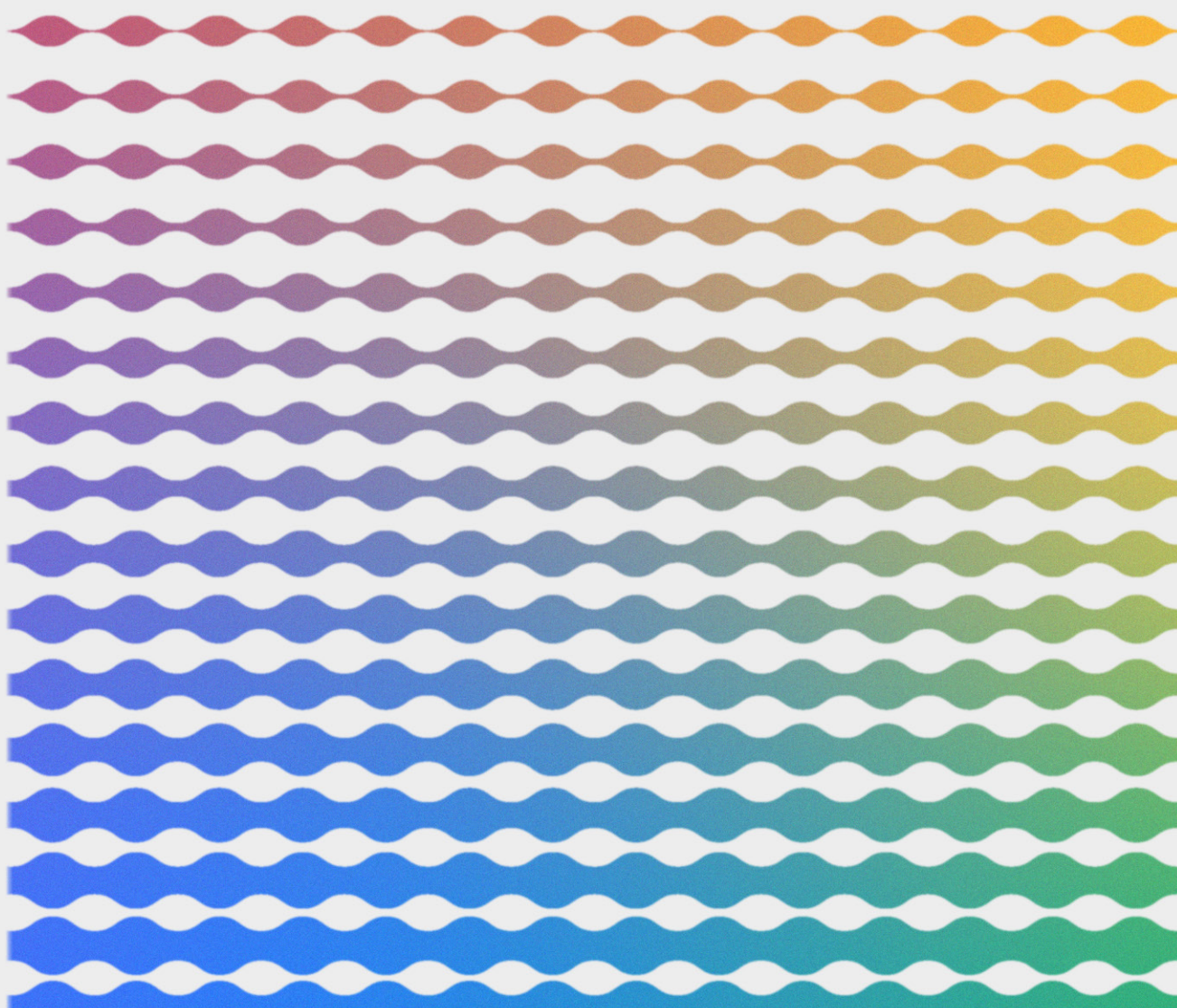


Advancing SOGIE Rights in Detention

Promising Practices



association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture

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Advancing SOGIE Rights in
Detention: Promising Practices

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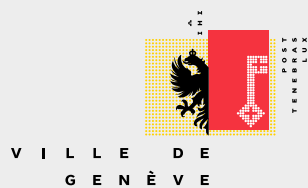


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Foreword

People of diverse sexual orientation, gender identity and expression are among those most vulnerable to violence, discrimination and exclusion in many societies. When deprived of liberty, these vulnerabilities are often intensified. The same prejudice, stigma and marginalisation that shape everyday life outside prison walls frequently reappear in places of detention, where power imbalances, isolation and institutional cultures can magnify the risk of abuse.

Across the world, reports from international and regional human rights mechanisms, civil society organisations, oversight bodies and persons with lived experience continue to document serious concerns. People of diverse sexual orientation, gender identity and expression may face violence from other detainees, abuse by officials, discriminatory treatment, barriers to healthcare, arbitrary restrictions on self-expression, and placement decisions that put their safety and dignity at risk. Too often, these experiences remain invisible, minimised, or inadequately addressed.

The challenges outlined in this report cannot be understood in isolation from broader social and legal contexts. Criminalisation of same-sex relations, discriminatory laws and policies, social stigma, family rejection, economic marginalisation and unequal access to education, employment and healthcare all contribute to pathways that can increase vulnerability to detention and deepen exclusion. Effective prevention of torture and ill-treatment therefore requires attention not only to conditions within places of detention, but also to the wider systems that criminalise, marginalise or discriminate.

At the same time, it is important to recognise that change is possible. Around the world, governments, prison administrations, oversight bodies, healthcare providers, National Preventive Mechanisms and civil society organisations have developed innovative approaches to address long-standing challenges. Many of these initiatives have emerged through sustained advocacy, often in response to serious abuses and, in some cases, tragic events. Together, they demonstrate that practical steps can be taken to improve safety, dignity and respect for human rights, regardless of the legal or political context.

This guide makes an important contribution by documenting such efforts. Rather than presenting abstract principles alone, it highlights concrete examples of promising practice from different regions and institutional settings. While no single measure can resolve the complex challenges facing persons deprived of liberty, these examples provide valuable lessons for policymakers, prison administrators, monitoring bodies and advocates seeking to strengthen protection against torture and ill-treatment.

The examples presented here illustrate both the progress that has been made and the opportunities that remain for further improvement. Important gaps persist, including in relation to data collection, oversight, accountability, and the experiences of groups whose realities remain under-documented. At the same time, the initiatives highlighted in this guide demonstrate that meaningful change is possible. They provide practical examples of how detention systems can strengthen safety, inclusion and respect for human rights, and offer valuable lessons for those seeking to build environments that recognise the dignity, humanity and rights of all persons deprived of liberty.

I welcome this publication as a timely and practical resource. By documenting what has worked, identifying emerging approaches, and sharing lessons across jurisdictions, it provides an important foundation for continued efforts to prevent torture and ill-treatment and to ensure that all persons deprived of liberty are treated with dignity and respect.

Graeme Reid

United Nations Independent Expert on
protection against violence and discrimination
based on sexual orientation and gender identity

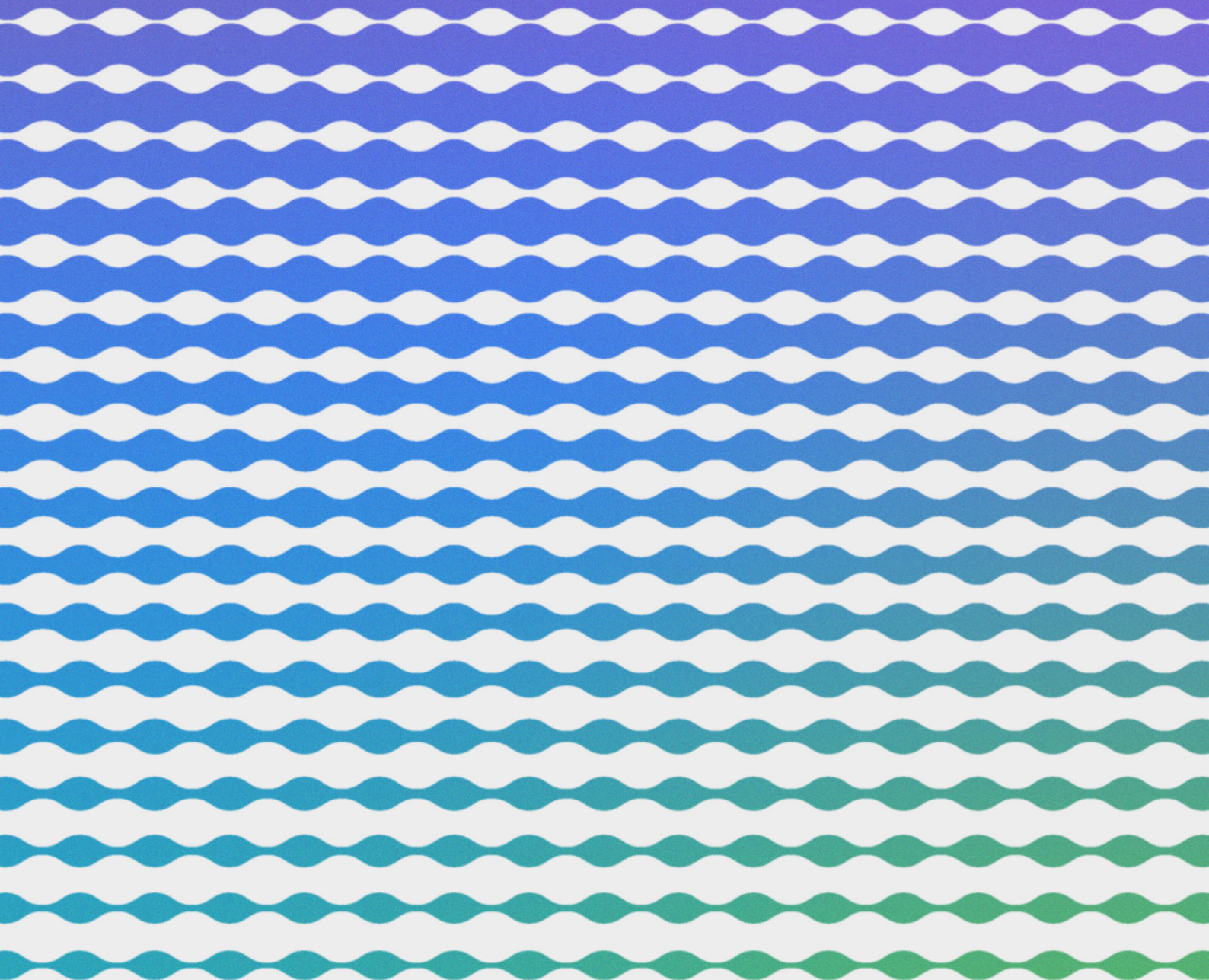


“Many of these initiatives have emerged through sustained advocacy, often in response to serious abuses and, in some cases, tragic events. Together, they demonstrate that practical steps can be taken to improve safety, dignity and respect for human rights, regardless of the legal or political context.”

Graeme Reid

United Nations Independent Expert on protection
against violence and discrimination based on sexual
orientation and gender identity

Introduction



Background

The torture and ill-treatment¹ of people of diverse sexual orientations, gender identities and expressions (SOGIE) is an endemic concern around the world. When deprived of liberty, the risk of being subjected to torture or ill-treatment, as well as victimisation, discrimination and dehumanising treatment, is amplified, yet the severity of these acts is too often minimised.² Many people of diverse SOGIE are subjected to multiple layers of discrimination, with biased and discriminatory attitudes amplified in the confines of prison.³

The continued existence of discriminatory laws in many countries, including the criminalisation of consensual same-sex conduct as well as laws restricting the expression, visibility, association, or recognition of diverse sexual orientations and gender identities, contributes directly to the violence, hate crimes, police abuse, community and family violence against people of diverse SOGIE. Even where same-sex conduct is not explicitly criminalised, or existing legislation is not enforced, such laws and policies entrench stigma and exclusion, trapping individuals in what has been described as a “spiral of abuse”.⁴ Social stigma, family rejection, economic precarity, barriers to accessing healthcare, jobs or education, discriminatory profiling and targeting by law enforcement form a backdrop to the lives of many of those who are imprisoned. Time spent in prison may further contribute to a vicious cycle of deprivation and exclusion.⁵

-
- 1 Ill-treatment is an all-encompassing term for cruel, inhuman and degrading treatment or punishment which, like torture, is prohibited under international law.
 - 2 Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/31/57, 7 January 2016, para. 8.
 - 3 UN Special Rapporteur on Torture, *Question of torture and other cruel, inhuman or degrading treatment or punishment* A/56/156, 3 July 2001; UN High Commissioner for Human Rights, *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*, A/HRC/19/41, 17 November 2011, paras. 34-37; European Committee for the Prevention of Torture (CPT), *33rd General Report: Activities 2023* (Council of Europe, 2024), para. 87.
 - 4 UN News, ‘LGBT detainees suffer higher rates of violence, states new UN report’, 9 March 2016 <https://news.un.org/en/story/2016/03/523912> (accessed 24/04/26).
 - 5 United Nations System Common Position on Incarceration, April 2021, p4.

People of diverse SOGIE are overrepresented in many prison systems.⁶ Once imprisoned, the discrimination and marginalisation experienced in society are often reproduced and compounded. Heteronormative and binary gender norms and cultures that underpin prison systems and their day-to-day management pose particular challenges for the lives of those of diverse SOGIE, whose identities are frequently perceived as incompatible with, or disruptive to, institutional norms and culture. The testimonies of formerly incarcerated persons, together with extensive civil society and academic research and international reporting, provide important insights into these lived realities. At the same time, many experiences remain undocumented and unheard.

In this panorama, human rights responses must focus on the wider systems that criminalise, exclude, or discriminate against people of diverse SOGIE. Even in countries with strong legal protection and recognition of diverse identities and relationships, where people are generally able to live openly and with dignity, prison systems may pose inherent challenges to their safety, identity and wellbeing. The prevention of ill-treatment and torture in any of these contexts requires major changes in established legal frameworks, practice and culture, and a focus on preventing incarceration must be a priority.

The prevention of ill-treatment and torture in any of these contexts requires major changes in established legal frameworks, practice and culture, and a focus on preventing incarceration must be a priority.

6 For example, Ilan Meyer et al., "Incarceration Rates and Traits of Sexual Minorities in the United States: National Inmate Survey", *AJPH*, 107/2/2017, (2011-2012): 271.

Purpose and scope

This guidance, focused on prisons and pre-trial custody facilities holding adults, seeks to capture some of the efforts that have been made by governments, prison administrations, legal actors, staff, oversight bodies and other actors to improve the situation outlined above. Many of these efforts have been compelled, informed or inspired by the persistent and dedicated advocacy of civil society groups. We honour the fact that a number of these efforts were motivated by tragic events and instances of repression.

This guidance builds on the APT's extensive work focused on the rights of people of diverse SOGIE deprived of liberty,⁷ with a new contribution that provides concrete examples of promising practices that have introduced new ways of tackling the challenges inherent in imprisonment, aimed at making important improvements in the day-to-day experience of those imprisoned. It is not an exhaustive guide and, although it sets out to identify a range of examples from different national contexts and in relation to a range of different groups, few examples were identified from some regions of the world and none relating specifically to intersex people.

The guidance shows that much more work is needed to protect the rights of all people of diverse SOGIE in prisons and pre-trial custody and we do not seek to diminish the scale of this task, but the examples we have found show that promising efforts are underway in some places, and steps forward are possible in any context.

7 Association for the Prevention of Torture and others, *Observations to the Inter-American Court on Human Rights on the request for an advisory opinion submitted by the IACHR: Differentiated Approaches to Persons Deprived of Liberty* (Geneva: APT, 2020). Association for the Prevention of Torture, *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide* (Geneva: APT, 2018). Penal Reform International and Association for the Prevention of Torture, *LGBTI persons deprived of their liberty: a framework for preventive monitoring* (APT/ PRI, 2015). All publications can be found at <https://www.apt.ch/knowledge-hub/publications> [accessed 30/05/26].

Target audience

This guidance is written with the primary aim of supporting authorities in charge of places of detention and policy makers. It also aims to support staff working in places of detention in a range of roles, including prison managers, officers, healthcare and social welfare personnel. We hope it will be of use to other criminal justice actors, including judges, prosecutors, public defenders, lawyers and police, as well as training centres for law enforcement and prison staff.

The guidance may also be useful to institutions carrying out visits or inspections to places where people are deprived of liberty, including National Preventive Mechanisms (NPMs) operating under the Optional Protocol to the Convention against Torture (OPCAT), National Human Rights Institutions (NHRIs), international and regional detention and human rights bodies, civil society organisations, lay visitor schemes, and parliamentary bodies.

Finally, we hope this guidance will be of interest to civil society, academics as well as persons deprived of liberty, their families and their communities.

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Methodology

This guidance was drafted on the basis of extensive desk research, literature review, interviews and exchanges with experts from around the world. As a first step, input from civil society organisations working on the rights of people of diverse SOGIE and oversight mechanisms in over 30 countries was invited via an online survey distributed in English, Spanish, Portuguese and French. Reports from international bodies, NPMs, academic and NGO literature, national legislation, policies and guidelines were reviewed.

To explore examples in greater depth, over 15 interviews with informants from 13 countries were carried out as well as a number of conversations with international experts. In the absence of external evaluation of most of the examples identified, we sought to validate promising practice

examples by identifying them through trusted sources and those with a track record on the rights of people of diverse SOGIE or wider human rights in detention.

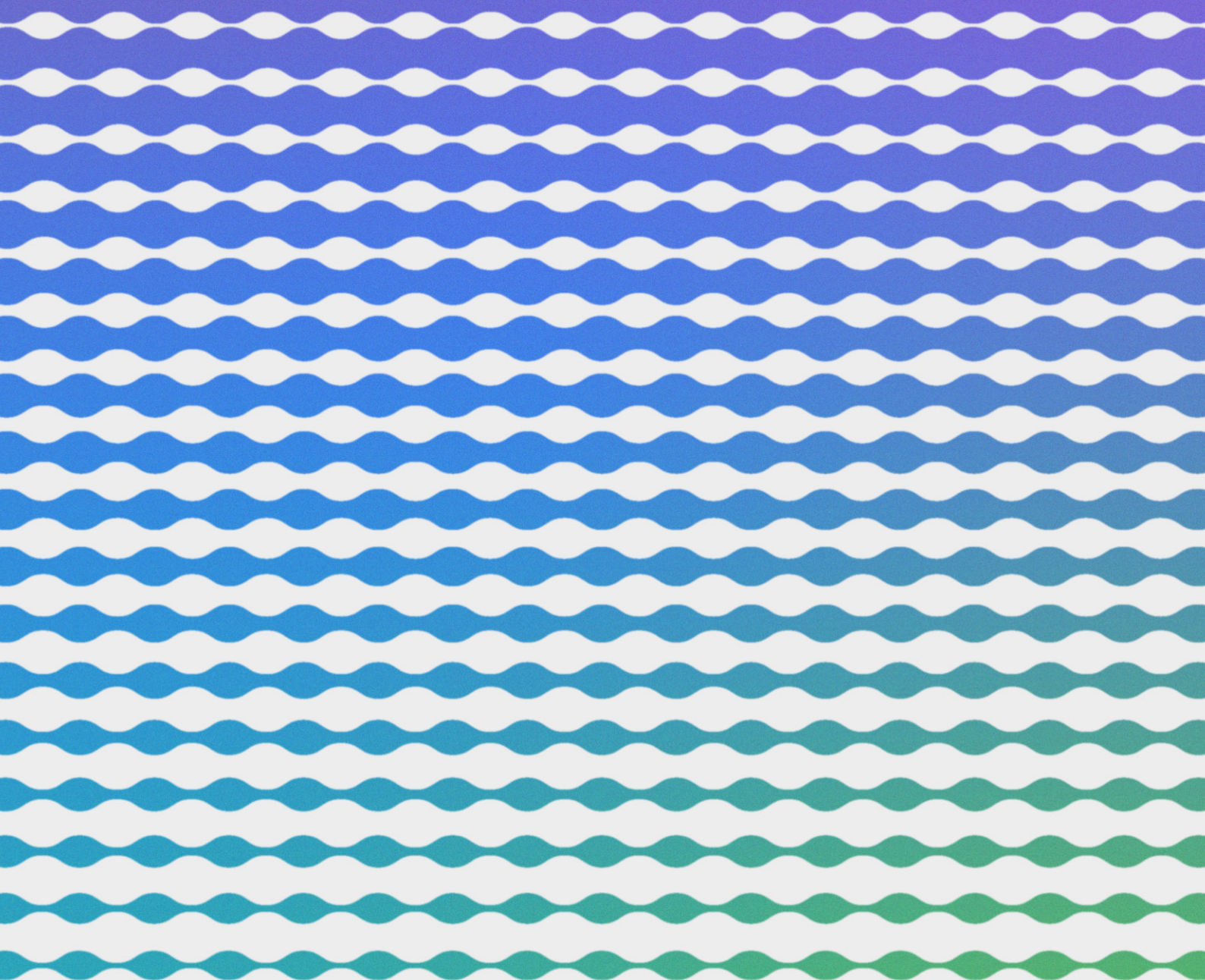
Proactive efforts were made throughout the research to identify a range of examples of promising practices relevant to (1) people of diverse sexual orientations, gender identities and/or expressions and (2) prison systems in different regions of the world. Where gaps were identified, further efforts were made to identify input and examples with the help of international organisations and networks.

We note that we struggled to identify promising practices from regions with high rates of criminalisation and were more able to identify examples in the Americas due to APT's existing networks and civil society organisation on these issues. We further note that, although some of the regulations and norms cited in the document also encompass intersex persons, we were unable to identify examples of practices or measures relating exclusively or specifically to intersex persons.

The project was guided by an expert advisory group, who provided input into the plans, shared contacts and met in Geneva in March 2026 to review progress. The advisory group and a number of other national and international experts were invited to comment on a draft.

CHAPTER 1

Standards and key concepts



Terminology

Language used to describe identities associated with sexual orientation, gender identity and gender expression is constantly evolving, and varies greatly across the world. We draw from the insights provided by mandate-holders of the UN Independent Expert on Sexual Orientation and Gender Identity (IE SOGI) who have highlighted the evolving and context-specific nature of language, and the risk of reinforcing superior or hegemonic models of queerness through language.⁸ This document is focused on people whose sexual orientation, gender identity and gender expression commonly place them outside culturally mainstream categories. While acknowledging the common risks for those of diverse SOGIE, we seek to avoid any suggestion that their experiences will be homogenous.

Acronyms used in this report are intended as inclusive shorthand references, while recognising that no single term can fully capture the complexity and diversity of lived experiences and identities globally. To respect the important decisions behind language used in different contexts, when describing promising practice examples, we use the language and any acronyms of the local context.

As we were unable to identify promising practices exclusively or specifically relating to intersex people, we have not used the acronyms “LGBTIQ+” (which includes “I” for intersex) or “SOGIESC” (to include “sex characteristics”) so as not to falsely suggest that their particular needs or concerns have been fully addressed. Where we do use acronyms including the “I” for intersex, this is to reflect the choice of language that has been made in a particular national context.

More generally, the following terms are used throughout this document.

8 IE SOGI, *Protection against violence and discrimination based on sexual orientation and gender identity*, A/78/227, 2023, paragraph 5; IE SOGI, *The law of inclusion: Report of the IE SOGI*, A/HRC/47/27, 3 June 2021, paragraph 8-10. We note that these reports capture coherence and consensus in the use of language at particular points in time. We also note the many useful language guides and insights that have informed and further contextualise our choice of language, including: <https://www.tgeu.org/files/uploads/2023/11/TGEU-Trans-Media-Guide-EN.pdf> and <https://www.openglobalrights.org/lgbtqia-to-sogiesc-reframing-sexuality-gender-human-rights/> [accessed 24/04/26].

SOGIE

We use this acronym to reflect emerging consensus on the need to reframe sexual orientation, gender identity and expression more broadly than specific identities. This acknowledges that all persons have a sexual orientation, gender identity and expression, not just those who fit within one specific identity, such as those included within the “LGBTQ+” acronym.

LGBTQ+

This acronym refers to Lesbian, Gay, Bisexual, Transgender, Queer and other identities. We recognise that experiences and understandings of sexual orientation, gender identity and gender expression are diverse and vary significantly across cultural and social contexts and that these terms may not reflect life experience or ways of being including outside Western cultures.

**Trans
and gender
diverse**

“Trans” refers to persons who have a gender identity that is different from their gender assigned at birth. The term “gender-diverse” is used to refer to persons with gender identities and/or expressions that are different from social and cultural expectations attributed to their sex assigned at birth. “Gender-diverse” brings a shift away from dominant Western understandings of gender and incorporates trans identities and broader gender identities and experiences. We use “trans” given its common use and understanding in many of the countries where promising practices come from, but we also refer to “gender diverse” to capture these broader perspectives.

International standards

International legal standards relating to sexual orientation, gender identity and expression derive from the core principle of **non-discrimination**. For those deprived of liberty, this requires states to adopt measures that prohibit and eliminate discrimination, and to take measures to advance the equal enjoyment or exercise of human rights. States should repeal legal provisions that criminalise sexual orientation, gender identity and expression and eradicate all forms of violence, discrimination and other harm. In detention settings, this underpins requirements to take account of any specific vulnerabilities or needs of individuals or groups, as well as whether some individuals or groups are more likely to be at risk from others, adversely impacted by policies or practices, or unable to exercise their rights.⁹

The **right to be free from torture and ill-treatment** entails obligations to prohibit and prevent such treatment and proscribes acts of discrimination “of any kind” within its definition. This has been interpreted to make clear that for a discriminatory measure to amount to torture it does not necessarily require a discriminatory “purpose” to be evidenced, only a discriminatory “nexus”,¹⁰ and that the purposive element of the definition of torture incorporates discrimination based on sexual orientation and gender identity and thus invokes obligations to investigate and prosecute such acts.¹¹

The **rights to self-determination and legal recognition** established through many human rights instruments are crucial in the lives of people of diverse SOGIE. Further to this, sexual orientation and gender identity constitute protected elements of the **right to identity**. This right is grounded in

9 The Yogyakarta Principles, Principles 9, 30 and 33; United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rule 2.

10 UNCAT, Article 1.1; *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, 20 March 2020, A/HRC/43/49, para. 36.

11 Inter-American Court of Human Rights, *Azul Rojas Marin v. Peru*, 12 March 2020.

human dignity, liberty, the right to privacy, and the possibility of all human beings for self-determination and to freely choose the options and circumstances that give meaning to their existence, according to their own convictions.¹²

Other crucial rights that entail responsibilities to protect the rights of people of diverse SOGIE who are deprived of liberty include the **right to life**, the **right to liberty and security of person**, the **right to the highest attainable standard of physical and mental health**, the **rights to privacy and family life**. They are further reinforced by the foundational principles of humanity and respect for inherent dignity and value as human beings that underpin many international legal texts and national constitutions.

Human rights bodies have placed important focus on identifying the impact of criminalisation, discrimination and the lack of legal protection for self-determination of gender identity, as well as the disproportionate application of other legislation, such as laws prohibiting or restricting sex work, and the discriminatory effects of morality or public decency laws on the reality of individuals of diverse SOGIE within prison systems.¹³ The pathologisation of diverse sexual orientations and gender identities - and related practices of “conversion” - have also been identified as having an impact on the way people of diverse SOGIE are treated, including within the criminal justice system.¹⁴

Criminalisation and discrimination have a direct impact on routes into and out of the criminal justice system, the often high rate of imprisonment and the way people of diverse SOGIE are treated within these systems.

¹² The Yogyakarta Principles, Principle 31; Inter-American Court of Human Rights, *Advisory Opinion OC-24/17, Gender identity, and equality and non-discrimination of same-sex couples*, 24 November 2017, paras. 85-101.

¹³ *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/HRC/31/57, 7 January 2016; *Report of the UN Independent Expert on protection from violence and discrimination based on sexual orientation and gender identity*, 19 July 2017, A/72/172. See also, APT and others (2020), *Observations to the Inter-American Court of Human Rights on the request for an advisory opinion submitted by the IACHR: Differentiated Approaches to Persons Deprived of Liberty* https://www.apr.ch/sites/default/files/publications/Joint_Submission_LGBTI_Persons_2020_FINAL_EN.pdf.

¹⁴ *Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity*, A/HRC/44/53, 1 May 2020.

“These laws provide a social sanction for abuse, breed intolerance, and have been used to justify arbitrary detention, police abuse, and extortion and torture. As a result, LGBT persons are drawn into the criminal justice system. Once such persons are incarcerated or otherwise implicated in the justice system, this situation can in turn give rise to further incidents of discrimination and violence.”¹⁵

Effective and human rights-focused approaches to preventing torture and ill-treatment within places of detention must take account of these wider factors. We draw from the many authoritative accounts of the application of international human rights law to people of diverse SOGIE who are deprived of liberty including the Yogyakarta Principles¹⁶ and reports of the UN Subcommittee on Prevention of Torture (SPT)¹⁷ and the Council of Europe Committee for the Prevention of Torture (CPT).¹⁸ Many of these have inspired and informed the promising practices we outline here.

15 Inter-American Commission on Human Rights, *Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas*, 12 November 2015, para. 4.

16 The Yogyakarta Principles: Principles on the application of international human rights law in relation to sexual orientation and gender identity (2007) and The Yogyakarta Principles Plus 10: Additional Principles and State Obligations (2017).

17 *Ninth annual report of the UN Subcommittee on Prevention of Torture*, CAT/C/57/4, 22 March 2016.

18 Council of Europe Committee for the Prevention of Torture, *33rd General Report*, CPT/Inf/2023, 2023.

Defining promising practice

For the purposes of this guidance, we define any measures that demonstrate the intention and ability to implement international human rights standards on SOGIE in prisons and pre-trial custody as “promising practice”. We include small-scale local practices as well as those introduced across systems or through national approaches; we include practices established through legislation, jurisprudence, policy or in day-to-day operational practices. Some practices focus on single issues; others demonstrate more systemic intentions.

Context is critical in assessing both the effectiveness and transferability of measures relating to the treatment of people of diverse SOGIE in detention. The promising practices included in this guidance arise from particular national contexts and prison systems, and as such their value, sustainability or relevance outside the specific settings in which they were developed may be limited.

We have sought to draw attention to practices arising from a broad range of contexts to demonstrate the many ways in which steps forward can be achieved, but this is not an exhaustive guide nor a systematic review and may miss out other important examples. We also note that many of these steps forward are fragile and at risk of being reversed, and so the promising practices cited may not remain in place at the time this guidance is used.

A small number of examples do not specify the country they come from due to the need to maintain confidentiality, which itself reflects the contested nature of these issues and the risks and challenges that individuals and organisations may face when advocating for them in certain contexts.

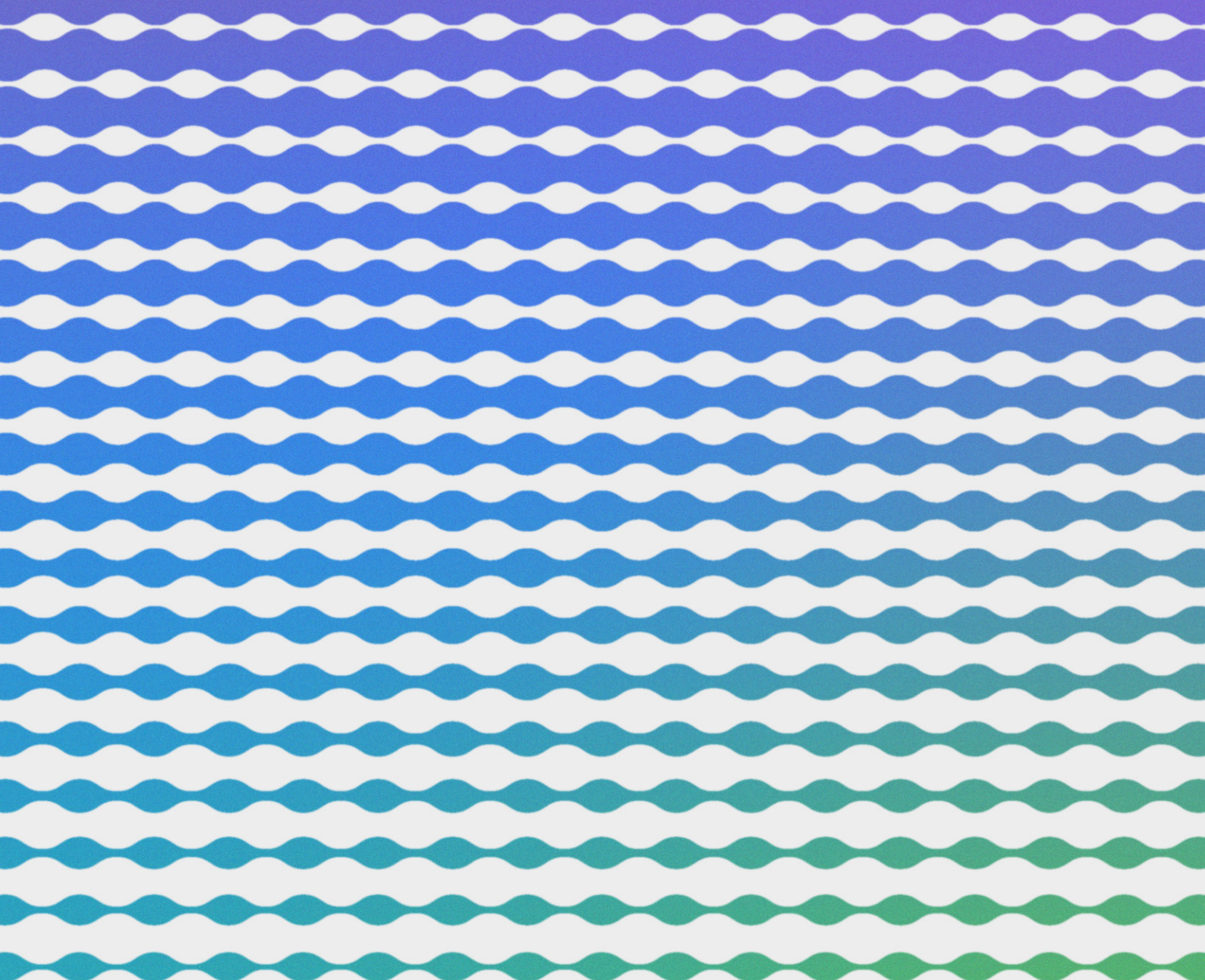
We define any measures that demonstrate the intention and ability to implement international human rights standards on SOGIE in prisons and pre-trial custody as “promising practice”.

We are cautious not to make unevidenced claims about the impact the measures identified have had on the lives of people of diverse SOGIE deprived of liberty and this project has not been able to conduct its own assessments of impact. Our conclusions reflect on the need for greater validation and evaluation to point more definitively to positive outcomes, and to ensure any claims of neutral or negative outcomes are examined and addressed.

Context is critical in assessing both the effectiveness and transferability of measures relating to the treatment of people of diverse SOGIE in detention.

CHAPTER 2

The status of promising practices



Legal frameworks

Establishing legal frameworks that guide efforts to protect the rights of people of diverse sexual orientation, gender identity and expression is a crucial element of progress. Many of the examples we identified came about through new interpretations of national law, and are informed directly by international human rights standards, comparative legal analysis, as well as extensive campaigning and legal advocacy by SOGIE groups. Some key elements were as follows:

- + **Self-identification recognised through national law.** In a number of countries that have adopted legal gender recognition, we were told that the legal and attitudinal shifts these represented made it possible to advance policy and witness cultural shifts within prisons. In one country, we were told that it “opened the door” for new discussions within the prison system. We were told that in one country with new gender recognition legislation, even though there had been limited progress in incorporating it directly into prison law and policy, some improvements had been noted, such as prison records being more likely to accurately capture the gender identity of people they held, which had previously been a source of concern.
- + **Discrimination provisions.** A number of national legal frameworks across the Americas explicitly incorporate discriminatory intent into their statutory definition of torture within the element of purpose.¹⁹ This has supported the development of policies based on the need for a “differentiated approach” to people of diverse sexual orientation, gender identity and expression. More widely, laws that regulate the execution of sentences usually incorporate anti-discrimination provisions, sometimes specifying sexual orientation or gender identity explicitly within them. These and other human rights provisions have been instrumental in advancing policy frameworks for protecting rights.
- + **Constitutional law,** particularly constitutional provisions on dignity and equality, has provided an important basis for legal cases relating to the rights of people of diverse sexual orientation, gender identity and expression in prisons, including in countries where same-sex relationships are criminalised and where there are no equality law protections.

¹⁹ Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico and Venezuela. See Association for the Prevention of Torture and Convention Against Torture Initiative, *Overview of anti-torture legislation in Latin America and the Caribbean* (APT and CTI, 2017), 11.

Government policy and judicial guidelines

A number of the promising examples identified are based in policy, including resolutions or regulations issued by national or state authorities to elaborate further on legislative provisions, as well as operational policies issued by prison or police authorities. In some countries where judges play a significant supervisory role over prisons, judicial resolutions have been a crucial tool for setting out detailed parameters for the treatment of people of diverse SOGIE. Among the most comprehensive examples of rights-based policy frameworks we found are:

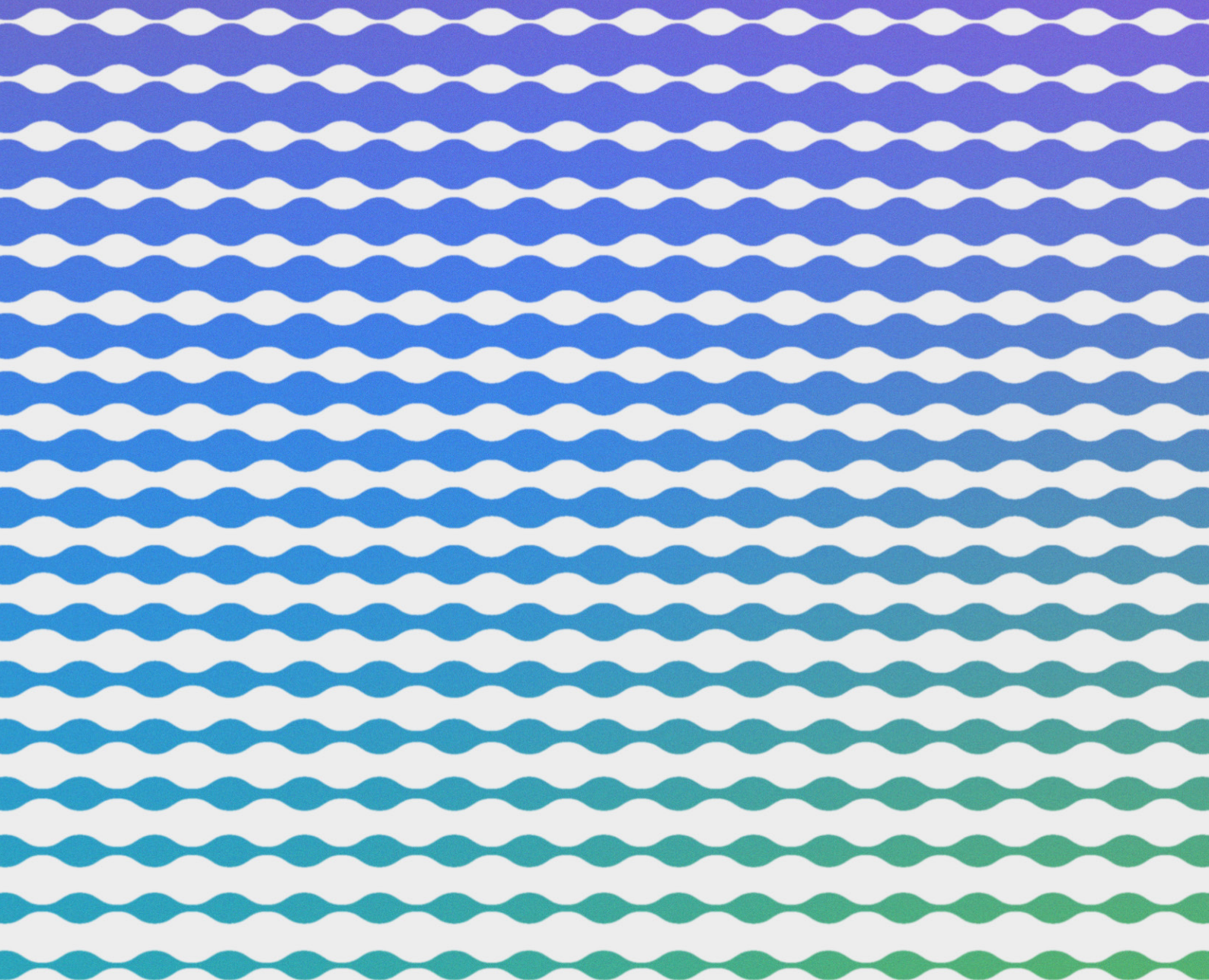
- + **Brazil**, National Council of Justice (*Conselho Nacional de Justiça*), Resolution no. 348, 13 October 2020, “regarding the treatment of lesbian, gay, bisexual, transgender, tranvesti, or intersex persons who are in custody, accused, defendant, convicted, deprived of liberty, serving non-custodial alternatives or subject to electronic monitoring”.
- + **Chile**, Chilean Gendarmerie (*Gendarmería de Chile*), Resolution no. 5716, 20 November 2020, “on the respect and guarantee for gender identity and expression of trans people deprived of liberty in prisons and related establishments”.
- + **Mexico**, Mexico City Government, Sub Secretariat for the Penitentiary System (*Gobierno de la Ciudad de Mexico, Sub-Secretaría de Sistema Penitenciario*), 2019, “Action protocol for public servants in the sub-secretariat of the prison system of Mexico City, for the care of lesbian, gay, bisexual, travesti, transexual, transgender and intersex people deprived of liberty”.
- + **Bolivia**, Ministry of Government, General Directorate of the Penitentiary System, (*Ministerio de Gobierno, Dirección General de Régimen Penitenciario*), Administrative Resolution no. 076/2021, 01 December 2021, “Comprehensive Care Guidelines for LGBTQI+ People Deprived of Liberty”.

Operational guidance and practice

Many of the promising practices identified came about through operational initiatives within prison systems, independently of legal or policy frameworks but often inspired by civil society. Some of those responsible for developing promising operational practices told us they had moved forward in the absence of policy, in some instances with the knowledge that a policy-making process would be unlikely to prescribe the approach they were able to take through operational measures. In a similar example, those involved in developing operational guidance for prisons had consciously avoided pushing for a binding text as they anticipated this would have been a hindrance to achieving consensus around human rights principles.

CHAPTER 3

Promising practice areas



Across different countries and prison systems, a range of promising practices illustrate how governments, prison administrations, oversight bodies and civil society organisations are translating human rights standards into practical measures that better protect people of diverse SOGIE deprived of liberty.

Preventing torture and ill-treatment, incarceration and discrimination

Tackling the inherent and multi-faceted risks that people of diverse SOGIE face as they pass through the criminal justice system, often heightened by multiple and intersecting forms of discrimination or disadvantage, is a crucial priority. These examples demonstrate efforts to create system-wide change or to pursue alternatives to the inherent risks of detention through legal strategies and wider awareness-raising. They also focus on supporting people to address the obstacles they may face on release, and to be able to be active participants in public and political life.²⁰

In **Kenya**, Court User Committees bring together state and non-state actors to consider improvements in the operations of the courts, coordinate functions of all agencies within the justice system, ensure accountability and cultivate partnerships.²¹ The National Gay and Lesbian Human Rights Commission (NGLHRC), an NGO, has worked extensively with these committees to achieve practical changes in the way LGBTIQ people are understood, supported and protected as they pass through the justice system. Crucial practical awareness of their realities has been built by bringing those with direct experience to share with Court User Committees. This has informed greater understanding among magistrates and judges of the risks people face and has reminded police and prison authorities of their ability to prevent risks by placing individuals in situations of vulnerability in separate cells, among other measures. In a context where consensual same-sex conduct between men is criminalised, these changes are significant. The system of regular rotation of prison staff around the country has in some instances allowed a wider ripple effect of these changes. Work with Court User Committees is complemented by legal advocacy that secures redress for violations and helpful judicial precedents, leveraging constitutional protections to do so.

²⁰ Yogyakarta Principles, Principle 25.

²¹ The National Council for the Administration of Justice, chaired by the Chief Justice, facilitates the establishment of Court User Committees. Kenya Judicial Service Act, 1 April 2011, Article 34.2.c.

In a similar vein, in an **unnamed country** where same-sex relations are criminalised, “safe professionals” in the police, legal profession, judges and public defenders have been identified by civil society organisations so that legal advice can be sought safely when a person of diverse SOGIE is arrested.

In **Argentina**, significant legal and policy developments were achieved at the national level, including the 2012 Gender Identity Law (Law 26.743) and a federal programme focused on LGBT+ people in the prison system.²² A national protocol for prioritising the use of electronic monitoring to groups in situations of particular vulnerability provided a framework for non-custodial measures to be used instead of a prison sentence.²³ Legal precedents, supported by the Prison Ombudsman’s National Office (*Procuración Penitenciaria de la Nación*), who brought legal expertise and input from trans experts to argue for a “differentiated approach” to these individuals, set a new path in some cases. Examples include securing house arrest for a trans man on the basis that there would be risks for his physical safety in a men’s prison and that his gender identity would not be respected in a women’s prison²⁴ and for a 19-year-old trans woman who was experiencing systematic discrimination and psychological violence in a women’s prison due to her gender identity and age.²⁵ However, due to recent political developments these policies have now been withdrawn, and replaced by a new decree which allows prison authorities to determine placement (including moving those already housed) on the basis of an individual’s registered sex at the time of detention, among other problematic measures.²⁶

In the **USA**, the Prison Rape Elimination Act (PREA) and its implementing regulations aim to prevent, detect and respond to sexual abuse across prisons and include key protections against common abusive practices that LGBTI people face.²⁷ The legislation brought a comprehensive package of measures including screening and classification of risks, searches and placement decisions, as well as establishing clear mechanisms for

22 Argentina, *Programa de Tratamiento Específico para el Abordaje de las necesidades de las personas LGBT+ en privación de la libertad bajo la órbita del Servicio Penitenciario Federal*, 2023, BPN 820.

23 Argentina, Ministerio de Justicia y Derechos Humanos, *Resolución 808/2016: Protocolo para asignación prioritaria dispositivo electrónico*, 13 September 2016, <https://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/265542/res808.pdf> [accessed 26/05/26].

24 Argentina, Procuración Penitenciaria de la Nación, ‘*Otorgamiento de domiciliaria para un varon trans detenido*’, undated, <https://www.ppn.gov.ar/index.php/institucional/noti%02cias/1989-otorgamiento-de-prision-domiciliaria-para-un-varon-trans-detenido%02en-el-s> [accessed 24/04/26].

25 Argentina, Procuración Penitenciaria de la Nación, ‘*Conceden arresto domiciliario a una joven trans por encontrarse en una situación de vulnerabilidad*’, undated, <https://ppn.gov.ar/index.php/institucional/noticias/2806-conceden-arresto-domiciliario-a-una-joven-trans-por-encontrarse-en-una-situacion-de-vulnerabilidad> [accessed 24/04/26].

26 Argentina, Poder Ejecutivo Nacional, Decreto DNU 61/2025, “*Reglamentación artículo 176 de la Ley N° 24.660*”, 05 February 2025.

27 American Civil Liberties Union, *End the Abuse: Protecting LGBTI Prisoners from Sexual Assault, PREA Toolkit*, undated, <https://www.aclu.org/sites/default/files/assets/012714-prea-combined.pdf> [accessed 24/04/26].

reporting abuse, protections against reprisals and clearer legal avenues for redress. These provisions were supported by regular compliance monitoring, independent audits and annual data collection.²⁸ Thirteen PREA provisions relate specifically to transgender individuals.²⁹

In **Mexico City**, lesbian, gay, bisexual, travesti, transexual, transgender and intersex (LGBTTTI) people are identified as a situationally vulnerable group within the regulatory framework for the Execution of Sentences and Social Reintegration. Under this framework and further informed by the priorities of the state Human Rights Programme,³⁰ prison programmes have been developed with civil society organisations such as *Almas Cautivas* and INSADE to address the particular obstacles that LGBTTTI people face on release from prison due to stigmatisation and not having support networks. These combine practical training with meaningful support for business ideas, accompanied by support to exercise their legal and civic rights.³¹ Through establishing relationships with a federation of LGBT+ business people and with workers' committees in large businesses and supported by the legislative framework that encourages all workplaces to take measures in favour of workplace equality and non-discrimination, local activists have been able to encourage collections of useful items to be given to people in prison, to raise awareness within businesses with a view to creating future employment opportunities and in one instance, to convene an employment fair.³²

In **Colombia**, a prison service resolution focused on implementing human rights and upholding dignity brings focus to the situation of different populations within prison who have particular characteristics (such as sexual orientation, gender identity or expression but also ethnicity, disability) and supports a “differentiated approach” to addressing their needs.³³

28 In December 2025, it was reported that the Department of Justice had ordered inspectors conducting audits under PREA to cease using standards specifically designed to keep LGBTQ and intersex people safe, as part of a major revision of federal standards relating to PREA. National Public Radio, “DOJ orders prison inspectors to stop considering LGBTQ safety standards”, 4 December 2025, at <https://www.npr.org/2025/12/04/nx-s1-5630490/prison-doj-safety-memo-changes-trans-lgbtq-inmates> [accessed 27/05/26].

29 Malkin, M. L., & DeJong, C., “Protections for Transgender Inmates Under PREA: a Comparison of State Correctional Policies in the United States”, *Sexuality Research and Social Policy*, 16(4), (2018): 393–407, <https://doi.org/10.1007/s13178-018-0354-9>.

30 Mexico City, *Programa de Atención a las Personas Privadas de su Libertad LGBTTTI*, 2016; *Reglamento de la Ley de Ejecución de Sanciones Penales y Reinserción Social para el Distrito Federal*, Chapter XII, Article 85-91.

31 <https://almascautivasorg.wordpress.com/nuestros-programas/> and https://www.insade.mx/modelo?slug=modelo_libertad [accessed 24/04/26].

32 Federación Mexicana de Empresarios LGBT+, <https://fmgelgbt.mx/> [accessed 09 June 2026]; Mexico, Mexican Standards for Labour Equality and Non-discrimination in the Workplace, Norma NMX-R-025-SCFI-2015 “En Igualdad Laboral y No Discriminación”. <https://nmx.conapred.gob.mx/descargables/NMX-R-025-SCFI-2015%20en%20Igualdad%20Laboral%20y%20No%20Discriminaci%C3%B3n.pdf> [accessed 05 June 2026].

33 Colombia, Ministerio de Justicia e Instituto Nacional Penitenciario y Carcelario, Resolution No. 006349, 19 December 2016, Article 5.

In Salta, **Argentina**, the Secretariat for Indigenous Affairs' work (*Subsecretaría de Asuntos Indígenas*) with indigenous communities in advance of a local election provided an opportunity to explore their wider experiences including of being detained. During conversations with officials, a small number identified as having diverse sexual orientation or gender identity and expression and they shared accounts that showed they were at significant risk during the early moments of detention, and that safeguards that should have protected them were not doing so. The fact that some lived hidden lives in their communities or had sought livelihoods outside and common language barriers made them particularly vulnerable; when imprisoned neither their SOGIE nor their indigenous cosmovision or customs were taken into account in how they were treated. The Secretariat for Indigenous Affairs has since worked with the prison administration to be able to provide legal support and ensure bilingual assistants are available to indigenous people. It has sought to help build understanding of the criminal process and its consequences among them, and to deliver training and advice to justice officials on effective safeguards and respecting gender identity through searching procedures. A protocol on supporting LGBTIQ+ indigenous people deprived of liberty is now being drafted to consolidate this work.

A new policy framework relating to trans people in prison in **Chile** includes important focus on trans adolescents. Among other important elements, this emphasises a presumption in favour of using searching technology rather than physical searches for adolescents. It introduces specific safeguards for body searches, making clear that even when a child (who has the same right to self-determination of gender identity) has not changed their legal sex or their appearance, or if their clothing suggests otherwise, they should still be searched by a person of their gender identity.³⁴ ■

³⁴ Gendarmería de Chile, *Resolución 5716 'aprueba disposiciones que instruyen sobre el respeto y garantía de la identidad y expresión de género de las personas trans privadas de libertad en los establecimientos penitenciarios'*, 20 November 2020, Article 25.

Self-determination and identification

The state's duty to protect from and prevent harm is crucially engaged at the point an individual enters custody, however arrest and admission into pre-trial detention are a high-risk moment for many people of diverse SOGIE.

Admission procedures and information systems should support the determination of an individual's unique identity including their gender identity and be designed to protect rights more generally.³⁵ This should be a means to put in place individualised measures that protect their rights and prevent any risks, such as through making placement decisions for trans and gender diverse individuals, which should be based on a presumption in favour of meeting individual preferences in accordance with gender identity, inviting their input into this decision.

Instead, the process of identifying individuals is often the first step in applying highly restrictive “protective” measures, whereby people of diverse SOGIE are separated individually or within dedicated units.³⁶ When people know that disclosing gender diversity is likely to produce this outcome, they may choose to conceal their identities rather than disclose them.

³⁵ UN Standard Minimum Rules on the Treatment of Prisons (Nelson Mandela Rules), Rule 7; Yogyakarta Principles, including the rights to state protection, equality and non-discrimination, privacy, to be treated with humanity, to prevent torture and ill treatment, to bodily and mental integrity, Principles 2, 6, 9, 10, 30, 32.

³⁶ Yogyakarta Principles, Principle 9; *Ninth annual report of the UN Subcommittee on Prevention of Torture*, CAT/C/57/4, 22 March 2016, paras. 64 and 76; Council of Europe Committee for the Prevention of Torture (2023), *33rd General Report*, CPT/Inf/2023. See also, Penal Reform International and TGEU (2024), *Placement of trans and non-binary people: A guide for prisons*; *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/HRC/31/57, 7 January 2016.

Where states do create designated facilities for people of diverse SOGIE, these must not lead to isolation, inferior treatment or exclusion from prison activities.³⁷ We identified some practices that set a more promising path.

In **Colombia**, where spaces for LGBTI people within prisons have been created on grounds of safety and protection, the general regulations of the prison service include an explicit prohibition on these being used as spaces for segregation or exclusion.³⁸ Similarly, in **Brazil**, a resolution makes clear that any specific living spaces for LGBTI people should allow internal movements that guarantee access to areas where health, education, social activities, religion and work is offered.³⁹

In **Chile**, in line with its policy framework for trans people in prison, the prison's "classification office" conducts an admission interview which includes asking about the individual's gender identity and sexual orientation. The individual's gender identity, social name and sexual orientation should be recorded and, for the purposes of identifying relevant health care needs, they are also asked about their physical transition (including about "gender reassignment" surgery and hormone therapy). The policy framework specifies that this process should be conducted with inclusive and respectful language, respecting the principles of self-identification and self-declaration (to decide to reveal their gender identity or not and specifically prohibiting staff from determining this unilaterally). The policy establishes the principle of privacy and confidentiality of any information shared and guarantees against it being arbitrarily or involuntarily disclosed.⁴⁰ According to information provided, staff receive training on how to conduct this interview and, if a person self-identifies as trans, a conversation about placement should automatically be initiated. In addition, the prison's computer system should automatically generate an information sheet specific to trans individuals that informs them of their rights within the prison system. The system also has the potential to support oversight and accountability by enabling the monitoring of placement decisions and related outcomes, although implementation of these policy requirements remains inconsistent.

37 Interamerican Court of Human Rights, Advisory Opinion OC 29/22, 30 May 2022, para.244.

38 Colombia, *Ministerio de Justicia e Instituto Nacional Penitenciario y Carcelario*, Resolución No. 006349, 19 December 2016, Chapter VII, para. 4.

39 Brazil, Conselho Nacional de Justiça, *Resolution 348*, 9 October 2020, Art. 11, VI.

40 Gendarmería de Chile, *Resolution 5716*, 20 November 2020, Articles 3, 8.

Placement policies and decision-making processes vary considerably across prison systems and pose major challenges for principles of self-determination as well as the wider enjoyment of rights. They have been examined in considerable detail in other work.⁴¹ We note as a promising development that the right to be consulted on placement decisions has been included in policy frameworks including in **Mexico** and in **Brazil**, where a person may express this preference at any point during their prison sentence. In **Chile** and in **Brazil**, it is further specified that placement decisions should not lead to any individuals losing any rights such as access to work, healthcare, food, social assistance or visits.⁴²

Too often, forms of segregation are devised as a method of “protecting” people of diverse SOGIE. These manifest through blanket policies and further stigmatise and disadvantage people of diverse SOGIE and are problematic on human rights grounds. Some of these policies have been justified on the basis that they are the only practicable way to minimise the risks that other members of the prison population pose to people of diverse SOGIE but too often do not appear to be accompanied by initiatives to address the underlying discriminatory attitudes that create risk in the first place. In one example, in the **Philippines**, “jail”⁴³ personnel were attuned to the problem of segregation, but described the 40 or so “rainbow dorms” for people of diverse SOGIE held in “jails” across the country as a better alternative to the past approach of placing LGBTIQ+ people in wings meant for persons deprived of liberty (PDL) in situations of vulnerability such as those with disabilities or older people. They described efforts made to minimise the time that people were separated in these wings so that this was at nighttime only, when the risks were highest, and shared evidence they had demonstrating that during the day individuals were well integrated into the “jail” population, held jobs inside, and were able to access all facilities.

In **Kenya** and **Argentina**, those advocating for the rights of people of diverse SOGIE noted that in pre-trial detention in police custody or other short-term facilities, securing a separate cell was a positive outcome compared to the common practice of multiple occupancy cells. In **Spain**, policy that governs State police custody facilities indicates that LGBTI and trans people are a particularly vulnerable group and should be treated with the greatest respect for their gender identity and expression and that as far as possible they should be held in single cells.⁴⁴

⁴¹ Penal Reform International and TGEU (2024), *Placement of trans and non-binary people: A guide for prisons*.

⁴² Brazil, Conselho Nacional de Justiça, *Resolution 348*, 9 October 2020, Article 7; Gendarmería de Chile, *Resolution 5716*, 20 November 2020, Article 14.

⁴³ Institutional terminology used by the Bureau of Jail Management and Penology of the Philippines.

⁴⁴ Spain, Ministerio del Interior, Instrucción número 10/2025 de la Secretaría de Estado de Seguridad por el que se Actualiza el “Procedimiento Integral de la Detención Policial”, Appendix III.2.iii.

Progress can be made where there is motivation to work in support of trans and gender-diverse people and to be informed by their experiences, rather than automatically resorting to a presumed binary imperative. For example, in a prison in **Brazil** designated for LGBTI people, a newly appointed prison director ended the previous practice of automatically segregating all trans women, irrespective of other risk assessments or custodial classifications. Trans women are now housed according to standard classification criteria rather than solely on the basis of gender identity or expression. In an **unnamed European country**, information received indicated that positive shifts in attitude, as well as the relatively calm environment and established relationships within women's prisons, had contributed to trans women being widely accepted and integrated within them.

Imprisonment may create practical barriers to those seeking to access trans-specific healthcare and/or administrative processes for changing identity documents which are needed to enjoy the rights to legal recognition and self-determination.⁴⁵ In **England**, prison inspectors noted that staff in one prison had developed good working knowledge of the gender transition process and liaised with external health and other agencies involved in gender-recognition certification. This meant they were able to support transgender people practically and reduce anxiety.⁴⁶ ■

45 Yogyakarta Principles, Principles 3, 9B, 31, 32.

46 HM Inspectorate of Prisons, *Report on an unannounced inspection of HMP Peterborough (Men)*, 8-18 January 2024, para. 4.26.

Body searches

Any form of searching can be invasive and potentially degrading, and carries significant risks for violating a person's physical integrity and dignity. Extensive evidence from around the world points to the disproportionate, targeted and harmful way that body searches are often used to humiliate or intimidate people of diverse SOGIE.

Human rights standards are unequivocal in establishing that searches should not be applied unnecessarily or disproportionately nor used to harass, intimidate or unnecessarily intrude on a person's privacy, and should never be used to identify the sex or anatomical characteristics of an individual.

Body searches, particularly strip searches, should only be used as a last resort, based on an individual assessment and alternative and less invasive methods such as scans and other technological devices should be prioritised. When strip searches are unavoidable, they should be conducted in two steps, never involve undressing entirely, and should be carried out by trained staff. Trans and gender diverse people should have the choice of being searched by male or female officers.⁴⁷

A number of policy and operational frameworks provide promising examples of the introduction of specific safeguards to prevent against abuse and harm in the use of searches, although many accounts suggest these are not fully implemented. In **Switzerland**, the framework on the handling and care of LGBTIQ+ persons is aligned closely with international standards in requiring prison authorities take into account the self-determined gender identity of the individual and other specific provisions.⁴⁸ In **Spain**, police

47 Yogyakarta Principles, Principle 9; UN Standard Minimum Rules on the Treatment of Prisons (Nelson Mandela Rules), Rules 50-25; *Report of the Special Rapporteur UN Special Rapporteur on Torture*, A/HRC/31/57, 7 January 2016, para. 70; Inter-American Court of Human Rights, Advisory opinion 29/22, para. 257 (https://www.corteidh.or.cr/docs/opiniones/seriea_29_eng.pdf).

48 Swiss Centre of Expertise in Prison and Probation, *The handling and care of LGBTIQ+ persons in detention: framework document*, May 2021, Recommendation 13.

custody staff working in State police custody facilities should act on the basis of respect for an individual's "sexual identity, gender expression and sex characteristics". Relevant policy specifies the need to record the circumstances, decision and written consent for the way a search was carried out when an individual's "external sexual physiology" does not match their gender identity.⁴⁹

In **Argentina**, the Prison Ombudsman's National Office (*Procuración Penitenciaria de la Nación*) brought and won a *habeas corpus* on behalf of trans individuals who were subject to degrading searches in two federal prisons.⁵⁰ The case led to the creation of an inter-institutional working group which produced a new guide on searches, bringing it into line with new gender identity legislation.⁵¹ The guide established that the principles of dignity, intimacy, confidentiality and privacy should underpin all procedures. It further stipulated that, where possible, searches should be conducted using scanning technology (such as scanners or wands) and that prison staff should not engage in physical, verbal or visual contact during medical examinations, limiting their role to the inspection of clothing and belongings.

In **Chile**, as a result of many complaints about humiliating searches of trans visitors to prisons, the policy framework for trans people in prison extends its focus to visitors.⁵² An online system for booking visits asks visitors if they have a diverse gender identity and requests their social name. The policy stipulates that any searches should be conducted by officials of the same self-identified gender, unless a specific request to the contrary is made and confirmed in writing by the visitor. ■

49 Spain, Ministerio del Interior, Instrucción número 10/2025 de la Secretaría de Estado de Seguridad por el que se Actualiza el "Procedimiento Integral de la Detención Policial", 9.1 and Appendix III.

50 Argentina, Poder Judicial de la Nación, Juzgado Nacional en lo Criminal de Instrucción Nro 1, CCC 56451/2015. The judge who heard the case identified that the searches constituted "gender-based violence, aggravated by being perpetrated by State officials against people in their custody who were in a situation of particular vulnerability".

51 Argentina, Servicio Penitenciario Federal, *Guía de procedimientos de "visu médico" y de "control y registro" de personas trans en el ámbito del Servicio Central de Alcaidías*, 11 April 2016, Boletín Publico Normativo No.596; Gender Identity Law (no 26.743); Ministerio Publico de la Defensa, '*Informes: Se homologa guía para regular las requisas a personas trans*' <https://www.mpd.gov.ar/index.php/patrocinio-para-casos-de-violencia-de-genero/se-homologo-guia-para-regular-las-requisas-a-personas-trans> [accessed 24/04/26]; Poder Judicial de la Nación, Acta de Mesa de Dialogo, 18 March 2016, <https://www.mpd.gov.ar/pdf/4.%20Acta%20y%20gu%C3%ADa%20definitiva.pdf> [accessed 24/04/26].

52 Gendarmería de Chile, *Resolution 5716*, 20 November 2020, Articles 29-33.

Self-expression, individual needs and equality

The ability to live freely and equally in dignity and rights requires positive measures and the elimination of legal or other barriers that limit these rights to people of diverse SOGIE. The ability to express one's gender, such as through physical appearance, is a crucial element of self-determination⁵³ and in the context of deprivation of liberty this may require positive measures to facilitate access to particular clothing or other items.

Maintaining contact with the outside world is a crucial aspect of the rights of those who are in prison,⁵⁴ and for people of diverse sexual orientation, gender identity and/or expression will require positive measures to facilitate contact in a way that is meaningful to their family, friends and community. Further to these, given the heightened risks that many individuals of diverse SOGIE live with when deprived of liberty, taking positive measures to reduce risks, and to challenge discriminatory attitudes should be a priority.

We identified a number of examples of promising steps to support people in expressing their gender. These included steps taken to eliminate barriers, such as rules requiring trans women to have their hair cut which were overturned in **Mexico** City after a legal case was brought before the Penal Execution Judge.⁵⁵ In one prison in **Brazil**, anyone with hair below the ear can receive hair conditioner, making access to such product less contingent on individuals' specific identity and understood instead as based on individual need. Proactive steps were taken in **Uruguay** to ensure that trans women in a men's prison could access a range of products, and were issued a card that they could use in a supermarket opposite the prison, which would deliver their purchases once a week. This made

⁵³ European Court of Human Rights, Case of Van Kuck v. Germany, 12 September 2003, paras. 69-86.

⁵⁴ UN Standard Minimum Rules on the Treatment of Prisons (Nelson Mandela Rules), Rules 58-63.

⁵⁵ Gobierno de la Ciudad de Mexico, Secretaria de Seguridad Ciudadana, 15 August 2023, Oficio SSC/SSSP/RPVN/SJ/3809/2023.

it possible for the prison to facilitate access to a wider range of products without excessive charges for the women.

Guaranteeing wide access to visits is crucial for people of diverse SOGIE, many of whom may not have secure family relationships, or may be socially isolated. Access to visits is particularly important also given that, in some prison systems, receiving visits can be the primary means of accessing clothes and medicines. In **Brazil**, policy stipulates that visits should consider “declared socio-affective relationships which are not limited to those officially registered and include friends”.⁵⁶ In practice, this has led to a system for people to register as an “intimate friend” in order to be able to visit.

In **Colombia**, a legal challenge was brought by a lesbian woman whose requests for an intimate visit with her female partner were repeatedly denied on the grounds of security and the “protection of the rights of third parties”. Her ability to request intimate visits was made harder by frequent transfers and being subjected to disciplinary processes. The Constitutional Court found that the refusal to allow visits compromised her emotional stability and by implication the security of the prisons where she was held, and confirmed that people deprived of liberty should have opportunities to maintain intimacy in their couple relationships.⁵⁷ Its ruling was further reinforced by the Inter-American Commission on Human Rights which found that the denial of the right to intimate visit was a disproportionate restriction, that devices to obstruct the exercise of this right were driven by prison authorities’ prejudices about the individual’s sexual orientation, and that she had been subjected to an arbitrary and discriminatory interference with her autonomy to make decisions about her personal life and a violation of the right to humane treatment. The Commission also found that lower courts in Colombia had failed to challenge arbitrary decisions and instead had promoted and perpetuated prejudices by giving disproportionate weight to their importance in society, which constituted a violation of the right to judicial guarantees and protection.⁵⁸ This case provides an important legal precedent but also promising practice with respect to the measures of reparation that were issued under a “compromise agreement” between the State and the victim. These measures include holding a ceremony of recognition of responsibility and public apology in a women’s prison and broadcasting this to 118 other prison facilities, as well as involving the victim’s representatives in drafting sections on the rights of LGBTI

56 Brazil, Conselho Nacional de Justiça, *Resolution 348*, 9 October 2020, Art 11, V(b).

57 Colombia, Constitutional Court, Judgment T-499/03, 12 June 2003.

58 Inter-American Commission on Human Rights, Report No.122/18, Case 11.656, 5 October 2018.

persons in a new General Regulation of National Prison Establishments.⁵⁹ In **Colombia**, it is now written in policy that trans people can choose a day for visits that corresponds to their gender identity, and there should always be mixed staffing to guarantee the rights of trans and intersex people.⁶⁰

Further promising practices were identified with respect to relationships. In **Brazil**, the right to intimate visits includes spouses or partners who are detained in the same correctional facility.⁶¹ In one medium-security prison which holds only LGBTI+ people, as a general rule, subject to assessment and authorisation, two partners in a relationship are allowed to live together in one cell. Similarly, a women's prison in **England** was identified as managing "intimate relationships between women sensibly and effectively", allowing partners to use social visits sessions to spend time together away from their wings and peers.⁶² In **Spain**, a new attitude that normalised, rather than interfered in, sexual relationships between women was reported. Staff had noted that these relationships did not lead to incidents of concern and were largely self-regulated between women in the prison. Good relationships between women and the staff were crucial to this, it did not require a specific policy.

There are many examples of prisons holding Pride celebrations and these have been cited as efforts to make more visible the culture and people of diverse SOGIE. In **Norway**, one prison has marked Pride with a large rainbow flag for many years, and its director has emphasised the importance of having access to films and literature relating to diverse sexual orientation and gender identity in the prison library.⁶³ In **England and Wales**, the prison newspaper Inside Time marked Pride month by publishing a list of books on LGBTQ+ themes alongside suggestions for how to obtain them via prison libraries.⁶⁴ ■

59 Inter-American Commission on Human Rights, Report No.122/18, Case 11.656, 5 October 2018, paragraphs 240-249; Ministerio de Justicia e Instituto Nacional Penitenciario y Carcelario, Resolución No. 006349, 19 December 2016.

60 Colombia, Ministerio de Justicia e Instituto Nacional Penitenciario y Carcelario, Resolución No. 006349, 19 December 2016, Article 71 paragraph 1.

61 Brazil, Conselho Nacional de Justiça, Resolution 348, 9 October 2020, V (c).

62 HM Inspectorate of Prisons, Report on an unannounced inspection of HMP Send, 2025, para. 3.8.

63 Blikk 'Alle skal ha vaere trygge i fengsel', <https://www.blikk.no/fengsel-kriminalomsorgen-lhbt-rettigheter/alle-skal-ha-vaere-trygge-i-fengsel/230163> [accessed 24/04/26].

64 Inside Time, 'Pride in books', 2 June 2024, <https://insidetime.org/jailbreak/pride-in-books/> [accessed 24/04/26].

Healthcare

Providing healthcare in prisons is a State responsibility and should guarantee equivalence and continuity of care, as well as clinical independence and confidentiality. However, despite internationally agreed principles and evidence of good practice, in many countries, health systems do not reach those in prisons, and so the healthcare available to them is isolated from wider systems.

Generally speaking, people of diverse SOGIE experience higher rates of mental health conditions and their heightened risks in the prison environment makes attention to mental health needs a crucial priority. This should be achieved without pathologising their identities or experiences.

For trans and gender-diverse people, ensuring continuity of trans-specific healthcare (including hormonal treatment) as well as access to relevant specialist healthcare services must be provided. People in prison are recognised as a key population for public health responses to HIV, viral hepatitis and sexually transmitted infections, which should include prevention, diagnosis and treatment.⁶⁵

People in prisons are disproportionately affected by these and tuberculosis, as a result of criminalisation and arrest of groups already experiencing increased vulnerability and barriers to prevention and treatment in the community.⁶⁶

65 Yogyakarta Principles, Principle 9, 17; UN Standard Minimum Rules on the Treatment of Prisons (Nelson Mandela Rules), Rules 24-35; Council of Europe, Committee for the Prevention of Torture, *33rd General Report*, CPT/Inf/2023, 2023, paras. 87, 116-120; Van Hout, M. C., Kewley, S., & Hillis, A., "Contemporary transgender health experience and health situation in prisons: A scoping review of extant published literature (2000–2019)", *International Journal of Transgender Health*, (2020): 21(3), 258–306, <https://doi.org/10.1080/26895269.2020.1772937>, 38; Gorczynski, P., "LGBTQ+ mental health in detention settings", *Forensic Science International Mind and Law*, 2, (2021): 100067, <https://doi.org/10.1016/j.fsml.2021.100067>; UNODC and WHO, *Recommended package of interventions for HIV, viral hepatitis and STI prevention, diagnosis, treatment and care for people in prisons and other closed settings: Policy brief*, undated.

66 UNODC and WHO, *Recommended package of interventions for HIV, viral hepatitis and STI prevention, diagnosis, treatment and care for people in prisons and other closed settings: Policy brief* (undated).

Examples of promising practice for meeting the healthcare needs of trans and gender diverse people in prison vary considerably depending on the nature of prison and prison health systems. In **Malta**, the policy framework emphasises both the principle of continuity of healthcare (such as prescriptions for hormone treatment) from the community to prison as well as the principle that access to health and other services (naming access to hormones, hair removal, speech therapy or surgery) should be governed by the same principles as people in the community. The situation of vulnerability of any imprisoned trans, gender variant and intersex person underpins the responsibility to make “every effort” to access or request such specialist input.⁶⁷

Insights from the work of the Ludwig Boltzmann Institute of Fundamental and Human Rights and the *Associazione Antigone* emphasise that, in well-integrated prison health systems, effective collaboration between prisons and wider health services is key to ensuring timely healthcare for trans and gender-diverse people. In **Italy**, for example, hormone treatment is often perceived as non-essential, but the collaboration between one prison and local hospitals supported by a local Trans organisation facilitated timely access to hormone treatment and other medical attention for trans women. It also ensured consistent access to an endocrinology specialist. This prison also facilitated a meeting between detained individuals and a multi-disciplinary group of health staff so that they could hear and understand their perspectives and priorities for their health.⁶⁸

Promising approaches include a collaborative programme in **Ireland** between the Irish Prison Service, the Irish Red Cross and the City of Dublin Vocational Education Committee which brought peer-to-peer education to improving community health. It brought an HIV & AIDS Awareness and Anti Stigma Campaign to two prisons, which led to 56% being tested for HIV (prior to the campaign only 2% had been tested).⁶⁹ In prisons in Berlin, **Germany**, in addition to testing for viral hepatitis, detainees can use anonymous self-tests for HIV.⁷⁰

67 Malta Correctional Services, Trans, Gender Variant & Intersex Inmates Policy (2023) 3.10 <https://parlament.mt/media/124270/02318.pdf>.

68 Ludwig Boltzmann Institute, *The Situation of LGBTIQ Detainees in the EU: Standards, Challenges and Recommendations, Regional Report*, September 2025, 36; LBI and Antigone, *National Report Italy*, 24 and 35.

69 Irish Prison Service, CDVEC, Irish Red Cross, *Community Based Health and First Aid Prison Programme in Ireland* (undated) https://www.irishprisons.ie/images/pdf/cbhfa_background.pdf [accessed 24/04/26].

70 Ludwig Boltzmann Institute, *The Situation of LGBTIQ Detainees in the EU: Standards, Challenges and Recommendations, Regional Report*, September 2025, 34.

Providing condoms in prison is one of the most effective harm reduction interventions to control STIs including HIV/AIDS and viral hepatitis. In **Switzerland**, federal legislation on transmissible diseases specifies that preventive measures within places of deprivation of liberty should include the provision of condoms and in most prisons it is now standard practice to provide a health package including condoms and lubricant alongside information from a medical professional to those entering prison.⁷¹ Similar practices have been identified in **Austria** where the “health package” includes a condom, water-based lubricant and a multilingual manual of condom use and infection transmission information.⁷² Recent accounts suggest that, in some prisons in Austria, condoms are discreetly available in shower rooms or the toilets next to exercise yards.⁷³

A small number of policies relating to people of diverse SOGIE in prisons require particular attention to their mental health risks and needs. For example, in **Brazil**, in light of the “worsening of the mental health” of LGBTI people in prison, the Judge of Penal Execution, who plays a supervisory role in prisons, should check that psychological and psychiatric care is available in prisons where self-declared LGBTI persons are deprived of liberty.⁷⁴

Prison policy in **Malta** acknowledges the comparatively high risk of depression, anxiety, self-harm and suicide among the “trans, gender variant and intersex population” compared to the general population, requiring Correctional Services to establish the level of risk and current needs of individual inmates, and to prioritise addressing any mental health concerns identified.⁷⁵ The NPM in **Spain** has recommended that prison authorities include the particular risk factors and specific interventions needed for LGBTI people in the national Protocol for Prevention of Suicide in prisons, but this has yet to be achieved.⁷⁶

71 *Ordonnance du 29 avril 2015 sur la lutte contre les maladies transmissibles de l'homme*, Ordonnance sur les epidemies, Article 30. No. 818.101.1 <https://www.fedlex.admin.ch/eli/cc/2015/298/fr> [accessed 27/05/26].

72 Moazen, B., Mauti, J., Meireles, P., Černíková, T., Neuhann, F., Jahn, A., & Stöver, H., “Principles of condom provision programs in prisons from the standpoint of European prison health experts: a qualitative study”, *Harm Reduction Journal*, (2021): 18(1), <https://doi.org/10.1186/s12954-021-00462-y>. Six components emerged from the analysis as essential for successful condom programs in prisons: (1) highlighting the necessity of condom provision in prisons, (2) engagement of internal and external beneficiaries in all stages of designing and implementing the program, (3) conducting a pilot phase, (4) condom program in a comprehensive package of harm reduction interventions, (5) vending machine as the best method of condom distribution in prisons and (6) assuring the sustainability and quality of the intervention.

73 Ludwig Boltzmann Institute, *The Situation of LGBTIQ Detainees in the EU: Standards, Challenges and Recommendations*, National Report Austria, 23.

74 Brazil, Conselho Nacional de Justiça, Resolution 348, 9 October 2020, Art. 11, I. d.

75 Malta Correctional Services, Trans, Gender Variant & Intersex Inmates Policy, October 2023, para. 3.11, <https://parlament.mt/media/124270/02318.pdf>.

76 Defensor del Pueblo, *Informe anual 2025: Anexos del Mecanismo Nacional de Prevención*, 85, https://www.defensordelpueblo.es/wp-content/uploads/2026/03/Informe_2025_MNP.pdf.

We identified a promising example where concern for the mental health of trans women, gay men and bisexual people was identified as an operational priority by a prison governor taking up a new role running a dedicated prison in **Brazil**. The governor identified that feelings of abandonment and vulnerability, rooted in experiences of marginalisation, frequent rejection from families and the distance from support networks that their placement in a specialised unit entailed, were having a severe toll on mental health. This manifested in high rates of self-harm, repeated suicide attempts and over-reliance on psychiatric medication. A coordinated effort was made to respond to what was understood as a mental health crisis. This included introducing online video calls, facilitating a process for families and friends to send messages via an institutional radio station functioning within the state prison system, and ensuring implementation of a policy allowing friends as well as family members to visit. Other steps included employing a mental health physician working 40 hours per week, allowing people in relationships to be in the same cell, stopping the past practice of internal segregation of trans women within the prison, and investing in promoting activities, workshops and cultural initiatives that keep detained people occupied, allow them to develop skills and foster a sense of pride. The coordinated nature of these efforts was cited as instrumental in achieving a 30% drop in the monthly consumption of psychiatric medication, and a reduction in self-harm and suicide attempts. ■

Support and advocacy

Making proactive efforts to facilitate peer and community support is of great importance to people of diverse SOGIE who are deprived of liberty. Advocacy, advice and companionship can all play a crucial role in mitigating the common experience of discrimination and marginalisation in prison, and in supporting people of diverse SOGIE to understand and exercise their rights, as well as to practice and enjoy their culture and diversity.⁷⁷

We identified promising examples of efforts aimed at making legal frameworks and rights known and understood. In **Uruguay**, the prison administration developed an information leaflet for trans people deprived of their liberty to raise awareness of their rights. In **Ireland**, the National Human Rights Institution funded a group of civil society organisations to develop and publish a rights guide for trans and non-binary people that includes a detailed section on “Your rights in prison” for trans people deprived of their liberty to raise awareness of their rights.⁷⁸

Promising practices in facilitating access to and involvement of groups working to support people of diverse SOGIE were noted in a number of countries. In **Argentina**, a key policy relating to trans people deprived of liberty establishes as a basic principle the need to “open up” the prison to wider society through the participation of NGOs and others with relevant expertise.⁷⁹ The principle of cooperation was at the heart of a cooperation agreement between the Prison Ombudsman’s National Office (*Procuración Penitenciaria de la Nación*) and the *Asociación Civil Mocha Celis* (a civil society organisation), supported by funding from the Dutch Embassy’s Human Rights Fund and facilitated by the Prison Service.

⁷⁷ Yogyakarta Principles, Principles 30 and 38.

⁷⁸ Irish Council for Civil Liberties, Transgender Equality Network Ireland, *Shout Out, Know Your Rights: A Guide for Trans and Non-Binary People*, (undated).

⁷⁹ Argentina, Servicio Penitenciario Federal, Servicio Penitenciario Federal, Guía de procedimientos de “visu médico” y de “control y registro” de personas trans en el ámbito del Servicio Central de Alcaidías, 11 April 2016, Boletín Público Normativo No.596, 32.

This collaboration provided regular spaces for support to travesti, trans and non-binary people in one federal prison. This included support drafting CVs and understanding legal frameworks for future employment as well as a focus on the rights of this community.⁸⁰ In **Mexico**, coordination by the prison administration with civil society organisations working with people of diverse SOGIE was valued. In one prison in **England**, inspectors noted that an LGBT life coach regularly attended to provide one-to-one support to transgender prisoners, and was welcomed by them.⁸¹ In Rio Grande do Sul, **Brazil**, the role of civil society in prisons was facilitated through the development of a cooperation agreement, which replaced time-consuming requirements whereby organisations had to seek multiple authorisations from different officials in order to carry out a specific visit, a process that could take several months. Instead, a simple system based on prior approval in principle allows an NGO working with LGBTQI+ people in prison to contact the relevant prison director directly to confirm that they can enter for a particular activity.

In **Belgium**, a number of promising practices have been developed to understand, support and develop actions to improve the situation of LGBT+ people in prison. In Bruges, a working group made up of health, security and support staff, incarcerated individuals and external partners allows “tailored response to the unique dynamics” of the prison and collaboration between staff and external organisations who can provide support and gain from new connections. Out of this emerged the idea of a discussion group for LGBT+ people to discuss experiences, express emotions, tell stories, which now runs regularly.⁸²

Another promising example of amplifying the voices of LGBTI+ people deprived of liberty through participatory and rights-based approaches is in **Colombia**. The *Polifonía Carcelaria* project creates collective spaces where participants can express their experiences, reflect on the impact of incarceration and challenge stigma through diverse forms of cultural production.⁸³ ■

80 Procuración Penitenciaria de la Nación, Informe anual 2024, 407-408, https://ppn.gov.ar/pdf/publicaciones/Informe-Anual-2024.pdf?utm_source=chatgpt.com [accessed 31/05/26].

81 HM Inspectorate of Prisons, *Report on a scrutiny visit to HMP Leyhill*, 23 Feb and 2-3 March 2021, paras. 3.19.

82 Transgender InfoPunt, *Beyond Binary Bars: A self-help guide for transgender persons in Belgian prisons*, <https://www.transgenderinfo.be/sites/default/files/2023-07/Beyond%20binary%20bars%20ENG%20final.pdf> [accessed 24/04/26]; Jolien Lescauwae, *Werken rond gender binnen hulp- en dienstverlening, een veelzijdig en zinvol project*. https://www.transgenderinfo.be/sites/default/files/2023-07/Gender%20en%20hulp-%20en%20dienstverlening_FATIK%202023.pdf [accessed 24/04/26].

83 <https://ringlete.bandcamp.com/album/polifon-a-carcelaria> [accessed 24/04/26].

Training

All staff, whatever their professional background, role or rank, play a crucial role in upholding the rights of people of diverse SOGIE who are deprived of liberty. Challenging discriminatory attitudes and raising awareness through practical staff training is an essential, although not the sole, element in strengthening and integrating human rights-based approaches to SOGIE.⁸⁴

Where SOGIE is included within formal and mandatory training curricula, this makes an important statement that it is relevant and important to all staff. Assigning adequate and sustainable resources to deliver regular training is crucial,⁸⁵ as too often it is left to civil society groups to fund and develop training initiatives.

A number of initiatives that focus on developing awareness and training on SOGIE for prison staff and managers have emerged from situations in which inadequate support and/or human rights violations have been identified. For example, training was recommended by international detention monitors after a visit to **Greece**, and ordered by a judge in **Colombia**.⁸⁶ It was also the basis for an example of promising practice we identified in **South Africa**. In a key legal case, *Jade September v Mr Subramoney*, the Equality Court found that Jade September, a transgender woman who had not been permitted to express her gender identity while in prison, had been the subject of unlawful and unconstitutional unfair

84 UN Standard Minimum Rules on the Treatment of Prisons (Nelson Mandela Rules), Rule 76.2 “Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus”; Yogyakarta Principles, Principles 9 G and 10 C; *Ninth annual report of the UN Subcommittee on Prevention of Torture*, CAT/C/57/4, 22 March 2016, paras. 79 and 82.

85 Association for the Prevention of Torture, *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide* (Geneva: APT, 2018), 94-97.

86 Corte Constitucional de Colombia, Sentence T-062/11, <https://www.corteconstitucional.gov.co/relatoria/2011/t-062-11.htm>; CPT, *Report on the visit to Greece carried out from 8-11 November 2022*, CPT/Inf(2023)24), para. 42.

discrimination. As part of the court's orders, it specified that "transgender sensitivity training" should be introduced for all Department of Correctional Services staff.⁸⁷ The South African Human Rights Commission/NPM took responsibility for developing this training and, based on its wider experiences from visits in other detention settings and the input from civil society and others, decided to extend the scope of the training to cover issues faced by all LGBTIQ+ people. It also decided to expand the reach of the training to the Police Service, other government departments managing places of deprivation of liberty, as well as wider oversight bodies including the Judicial Inspectorate for Correctional Services. The NPM worked with civil society organisations to develop this as a train-the-trainer programme so that it could achieve maximum dissemination. The programme includes a learning manual covering bias, prejudice, diversity, terminology and rights, international human rights law, national regulatory framework, soft skills, as well as advice and support for trainers.

Other promising examples of training include the training module developed around the national Framework on the Handling and Care of LGBTIQ+ Persons in Detention in **Switzerland**.⁸⁸ The national Centre for Expertise on Prisons and Probation (the Prison Academy for all prison staff) delivers this module over a full day and it constitutes part of the mandatory training that all new prison officers must take to receive their federal diploma. A pool of trainers, including external experts and those with lived experience of gender diversity and imprisonment, is available to deliver the programme.

Training is a crucial element of making change, but interviewees also emphasised that often it is the background of staff, their sensitivity and lived experience, including of sexual orientation and gender diversity, that are also crucial aspects in protecting rights. ■

⁸⁷ Equality Court of South Africa, *Jade September v Mr Subramoney N.O.*, Judgment 23 September 2019, Case no. EC10/2016.

⁸⁸ Swiss Centre for Expertise on Prisons and Probation (SKJV), *The handling and care of LGBTIQ+ persons in detention: framework document*, May 2021, https://www.skjv.ch/sites/default/files/documents/2022-06-20_LBP_Framework_Document_the_handling_and_care_of_LGBTIQ_persons_in_detention_EN.pdf [accessed 26/06/26].

Accountability and oversight

Internal and external oversight are crucial means for evaluating progress, ensuring accountability and providing independent review to efforts aimed at protecting the rights of people of diverse SOGIE who are deprived of liberty. Given the heightened risks they face within prison systems, and the evidence of widespread abuse against them, effective systems to ensure that allegations of torture or ill-treatment, including sexual violence, are properly investigated and, where appropriate, prosecuted, are particularly important.

Ensuring data reflects the identity of those within prison enables analysis of their experiences and any trends and leads to concerns being acted upon. It is also a further means of providing much needed oversight of the risks and experiences of this group. However, the collection and retention of data must be underpinned by robust safeguards for privacy, confidentiality and data protection.⁸⁹

In **Chile**, we note that the information management system that collects information relating to trans people in prison, as well as their visitors, sets out clear and enforceable principles around privacy, confidentiality and protections against arbitrary or involuntary disclosure of information.⁹⁰

Also in **Chile**, a system of annual internal inspections, carried out by the prison administration's Human Rights Department, monitors the extent to which specific policy requirements are met and identifies trends. This feeds into focused work to examine levels of policy compliance, which were noted as low but reflecting some generalised improvement. The policy incorporates a duty on staff to inform their management if they become aware of any trans person being the victim of torture, ill-treatment

89 *Ninth annual report of the UN Subcommittee on Prevention of Torture*, CAT/C/57/4, 22 March 2016, paras. 74-75; UN Independent Expert on SOGI, *Data collection and management as a means to create heightened awareness of violence and discrimination based on sexual orientation and gender identity*, A/HRC/41/45, 14 May 2019.

90 Gendarmería de Chile, Resolution 5716, 20 November 2020, Article 3.

[*apremio ilegítimo*], sexual abuse, or other crimes, who are then required to submit this to the Public Prosecutor while implementing protective measures for the person affected.⁹¹

The fact that **Chile's** legal framework incorporates discriminatory grounds within the element of purpose of its definition of torture brings legal enforceability, as criminal liability could be incurred if the discriminatory acts (such as body searches conducted to humiliate a person) that this policy seeks to prevent from happening do take place.

In the **Philippines**, “jail” authorities emphasised that internal data monitoring by their welfare development officers allowed them to have oversight of whether people in “rainbow dorms” were participating in activities and education. Though participation in these was not understood as a problem, they were confident their processes would be able to identify any concerns which would then be acted upon. However, given that this internal segregation may discourage some people of diverse SOGIE from identifying themselves, this data may not be fully reflective of experiences across “jails”.

External oversight through the work of National Preventive Mechanisms, international human rights bodies and other inspectorates, ombuds or visiting bodies plays a crucial role in making approaches to SOGIE within individual prisons and wider systems visible and accountable. We note a few of many examples of promising practice in this regard.

The **French** NPM's *Opinion on the treatment of transgender persons in places of deprivation of liberty* brings analysis of the legal framework as well as practical realities observed through its visits aligned with international standards including the Yogyakarta Principles.⁹²

In **Peru**, the NPM conducted detailed work in 23 prisons to identify LGBTI people within them and explore their backgrounds and experiences. By generating this new data, it was able to examine in detail the existence and/or effectiveness of prison systems for identification, registering complaints, and the extent to which internal rules, policies (such as intimate visits, searches) and programmes addressed this population.⁹³

91 Gendarmería de Chile, Resolution 5716, 20 November 2020, Article 41.

92 Contrôleur général des Lieux de Privation de Liberté (CGLPL), *Opinion of the Contrôleur général on the treatment of transgender persons in places of deprivation of liberty*, 25 May 2021 (unofficial translation).

93 Defensoría del Pueblo, *Condiciones de Internamiento de las Personas LGBTI en 23 Cárceles del Perú: Análisis y recomendaciones para prevenir la tortura y los malos tratos*, April 2023.

In **Brazil**, the NPM invited civil society organisations and LGBTQI+ activists to join some monitoring visits which gave new insights and a sense of common purpose, and concluded in a jointly published thematic report.⁹⁴

In **Argentina**, the Prison Ombudsman's National Office has a formally recognised team focused on "Gender and Sexual Diversity" through which the organisation is able to explore, detect and bring visibility to the criminalisation of women and LGBT people and their situation in prisons. It also has a specific programme on LGBT+ people deprived of liberty.⁹⁵

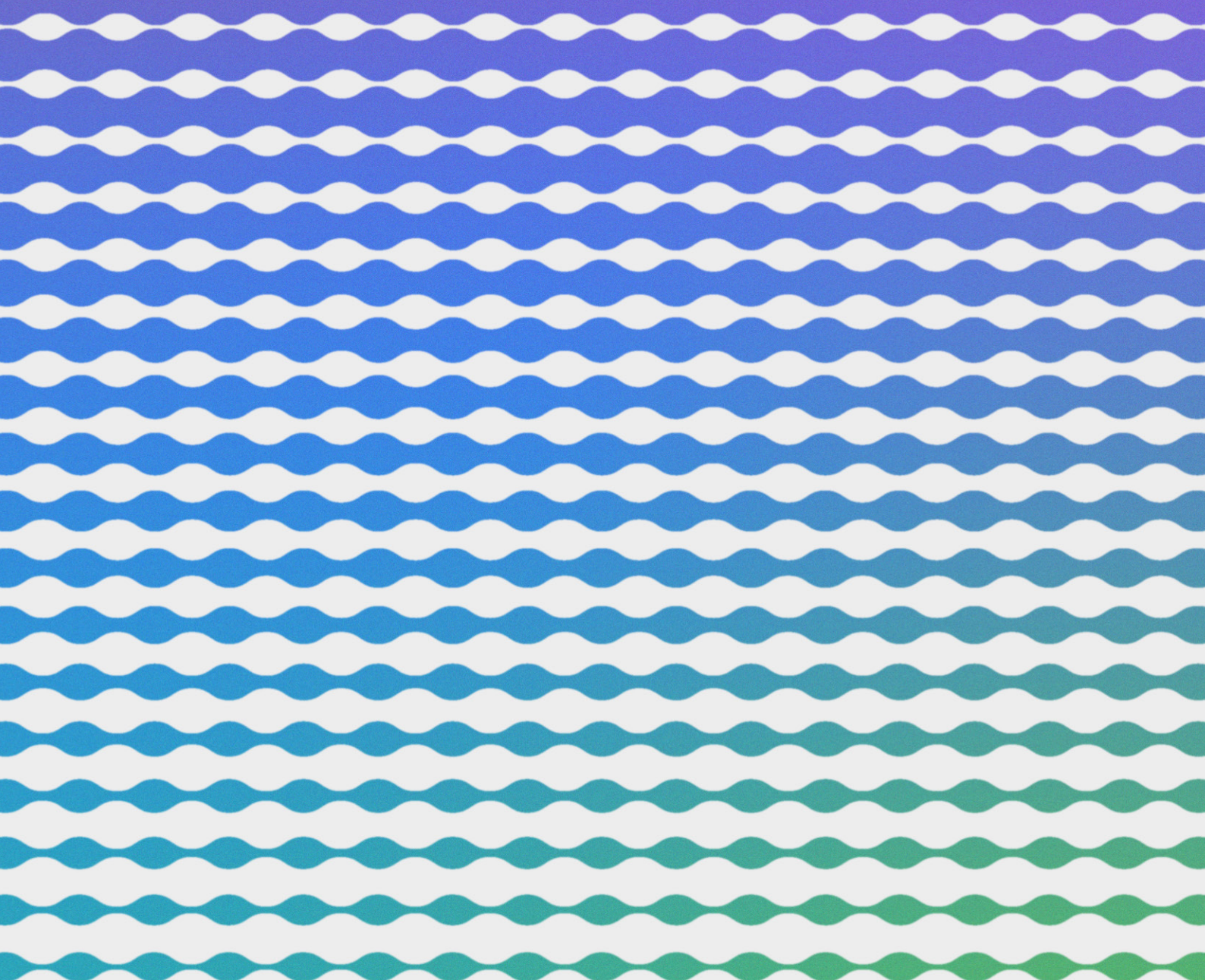
Finally, a new international "queer detention monitors' community of practice" has been established to facilitate exchanges among detention monitors of the challenges faced by people of diverse SOGIE in detention settings, while also providing a supportive space to discuss issues arising within predominantly heterosexual and cisgender working environments. ■

94 Brazil, Mecanismo Nacional de Prevenção e Combate à Tortura, *Relatório Nacional de Inspeções da População LGBTI+ Privada de Liberdade no Brasil*, 2023.

95 <https://ppn.gov.ar/index.php/ejes-tematicos/colectivos-vulnerables/genero-y-diversidad-sexual> [accessed 06/06/26].

CHAPTER 4

Key roles in developing promising practices



Promising practices do not emerge in isolation. Across the examples identified, progress was made through the combined efforts of civil society organisations, prison staff, allies, oversight bodies and international actors, each contributing in different ways to advancing the rights of people of diverse SOGIE in places of detention.

Civil society

Behind most of the promising practices we identified are the sustained and skilled efforts of civil society groups pushing for positive change. In many instances, these groups are led by people themselves of diverse SOGIE and often with lived experience of imprisonment. Civil society groups worked in many different ways, from providing highly practical support such as delivering basic goods, to providing legal representation or advocacy, developing models of solidarity such as letter-writing, or national and regional campaigning and strategic litigation.

In some countries, where politicians and officials were reluctant to be part of public discussion of gender identity or sexual orientation due to predominant ideologies or religious beliefs, important civil society advocacy is being conducted behind the scenes. In others, civil society worked in close collaboration with public authorities and sometimes through formal agreements to work within prisons. Some officials noted the key role that civil society played in pushing for and ensuring the quality of new policies as well as the sense of constant pressure they could sustain through long internal processes.

We noted the absence of many mainstream penal reform and criminal justice organisations from these processes. Representatives from organisations working on sexual orientation and gender identity felt there was often an over-reliance on them to lead this work. Some also noted that mainstream LGBTIQ+ organisations could be reluctant to engage on prison-related issues, sometimes because of hesitancy to prioritise advocacy on behalf of communities facing additional layers of stigma and criminalisation. Having a seat at the table is not a given for organisations or campaigners working on sexual orientation and gender identity, but is a crucial element of guiding change in prisons. While representative groups bring unique experience to inspire and motivate change, we note a strong sense that this should not be their responsibility alone.

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Some of these organisations and advocates noted the precarious funding they received and the situations of unsupported risk and vulnerability they were sometimes exposed to through their work, such as experiencing homophobic, transphobic or wider discriminatory comments being made while delivering training. Where spaces for solidarity, sharing expertise and developing joint campaigns exist, such as *Red Corpora en Libertad* in the Americas,⁹⁶ these were instrumental in achieving results.

Operational staff

Operational staff and/or management played a key role in a number of the promising practice examples, showing significant support to new initiatives or themselves championing or facilitating changes. Harnessing the support and influence of prison directors in situations where they had considerable autonomy, power or influence was crucial in some instances. The value of developing a shared sense of responsibility between staff in a range of operational, technical and advisory roles was emphasised.

Some staff described to us how personal insights into the experiences of people of diverse SOGIE motivated their actions. Others described their motivation in terms of human understanding and celebrating difference.

It is important to consider the situation and role of staff of diverse SOGIE within wider efforts to protect rights.

Some emphasised that it was their extensive operational experience that informed their understanding of what was possible.

It is important to consider the situation and role of staff of diverse SOGIE within wider efforts to protect rights. In a small number of countries

we were made aware of visible, senior staff of diverse SOGIE, some of whom had been part of efforts to do things differently, in some instances supported by staff associations for people of diverse SOGIE.⁹⁷

⁹⁶ <https://redcorporaenlibertad.org/> [accessed 24/04/26].

⁹⁷ We sought to explore the role of staff associations in achieving promising practices but despite several attempts were unable to identify any that were able to speak to us. In some instances, this was due to the need to secure ethical clearance to seek their experiences, which would have taken many months and was therefore not possible within the scope of the project.

However, it is important to recognise that the safety of staff and their ability to promote change in work environments that do not always protect their own rights as employees and where they may experience homophobic or transphobic attitudes cannot be guaranteed or relied on. Some interviewees felt that institutional culture was improving, partly due to the presence of more openly gay or lesbian staff, although they noted that progress was neither uniform nor linear.

In **Chile**, a Supreme Court case found in favour of a trans member of staff in the prison service who had not been allowed to change her official email or registered name to her social name.⁹⁸ This case was cited as a key element in consolidating understanding within the prison service that the principle of self-determination was protected in law, and in laying a path for wider policy change.

Allies and champions

Allies had also played a key role in positive changes. Some individuals worked on the basis of earned professional trust to push improvements from positions of influence, others had become “champions” from within systems. Amongst them were individuals who did not start from a position of expertise, but described their motivation to do things better and “unlock prejudices”. Not all allies were in senior roles, and one civil society group worked to identify allies at all levels of the criminal justice system who could be relied on to alert them or other advocates if a person of diverse SOGIE came into their remit or establishment.

Having as champions of change people who were experienced in the day to day running of prisons was cited as a key tool for demonstrating the legitimacy of proposals. One person told us that having a “champion” within a prison was as, if not more, important as having a good policy.

⁹⁸ Poder Judicial, *Ficha de información relevante del fallo*, número del rol 21393-2019, 05 November 2019 https://secretariadegenero.pjud.cl/images/documentos/fallos/repositorio/2025/07__Ficha_identidad_de_genero_constitucional.pdf [accessed 24/04/26].

External actors and oversight bodies

As noted above, some NPMs have made strong and visible contributions to exposing the realities of people of diverse SOGIE in prisons within their preventive mandate. The crucial role of National Human Rights Institutions was emphasised, but some noted that many did not take up these issues. Parliamentarians can also play an important role. In one instance, a parliamentary question concerning trans people in the prison system set in motion an important process that required the government to gather information, focus attention on the issue, and provide an evidence-based

response, which subsequently helped demonstrate the need for policy development. Private institutions also supported a number of initiatives that provided training and work placements for people of diverse SOGIE during and after imprisonment.

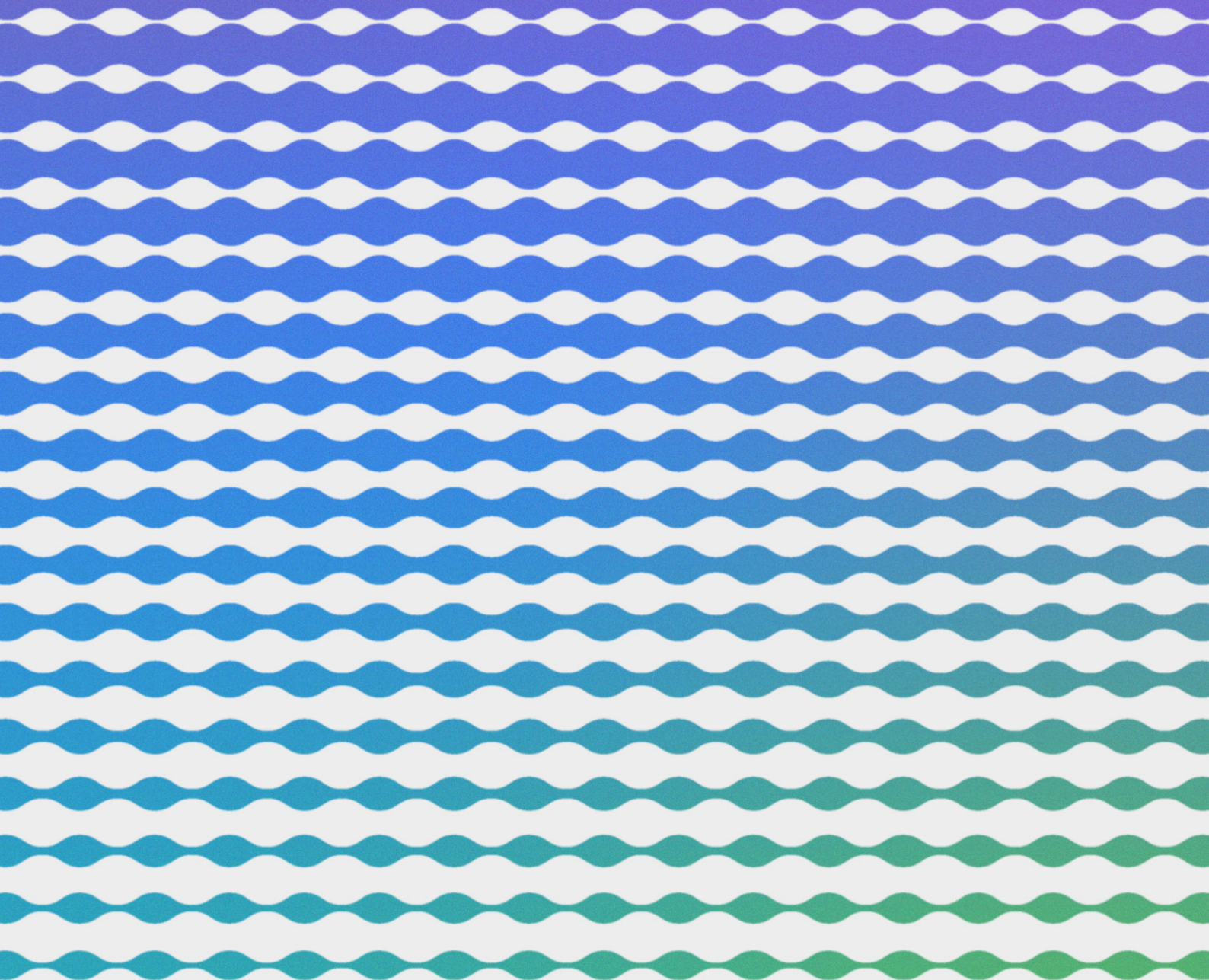
Some NPMs have made strong and visible contributions to exposing the realities of people of diverse SOGIE in prisons within their preventive mandate.

Support and scrutiny from international bodies is key, with internationally-developed standards such as the Yogyakarta Principles as well as authoritative reports and opinions

of the Inter-American Commission and Court of Human Rights, the SPT, CPT and IE SOGI influencing many national policy processes. Technical support and funding from international agencies had supported many local civil society and state initiatives.

CHAPTER 5

Limitations and challenges



We identified a number of common themes in the limitations of promising practices and challenges in making progress.

Gaps and limited focus

Among the promising practices we were able to identify, we found few or no examples in areas including:

- Improving the safety of people of diverse SOGIE while detained, including through initiatives to address intimidation, bullying and violence.
- Ensuring that internal complaints and disciplinary mechanisms are safe, confidential and trusted and respond effectively to the specific form of abuse faced by people of diverse sexual orientation, gender identity and/or expression.
- Specific measures and support for lesbian, gay, non-binary, intersex people or trans men.
- Tailored mental health provision to support the particular needs, risks and experiences of people of diverse SOGIE.
- Approaches directly aimed at those with multiple or intersecting vulnerabilities or identities, such as foreign nationals, people with disabilities and those from minoritised or racialised groups.

65

Achieving real change

As noted above, legal advances have been a crucial but not always the only factor in achieving operational practices that better protect the rights of people of diverse SOGIE in prisons and pre-trial custody. National legal reforms have drawn considerably from international precedent and, in turn, have contributed new learning to further strengthen international frameworks. However, many legal developments have achieved limited change in the lives of people of diverse SOGIE.

In some examples, a perceived mismatch between legal and policy reforms and attitudes on the ground had stymied progress. Others warned that rights discourse could easily be absorbed superficially without any of the substantive changes it should entail being enacted. Inconsistencies between institutions, to different individuals or groups were also noted.

Operational initiatives had led to some significant changes. In one instance, we were told of a new “cultural norm” that had been created by new

operational practice becoming consolidated. However, without legal or policy underpinning, these operational initiatives ran the risk of being overturned within hierarchical decision-making structures, regardless of their legitimacy on the ground. On the one hand, we note that these approaches are helpful in evidencing what is possible to achieve, but that they also rely heavily on key individuals and risk significant personal backlash if anything is perceived to have “gone wrong”.

Risks and adverse consequences

Some policies that purportedly set out to “protect” people of diverse SOGIE are put forward as the only available approach given the particular risks they face in a given time and context but are in fact blanket policies that involved no individualised assessment of risk nor consultation of the individuals subjected to them. Some of these approaches, such as placing people of diverse SOGIE in isolated cells or separated wings, which are often borne from institutional risk aversion rather than a wider effort to minimise risks, often lead to unrestricted segregation, and stigmatise, disadvantage and sometimes punish those subjected to them. As such they cannot be defended on human rights grounds. There is a need for diligent evaluation of their likely consequences, which may include people hiding or suppressing their SOGIE, living in heightened risk and limiting contact with the outside world for fear of disclosure. In such cases, independent oversight can play a crucial role in scrutinising the assumptions and assessing the outcomes invoked to justify protective policies.

The reality of prison systems that are characterised by widespread abuse and structured around binary models is that many people of diverse sexual orientation, gender identity and/or expression may prefer placement in a separate unit or wing, and some trans people may prefer to live among persons whose gender identity does not correspond to their own. It is important to understand such decisions or preferences in the context of a system that is often unable to guarantee safety or wellbeing, while also recognising the principle of individual choice and agency.

Resistance and pushbacks

Stigma and discrimination of people of diverse SOGIE persists across the world, and are manifested in continuing abuse, neglect and criminalisation, but also in negative attitudes, minimisation of the severity of the issues and creating simplistic binaries between rights and safety. In many instances, governments have sought to undermine the legitimacy of legal protections and chip away at non-binding aspects of policy frameworks with the aim of reducing the protection of trans and gender diverse people in prisons.⁹⁹

In some contexts, interviewees told us that efforts to introduce progressive policy approaches were made harder by professional cultures that were resistant to change, dominated by conservative attitudes. This also had an impact within systems and between professional disciplines.

In one example shared, a progressive shift in operational policy had encountered obstacles within prison healthcare, where attitudes had not shifted away from the pathologisation of trans and gender diverse identities and professionals struggled to grasp the clinical necessity of providing appropriate trans-specific healthcare as required by the policy.

Orchestrated anti-rights pushbacks are having a wider chilling effect on policy and practice, particularly by weakening protections related to gender identity and the rights of trans and gender diverse people. One area in which this has become especially visible is detention and prison placement.

The placement of trans and gender diverse people in prisons has become the subject of increasing social and political debate, fueled by disinformation and fear-based narratives that often focus disproportionate attention

In many instances, governments have sought to undermine the legitimacy of legal protections and chip away at non-binding aspects of policy frameworks with the aim of reducing the protection of trans and gender diverse people in prisons.

⁹⁹ ILGA World, “Rollback on trans rights in Argentina: ILGALAC and ILGA World statement on Decree 62/2025”, 10 February 2025, <https://ilga.org/news/argentina-gender-identity-law/> [accessed 27/05/26]; National Public Radio, “DOJ orders prison inspectors to stop considering LGBTQ safety standards”, 4 December 2025, <https://www.npr.org/2025/12/04/nx-s1-5630490/prison-doj-safety-memo-changes-trans-lgbtq-inmates>; BBC News, “Ban on trans women in female prisons extended – Raab”, 27 February 2023, <https://www.bbc.co.uk/news/uk-64781360>.

on trans women. These debates frequently rely on the assumption that trans women are inherently more likely to pose a risk to other women in detention, despite the absence of evidence supporting such claims and the substantial evidence demonstrating that trans and gender diverse people themselves face high levels of stigma, discrimination and ill treatment across prison systems. Trans women in particular are often at heightened risk of violence, abuse and victimisation by both prison staff and other people deprived of liberty.

The concerns advanced by anti-rights actors vary in form but generally argue that policies allowing prison placement in accordance with gender identity, including self-determination models, create opportunities for abuse. Some claim that men will falsely identify as women to access better detention conditions, while others argue that predatory men will exploit

such policies to gain access to women's detention facilities. These arguments have informed proposals that detention placement should be determined solely on the basis of their genitalia, resulting in trans and gender diverse people being housed in ways that do not align with their gender.

To varying degrees, these arguments are present across all countries in

which promising practices have been identified. Through vocal campaigning and political pressure, they have in some cases contributed to the reversal of progressive policies based on individualised assessment. This has occurred despite extensive international and regional human rights doctrine and evidence-based policies establishing the legal basis for considering gender identity in detention placement decisions.

International and regional human rights standards also make clear that a presumption of abuse cannot justify restricting the rights of an entire group.

International and regional human rights standards also make clear that a presumption of abuse cannot justify restricting the rights of an entire group. Any risks associated with detention placement should instead be assessed individually, taking into account both risks to the person concerned and any risks that the person may pose to others. A woman's gender identity should not be treated as a proxy for her likelihood of committing violence, just as age, race, nationality or other personal characteristics should not be used to justify exclusion or segregation of entire groups. Similarly, hypothetical scenarios in which cisgender men falsely claim a trans identity cannot serve as a basis for excluding all trans women or denying them access to their rights.

Therefore, while there is a significant body of evidence documenting the risks, abuse and discrimination experienced by trans and gender diverse people in detention, there is no systematic evidence to support claims that detention systems operating on principles of self-identification facilitate abuse by trans or gender diverse people.

Finally, it is concerning to see such orchestrated pushbacks gaining force, underpinned by restrictions on funding for work advancing the rights of people of diverse SOGIE, or by financial support becoming conditional on not upholding the rights of trans persons in detention. Major governments have withdrawn bilateral and multilateral funding that previously supported important work by international actors and national civil society to advance the rights and respond to the needs of people of diverse SOGIE deprived of liberty, with significant consequences. Such strenuous circumstances have forced many NGOs to make difficult decisions, including withdrawing from work in this area to be able to continue operating.

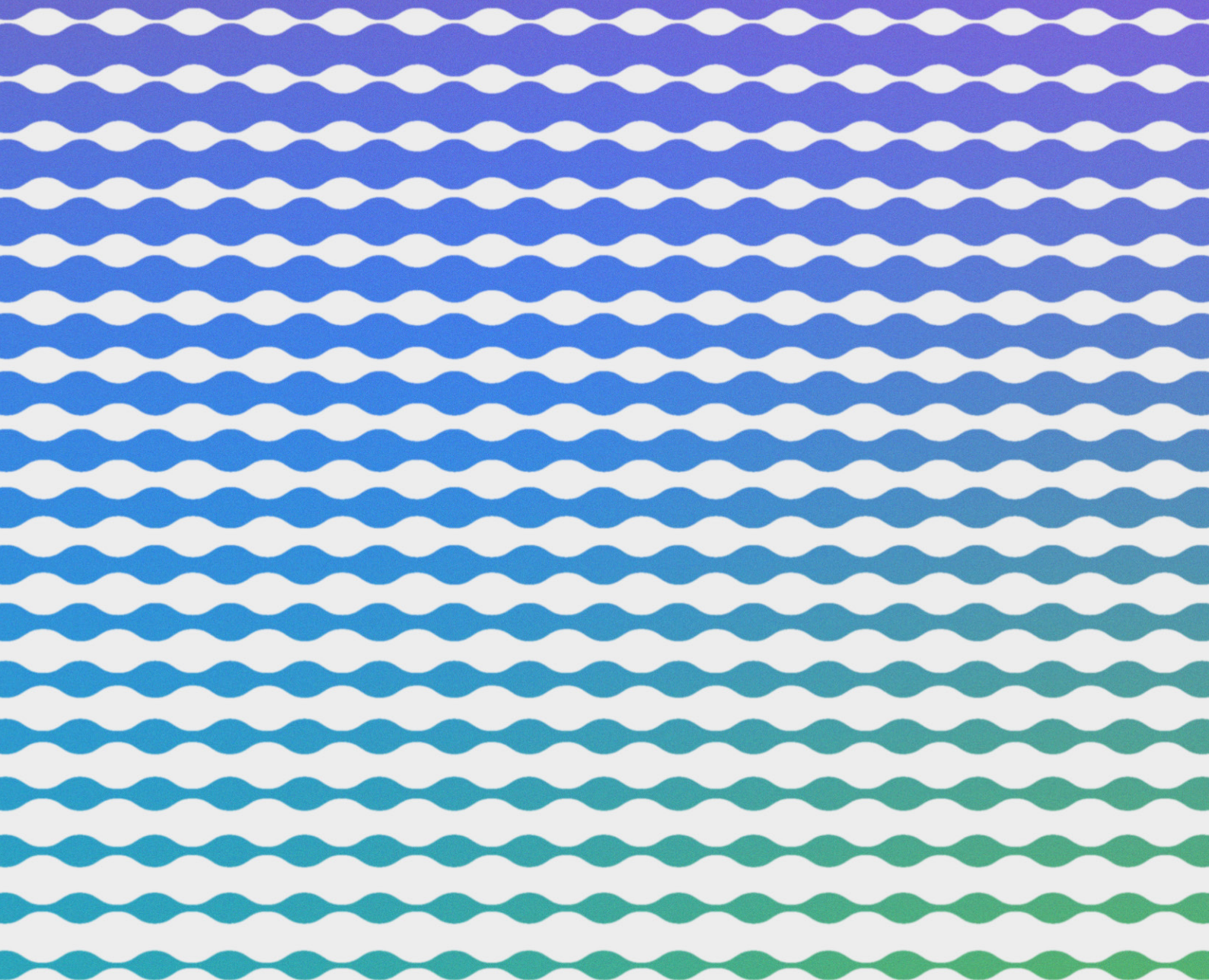
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Sustainability and replicability

In this context, sustaining good practice may be a challenge requiring the ability to withstand legal challenges, overcome internal resistance and navigate ever-narrowing funding sources. Some accounts shared noted that the sustainability of some national initiatives was undermined because they were funded from extra-ordinary or politically-managed budgets rather than core institutional funds. We were told of one policy framework that needed its own “integrated system for protection”, which involved building strong relationships and formalised links with other national authorities in order to help safeguard against future efforts to weaken or undermine it. Some working from within felt they had to seek their own opportunities to gain internal visibility of initiatives that had not been given institutional priority. Gaining external validation through the reports and recommendations of NPMs, other national and international monitoring bodies was viewed as helpful in protecting positive initiatives.

CHAPTER 6

Moving forward: essential elements of change



Through our analysis of promising practices, how they came about as well as the strengths and limitations of different approaches taken, we have identified ten essential elements for achieving meaningful future change to protect the rights of people of diverse SOGIE.

If fulfilled, these elements of change could have a wider positive impact on the prison system, reaching beyond those of diverse SOGIE.

#1

Put human rights, torture prevention, non-discrimination and self-determination at the heart of reforms

International human rights standards provide a crucial framework for advancing the rights of people of diverse SOGIE who are deprived of liberty. They include international legal obligations relating to non-discrimination, self-determination and the prohibition of torture, as well as more practical standards that interpret the application of international human rights law to the breadth of issues affecting people of diverse SOGIE deprived of liberty. Relying on these standards when developing new legal and policy approaches will support states in meeting existing obligations engaged under international law and provide legitimacy for changes. Shifting away from security-focused arguments towards rights-based reforms is crucial. ■

#2

Establish responsibilities for action

The state holds the primary responsibility to uphold the rights of any person it deprives of liberty. Evidence of deep-rooted patterns of abuse, intimidation and discrimination of those experienced by people of diverse SOGIE in prisons and pre-trial custody, should motivate concerted action from government and state institutions. Where this responsibility has been understood and acted upon, informed by insight into the reality of their lives and risks when detained, important progress has been achieved. State responsibilities enacted through coordinated institutional responses based on a shared sense of purpose have proven particularly effective. Responsibilities do not start and finish with enacting a new policy: having institutional confidence and dedicated resources to make necessary changes, as well as openness about what still needs to be addressed are important values.

Although individual champions and motivated civil society groups can and do play a key role, responsibilities should be shared and supported. Collaborative, consensus-based working may be counter-cultural in some hierarchical prison systems, but there is a key role for stakeholders from different institutions, professional backgrounds and ranks. External bodies, including NPMs, play a crucial role in calling for change and monitoring outcomes when changes are introduced. ■

#3

Guarantee experience informs change

Lived experience must be at the heart of efforts to protect the rights of people of diverse SOGIE in prisons and pre-trial custody. Most importantly, this must include those with experience of imprisonment into the development of new policies, whether through civil society organisations or other means should be accompanied by guarantees that they will be treated with respect, resourced and remunerated for their role, and supported and protected from harm.

The insight of professionals of diverse SOGIE can play a crucial role within their institutions, whether these are prison administrations, the judiciary or NPMs, but many work in hostile or unfriendly contexts and so spaces for solidarity and support are crucial. The ability to draw from operational and multi-disciplinary expertise and lived experience gained within detention systems plays a key role in informing and legitimising change. ■

#4

Focus on diverse identities and intersectionalities

Few examples of promising practice bring insight into the intersectional identities of people of diverse SOGIE. Research into the experiences in prison of people with different sexual orientations, gender identities and expressions and sex characteristics, is limited. Many of them are rendered invisible within prison systems that do not protect or count them. This significantly limits the extent to which changes can be informed by understanding of their distinct needs. There is a pressing need to develop new insights that shed light on how ethnicity, disability, age, nationality and other key factors contribute risks and affect experiences. ■

#5

Challenge problematic systems

Eliminating abuse and improving standards within prisons and pre-trial custody is an urgent priority. However, effective approaches to preventing ill-treatment and torture of people of diverse SOGIE require a wider focus on the underlying causes of marginalisation and exclusion, over-criminalisation, over-incarceration and repeating cycles of imprisonment, often in systems which are already overcrowded. This could be achieved by a critical revision of criminal law and greater emphasis on tackling wider stigma and discrimination against people of diverse SOGIE, in order to prioritise diversion from and alternatives to prison.

#6

Build visibility and understanding

Changing systems requires a combination of different elements likely to include technical input, legal advice, lived experience, as well as re-calibrating the primary focus on security arguments to allow room for prioritisation of specific populations' needs and individual vulnerabilities. Person-centred systems should place individual risk assessment at the heart of prison policy and practice, accompanied by wider efforts to address the risks too often experienced by people of diverse SOGIE. Inter-disciplinary approaches may build understanding of the legal, social and medical implications of misguided or inadequate actions. Senior input and institutional buy-in are crucial to ensure new policies are developed in a way that relates to different prison contexts and without this, changes are likely to result in pockets of improved practice rather than system-wide changes. ■

Cultural shifts may be as powerful in achieving change as legal and policy reform; therefore, broader efforts to raise awareness are important. Success stories point to the value of taking time to explore individual life stories, and the long history of exclusion and marginalisation that influence many lives of people of diverse sexual orientation, gender identity and expression. In other contexts, making people of diverse SOGIE more visible in criminal justice data, so that policy-makers are better able to respond to their experiences could be a crucial first step as long as there are robust safeguards for privacy and confidentiality throughout data collection, management and retention systems. Celebrating diverse identities and dispelling stigma through visible activities may be a powerful way of shifting attitudes and expressing solidarity. Importantly, bringing visibility to the experiences of people of diverse SOGIE through strong systems of oversight and protection are a crucial element of change. NPMs' role is key in identifying the particular risks and patterns of ill-treatment that may affect people of diverse SOGIE, and they have the ability to place them firmly on the agenda for action. Where they fail to do so, they contribute to the invisibility of these particular risks and experiences. ■

#7

Set priorities that are tailored to context

The starting point for making progress to protect the rights of people of diverse SOGIE deprived of liberty will vary significantly in different contexts. What is desirable or helpful in one setting may be unhelpful or even counterproductive in another. Key principles from the human rights framework should underpin all changes and long-term aims, but understanding the specific priorities of local groups, bringing insight into what is possible in different contexts and effective ways of achieving change should inform strategic decisions.

In some contexts, aiming for major legal or policy reform may be a primary objective. In others, prioritising small practical steps, or establishing a minimum floor of basic protections on which to make further progress, may be most valuable. All change in the right direction is valid, and small steps in some contexts can mark significant shifts in attitudes, and open important new spaces for dialogue. Behind-the-scenes work that prepares the ground and identifies allies for the future may be the only approach in countries where it is impossible to raise issues publicly. ■

#8

Sustain change over time

Many of the changes we identified took significant time and resource to achieve; carefully setting pace was essential to building capacity and buy-in for systemic reforms. Pausing work to spend time in addressing concerns that arose was a worthwhile investment in the long-term aims of one project. Having reliable funding to sustain civil society advocacy, coordinated policy efforts and infrastructure improvements is hard to secure but a crucial contribution to sustaining change. Once new policies are agreed, investing in internal processes to ensure they are rolled out across systems is essential to sustaining the reach of change. This includes staff training, which should be targeted at existing and incoming staff of all ranks and disciplines, and refreshed at regular intervals. ■

#9

Plan ongoing review and evaluation

Few examples shared with us incorporated review processes, whether internal or external. In some systems, evaluation was supposed to have happened but had been deprioritised in the presence of more urgent tasks. Given the risks of adverse consequences of measures that, for example, set out to improve the identification of people of diverse SOGIE or that intend to protect them from risks, greater emphasis on robust review and re-assessment is essential. These should seek different perspectives on their outcomes and ensure changes are made if they are proven not to strike the right balance of rights and risks. External evaluation of many of the initiatives cited could make a significant contribution to building an evidence base of validated approaches that can be learned from and replicated. Such evaluations could also carry authority in responding to attempts to weaken or undermine these initiatives. ■

#10

Strengthen oversight and accountability

As noted at the start, a number of promising practices came about because serious failures, including deaths in prisons, flagrant violations of rights and evidence of systemic abuse, came to light and made change a political priority. There is sufficient evidence of discrimination, harm and abuse against people of diverse SOGIE who are deprived of liberty to justify a greater focus on prevention. We found few examples of legally enforceable frameworks to protect the rights of people of diverse SOGIE, though it was noted that, in some contexts, the threat of legal consequences could be a helpful element in convincing reluctant people to comply with a new policy direction. Proposing policies with robust accountability frameworks may be harder than securing support for an unenforceable policy direction but should be pursued as far as possible.

Against the scale of the human rights violations that occur daily against people of diverse SOGIE deprived of liberty, efforts to prevent and prosecute torture and ill-treatment have been important but are few and far between. Given this, and the wider need to continue making advances in this field, sustaining the focus of international actors that have previously brought crucial insight to set standards on detention, SOGIE and human rights, as well as the attention of mechanisms that can provide robust scrutiny and accountability when violations have occurred, is a priority. ■





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