiques-5d9b19c2d4a4f

example, the Judicial Inspectorate for Correctional Services reported, in 2022, that children incarcerated with their mothers do not have access to paediatricians.

5. COMPARATIVE AND INTERNATIONAL PERSPECTIVES

Internationally, approaches to MBUs vary widely. Some jurisdictions impose strict age limits, while others prioritise community-based alternatives to incarceration. Comparative analysis suggests that countries with strong diversion and sentencing alternatives achieve better outcomes for both mothers and children, highlighting potential lessons for South Africa.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (also known as the Nelson Mandela Rules) sets out principles that should guide the treatment of prisoners, and also prison management.[33] These Rules, adopted in 2015, are a revision of the United Nations Rules that were first adopted in 1955.

In Rule 28 and 29 it indicates that:

Rule 28

In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

Rule 29

1. A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for:

(b) Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent.

(b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists.

2. Children in prison with a parent shall never be treated as prisoners.

The Bangkok Rules, a set of 70 United Nations rules, adopted in 2010, expands on these Rules by providing specific standards for the treatment of women prisoners. Section 3 deals specifically with pregnant women, breastfeeding mothers and mothers with children in prison.

It states among others that:

Pregnant and breastfeeding women must receive health and dietary advice, as well as adequate food, exercise, and healthy living conditions (Rule 48.1).	**Women must not be discouraged from breastfeeding unless medically necessary (Rule 48.2).**	**Women who recently gave birth but do not have their babies with them should have their medical and nutritional needs supported (Rule 48.3).**
Decisions to allow children to stay with their mothers in prison shall	Women prisoners whose children are in prison with them	Children living with their mothers in prison shall be provided with

[33] https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

be based on the best interests of the children. Children in prison with their mothers shall never be treated as prisoners (Rule 49).	shall be provided with the maximum possible opportunities to spend time with their children (Rule 50).	ongoing health-care services and their development shall be monitored by specialists, in collaboration with community health services (Rule 51.1).
The environment provided for such children's upbringing shall be as close as possible to that of a child outside prison (Rule 51.2).	Decisions as to when a child is to be separated from its mother shall be based on individual assessments and the best interests of the child within the scope of relevant national laws (Rule 52.1).	After children are separated from their mothers and placed with family or relatives or in other alternative care, women prisoners shall be given the maximum possible opportunity and facilities to meet with their children, when it is in the best interests of the children and when public safety is not compromised (Rule 52.3).
Prisons are not designed for pregnant women and women with small children. Every effort needs to be made to keep such women out of prison, where possible and appropriate, while taking into account the gravity of the offence committed and the risk posed by the offender to the public (Rule 60).		

5.1 Mother and Baby Units in England

In England, women who give birth in prison can keep their baby for the first 18 months in a mother and baby unit. This must however be applied for. A prisoner with a child under 18 months old can apply to bring their child to prison with them. In exceptional circumstances placements can be extended up to a maximum age of 24 months.

The Prison Rules provides that the Secretary of State may permit a woman to have her baby with her in prison and that everything necessary for the baby's care may be provided there. There are currently six MBUs in England and Wales. The expectation is that MBUs should be calm places with a friendly and welcoming atmosphere, which encourages children to thrive.

Social Services arrange for children over 18 months to be cared for (for example by the prisoner's parents or fostering). Pregnant women, and women with children younger than 18 months old can apply. There are no exclusions relating to remand status/sentenced, offence type, sentence type or sentence length.[34]

MBUs are made up of both living space and nursery facilities, which are registered by The Office for Standards in Education, Children's Services and Skills (OFSTED).

Applying for a place in a mother and baby unit

1. The prisoner can apply for a space in a mother and baby unit when they enter prison.
2. An admissions board will decide if it is the best thing for the child.
3. If there are no places in the prison the mother first goes to, they may be offered a place in another unit.
4. If there are no spaces in any unit, arrangements must be made for the child to be cared for outside prison.
5. If the mother is refused a place they can appeal - the prison will explain how.
6. Separation plans are made when the mother enters prison if the child will reach 18 months before her sentence is over.

34 https://assets.publishing.service.gov.uk/media/637e1e2ed3bf7f153c5175fc/Applications_to_mother_and_baby_units_in_prison_-_how_decisions_are_made_and_the_role_of_social_work.pdf

For prisoners with sentences of 18 months or over, arrangements are normally made for the child to be cared for outside prison.

In terms of staffing and operations, the following can be noted[35]:

- There must be Health and Safety risk assessments in place and staff allocated to the unit must as a minimum be trained in first aid.
- Within the prison, there must always be a member of staff on duty who is trained in paediatric first aid (including child/adult resuscitation) who can be called to the MBU if required. Mothers must be provided with detailed guidance as to what to do in an emergency.
- Staffing levels and qualifications must also comply with public standards as set out in the Department for Education's Statutory Framework for the Early Years Foundation Stage, in particular, those relating to crèches, sessional day care and full day care nurseries, whichever is applicable to the MBU of the Prison.
- Every prison which has an MBU must have a Contingency Plan/Policy in place for Child Protection, First Aid including paediatric first aid and Resuscitation, which should include checklists and flow charts for managing such events.
- All basic items, for example cots, nappies, and toys, must be provided for all children on MBUs. Mothers must have access to systems that allow them to purchase other items they need using their private cash.[36]

5.2 Mother and Baby Units in Canada (Mother-Child Program- MCP)

In Canada, a child is eligible to be considered for participation in the residential component of the Mother-Child Program (MCP) if they are not older than four years of age (no longer eligible at the fifth birthday) for full-time residency in a living unit.

A mother can be considered for participation in the residential component of the Mother-Child Program with their child if:

- they are classified as minimum or medium security, or are maximum security and are being considered for medium security
- they have been screened against the relevant provincial child welfare registries to verify whether information exists that should be considered in the decision -making process
- the child welfare agency is supportive of their participation
- there is no current assessment from a mental health professional indicating that the mother is incapable of caring for their child due to a documented mental health condition of the child or the mother
- they have not been convicted of an offence against a child or of an offence which could reasonably be seen as endangering a child. An inmate who does not meet this eligibility criterion may be considered for participation if a psychiatric or psychological assessment determines that the inmate does not present a danger to their child
- they are not subject to a court order or other legal requirement prohibiting contact with their child or children.

The mother and the correctional facility sign an individualised parenting agreement that outlines the conditions under which the child will reside within the correctional facility.

[35] https://hubble-live-assets.s3.eu-west-1.amazonaws.com/birth-companions/file_asset/file/60/PSI_49-2014_mother_and_baby_units.pdf
[36] https://assets.publishing.service.gov.uk/media/695bd0a553866d6cdff21b22/2026_01_05_-_Pregnancy_Mother_and_Baby_Units__V3_.pdf

However, Iftene et al (2020) highlight that in Canada, there is no on-site day-care for the MCP which impacts on mothers' ability to work and earn within the facility. This goes against the 2015 MCP guidelines which indicate that "the woman should be allowed access, where practicable, to a range of social outlets, work and life skills activities, consistent with that available to other women in the correctional facility."[37]

The Global Report on Women in Prison[38] highlights that alternative measures to incarceration for women in conflict with the law remains largely under-utilised and women face challenges in accessing these options. Generally, practices vary widely, including child–mother separation policies, housing arrangements, and the duration infants are allowed to stay with their mothers.

6. IMPACTS AND OUTCOMES

Section 20 (1) of the Correctional Services Act, 111 of 1998 states that a female inmate may be permitted, subject to such conditions as may be prescribed by regulation, to have her child with her until such child is two years of age or until such time that the child can be appropriately placed taking into consideration the best interest of the child.

Some of the benefits of co-incarceration include the development of a bond between the mother and child and the child's secure attachment to their mother. Co-incarceration provides the opportunity of breastfeeding. The benefits of breastfeeding have been widely reported by the World Health Organization. These include protection against diarrhoea and pneumonia.[39] It is argued that breastmilk may also have longer-term health benefits for the mother and child, such as reducing the risk of overweight and obesity in childhood and adolescence.[40] It is also argued that the temporary living arrangement between mother and child could provide a higher level of belonging and stability.[41]

Co-incarceration has negative impacts on both the mother and child. Notwithstanding the efforts made to make Mother and Baby Units (MBUs) comfortable, correctional centres can be hostile environments for children. Children may be exposed to aggressive language or behaviour of staff or inmates, leading to the development of aggressive behaviour and other negative emotional, mental or behavioural outcomes.[42]

Children are often subjected to stigma and humiliation for having lived in correctional centres. This may have a negative impact on their self-esteem. Incarceration secludes children from society, and this may result in children experiencing difficulties in adjusting to life after incarceration.[43]

In the absence of their mother, children may suffer different forms of traumatisation. They might be exposed to abuse, exploitation and discrimination while in alternative care. Separation from mother could lead to feelings of abandonment and neglect. Their academic performance may deteriorate. Oftentimes, children who have been separated from their mothers' experience unstable living arrangements. Sometimes they end up on the streets and risk becoming victims of trafficking and exploitation. Some may end up being school dropouts.[44]

---

[37] https://icclr.org/wp-content/uploads/2019/06/Guidelines_MCU_26AUG2015.pdf
[38] Association for the Prevention of Torture, (2024), Global Report on Women in Prison Analysis from National Preventive Mechanisms
[39] World Health Organization, https://www.who.int/tools/elena/interventions/exclusive-breastfeeding.
[40] Ibid.
[41] Couzens M, A Critical Analysis of Selected Aspects of the South African Legal Framework Pertaining to Children Living in Prison with Their Mothers – With Brief Comparative Comments.
[42] A Miamingi 'The applicability of the best interests principle to children of imprisoned mothers in contemporary Africa: Between hard and soft law' (2020) 20 African Human Rights Law Journal 713-735.
[43] Ibid
[44] Couzens, M.

Children who are separated from their incarcerated mothers commonly experience emotional or mental disturbances, which manifest through problematic behaviour, whether 'externalising behaviours such as aggression, defiance, and disobedience' or 'internalising behaviours such as depression, anxiety and withdrawal'.[45]

It is argued that, separating children from their incarcerated mothers at the point of incarceration may prove to be in a child's best interests only if conducive alternative care is available to adequately compensate for the loss of parental care.[46]

7. CHALLENGES AND GAPS

This section examines the persistent challenges and structural gaps that continue to shape the experiences of mothers and infants in South Africa's correctional system. Although the legal and policy framework provides important protections, its implementation remains uneven, leaving significant room for discretion and inconsistent practice across facilities.

7.1 Admission Criteria

It is argued that the criteria for admission of children in correctional centres with their mothers is not extensively dealt with in the relevant legal instruments.[47] The Act simply states: "*A female inmate may be permitted, subject to such conditions as may be prescribed by regulation, to have her child with her until such child is two years of age or until such time that the child can be appropriately placed taking into consideration the best interest of the child."* It is argued that the criteria for admission should indicate that admission can only take place if the DCS can provide an environment adequate for mothers and children. It is further argued that the Judicial Inspectorate for Correctional Services (JICS) could play a more active role in monitoring the conditions of detention for both mothers with children.[48]

A child will only be admitted with their mother in correctional centres "when no other suitable accommodation and care are available at that point".[49] The emphasis on "suitability" of accommodation and care for the infant has been criticised for an apparent disregard for the special relationship between a mother and a very young child.[50] This approach places the relevant factors outside of this relationship.[51]

It is argued that the phrase "suitable accommodation and care" says nothing about the threshold of suitability of alternative care (that is, family-type care versus institutional
care); or put differently, it does not indicate the availability of what forms of care gives DCS legitimate grounds to reject a mother's application to bring her child to be with her in a correctional centre.[52]

The Court in *S v M (Centre for Child Law as Amicus Curiae)* established that sentencing officers have an obligation to inquire about the impact of a potential incarceration on the children of an offender.[53] It is argued that the report obtained by the judicial officers to ascertain the impact of

[45] Ibid
[46] Miamingi, A. *African Human Rights Law Journal* 713-735
[47] Ibid
[48] Couzens M.
[49] Ibid.
[50] Ibid.
[51] Ibid.
[52] Ibid.
[53] S v M (CCT 53/06) [2007] ZACC 18; 2008 (3) SA 232 (CC); 2007 (12) BCLR 1312 (CC); 2007 (2) SACR 539 (CC) (26 September 2007).

incarceration of a primary caregiver on children, would be extremely useful to DCS officials who are responsible for making the decision about admitting a child with his/her mother in a correctional centre.[54] The legal framework does not require that a decision to admit a child to join their mother in custody be made giving paramountcy to the best interests of the child. This gives the DCS a wide degree of discretion. Be that as it may, decision-makers have a constitutional and statutory obligation to consider the best interests of the child.[55]

7.2 Appeal and Review Mechanism

It is argued that the Department's B-Order is considered weak regarding the avenues available to the mother should she want to challenge a decision by the DCS not to allow the child to be co-incarcerated with her.[56]

The default position is that the mother needs to use the normal complaints and request procedure regulated by s21 of the CSA, and to appeal to the administrative levels within the correctional services system (appeal to the Head of the Correctional Centre and the National Commissioner) and then to an Independent Correctional Services Centre Visitor. There does not seem to be an explicit requirement for the involvement of the judiciary in the process of admission.[57] The mother, however, reserves the right to challenge the DCS's decision by invoking the right to just administrative action in term of the Promotion of Just Administration Act 3 of 2000.[58]

7.3 Gender Differences

The legislative and policy framework allows only the mothers to stay with their infants in correctional centres. Section 20(1) of the CSA recognises the "social significance of the maternal role of the mother in the family and in the upbringing of children".[59]

The legislative and policy provisions do not permit children to be co-incarcerated with fathers. The provisions of the policy and legislation could be challenged by fathers on the grounds of discrimination. A challenge on this ground, however, would not be a novel matter.

In the case of *President of the Republic of South Africa v Hugo,* the applicant, an incarcerated father, challenged the President's decision to grant a remission of sentences in respect of all incarcerated mothers who had minor children below the age of 12 years old. This was in terms of the Presidential Pardon Act 17 of 1994. The Constitutional Court ruled that the Act did not amount to unfair discrimination against incarcerated fathers of minor children.

While legislative reforms could take place based on the gender question, a reality which exists in correctional centres is the lack of adequate facilities, which might prove to be the most serious obstacle to allowing children to join their fathers in custody. While some South African correctional centres have been adapted to allow children to join their mothers, the same cannot be said about male parents' correctional centres.

It is argued that decisions concerning children should be based on an individualized assessment of what is in their best interests. It is further argued that the current framework does not allow for such individualized assessment, since it precludes a father demonstrating that he is the primary carer of

[54] Couzens M.
[55] Couzens M.
[56] Ibid
[57] Ibid
[58] Act 3 of 2000.
[59] Couzens M.

his child and thus performs the special role which the analysed framework seems to assume is played by the mother only.[60]

7.4 Definition of Mother

It has also been argued that the term "mother" is interpreted narrowly and should be defined in the policies and clarify whether the policy extends to adoptive, foster mothers, or even persons caring for children informally.[61] The law will then provide equal protection to all females who might have a strong bond with a child. The same can be achieved by replacing the term "mother" with "primary caregiver".[62]

A suggestion has been made that the term "mother", in the legal framework, should be replaced in with the term "primary caregiver" as this would better serve the interests of the children.[63]

7.5 Communication

Communication while incarcerated is a serious challenge within correctional centres. The separation of mother from the child is often a traumatic experience or both parties. Communication is carried through visits, letters and phone calls. Once children reach the age of two and leave correctional centres, visitations can prove to be a challenge especially for children.

Visits include the mandatory searches by strangers. The possibility of the child not being allowed to have physical contact with their mother such as sitting on her lap exists. Young children may not be able to understand this. This may lead to stress and anxiety. Other emotional influences include the attitudes of caregivers or family who accompany the child, the attitude of Correctional Services staff, the influence of other visitors and the atmosphere of hostility caused by all the security equipment and arrangements.[64] Visits are scheduled for a certain period, but it has been found that, in practice, the time is often cut short to provide more people with the opportunity to receive.[65]

7.6 Registration of Births and Placement

Women who live with their new-born babies in correctional facilities sometimes face challenges with the registration of the baby's birth. The legal procedures involved in placing babies in alternative care such as foster care sometimes takes lengthy periods. The DCS is dependent on other departments such as the Department of Social Development and stakeholders. At times, there is lack of cooperation from relatives and absence of the fathers in some cases which can be a challenge for placement.[66]

Some of the South African and foreign incarcerated mothers with babies reported that they found it difficult to register the births of their babies, due to the lack of required necessary legal documents, thus making it impossible to have their children registered for social grants. [67]

---

[60] Couzens M.
[61] Ibid
[62] Ibid
[63] Ibid
[64] Geldenhuys K, *When Mommy Goes to Prison.*
[65] Ibid
[66] Ibid; NCOP Women, Children and People with Disabilities, Women with children in correctional centres: Gauteng Department of Correctional Services briefing, 19 February 2014.
[67] NCOP Women, Children and People with Disabilities, Women with children in correctional centres: Gauteng Department of Correctional Services briefing, 19 February 2014.

7.7 Impact on Child

Children of incarcerated mothers are the innocent and overlooked victims of the offences that the mothers committed. Not only may they develop the symptoms of post-traumatic stress disorder (PTSD), as well as behavioural, mental health and general health problems; they may also engage in future criminal behaviour themselves.

8. RECOMMENDATIONS

8.1 Strengthen Monitoring of Legal and Regulatory Compliance

Parliamentary committees should conduct regular oversight visits to women's correctional centres to assess compliance with domestic legislation governing the treatment of incarcerated mothers, including the Correctional Services Act and its regulations. This is particularly important given the identified gaps in the regulations, for example, the absence of explicit prohibitions on mechanical restraints during labour. Committees should further monitor whether children admitted with their mothers receive the mandated health assessments within 24 hours of admission and whether pregnant women are referred to Correctional Medical Practitioners as required.

8.2 Require Improved Data Collection and Reporting

Parliament should require DCS to submit annual, standardised datasets including:

- Number of infants residing in MBUs.
- Duration of stay and separation outcomes.
- Health, developmental, and psychosocial indicators for children.
- Access to healthcare and daily monitoring for pregnant women as required in the regulations.

This will allow committees to evaluate trends and intervene where necessary.

8.3 Oversight of Conditions and Resource Provision in MBUs

Since conditions vary significantly across facilities, Parliament should:

- Conduct periodic site inspections to assess adherence to standards that promote child-friendly environments.
- Evaluate whether MBUs provide adequate space, nutrition, stimulation, and healthcare for children.
- Ensure that female inmates, especially pregnant women and new mothers, are placed as close to home as possible, as required by the White Paper on Corrections.

Committees should further monitor whether the requisite daily visits by nurses to pregnant detainees occur, as required by regulation.

8.4 Oversight of Healthcare and Reproductive Rights

Parliament should ensure that DCS provides appropriate perinatal care, including:

- Mandatory health examinations for mother and child upon admission.
- Access to prenatal, intra-natal, and postnatal services for pregnant remand detainees as set out in Section 26(d) of the Regulation.

Parliament should also address the regulatory gap that denies inmates access to termination of pregnancy at state expense during the first 12 weeks, which contradicts national legislation.

8.5 Improve Oversight of Interdepartmental Coordination

Effective implementation of MBUs relies on cooperation between DCS, the Department of Social Development, and the Department of Health. Parliament should:

- Review interdepartmental protocols on child placement, medical care, and social worker support.
- Ensure DCS complies with obligations to notify Social Development when children are admitted or transferred.

A multi-departmental briefing to relevant committees should be scheduled annually.

8.6 Evaluate Training and Capacity of Correctional Staff

Given that correctional staff often lack specialised training in early childhood development, Parliament should:

- Assess training programmes related to maternal and child health, child development, and trauma-informed care.
- Ensure DCS budgets adequately for specialised personnel such as social workers, psychologists, and early childhood practitioners.

A checklist with key questions (Addendum A) has been developed to assist Committees as a guide when visiting MBUs.

9. CONCLUSION

Mother and Baby Units remain an essential but imperfect mechanism for supporting the rights and well-being of infants living with their incarcerated mothers. While South Africa's legal and policy framework provides important protections, including the right of children to remain with their mothers until the age of two and the obligation to prioritise the child's best interests, gaps in implementation, oversight, and resource allocation persist. Strengthened monitoring, clearer admission and review processes, improved interdepartmental coordination, and enhanced support services for both mothers and children are necessary to ensure MBUs operate in a manner consistent with constitutional and international standards. The next phase of this project will provide a monitoring tool to with more effective and efficient oversight.

10. SOURCES

Adhikary, S., Gillespie, K., Kimball, H., et al. (2024). *A systematic review of research examining mothers, infants, family and staff in psychiatric mother-baby units*. *Acta Psychiatry Scandinavica, 150*(5), 284–307. https://doi.org/10.1111/acps.13727.

Abrahams, K., & Matthews, T. (2011). *Child Rights Manual: Handbook for Parliamentarians*. Parliament of the Republic of South Africa.

African Human Rights Law Journal. (2020). Miamingi, A. The applicability of the best interests principle to children of imprisoned mothers in contemporary Africa: Between hard and soft law, 20, 713–735.

Association for the Prevention of Torture, (2024), Global Report on Women in Prison Analysis from National Preventive Mechanisms

Couzens, M. (n.d.). *A critical analysis of selected aspects of the South African legal framework pertaining to children living in prison with their mothers – with brief comparative comments.*

Department of Correctional Services. (2007). *White Paper on Corrections*.

Department of Correctional Services. (2012). *Regulation 323 in relation to the Correctional Services Act 111 of 1998*.

Department of Correctional Services. (2025). *Annual Report 2024/2025*.

Geldenhuys, K. (n.d.). *When Mommy Goes to Prison*.

Gobena, E. B., Hean, S., Heaslip, V., & Studsrød, I. (2023). The lived experience of motherhood after prison: A qualitative systematic review. *Women & Criminal Justice, 33*(6), 442–460. https://doi.org/10.1080/08974454.2022.2030274.

Haffejee, S., Vetten, L., & Greyling, M. (2006). *Out of the shadows: Women and children in conflict with the law*.

Judicial Inspectorate for Correctional Services. (2025). *Annual Report 2024/2025*.

Ministry of Justice and HM Prison and Probation Service (2026) Pregnancy, Mother and Baby Units (MBUs), and Maternal Separation from Children up to the Age of Two in Women's Prisons, https://assets.publishing.service.gov.uk/media/695bd0a553866d6cdff21b22/2026_01_05_-_Pregnancy_Mother_and_Baby_Units__V3_.pdf

Muntingh, L. (2010). *[Referenced work on co-incarceration and policy analysis]*.
NCOP Women, Children and People with Disabilities. (2014, February 19). *Women with children in correctional centres: Gauteng Department of Correctional Services briefing*.

Parliamentary Monitoring Group (PMG). (2014). *Women with children in correctional centres briefing*.

President of the Republic of South Africa v Hugo (CCT 53/96) [1997] ZACC 4.
S v M (Centre for Child Law as Amicus Curiae) (CCT 53/06) [2007] ZACC 18; 2008 (3) SA 232 (CC).

Prison Insider (2025) Country Profile: South Africa, https://www.prison-insider.com/en/countryprofile/afrique-du-sud-2025?s=populations-specifiques-5d9b19c2d4a4f

South Africa. (1996). *Constitution of the Republic of South Africa*.
South Africa. (1998). *Correctional Services Act 111 of 1998*.
South Africa. (2005). *Children's Act 38 of 2005*.
South Africa. (2008). *Correctional Services Amendment Act 25 of 2008*.
South Africa. (2011). *Correctional Matters Amendment Act 5 of 2011*.
United Nations Office on Drugs and Crime. (2015). *The United Nations Standard Minimum*

Rules for the Treatment of Prisoners (the Nelson Mandela Rules). https://www.unodc.org

The Collaborating Centre for Prison Health and Education, (2015) Guidelines for the Implementation of Mother-Child Units in Canadian Correctional Facilities, August 2015, https://icclr.org/wp-content/uploads/2019/06/Guidelines_MCU_26AUG2015.pdf

World Health Organization. (n.d.). *Exclusive breastfeeding*. https://www.who.int/tools/elena/interventions/exclusive-breastfeeding

11. ADDENDUM A: MOTHER AND BABY UNIT (MBU) CHECKLIST

OVERSIGHT AREA	KEY QUESTIONS FOR COMMITTEES
1. Compliance with Legal and Regulatory Obligations	• Are MBUs complying with the Correctional Services Act and Regulation 323 requirements? • Are infants and mothers receiving mandatory health assessments within 24 hours of admission? • Are pregnant women referred to the Correctional Medical Practitioner on arrival?
2. Best Interests of the Child	• Is the "best interests of the child" principle consistently and explicitly applied in decisions about co-incarceration and separation at age two? • Are criteria used by DCS staff clear, transparent, and uniform across facilities?
3. Data Collection and Reporting	• Does DCS provide standardised annual data on: number of infants, duration of stay, separation outcomes, developmental indicators, healthcare access for pregnant women? • Are data gaps being addressed?
4. Conditions and Resources in MBUs	• Do facilities meet minimum standards for child-friendly environments (space, stimulation, nutrition, safety)? • Are female inmates placed as close to home as possible? • Are daily nurse visits for pregnant detainees occurring as required?
5. Healthcare and Reproductive Rights	• Is adequate prenatal, intranatal, and postnatal care available? • Are inconsistencies with national law on termination of pregnancy (particularly first 12 weeks) addressed?
6. Interdepartmental Coordination (DCS–DSD–Health)	• Are protocols for child placement, health care, and social worker support functioning effectively? • Is DCS notifying Social Development when children are admitted or transferred? • Are annual joint briefings happening?
7. Training and Capacity of Correctional Staff	• Have officials received training in early childhood development, maternal health, trauma-informed care? • Are staffing levels adequate (social workers, psychologists, ECD practitioners)?
8. Alternatives to Incarceration	• Are courts using diversion and community-based sentencing for mothers of infants? • Is DCS reporting on the use and impact of non-custodial measures for mothers and pregnant women?
9. Use of Mechanical Restraints	• Are restraints being used during labour or post-partum recovery? • Has Parliament reviewed and recommended amendments to prohibit restraints during childbirth?
10. Admission Criteria for Children	• Are criteria for admission of infants clear and centred on high-quality care and maternal attachment? • Is DCS applying decisions uniformly and transparently?
11. Appeals and Review Mechanisms	• Do mothers have accessible mechanisms to challenge decisions regarding co-incarceration? • Are complaint and appeal processes functioning effectively?
12. Gender Equity Considerations	• Are policies unjustifiably excluding fathers who may be primary caregivers?

	• Is the term “mother” too narrowly defined—should it include “primary caregiver”?
13. Communication and Family Contact	• Are post-separation visit arrangements child-friendly? • Are children experiencing unnecessary trauma due to searches, limited contact time, or hostile environments?
14. Birth Registration and Placement Challenges	• Are mothers supported in registering births and accessing social grants? • Are placement processes (foster care, family reunification) timely and coordinated?
15. Impacts on the Child	• Are infants monitored for emotional, mental, behavioural harms associated with incarceration or separation? • Are preventative programmes in place?