



SHADOW REPORT ON THE LGBT COMMUNITY IN COLOMBIA

PRESENTED TO THE COMMITTEE AGAINST TORTURE

**By
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and
The International Gay and Lesbian Human Rights Commission
(IGLHRC)²**

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INTRODUCTION

In Colombia, torture and other cruel, inhuman and degrading treatment (henceforth CIDT) are not considered a crime in the same way as in the international human rights standards. Torture is, in fact, classed as a crime in articles 137 and 178 of the Colombian Penal Code, the difference being that when torture takes place in the context of armed conflict, a greater prison sentence is imposed on the perpetrator. In general terms, this definition is coherent with that which is stipulated in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. However, in Colombian legislation, Cruel, Inhuman or Degrading Treatment is classed as a crime only within the context of armed conflict (article 146 of the Penal Code) and as an aggravating factor for the crimes of disappearance and forced displacement (articles 166 and 181). Thus, current legislation on CIDT is adverse to international human rights standards, in that it is not considered a crime outside of armed conflict.³

Given the ends and means used to discriminate against the lesbian, gay, bisexual, and transgender (LGBT) community, the non-classification of cruel, inhuman or degrading treatment produces profoundly negative consequences for this population. Firstly, we must bear in mind that discrimination against sexual orientation and gender identity, in many cases, is aimed at humiliating as a way to exclude people and, based on the discrimination of sexuality, violate their rights. Secondly, the ill-treatment and humiliation of members of the LGBT community is used as a means to deliver a message undermining and rejecting people based on their sexual orientation and gender identity, and goes much further than the community directly affected.

In view of the above, this report presents cases of violations where members of the LGBT community continue to be victims of torture and CIDT in different scenarios and are subjected to different forms of violence such as: (1) being deprived of their freedom, (2) victims of homicide, and (3) of police violence. Finally, (4) we present our conclusions and a number of recommendations on how this type of violence affects members of the LGBT community and the State's insufficient response in terms of prevention, investigation and sanction. Below is a summary of the cases received by Colombia Diversa in the 2009 - 2014 period and during 2015 so far.

1. Members of the LGBT community deprived of their freedom

Colombian prisons provide fertile ground for abuses of authority against the fundamental rights of the prison population. The line that separates the legitimate exercise of the State's *ius puniendi* and the actions undertaken by the Colombian State in practice leave a broad margin of vulnerability and arbitrariness with regards the persons deprived of their liberty. In this context, the members of the LGBT community

³ The Committee against Torture, in its General Comment No. 2, clarified that the prohibition of CIDT and torture is absolute and its prevention is imperative, given that it has been proven "that the conditions that give rise to ill-treatment frequently facilitate torture and therefore the measures required to prevent torture must be applied to prevent ill-treatment." It also points out that it is of utmost importance to classify CIDT within domestic law. Committee against Torture, General Comment No. 2, CAT/C/GC/2, 2007 period of sessions, para. 3.

tend to be more vulnerable to such abuses due to the negative stereotypes and discrimination against their sexual orientation and gender identity.

According to figures covering the last four years (2011-2015) obtained through an annual census undertaken by the Colombian Penitentiary and Prison Institute (INPEC for its acronym in Spanish), there are, on average, 800 LGBTI people⁴ in prison in Colombia today (see Table 1). The census was first undertaken in 2011, after Colombian Constitutional Court ruling T-062 aimed at gathering approximate data relating to LGBTI people deprived of their liberty. According to the census, bisexual and lesbian women make up the greatest percentage, followed by gay men and transgender people.

Table N 1. Self-identified LGBTI population according to the annual INPEC census

Population	2011	2012	2013	2014	PROMEDIO
Lesbians	222	350	477	350	349,75
Gays	136	161	217	161	168,75
Bisexuals	198	198	183	198	194,25
Transgenderists	48	102	108	102	90
Intersexuals	5	4	10	4	5,75
Total	609	815	995	815	808,5

Source: INPEC, October 2014⁵

In 2014, INPEC recorded a total of 117.037 persons deprived of their liberty. Of these, 108.845 were men (93%) and 8.192 were women (7%), of which 35,6% is accused persons held on remand.⁶ According to the same census from the same year, the LGBTI community is of 815 people, which corresponds to 0.7% of the total population. However, it is evident that the census presents a high degree of under-recording due to INPEC's information shortcomings and absence of methodology.

Currently, there are a number of legal instruments that protect the rights of LGBTI people deprived of their liberty.⁷ Nonetheless, there are a number of problems in relation to the prevention of and protection against torture and CIDT in prisons. Firstly, INPEC is not clear about the national and international legal framework in relation to the topic. In fact, Colombia Diversa used its right to petition in 47 prisons in Colombia and over half of them indicated that they had no information on the topic. For example, "we have no knowledge of any theory on the incorporation of the UN and Inter-American international standard on torture within the processes undertaken by INPEC."⁸

⁴ INPEC includes the intersexual population in its census.

⁵ We use the terms "transgenderists" as in the original source.

⁶ INPEC response to a right of petition sent by Colombia Diversa, October 2014.

⁷ Permanent Directive No. 10 of July 5th, 2011; Colombian Constitutional Court order on the matter, in particular ruling T-062 of 2011, and the new Penitentiary and Prison Code issued in 2014 through law 1709.

⁸ Pereira Medium Security Institution (MSI) response to a right of petition sent by Colombia Diversa, November 2014.

Secondly, in practice, torture and CIDT based on discrimination related to sexuality, sexual orientation and gender identity continue to be present in the INPEC, but it is not possible to pursue cases against such treatment. And, when such cases are in fact reported, there is little probability of sanctions being introduced against those responsible. The work undertaken by Colombia Diversa has identified three common practices, which constitute torture and CIDT, contradicting international human rights parameters.⁹ These are outlined below.

1.1. Overcrowding and inadequate infrastructure

According to INPEC, 53% of Colombian prisons are overcrowded.¹⁰ In prisons such as Villahermosa in Cali and La Judicial in Valledupar, many inmates have to sleep on the floor in corridors or even on the stairs. According to the Cundinamarca region Ombudsman Office, “overcrowding in prisons leads to specific problems for transgender inmates, given that it means that their privacy and individuality is limited as they often have to share cells with other inmates belonging to the male sex, and this may make them feel uncomfortable.”¹¹

Overcrowding has been a problem for many years now. In 1998, the Colombian Constitutional Court declared the state of affairs unconstitutional because overcrowding reached 30%; however, according to the Ombudsman Office, last year, numbers bordered on historical highs of almost 60%.¹² Overcrowding implies undignified conditions for the inmates and problems such as violence, ungovernability and corruption. In a prison with over 6000 inmates and 200% overcrowding, LGBT people tend to be very vulnerable and the measures taken by INPEC to protect their basic human rights are insufficient and inadequate.

1.2. Isolation of imprisoned members of the LGBT community

According to INPEC, solitary confinement—or “the dungeon” as it is referred to by prisoners—operates as an isolation unit, where prisoners who commit a disciplinary offence inside the prison are taken. Such punishment is imposed by the prison guards for alleged bad behavior; however, there is, of course, a broad margin of arbitrariness and discrimination when in its application.

Currently, not all of the prisons in Colombia have solitary confinement units, but according to information received from INPEC in 2014, such punishment continues to

⁹ Special Rapporteur on Torture of the UN Commission on Human Rights, Mr. Nigel S. Rodley, on the issue of Human Rights of all persons subjected to any form of detention or imprisonment, in particular: torture and other cruel, inhuman or degrading treatment and punishment, document E/CN.4/1997/7 of the 7th of January, 1997, paragraph 8.

¹⁰ According to a report issued by the Colombian Penitentiary and Prison Institute (INPEC) on the 1st of October.

¹¹ Cundinamarca Regional Ombudsman Office response to the right of petition sent by Colombia Diversa, in June, 2014. Pg. 4.

¹² Ombudsman Office, Accountability, 2014.

take place in most prisons regardless.¹³ Places of isolation are conducive to torture and CIDT being committed and they are often used for members of the LGBT community as a way to punish them for their sexual orientation, gender identity or for kissing or open displays of affection.¹⁴

A transgender man was taken to the dungeon and was a victim of CIDT and sexual violence

On the 6th of January 2015, a transgender man was communicating with someone in another prison building using a towel. A guard reprimanded him and took him to solitary confinement or the dungeon. The following day, as required by Colombia Diversa, the Ombudsman Office visited the Jamundí prison complex and it was reported that Yuri was physically assaulted by five prison guards and kept in the dungeon for several hours. On the 23rd of January 2015, Yuri reported that as well as being physically assaulted; he had also been assaulted sexually by the guards who, while in the dungeon, beat him and introduced their fingers in his vagina to humiliate him. Yuri refrained from telling the judicial police everything that had happened the first time they took the report for fear of reprisal.¹⁵

There also exists a negative constitutional precedent on kissing and open displays of affection in prisons, which, in practice, continues to have an effect on prisoners today. In 2009, two women were sent to “the dungeon because they kissed.”¹⁶ Following the formulation of a writ for the protection of constitutional rights, the prison headquarters responded arguing that no such violation had taken place and that the sanction was determined based on the norms that establish the requirements for conjugal visits¹⁷ and that the two women kissed outside of this regulation, thus constituting the misconduct that was then sanctioned. The presiding judge determined that there had been no violation of the rights in question.

In ruling T-622, 2010, the Constitutional Court determined that the writ for the protection of constitutional rights was inadmissible under the reasoning that there had been no violation of due process, since all procedural safeguards had been granted to the prisoner, and the claim had no basis in fact.¹⁸ However, the effects fostered by this

¹³ Prisons with solitary confinement cells: El Pedregal Penitentiary and Prison Complex, 13 cells; Tumaco Medium Security Institution (MSI), 10 cells; Barranquilla and Manizales (MSI), 7 cells; Ocaña (MSI), 5 cells; Pereira and Florencia (MSI), 3 cells; Valledupar, San Andrés and Sincelejo (MSI), 2 cells; Leticia, Zipaquirá, Acacias and Chiquinquirá (MSI), 1 cell.

¹⁴ United Nations Standard, “Minimum Rules for the Treatment of Prisoners.” First UN Congress on the Prevention of Crime and the Treatment of Offenders, celebrated in Geneva in 1955, and approved by the Economic and Social Council in its resolutions 663C (XXIV) of July 31st, 1957 and 2076 (LXII) of May 13th, 1977.

¹⁵ Copy of the report delivered to the judicial police and written to include narrations of the events sent by Colombia Diversa, February, 2015.

¹⁶ El Espectador newspaper, “Al calabozo por un beso,” (Sent to the Dungeon for a Kiss), January 20th, 2011.

¹⁷ Law 65 of 1993 art. 112 and Agreement 11 of 1995 art. 30

¹⁸ Colombian Constitutional Court, ruling T-622 of 2010.

ruling in particular were validated by the Medellín *Personería*,¹⁹ which in a report stated that lesbian women were separated and ordered not to show open displays of affection under the threat that such behavior would lead to them being separated or punished. To publicize the threat, copies of a note published in a national newspaper relating the Constitutional Court's ruling that failed to protect the woman taken to the dungeon for giving her fellow inmate a kiss were posted around the prison courtyard and the area designated for prison visits.²⁰ Thus, the Constitutional Court marked a constitutional precedent which is applicable in similar cases and which, in fact, goes against international human rights standards.

1.3. Torture and CIDT - Actions taken or omitted

In prisons, LGBT people are subjected to acts of violence due to their sexual orientation and gender identity. These practices qualify as torture and torture and CIDT. Such forms of violence vary in their degree of aggressiveness: insults, shouting, taunting, pushing and shoving, or more serious offences such as sexual and physical violence. Some of these acts of violence on their own seem to be not particularly relevant for INPEC; however, in many places, such actions take place repeatedly on a daily basis and, in fact, represent grave violations against members of the LGBT community.

A transgender woman was the victim of sexual violence in Valledupar's La Judicial prison

On June 15th, 2014, a fellow inmate attempted to sexually abuse Estefanía (chosen name) in the courtyard at Valledupar prison. He threw himself at her, showed her his penis and offered her \$10.000 in exchange for sex. On the 1st of July 2015, Estefanía reported the crime as sexual abuse (art. 210A of the Penal Code) to the prison's judicial police office. However, to date, no advance has been made in the investigation of this case and, six months after the event, it is still in its preliminary investigation phase.²¹

Violence against members of the LGBT community in many cases is naturalized and left unreported, which is why the State offers no available and updated information on the topic. In some cases, the violence has been reported but there has been no collaboration by the authorities to sanction those responsible and adopt measures to stop such violations taking place in the future.

1.4. Excessive and abusive frisking

¹⁹ In Colombia, Personerías (municipal and district) are entities in charge of the administrative control of the Municipality. They exercise functions of the prosecuting authorities conferred by the Political Constitution and the law, and those delegated by the Attorney General's Office. They are responsible for defending and promoting human rights, protecting public interest, and the supervision of the conduct of those individuals in public office.

²⁰ Medellín Personería response to the right of petition sent by Colombia Diversa on the situation of Pedregal Prison in Medellín, March 22nd, 2011.

²¹ Report No.: 20-001-63-00323-2014, consecutive order 027.

In prisons, the inmates are sometimes subjected to excessive frisking that infringes on human dignity. When ordered to do so by the guard, inmates are forced to strip down in front of all of their fellow inmates and line up to be frisked, one by one. This is known as a level-three frisk and in theory is undertaken for security issues, but the practice does not take into account that for transgender women, taking their clothes off in front of men in their section is humiliating, symbolically negative and puts their lives, personal integrity and human dignity at risk.

A transgender woman was a victim of inhuman and degrading level-three frisking, Bogota

A transgender woman at the Modelo prison in Bogota reported having been forced to stand wearing only underwear in front of fellow inmates during a frisking session. This was humiliating and uncomfortable and put her personal integrity at risk, given that the guard and fellow inmates may have shown a morbid interest in her body.²²

According to the Medellin *Personería*, in its Human Rights Report of January 2013, 121 complaints were received of which 109 correspond to the El Pedregal prison complex. The reports stated the occurrence of physical ill-treatment such as aggressions, threats, collective punishment and violations involving the LGBT population. Twelve complaints were received from Bellavista prison corresponding to irregularities committed in prison operations and frisking. These have been sent to the Office of the Attorney General and the INPEC Northeast Regional Office for investigation.²³

To date, we have no information of sanctions being brought against INPEC personnel for the violation of human rights and arbitrariness committed during frisking at the prisons. In fact, the problem is structural given that INPEC does not recognize transgender people and continues to treat them in the same way; that is, transgender women continue to be treated as men, regardless of their gender identity and vice versa.²⁴

2. Homicides, torture and ill-treatment of members of the LGBT community

Colombia Diversa has recorded and verified 550 cases of homicide involving the LGBT population in the 2009 - 2014 period. To date, there are no rulings that recognize sexual orientation and gender identity as motives or aggravating circumstances for the crimes. Of the total number of homicides verified by Colombia Diversa for the period in question, 98 have been classified as murders motivated by discrimination against the victim's sexual orientation or gender identity or expression. To establish, albeit approximately, which of the homicides were motivated by discrimination, one of the criteria considered relates to signs of excessive violence or CIDT on the bodies of the victims. That is, when the violence was more excessive than deemed necessary to end

²² Colombia Diversa interview with a transgender woman in La Modelo Prison in Bogota, November 2014. The name and identity of the victim are withheld for safety reasons.

²³ Medellin Personeria, Human Rights Report, Medellin, Antioquia, 2013.

²⁴ Colombia Diversa, interview with a transgender woman in La Modelo Prison in Bogota, November 2014.

the life of the victim, this may imply that the aim was not only to kill the victim but also to, for example, punish them for questioning the heterosexual norm, “normalize” their bodies and send a message to the rest of the community.

In the cases classified as homicide due to discrimination, Colombia Diversa has been able to identify a number of patterns in which excessive violence against the bodies of the victims and torture and CIDT is recurrent. These are: the murder of transgender women, the murder of human rights defenders or those taking part in LGBTI organizational processes, and homicide preceded by sexual violence. It is worth noting that most of these cases are not investigated or sanctioned adequately, gender based violence is not analyzed as a motive or an aggravating circumstance of the crime or as a gender-based type of violence.

2.1. Homicides of transgender women

Of 550 homicides committed between 2009 and 2014, at least 86 were of transgender women. Each year, these transgender women are, together with gay men, the principal victims of homicide and police violence. Here, a number of recurrences have been identified. Most of the time, the victims were sex workers, hairdressers or they worked towards the enforceability and defense of their rights (sometimes alternating between more than one of the above).

On repeated occasions, victims were murdered in their places of work (areas where prostitutes tout for business, hotels or beauty salons) or in public spaces. Some were victims of hired assassins and were killed with firearms. But on other occasions, the excess of violence exercised on the body of transgender women has been particularly noteworthy, and this has been one of the main indications of homicide motivated by discrimination. When this takes place, often the most gruesome cruelty is directed at parts of the body that are considered central in their gender constructions: the face, genitals, breast implants or hair. We have also recorded, rather worryingly, that some transgender women are beaten to death by unknown groups. In 2013, such an attack was reported in the Rionegro municipality, and in 2014, one took place in Soledad (Atlántico) and another in Medellín.

Transgender woman murdered in Rionegro, Antioquia

Liliana (chosen name),²⁵ a twenty-four year-old transgender woman died after having been attacked by an unknown group in the early hours of February 3rd, 2013, in the Rionegro municipality. She was with a man in the La Chirria area, when they were attacked by an unknown group of people who beat her repeatedly in the head with heavy objects while insulting her gender expression. Minutes before, a young twenty-one year-old homosexual man, Alejandro Gil, had been repeatedly stabbed in Rionegro's main square. Both were rushed to ER, but Liliana died five days later because of the severity of her injuries. In response to a right of petition sent by Colombia Diversa, Antioquia police department informed that their hypothesis was that the attack that led to the death of the victim was provoked by the group's intolerance of the victim's sexual condition.

Unfortunately, we have no records of any advances having been made in the homicide investigation of these two cases. Worse still, in the processes that have been opened so far, it is not often that the signs of torture and CIDT are linked to a public recognition of the victims as transgender people, and, therefore, as an indicator of crimes of gender discrimination and violence in Colombia.

2.2. Homicides of LGBTI defenders

Another type of homicide in which elevated levels of violence against the victim have been identified has been that of human rights and/or LGBTI defenders. Between 2009 and 2014, Colombia Diversa recorded at least 19 homicides of human rights defenders taking part in organizational processes, and LGBTI community leaders. In this case, once again, the main victims are transgender women; although a number of cases involving gay men and two involving lesbian couples have also been recorded. The following cases highlight the connection between torture, homicide and the defense of LGBTI rights:

Homicide of LGBTI activist, Bogota

On the 18th of November 2014, Guillermo Garzón, human rights defender and LGBTI activist, was found dead at his home. The victim had been tied up and gagged. According to his family, the fifty year-old's death had resulted from mechanical asphyxiation inflicted by people known to him, who entered his apartment during the night. After their attempts to communicate with him failed, family members entered the apartment and found his body wrapped in a blanket and showing signs of torture.²⁶

²⁵ Legal name: Elkin David Arcila.

²⁶ El Tiempo newspaper, "Video shows alleged killers of LGBTI activist in Bogota." Published on the 21st of November 2014. Available at: <http://www.eltiempo.com/bogota/video-muestra-presuntos-asesinos-de-activista-lgbti-en-bogota/14863556>.

Murder of LGBTI activist, Cali

On the 6th of March 2009, Álvaro Miguel Rivera, LGBTI and human rights activist was found dead at his apartment, with his hands and feet tied. He had been hit on the head with a heavy object, showed signs of having been tortured and had died of mechanical asphyxia due to the adhesive tape stuck over his mouth and nose. He had worked on a number of projects promoting the human rights of the LGBT community and of people with HIV/AIDS. Among other projects, he collaborated in the elaboration of the 2005 Human Rights Report by Colombia Diversa and he reported forced HIV/AIDS testing in the ranks of the guerrilla, and had been threatened because of his collaboration in such activities. Five years after his death, the penal process is in its investigation phase.

Homicide of a lesbian couple, both activists, in Yarumal

On the 27th of August 2010, Cruz Elena Rojo and Nevis Roldán were murdered. They were a well-known lesbian couple that worked with the Sexual Antidiscrimination Network, documenting violent acts committed against women and members of the LGBT community in the department of Antioquia. Their bodies were found in a rural sector of the municipality, with multiple wounds on the head provoked by a heavy object, signs of torture and gunshot wounds. It is suspected that a criminal gang from Urabá killed them, but the criminal proceedings were filed due to the impossibility of establishing the identity of the active subjects of the offense.

2.3. Homicides and sexual violence

Finally, in some discrimination-based homicides of members of the LGBTI community, evidence has been found indicating that the victims were subjected to sexual violence before being murdered. However, as mentioned above, judicial authorities have not made an effort to investigate and sanction these kinds of offenses.

Sexual abuse and homicide of a transgender woman in Tuluá, Valle del Cauca

On the 1st of November 2010, Nicoll²⁷ (chosen name) was murdered in the Tuluá municipality. According to the information provided by the Ombudsman Office, she was with friends when she was approached by two men and a woman, who then raped and beat her, before stabbing her to death.

²⁷ Legal name: José David Gómez.

Sexual and abuse and murder of gay stylist in Soledad, Atlántico

On the 3rd of April 2011, Israel Polanía, a stylist from the municipality of Soledad was murdered. His body was found in a derelict area, naked, with signs of strangling, knife wounds, a stick between his legs and showing signs of rape. Apparently, the man was also a well-known leader of the municipality's LGBTI community. However, we have no information of any criminal proceedings being opened to investigate his murder.

Sexual violence against sexual orientation and gender identity is a form of gender violence that has only been recognized by the Superior Court of Bogota – Hall of Justice and Peace in the context of armed conflict.²⁸ Outside such a context, the Colombian legal system does not recognize gender violence, despite the complaints and periodic reports published by Colombia Diversa since 2006 relating cases of violence inflicted based on intolerance to sexual orientation, gender identity and expression.

3. Police violence, torture and cruel, inhuman or degrading treatment

Colombia Diversa recorded 212 cases of police violence against the LGBTI community between 2008 and 2014, again, with transgender women being the most highly affected. The following have been documented among the practices of violence used by the police against the LGBTI community: acts of physical violence involving the parts of the body that transgender women typically modify in order to build their female gender identity (breasts and gluteal area), and CIDT during detention and in public spaces, such as hair cutting, verbal aggressions, sexual favors and expulsion from public places.²⁹

Police violence against a female transgender sex worker, Bogota

Katia (chosen name), a twenty-five year-old transgender woman and sex worker has been a victim of police violence since 2012. She arrived in Bogota in 2012 and since then has been offering her services at calle 104 with carrera 15. On the 2nd of December 2012, two police officers, sprayed her with an unknown substance, probably pepper spray, which burnt her breasts, abdomen and part of her arm. On the 27th of August 2013, one of the same officers beat her on the legs and gluteal area provoking serious injury because of the silicone in her body. The two police officers were sanctioned with an eight-month suspension; however, Katia continues to be the victim of constant harassment by police officers from the Navarra Immediate Attention Command (CAI for its acronym in Spanish). Criminal proceedings are currently underway against the police officers for personal injury caused to Katia. However, the justice system has not responded effectively to this process that began early on in 2013.³⁰

²⁸ For more information: Colombia Diversa, A historic ruling recognizes paramilitary accountability for crimes against the LGBT community in Puerto Boyacá, available at: <http://www.colombia-diversa.org/2015/02/un-fallo-historico-reconoce-la.html>.

²⁹ For more information: Colombia Diversa, Human Rights Report: *Cuando el perjuicio mata* (When discrimination kills), 2012. Chapter 1.

³⁰ Criminal proceedings, recorded under number 110016000049201309569.

Reported police violence against the LGBT population presents itself through different types of discrimination but such abuses are often not reported because the LGBT community does not trust the institutions. In fact, as we can see above, the State agents—supposed to protect all citizens—responsible for such violent acts against Katia have not, to date, been sanctioned in any significant manner.

4. Conclusions and recommendations

Of the cases studied and the violations identified in this report, we can deduce that, firstly, in a historical context of discrimination against people with diverse sexual orientations, identity and expression, torture and CIDT have been used inside and outside of the context of armed conflict in order to exclude, punish and inflict pain on people for transgressing the established norms of gender and sexuality, to “normalize” their bodies, eliminate them physically or send a message to other people as a sign of rejection.

Second, acts of torture and CIDT committed against members of the LGBT community are not investigated or sanctioned in any rigorous way by the competent authorities, above all when such acts take place outside of the context of armed conflict. Moreover, State agents (in particular prison guards and police agents) are, to a great extent, responsible for committing such acts of violence against the members of the LGBT community.

Third, while we do not have a more adequate legal framework to sanction these types of practices, with more specific characterization (i.e., that such practices are considered beyond the context of the armed conflict or as aggravating circumstances for other crimes) and the consideration of its purposes and effects as an instrument of discrimination against vulnerable populations, the Colombian State will not have the sufficient tools to deal with the aims of the present Convention.

Finally, it is important to point out that all the limitations of the current legal framework and the practice of torture and CIDT in its application to concrete cases of violence against members of the LGBT community, also constitute as the State’s non-compliance of its due diligence obligations in terms of prevention, protection and sanction of those responsible.

Due to the above and through the following **recommendations** we request that the Colombian State be required to:

1. Classify cruel, degrading and inhumane treatment and punishment outside of the context of armed conflict as a crime.
2. Eradicate solitary confinement or the dungeon as a means to punish in all cases, and ensure that imprisoned members of the LGBT community are not sanctioned based on discrimination against their sexual orientation and gender identity.
3. Adopt measures to reduce overcrowding in prisons, as these do not comply with dignified and adequate conditions for people deprived of their liberty and they render the LGBT population more vulnerable to violence and discrimination.

4. Establish and improve the State's information systems in terms of the categories of sexual orientation and gender identity, so that violations of human rights against members of the LGBT community are not made invisible, and that adequate measures are adopted in public policy and in the legal system, especially in the Office of the Prosecutor General, the National Institute of Legal Medicine, the National Police, the Office of the Attorney General, the Ombudsman Office and the *Personerías*.
5. Adopt a protocol of investigation in cases of torture and CIDTP and acts of discrimination and violence against sexual orientation and gender identity, in order to eradicate the impunity in place in relation to the topic.
6. Adopt adequate mechanisms for the prevention, investigation and sanction of torture and CIDTP in prisons and correctional centers all over the country.
7. Request the State to stop detaining and inflicting practices of violence motivated by discrimination against sexual orientation and gender identity on members of the LGBT community. And, in particular, that they stop harassing the LGBT population in public spaces.
8. Adopt effective mechanisms to prevent, investigate and sanction acts of CIDTP committed against those who defend the LGBT population.
9. Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which allows periodical visits from national and international bodies to places where people are kept in reclusion.
10. Recognize the power of the Committee Against Torture to receive and examine individual communications concerning torture and CIDT.

