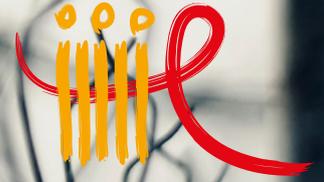




TECHNICAL BRIEF: TRANSGENDER PEOPLE AND HIV IN PRISONS AND OTHER CLOSED SETTINGS



BACKGROUND AND INTRODUCTION

Transgender people experience social and cultural stigma and discrimination [1, 2]. This includes discrimination in education, employment and the provision of goods and services, including health care, as well as harassment, violence and exploitation. Transgender people are also disproportionately affected by harmful and discriminatory criminal laws. These multiple and intersecting forms of discrimination result in social and economic inequality, poverty, exclusion and isolation. Evidence indicates that such marginalization, criminalization and discrimination can lead to greater vulnerability to and risk of long-term mental and physical health issues, including increased risk of HIV [3–5].

The Joint United Nations Programme on HIV/AIDS (UNAIDS) reports that transgender people are 13 times more likely to acquire HIV than other populations [6]. Studies also note that the prevalence of HIV is disproportionately higher among adult transgender women than among other adult women [7–10]. Correspondingly, available studies estimate that 19.9 per cent of transgender women around the world are living with HIV [8]. The same structural inequalities and discrimination that increase the risk of acquiring HIV create significant barriers to accessing HIV prevention and treatment services [11]. Furthermore, structural and societal discrimination, along with socioeconomic marginalization, place transgender people at greater risk of arrest and imprisonment [12].

A number of countries retain punitive laws that are used to target transgender people, including laws against cross-dressing or “impersonating the opposite sex”, as well as laws relating to same-sex sexual activity [13]. Research also appears to indicate that transgender people are disproportionately more likely to enter into sex work, and studies primarily from the United States of America indicate that experiences of discrimination and “minority stress” also lead to a higher rate of drug use among transgender people than the rest of the population [14]. Both sex work and drug use are criminalized in the majority of countries and can lead to incarceration [15].

According to the World AIDS Day report 2021, 24 countries reported that they criminalized and/or prosecuted transgender people [15, 16]. Forms of punishment include incarceration, corporal punishment and the death penalty. Punitive national laws and policies, stigmatizing and discriminatory attitudes and practices supported by cultural, legal and social norms, including heteronormative and gender-binary legislation and constraints on the legal recognition of gender identity [17], as well as complex procedures involved in changing identification documents [18], limit the access of transgender people to justice and basic human rights.

Recently, in some parts of the world, positive measures have been taken to protect the rights of transgender people. For example, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World) has reported that at least 25 countries allow legal gender recognition and, since 2018, an additional 9 countries, all United Nations Member States,* have established legal gender recognition processes without abusive preconditions [13].** International standards and human rights instruments*** also identify positive actions to protect gender-diverse people and eliminate gender-based violence and discrimination against them in prisons and other closed settings [19–21].

International organizations and various studies have suggested that national prison and correctional policies on gender affirmation and identification, gender-based segregation and housing, HIV services in prison and access to hormone therapy have a substantial impact on the rights, safety and mental health of transgender people, as well as on the overall security of other people in prison settings, including prison staff [22–24]. Nonetheless, transgender people in prison still experience high levels of gender-based violence, torture, sexual coercion and physical and psychological abuse [25–27], inadequate access to medical treatment, and a higher risk of depression and self-harm [28, 29].

Studies report that transgender people in prison are denied or cannot access gender-responsive health care, including adequate medical hormone therapy and other gender-affirming health-care services [23, 30]. In addition, evidence shows that transgender people routinely face humiliation, harassment and abuse from prison staff and law enforcement personnel [12, 31, 32], and fear retaliation should they seek redress [32]. There remain gender bias and a lack of understanding of gender-nonconforming and transgender identities on the part of prison staff and correctional institutions [24, 32–34].

While more research is needed, existing reports show that, compared with cisgender people in prison, the prevalence of HIV [35] and other sexually transmitted infections (STIs) is higher among transgender people in prison. Transgender people in prison are also estimated to be up to 13 times more likely to be sexually assaulted than cisgender people in prison [36]. Improved access to gender-responsive health-care services, including gender-affirmative health care and quality mental health care and psychosocial support, as well as appropriate housing and freedom from violence and sexual assault,

are critical to protecting the rights, safety and well-being of transgender persons, as well as reducing the risk of transmission of HIV and other STIs, viral hepatitis and tuberculosis (TB) [37, 38].

SCOPE AND PURPOSE

The guiding principles and targeted interventions described in the present technical brief are aimed at supporting countries in reducing the risk of HIV infection and transmission among, and ensuring adequate and accessible health care for, transgender people deprived of liberty by State authorities in prisons and other closed settings. Policymakers and prison authorities should understand the needs of transgender people and incorporate the proposed evidence- and human rights-based interventions and international standards into their prison policies and strategies, applying them to all people in prison.

This technical brief is intended for policymakers, prison authorities and prison staff, including health-care workers, as well as members of intergovernmental, non-governmental and civil society organizations working in the areas of health and human rights.

GUIDING PRINCIPLES FOR THE TREATMENT OF TRANSGENDER PEOPLE IN PRISON

Human rights-based approaches for all transgender people in prisons and other closed settings

In line with the Additional Principles and State Obligations on the Application of International Human Rights Law in relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Compliment the Yogyakarta Principles (the Yogyakarta Principles Plus 10), as well as recommendations of the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, and the Human Rights Committee, transgender people in prison are entitled to non-discrimination; protection; personal security, privacy, gender expression and opinion; and gender recognition with humanity and respect. Prison officials should ensure that transgender people are treated in a humane manner. They should

* Australia (in some states and territories), Belgium, Brazil, Chile, Costa Rica, France, Greece, Luxembourg and Portugal. The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World) has also reported that Belgium, France, Greece, Luxembourg and Portugal have introduced non-medical and non-pathologizing laws governing the process of changing one's gender marker (ILGA World, *Trans Legal Mapping Report 2019: Recognition before the Law*, 3rd ed., Geneva, 2020).

** ILGA World defines "abusive preconditions" of the legal gender recognition process as requirements to undergo surgical, hormonal or sterilization interventions, forcibly divorce from a partner, not have dependent children, be kept in psychiatric facilities or pass a "real-life test", among others.

*** Including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

also adopt and implement prison policies to eradicate all forms of discrimination, violence, torture, degrading treatment, punishment and sexual harm based on gender identity and sexual orientation.

The right to gender-responsive prison programmes and services

- Policies and strategies on the treatment of transgender people detained in prisons and other closed settings should take into consideration the needs, rights and inherent dignity of transgender and gender-diverse people, regardless of their legal status, sex assigned at birth or legally recognized gender.
- The design of management systems, institutional strategies, policies, accommodation and facilities in places of detention, programmes, standard operating procedures and services should not only be based on cisgender norms and expectations but should also be responsive to the needs of transgender people, which include the need for access to gender-responsive health-care services and protection from violence without being deprived of their rights in the name of prison safety and security.

Access to adequate health care in prisons for all is a basic human right

- As emphasized in rule 24 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), States are responsible for providing health care to prisoners. The same standards of health care available in the community should be provided to all people in prison, free of charge and without discrimination on the grounds of their legal status.
- In line with the Yogyakarta Principles, health-care services for transgender people in prison, including hormone therapy and gender-affirmative care, mental health care, and treatment and care relating to HIV and other STIs, TB and other communicable and non-communicable diseases, should be organized in close collaboration with the general public health administration.

KEY INTERVENTIONS

The interventions enumerated below are described or implied in international technical guidance**** on essential elements of the right to health, effective strategies for humane treatment and creating an enabling environment that meets the needs of

all people in prisons and other closed settings (see “Additional reading” below). These interventions constitute a crucial component of broader efforts to reduce the transmission of HIV and other infectious diseases among transgender people in prison settings, and consequently in society more broadly.

1. Comprehensive and non-discriminatory prison policies

Prison authorities should update national prison policies and standard operating procedures to make them consistent with human rights-based and gender-inclusive international standards and guidelines on the treatment of transgender people in prison.

Prison authorities should welcome the assistance of stakeholders and external experts on the specific needs of transgender people who can help to assess situations and review prison policies and procedures. Authorities and policymakers should take into account external feedback to identify gaps and opportunities as policies are revised. Prisons should be subject to regular evaluation of their gender responsiveness in developing human rights-based and non-discriminatory policies that prevent harm.

Prisons authorities should work with and consult transgender people and their civil society representatives to understand their needs and facilitate their participation in all aspects of the planning, implementation, monitoring and evaluation of relevant prison policies and programmes.

2. Prevention, testing, treatment and care of HIV and sexually transmitted infections in prison

According to the recommendations in the 2020 update of the UNODC technical brief entitled “HIV prevention, testing, treatment, care and support in prisons and other closed settings: a comprehensive package of interventions” [39] and other international recommendations [40, 41], health-care providers in prisons should ensure that transgender people are well-informed about HIV and STI prevention measures, including HIV pre-exposure prophylaxis and their right to physical and mental health-care services specific to transgender people. Implementing a peer-led education programme on HIV/STI prevention, treatment, care and support will enhance knowledge and literacy of relevant health issues while empowering transgender people in prison.

Transgender people in prison should have easy access to confidential and voluntary HIV testing and counselling that includes informed consent prior to testing, and post-test counselling. All transgender people living with HIV, including those who

**** The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (General Assembly resolution 65/229, annex); the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity; United Nations Development Programme (UNDP), *Mapping of Good Practices for the Management of Transgender Prisoners: Literature Review* (Bangkok, 2020); World Health Organization (WHO), *Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations: 2016 Update* (Geneva, 2016); United Nations Office on Drugs and Crime (UNODC) and others, “HIV prevention, testing, treatment, care and support in prisons and other closed settings: a comprehensive package of interventions”, Technical brief update 2020 (Vienna, 2020); and the Nelson Mandela Rules.

first test positive while in prison, should have immediate access to antiretroviral therapy, in line with international and national HIV guidelines [40]. Prison staff should ensure continuity of treatment, including upon entry into prisons, during transfer within or between prisons, and upon release from prison. Prison authorities should provide the necessary support to ensure compliance with antiretroviral therapy among transgender people. The sexual health of transgender people is a significant component of HIV services in prisons; hence, prevention, screening, diagnosis and treatment of other STIs, as well as TB and viral hepatitis, should also be offered to transgender people on a regular basis.

Condoms and condom-compatible lubricants should be provided for all people in prison, including transgender people. These commodities should be available free of charge in discreet locations, without the need for any request. If available in the country, pre-exposure prophylaxis should be provided to all people who request it or who are at risk of HIV. Post-exposure prophylaxis for HIV and other STIs should be provided to anyone who may have been exposed to infection through blood or unprotected sexual contact.

Sterile equipment, with clear instructions for proper use, should be made available for tattooing and other forms of skin penetration, to prevent transmission of blood-borne infections. All gender-diverse people who inject drugs or use needles for medical reasons, including hormone therapy, should have confidential access to cost-free sterile injecting equipment through needle and syringe programmes, monitored by specialists in transgender health, if available, or prison health-care staff.

Reproductive health services, including contraceptives and pregnancy-related services, should also be provided where required, in a non-discriminatory manner.

Importantly, to minimize transmission of HIV and other STIs, prison authorities must prioritize the prevention of sexual violence, including towards transgender people, through effective programmes to protect against rape and sexual assault (additional interventions on the prevention of sexual violence and on victim care are described under key interventions 4, 5 and 7 below).

3. Protecting the right to self-identify in prisons and other closed settings

Prison authorities and staff should respect the principle of self-identification, according to which the sexual orientation and gender expression of transgender individuals is recorded as declared by transgender individuals, regardless of their legal recognition, documentation, genital organs, general appearance or sex assigned at birth. The personal pronouns and names preferred by transgender individuals should be used in all oral and written communications to, with or regarding them. Prison

authorities should make sure that prison staff receive education and training on sexual orientation, gender identity and expression, and sex characteristics from local organizations working on the needs and human rights of LGBTQI persons. At a minimum, prison staff must not use language that embarrasses, demeans or offends transgender people.

4. Provision of appropriate housing

The provision of appropriate housing, among other policies, can help to prevent or at least reduce transmission of HIV and other STIs, as well as other harms and risks in prisons [12, 22]. Specific proposals for interventions at the country level should follow international good practices and guidelines.

Housing decisions should be based on consultation with transgender persons and align with their preference. The housing decision for each transgender individual should be made on a case-by-case basis by prison directors, wardens and psychologists, and advocates of transgender people from civil society and community-led organizations, as well as external health professionals who specialize in transgender health, and on the basis of a multifaceted analysis of the overall risks. This process should consider the individual's gender identity, health needs, including the need for treatment for HIV or other conditions, if necessary, housing preference, safety and security, as well as prevention measures to protect the individual from sexual violence, HIV and other STIs in prison.

During the decision-making process, prison staff, social workers and civil society representatives should take the necessary time to inform transgender prisoners of the safety and general living conditions in the housing areas under consideration so that those prisoners can make informed decisions about their preferences. Segregation, protective custody and/or isolated detention should be strictly avoided. Unless it is deemed necessary to segregate transgender people from other people in prison, owing to irremediable safety and security issues, their mental health must be taken into account, and individuals should have equal access to all health-care and prison programmes. In addition, prison staff should monitor the safety of transgender people, wherever they are housed.

5. Access to gender-appropriate showers and bathrooms

Prison management, in consultation with transgender persons, should define appropriate solutions for showers and bathrooms in order to guarantee their safety, respect and dignity when using these facilities. Depending on the context and preference of transgender persons, this could include arranging separate shower rooms as a measure to protect them from sexual violence, reduce the risk of transmission of HIV and other STIs and minimize sexual harm and psychological stress. If separate rooms are not feasible, specific collective time slots could be established for transgender women, transgender men

and intersex people separately, to ensure that nobody is required to shower in a gender-inappropriate environment. At minimum, partitions that conceal the area between the chest and the genitals should be provided in shower and toilet areas.

6. Confidentiality and privacy

Prison authorities should systematically collect and record information and data on all transgender people in prisons where it is voluntarily provided. The provision of data on gender identity and sexual orientation should be optional in all cases. Information on gender identity, sexual orientation, gender transition status, and medical conditions, including the history of care and treatment for HIV and other STIs, must be protected. Only medical officers and health-care providers should have access to the medical records and other confidential information of transgender people.

If body searches are absolutely necessary, they should be undertaken by professional health-care providers in a manner that is respectful of the inherent human dignity and privacy of the individual being searched. In line with rule 52 of the Nelson Mandela Rules, which states that intrusive searches shall be conducted by trained staff of the same sex as the individual being searched, transgender people in prison should have the right to choose, on the basis of gender, which prison staff will search their bodies, except in emergency situations.

7. Gender-responsive health services, hormone therapy and gender-affirmative care

At a minimum, upon admission into prison, transgender people should be offered comprehensive health screening, including voluntary and confidential HIV testing and mental health screening. Comprehensive medical records should be established and updated on a regular basis. Prison health-care staff should identify the health-care needs of all transgender people, including the need for gender-affirmative care, by arranging individual consultations. Every prison that houses transgender people should mobilize specialists in transgender health, including medical doctors, gynaecologists, urologists, psychologists and others who are aware of the health-care needs of transgender people, to offer tailored and adapted medical care and psychosocial support programmes for transgender people, in line with or better than those available in community settings.

Prison staff should work closely with specialists in transgender health and community-led organizations and participate in regular training on sexual orientation, gender identity and expression, and sex characteristics, and the importance of gender-affirming processes such as hormone therapy. Such therapy should be treated as a basic health need and thus be provided free of charge. If this is not feasible, transgender people should be allowed to purchase or receive hormones and other

health-related products from outside sources (e.g. family members or civil society organizations), under the supervision of prison health workers.

Because medical health concerns can be exacerbated by discontinued or insufficient hormone therapy, such therapy should never be interrupted without consent, irrespective of whether an individual has undergone gender-affirming surgery or not. The therapy should be provided under professional medical supervision.

Mental health specialists should periodically be available to consult with transgender people to assess their psychological health, taking a gender-affirmative approach. Prison officials should collaborate with local organizations working in the area of sexual orientation, gender identity and expression, and sex characteristics, and invite them to hold workshops and consult with transgender people on their health needs to foster a more gender-responsive and enabling prison environment.

Prisons should partner with national public health services and local transgender health specialists to provide systematic and regular gender-affirmative health-care services equivalent to or better than those available in community settings. To ensure the safety of medical procedures, all gender-affirming health interventions, including injections and examinations, must be delivered in alignment with infection control measures and conditions that minimize the risk of HIV and other STIs and TB, including sterilized equipment and other universal precautions. Prisons should also provide a full range of post-rape care services, including post-exposure prophylaxis for HIV and other STIs and gender-affirmative psychosocial support for transgender people, and when appropriate, provide emergency contraception and other reproductive health-care services.

8. Access to complaints and reporting mechanisms

Transgender people in prison should be able to easily submit formal complaints and reports of violations in both oral or written form regarding – but not limited to – their HIV and STI risks, violence, including sexual violence, abuse, fear of abuse, mistreatment by others or inadequate health-care services, without risking retaliation by staff or other people in prison. Prison staff should ensure that victims or potential victims of abuse are rapidly protected. If abuse and/or exposure to health risks have already taken place, the victim should receive immediate health care, including psychological support.

Prisons should establish sufficient, accessible and confidential reporting mechanisms for all people in prison, including transgender people. Prison authorities should establish a multi-stakeholder committee that includes external representatives from both government and civil society, as part of the complaints and reporting mechanisms. The functions of such a committee are described in the next section.

9. Committees on transgender issues in prisons

Prison authorities should establish a national committee to support transgender people in prison and to ensure that prison policies, procedures and practices are aligned with good practice. The committee should have regional and/or local branches, each composed of external specialists in transgender health, including civil society representatives of the LGBTQI community; organizations working in the area of sexual orientation, gender identity and expression, and sex characteristics; legislators; academics; HIV service providers; professionals in transgender health care; human rights legal advisers; and prison officials. The national committee's duties should include decision-making regarding all cases that involve transgender people in prison, participation in prison policy development, updating prison standard operating procedures and overseeing policy implementation.

The national committee should work closely with prison authorities and government officials to ensure that prison policies and regulations are updated in line with the proposed interventions in this technical brief and other international standards. Regional and/or local branches should track and report on the needs of transgender people and on human rights violations committed against them to the national committee and other stakeholders. The regional and/or local committees should also regularly monitor and evaluate the physical and mental well-being of transgender people in prison in order to ensure that policies are well implemented and to formulate action-oriented, practical recommendations when recommendations are not already in place or are not respected. Regular meetings should be held between the national committee and government officials, and between regional and/or local committees and prison authorities.

10. Prison budget for gender-responsive programmes and services

Gender-responsive programmes and services, as well as the health, safety and dignity of transgender prisoners, should be a priority for prison authorities. Authorities should assess the value of specific intervention programmes and, where possible, prepare a dedicated national budget for such programmes, transgender health-care services covering HIV and other infections and conditions, and other relevant human rights-based programmes.

11. Monitoring and evaluation

Prisons should monitor the epidemiological situation with regard to HIV and other health conditions among transgender people in prisons through the collection, recording, analysis and interpretation of data, including on cases, prevalence,

treatment, medication, health services and infection control. Existing international instruments[†] call for prisons and other closed settings to be governed and monitored by national preventive mechanisms. Such mechanisms should include a cadre of independent inspectors who can interview prisoners with full confidentiality.

Prisons should formulate a systematic and transparent process for collecting and analysing information needed to monitor and track gender-responsive prison programmes and HIV services, providing inspectors with unlimited access to all prison facilities and people deprived of liberty. Internal inspectors should report directly to the head of the national prison authority [42] and the committee on transgender issues. Prison administrations should develop a more formal role for members of the local LGBTQI community by engaging them in regular and independent monitoring bodies. These local monitoring bodies should report issues identified among transgender people in prison to relevant authorities, local and/or national committees on transgender issues or the local community. The involvement of local representatives of the transgender community and civil society provides effective means to support programmes related to HIV, abuse prevention and the preservation of transgender rights. The external monitoring team should also contribute to the development of standard operating procedures relating to transgender people in prison, and monitor and evaluate their implementation.

Together, local and national committees on transgender issues, external specialists, senior prison managers, and external monitoring and evaluation experts should assess the performance of gender-responsive prison programmes and HIV services on a regular basis to identify gaps, as well as opportunities to improve prison services and policies.

ADAPTING THE GUIDANCE TO REGIONAL AND NATIONAL CONTEXTS

The interventions described in this technical brief should be adapted to regional and national contexts by incorporating them into prison programmes and standard operating procedures and HIV programmes at the national level.

To facilitate genuine change, key national stakeholders, policy-makers, legislators, prison-monitoring bodies, ministries responsible for prisons, representatives of the LGBTQI community, human rights experts, international and civil society organizations, and relevant specialists should jointly promote and support the implementation of the interventions and guidance presented in this technical brief at the regional and country levels.

[†]The Convention against Torture (art. 16); the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, general principles (art. 1); the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (principle 29); and the Nelson Mandela Rules (rule 8).

CASE STUDY: THAILAND

In Thailand, more than 4,000 transgender people live in prisons and other closed settings.^a For decades, these individuals were housed according to their sex assigned at birth, regardless of their current gender identity and, in some cases, even after sex reassignment surgery. This housing policy was suspected of facilitating sexual violence and increasing the risk of transmission of HIV and other STIs. Upon the adoption of the Corrections Act, B.E. 2560,^b which came into force in 2017, specifying that all people in prison have the right to protection from sexual abuse, the right to a complaint mechanism and the right to privacy, the Ministry of Justice of Thailand began to collaborate with multilateral organizations in developing and implementing relevant guidelines and standard operating procedures consistent with international standards, including in relation to human rights.

First, a collaboration of stakeholders was established involving representatives from international organizations, the Department of Corrections, civil society organizations and the Thailand Institute of Justice, and other external experts and academics. This group regularly exchanged information on issues relating to transgender rights and transgender people in prison, including housing, discrimination, sexual violence, the prevalence of HIV and other STIs, health care, and access to hormone therapy. Situation and needs assessments were then carried out by means of in-depth studies involving the participation of transgender people in prison and analysis of empirical and secondary data. Then, considering the general guidelines limiting the options of the Department of Corrections, the United Nations Development Programme (UNDP) in Thailand developed a standard operating procedure for proposed interventions to better align their implementation with international good practices.

During the implementation process, the Department of Corrections piloted various interventions, one of which involved devoting a wing in one prison facility exclusively to transgender people with the same gender identity. Monitoring during the pilot period showed that living in the transgender wing had negatively affected the mental health of the transgender prisoners and increased the frequency of physical violence. Consequently, the Department of Corrections rejected the proposed intervention throughout the country, and some prisons, especially those housing many transgender prisoners, decided instead to house transgender people according to their genitals at the time of incarceration instead of their sex assigned at birth, irrespective of their preferences. Advocacy efforts are ongoing to reform this approach to ensure that prisoners are housed in accordance with their preferences, in line with international norms and standards.

In the meantime, the multi-stakeholder collaboration has led to the implementation of a number of measures, including the provision of condoms, gender-responsive sleeping arrangements, dedicated time slots for showering, and access to gender-responsive personal commodities and prison activities that support transgender identity expression. Government agencies and international and non-governmental organizations in Thailand consistently team up to organize prison training programmes and activities to raise awareness among prison staff of issues relating to sexual orientation, gender identity and expression, and sex characteristics. The staff training curriculum is based on international good practices and international standards such as the Nelson Mandela Rules and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

Multilateral organizations and prison authorities continue to monitor and evaluate the situation of transgender people in prison and work together to more rigorously integrate international standards into new policy initiatives. Recently, the Director General of the Department of Corrections of Thailand initiated a memorandum of understanding with UNDP Thailand^c aimed at implementing better prison policies for transgender people and raising the standard of treatment of transgender prisoners in order to achieve the Sustainable Development Goals.

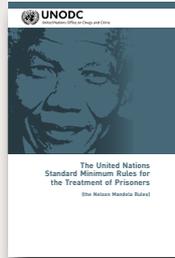
^a UNDP, "The lives of transgender people in Thai prisons", 16 May 2019.

^b Thailand, Correction Act, B.E. 2560 (2017), vol. 134, part 21A (18 February 2017).

^c King-Oua Laohong, "Help for transgender inmates", *Bangkok Post*, 20 February 2021.

ADDITIONAL READING

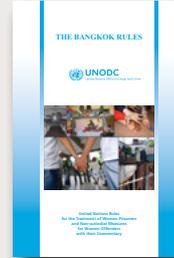
The guiding principles and interventions proposed in this technical brief are drawn from the following international technical guidance and standards documents.



UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (THE NELSON MANDELA RULES) (2015)

The Nelson Mandela Rules comprise 122 rules that provide guidance on all aspects of prison management, from admission and classification to the prohibition of torture and limits on solitary confinement. They also provide principles and guidance on prison health care, recruitment and training of prison staff and disciplinary sanctions. The Nelson Mandela Rules support countries in improving prison management and policies to ensure the secure, safe and humane custody of people in prison.

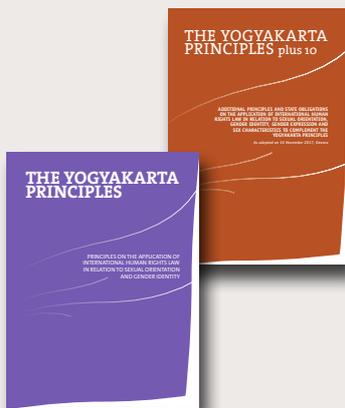
www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf



UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS (THE BANGKOK RULES) (2010)

The Bangkok Rules represent the first international instrument focusing explicitly on the characteristics and needs of women offenders and prisoners. The Bangkok Rules comprise 70 rules that set out detailed guidelines on gender-responsive standards for and treatment of women in the criminal justice system, as well as their children. The document was adopted by the General Assembly on 21 December 2010.

www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

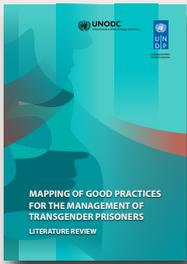


YOGYAKARTA PRINCIPLES ON THE APPLICATION OF INTERNATIONAL HUMAN RIGHTS LAW IN RELATION TO SEXUAL ORIENTATION AND GENDER IDENTITY (THE YOGYAKARTA PRINCIPLES) (2006)

ADDITIONAL PRINCIPLES AND STATE OBLIGATIONS ON THE APPLICATION OF INTERNATIONAL HUMAN RIGHTS LAW IN RELATION TO SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION AND SEX CHARACTERISTICS TO COMPLEMENT THE YOGYAKARTA PRINCIPLES (THE YOGYAKARTA PRINCIPLES PLUS 10) (2017)

The Yogyakarta Principles (2006) comprise a set of principles intended to guide the application of standards of international human rights law in the areas of sexual orientation and gender identity to affirm the equal dignity and rights of LGBTIQI persons. The Yogyakarta Principles Plus 10 (2017) supplement the original set of principles, expanding them to include the areas of gender expression and sex characteristics, as well as new principles.

Both versions are available at <http://yogyakartaprinciples.org/principles-en/official-versions-pdf/>.



MAPPING OF GOOD PRACTICES FOR THE MANAGEMENT OF TRANSGENDER PRISONERS: LITERATURE REVIEW (2020)

This UNDP publication explores good practices in the management of transgender people in prisons, focusing on more than 10 countries and jurisdictions. The report addresses issues and challenges and reviews practices and policies regarding transgender people in prison, drawing on more than 100 documents, as well as media analysis, to recommend international good practices for countries in the treatment and management of transgender prisoners.

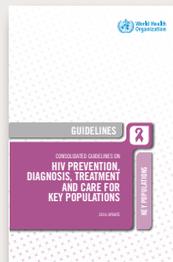
www.th.undp.org/content/thailand/en/home/library/democratic_governance/mapping-of-good-practices-for-the-management-of-transgender-pris.html



IMPLEMENTING COMPREHENSIVE HIV AND STI PROGRAMMES WITH TRANSGENDER PEOPLE: PRACTICAL GUIDANCE FOR COLLABORATIVE INTERVENTIONS (2016)

This tool, informally referred to as “the TRANSIT”, contains practical advice on implementing programmes on HIV and other STIs in collaboration with transgender people. The topics covered include community empowerment and human rights, addressing violence, stigma and discrimination, and delivering trans-competent services, especially for prevention, diagnosis, treatment and care related to HIV and other STIs.

www.unfpa.org/sites/default/files/pub-pdf/TRANSIT_report_UNFPA.pdf



CONSOLIDATED GUIDELINES ON HIV PREVENTION, DIAGNOSIS, TREATMENT AND CARE FOR KEY POPULATIONS (2016 UPDATE)

This World Health Organization publication provides guidelines on HIV prevention, diagnosis, treatment and care for five key populations: men who have sex with men, people who inject drugs, people in prisons and other closed settings, sex workers, and transgender people. The guidelines are aimed at providing a comprehensive package of evidence-based HIV-related recommendations, increasing awareness of relevant issues, improving services and catalysing greater national and global commitment to adequate funding and services. An updated version of the guidelines is expected to be published in 2022.

www.who.int/publications/item/9789241511124

“TECHNICAL BRIEF: HIV PREVENTION, TESTING, TREATMENT, CARE AND SUPPORT IN PRISONS AND OTHER CLOSED SETTINGS: A COMPREHENSIVE PACKAGE OF INTERVENTIONS” (2020 UPDATE)

This UNODC technical brief describes a comprehensive package of 15 key interventions to support countries in providing effective responses to HIV and AIDS in prisons and other closed settings.

The comprehensive interventions combine principles of international law, international rules, guidelines, declarations and agreements related to prison health, international standards of medical ethics and international labour standards.

www.unodc.org/documents/hiv-aids/publications/Prisons_and_other_closed_settings/20-06330_HIV_update_eBook.pdf



GLOSSARY

Cisgender	Denoting or relating to a person whose sex assigned at birth and gender identity are the same
Gender affirmation/ gender-affirmative	Denoting or relating to an interpersonal, interactive process in which an individual receives legal, medical and social recognition, acceptance and support for the individual's gender expression and identity
Gender-affirmative health care	Health care involving one or more social, psychological, behavioural or medical interventions (including hormone therapy or surgery) designed to support and affirm an individual's gender identity ^a
Gender-affirming surgery	A medical or surgical intervention to affirm a person's gender identity
Gender-binary	Denoting or relating to the concept or belief that there are only two genders and that one's sex or gender assigned at birth will align with traditional social constructs of masculine and feminine identity, expression and sexuality.
Gender-diverse	Denoting or relating to persons whose gender identity, role or expression differs from the prevailing cultural norms associated with people of a particular sex or gender
Gender identity	A person's deeply felt, internal and individual experience of gender, which may or may not correspond to the person's physiology or designated sex at birth
Gender-nonconforming	Denoting or relating to persons whose behaviour or appearance does not conform to prevailing cultural and social expectations about what is appropriate to their gender
Heteronormative	Denoting or relating to behaviour or attitudes consistent with traditional male or female gender roles and the assumptions of heterosexuality as the norm
LGBTQI	Lesbian, gay, bisexual, transgender, queer and intersex
National preventive mechanism	A system in which one or more designated bodies monitor the treatment and conditions of people who have been deprived of their liberty. The aim of such a mechanism is to prevent torture and other cruel, inhuman or degrading treatment or punishment
People in prison	All people detained in prisons and other closed settings, including adults and juveniles, during the investigation of a crime, while awaiting trial, after conviction, and before and after sentencing
Prisons and other closed settings	All places of detention within a country
Psychosocial support	Actions that address both the psychological and social needs of individuals, families and communities
Sexual orientation	Denoting or relating to a person's physical, romantic and/or emotional attraction towards other people. Sexual orientation is different from gender and gender identity
Transgender	An umbrella term for people whose gender identity and expression does not conform to the norms and expectations traditionally associated with the sex assigned to them at birth; it includes people who are transsexual, transgender or otherwise gender-nonconforming. Transgender people may self-identify as transgender, female, male, transfemale, transmale or transsexual, or, in specific cultures, as hijras (India), kathoeyes (Thailand), warias (Indonesia) or one of many other transgender identities. They may express their genders in a variety of masculine, feminine and/or androgynous ways. The high vulnerability and specific health needs of transgender people necessitates a distinct and independent status in the global response to HIV.

^a World Health Organization, Regional Office for Europe, "WHO/Europe brief: transgender health in the context of ICD-11". Available at www.euro.who.int/.

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