



Specific techniques of interviewing members of vulnerable groups – LGBTIQ PERSONS –

Methodological tool for carrying out the tasks of the national preventive mechanism

According to Article 19 of the OPCAT,¹ national preventive mechanisms should regularly examine the treatment of persons deprived of their liberty, who are held at a place of detention specified in Article 4 of OPCAT (e.g. in prisons, hospitals, schools, institutions involved in the care of children, the aged, the mentally ill or the disabled),² in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

The main task in the preventive work of the NPM is to visit places of detention, during which an essential source of information is provided by the personal meetings with the persons deprived of their liberty, and interviewing them about their situation.

Although people deprived of their liberty may be considered as vulnerable in general, some groups, due to certain factors and/or circumstances, are exposed to particular vulnerability, such as women, juveniles, members of minority groups, foreign nationals, persons with disabilities, and members of sexual minorities.³ A combination of risk factors (intersectionality) may lead to enhanced vulnerability, and it can result in experiencing torture and ill-treatment in special ways.⁴

Those factors and circumstances which may render a person vulnerable may also affect communication, which needs to be considered during the preparation and conduction of monitoring visits.

Based on the exchange of views and experiences between the participants of the international workshop entitled “Interview techniques with vulnerable groups” organized by the Hungarian NPM on 29-30 September 2021, monitoring visits of NPMs in places of detention where persons in vulnerable situation are concerned should meet the following criteria:

1. Before the visit:

- careful planning and preparation;
- involvement of experts by experiment (at every stage of the monitoring process);
- composition of the visiting team (size, gender, age, professional training – multidisciplinary);

2. During the visit; interview techniques:

- “do no harm”;
- provide information to the interviewee;
- empathy;
- trauma-informed approach;
- adequate time;
- confidentiality;
- avoid labelling, generalization, prejudice;
- adequate language and terminology;
- maintain good body language;
- thorough information gathering, cross-check, triangulation;
- feedback;

3. After the visit:

- emphasis on prohibition of reprisals;
- special attention to the content and structure of the report; taking into account international human rights standards;
- follow-up;
- importance of training and sensitization;
- contact with the stakeholders (*SPT, CPT, NPM, Network, experts*).

Interviewing LMBTIQ persons⁵

“LGBTIQ” is an acronym used for Lesbian, Gay, Bisexual, Transgender, Intersex and Queer persons. LGBTIQ persons do not form a homogenous group. Notwithstanding the significant differences encompassed by the acronym, LGBTI persons tend to be exposed to similar risks of torture and other forms of ill-treatment when deprived of their liberty. Some countries still criminalize same-sex relationships. As the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment pointed out in his report in 2001, they are often considered as a sub-category of prisoners and detained in poorer conditions of detention than the general prison population.

Concerning LGBTIQ persons deprived of liberty, no UN standards or recommendations have yet been developed.

Preparation for a monitoring visit:

- Commitment of the monitoring group – “gender and intersectional lenses” (in order to recognize the harmful effects of discrimination, heteronormative power structures and gender stereotypes)
- Develop a tailored methodology and adapt existing monitoring tools (checklists, questionnaires, reporting) – inclusion of civil society experts
- Composition of monitoring teams:
 - o ensure that the members have the required capabilities and professional knowledge;
 - o strive for a gender balance and the adequate representation of ethnic and minority groups (including LGBTIQ persons)
- Determine whether or not you ought to proactively reach out and speak to LGBTIQ detainees

During the visit:

- It is essential to apply the “do no harm” principle
- Avoid trying to “identify” LGBTIQ persons (exception: dedicated units) => no assumptions based on stereotypes
- Consider other sources of information (e.g. interviewing former detainees or relatives), and cross-check them
- Ensure that all data is treated confidentially and this is clearly explained to interviewees
- Avoid exposing detainees to risks of reprisals

During an interview:

- Avoid further victimization and re-traumatization of the interviewee.
- Terminology matters!
 - o avoid heteronormative expressions and formulations;

- do not hesitate to ask what the appropriate name/personal pronoun would be for the person concerned;
- caution with the use of LGBTIQ identity labels, in particular with detainees of different nationalities or ethnicities.
- When working with an interpreter
 - ensure that the interpreter is carefully chosen;
 - specifically trained on appropriate terminology;
 - do not display discriminatory attitudes.

International documents concerning LGBTIQ persons deprived of their liberty⁶

- [Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, 2006](#)
- [Recommendation CM/Rec\(2010\)5, of the Committee of Ministers to Member States on Measures to Combat Discrimination on grounds of Sexual Orientation or Gender Identity; 31 March 2010](#)
- [Eighth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/C/54/2, 26 March 2015, pp. 12-14](#)
- [Ninth Annual Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/C/57/4, 22 March 2016](#)
- [Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, A/56/156, 3 July 2001](#)
- [Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on the applicability of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/31/57, 5 January 2016](#)

Further reading related to interviewing LGBTIQ persons

- [Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide; Association for the Prevention of Torture; December 2018](#)
- [LGBTI persons deprived of their liberty: a framework for preventive monitoring, 2015](#)
- [Krassimir Kanev: Prisoners in a situation of vulnerability – A Handbook for National Preventive Mechanisms \(2021\)](#)
- [Integrating the Issue of Sexual and Gender-Based Violence in Detention Monitoring: A Guidance Note for Oversight Mechanisms; OSCE/ODIHR; January 2021](#)
- [Principles on Effective Interviewing for Investigations and Information Gathering, May 2021.](#)

References

¹ Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 December 2002. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>

² UN Committee Against Torture, General Comment No. 2, CAT/C/GC/2 par 15 <https://undocs.org/en/CAT/C/GC/2>

³ SPT: The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the OPCAT CAT/OP/12/6, par 5(j) <https://undocs.org/en/CAT/OP/12/6>

and Report of the UN Special Rapporteur on torture (2016) A/HRC/31/57. <https://undocs.org/en/A/HRC/31/57>

⁴ CAT General Comment No 2, par. 22; Report of the UN Special Rapporteur on torture (2016) A/HRC/31/57, par. 9

⁵ Based on the following sources: APT: Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide; Association for the Prevention of Torture; December 2018 https://www.apr.ch/sites/default/files/publications/apt_20181204_towards-the-effective-protection-of-lgbti-persons-deprived-of-liberty-a-monitoring-guide-final.pdf

Krassimir Kanev: Prisoners in a situation of vulnerability – A Handbook for National Preventive Mechanisms (2021) https://bim.lbg.ac.at/sites/files/bim/attachments/handbook_-_prisoners_in_a_situation_of_vulnerability_-_bhc.pdf

and information shared on the international workshop entitled “Interview techniques with vulnerable groups” organized by the Hungarian NPM on 29-30 September 2021, with special regard to the presentation of Jean-Sébastien Blanc, researcher of the University of Geneva and scientific advisor of the Swiss Center of Expertise in Prison and Probation

⁶ Based on the collection of the APT: <https://www.apr.ch/en/knowledge-hub/detention-focus-database/groups-situations-vulnerability/lgbti-persons>, and the list on pages 45-47 of Krassimir Kanev: Prisoners in a situation of vulnerability – A Handbook for National Preventive Mechanisms (2021) https://bim.lbg.ac.at/sites/files/bim/attachments/handbook_-_prisoners_in_a_situation_of_vulnerability_-_bhc.pdf