Disclaimer: The statements and analysis expressed are solely those of the authors, have not been approved by the House of Delegates or the Board of Governors of the American Bar Association, and they do not represent the position or policy of the American Bar Association.

The ABA Framework for Enhanced Responses to Bias-Motivated Violence Based on Sexual Orientation, Gender Identity, or Gender Expression is the culmination of extensive research, consultations, and expert review. The ABA Justice Works program is available to provide advice and technical assistance on applying the principles of enhanced, multi-stakeholder responses to bias-motivated violence impacting LGBTI people and on transposing the different approaches highlighted in the Framework into particular domestic contexts. ABA Justice Works staff can be reached at justiceworks@americanbar.org or +1 202 662 1000.
Acts of violence based on sexual orientation, gender identity, or gender expression, are on the rise throughout the world. A report from the Organization for Security and Cooperation in Europe’s Office of Democratic Institutions and Human Rights shows a 63 percent increase in reported crimes based on sexual orientation or gender identity from 2014 to 2017. In 2015, the Inter-American Commission on Human Rights noted a life-expectancy among transgender women between 30 and 35 years whereas the expectancy of the general population was 75 years. In the United States alone, law enforcement agencies reported 7,175 hate crime incidents to the Department of Justice in 2017, an increase of over 1,000 from the year before. More than 20 percent of those reported hate crime incidents involved bias toward a person’s sexual orientation or gender identity.

More troubling, we know that these numbers are incomplete. Many law enforcement agencies do not record indicators of bias motivation based on sexual orientation or gender identity. Many lesbian, gay, bisexual, transgender, and intersex (LGBTI) people globally also do not report to the police the violence they experience, fearing retraumatization by officers, reprisals from perpetrators, and inadequate responses from the criminal justice system.

In this context, the American Bar Association (ABA) Justice Works Program, a collaboration between the ABA Rule of Law Initiative (ROLI) and Center for Human Rights (CHR), provides technical assistance to civil society and justice sector actors seeking to better respond to bias-motivated violence based on sexual orientation or gender identity. As part of this effort, the Program is pleased to present the Justice Works Framework for Enhanced Responses to Bias-Motivated Violence Based on Sexual Orientation, Gender Identity, or Gender Expression.

The Justice Works Framework provides practical, operational guidance for enhanced, cross-sector responses by LGBTI civil society organizations, psychosocial support service providers, and justice sector actors to bias-motivated violence. The ideas and concepts in the Framework were developed in conjunction with a diverse group of experts, including advocates for the rights of LGBTI people, psychosocial support service providers, police departments, prosecutors’ offices, judges, ministries of justice, and other legal practitioners. The case studies were provided by courageous individuals and organizations wishing to contribute to global efforts to better respond to bias-motivated violence against LGBTI people.

We hope that the Justice Works Framework inspires LGBTI people and the organizations that represent them and justice sector actors worldwide to increasingly engage and forge strong, meaningful relationships. We hope that, following the guidance in this framework, these relationships can become the solid foundation for justice sector actors to better uphold the rule of law, take into account the interests of LGBTI survivors, and consider the impact on the entire LGBTI community in cases of bias-motivated violence.

Jordan Long
Director, ABA Justice Works Program
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About the American Bar Association Rule of Law Initiative

For more than 25 years, and through our work in more than 100 countries, the American Bar Association Rule of Law Initiative (ABA ROLI) and our partners have sought to strengthen legal institutions, to support legal professionals, to foster respect for human rights, and to advance public understanding of the law and of citizen rights.

In collaboration with our in-country partners—including government ministries, judges, lawyers, bar associations, law schools, court administrators, legislatures and civil society organizations—we design programs that are responsive to local needs and that prioritize sustainable solutions to pressing rule of law challenges. We employ rigorous and innovative monitoring and evaluation approaches in assessing the quality and effectiveness of our programs.

ABA ROLI has roughly 500 professional staff working in the U.S. and abroad, including a cadre of short- and long-term legal specialists, volunteers, interns, and third-party contributors, who in fiscal year 2017 alone contributed $1.34 million in pro bono legal assistance.

About the American Bar Association Center for Human Rights

The ABA Center for Human Rights promotes and protects human rights worldwide – defending human rights advocates facing retaliation, rallying thought leaders on crucial issues, and holding abusive governments accountable under law.
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I. EXECUTIVE SUMMARY

Introduction

The Justice Works Framework for Enhanced Responses to Bias-Motivated Violence Based on Sexual Orientation, Gender Identity, or Gender Expression, developed by the American Bar Association’s (ABA) Justice Works Program, identifies common features of discrete initiatives from various parts of the world that have been successful in supporting survivors of bias-motivated violence based on sexual orientation, gender identity, or gender expression (SOGIE) and bringing offenders to justice. Unlike other guides and tools that target specific stakeholder groups and their respective roles in the response to bias-motivated violence based on SOGIE, the Framework takes a comprehensive look at the pursuit of justice after an incident of bias-motivated violence based on SOGIE has occurred, taking into consideration the physical and psychosocial interests of individual survivor(s); the safety and security of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community; and the state’s interest in maintaining the rule of law. The Framework includes specific examples and case studies that illustrate the importance of collaborative, multi-stakeholder responses to address the multifaceted harms that bias-motivated violence can inflict on survivors and the broader LGBTI community.

Bias-motivated violence based on SOGIE involves three distinct harms, the solutions to which are, at times, complementary and, at other times, in tension: 1) injury to the survivor of the violence; 2) injury to the broader LGBTI community to which the survivor belongs; and 3) injury to society as a whole, given that unlawful violent conduct undermines the rule of law, especially when perpetrators of such conduct are not effectively brought to justice. Enhanced responses to bias-motivated violence based on SOGIE take into account the tensions that exist among these various harms and recognize that each harmed constituency might have different demands about correcting their respective injury.

The Framework is a tool intended to strengthen stakeholders’ collaborative responses to bias-motivated violence based on SOGIE. Aggregating existing knowledge about “what works” in responding to bias-motivated violence based on SOGIE, it seeks to inform context-specific interventions by local actors and support local advocacy by civil society organizations (CSOs) working on topics relating to SOGIE to hold governments accountable for ensuring that perpetrators do not enjoy impunity. The Framework builds on the insight that redress and deterrence are optimized when CSOs, psychosocial support service providers, law enforcement, prosecutors, and judges are willing and able to collaborate closely in response efforts and is focused on providing response strategies rooted in criminal justice solutions to violence. While other responses to violence are possible through civil court proceedings or community-based channels, ABA recognizes that the use of existing criminal law that punishes violence addresses the three harms laid out above due to the role of the state in holding the perpetrators to account under criminal law. The approaches and strategies identified do not depend on the existence of hate crime legislation in a jurisdiction, as interpersonal violence is nearly universally penalized under existing criminal laws.

To these ends, the Framework outlines key considerations for stakeholders; summarizes “lessons learned”; and provides concrete examples of civil society and government actors working creatively and collaboratively to ensure that the criminal justice system is effectively responding to bias-motivated violence based on SOGIE. Pursuing immediate, intermediate, and long-term responses to such violence that facilitate collaboration across stakeholder groups is important for helping to maintain a survivor-centric approach.
Methodology

The Framework is grounded in a discussion of the typology of bias-motivated violence and how it affects various constituents of the LGBTI community. The document reflects the input of a multi-country, cross-regional group of CSO and governmental stakeholders who were willing to share their knowledge and experiences with the Justice Works Program. To elicit their contributions and anchor those contributions in existing interdisciplinary research on bias-motivated violence, ABA used a participatory and qualitative research methodology, which included:

- Literature review;
- Key respondent consultations;
- Expert Workshop on Comprehensive Responses to Violence;
- Expert review.

ABA Framework for Enhanced Responses to Bias-Motivated Violence Based on Sexual Orientation, Gender Identity, or Gender Expression

The Framework explores the events that take place after a violent incident occurs. This occurrence is the point when a person experiences violence based on SOGIE, triggering the need for as comprehensive a response as possible from CSOs, psychosocial support service providers, and justice sector actors, including police officers, prosecutors, judges, and lawyers. The Framework is organized by stages of the life cycle of the response to bias-motivated violence. It describes what constitutes an enhanced response during each phase of the life cycle, identifying the stakeholder groups that are chiefly responsible and articulating how collaboration with other groups helps ensure a survivor-centric approach in the pursuit of justice for bias-motivated violence based on SOGIE and in the prosecution of perpetrators, when applicable. It identifies concrete action points and roles for each group during each phase of response, reflecting their specific technical or substantive expertise in violence response or in working with the LGBTI community and provides case studies of approaches that have been implemented in jurisdictions throughout the world.

Life cycle of response

Immediate responses: When a person experiences violence based on SOGIE, the actions taken in the immediate response phase are key to addressing the harms caused to the survivor, to the LGBTI community, and to the rule of law. Depending on the severity of the violence and the individual’s view of different authorities, a survivor might choose to access different stakeholders in the immediate aftermath of the incident, such as CSOs, emergency medical responders, psychosocial support service providers, police, or lawyers, or choose not to report at all. For survivors who choose to report, all stakeholders in the immediate response should use approaches that document the indicators of bias while avoiding retraumatization. Such documentation may serve the dual purposes of contributing to the successful prosecution of the offender and identifying key factors and trends for more effective systemic responses to such bias-motivated violence.

Intermediate responses: After the immediate response to an incident of bias-motivated violence based on SOGIE, investigators must follow up on initial reports of the incident. Prosecutors must determine whether to file charges against a perpetrator and, if so, determine which criminal statutes in their jurisdiction they will use. Judges must ensure fair and impartial legal proceedings. It is critical for justice sector actors to have the cultural competency, understanding, and sensitivity to work effectively with LGBTI survivors of violence and their communities.
**Long-term responses:** Lawmakers draft and enact the statutes available to prosecute and punish acts of bias-motivated violence based on SOGIE. In environments that are not limited by anti-LGBTI legislation, and where there is political will to go beyond using the ordinary criminal code to prosecute aspects of bias-motivated violence, lawmakers have the option of drafting and enacting “hate crime” laws, statutes that explicitly criminalize and punish acts of bias-motivated violence based on SOGIE. They authorize law enforcement and prosecutors to investigate and prosecute violations, including those that involve interpersonal and family violence; they also establish the elements of particular crimes that must be demonstrated by evidence to bring perpetrators to justice. Where such statutes exist, they often authorize law enforcement and prosecutors to collect additional data about indicators of bias and to seek enhanced sentences for specific types of hate-based interpersonal violence, thereby sending the message that bias and hate are not tolerated in society. While legislators are the key actors responsible for the adoption of such statutory long-term responses, their action is often influenced by civil society advocacy, public opinion, and data that compellingly documents the rates and extent of bias-motivated violence based on SOGIE. In this way, long-term responses to bias-motivated violence based on SOGIE should also include multi-stakeholder encouragement of reporting such violence through safe and supportive channels, so that the evidence base for legislative reform is as robust as possible.

Each section of the Framework contains concrete examples of initiatives that have had certain success in implementing enhanced responses to bias-motivated violence based on SOGIE. In countries where there is not repressive legislation in place that inhibits possibilities for cross-sectoral collaboration, the initiatives covered in this Framework can be tailored and transposed to reflect relevant countries’ domestic legal systems, local political climates, and historical relationships between the LGBTI community and authorities. The examples are intended to help stakeholders recognize and bridge any gaps in coordinated responses in their own work. Takeaway charts provide checklists for assessing how various stakeholders are working toward enhanced responses to violence and whether there are any gaps to bridge to improve coordinated responses.

Overall, the Framework provides all stakeholders involved in responding to bias-motivated violence based on SOGIE with guidance for developing collaborative, multi-stakeholder responses in ways that account for the various individual, community, and societal interests involved.
In recent years, there has been notable progress in the advancement of legislation and judicial decisions affirming the rights of lesbian, gay, bisexual, transgender, and intersex (LGBTI) people. This progression has occurred predominantly – but not only – in democracies. At the time of writing, marriage between two people of the same sex can be legally performed in all or part of 26 European, North American, and Latin American countries. Laws that had penalized sexual acts between two people of the same sex have been repealed or struck down by courts in every country of Europe, North America, and Latin America, with the exception of Antigua and Barbuda, Barbados, Dominica, Grenada, Guyana, Jamaica, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines. Activists have also made great strides in advancing transgender-inclusive legislation, including Argentina’s Gender Identity Law (2012); Malta’s Gender Identity, Gender Expression, and Sex Characteristics Act (2015); and Denmark’s removal of trans identities from the mental illness diagnostic manual (2016). Progress is also evident in certain countries that are not fully liberal democracies. In Pakistan, for example, the groundbreaking Transgender Persons Act (2018) allows people to choose their gender, enables recognition of that gender on official documents, prohibits discrimination based on gender identity in public accommodation, and obligates the government to establish safe houses for transgender people facing violence.

Despite these advances in legislation, there are not yet sufficient measures in many countries to ensure that LGBTI people are realizing these rights in practice and living safe, fulfilling lives in their communities. Bias-motivated violence based on sexual orientation, gender identity, or gender expression (SOGIE) represents one of the greatest challenges to the realization of basic rights and privileges by LGBTI people. Bias-motivated violence includes any act of violence that is perpetrated against an individual based on their real or perceived sexual orientation or gender identity or their transgression of gender norms in society; in other words, bias-motivated violence based on SOGIE includes any act of “violence based on prejudice towards diverse sexual orientations, gender identities, and persons whose bodies defy the socially accepted standards of the ‘female’ and ‘male’ bodies.” Instances of this kind of violence may also be classified as a hate crime when the criminal code contains certain offenses that include bias motivation as an element of the crime or provides for sentence enhancement with proof of bias motivation. Given the expressive nature of criminal law, when justice is served for individual survivors of bias-motivated violence based on SOGIE, the delivery of that justice also sends a message to the LGBTI community and to the wider public that violence against LGBTI people is not tolerated. In contrast, when authorities fail to act and perpetrators commit bias-motivated violent crime based on SOGIE with impunity, members of the LGBTI community are further marginalized and individuals can have increased fear of experiencing violence. This marginalization can also further entrench LGBTI people’s hesitations to come out in personal or private settings and can have a chilling effect on access to education, economic opportunities, healthcare, social services, and the justice system.

While bias-motivated violence based on SOGIE is an ongoing problem in many countries with lesser degrees of social and normative acceptance of LGBTI identities and fewer measures for the legal protection of the rights of LGBTI people, more effective frameworks for responding to and preventing bias-motivated violence based on SOGIE are needed everywhere in the world. The United Nations (UN), the Council of Europe, the European Union Fundamental Rights Agency, the African Commission on Human and People’s Rights, and the Inter-American Commission on Human Rights now recognize the need for more robust responses to bias-motivated violence based on SOGIE. These entities have documented that, on a global level, LGBTI people face an increased risk of violence due to SOGIE, and they have called for enhanced governmental action to address the problem.
To this end, the ABA Framework for Enhanced Responses to Bias-Motivated Violence Based on SOGIE aligns the existing conversations among various justice sector authorities, civil society organizations (CSOs), LGBTI activists, and survivors of bias-motivated violence about possible options for improving responses to violence that take place in specific—and quite varied—political and cultural contexts. Utilizing a comparative lens, the ABA Framework identifies common features of discrete initiatives from various parts of the world that have been successful in supporting survivors of violence and bringing offenders to justice, particularly in countries where the will and capacity to collaborate is not hampered by repressive authoritarianism or politically entrenched, anti-LGBTI legislation.

Unlike other guides and tools for specific stakeholder groups and their respective roles in the response to bias-motivated violence based on SOGIE, the ABA Framework takes an enhanced look at the various interests of survivors and of the community after an incident of bias-motivated violence based on SOGIE, as well as the state’s interest in maintaining the rule of law, illustrating the importance of multi-stakeholder responses to these incidences in correcting the multiple harms of bias-motivated violence impacting the LGBTI community. Throughout, the document provides concrete guidance in the form of case studies for implementing enhanced responses during the immediate, intermediate, and long-term phases of the life cycle of violence.
A. Approach and methodology

The ABA’s Framework for Enhanced Responses to Bias-Motivated Violence Based on SOGIE was produced as part of its Justice Works Program, which seeks to support initiatives led by CSOs globally to prevent, reduce, and respond to incidents of bias-motivated violence based on the SOGIE of the person targeted. Most participants in the research affirmed that, in their experience, redress and deterrence were optimized when CSOs, psychosocial support service providers, law enforcement, prosecutors, and judges were willing and able to collaborate closely in response efforts. ABA designed the Framework to aggregate this existing knowledge about “what works” in responding to bias-motivated violence based on SOGIE. Its purpose is to facilitate the sharing of that knowledge across the transnational community of LGBTI rights activists, psychosocial support service providers, and justice sector personnel, and to further empower local civil society actors around the world to call on authorities—and for authorities to respond positively—to pursue enhanced, collaborative response efforts that are effective at achieving individual and community justice for bias-motivated violence based on SOGIE.

The Framework outlines key considerations for stakeholders committed to implementing successful, enhanced responses to violence; summarizes takeaways about how best to respond to bias-motivated violence; and provides concrete examples of civil society and government actors working creatively and in collaboration to ensure that the criminal justice system is effectively responding to bias-motivated violence based on SOGIE.

Approach: Promoting enhanced responses

Through a combination of primary and secondary source research, the Framework illustrates that the most effective initiatives to respond to bias-motivated violence are comprehensive, meaning that they:

- Bring together different stakeholders from civil society, psychosocial support services, police departments, prosecutors, lawmakers, and other groups;
- Leverage the distinct but complementary technical expertise of these actors;
- Focus on programs that emphasize community-led activities and partnerships;
- Consider and balance the possibly different interests of the person who experienced violence, the LGBTI community, and the state in correcting various harms at play; and
- Design such activities to address challenges that survivors of violent incidents and the LGBTI community face throughout the process so that justice for bias-motivated violence based on SOGIE is achieved for all parties involved.

These enhanced responses offer potential advantages for individuals, communities, and societies compared to approaches that do not consider the tension between the interests of various groups. They also help to reassure the LGBTI community that the state has made concrete attempts to deter future bias-motivated violence based on SOGIE. Enhanced responses to such violence across stakeholder groups in the immediate, intermediate, and long-term help maintain a survivor-centric approach in the pursuit of justice for bias-motivated violence based on SOGIE and in the gathering and sharing of relevant information about the acts for legal, medical/psychosocial, or advocacy/documentation purposes. Survivor-centric approaches recognize and validate the prerogatives of the person who experienced violence. Survivors may not always opt to report their experiences with bias-motivated violence based on SOGIE, much less to pursue a case in court against the perpetrator(s). However, in places where justice sector actors take their obligation to uphold the law seriously when survivors choose to pursue prosecution, police and prosecutors have the responsibility to deter potential perpetrators of bias-motivated violence based on SOGIE and demonstrate to the LGBTI community that authorities respect the rights of all people, regardless of SOGIE and they are committed to protecting LGBTI people from violence.
Methodology: Participatory, qualitative research

The content of the Framework reflects the input of a multi-country, cross-regional set of CSO and governmental stakeholders who were willing to share their knowledge and experiences with the Justice Works Program. To elicit their input and anchor that input in existing interdisciplinary research on bias-motivated violence based on SOGIE, ABA used a participatory and qualitative research methodology. The key types of contributing sources are described below.

Literature review
The Framework’s recommendations are situated within existing academic, policy, and practice-oriented research on bias-motivated violence and its effects. First, ABA experts on advocacy for the rights of LGBTI people and research/evaluation approaches to rule of law issues culled an interdisciplinary set of secondary sources. Then, they reviewed relevant resources for the study, paying particular attention to international and regional organizations’ reports, empirical documentation of bias-motivated violence based on SOGIE, training manuals for various types of stakeholders who are, in principle, involved in the legal response to these acts, and policymaker and NGO reports on the adoption and implementation of hate crime laws. These sources are cited throughout the Framework, where they are used to situate country or CSO-specific findings within a broader body of knowledge on the topic.

Key respondent consultations
Since the launch of the ABA Justice Works Program in May 2016, ABA has consulted partners with substantive expertise on sexual orientation and gender identity, as well as those with technical expertise in using the criminal justice system to address acts of bias-motivated violence. These partners come from countries throughout the world and include representatives from LGBTI CSOs, anti-violence/anti-hate crime organizations, psychosocial support service providers, police officers, prosecutors’ offices, courts, and intergovernmental institutions. During standard consultations, ABA staff presented the aims and activities of the Justice Works Program and encouraged the partners to describe their approaches to responding to violence, asking specific questions to identify cross-sector collaborations and to understand the challenges they faced. Throughout the research and drafting process for this Framework, ABA continued to engage many of these experts and incorporate to their valuable feedback.

Expert Workshop on Comprehensive Responses to Violence
From November 15-17, 2017, the ABA Justice Works Program convened 35 experts at a workshop in Lima, Peru. The experts came from a variety of sectors and had implemented domestic or regional programs that employed multi-stakeholder, cross-sector approaches to respond to bias-motivated violence based on SOGIE. The workshop included substantive modules on community responses in documentation, competent support services for LGBTI survivors of violence, proactive police responses, prosecution of bias-motivated violence based on SOGIE, and legislative responses to prevent violence through inclusive laws. Working group sessions provided the opportunity for participants to reflect on what they had learned from the sessions and to provide technical advice to each other on cross-sector, enhanced responses to bias-motivated violence based on SOGIE. Recognizing the various factors that inhibit enhanced responses to violence, including a country’s degree of political openness, the degree of bias toward LGBTI sentiments and/or legislation in society, and the strength of legal institutions and the rule of law, the group discussions explored the extent to which these local experts could feasibly implement enhanced responses to bias-motivated violence in their local contexts. The content of the discussions that took place during the Expert Workshop in plenary and small group sessions were captured by a workshop rapporteur. This material was instrumental to the development of this Framework.

Expert review
Justice Works Program staff disseminated several drafts of the Framework for review to key expert partners. Some of the reviewing experts had participated in respondent consultations or the Expert Workshop. Others had not been part of these research activities but sat on the Justice Works Adviso-
B. Conceptualizing bias-motivated violence

Definition of bias-motivated violence based on sexual orientation, gender identity, or gender expression

Bias-motivated violence based on SOGIE is a specific type of violence that affects an individual or group of individuals, the LGBTI community, and overall society’s perception of LGBTI people. As Figure 1 illustrates, the Framework is concerned with violence through which an offender targets persons based on their SOGIE. That violence is situated in the broader categories of bias-motivated violence and interpersonal violence generally, acts which are almost universally punished by criminal law.

Bias-motivated violence based on SOGIE has three discrete types of harm that state actors have a duty and responsibility to address and consider deliberately throughout the response to that violence. First, a survivor of a violent attack has suffered the immediate physical and emotional harms of being targeted due to SOGIE, and they also face the possibility of retraumatization through the criminal justice system. Second, the LGBTI community is impacted by bias-motivated violence, in particular, when perpetrators are allowed to carry out that violence with impunity, instilling additional fear in community members. Finally, there is the harm to the state when violent crime occurs with impunity, reducing public faith in governance structures and systems and undermining rule of law.

For the purposes of this Framework, violence refers to what the World Health Organization calls interpersonal violence, that is, “the intentional use of physical force or power, threatened or actual, by a person or a small group of people against another person or small group that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.”

Bias-motivated violence encompasses a smaller subset of acts that fall within the broader category of interpersonal violence. Bias-motivated violence includes any act of violence that is perpetrated against an individual or members of a group based on their real or perceived belonging to a particular social group, whether religious, ethnic, linguistic, political, or otherwise. Bias-motivated violence based on SOGIE includes any act of “violence based on prejudice towards diverse sexual orientations, gender identities, and persons whose bodies defy the socially accepted standards of the ‘female’ and ‘male’ bodies.”

The targeting of a person need not be based on their actual sexual orientation or gender identity, but could be based, instead, upon assumptions that the person targeted is a member of the LGBTI community. All such violent acts fall into the category of bias-motivated violence based on SOGIE if the perpetrator of the violence can be shown or is likely to have targeted the individual they attacked because they were members or perceived to be members of the LGBTI community.

Often, violence of this kind takes place because the people targeted are transgressing dominant gender norms in society. The UN High Commissioner for Hu-
man Rights\textsuperscript{15} and the UN Special Rapporteur on Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment\textsuperscript{16} or have noted as much, and the Inter-American Commission on Human Rights has similarly found that “many forms of this violence [are] based on the desire of the perpetrator to ‘punish’ those identities, expressions, behaviors, or bodies that transgress traditional gender norms and roles, or that run contrary to the binary system of male/female.”\textsuperscript{17} Indeed, throughout the world, men are expected to couple with women and women are expected to couple with men. Those who do not adhere to that societal expectation can become targets due to their failure to conform. Similarly, transgender and intersex people can experience a heightened vulnerability to violence because their bodies, gender identities, and gender expressions may not conform to normative expectations.

Those who perpetuate bias-motivated violence based on SOGIE do so in an attempt to regulate and control the gender norms in society. These perpetrators are often known to the person targeted, and may be family members, coworkers, or neighbors. It is vital to understand the underlying psychological, cultural, and societal drivers of bias-motivated violence as context, but never justification, for that violence. The right to liberty and security of person is enshrined in international human rights law,\textsuperscript{18} as well as national constitutions throughout the world, and, almost universally, domestic criminal laws contain statutes that punish physical harm against another person.

Enhanced responses to bias-motivated violence based on SOGIE take into account the tensions that might exist among the harms to the individual(s), the LGBTI community, and society at large and recognize that each harmed constituency might have different demands about correcting their respective injury. This Framework is focused on providing response strategies rooted in criminal justice solutions to violence. While other responses to violence exist, such as through civil court proceedings, ABA recognizes that use of existing criminal law that punishes violence best addresses the three harms laid out above due to the role of the state in holding the perpetrators to account. The approaches and strategies identified do not depend on the existence of hate crime legislation in a jurisdiction, as interpersonal violence is nearly universally penalized under existing criminal laws.
Constituent groups within the LGBTI community

As discussed above, bias-motivated violence based on SOGIE occurs when an offender targets a person or persons based on their transgression of gender norms in society. In many countries and many situations, the person targeted identifies as lesbian, gay, bisexual, transgender, or intersex. While throughout the Framework, these groups are often referred to as “the LGBTI community,” each of these constituent groups may experience violence differently. These differences are also important for stakeholders to keep in mind as they design and implement enhanced responses.

Lesbian and bisexual women
Throughout the world, women experience higher rates of interpersonal and structural violence than men, facing societal norms and sometimes institutions that are harmful to or biased against women. As a result, lesbian and bisexual women can be subject to multiple types of violence, based both on their gender and on their sexual orientation. This compound and intersectional violence can exist in societies where women’s independence and access to justice are severely limited, posing additional, complicated challenges to ensuring an adequate response to violence.19

Moreover, in patriarchal societies, women are often economically dependent on their families or spouses. Therefore, a lesbian or bisexual woman may resist openly asserting her identity, fearing that the disclosure might subject her to familial violence from which she is unable to remove herself due to her inability to maintain economic independence. The interpersonal violence experienced in these situations is often carried out by family members, including spouses when lesbian or bisexual women are forced to marry men.20 The private nature of the intrafamilial violence has a detrimental effect on reporting and documentation of these incidents, resulting in an unclear picture of the extent of violence affecting lesbian and bisexual women, as well as the extent to which issues like “corrective rape” persist.21

Gay and bisexual men
Gay and bisexual men are not under the same socially restrictive norms as lesbian and bisexual women, but that access to public space and movement can also place them at greater risk of violence from strangers when gay and bisexual men transgress gendered expectations in public. This transgression is often policed by individual perpetrators of violence to punish a gay or bisexual man’s perceived amoral behavior.

Transgender women
Transgender women are subject to extreme personal and state-sponsored violence in countries throughout the world. Due to the deeply held stigma toward transgender women, members of this population are often forced to leave their family homes, facing insecure housing or homelessness and a lack of access to education, economic opportunity, and the job market. Without these opportunities, transgender women become increasingly vulnerable to violence, targeted not solely due to their transgression of gender norms but also their low socioeconomic status.22

In Latin America, the Inter-American Commission on Human Rights has noted a life-expectancy among transgender women between 30 and 35 years, significantly lower than the general population.23

Moreover, when legal systems fail to recognize transgender identities by prohibiting individuals from changing the gender markers on their official documents, barriers to justice arise that do not exist for lesbian, gay, or bisexual people. Similarly, when states fail to provide access to medical transition processes for transgender people, members of this community are further marginalized and might turn to illicit, often unsafe, markets to obtain hormones or other medical interventions that enable them to transition.
Transgender men
A dearth of data exists regarding violence experienced by transgender men; however, that does not mean that bias-motivated violence based on gender identity is not occurring. Rather, the lack of data indicates that transgender men are experiencing violence in private spaces more frequently than public spaces and that those incidences are likely either underreported or incorrectly recorded by authorities.  

The data that does exist shows that transgender men experience high levels of violence within the family and health care sectors, as well as increased levels of sexual violence in the form of so-called “corrective rape.”

Intersex individuals
Intersex people often experience both interpersonal and structural violence as a result of bodily diversity, and transgression of gender norms. While the violation of the human rights of intersex persons takes many violent forms, including unnecessary medical interventions, mutilation, and abandonment, these abhorrent practices require enhanced mechanisms of change that are currently being articulated by a growing movement for the human rights of intersex people.

The Framework addresses bias-motivated violence against intersex persons when perpetrators target a person because of their bodily diversity and non-normative gender expression, as such targeting is based on the individual’s non-conformity with societal expectations. Often a perpetrator may not know that a person is intersex but may nonetheless target that person due to a noticeable difference the person displays. That difference, for example, could relate to the intersex person’s non-binary gender expression, which may be interpreted, correctly or incorrectly, as the intersex person being transgender.

Gender nonconforming individuals
As previously mentioned, bias-motivated violence based on SOGIE is often due to the perpetrator’s view that the person targeted is transgressing society’s gender norms. While some individuals who experience this type of violence might identify as lesbian, gay, bisexual, transgender, or intersex, others might simply defy the gender expression expected of them but not identify as LGBTI community members. Additionally, individuals in each of the constituent groups described above might take an approach to their gender identity or expression that does not conform to expectations. They might use terms such as queer, genderqueer, gender fluid, or gender-nonconforming to describe how they relate to their society’s expectations of gender.

The LGBTI community is incredibly diverse, and everyone’s sexual orientation or gender identity intersects with other elements of their identity. LGBTI people have different races, ethnicities, religions, beliefs, ages, classes, economic statuses, nationalities, and health statuses. While not focused on intersectionality issues in particular, which merit further study in their own right, this Framework acknowledges that intersectionality introduces complexity into the crafting of responses to bias-motivated violence based on SOGIE and is important for stakeholders to consider carefully in their specific contexts.
**C. Purpose: How to use this Framework**

The Framework is a tool to strengthen enhanced and collaborative responses to bias-motivated violence based on SOGIE. It seeks to inform context-specific interventions, driven by local actors, to respond to violence that has already occurred and to support local advocacy in which CSOs hold their governments accountable to reduce impunity for this particular type of violence.

To these ends, the Framework provides specific guidance to CSOs, psychosocial support service providers, law enforcement, prosecutors, and other stakeholders. Stakeholders are encouraged to read the Framework in its entirety, given the interdependent nature of different actors’ involvement in enhanced responses. However, the Framework is also organized such that readers may return to it to consult sections tailored to the challenges and needs most relevant to them. The Framework’s guidance is presented according to the chronological phases involved in enacting an enhanced response: immediate, intermediate, and long-term responses.

Readers can benefit from several notable features of the analysis. In particular, the Framework:

- Offers approaches that are grounded in real-life, referencing successful initiatives that can be tailored and transposed according to countries’ domestic legal systems, local political climates, and historical relationships between the LGBTI community and authorities;

- Articulates concrete action points for each group of stakeholders, describing their roles in each phase of the life cycle of violence to reflect their specific technical or substantive expertise in violence response or working with the LGBTI community; and

- Provides case studies from multiple contexts that can help stakeholders recognize and bridge any gaps in coordinated response in their own work.

These features of the Framework are most likely to be useful for people in countries where same-sex conduct and LGBTI identities are not criminalized. In countries with such repressive, anti-LGBTI legislation, rule of law justifications for the state to take corrective action in response to incidents of bias-motivated violence based on SOGIE are not compelling in a formal legal sense. Unfortunately, under these conditions, most of the approaches outlined in the Framework are not applicable. Readers in countries with regimes that are extremely repressive, or where state actors are committed to enforcing anti-LGBTI legislation, and citizens (including political elites) exhibit strongly entrenched anti-LGBTI views and behaviors, may also expose themselves and others to undue levels of risk if they pursue the strategies presented in these pages. Readers of this Framework are therefore encouraged to evaluate their contextual circumstances carefully when considering the approaches discussed here. However, strategies in this Framework can be adapted by CSOs to contribute to long-term goals of promoting inclusion of LGBTI people by monitoring and understanding patterns of violence.

The remainder of this section identifies the major stakeholder groups covered in the Framework and highlights several challenges that they may face in implementing enhanced responses to bias-motivated violence based on SOGIE across various country contexts.
Major stakeholder groups

Through the methodology described above, ABA staff identified several major stakeholder groups involved in an effective response to bias-motivated violence. Each stakeholder group plays a particular role in various phases of an enhanced response to violence; this Framework describes how the stakeholders can work in complementary ways that are respectful of both individual survivors and the LGBTI community and that support the rule of law.

Emergency response and psychosocial support service providers

Emergency response and psychosocial support service providers can address the physical, psychological, economic, and social needs of a survivor of violence in the wake of an incident of bias-motivated violence based on SOGIE. When a person experiences violence, they often need emergency medical response to address their physical needs immediately after an attack, which may include psychosocial assistance or referral. In some cases, psychosocial support service providers may work with a legal aid organization in order to offer enhanced services to survivors in a “one-stop shop.” Psychosocial support entities are responsible for providing survivor-centric interventions that mitigate an individual’s risk of retraumatization after the initial incident of bias-motivated violence based on SOGIE. In some jurisdictions, psychosocial support service providers might be available to discuss the violent incident with a survivor as a part of the criminal justice process. Ideally, staff and volunteers at these entities have technical expertise in working with survivors of violence to effectively document their experiences in a manner that also complies with relevant evidentiary standards for use in legal proceedings.

Police officers

As those responsible for responding to and investigating crimes, police officers are often the first point of contact in the justice sector for survivors of bias-motivated violence based on SOGIE. Officers, therefore, set the tone for many survivors’ subsequent decision-making about whether to continue seeking redress within the criminal justice system for the violence they experienced. In their daily work, law enforcement officers may observe crimes while on patrol or respond to incidents reported through official channels, such as emergency lines. Police will often be called to the scene of the crime by witnesses or by the survivor. Generally, police or other justice sector investigators, such as judicial police, inform prosecutors of crimes, working under the authority of legislation or under the orders of an investigating judge to investigate the crime.

Prosecutors

Prosecutors have a duty to prosecute crimes, using whatever statutory means available to them through criminal law. Prosecutors also have the general duty to “consider the views, legitimate interests and possible concerns of victims and witnesses, when their personal interests are, or might be, affected, and seek to ensure that victims and witnesses are informed of their rights.” In common law systems, prosecutors receive the results of police investigations of bias-motivated acts based on SOGIE, pursue any relevant indictments, and take the case to trial. In many civil law systems, prosecutors are responsible for determining the scope of the investigation and whether the evidence gathered during preliminary investigation is convincing enough to send along to the investigating judge for further examination.

Judges and their support staff

Judges preside over any cases of bias-motivated violence based on SOGIE that progress to the criminal trial stage. In common law systems, they make key decisions regarding the opening of investigations, as well as offers for plea bargaining, admission of evidence, and the charges that defendants face in court. Judges profoundly influence the conduct of a trial and play a critical role in moving cases forward expeditiously. In civil law systems, sitting judges lead questionings and call in evidence during the trial. In both systems, judges are ultimately responsible for ensuring fair proceedings and due process. Judicial clerks, bailiffs, secretaries, permanent staff, and others both support the fairness and efficiency of the judicial process and can help ensure that victims moving through the process understand their rights and are referred to adequate support services.
**Lawyers**

Lawyers at LGBTI organizations and criminal law attorneys can, in certain cases, constitute the survivor’s first contact with the legal system after experiencing bias-motivated violence. Legal professionals are often not state actors, and therefore survivors may be more comfortable first reporting violence to them. Lawyers who take on the role of survivor advocates serve an invaluable function in helping survivors navigate the relevant legal systems and understand their rights and legal options in the wake of a violent incident.

**Civil society organizations**

CSOs can work at the local, regional, national, and international levels and often advocate for the fundamental rights of certain groups within a society. The CSOs of focus in this Framework are those that represent the needs and interests of all LGBTI people or of a subset of the community, for instance, lesbian, bisexual, transgender, and intersex women or young LGBTI people. Based on a CSO’s organizational structure and mandate, it can fulfill various needs for the community that it represents. These needs range from organizing local, national, or international issue-based advocacy; providing safe houses in emergencies; facilitating healthcare delivery services; and offering direct legal support. Whether or not they are formally registered or have a specific mandate, these CSOs often provide critical support to the LGBTI community that assists community members in recovering from bias-motivated violence based on SOGIE and in deciding what, if any, steps to take for redress. CSOs, particularly those that have the support of and represent the LGBTI community in whole or in part, also play an integral role in addressing the harms that perpetrators of bias-motivated violence based on SOGIE intended towards the entire LGBTI community through their attack on an individual. These CSOs are more capable of promoting and expanding their provision of such services as needed in open societies, where the potential political and security risks of assisting marginalized communities are lower than in regimes that are semi-hostile or hostile to the advancement of the rights of LGBTI people or to the respect for human rights in general.

**Lawmakers**

Lawmakers promulgate criminal statutes and, therefore, draft the rules under which crimes are investigated and prosecuted. Lawmakers can ensure police and prosecutors have the appropriate tools to address bias-motivated crimes based on SOGIE through both substantive and procedural legislation and the appropriation of sufficient, targeted resources.

**Media**

Media outlets are often the primary source of public information about redress for bias-motivated violence based on SOGIE. Journalists may report on the occurrence of violence and the subsequent community, justice sector, and legislative responses. In open as well as hostile and semi-hostile environments for LGBTI people, journalists who choose to focus on these issues may face personal and political pressures or security threats about how they present these issues in their writing. Regimes that aggressively close independent media outlets or pursue individual journalists on criminalized libel or defamation charges can impede accurate and ap-
appropriate reporting about bias-motivated violence based on SOGIE and the progress of enhanced responses. In more open societies, independent journalists are more structurally capable of focusing on their duty to ensure high quality and fact-based reporting on each phase of the response to violence impacting the LGBTI community. Relatedly, when media outlets sensationalize such incidents or use judgment-loaded language to describe survivors, they may exacerbate the harm against both the individual and the community and contribute to increased reluctance to report such incidents out of fear of unwanted media attention.

Challenges to implementing enhanced responses

The ABA recognizes that the goals of the Framework are ambitious and that their fulfillment faces many challenges, particularly in hybrid and autocratic regimes where the judiciary is not independent, as well as in democratic regimes in which homophobia or transphobia is widespread, including among justice sector actors. The ABA Justice Works Program has identified some of these challenges below and has drafted the Framework to take them into consideration and attempt to minimize their impact for stakeholders who seek to implement enhanced responses to bias-motivated violence based on SOGIE. The examples provided throughout the document acknowledge these challenges and, when possible, highlight specific ways that certain stakeholders have pursued meaningful responses despite the presence of factors that might slow or block progress.

Anti-LGBTI legislation

Repressive legislation is one principal and significant barrier. In several countries, legal frameworks can perpetuate bias-motivated violence based on SOGIE by criminalizing same-sex behavior or by limiting LGBTI persons’ access to legal systems and processes. These legal systems create a climate of intolerance that breeds, enables, and even encourages bias-motivated violence by devaluing people with non-normative sexual orientation or gender identity.

Examples of such legal frameworks include:

**Laws that criminalize same-sex activity or homosexual identity**

These laws provide criminal sanction for sexual activity between two people of the same gender and carry a range of penalties. They can be defined narrowly or broadly, encompassing very specific acts, a broad category of indecency, or specific identities. In several countries, laws have been proposed that include the death penalty for homosexuality.

**Lack of legal gender recognition**

Most legal systems do not provide a way for transgender people to change their personal documents easily, or at all. This absence of a legal way to live in society with documents that correspond to one’s gender identity perpetuates stigma, intolerance, and bias to varying degrees throughout the world.

**Exclusion from legal institutions**

Some countries have instituted laws that define the institution of marriage as between one man and one woman. These laws appear at all levels, from sections of local legal codes addressing family law to constitutions with the highest legal authority.
Other factors that can slow down or impede enhanced responses include:

**Differences in legal systems**
The approaches described in the Framework are drawn from a variety of different legal systems throughout the world. Some initiatives depend on the legal processes under common law; others are applicable only in civil law jurisdictions. The lack of a uniform system of law across jurisdictions remains a challenge to developing and implementing one universally applicable solution to strengthen responses to bias-motivated violence. However, the principles that underlie the approaches in this Framework seek to inspire and inform stakeholders so that enhanced responses can be adopted and transposed despite differences in legal systems.

**Weak structural incentives for justice sector officials for enhanced responses**
The success of this Framework also depends upon the political will of government actors to allow justice sector actors and CSOs to pursue enhanced responses to bias-motivated violence based on SOGIE. Politicians’ attitudes about and biases toward LGBTI people, their degree of willingness to respect civil liberties and fundamental freedoms, the demands they feel from constituents, and the “political business cycles” that shape election campaigns can all shape government openness to LGBTI justice issues, including responses to bias-motivated violence based on SOGIE. The composition of the government can also shape the staffing of justice sector institutions. Thus, the attitudes of justice sector actors, some of whom may be appointed or confirmed by executive branch officials, can also counter or reinforce weak political incentives to address bias-motivated violence based on SOGIE. In some cases, justice sector and civil society collaboration to provide an enhanced response can mitigate weak government commitments to addressing bias-motivated violence based on SOGIE; in others, the restrictions on civil society activity, or the capacity and attitudes of justice sector actors may not lend themselves to vibrant responses in the face of hesitant governments.

**Low capacity of judicial institutions**
Strengthening responses to bias-motivated violence by utilizing a coordinated approach also presumes that various justice system actors have the capacity to fulfill their formal duties. In certain cases, the low capacity of justice sector institutions and weak rule of law can impede implementation of the approaches identified in this Framework. For instance, the absence of an independent judiciary or prosecuting authority can weaken the commitments of justice sector actors to impartiality and fair procedures. When these principles and norms are not respected, it is more difficult for victims of bias-motivated violence based on SOGIE – as well as the broader LGBTI community observing the state response to such violence – to get the enhanced responses they need.

**Government attitudes about LGBTI advocacy**
Change in the government’s composition can also lead to change in the willingness of political leaders to work with LGBTI CSOs or to spend political effort on strengthening responses to bias-motivated violence. Enhanced, multi-stakeholder approaches and relationship building are vital to ensure that such changes in political leadership do not significantly undermine institutional responses to violence and to minimize the impact of such changes on the national and local LGBTI movement.

**Non-government opposition to protecting the rights of LGBTI people**
Throughout the world, opponents still attempt, with varying degrees of success, to deny fundamental rights to LGBTI people, including access to justice for LGBTI survivors of violence. For example, the Alliance Defending Freedom is a U.S.-based nonprofit operating internationally that advocates against the full legal inclusion of LGBTI people. The Southern Poverty Law Center has identified this organization as a hate group that supports the criminalization of homosexuality. The ABA Justice Works Program seeks to address that denial of rights by emphasizing the relationships between the LGBTI community,
represented by civil society, and those responsible for the government’s response to violence, but also recognizes that the Framework for Enhanced Responses for Bias Motivated Violence Based on SOGIE is only one part of the global movement to promote inclusion and acceptance of all people, regardless of sexual orientation or gender identity.

**Fragmented voice from the LGBTI community**
In many societies, no one organization represents the needs and interests of the LGBTI community. Many jurisdictions have more than one CSO working for members of this population, each with specific mandates, objectives, and priorities regarding the LGBTI community or segments of the LGBTI community that they represent. Sometimes, organizations or groups might only represent one part of the LGBTI community, such as lesbian, bisexual, or transgender women, providing opportunity for leadership on issues that affect that particular subgroup. This diversity in representation, while often positive to account for the plurality of the LGBTI community, could pose coordination challenges when authorities or justice sector actors seek access to the LGBTI community or make efforts to establish and maintain relationships with representatives of the community. These coordination difficulties are often surmountable and are not always impediments to advocacy and relationship-building; at times, the involvement of multiple civil society actors and umbrella groups can also increase the quality of outputs from such processes even if they may take longer to achieve.

**Risk of retraumatization**
Survivors of violence who have been targeted because of their SOGIE often have a fear of retraumatization, as discussed throughout this Framework. They may be reluctant to report the incident, or the bias underlying the incident, to authorities because of fear that they will be subject to discrimination, or sometimes violence, at the hands of authorities.

**Fear of coming out**
Survivors may feel a sense of shame around the disclosure of sexual orientation or gender identity if they do not have clear signals of inclusion and acceptance from authorities. If the individual has not “come out” and told their friends and family about their sexual orientation or gender identity, they might fear telling civil society actors or state authorities as well. Moreover, depending on the levels of acceptance in their society, the person might have internalized homophobia or transphobia, and the violence that they experienced can reinforce their sense of shame.

By tailoring the scope of the Framework, the ABA Justice Works Program has attempted to help stakeholders navigate these challenges and recognize the contexts where cross-sector, enhanced approaches can be effectively initiated and accelerated through each phase in the life cycle of response to bias-motivated violence based on SOGIE so that all interests in holding perpetrators accountable are considered throughout the process.
III. ROADMAP FOR ENHANCED RESPONSES

This Framework provides guidance for various stakeholders to implement multi-stakeholder, cross-sector initiatives that take into consideration the various interests at play after bias-motivated violence based on sexual orientation or gender identity has occurred. This occurrence is the point when a person experiences interpersonal violence based on SOGIE, triggering the need for responses from CSOs, psychosocial support service providers, and justice sector actors, among other stakeholders.

The roadmap for enhanced responses is organized by stages in the potential response to bias-motivated violence based on SOGIE after the occurrence. It describes what constitutes an enhanced response during (i) the immediate documentation and provision of psychosocial support to survivors; (ii) the intermediate measures for recourse through the justice sector (from investigation through trial and sentencing); and (iii) the long-term legislative responses to ensure adequate resources and tools for state and non-state actors to implement a survivor-centric, enhanced response to bias-motivated violence, including but not limited to crafting or improving hate crimes statutes. One subsection is devoted to each stage. The Framework identifies what constitutes an enhanced response through joint efforts by stakeholders, as well as where the various interests of the survivor, the LGBTI community, and those charged with upholding the rule of law may be overlapping or in conflict. The Framework does not provide a one-size-fits-all compendium of best practices, but rather outlines the considerations involved in each phase of response and offers possible approaches to be tailored to a reader’s specific context.
Part I
Immediate responses

Documenting bias-motivated violence based on sexual orientation, gender identity, or gender expression and supporting survivors of violence

When a person experiences bias-motivated violence based on SOGIE, there are a variety of ways that an immediate response from the community or justice sector may be triggered. Depending on the severity of the violence, and the individual’s view of different authorities, a survivor might choose to access different stakeholders in the immediate aftermath of the incident, if they report the incident at all. Of those who report, they might go first to trusted family members, friends, or an LGBTI CSO when available. If the violence is severe and requires immediate medical attention, then Emergency Medical Technicians or Emergency Room staff may be the first point of contact. Police may observe the crime while it is occurring or be called to the scene by the survivor or by witnesses. It is critical that coordination and communication among stakeholders be preestablished and routine to ensure an appropriate immediate response that supports the individual’s needs while, ideally, preserving and furthering the ability of justice sector actors to pursue accountability for perpetrators.

In some jurisdictions, support service providers provide information and guidance to survivors before and after they report a violent incident and can formally accompany the survivors through the criminal justice system if the perpetrator is charged with a crime. Ensuring that survivors have the medical attention, psychosocial support, and legal information necessary to make informed decisions is critical. All stakeholders should be prepared to assist survivors throughout the various processes involved in responding to violence, taking into consideration that, in cases of bias-motivated violence based on SOGIE, the interests of the survivors, the concerns of LGBTI community, and the interest in maintaining the rule of law might not always exist in concert.

Case Study 1: Survivor-centric approach for transgender people
Galop

When mistrust of law enforcement prevents authorities from gaining the information necessary to track the rate of bias-motivated violence, psychosocial support service providers can use survivor-centric methods, such as anonymous reporting systems, to gather valuable data while avoiding retraumatization of the survivor. Galop, a UK-based LGBTI anti-violence charity, did just this when they noticed that transgender people were often reluctant to report incident of violence to authorities.

Although Galop was founded in 1982, their “Assisted Reporting” system was only launched in the early 2000s as a way to expand upon years of successful collaboration with UK police from 1999-2001. Galop found that even after these successes, challenges remained that sustained a widespread reluctance on the part of transgender survivors of violence to report their cases to law enforcement authorities, in part due to the frequency of the violence and the infrequency with which justice is served in such cases. Many also fear the risk of retraumatization in the courtroom, where defense attorneys attempt to discredit the survivors of the violence. In response to this challenge, Galop developed an anonymous reporting system through which individuals who experience violence can report incidents. Law enforcement has recognized the validity of these reports. Due to their anonymity, they cannot be used for prosecution, but the reports remain a valuable source of information for developing police strategies to respond to this violence and for the police and Galop to monitor rates of violence. Galop also provides a variety of additional ways for survivors of violence to safely interact with law enforcement, including putting the survivors in touch with LGBTI police liaisons who have been specifically trained on bias-motivated crimes based on SOGIE.
At the Justice Works Expert Workshop, participants emphasized that any support provided by responding stakeholders must be centered on the needs of the survivor, ensure the safety and emotional health of the individual, and take into account survivor preferences for moving forward with any formal investigation and/or legal proceedings. The survivor’s interests may vary depending on the political or cultural context, whether or not the person publicly identifies as a member of the LGBTI community, whether or not society has a cohesive LGBTI community, and whether or not the individual is a part of multiple marginalized groups. Survivor-centric responses help to take these complex experiences and needs into account by emphasizing the importance of listening to the individual survivor and avoiding pressure to pursue a particular kind of recourse of the many options available.

**Survivor-centric responses: Avoiding retraumatization**

Retraumatization is the emotional re-experiencing of a past traumatic event caused by a reminder of the initial occurrence. Retraumatization can be triggered by situations that replicate the dynamics of the original traumatic event, such as an attitude of expression, or by certain environments that recreate the sense of loss of power, control, or safety. A critical element of a survivor-centric response to bias-motivated violence is avoiding retraumatization. A survivor-centric response recognizes, respects, and adjusts interventions to reflect that every survivor of bias-motivated violence based on SOGIE may have a different reaction that can impact their susceptibility to retraumatization and, similarly, their willingness to recount the incident or to request a justice sector response.

**Indicators of Bias Based on SOGIE**

1. The survivor’s perspective that the incident was motivated by bias
2. Overt homophobic or transphobic statements during the violent incident
3. Prior homophobic or transphobic statements by the offender
4. The relationship between the survivor and the offender
5. Levels of brutality, including possible sexual nature of the violence
6. Time and location of the incident
7. Desecration of symbols, such as flags
8. Absence of other motive

*Figure 2*
Groups involved in the immediate response to violence should also have the capacity to document the indicators of bias that motivated the incident. Documentation of violence based on a person's SOGIE involves recording indicators that the perpetrator was acting based on the survivor's real or perceived sexual orientation or gender identity.

The Organization for Security and Cooperation in Europe's Office of Democratic Institutions and Human Rights (ODIHR) has published indicators of bias-motivated violence based on SOGIE that are widely regarded as comprehensive and current, encouraging those documenting violence to recognize when the indicators in Figure 2 are present.

The relevance and understanding of each indicator is dependent on country context, and the social, cultural, and legal environment should always be taken into consideration when stakeholders are gathering the relevant information to document incidents of bias-motivated violence based on SOGIE.

**Survivor reporting of bias-motivated violence based on sexual orientation, gender identity, or gender expression**

Documenting indicators of bias-motivated violence based on SOGIE has two different purposes: to monitor the extent and typology of bias-motivated violence based on SOGIE and to create a record for the pursuit of justice under criminal law. When documentation serves the purpose of monitoring, all personally identifying information should be stripped from the record to avoid any risk of reprisal. Keeping this sensitive information confidential is especially important in contexts where homophobia and transphobia are enshrined in law or are socially sanctioned.

The timely and appropriate documentation of the bias – whenever it is amenable to the survivor – can also create a record that justice sector actors can eventually use for the investigation and prosecution of perpetrators. Stakeholders involved in documentation, such as a CSO or a psychosocial support service provider, should discuss with survivors whether they want their information to be used for public advocacy or to begin a criminal investigation. Stakeholders are also ethically obligated to describe the kinds of confidentiality guarantees available before survivors determine whether to provide informed consent.

The subsections below describe approaches for the effective documentation of bias-motivated violence based on SOGIE and appropriate provision of support services to survivors.
Community-centered approaches to responding to bias-motivated violence can allow a two-way sharing of expertise between survivors and documentation experts. This newly-created channel can be used to facilitate the gathering of information to shed light on trends that may not have been noted previously. Working in collaboration with community leaders, members, and advocates, UNICXS, a project focused on the public health of transgender women in Lima, Peru, gathered enough evidence to indicate that local authorities were systematically engaging in violence against transgender women sex workers.

UNICXS’s investigative team began the initiative by conducting two meetings with transgender women working as sex workers in two well-known neighborhoods of Lima. The UNICXS team referred back to these women’s testimonials as the team built up a strategy on how to improve documentation of violence against transgender women sex workers to demonstrate the extent of the problem. Based on the early discussions with LGBTI community members, the project created a survey instrument that could be easily used in the field and would allow them to categorize each incident.50

UNICXS then teamed up with two local transgender advocates from the community, trained them on the survey methodology, and sent them out for several months to document cases of abuse. Within 11 months, the two advocates documented 150 cases of violence against transgender women, 104 of which were specifically committed against sex workers and 69% of which were perpetrated by the police themselves. The violence ranged from insults to the use of weapons, including dogs.51 The strategy resulted in a ten-fold increase of documentation of cases of violence against transgender women by UNICXS compared to the previous year.

The results of this survey were eventually used by a mainstream daily newspaper in Lima to report on the increased risk of violence experienced by transgender women, an important break from the media’s frequent characterization of transgender women as “dangerous elements.”52

However, the women who told their stories had an expectation that, after they reported the violence, authorities would investigate and prosecute offenders, which did not happen due an extreme backlog in criminal prosecutions in Peru. This unfulfilled expectation created significant pressure on, and certain resentment towards, the peers documenting the violence, and the strategy was discontinued. While reports by LGBTI survivors of violence can serve the important role of helping to monitor the extent of such violence, survivors also often expect a response from justice sector actors to hold the perpetrators criminally accountable.

A survivor’s first point of contact after an incident is often a trusted CSO or an informal network of LGBTI community members. Many CSOs work with LGBTI people, whether through advocacy, social support, or direct health service provision, including CSOs with an explicit focus on serving or representing the LGBTI community. However, while these organizations or networks might provide a safe space in which a survivor can recount the incident, staff and volunteers may not have the technical expertise to provide psychosocial support to the survivor or the resources to document the incident to create a record in anticipation of criminal prosecution. Recognizing the role of CSOs, particularly those focused on SOGIE, as a trusted first contact for LGBTI people who have experienced violence, other stakeholders, such as medical or psychosocial support service providers and police, should work to forge partnerships with these community organizations to provide them, and their networks, technical support. By building relationships with these CSOs and unofficial networks, authorities can complement the safe space provided by these organizations with technical expertise regarding documentation and supporting survivors of traumatic events.

**Providing medical support services**

If a person who has experienced bias-motivated violence needs immediate medical attention, the professionals who provide that care may be able to collect important evidence and information about the crime, including indicators of bias. Whether the survivor receives medical care at the site of the crime by Emergency Medical Technicians or visits an emergency room at a hospital, medical professionals should possess the cultural competency to treat LGBTI patients, recognize signs of bias-motivated violence in any and all patients, and respond to signs of such violence in ways that avoid retraumatizing the survivor. Measures may include asking only the questions that are directly relevant to the medical treatment, obtaining the survivor’s consent before disclosing any information to other stakeholders who have an interest in responding to bias-motivated violence based on SOGIE, and asking survivors before they involve state authorities. With the survivor’s consent, the care provider may contact other relevant stakeholders with technical expertise, including psychosocial support service providers, legal service providers, and local LGBTI CSOs, if available. Emergency medical providers should take measures to preserve forensic evidence and record
Providing psychosocial support services

Service providers and LGBTI organizations should invest in training to better understand their roles and responsibilities when providing psychosocial support services to survivors of bias-motivated violence. Cross-training imparts technical skills to staff and volunteers at LGBTI organizations, as well as substantive knowledge about SOGIE to psychosocial support service providers. That knowledge includes information about the social stigma that LGBTI people experience, the relationship between the LGBTI community and authorities, and the process for how to recognize and record indicators of bias-motivated violence based on SOGIE. By gaining this in-depth perspective on the experiences of LGBTI people, staff and volunteers who provide psychosocial support can better consider the needs of the survivor when the person is a part of the LGBTI community. Additionally, both CSOs working with LGBTI people and psychosocial support service providers should receive training on recognizing and responding to bias-motivated violence by relevant experts. Beyond the substantive learning that occurs through the trainings, psychosocial support service providers’ connections with LGBTI organizations can provide important signals to survivors. If a psychosocial support agent mentions the training or the name of the CSO devoted to SOGIE topics to a survivor, it signals that they have competency and can be trusted to hear the specific details of the violent incident. Several successful initiatives, presented in this Framework, demonstrate methods of effective coordination for psychosocial support service providers and LGBTI CSOs.

Initial police response

Police officers may respond to an incident of bias-motivated violence in the moment, such as when they witness the crime in progress, or when they are called to the scene of a reported incident. Officers always have a duty to stop violent crime in progress. In addition to ensuring that the immediate needs of a survivor are met, police officers who suspect that violence was motivated by SOGIE should recognize and document indicators of bias (page 20) at the scene and verify any documentation of bias by CSOs and service provision stakeholders.
Police officers responding to reports of violence should be able to recognize the indicators of bias-motivated violence based on SOGIE and accurately and sufficiently record them for the official file or incident report without retraumatizing the survivor. That incident report is critical because it often marks the beginning of a criminal investigation. Like civil society and service provision stakeholders, police must understand the importance of such bias indicators, including reports of bias from the survivor and witnesses. The quality of this information influences the success of any intermediate responses that the survivor may seek through the criminal justice system, including further police investigation, as described below. Effective documentation practices can help to reduce the number of times a survivor will have to recount the violent incident during prosecution of an offender.

Representatives at the Justice Works Expert Workshop in Lima, Peru, discussed how to improve the sharing and easy verification of such information among CSOs working with LGBTI people, psychosocial support service providers, and law enforcement. They suggested giving police training on data collection; collecting data through mobile applications or websites; and establishing a direct interface between CSOs, survivor support services, and police databases. Police might also consider creating protocols with civil society and support service providers to share, verify, and preserve information that can become part of an official file or incident report.

Providing legal information after an incident

In some countries, the first contact with the legal system for many survivors of bias-motivated violence is not through law enforcement or prosecutors but through other legal professionals. These legal professionals may be lawyers at CSOs, including LGBTI and human rights NGOs, or individual lawyers with ties to the survivors. Because these legal professionals are not state actors, survivors may be more comfortable reporting violence to them and seeking their assistance in understanding available legal options before deciding whether and how to proceed with the police and the justice system.

When LGBTI organizations or other CSOs have lawyers on staff, these professionals may provide much-needed legal guidance, both for the organizations and survivors of bias-motivated violence. Lawyers can link survivors to medical and psychosocial support service providers, provide legal information to survivors about the role that documentation plays in facilitating redress through the criminal justice system, inform them about the option to pursue criminal cases and the risks involved, describe any viable mediation options in their specific country contexts, and accompany them through the criminal justice process. In some jurisdictions, lawyers can even formally participate as victims’ advocates in the investigation and prosecution of bias-motivated violence.45

In some contexts, such as in many former Soviet Republics, defense advocates (in Russian, members of the Advokatura) are the first points of contact for community members seeking legal assistance, including assistance related to incidents of bias-motivated violence based on SOGIE.46 Members of the Advokatura are perceived as independent from the government and thus often less intimidating.
than other justice sector officials for survivors to approach for more information about legal options after violent incidents. However, defense advocates, like other stakeholders not familiar with the LGBTI community, risk unintentionally retraumatizing survivors with insensitive questions. Similarly, LGBTI community organizations and emergency responders that provide immediate support may not have established connections to the first-line defense advocates who would assist in beginning to bring cases to trial, if desired. In systems where citizens access defense advocates, coordination between CSOs and the Advokatura should be established and maintained to minimize risks of retraumatization and maximize advocates’ linkages to relevant CSOs and service providers.

Media reporting on bias-motivated violence against LGBTI people

When a bias-motivated violent incident occurs, the primary way that the general public learns about that violence is through media outlets, whether through newspapers, radio, television, or social media. How the media reports, if at all, on these incidents of bias-motivated violence can critically shape public opinion, profoundly impact the broader LGBTI community, and influence the state’s response. It is critical for members of the media to engage and develop relationships with both law enforcement and LGBTI civil society to ensure that the media are equipped to provide accurate information in a way that affirms the dignity of the LGBTI community and avoids stigmatization.

Immediate responses by the media to bias-motivated violence based on SOGIE should follow several key principles. Members of the media should treat any identifying details of the survivor with extreme sensitivity, as the publication of those details might risk reprisals or further violence. If the survivor has not disclosed their sexual orientation or gender identity, publication of personal details could also have detrimental effects on their personal or professional life, and ethical reporting will never include those details. Similarly, when the violence results in death, the media should consider the possible effects of including details about a victim’s sexual orientation or gender identity, particularly in the case of transgender murder victims who are misgendered in coverage. If outlets routinely report on bias-motivated violence based on SOGIE, it risks normalizing these acts and increasing the LGBTI community’s fear of being targeted. Sometimes, publicity around an incident might also compromise the subsequent investigation by police, jeopardizing the success of an eventual prosecution if justice sector actors choose to pursue a conviction. Reporting in collaboration with LGBTI CSOs can help overcome these multiple challenges.

Case Study 6: Harnessing the media to tell the story of violence

Grupo Gay da Bahia

When authorities fail to record bias-motivated violence, CSOs can use their relationships with media outlets to create an unofficial record that highlights both challenges faced by the LGBTI community and any inadequacies in the official response. Grupo Gay da Bahia (GGB), Brazil’s oldest organization monitoring violence based on SOGIE, has spent decades collecting data on murders of people due to SOGIE. GGB provides this information to media outlets to counter false narratives about the Brazilian LGBTI community. GGB began collecting statistics about bias-motivated murders in the late 1970s and has built a reputation as the essential source for information on this subject in Brazil. To ensure that the information is accessible to all, the group provides this data to media outlets in the form of an annual report. Recent reports have also been translated to English, allowing greater accessibility to the international community. GGB, in coordination with international media sites, has also taken advantage of major media events in the country, such as the World Cup, to further distribute this information.

The widespread dissemination of this information is essential, particularly since Brazilian authorities do not collect data or pursue justice for LGBTI people who experience violence or are murdered due to SOGIE. GGB’s documentation of the problem is key to demonstrate the need for solutions through more enhanced responses, even when there are systemic challenges to achieving those solutions.
Immediate responses in challenging environments

Pursuing immediate-term enhanced responses to bias-motivated violence based on SOGIE is particularly difficult – if not impossible—in contexts where there is little or no political will to address bias-motivated violence based on SOGIE, where historical stigma or criminalization discourages people from disclosing their sexual orientation or gender identity, or where legal frameworks criminalize LGBTI identities. Stakeholders in these settings should take great care to avoid putting survivors, themselves, and their allies at risk of physical and material reprisals. Even in such environments, there may be certain opportunities for survivors and their representatives to report incidents of bias-motivated violence or pursue investigations and prosecutions of specific incidents. For example, survivors and their representatives in certain countries have reported incidents of bias-motivated violence but removed all mentions of SOGIE in reports to the police, insisting on the investigation of incidents that violate laws criminalizing interpersonal violence. Additionally, through targeted, strategic outreach, CSOs have identified individual police officers who will fulfill their duty to investigate violent crime regardless of the SOGIE of the survivor. CSOs can attempt to form communication channels with those rare, sympathetic actors to explore whether it is feasible to pursue a justice sector response, weighing the risks of reprisals and retraumatization of the survivor.

In such environments, CSOs play a critical role in building a body of data that tracks the type and extent of violence in a country. Even in homophobic or transphobic legal regimes, there may be possibilities for advocates to recognize and record bias motivation based on SOGIE to inform longer-term advocacy strategies.
### TAKEAWAYS

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<thead>
<tr>
<th>Documenting evidence of bias motivation in the immediate response is critical to both survivor care and advancing a case through the different phases of the criminal justice process.</th>
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<tr>
<td>• Recognize indicators of bias based on SOGIE (Figure 2 on page 20);</td>
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<tr>
<td>• Prevent retraumatization of the survivor through effective and sensitive documentation of bias motivation, in particular by avoiding excessive recounting of the incident by the survivor;</td>
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<td>• Establish protocols for stakeholders for information collection in the immediate response to violence based on SOGIE;</td>
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<td>• Be clear about the purpose of any information gathering and obtain consent from the survivor to share any information, according to ethical protocols;</td>
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<td>• Strip all documentation of personally identifying information.</td>
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<tr>
<th>Ensuring the safety and well-being of the survivor is paramount in the immediate response to violence targeting LGBTI people.</th>
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<tr>
<td>• Representatives of the LGBTI community should be a key source of information for psychosocial support service providers, law enforcement, and other initial responders;</td>
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<tr>
<td>• Stakeholder organizations and agencies play complementary roles, with specific types of expertise and access to survivors, and should work together and be able to make referrals among themselves to culturally competent, trusted contacts within such entities;</td>
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<tr>
<td>• Recognize and respect that a survivor might not want to pursue a case through the justice system and that authorities acting without cultural competency risk retraumatization.</td>
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<tr>
<th>Formal and informal LGBTI networks often have access to survivors of violence that other stakeholder groups do not, and these existing networks can be engaged by authorities to facilitate documentation of evidence.</th>
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<tr>
<td>• Establish relationships among stakeholder organizations, such as psychosocial support service providers and LGBTI CSOs, for regular reciprocal trainings and capacity building on complementary expertise, including capacity on bias-motivated violence;</td>
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<tr>
<td>• Sign-post to stakeholder organizations those services that they are best suited to provide as part of an enhanced response to bias-motivated violence based on SOGIE;</td>
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<td>• Create a welcoming environment so that a survivor is comfortable disclosing that a violent incident was motivated by bias based on SOGIE.</td>
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<tr>
<th>Cross-training among stakeholder groups with complementary expertise and knowledge helps build capacity that can facilitate an enhanced response to bias-motivated violence based on SOGIE.</th>
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<td>• Record indicators of bias toward SOGIE, even if there is no justice sector requirement to document bias during the investigation;</td>
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<tr>
<td>• With the survivor’s permission, share data about violence motivated by SOGIE, including indicators of bias, among various stakeholders, for the purpose of monitoring the extent of violence and trends;</td>
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<tr>
<td>• Protect confidentiality when such data is shared, including through removal of any personally identifiable information.</td>
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<th>Verifiable data about bias motivation should be collected even when collection is not legally mandated and a survivor does not seek criminal investigation.</th>
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<td>• Build the capacity of LGBTI organizations to accompany survivors throughout the justice sector response to bias-motivated violence;</td>
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<td>• Ensure that survivors are aware of the risks and potential benefits of seeking justice;</td>
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<tr>
<td>• Respect a survivor’s choice not to pursue a case through the criminal justice system.</td>
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<th>Survivors of violence based on SOGIE should be aware of the process for seeking justice, including the possibility of not obtaining a conviction.</th>
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<tr>
<td>• Establish and cultivate robust relationships and ongoing communication between LGBTI networks and justice sector actors, both prior to and after a violent incident;</td>
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<tr>
<td>• Recognize that relationships between the LGBTI community and authorities might have been marked by antagonism.</td>
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<td>TAKEAWAYS</td>
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| New technologies should be used when appropriate to enhance effective cross-sector responses. | • Establish protocols by which law enforcement evaluates the utility of new technologies to document bias-motivated violence;  
• Train different stakeholders, in particular community members and law enforcement, on the use of these technologies for such purposes. |
| Lawyers are often well positioned to build relationships with survivors during the immediate response phase and can facilitate smoother coordination of enhanced responses. | • Recognize that survivors may be more comfortable reporting violence to lawyers at CSOs or individual lawyers who specialize in representing survivors of violence, rather than to justice sector authorities;  
• Employed or volunteer legal professionals at LGBTI organizations or other CSOs can provide legal guidance and other expertise to survivors;  
• Lawyers should collect information about bias-motivated violence, without personally identifiable information, to build a body of knowledge that demonstrates the extent of the problem. |
| Media outlets should report on incidents of bias-motivated violence based on SOGIE accurately, with appropriate terminology and language, without jeopardizing subsequent steps in pursuing criminal justice. | • Cultivate relationships between media outlets and LGBTI community representatives to ensure accuracy in reporting;  
• Avoid sensationalizing the violent incident in a way that perpetuates the stigma of LGBTI people or normalizes the violence they experience;  
• Do not report on personally identifiable information to avoid reprisals against the survivor of violence;  
• Accurately report the gender of transgender victims of fatal violence. |
Conclusion

Immediate responses to bias-motivated violence based on sexual orientation, gender identity, or gender expression

Avoiding retraumatization of the survivor while documenting the violent incident for purposes of both pursuing criminal justice and informing longer-term advocacy and policymaking is paramount in the immediate response to violence. All parties formally involved in responding to violence should be equipped to recognize indicators of bias-motivation based on SOGIE, and those indicators should be recorded as early as possible. Protocols should be instituted to minimize how often a survivor must recount, and potentially relive, the violent incident. While the survivor’s well-being is central during the immediate response phase, police and others also begin to lay the groundwork for any potential criminal investigation and/or prosecution of the incident. Finally, as news about the incident of bias-motivated violence starts to reach the LGBTI community, communication from the authorities on how they are treating the incident may help mitigate the harm and fear experienced by members of the targeted community.
Part II
Intermediate responses
Creating an official record and holding perpetrators accountable

After the immediate response to an incident of bias-motivated violence based on SOGIE, investigators must follow up on initial reports of the incident; prosecutors must determine whether to file charges, and if so, under which criminal statutes; and judges must ensure fair and impartial legal proceedings and are ultimately responsible for safeguarding the rights of accused and survivors alike. During intermediate responses, the survivor of bias-motivated violence and CSOs representing LGBTI people are generally no longer as directly and actively involved in shaping justice sector authorities’ interventions and, instead, most often experience intermediate responses as beneficiaries. As a result, this section does not include explicit guidance for activities of survivors or CSOs. Nonetheless, CSOs can use the approaches outlined in this section to inform their advocacy when calling for enhanced responses in their jurisdictions.

It is imperative that justice sector actors adopt a survivor-centered approach to investigation, prosecution, and judicial decision making, but these authorities are also simultaneously responsible for upholding the rule of law. As a result, as discussed extensively during the November 2017 Expert Workshop, it is possible there will be some tension in the intermediate phase between holding perpetrators accountable through public criminal proceedings and respecting a survivor’s wishes, for example, not to emotionally relive the trauma of the incident by providing testimony in a criminal prosecution or to prevent reprisals or unwanted public attention as a result of a high-profile criminal case. It is critical, therefore, for justice sector actors to have the cultural competency, understanding, and sensitivity to navigate this tension and to work effectively with LGBTI survivors of violence and their communities.

Investigating bias-motivated violence based on sexual orientation, gender identity, or gender expression

Frequent and meaningful communication among law enforcement, survivors, and the LGBTI community is critical to an enhanced response to bias-motivated violence based on SOGIE. These lines of communication are ideally established and maintained proactively rather than in response to a specific incident of bias-motivated violence. To facilitate open communication, police may create structures within their forces that provide cultural capacity building around SOGIE for police officers and simultaneously encourage LGBTI persons to report violent crimes, including bias-motivated ones. Police can also make affirmative and deliberate efforts to work with the LGBTI community during the investigation of violent crime to demonstrate the commitment of law enforcement authorities to bringing perpetrators of bias-motivated violence to justice.

Law enforcement officers should carry out their investigations with knowledge of the indicators of bias relating to SOGIE (page 20) and general knowledge about bias-motivated violence. Police must be able to recognize the indicators of bias in documentation received during the immediate response, even if they personally were not present. Officers must also be able to recognize and respond to those indicators throughout the subsequent investigation, asking relevant questions in a sensitive manner that avoids retraumatization and encourages survivors to disclose additional evidence about the perpetrator’s bias motivation that the survivor might not have mentioned to the first-responding officer or service providers. Even when a victim does not survive a bias-motivated attack, witnesses and others close to the victim may provide valuable information to demonstrate motive.

Just as in the immediate response, it is critical that law enforcement rely, to the extent possible, upon protocols through which indicators of bias can be documented and verified in ways that minimize the number
Strategies for successful engagement and communication. In some contexts, pursuing initiatives such as those here will require domestic and international pressure on reluctant authorities to recognize bias and hold offenders accountable. In other contexts, law enforcement officers may already recognize the importance of investigating bias-motivated violence based on SOGIE and seek increased capacity to conduct sensitive and culturally appropriate investigations, hoping to increase survivors’ willingness to report and proceed with criminal charges against perpetrators.

One initiative that can help address competing interests among survivors, the broader LGBTI community, and law enforcement is the establishment of a dedicated LGBTI Liaison Unit within police departments. A critical function of LGBTI Liaison Units is helping to build the capacity of police officers across departments through training, thereby combatting bias within the force and instilling sensitivity toward the LGBTI community. Members of these units can also be assigned to engage in targeted outreach with the LGBTI community in their jurisdictions. LGBTI Liaison Units signal that law enforcement recognizes the specific needs of the LGBTI community and wants to build greater trust with LGBTI people. However, if the units are not given the appropriate training and internal recog-
a police force, members of law enforcement should periodically meet and communicate regularly with representatives from CSOs in their jurisdictions that represent LGBTI people to stay up-to-date on the specific needs of the community. Such meetings and communication between law enforcement and the LGBTI community could take a variety of forms, including community forums, townhall meetings, or open-door sessions. Through these activities, police can provide relevant updates about ongoing investigations and changes to their procedures for reporting or investigating bias-motivated violence based on SOGIE. This level of transparency with the community helps demonstrate that law enforcement officials take crimes against LGBTI people seriously and provides a level of accountability for the department with the community.

Finally, during investigations of bias-motivated violence based on SOGIE, law enforcement should clearly communicate to the media the importance of their work and outline their approach. Later, they should provide updates on the status of their investigations. Law enforcement might be asked to provide information to the media regarding a potential incident, and it is incumbent on them to ensure that the information they release prioritizes the needs and interests of the survivor to prevent retraumatization, protect privacy, and minimize the possibility of reprisals by the perpetrator or others. While respecting the interests of the survivor, police departments must also weigh the interests of the LGBTI community in feeling secure and the general societal interest in maintaining the rule of law.
specialized additional sentencing law for hate crime that applies. Prosecutors generally make determinations about whether to prosecute and under which statutes. Though a prosecutor's role is to hold a perpetrator accountable under criminal law, enhanced responses to bias-motivated violence based on SOGIE require the prosecutor to balance the state's interest in maintaining the rule of law, the LGBTI community's interest in safety and security, and the survivor's well-being and possible reluctance to participate in the prosecution. Communication among prosecutors, survivors, and LGBTI communities is critical to ensure appropriate weight is given to the possible competing interests. LGBTI CSOs often collect information on violent incidents and disseminate it through advocacy, particularly when authorities are not collecting official data on incidents of bias-motivated violence based on SOGIE. Therefore, those organizations can give prosecutors valuable information relevant to a prosecution. For instance, LGBTI organizations can often demonstrate patterns of violence in society that might not otherwise be available. Sometimes, prosecution can place a survivor of bias-motivated violence at risk of being targeted for retaliation from the original perpetrator or by others in society with similar bias toward LGBTI people. LGBTI organizations are well-positioned to identify and express these concerns to prosecutors, further helping prosecutors balance the above-referenced clear benefits of prosecuting bias-motivated violence against the interests of survivors. Similarly,
inclusion, transparency, and accountability. Prosecutors' offices should provide status updates on cases of bias-motivated violence based on SOGIE as they move through the criminal justice system. This outreach, balanced against the interest of authorities in advancing rule of law, helps to communicate to the broader LGBTI community that the case is receiving appropriate attention by authorities.

As criminal procedures move forward (or fail to progress), media reporting on the status of the prosecution of an incident motivated by SOGIE can help to ensure that the public, generally, and the LGBTI community, specifically, understand the steps that prosecutors are taking to hold perpetrators accountable and to deter bias-motivated violence based on SOGIE, as well.

The Department of Justice’s support for hate crime prevention has not only lead to convictions at the federal level, but also to improved recognition, investigation, and prosecution of bias-motivated violence at the state and local levels. The increase in prosecutions is directly related to the increase in documentation and reporting, first serving the purpose to monitor and understand the extent of the problem and later to build a case against a perpetrator.

if the survivor has not disclosed their sexual orientation or gender identity to family or friends, a prosecution could be extremely disruptive and distressing. Remaining sensitive to these concerns and pursuing the appropriate measures to protect a survivor’s privacy are paramount.

When a survivor wishes to pursue the prosecution of bias-motivated violence, prosecutors should use all options available under criminal law. Even in the absence of substantive or sentence-enhancing hate crime statutes, bias-motivated violence may be prosecuted under relevant criminal law provisions that penalize violence. Prosecutors’ offices, with the necessary political will and adequate resources, can create units or positions with specific competencies to handle bias-motivated crime directed toward LGBTI people, similar to LGBTI Liaison Units in police departments, described above. By having prosecutors with knowledge and understanding of specific issues faced by LGBTI people, as well as experience and expertise in prosecuting bias-motivated crime, these offices can build institutional capacity to successfully prosecute bias-motivated crimes based on SOGIE.

Many times, when survivors of violence report incidents to the appropriate criminal justice authorities, documenting the relevant facts and indicators of bias, they do not receive information about the resolution of the cases or information about why prosecutors decide not to press charges. Communicating about the process, regardless of outcome, can demonstrate prosecutors’ commitment to
Ensuring non-discriminatory access to redress for survivors of bias-motivated violence based on sexual orientation, gender identity, or gender expression

An independent, accountable, well-functioning judiciary is a central pillar of the rule of law, and the judiciary plays a central role in the administration of justice if a case is brought against an offender of bias-motivated violence based on SOGIE. Judges should act impartially and apply principles of due process to these cases, just as they would in any other, yet courts of law, historically, have often demonstrated institutionalized bias towards LGBTI people. Stakeholders can attempt to address this bias by taking one or several of the proactive steps described below to increase the likelihood that the judiciary responds fairly and comprehensively to cases of bias-motivated violence based on SOGIE.

Judiciaries should adopt ethical codes that require judicial staff to operate free from prejudice or bias based on SOGIE and adhere strictly to the principles of objective due process. Inclusive codes of judicial ethics should cover not only judges, but also court staff and clerks who help to administer justice and should compel judges to require that lawyers represent their clients without bias based on SOGIE, including vilifying or sensationalizing those aspects of identity.

In all legal systems, in principle, judges are responsible for ensuring equal access to justice and due process under the law for all, including for survivors of bias-motivated violence based on SOGIE. This duty to the rule of law should prevail over any personal biases. According to the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, “victims should be treated with compassion and respect for their dignity and are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.”

Gaining access to justice and due process should not retraumatize a survivor of bias-motivated violence based on SOGIE. To the extent possible, judges should minimize the need for the survivor to recount the violent incident directly and instead maximize use of documentation and indicators of bias recorded in the immediate phases of the response to violence.

Judges should also inform the survivor about the scope, timing, and progress of proceedings, maintaining full transparency about the potential length of adjudication in their jurisdictions. The trial might take place months after the violent incident occurred, and survivors can experience frustration with the apparent delay. Receiving information on anticipated timelines and status from the court reassures the survivor that the matter is being treated no less favorably than any other case by the courts.

Furthermore, “gay panic” defense arguments should be sanctioned. In some jurisdictions, what
More generally, judges can improve their response to bias-motivated violence based on SOGIE by increasing their knowledge and awareness of the issue, as well as recognizing that their own bias might be in tension with their duty of upholding the rule of law. Judges should take advantage of opportunities, available in some regions, to access resources and training programs provided by intergovernmental institutions, universities, or legal education centers that have developed curricula on the topics of SOGIE or bias-motivated violence, ideally designed in partnership with the LGBTI community.

Judges should avoid relying solely on one institution for training or accessing organizations not viewed as credible by the LGBTI community or relevant experts. Such resources and training programs can provide standards for the ethical operation of judiciaries concerning bias-motivated violence impacting LGBTI people, as well as best practices for working with survivors of violent crimes in a court of law. Publicly available training materials on investigating, prosecuting, and ensuring justice in hate crime cases are also available in a number of jurisdictions, including the well-regarded curricula published and used by ODIHR and the Council of Europe.

Through peer to peer learning, members of the judiciary can also learn from judges who have developed competency on SOGIE. Peer exchanges often foster more open conversations and dialogue, as there is a sense of shared purpose. Peer-to-peer activities could include thematic symposia on topics relating to SOGIE, exchange programs that impart substantive knowledge and exposure to inclusive processes, and the establishment of networks for the continued sharing of information. Peer-to-peer learning through professional networks can be facilitated by various types of institutions, such as

is known as the “gay panic” or “homosexual advance” defense was or remains an accepted affirmative defense to justify an offender’s violent acts toward an LGBTI person. The defense relies on the argument that a perpetrator’s violation of the law is allowable because a romantic or sexual advance by an LGBTI person should be interpreted as an act of provocation and, therefore, it is permissible for an offender to react in self-defense with violence. In 2013, the American Bar Association unanimously passed a resolution that called for the end of the use and acceptance of these arguments because:

Successful gay and trans panic defenses constitute a miscarriage of justice. One form of injustice is obvious: the perpetrator kills or injures the victim, and then blames the victim at trial based on sexual orientation or gender identity. In addition, the successful use of these defenses sends a message to the LGBT community that the suffering of a gay or trans person is not equal to the suffering of other victims, and will not be punished in the same manner. By the same token, in excusing violent behavior towards LGBT individuals, courts teach those who hold anti-LGBT bias that the law does not take bias attacks seriously. For those looking to hurt LGBT individuals, nothing can do more harm than the notion that violence, even homicide, is a reasonable response to a life lived openly.

Courts should reject affirmative defenses based on these arguments, as they reinforce the very bias that motivated the accused perpetrators to commit the violent crimes being prosecuted. Instead, courts should instruct defense counsels to focus on casting doubts on the elements of the crimes for which the accused perpetrators of bias-motivated violence based on SOGIE are being prosecuted.
Case Study 14: Working below the radar
ABA Rule of Law Initiative

In both contexts, ABA ROLI's reputation as a rule of law organization (rather than as an LGBTI-specific CSO) played a role in generating willingness among the stakeholders to participate in programming on these sensitive issues. Host government buy-in, however, was also a necessary condition for the programming to proceed. Contexts in which government buy-in is absent present more intractable challenges.

Eurasia Region

Advocates can create space in more closed societies to begin the process of strengthening responses to bias-motivated violence based on SOGIE. For example, in two closed regimes with laws seeking to repress LGBTI people in the Eurasia region, ABA ROLI has supported the limited local constituencies in favor of strengthening responses to bias-motivated violence based on SOGIE. In one country, ABA ROLI consulted with a national CSO devoted to SOGIE to understand the community’s needs and to build the capacity of police, judges, and prosecutors to recognize those needs and the related sensitivities. Since then, two judges and one prosecutor continue to use ABA ROLI’s materials to run their own trainings at the National Institute of Justice. In the other country, ABA ROLI supported mutual learning and exchange of best practices among a network of lawyers willing to work on cases involving SOGIE.

professional associations like the ABA’s Rule of Law Initiative; academic institutions, like the Williams Institute at the University of California Los Angeles’ School of Law; and international NGOs, such as the International Association of LGBT Judges.58

Intermediate responses in challenging environments

In places where state and societal actors lack political will to address bias-motivated violence based on SOGIE, and especially in those that have laws criminalizing same-sex activity or identities and where repressive responses to LGBTI people are likely, pursuing intermediate responses can be particularly challenging or dangerous. Disclosure of sexual orientation or gender identity to authorities could place individuals at risk of popular reprisals, biased or repressive responses from justice sector actors, and harsh punishment based on the laws in place. Nonetheless, even in these contexts, it may be possible for those seeking redress for bias-motivated violence within the justice system to identify individual police officers, prosecutors, and lawyers who are sympathetic to addressing violence impacting LGBTI people and who recognize and fulfill their duty to investigate violation of laws that criminalize interpersonal violence, regardless of the sexual orientation or gender identity of the survivor. Even then, the risks of coming forward – even to work with these sympathetic actors – are important for survivors and their allies to weigh very carefully in light of their own knowledge of the dangers associated with being LGBTI. Additionally, as discussed above, CSOs should, as much as possible, continue to monitor bias-motivated violence based on SOGIE and gather data that can inform domestic and international advocacy and contribute to advancing long-term goals of social and policy change.
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<th>TAKEAWAYS</th>
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| Police officers should be trained to recognize and respond to indicators of bias based on SOGIE and to immediately begin treating such a case with appropriate sensitivities. | • Build the capacity of police to recognize indicators of bias based on SOGIE;  
• Effectively and accurately record indicators of bias in an official case file, record, or incident report of the crime to preserve the information so that it is verifiable in subsequent phases of the justice sector response;  
• Establish and maintain robust and ongoing communication between law enforcement and LGBTI community members. |
| LGBTI Liaison Units within police departments should be deliberately organized to ensure increased access to police for the LGBTI community and to demonstrate police commitment to protect LGBTI people. | • Staff LGBTI Liaison Units with officers with appropriate rank and funding to carry out the duties assigned;  
• Ensure that LGBTI Liaison Unit officers carry out regular duties, such as investigating reports of violence;  
• Law enforcement should contact prosecutors as early as possible to coordinate investigation in the pursuit of pressing charges. |
| Officers should receive inclusive education about SOGIE, including through LGBTI Liaison Units if established, both at the beginning of their careers in the police academy, as well as throughout, with ongoing trainings on the needs of the LGBTI community. | • Incorporate modules on SOGIE into initial training materials for police officers, including modules on bias-motivated crime and its impact on the LGBTI community;  
• Mandate ongoing professional development training on SOGIE and violence based on SOGIE;  
• Update all police training materials in coordination with representatives from LGBTI CSOs. |
| Law enforcement should have ongoing communication with the LGBTI community about any investigation of bias-motivated violence. | • Regularly report to the LGBTI community on the status of an investigation into bias-motivated violence based on SOGIE, through official and unofficial channels, to show that law enforcement is treating the case with appropriate gravitas and sensitivity and that bias-motivated crime is not tolerated. |
| Law enforcement should appropriately frame their messages to the media on investigations of bias-motivated violence based on SOGIE. | • Liaise with new and traditional media to ensure accurate and appropriate reporting on investigations of bias-motivated violence;  
• Avoid sensationalizing or normalizing violence against LGBTI people and convey the importance of investigating such bias-motivated violence. |
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| Prosecutors should balance the need to hold perpetrators to account under criminal law with the interests of the survivor, including the impact of public disclosure of their sexual orientation or gender identity and fear of retaliation. | • Balance the importance of upholding the rule of law against the possible detriment to and expressed wishes of the survivor;  
• Consult with the survivor and representatives of the LGBTI community and CSOs to avoid retraumatization and to gather relevant evidence that would support a prosecution;  
• Communicate, appropriately and with confidentiality, to the LGBTI community about reasons for not pursuing prosecution. |
| Prosecutors should engage regularly with LGBTI CSOs, in particular to develop productive relationships and gain valuable information about public attitudes toward LGBTI people that might not otherwise be available. | • Establish and maintain channels of communication with representatives from the LGBTI community to strengthen the relationship between the prosecutor’s office and the LGBTI community and gain an accurate view of the experiences of LGBTI people;  
• Confidentially, gather relevant evidence from the LGBTI community, including information about the offender and any prior hostility toward LGBTI people. |
| Once the decision has been made to pursue a conviction, prosecutors should zealously prosecute the case to counter the message of hate conveyed by bias-motivated violence. | • Use appropriate statutes to bring the perpetrator of bias-motivated violence to justice and signal the severity of the crime;  
• Communicate publicly, and to the LGBTI community in particular, that authorities do not tolerate hate against LGBTI people. |
| Prosecutors’ offices should provide regular status updates on cases of bias-motivated violence based on SOGIE. | • Regularly update representatives from the LGBTI community about progress on cases of bias-motivated violence based on SOGIE, even if the cases do not advance, to demonstrate that authorities take such violence seriously. |
| Prosecutors with knowledge and understanding of specific issues faced by LGBTI people, as well as experience and expertise in prosecuting bias-motivated crime, should build the institutional capacity of prosecutors’ offices to successfully prosecute cases of violence based on SOGIE. | • Designate prosecutors within the prosecutor’s office who have the knowledge and capacity to lead on cases targeting the LGBTI community and assign them to those cases;  
• Build the capacity of all prosecutors to successfully prosecute cases of bias-motivated violence based on SOGIE, through appropriate training led by designated prosecutors with expertise in this area. |
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<td>Ethical codes for the judiciary should prohibit bias toward LGBTI people and cover judges, their staff, and lawyers in the courtroom.</td>
<td>• Write judicial ethic codes to ban prejudice in the courtroom based on SOGIE.</td>
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<td>The so-called “gay panic” defense is not a valid affirmative defense for violence against an LGBTI person and should be categorically rejected by courts.</td>
<td>• Reject defenses that rationalize hatred and fear of LGBTI people;</td>
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<td>• Direct counsel to proving or casting doubt on the elements of a crime, not vilifying the survivor by making specious arguments.</td>
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<td>Intergovernmental organizations and CSOs should provide trainings for the judiciary that are informed by representatives from LGBTI civil society.</td>
<td>• Include sexual orientation and gender identity as thematic topics for judicial trainings run by intergovernmental institutions;</td>
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<td>• Consult with LGBTI representatives to ensure that such trainings are relevant and up-to-date;</td>
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<td>• Include LGBTI community representatives in such trainings to extent possible to maximize relationship building.</td>
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<td>Judges should draw lessons from successful implementation of inclusive practices in courtrooms through peer-to-peer exchanges.</td>
<td>• Facilitate knowledge exchange among judges who have developed expertise on sexual orientation and gender identity and those who want to increase their capacity in the area;</td>
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<td>• Implement relevant peer learning on adjudicating cases of violence based on SOGIE through professional organizations and law schools;</td>
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<td>• Develop judicial networks for continued relevant knowledge exchange among judges.</td>
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Conclusion

Intermediate responses to bias-motivated violence based on sexual orientation, gender identity, or gender expression

During the intermediate response phase, justice sector authorities create an official file of the incident, investigate the crime and consider options for prosecution and adequate sentencing. While law enforcement actors are responsible for maintaining the rule of law, enhanced responses should also take into consideration the needs and interests of both the survivor and the LGBTI community, in possible tension with the interests of authorities. The section above identifies methods and approaches to balance those interests, including by establishing and continuing to cultivate relationships among justice sector authorities, survivors, and the LGBTI community. LGBTI people and CSOs can use the section as a guide as they call for justice sector actors to uphold the rule of law with enhanced, survivor-centric responses when perpetrators commit criminal acts of violence based on SOGIE.
Ordinary criminal law can be used to seek redress for many types of bias-motivated violence based on SOGIE. In environments that are not limited by anti-LGBTI legislation, however, and where there is political will to go beyond ordinary criminal law to prosecute bias-motivated violence, lawmakers can draft and enact statutes to explicitly criminalize and punish acts of bias-motivated violence based on SOGIE. Such “hate crime” statutes establish specific elements of the crime related to the underlying motivation of hate that must be proven to successfully bring perpetrators to justice. Where such statutes exist, they often authorize justice sector authorities to collect additional data about indicators of bias and to prosecute or seek enhanced sentences for this specific type of interpersonal violence, sending the message that bias and hate are not tolerated in society. While legislators are the key actors responsible for the adoption of such statutes, the legal drafting and their vote for the new legislation are often influenced by civil society advocacy, public opinion, and data.

The following sections describe the different kinds of statutes that can be enacted to help ensure specific redress for bias-motivated violence based on SOGIE. Ordinary criminal laws can be reformed to address the issue, existing hate crime laws can be expanded to cover bias-motivated violence based on SOGIE, or new hate crime laws can be adopted. Ideally, legislators will understand the potential policy implications of each type of long-term response and, before selecting an approach, carefully weigh the pros and cons for survivors, the LGBTI community, and rule of law interests.

Which, if any, hate crime law is right?

Hate crime legislation further deters bias-motivated crimes by attaching different or enhanced punishments, charges, or penalties to violent acts based on SOGIE. Certain countries seeking to deter bias-motivated crimes have adopted specific hate crime laws to supplement their ordinary criminal codes and procedures. Three types of specialized hate crime laws address bias-motivated violence: substantive offense laws, sentence enhancement laws, and data collection statutes. Many factors influence the type of hate crime laws supported by civil society advocates and ultimately enacted, including the existence of hate crime laws that already ban bias-motivated violence based on other grounds, such as race, religion/belief, or gender; inclusion of SOGIE in other laws protecting vulnerable groups, such as anti-discrimination statutes; and the political and cultural dynamics affecting the LGBTI community’s relationship with the rest of society.

Ordinary criminal law

Ordinary criminal law punishes offenders who perpetrate violence against other individuals, and police and prosecutors have the authority and responsibility to hold those offenders accountable. Under these statutes, bias is not an element of the crime; the offender is guilty of a crime as a result of using violence against another person. Prosecution under ordinary criminal law communicates that violence is not tolerated and that the law is applied equally across society, without regard for the sexual orientation or gender identity of the person targeted.

As discussed above, ordinary criminal law is always available to hold perpetrators accountable for interpersonal violence. These laws are particularly useful in repressive jurisdictions where stigma and bias are pervasive or where LGBTI identities are criminalized. When ordinary criminal law is applied in cases of bias-motivated violence, CSOs should, nonetheless, continue to monitor the presence of indicators of bias motivation
the bias-motivated crime and facilitate the generation of new data about bias motivation, making it more readily available. However, because substantive hate crime offenses require proof of the bias motive to achieve conviction, prosecutors may be reluctant to press charges under the laws if they believe it will be difficult to prove all elements of the crime.

Sentence enhancement hate crime law

Sentence enhancement laws are often called “aggravating factor” statutes and differ from substantive offense hate crime laws in that they do not require proving bias to convict an offender of the base crime. Instead, they require a demonstration of bias once an individual has been found guilty of the base offense to trigger a mandatory sentence increase.

While sentence enhancement laws might in some cases be preferable, since bias is not a necessary
element that prosecutors must prove to convict the offender of the base crime, they do not serve the function of expressing that authorities do not tolerate bias or hate in society with the same weight as substantive offense hate crime laws. Additionally, these types of statutes generally have lower prominence in criminal law and their application may not even be publicly known due to the confidential nature of many sentencing proceedings, further reducing their effectiveness in publicly condemning hate in a particular jurisdiction.

Data collection laws

Establishing an effective system for collecting data on bias is a critical step in combatting hate crimes. The collection of accurate hate crime statistics serves the broader goal of hate crime legislation, generally: to shine a light on bias crimes and offer a societal rebuke of such intolerance and violence. Hate crime data collection serves to make the public aware of the extent of bias-motivated crimes.

Where hate crime laws are absent, data collection is often led by CSOs to build consensus around the need for further legal protections for members of vulnerable communities. Where hate crime legislation exists, collecting statistics gives officials and the public a way to measure the success of the legislation and to identify where improvement is needed. Though countries may approach the collection of hate crime data differently, it is important to collect data on crimes with a bias motive regardless of whether they are prosecuted as hate crimes. Focusing only on incidents prosecuted as hate crimes will undervalue the number of bias-motivated offenses, as police and prosecutors may not pursue all possible hate crime charges and survivors may not always report the incidents in question. Collecting data on hate crime prosecutions and convictions is important as well, to analyze prosecution effectiveness and determine whether the number of prosecutions aligns with the number of reported hate crimes.

While data collection is an essential part of documenting bias and the levels of intolerance in society, data collection should be done in a sensitive and confidential way that protects the identities of members of vulnerable populations. Additionally, any laws regarding the collection of sensitive information should incorporate the privacy laws within a jurisdiction, though such laws should not be so broad that they prevent governments from collecting information about indicators of bias based on SOGIE.

**Demonstrating and understanding the need for hate crime laws**

Through CSO or government data collection projects, often undertaken to fill the void created by the absence of laws mandating data collection by authorities, advocates can show that bias-motivated crime is a problem in society and build a strong case for legislative solutions. As discussed in the sections above, however, the type of hate crime law adopted in a particular jurisdiction may be influenced by a number of factors. As a result, it is critical that lawmakers and other decisionmakers consult with representatives from the LGBTI community in determining which type of law to pursue. Such a consultative process also infuses an important element of legitimacy and community involvement into the legislative process. If the legislative process is enhanced, including such consultations with CSO leaders and utilizing data collected through documentation projects, lawmakers can help ensure that the hate crime law drafted and enacted reflects the interests of the greater LGTBI community, serving the dual purpose of holding offenders to account while also communicating that authorities do not tolerate hate.

The media can also play an integral role in demonstrating the need for hate crime laws. As discussed throughout this Framework, the media's portrayal...
of bias-motivated violence based on SOGIE has an impact on the way society at large perceives that violence and thinks about appropriate legislative responses. For example, by covering the legislative process for drafting and passing an inclusive hate crime law in a culturally appropriate way, in particular by highlighting data provided by civil society organizations, the media can help sway members of society to support inclusive hate crime laws.

**Case Study 15: Enhanced advocacy for inclusive laws**

**Deystvie**

Effective legislative advocacy identifies a problem and then recommends feasible ways to address that problem through legislation. In Bulgaria, the organization Deystvie (translation: Action) is working to demonstrate the need and advocate for inclusive hate crime legislation.

Throughout 2017, Deystvie collected data through a documentation project, identifying 53 incidents of bias-motivated violence based on SOGIE. In 2018, lawyers at Deystvie conducted a gap analysis of Bulgarian legislation, showing that sexual orientation and gender identity were not grounds that police, investigators, or prosecutors were mandated to consider in their response to interpersonal violence. Deystvie partnered with the ABA Justice Works Program to identify model legislative solutions, producing a comparative report that presented Bulgarian lawmakers at the national and municipal levels with legislative options for hate crimes legislation addressing bias-motivated violence.

Deystvie is currently engaged in an advocacy campaign for a hate crime law that covers crime motivated by SOGIE, using the results of the documentation project and the comparative report.

**As Amended, 28 United States Code § 534: Hate Crime Statistics Act**

(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for each calendar year, about crimes that manifest evidence of prejudice based on race, gender and gender identity, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

(2) The Attorney General shall establish guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice and procedures for carrying out the purposes of this section.

(3) Nothing in this section creates a cause of action or a right to bring an action, including an action based on discrimination due to sexual orientation. As used in this section, the term ‘sexual orientation’ means consensual homosexuality or heterosexuality. This subsection does not limit any existing cause of action or right to bring an action, including any action under the Administrative Procedure Act or the All Writs Act.

(4) Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(5) The Attorney General shall publish an annual summary of the data acquired under this section, including data about crimes committed by, and crimes directed against, juveniles.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section through fiscal year 2002.
In 1998, the murder of Matthew Shepard made national news, and eleven years later, the US Congress passed a hate crime statute inclusive of sexual orientation and gender identity bears his name. Although facts and data are essential pieces of any advocacy effort, compelling and powerful stories, like Matthew Shepard’s, can also influence both public support and political will for the passage of inclusive hate crime laws. The Matthew Shepard Foundation has spent over twenty years building an advocacy effort centering around one story of bias-motivated violence based on SOGIE.

Matthew Shepard, a gay student at the University of Wyoming, was brutally murdered in 1998 in an attack described as “one of the most notorious anti-gay hate crimes in American history.” The Matthew Shepard Foundation was created by his parents, Judy and Dennis Shepard, both to honor Matthew and to help prevent such crimes in the future. Judy Shepard has travelled across the country and around the world to share Matthew’s story and encourage people to join her in standing up for the LGBTI community.

In large part due to ten years of widespread sharing of Matthew Shepard’s story, along with targeted campaigns advocating for stronger hate crime laws, in 2009 the US Congress passed The Matthew Shepard and James Byrd Hate Crimes Prevention Act, which among other provisions, extended federal hate crimes law to include sexual orientation and gender identity. Since passage of the Shepard-Byrd Act, the Department has charged 92 defendants in 44 hate crime cases for violating or conspiring to violate the Act and has convicted 59. The Shepard family was present when then President Barack Obama signed the act into law. He specifically recognized their contribution to the effort, saying, “because of the efforts of the folks in this room, particularly those family members standing behind me, the bell rings even louder now.”

Collaboration between the LGBTI community and those affected by bias-motivated violence, such as friends and family of a survivor or murder victim, can also impact the eventual adoption of hate crime laws.

**Effective implementation and political leadership**

As mentioned throughout this Framework, hate crime laws are not necessary to bring a perpetrator of bias-motivated violence to justice, nor do they alone ensure that offenders are effectively prosecuted and convicted. Effective political leadership is essential for enforcement of hate crime laws that are passed and for communicating to the LGBTI community that they are indeed protected by their government. Such leadership can take the form of press releases about cases, mandatory training for justice sector and other relevant actors once laws are in place, and general outreach to the LGBTI community. Moreover, the reduction of violence should – at least in theory – never be a partisan issue. Laws that punish bias-motivated violence based on SOGIE and their effective enforcement strengthen the rule of law, generally, and all those with the responsibility for upholding the rule of law should support their passage and implementation.

**Long-term responses in challenging environments**

In some countries, engaging in legislative advocacy for inclusive hate crime laws is not currently possible or realistic given the risks of state repression, enforcement of punitive anti-LGBTI laws, or harsh social sanctioning of those advocating for such change. Even in some of these contexts, CSOs concerned with violence based on SOGIE may still be able to take small steps to make society safer for LGBTI people as part of a longer-term strategy. For instance, as mentioned earlier in the Framework, any data that organizations are able to collect to track incidents of bias-motivated violence based on SOGIE may be helpful for future advocacy (once personally identifiable information is removed), even if the data is not shared or published at the time of collection. As political situations change over time, new opportunities for responses to bias-motivated violence may arise, and local CSOs that are following these changes in opportunity and are ready with evidence and strategies at those critical moments can be important changemakers.

When documentation fails to persuade lawmakers to enact hate crime statutes, that documentation can still sometimes be used for domestic campaigns to change the hearts and minds of citizens about LGBTI inclusion. Even where domestic campaigns may not be palatable, CSOs can consider using the documentation of bias-motivated violence based on SOGIE to contribute to international processes like the Universal Periodic
Review (UPR) of the UN Human Rights Council or those of regional institutions. For instance, two organizations in Cameroon, where same-sex activity is criminalized, submitted a detailed brief for the UPR detailing the violence that they documented in the four-year period for which the country was being reviewed.  

Finally, in challenging environments where the rule of law is generally weak and advocating for LGBTI causes is too dangerous, CSOs concerned with the rights of LGBTI people can play a role in calling for the strengthening of the rule of law, generally, through capacity building of the justice sector more broadly. By calling for the defense of the rights of all vulnerable people, regardless of SOGIE, advocates for reform can address some of the underlying structural issues that affect the quality of immediate and intermediate responses to bias-motivated violence without bringing SOGIE directly into the policy debate prematurely.
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<td>Existing hate crime and anti-discrimination laws influence the scope of hate crime legislation covering SOGIE.</td>
<td>• Hate crimes laws covering SOGIE should be modeled after hate crime laws covering other prohibited categories of discrimination.</td>
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<td>Inclusive “substantive offense” hate crime laws include bias based on SOGIE as an essential element of the crime.</td>
<td>• Substantive offense hate crime laws achieve the vital function of expressing that hate is not tolerated in society; • Substantive offense hate crime laws can make it more difficult for a prosecutor to achieve conviction because bias is an essential element of the crime.</td>
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<td>“Sentence enhancement” hate crime laws provide for higher sentences when an offender found guilty of an underlying crime is shown to have been motivated by bias.</td>
<td>• Sentence enhancement laws do not have the same prominence as substantive offense laws and therefore do not as effectively communicate that authorities do not tolerate hate in society; • These laws often are used during the sentencing phase, which is often confidential, so the public might not know if a perpetrator receives increased punishment due to bias based on SOGIE.</td>
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<td>Data collection laws mandate that police, prosecutors, and other justice sector authorities collect data, including indicators, related to anti-LGBTI bias motivation, creating an accurate record of anti-LGBTI bias.</td>
<td>• The collection of data related to bias based on SOGIE under data collection laws can help track successful prosecutions of bias-motivated crime; • Data collection laws often require publication of the data collected, helping demonstrate the need for hate crime laws; • Data related to anti-LGBTI bias collected under data collection laws should be treated with appropriate sensitivity and confidentiality.</td>
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<td>Civil society organizations often document bias when justice sector authorities are not required to do so and can provide data that inform the drafting of hate crime laws.</td>
<td>• This type of documentation serves the purpose of research and advocacy, rather than the purpose of conviction; • Individuals might nonetheless be frustrated by documenting underlying bias in cases of violence based on SOGIE that do not end in the perpetrator being brought to justice.</td>
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<td>Compelling stories that demonstrate the need for hate crime laws can promote and help generate public and lawmaker support for such legislation.</td>
<td>• High-profile cases of anti-LGBTI violence, such as the Matthew Shepard murder in the United States, can promote and help lead to the general acceptance of hate crime laws; • Opponents of inclusive hate crime laws can vilify and sensationalize the same stories of high-profile anti-LGBTI violence that are used by advocates to promote inclusive laws and can subject the survivors or family members to public counter-campaigns.</td>
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<td>Political leadership and will are necessary for the effective enforcement by justice sector authorities of inclusive hate crime laws.</td>
<td>• Continued political support of hate crime laws, through effective implementation, underscores the message that LGBTI people are welcome in society and that hate is not tolerated; • Changes in political leadership can shift a government’s willingness to effectively enforce hate crime laws; • Support of hate crime legislation should be non-partisan in the interest of strengthening the rule of law and the reduction of violence.</td>
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Conclusion

Long-term responses to bias-motivated violence based on sexual orientation, gender identity, or gender expression

As lawmakers craft statutes that address bias-motivated violence, they should consider the various interests to which the different types of statutes respond. While sentencing enhancement statutes serve the purpose of deterrence and might meet the needs of a survivor, the impact of these statutes is often not felt in public. Substantive offense hate crime laws communicate that authorities take bias-motivated violence based on SOGIE seriously by creating stand-alone offenses to punish the crime, signaling that the LGBTI community is a welcome part of society; however, they may result in fewer prosecutions of violent offenders due to the difficulty of meeting the burden of proof to show bias. Data collection laws are an effective measure to understand the extent of bias-motivated violence and can also mandate that justice sector actors recognize the indicators of bias, creating a body of data to further influence public opinion and lawmakers. As discussed above, any legislation should address the needs of the LGBTI community and lawmakers should engage with LGBTI civil society leaders to ensure that the law is responsive to the situation of LGBTI people in their country. To achieve real impact, in practice, nonpartisan and cross-partisan efforts must continue after any law is passed to help ensure the law’s implementation.
IV. CONCLUSION

Enhanced responses to bias-motivated violence based on sexual orientation, gender identity, or gender expression

Throughout this Framework, three distinct but complementary interests have been identified: the interests of survivors of bias-motivated violence in both achieving justice and avoiding retraumatization; the interests of the LGBTI community in feeling safe and secure in society; and the interests of society in ensuring that the rule of law protects everyone from violence and effectively deters and punishes perpetrators. When CSOs, psychosocial support service providers, and justice sector actors work together to provide a coordinated, enhanced response to violence based on SOGIE, these interests can be more effectively balanced.

The LGBTI community and LGBTI CSOs, in particular, play an integral and outsized role in the development and implementation of coordinated, enhanced responses to bias-motivated violence based on SOGIE. Not only do they often document the occurrence of such violence, but they also often have the best access to survivors in the immediate aftermath of violent incidents. They are the stakeholders best positioned to understand both the interests of the individual survivor and the interests of the LGBTI community and to advocate for robust responses on the part of justice sector and political stakeholders. As a result, they should partner closely at each stage of the process with the other stakeholders involved in responding to bias-motivated violence based on SOGIE.

Even in the absence of a legislative mandate, however, justice sector actors may still have opportunities to build relationships with LGBTI CSOs and LGBTI community representatives, namely in places where there is political will to use ordinary criminal law to protect LGBTI people from violence and deter potential perpetrators. Doing so, both before and after the occurrence of a violent incident based on SOGIE, is critical to signal to LGBTI people that they have access to and should have confidence in police and prosecutors to take their reports and complaints seriously from both legal and societal perspectives. These relationships should be cultivated and maintained, enabling law enforcement to recognize and appreciate both the impact of bias-motivated violence on the members of the LGBTI community and the importance of reacting with appropriate, enhanced responses when it occurs.
Additionally, in the longer term, the legislative process provides lawmakers the opportunity to amend existing laws or promulgate new ones to require justice sector actors responding to bias-motivated violence based on SOGIE to document and appropriately address such violence. This may involve amending criminal laws to reflect the specific harm inflicted and hate communicated by bias-motivated violence based on SOGIE, as well as designating funds for justice sector actors to engage in sustainable relationship-building with the LGBTI community, particularly LGBTI CSOs. By recognizing LGBTI people’s heightened risk of experiencing violence and taking the necessary steps to enact appropriate legislation in response, legislators can communicate that hate is not tolerated in their jurisdiction.

This Framework has underscored the importance of and identified opportunities to institute enhanced responses to bias-motivated violence based on SOGIE, laying out a path for doing so at each stage in the life cycle of responding to violence. Specifically, the Framework has provided best practices and case studies for bringing together the various key stakeholders to effectively coordinate their responses, including to reconcile the tensions that can occur among their both overlapping and competing priorities; tools for justice sector authorities with the requisite political will to appropriately address bias-motivated violence; and a roadmap that LGBTI CSOs can follow to demand necessary, concrete actions by authorities. The Framework has also offered approaches for monitoring violence in repressive societies as a part of longer term strategies for societal change. Utilizing the Framework, CSOs, psychosocial support service providers, and justice sector actors can more effectively coordinate to deliver enhanced responses to bias-motivated violence based on SOGIE that respect the interests of survivors and the LGBTI community and uphold the rule of law, ultimately reducing impunity and opening the space for LGBTI people and all people in society to exist without the fear of violence.
Appendix 1: Endnotes


9 Hate Crime Laws: A Practical Guide. Warsaw: OSCE Office of Democratic Institutions and Human Rights, 2009, p.33. For bias-motivated violence against an LGBTI person to formally constitute a hate crime, redress for the violent act must be pursued through the justice system, either through specific hate crimes legislation that assigns specific penalties to particular types of bias-motivated crimes, or through the ordinary criminal code with an argument for a penalty enhancing sentence that is justified on the basis of the bias motivation. See also Thomas Brudholm, “Hate Crimes and Human Rights Violations,” Journal of Applied Philosophy 32:1 (2015), 82-97.

10 Hate Crime Laws, op.cit.


16 Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, ¶¶ 3-4, U.N.Doc. A/HRC/31/57 (Jan. 5, 2016).
17 The Inter-American Commission on Human Rights, Violence against Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in the Americas, 33.


21 Report of the Independent Expert, para. 42, 10; Transgender Europe, For the record — Documenting violence against trans people: experiences from Armenia, Georgia, Germany, Moldova, Russia, and Ukraine (December 2016), 51.


23 The Inter-American Commission on Human Rights, Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons (Nov. 12, 2015), 15.


26 Report of the Independent Expert, para. 42, 10; Transgender Europe, For the record — Documenting violence against trans people: experiences from Armenia, Georgia, Germany, Moldova, Russia, and Ukraine (December 2016), 51.


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51 Ibid, 39.

52 Ibid, 40.


60 Vytautas Raskevicius, Tomas. “2017 LGBT* Rights in Lithuania Overview: Challenges and Victories,” LGL - National LGBT Rights Organization,


62 Gonan, Mia and Katarina Jaklin, editors. Countering Underreporting and Supporting Victims of Anti-LGBT Hate Crime: Good Practices Report,

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67 “The Community Relations Service and the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act,” The United States Department

68 “The Exemplary Dialogue Between Maneo, Berlin Police, and the Public Prosecution Office in Berlin,” MANEO - Berlin’s gay anti-violence proj-


70 Ibid.

71 Ibid.


73 See generally, “Hate Crime Data-Collection and Monitoring Mechanisms, A Practical Guide,” OSCE Office for Democratic Institutions and
9, 2018, https://www.osce.org/odihr/INFAHCT.

74 “Report on the Violation of Rights on the Basis of Sexual Orientation and Gender Identity in the Republic of Cameroon,” The Advocates for
uploads/cameroon_upr_tahr_ac.pdf.


TICS/10/28/hate.crimes/.
Appendix 2: Glossary

All definitions come from the UNAIDS Terminology Guidelines.

**Bisexual**: A bisexual person is defined as a person who is attracted to and/or has sex with both men and women, and who identifies with this as a cultural identity. The terms men who have sex with both men and women or women who have sex with both women and men should be used unless individuals or groups self-identify as bisexual.

**Gay**: The term gay can refer to same-sex sexual attraction, same-sex sexual behaviour and same-sex cultural identity. Unless individuals or groups self-identify as gay, the expression men who have sex with men should be used.

**Gender identity**: Gender identity refers to a person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth. It includes both the personal sense of the body—which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means—as well as other expressions of gender, including dress, speech and mannerisms.

**Homophobia**: Homophobia is the fear or rejection of (or aversion to) homosexuals and/or homosexuality. This often takes the form of stigmatizing attitudes or discriminatory behaviour, and it occurs in many settings in all societies, often beginning as early as school.

**Intersex**: An intersex person is an individual with both male and female biological attributes (primary and secondary sexual characteristics).

**Lesbian**: A lesbian is a woman attracted to other women. She may or may not be having sex with women, and a woman having sex with women may or may not be a lesbian. The term women who have sex with women should be used unless individuals or groups self-identify as lesbians.

**Sexual orientation**: The term sexual orientation refers to each person’s capacity for profound emotional, affectional and sexual attraction to (and intimate and sexual relations with) individuals of any sex. SOGI, an often used abbreviation, stands for sexual orientation, gender identity.

**Transgender**: Transgender is an umbrella term to describe people whose gender identity and expression does not conform to the norms and expectations traditionally associated with their sex at birth. Transgender people include individuals who have received gender reassignment surgery, individuals who have received gender-related medical interventions other than surgery (e.g. hormone therapy) and individuals who identify as having no gender, multiple genders or alternative genders.

Transgender individuals may self-identify as transgender, female, male, transwoman or transman, transsexual, hijra, kathoey, waria or one of many other transgender identities, and they may express their genders in a variety of masculine, feminine and/or androgynous ways. Due to this diversity, it is important to learn and use positive local terms for transgender people, and to avoid derogatory terms.

**Transphobia**: Transphobia is fear and rejection of (or aversion towards) transgender people, often in the form of stigmatizing attitudes or discriminatory behaviour.
Appendix 3: Resource Guide

Justice Works helps ensure that civil society organizations and justice sector actors have the necessary tools and capacity to effectively address and respond to bias-motivated violence based on sexual orientation, gender identity, or gender expression.

The resource guide below contains reports, toolkits, actions guides, and other documents from intergovernmental entities and civil society organization that have informed the approach of the Justice Works Program to strengthen anti-violence initiatives.

This list is not exhaustive and only contains materials available in English.

For more information about the Justice Works Program or to learn about the Justice Works Expert Network, please email: JusticeWorks@americanbar.org or visit us at ambar.org/justiceworks.

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**Who is this for?** Professionals working with survivors and witnesses.

**Summary:** This report presents 40 good practices on combating underreporting and supporting victims of anti-LGBT hate crime that were selected from nine European countries participating in the project “Come Forward.” It provides useful suggestions on how to further improve the capacities of official authorities and NGOs for tackling anti-LGBT crime.

[Link](#)

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**Who is this for?** Staff of organizations that provide care, support, and protection services to gender-based violence survivors in humanitarian settings, including social work-informed case management and psychosocial support.

**Summary:** Provides information and guidance for working with survivors of gender-based violence who identify as lesbian, gay, bisexual, transgender or intersex. Discusses barriers these survivors may face to accessing care and offers recommendations for providing care and support in a safe and welcoming manner for LGBTI survivors.

[Link](#)

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**Who is this for?** Community organizers, public policy makers, judges, and law enforcement.

**Summary:** A manual to showcase practical, tried, and effective methods to counter hate crime. Training material is provided in each chapter.

[Link](#)

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**Who is this for?** Anyone who wants a comprehensive explanation of how hate crime laws function and their purpose.

**Summary:** This guide documents the importance of hate crime laws in society, as hate crime laws both reflect the community’s values of equality and non-violence, but also shows the targeted group that they are protected and supported under the law. The guide aims to establish clear and concrete model legislation which would increase the chance of law enforcement and court systems using hate crime law.

[Link](#)
ILGA-EUROPE TOOLKIT FOR TRAINING POLICE OFFICERS ON TACKLING LGBTI-PHOBIC CRIME
ILGA EUROPE, 2010

Who is this for? Police forces and LGBTI organizations.
Summary: This guide provides tools to help ILGA-Europe members and other LGBTI organizations to engage with police forces. It aims to raise awareness among police officers and the authorities, promote adequate training curricula, and foster targeted cooperation necessary to protect LGBTI communities from hate violence and to support victims.

Link

MONITORING TRANSPHOBIC INCIDENTS
TRANSGENDER EUROPE, 2014

Who is this for? Those who want an in-depth look at documentation methods of violence against the transgender community.
Summary: Reports common cases of prejudice and discrimination that the transgender community experiences. Infers why most cases are not reported, possibly because of the social stigma and for the fear that “nothing will be done.” Also offers an online system “ProTrans” to record data with regards to trans hate crimes.

Link

NCAVP 2015 HATE VIOLENCE REPORT TOOLKIT NATIONAL COALITION OF ANTI-VIOLENCE PROGRAMS, 2016

Who is this for? Journalists, educators, community organizers and LGBT allies.
Summary: An annual report by the NCAVP that discusses the many forms and narratives that impact LGBTQ and HIV-affected communities.

Link

POLICING HATE CRIME AGAINST LGBTQI PERSONS: TRAINING FOR A PROFESSIONAL POLICE RESPONSE COUNCIL OF EUROPE, 2017

Who is this for? Police trainers, investigators, managers, hate crime officers and frontline police officers.
Summary: This manual is designed to build upon the current standards of the Council of Europe with regards to investigation, response, and persecution of LGBTQ persons. Provides pertinent info, case studies and training for law enforcement entities. Module 4 primarily discusses a survivor-centered approach to gather evidence and investigate hate crime circumstances.

Link
PREVENTING AND RESPONDING TO HATE CRIMES: A RESEARCH GUIDE FOR NGO’S IN THE OSCE REGION.
OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE), 2009

Who is this for? NGOs that want to incorporate the OSCE approach to hate crime into their work.
Summary: This guide provides information on hate crimes, the tools civil society and governments have used to combat them, and strategies NGOs have found effective in the past. It documents the roles of NGOs in improving legislation, reporting offenses, acting as an intermediary between the community and authorities, and campaigning for action.

PROSECUTORS AND HATE CRIMES TRAINING OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Who is this for? Those who want a model for training of prosecutors.
Summary: A training guide from the OSCE to enact tailored legislation to combat hate crimes, investigate hate crimes promptly, and ensure that the motives of those convicted of hate are acknowledged.

RESPONDING TO HATE CRIMES: A COMMUNITY RESOURCE MANUAL NATIONAL CENTER FOR TRANSGENDER EQUALITY, 2009

Who is this for? Those interested in US-based responses to transphobic violence.
Summary: Discusses the importance of establishing a systematic response to hate crimes. Furthermore, this resource identifies how to work, support, and validate survivors of hate crime and how to advocate on their behalf. The manual covers a range of issues on how to best represent a client who has experienced bias-motivated violence, how to deal with the perpetrator, how to work with law enforcement, and how to engage the public with a specific focus on violence targeting transgender people.

RESPONDING TO HATE: INFORMATION AND RESOURCES ANTI-DEFAMATION LEAGUE, 2017

Who is this for? Victims of hate crimes, as well as those looking for general information on hate crimes.
Summary: This document provides general information and guidance on ways to respond to the three most common acts of hatred: hate crime, discrimination, and hate incidents.
WORKING WITH VICTIMS OF ANTI-LGBT HATE CRIMES: A PRACTICAL HANDBOOK COME FORWARD

Who is this for? Professionals working with victims and witnesses in institutions and organizations where people can report crimes and receive support, including police, prosecutors, and non-governmental organizations.

Summary: This handbook provides simple and relevant information needed to better understand transphobic and homophobic violence, the experiences and perspectives of the victims, and how to ensure maximal support and safety for the victims. It also includes specific and practical guidelines and tips on how to work and communicate with LGBT victims taking into consideration their specific needs and vulnerability.

Link

THE LANDSCAPE OF VIOLENCE: KEY REPORTS AND STUDIES

ADJUDICATION IN HOMICIDE CASES INVOLVING LESBIAN, GAY, BISEXUAL, AND TRANSGENDERED (LGBT) PERSONS IN THE COMMONWEALTH CARIBBEAN SE-SHAUNA WHEATLE, 2013

Who is this for? Those interested in legal systems in the Caribbean and the application of law to violence impacting LGBT people.

Summary: Analysis of the courts and people’s general treatment of homicides involving the LGBT community. Summarizes state law relating to homicides, follows methods on how to approach homicides involving LGBT members and, analyzes how these cases have been handled in the past.

Link

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2017 U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, 2018

Who is this for? A variety of actors looking for a factual resource for decision making in matters ranging from assistance to asylum.

Summary: Documents the status of human rights and worker rights in nearly 200 countries and territories. The reports analyze information from U.S. embassies and consulates abroad, foreign government officials, nongovernmental and international organizations, jurists and legal experts, journalists, academics, labor activists, and published reports to evaluate each country’s human rights and worker rights performance.

Link
**DISCRIMINATION ON GROUNDS OF SEXUAL ORIENTATION AND GENDER IDENTITY IN EUROPE**  
COUNCIL OF EUROPE, 2011

**Who is this for?** Those looking for a comprehensive study on the situation concerning homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in the 47 member states of the Council of Europe.

**Summary:** Presents findings from a comprehensive study of homophobia and transphobia in Europe to provide a knowledge base for measures to combat discrimination. Analyses data to identify serious flaws as well as positive developments in protections from discrimination. Encourages legislative reforms and social change which would enable LGBT persons to more fully enjoy universally recognized human rights.

[Link](#)

**DISCRIMINATORY LAWS AND PRACTICES AND ACTS OF VIOLENCE AGAINST INDIVIDUALS BASED ON THEIR SEXUAL ORIENTATION AND GENDER IDENTITY**  
UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, 2011

**Who is this for?** Submitted to the United Nations Human Rights Council and can be used as an authoritative research for governments and civil society organizations.

**Summary:** This report documents discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. The report also provides recommendations for how international human rights law can be used to end violence and related human rights violations based on sexual orientation and gender identity.

[Link](#)

**ENSURING JUSTICE FOR HATE CRIME VICTIMS: PROFESSIONAL PERSPECTIVES**  
EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS, 2016

**Who is this for?** A broad range of stakeholders involved in addressing hate crime.

**Summary:** This document provides professional reports on hate crimes against ethnic minorities, religious minorities, or members of the LGBTQ community in Europe. The report mentions the difficulties of “patchiness of legal framework, difficulty in grasping and working with the concepts of hate crime, and uncertainties as to the concept’s significance and meaning.”

[Link](#)

**EUROPEAN UNION LESBIAN, GAY, BISEXUAL, AND TRANSGENDER SURVEY**  
EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS, 2014

**Who is this for?** Those who want a broad overview of the situation for LGBT in Europe at the time of the report.

**Summary:** The main results from the largest survey ever conducted in the EU amongst LGBTQ people in the (then) 27 member states and Croatia. Asks about overall lived experience. Chapter two focuses on violence and harassment.

[Link](#)
HATE CRIMES AND VIOLENCE AGAINST LESBIAN, GAY, BISEXUAL AND TRANSGENDER PEOPLE
HUMAN RIGHTS CAMPAIGN FOUNDATION, 2009

Who is this for? Those who want an overview of hate crime laws in the United States and how they affect LGBTI people.
Summary: This report provides a comprehensive overview about violent crime in the U.S. involving the LGBT community from law enforcement statistics, opinion polls, and academic publications from 2006-2009.

Link

JURISDICTIONS CRIMINALISING PRIVATE, CONSENSUAL SEXUAL CONDUCT BETWEEN ADULTS OF THE SAME SEX THE HUMAN DIGNITY TRUST

Who is this for? Those looking to learn where and how homosexuality is criminalized around the world.
Summary: Lists jurisdictions with laws that criminalize private, consensual sexual conduct between adults of the same sex. Website also provides an interactive map of the jurisdictions with details about the category of criminalization, gender that can be prosecuted under the law, and maximum punishment for the offense.

Link

LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER, AND HIV-AFFECTED VIOLENCE IN 2015 NATIONAL COALITION OF ANTI-VIOLENCE PROGRAMS, 2016

Who is this for? Those interested in understanding what policies exist, how challenges are addressed, and what successes have been achieved.
Summary: A wide ranging study that references more than 200 initiatives to identify policy regulations and trends, highlighting developments and areas that need further attention. Regional, national and local context varies significantly. This guide includes actions that have been beneficial or detrimental in efforts to address hate crime.

Link

MAPPING THE RAINBOW IN ASEAN: A REGIONAL SITUATIONER ON LGBTQ RIGHTS ASEAN SOGIE CAUCUS, 2016

Who is this for? Activists and allies looking to learn about the human rights situation in Southeast Asia.
Summary: This factsheet provides an initial glimpse of the key issues faced by LGBTQ persons in Southeast Asia.

Link

REPORT OF THE INDEPENDENT EXPERT ON PROTECTION AGAINST VIOLENCE AND DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY VICTOR MADRIGAL-BORLOZ, INDEPENDENT EXPERT ON PROTECTION AGAINST VIOLENCE AND DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, 2018

Who is this for? Submitted to the United Nations Human Rights Council and can be used an authoritative research for governments and civil society organizations.
Summary: Provides an overview of violence and discrimination based on sexual orientation and gender identity, highlighting how lesbian, gay, bisexual, trans and gender non-conforming persons are affected differently by these acts and how intersecting factors have an impact on their vulnerability and on their risk of exclusion and marginalization. Explores the root causes of violence and discrimination based on sexual orientation and gender identity, including deeply entrenched stigma and prejudice reinforced by discriminatory laws and regulations.

Link
REPORT OF THE SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, 2016

Who is this for? Submitted to the United Nations Human Rights Council and can be used as authoritative research for governments and civil society organizations.

Summary: In this report, the Special Rapporteur assesses the applicability of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment in international law to the unique experiences of women, girls, and lesbian, gay, bisexual, transgender and intersex persons.

Link

REVEALING THE RAINBOW: THE HUMAN RIGHTS SITUATION OF SOUTHEAST ASIA’S LGBTIQ COMMUNITIES AND THEIR DEFENDERS DESTINATION JUSTICE; UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER – CAMBODIA, 2018

Who is this for? Civil society organizations and UN Member States, as well as those looking to participate in a dialogue to improve the human rights situation of Southeast Asia’s LGBTIQ communities and their defenders.

Summary: This report comprehensively analyses the human rights situation of Southeast Asia’s LGBTIQ Communities and their defenders in Southeast Asia in the decade since the UPR and the Yogyakarta Principles were introduced. It documents both the legal framework and the factual reality in each of the 11 Southeast Asian States.

Link

VIOLENCE AGAINST LGBTI PERSONS INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, 2015

Who is this for? Member states of the Organization of American States as well as those looking for an in-depth analysis of prejudice-related violence against LGBTI persons.

Summary: Reports on acts of physical violence committed against persons with non-normative sexual orientations, identities and gender expressions, or whose bodies vary from the standard for female and male bodies in the Americas. Provides recommendations to Organization of American States members to comply with their obligations to respect and guarantee human rights.

Link

VIOLENCE BASED ON PERCEIVED OR REAL SEXUAL ORIENTATION AND GENDER IDENTITY IN AFRICA AFRICAN MEN FOR SEXUAL HEALTH AND RIGHTS; COALITION OF AFRICAN LESBIANS, 2013

Who is this for? Those who are looking for a quick reference point to the situation for LGBTI persons in Africa.

Summary: This report provides examples of cases of violence faced by LGBTI individuals from different parts of Africa, intending to aid in advancing the case for promotion and protection of the rights of LGBTI individuals in member states of the African Union.

Link
BRIEF ON VIOLENCE AGAINST SEXUAL AND GENDER MINORITY WOMEN
THE WORLD BANK GROUP, THE GLOBAL WOMEN’S INSTITUTE AT GEORGE WASHINGTON UNIVERSITY, INTER-AMERICAN DEVELOPMENT BANK, INTERNATIONAL CENTER FOR RESEARCH ON WOMEN, 2015

Who is this for? Those who want to understand the gendered aspects of violence impacting lesbian, bisexual, and transgender women.

Summary: Overview of the causes, types and consequences of violence against LBT women. Acknowledges the increased risks for structural violence for LBT women. Additionally, covers key areas on how to integrate and protect women in international development projects.

THE NIGHT IS ANOTHER COUNTRY: IMPUNITY AND VIOLENCE AGAINST TRANSGENDER WOMEN HUMAN RIGHTS DEFENDERS IN LATIN AMERICA REDLACTRAN S, 2012

Who is this for? Those who want to understand violence against transgender women and their advocates in Latin America.

Summary: This report provides extensive evidence of the devastating reality of the human rights violations facing transgender people. The report makes a number of recommendations to state authorities in Latin America, the international community and civil society. It is a crucial tool to support the ongoing work of advocating for the rights of transgender people at the national, regional and international levels.

THESE EVERYDAY HUMILIATIONS: VIOLENCE AGAINST LESBIANS, BISEXUAL WOMEN, AND TRANSGENDER MEN IN KYRGYZSTAN HUMAN RIGHTS WATCH, 2008

Who is this for? Those who want to understand the gendered aspects of violence impacting lesbians, bisexual women, and transgender men.

Summary: Violence against women is a nationwide crisis in Kyrgyzstan. But women who are attracted to other women, or who violate rigid gender roles defining how a woman should look or behave, may be singled out for violent retaliation. Moreover, the government ignores their needs—and denies their very existence.

VIOLENCE: THROUGH THE LENS OF LESBIANS, BISEXUAL WOMEN AND TRANS PEOPLE IN ASIA INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION, 2014

Who is this for? Those interested in carrying out evidence-based advocacy at the national, regional and international levels.

Summary: Presents findings from research coordinated by the International Gay and Lesbian Human Rights Commission (now OutRight Action International) that was conducted over a two-year period by women’s rights, sexuality rights and gender rights activists based in Japan, Malaysia, Pakistan, Philippines and Sri Lanka. Reports high levels of family violence perpetrated against LBT individuals as well as widespread discrimination in education, health and work sectors.
“WE’LL SHOW YOU YOU’RE A WOMAN”: VIOLENCE AND DISCRIMINATION AGAINST BLACK LESBIANS AND TRANSGENDER MEN IN SOUTH AFRICA HUMAN RIGHTS WATCH, 2011

Who is this for? Those interested in an in-depth report on the intersection of race and gender in one country context—South Africa.

Summary: This 93-page report is based on more than 120 interviews conducted in six provinces of South Africa. Human Rights Watch found that lesbians and transgender men face extensive discrimination and violence in their daily lives, both from private individuals and government officials.

VIOLENCE AGAINST TRANS PERSONS

FOR THE RECORD: DOCUMENTING VIOLENCE AGAINST TRANS PEOPLE, EXPERIENCES FROM ARMENIA, GEORGIA, GERMANY, MOLDOVA, AND RUSSIA TRANSGENDER EUROPE, 2016

Who is this for? Policymakers and advocates for inclusive laws for trans people in the region.

Summary: Reports findings from monitoring violence and human rights violations against trans people in this region. The report provides systematic data needed to improve public policies to prevent and tackle discrimination and violence against trans people.

TRAN RESPECT VERSUS TRANSPHOBIA PUBLICATION SERIES TRANSGENDER EUROPE, 2010 - 2017

Who is this for? Anyone who wants detailed information on the murder and violence targeting transgender people throughout the world.

Summary: This series of reports is the result of the Trans Respect versus Transphobia project of Transgender Europe, which documents human rights violence of transgender people. Reports are country and issue specific and are published in applicable languages.

THE VICIOUS CIRCLE OF VIOLENCE: TRANS AND GENDER-DIVERSE PEOPLE, MIGRATION, AND SEX WORK TRANSGENDER EUROPE, 2017

Who is this for? Those who want an analysis of the drivers that cause some transgender people to engage in sex work.

Summary: This report examines some of the reasons why transgender and gender-diverse people engage in sex work, an intersection which puts transgender and gender-diverse sex workers at heightened risk of violence, including killings. The report contextualizes data collected from 2008-2017 and provides a detailed look into the experiences of transgender people that places them at greater risk.
ACCELERATING ACCEPTANCE 2018:
EXECUTIVE SUMMARY
GAY & LESBIAN ALLIANCE AGAINST
DEFAMATION

Who is this for? Those who want a brief overview in the recent shift in American attitudes about LGBTI persons.
Summary: Measures attitudes in the United States toward lesbian, gay, bisexual, transgender, and queer (LGBTQ) people and issues, showing that acceptance of LGBTI persons has declined.

Link

BORN FREE AND EQUAL:
SEXUAL ORIENTATION AND GENDER
IDENTITY IN INTERNATIONAL HUMAN
RIGHTS LAW UNITED NATIONS HUMAN
RIGHTS OFFICE OF THE HIGH
COMMISSIONER, 2012

Who is this for? States not meeting their core obligations to LGBT persons, as well as human rights defenders.
Summary: Articulates the core obligations that States have towards LGBT persons, and describes how United Nations mechanisms have applied international law in this context. Provides a body of evidence that shows how individuals are targeted on the basis of their sexual orientation or gender identity. Issues specific guidance to help States protect LGBT persons.

Link

COALITION BUILDING FOR
TOLERANCE AND NON-
DISCRIMINATION: A PRACTICAL
GUIDE OFFICE FOR DEMOCRATIC
INSTITUTIONS AND HUMAN RIGHTS
OF THE ORGANIZATION FOR SECURITY
AND COOPERATION IN EUROPE

Who is this for? Community leaders and civil society organizations interested in forming successful coalitions.
Summary: ODIHR’s new guide offers community leaders and civil society organizations in the OSCE region a human rights-based approach and practical basis for building successful coalitions aimed at addressing discrimination and fostering more tolerant and peaceful societies. By providing multiple resources and good practices, tips for gender mainstreaming and step-by-step instructions, this guide serves as a starting point not only for civil society organizations and communities setting out to create successful coalitions that strengthen responses to intolerance and discrimination, but for all members of civil society who wish to create coalitions to advance their goals.

Link

HATE CRIME LAWS – THE ADL APPROACH
ANTI-DEFAMATION LEAGUE (ADL), 2012

Who is this for? Those who want to understand the mechanisms of hate crime legislation at the state and federal levels in the United States.
Summary: A compendium of hate crime statutes discussing how to punish bias motivated violence. Discusses both state and federal criminal statutes with regards to hate crimes as well as legislation that was pending at the time of writing.

Link
**How to Protect LGBTI Persons Around the World from Violence: Blueprint for the Next Administration**

**The Council for Global Equality; Human Rights First, 2012**

**Who is this for?** U.S. Government Agencies.

**Summary:** Offers concrete recommendations in response to the Memorandum on International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual and Transgender Persons to implement strategies by addressing both the immediate threats of violence to LGBTI persons, as well as the longer-term challenges of strengthening state responses to this problem.

[Link](#)

**Sexual Orientation, Gender Identity and International Human Rights Law**

**International Commission of Jurists, 2009**

**Who is this for?** Those who want an overview of international law relating to sexual orientation and gender identity.

**Summary:** This document covers a broad range of issues facing the LGBTI community. It is broken up into eight subsections: general considerations; foundations in international and comparative public law; right to private life; arbitrary deprivation of liberty; right to life; torture and ill treatment; rights to freedom of expression; assembly and association; and asylum and refuge.

[Link](#)
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