

**“Telling our stories”: Exploring and documenting the lived experiences of sexual and gender-diverse offenders in two South African correctional facilities**

**by**

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*“Telling our stories”: Exploring and documenting the lived experiences of sexual and gender-diverse offenders in two South African correctional facilities*

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20 October 2023

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## DEDICATION

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## ACRONYMS

ANC	African National Congress
APA	American Psychiatric Association
CODESA	Convention for a Democratic South Africa
DP	Democratic Party
DSM	Diagnostic Statistical Manual
GAH	Gender-affirming healthcare
GASA	Gay Association of South Africa
GID	Gender identity disorder
IFP	Inkatha Freedom Party
IPV	Intimate partner violence
MPNF	Multiparty Negotiation Forum
NP	National Party
PsySSA –	Psychological Society of South Africa
SOP	Standard operating procedure
TGD	Transgender and gender-diverse
UNODC	United Nations Office on Drugs and Crime

## ABSTRACT

**Introduction:** Despite having one of the world's most progressive and inclusive constitutions, South Africa continues to experience significant discrimination and victimisation perpetuated against the LGBTQ+ population. Dehumanising practices are evident in all social institutions, including correctional institutions. While correctional facilities are seen as enclosed institutions, in reality, carceral cultures and practices are continuously influenced and shaped by practices from free society. This means that homophobic beliefs and attitudes in free society find their way into correctional facilities. Unique correctional cultures and practices also function to uphold heteronormativity, thus denying diverse sexual and gender identities. Although these are the seemingly dominant practices, this does not negate multifaceted and positive practices related to sexual and gender diversity in these spaces.

**Aim:** This study aims to explore and document the lived experiences of sexual and gender-diverse offenders in two South African correctional facilities located in the Gauteng province.

**Method:** This study uses social constructionism to understand and interpret participants' narratives and experiences. Social constructionism holds that "truths", experiences and practices are socially constructed. The qualitative method was used to capture the depth and richness of the participants' experiences. Thematic analysis was used to analyse the data with a particular focus on reflective thematic analysis, which stresses the importance of the researcher's subjectivity in the data collection and analysis.

**Findings:** Five primary themes were identified: 1) Segregation vs integration captured the participants' experiences related to placement, whether in special care or general sections. Overall, the participants reported adverse experiences in special care sections. 2) Sexual and gender identities in the context of incarceration broadly spoke to the continuum of sexual diversity. The participants' narratives highlighted the "endlessness" of sexual identities. Some participants expressed that they found liberation in incarceration regarding their sexual and gender identities. 3) Systemic homophobia presented participants' experiences of homophobia, discrimination and marginalisation perpetuated by correctional officials and offenders. 4) Relationships in correctional spaces spoke to issues surrounding intimate relationships in correctional spaces. Some participants narrated experiences of developing meaningful connections with others. 5) The last theme narrated the resilience of sexual and gender-diverse offenders despite the challenges they experienced in correctional institutions.

The overarching experiences reported by participants were those of systemic homophobia and victimisation primarily perpetrated by correctional officials. The pervasive and often blatant discrimination and marginalisation narrated by participants portray correctional facilities as ‘no place for sexual and gender diverse people’. However, participants also reported positive experiences such as sense of liberation in the expression of their diverse identities and building meaningful relationships with others. Despite having to deal with systemic homophobia, participants demonstrated great resilience and strength and found constructive ways of engaging with the carceral environment. This study outlined a few key recommendations that ultimately speak to the need for the revision of DCS incarceration policies and procedures to safeguard the human rights and ensure the safe detention of sexual and gender diverse offenders.

*Keywords:* Sexual and gender diversity, correctional facilities/prisons, offenders, homophobia, LGBTQ+, same-sex sexual practices, transgender, heteronormativity, homonormativity, social constructionism

## OKUCASHUNIWE

**Isingeniso:** Naphezu kokuba nomthethosisekelo emhlabeni onenqubekela phambili futhi obandakanya wonke umuntu, iNingizimu Afrika isaqhubeka nokucwaswa nokuhlukunyezwa okugquqquzelwa ebantwini be-LGBTQ+. Imikhuba elulaza ubuntu iyabonakala kuzo zonke izikhungo zezehlalakahle, kuhlangukise nezikhungo zokuqondiswa kwezimilo. Nakuba izikhungo zokuqondiswa kwezimilo zithathwa njengezikhungo ezivalekile, empeleni, amasiko nezinqubo zokuziphatha ejele zilokhu zithonywa futhi zakhiwe yizinqubo ezivela emphakathini okhululekile. Lokhu kusho ukuthi izinkolelo zokucwaswa kokuthandana kobulili obufanayo kanye nesimo sengqondo emphakathini okhululekile zithola indlela yazo ezikhungweni zokuqondiswa kwezimilo. Amasiko nezinqubo zokuqondisa ezihlukile ziphinde zisebenze ukuze kugcinwe umqondo wokuthi ubulili obuhlukile buyindlela evamile, ngaleyo ndlela kunqabe ukukhonjwa okuhlukahlukene kwezocansi nobulili. Nakuba lezi kuyizinqubo ezibonakala zinamandla, lokhu akuphikisani nemikhuba ehluahlukene nelungile ehlobene nokuhluahluka kwezocansi nobulili kulezi zikhala.

**Inhloso:** Inhloso yalolu cwaningo bekuwukuhlola kanye nokubhala phansi izehlakalo zezaphulamthetho zocansi nezobulili ezihlukene ezikhungweni ezimbili zokuqondiswa kwezimilo zaseNingizimu Afrika ezisesifundazweni saseGauteng.

**Indlela:** Umbono woqoqo lolwazi nokudaleka kwezimo zomphakathi wasetshenziselwa ukuqonda nokuhumusha ukulandisa kwabahlanganyeli. Umbono woqoqo lolwazi nokudaleka kwezimo zomphakathi ubamba ukuthi "amaqiniso", nemikhuba yakhiwe emphakathini. Indlela ngokuchazayo yasetshenziswa ukuze kuthathwe ukujula nokunotha kokuhlangenwe nakho kwabahlanganyeli. Kusetshenziswe ukuhlaziya indikimba ekuhlaziyeni imininingwane kugxilwe kakhulu ekuhlaziyeni indikimba echazayo, okugcizelela ukubaluleka kokuzicabangela komcwaningi ekuqoqweni nasekuhlaziyeni imininingwane.

**Imiphumela:** Izindikimba ezinhlanu eziyinhloko zihlonziwe: 1) Ukuhlukaniswa nokuhlanganisa kwagcina ukuhlangenwe nako kwabahlanganyeli okuhlobene nokubekwa, kungaba ngokunakekelwa okukhethekile noma izigaba ezijwayelekile. Sekukonke, abahlanganyeli babike abahlangene nako okubi ezigabeni zokunakekelwa okukhethekile. 2) Ubunikazi kwezocansi nobulili esimeni sokuboshwa kukhulunywe kabanzi ngokuqhubeka kokuhlukahluka kwezocansi. Ukulandisa kwabahlanganyeli kugqamise "ukungapheli" kobunikazi kwezocansi nobulili. Abanye abahlanganyeli bazwakalise ukuthi bathole inkululeko ekuboshweni mayelana nobunikazi babo kwezocansi nobulili. 3) Uhlelo lokucwaswa lokuthandana kobulili obufanayo lwethula ukuhlangenwe nakho kwabahlanganyeli mayelana nokucwaswa kokuthandana kobulili obufanayo, ukucwaswa kanye nokubukelwa phansi okugqugquzelwa yizikhulu zokuqondiswa kwezimilo kanye nezaphulamthetho. 4) Ubudlelwano ezindaweni zokuqondiswa kwezimilo bukhulume ngezindaba ezithinta ubudlelwano bezocansi ezindaweni zokuqondiswa kwezimilo. Abanye abahlanganyeli balandisa ukuhlangenwe nakho kokuthuthukisa ukuxhumana okunenjongo nabanye. 5) Indikimba yokugcina ikhulume ngokukhuthazela kwezigebugu zocansi nezobulili ezihlukene naphezu kwezinsalelo abahlangabezane nazo ezikhungweni zokuqondiswa kwezimilo.

Izehlakalo ezivelele ezibikwe ngabahlanganyeli yilezo zokucwaswa kwabantu abathandanayo bobulili obufanayo kanye nokuhlukunyezwa okwenziwa ikakhulukazi yizikhulu zokuhlunyelelwa kwezimilo. Ukucwasa nokucwaswa okugcwele futhi okuvame ukuba sobala okulandiswa ngabahlanganyeli kuveza izindawo zokuhlunyelelwa kwezimilo njengokuthi “ayikho indawo yabantu abahlukene ngokocansi nabahlukene ngokobulili”



Kodwa-ke, abahlanganyeli baphinde babika okuhlangenwe nakho okuhle, okufana nomuzwa wenkululeko ekuvezeni ubunjalo babo obuhlukahlukene kanye nokwakha ubudlelwano obunenjongo nabanye. Naphezu kokubhekana nokucwaswa kwabantu abathandanayo bobulili obufanayo, abahlanganyeli babonise ukuqina okukhulu namandla futhi bathola izindlela ezakhayo zokuzibandakanya nendalo yasejele. Lolu cwaningo luveze iziphakamiso ezimbalwa ezibalulekile ezigcina zikhuluma ngesidingo sokubuyezwa kwezinqubomgomo nezinqubo zokuboshwa zoMnyango Wezinsizakalo Zokuhlunyelelisa Kwezimilo (DCS) ukuze kuvikelwe amalungelo abantu futhi kuqinisekise ukuboshwa okuphephile kwezaphula mthetho eziphathelene ezahlukile ngokocansi ngokobulili.

*Amagama asemqoka:* Ukuhlukahlukana kwezocansi nobulili, izikhungo zokuqondiswa kwezimilo/amajele, izephulamthetho, ukucwaswa kwabathandanayo bobulili obufanayo i-LGBTQ+, imikhuba yezocansi yobulili obufanayo, ubulili obuhlukile nalobu ozalwe nabo, umqondo wokuthi ubulili obuhlukile yinto evamile, umqondo obusayo ngezocansi nobulili, umbono woqoqo lolwazi nokudaleka kwezimo zomphakathi.

## TSHOBOKANYO

**Matseno:** Le fa Aforikaborwa e na le mongwe wa melaotheo e e akaretsang e bile e na le tswelelopele, e tswelela go nna le tlhaolo le tshotlo e e lebisitsweng kwa setlhopheng sa LGBTQ+. Go tswelela go nna le ditiragatso tse di swabisang mo ditheong tsa setšhaba, go akarediwa ditheo tsa kgopololo. Le fa ditlamelo tsa kgopololo di tsewa e le ditheo tse di tswaletsweng, mekgwa le tiragatso ya botshwarwa e tswelela go tlhotlhedliwa le go bopiwa ke setšhaba se se kwa ntle. Seno se kaya gore mekgwa le ditumelo tse di kगतलhanong le batho ba ba ratanang le ba bong bo bo tshwanang tsa batho ba ba kwa ntle di tswelela go fetela mo ditheong tsa kgopololo. Mekgwa le ditiragatso tse di kgethegileng tsa kgopololo le tsona di tsweletsa kamogelo ya mokgwatlwaelo wa go ratana ga banna le basadi, mme ka go rialo e iletsa boitshupo jo bo methalethale jwa boitlhophelo jwa thobalano le bong. Le fa ditiragatso tseno di bonala di fekeetsa, seno ga se ganetse gore go na le ditiragatso tsa maphatamantsi tse di amanang le methalethale ya boitlhophelo jwa thobalano le bong mo mafelong a mangwe.

**Maikaelelo:** Maikaelelo a thutopatlisiso eno e ne e le go tlhotlhomisa le go kwala maitemogelo a bagolegwa ka bong le boitlhophelo jwa thobalano jwa methalethale kwa ditlamelong tse pedi tsa kgopololo tsa Aforikaborwa kwa porofenseng ya Gauteng.

**Mmeo:** Go dirisitswe mmeo wa kagoloago go tlhaloganya le go ranola dikanelo le maitemogelo a banni le seabe. Kagoloago e dumela gore “dinnete”, maitemogelo le ditiragatso di agwa mo loagong. Go dirisitswe mmeo wa khwalithatifi go bona boteng le khumo ya maitemogelo a banni le seabe. Go dirisitswe tokololo go ya ka merero go lokolola *data* go totilwe tokololo go ya ka merero le itshekatsheko, e e gatelelang botlhokwa jwa gore mmatlisisi a se ke a tsaya letlhakore mo kokoanyong le mo tokololong ya *data*.

**Dipoelo:** Go supilwe merero e metlhano ya tshimologo: 1) Tlhaolo mo boemong jwa kopano e tlhagisitswe e le maitemogelo a banni le seabe malebana le ntlha ya go isiwa kwa lefelong, e ka nna kwa dikarolong tsa tlhokomelo e e kgethegileng gongwe tsa kakaretso. Ka kakaretso, banni le seabe ba begile fa ba nnile le maitemogelo a a maswe mo dikarolong tsa tlhokomelo e e kgethegileng. 2) Boitshupo jwa boitlhophelo jwa thobalano le bong mo bokaelong jwa kgolegelo bo tlhagisa tswेतso ya methalethale ya boitlhophelo jwa thobalano. Dikanelo tsa banni le seabe di bontshitse “go sa khutleng” ga boitshupo jwa boitlhophelo jwa thobalano. Banni le seabe ba bangwe ba tlhagisitse fa ba bone kgololesego mo kgolegolong malebana le boitshupo jwa boitlhophelo jwa thobalano le bong. 3) Banni le seabe ba itemogetse letlhoo kgatlhanong le batho ba ba ratanang le batho ba bong jo bo tshwanang, go tllaolwa le go kgaphelwa thoko go go diragaditsweng ke batlhankedi ba kgopololo le bagolegwa . 4) Dikamano tsa kwa dikgolegolong di tlhagisa dintlha tse di ka ga dikamano tsa marato mo dikgolegolong. Banni le seabe bangwe ba tlhagisitse maitemogelo a go nna le dikgolagano tse di molemo le ba bangwe. 5) Morero wa bofelo o anetse kgotlhelelo ya bagolegwa ba boitlhophelo jwa thobalano le bong jwa methalethale le fa ba ntse ba itemogela dikgwetlho mo ditheong tsa kgopololo.

Maitemogelomagolo a a begilweng ke banni le seabe ke a letlhoo le le akaretsang kgatlhanong le batho ba ba ratanang le batho ba bong jo bo tshwanang le go tshwarwa makgwakgwa go go diragaditsweng thata ke batlhankedi ba kgopololo. Go tllaolwa go go mo pepeneneng e bile go sa fele go go tlhagisitsweng ke banni le seabe go bontsha fa ditlamelo tsa kgopololo “e se mafelo a a siametseng batho ba boitlhophelo jwa thobalano le bong jwa methalethale”. Le gale banni le seabe ba begile gape maitemogelo a a siameng a tshwana le go ikutlwa ba gololesegile go tlhagisa boitshupo jwa bona jwa methalethale le go nna le dikamano tse di molemo le ba bangwe. Le fa ba itemogetse letlhoo la batho ba ba ratanang le ba bong jo bo tshwanang, banni le seabe ba bontshitse kgotlhelelo e kgolo le maatla mme ba iponetse ditsela tsa go samagana le seemo sa kwa kgolegolong. Thutopatlisiso eno e tlhagisitse

dikatlenegiso di le mmalwa tse tota di tlhagisang botlhokwa jwa gore go sekasekwe dipholisi le ditsamaiso tsa dikgolegelo tsa Lefapha la Ditirelo tsa Kgopololo (DCS) go sireletsa ditshwanelo tsa botho le go netefatsa pabalesego ya bagolegwa ba boitlhophelo jwa thobalano le bong jwa methalethale.

*Mafoko a botlhokwa:* Methalethale ya boitlhophelo jwa thobalano le bong, ditlamelo tsa kgopololo/dikgolegelo, bagolegwa, letlhoo la batho ba ba ratanang le ba bong jo bo tshwanang, LGBTQ+, thobalano ya batho ba bong jo bo tshwanang, batho ba ba sa itshupeng ka bong jwa tsalo, kamogelo ya mokgwatlwaelo wa go ratana ga banna le basadi, kamogelo ya mokgwatlwaelo wa go ratana ga batho ba bong jo bo tshwanang, kagoloago

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## CHAPTER 1

### INTRODUCTION AND ORIENTATION TO THE STUDY

#### 1.1 Introduction

South Africa was one of the first African countries to adopt a progressive stance on same-sex relationships (Brown, 2014; Kennedy, 2006; Rudwick, 2010). According to Rudwick (2010), in 1996, South Africa was the very first country, internationally, to include sexual orientation in its Bill of Rights. However, homophobia, transphobia and related violence continue to linger (Graziano, 2004; Nel & Judge, 2008). Reygen and Lynette (2014) stated that despite having a progressive constitution and affirming legislation, sexual and gender minorities experience discrimination. Heteronormativity and patriarchy are generally accepted as the norm in many countries, including South Africa. Thus, any discourse about heterosexuality, as misleading or biased as it may be, is perceived as the embodiment of the truth. Several African countries continue to criminalise homosexuality and mete out punishment, including imprisonment and sometimes the death sentence to those found guilty of “practising homosexuality” (Amusan et al., 2019; Arimoro, 2021; Izugbara et al., 2020; Makia, 2019). The marginalisation, exclusion and criminalisation of homosexuality function to actively discourage the expression of diverse genders and sexualities while simultaneously promoting compulsory heterosexuality.

The prevalence of homophobia/transphobia and related violence in society extends into carceral spaces. However, due to the limited number and narrow focus of studies on sexuality in correctional facilities, the impact of homophobia/transphobia, marginalisation and sexual violence on sexual and gender-diverse offenders continue to be downplayed and not well understood. The underplaying of homophobia and homophobia-motivated violence in early correctional studies was largely justified by the essentialist perspective that dominated academia and research (Eigenberg, 1992; Novac, 2013; Sit & Ricciardelli, 2013). Within essentialism, same-sex sexual relations are perceived in the context of corrections as primarily the result of “the pains of imprisonment” or male offenders’ inability to curb their “roaring” sexual frustrations (Hensley et al., 2002). In an attempt to further understand and “legitimise” same-sex sexual activities in the carceral context, in line with the essentialist perspective, the deprivation model was developed and dominated the literature for a lengthy period. Briefly, the

deprivation model holds that through the loss of liberty, autonomy and other essential goods, offenders experience the “pains of imprisonment”. According to this model, sexual behaviours in this context are thought to be a response to the experienced physiological and/or psychological deprivation (Eigenberg, 1992; Forsyth et al., 2021; Hensley et al., 2002).

Dominant normative notions about gender and sexuality also significantly influence how diverse genders and sexualities are conceptualised and approached. Correctional institutions, as most African communities, ascribe to the ideals of heteronormativity and cisnormativity. They are constructed around the notion of a gender binary, and they exclusively focus on the sex assigned at birth for the placement of offenders. Heteronormativity privileges and presents heterosexuality as superior to other forms of sexual orientation (such as homosexuality). It accepts heterosexuality as normal and homosexuality as deviant (de Oliveira et al., 2013; de Viggiani, 2012; Olson, 2015; Robinson, 2016; van der Schyff, 2021). These notions prescribe how gender and sexuality are performed and expressed in carceral spaces. Performances and expressions that do not follow the dictates of heteronormativity and cisnormativity are punished, marginalised and systemically excluded as they are understood to represent homosexuality.

The expression of negative attitudes and homophobic violence towards sexual and gender-diverse people can be linked, in part, to dominant heteronormative socialisation. Several studies have demonstrated the pervasiveness of negative attitudes towards sexual and gender-diverse offenders perpetuated by correctional officials and other offenders (Alarid, 2000; Andrinopoulos et al., 2000; Gopal, 2015; Linonge-Fontebo, 2013; Sit & Ricciardelli, 2013; Tewksbury & West, 2000). The conceptualisation of sexual and gender diversity as deviant and unnatural in terms of heteronormative and cisnormative standards contributed to the production of earlier literature that marginalised and pathologised diverse sexual and gender identities.

The last few decades have seen a significant reconceptualisation of diverse sexual and gender identities, contributing to a growing interest in understanding sexualities in correctional institutions. This shift has prompted researchers and scholars to focus on the social construction and performance of sexualities in carceral environments (Hensley et al., 2002; Krienert et al., 2014; Niehaus, 2000; Ricciardelli et al., 2016; Sit & Ricciardelli, 2013). The construction of same-sex sexualities, first, speaks to how offenders make sense of same-sex sexual practices; for example, are same-sex sexual practices or relations the forte of sexual and gender-diverse

offenders or can heterosexual offenders also engage in those practices? Second, it pays attention to the nonlinear relationship between same-sex sexual practices and sexual orientation or identity; that is, engaging in same-sex sexual practices or relations does not necessarily equal gay/lesbian/bisexual identities. Lastly, the performance of sexualities pays attention to the circumstances as well as the meaning attached to those circumstances under which sexualities are performed. This gap in knowledge that has been poorly explained by existing models and theories has led to a reconceptualisation of sexual orientation and sexual identities. This reconceptualisation allowed researchers, first, to think beyond the binary conceptualisation of sexual orientation (heterosexual-homosexual) and, second, to think beyond the limited conventional sexual orientation/identity categories, namely that of gay, lesbian and bisexual (although the category of bisexuality emerged relatively late). Sexual orientation and identity started being recognised as broad and contingent on the individual's interpretation (Ricciardelli et al., 2016; Sit & Ricciardelli, 2013).

This liberal perspective sees sexual and gender identity as socially constructed through an ongoing interaction between people. It acknowledges the influence of social, political, cultural, and historical factors on the construction and performance of sexual and gender diversity. This perspective departs significantly from essentialism which perceives sexual orientation as static and homosexuality as biologically or psychologically pathological (Andrews, 2012; Burr, 1995; Burr, 2015; Burr & Dick, 2017; Gablin, 2014).

This chapter discusses the rationale for undertaking this study, the primary aim of the study, the significance of the study (both academic and practical), and the definition of relevant terms. The latter section looks at formal terms used in the field of sexual and gender diversity and the informal meaning of "street" terms and terms that are uniquely used in South African correctional institutions. It briefly discusses the general use of terms such as "prison" vs "correctional facilities". Finally, a brief overview of subsequent chapters is provided.

## **1.2 Rationale for Conducting the Study**

Historically, literature on correctional sexualities has been largely essentialist and pathologising (Alarid, 2000; Eigenberg, 1992; Hensley et al., 2002; Novac, 2013). The primary focus was on understanding why homosexuality occurs in male and female correctional facilities and sometimes between people who identified as heterosexual prior to incarceration.

Many of the historical studies attempted to locate homosexual practices in these spaces to factors beyond the individual's control, such as sexual and intimate deprivation and an inability to curb "roaring" sexual urges. Little attention was paid to offenders' autonomy and willingness to consensually engage in intimate sexual relations with other offenders of the same sex. Focus was also disproportionately awarded to coercive sexual practice as the dominant form of sexual engagement between offenders. This focus was cemented by the public health concern over the explosion of STIs and HIV in correctional facilities. The mandate for correctional administrators was to control coercive sexual practices in an attempt to curb the spread of HIV. However, this again overlooked and downplayed consensual sexual practices.

I argue that the incessant focus on coercive sexual practices functioned to systemically erase diverse sexual practices due to their association with homosexuality. While the focus and rationale of correctional research have shifted over the years, there is still very little literature on sexual and gender diversity in correctional spaces, particularly in the African region. Internationally and locally, studies on the lived experiences of sexual and gender-diverse offenders are few and far between. Studies examining positive outcomes of same-sex intimate relationships in carceral spaces are scarcer. The majority of the emerging studies, particularly in the African region, still focus on systemic homophobia and marginalisation of sexual and gender-diverse offenders and most typically use "bystander" accounts. While this contributes to the body of knowledge in terms of understanding people's attitudes, that is as far as it goes. The rich and diverse experiences of sexual and gender-diverse offenders are hardly captured and documented. Predominantly, the focus continues to be on the challenges encountered by this population and hardly on their positive experiences, strengths, and resilience.

### **1.3 Aim of the Current Study**

This study aims to explore and document the lived experiences of sexual and gender-diverse offenders in two correctional facilities in the Gauteng Province of South Africa, namely Kgosi Mampuru II Management Area and Johannesburg Management Area. While data on systemic homophobia and transphobia, marginalisation and exclusion of this population are expected to emerge, which will align this study to historical and contemporary literature, the focus is also on exploring other rich and affirming experiences that have been largely neglected in research. Such experiences include possible positive outcomes from intimate relationships and friendships between incarcerated offenders as well as their resources for dealing with

homophobic and transphobic practices in their correctional facilities. Sexual and gender-diverse offenders are recognised as custodians of vast experiences, some negative and some affirming, and this study aims to document and share their narratives.

#### **1.4 Significance of the Study**

The significance of this study is two-fold:

- Academic significance – contributing to the body of knowledge.
- Practical significance – contributing to changes in policy and practice.

##### **1.4.1 Academic Significance**

Although the past decades have seen an increase in the volume of sexuality research in correctional institutions, the remnants of the “narrow” and selective focus of those studies still haunt current literature. Three issues stand out in most studies on sexuality in correctional spaces: over-documentation of “bystander” accounts, coercive and violent sexual practices, and gender stereotyping.

A few of the studies that have examined the construction and performance of sexualities in carceral spaces have focused on the “bystander accounts”, the observations and experiences of non-sexually and gender-diverse offenders (Andrinopoulos et al., 2011; Forsyth et al., 2002; Gear, 2005; Gear & Ngubeni, 2003; Linonge-Fontebo, 2013; Sit & Ricciardelli, 2013; Ricciardelli et al., 2016). The literature collected for this study yielded a number of both international and local studies that sampled offenders who identified as sexually and gender diverse (Agboola, 2015; Alarid, 2000; Beer et al., 2007; Bromdal et al., 2018; Dastile, 2020; Gopal, 2015; White-Hughto et al., 2017; Jenness & Fenstermaker, 2016; Maeve, 1999; Sevelius & Jenness, 2017; White-Hughto et al., 2018; Yap et al., 2019). However, most studies in this area have relied mainly on the accounts of heterosexual offenders who have observed same-sex sexual practices “from afar”. Studies on bystander accounts appear to have dominated research in the area of sexuality in carceral spaces. This is problematic because they overshadow accounts and experiences of sexually and gender-diverse offenders. Thus, knowledge generated by a majority of studies has been and continues to be one-sided.



The majority of studies in the area of sexuality in correctional facilities have focused mainly on sexual coercion and/or sexual violence (Gear, 2007; Gear & Ngubeni, 2003; Ghanotakis et al., 2007; Morash et al., 2012; O'Donnell, 2004; Papadakaki et al., 2019; Richters et al., 2012; Stohr, 2015; Trammell, 2011). The unilateral focus on this issue has meant that consensual same-sex sexual practices have been neglected. Tewksbury and West (2000) noted that the primary themes in sex research in correctional facilities during the late 1980s and early 1990s were HIV and sexual violence. Both themes received considerable attention from researchers and correctional facility administrators because of their direct impact on correctional facilities' administration and operations. Consensual same-sex sexual practices, in contrast, were and continue to be seen as a non-priority for correctional administration administrators. The excessive focus on sexual violence and simultaneous disregard of consensual same-sex sexual practices and relations emanates from essentialist thinking. Eigenberg (1992) stated that the essentialist perspective associates sexual violence and coercion with situational homosexuality (engaging in same-sex sexual practices due to being deprived of access to the opposite sex), while consensual same-sex practices are tied to true homosexuality (engaging in same-sex sexual practices regardless of having access to the opposite sex, being innately gay or lesbian).

Further, research in this area appears to have been "gender-stereotyped" in that most studies on sexual coercion and violence have been done in all-male correctional facilities, while studies on consensual same-sex sexual practices and affectionate and intimate relationships have typically been done in all-female correctional facilities. The implication of this pattern can be interpreted as implying that males are largely violent and incapable of developing and engaging in affectionate and intimate consensual relationships and vice versa for female offenders. It can be argued that this "gender stereotype" assumption in research has yielded "gender-stereotyped" research results.

While bystander accounts have largely dominated corrections or prison sexual research, there have been a few emerging studies that have documented direct experiences of sexual and gender-diverse offenders (Agboola, 2015; Beer et al., 2007; Bromdal et al., 2018; Dastile, 2020; Donohue et al., 2021; Maeve, 1999; Sevelius & Jenness, 2017; White-Hughto et al., 2018). Most of these are international studies, with very few conducted in Africa. There continues to be a dearth of studies in the field of prison sexuality in general in Africa and South Africa.

There are even fewer studies that have documented direct experiences of sexual and gender-diverse offenders. Similar to countries in the global north, the dominant literature in South Africa is that of coercive and violent sexual practices, particularly perpetuated by the Numbers Gang (Gear, 2005; Gear, 2007; Gear & Ngubeni, 2003).

In light of these gaps in research, namely, the scarcity of studies on the lived experiences of sexually and gender-diverse offenders and their experiences of same-sex sexual practice and relations (especially consensual), the current study aims to contribute to the growth of knowledge while simultaneously giving a voice to sexual and gender-diverse offenders to tell their stories that have been long kept hidden due to the fear of stigma, discrimination and violence.

#### **1.4.2 Practical Significance**

The Correctional Services Act 111 of 1998 and the White Paper on Corrections in South (Department of Correctional Services [DCS], (2005) speak to the safe and secure detention of offenders. For example, the White Paper notes that offenders must be treated as human beings entitled to the rights afforded to all South Africans. These two pieces of legislation draw from the Constitution of the Republic of South Africa (1996). While the Constitution clearly stipulates that the state, and by extension, all the representatives of the state, cannot discriminate on the grounds of sexual orientation, the Correctional Services Act 111 and the White Paper on Corrections make no mention of the subpopulation of sexual and gender-diverse offenders. In 2020, the DCS drafted the standard operating procedures (SOP) manual on the management of LGBTQ+ offenders, which was published in 2021. The first revision of the SOP started in March 2023. This study further aims, through its findings, to contribute to the development of policies that directly speak to the safe and humane detention and incarceration of sexual and gender-diverse offenders and/or in the subsequent revisions of the SOP so that it takes full cognisance of the diverse and multifaceted needs of sexual and gender-diverse offenders. The initiative by the DCS in developing the SOP should be applauded. However, a difficult journey lies ahead since the successful implementation and operationalisation of the SOP requires that correctional officials, especially at the ground level, embrace positive attitudes towards sexual and gender-diverse people in general. Unfortunately, research examining correctional officials' attitudes towards sexual and gender-diverse offenders has not yielded promising results (Alarid, 2000; Eigenberg, 2000; Gopal, 2015; Tewksbury, 2000). It is not inconceivable that

correctional officials' attitudes remain largely negative; it is hoped that the findings of this study might contribute to the development of training material that facilitates the operationalisation of the SOP.

## **1.5 Definition of and Orientation to Important Terms**

### **1.5.1 Terms Directly Related to Sexual and Gender Diversity**

Providing definitions of terms runs somewhat counter to the social constructionist ethos of this study, which is based on the idea that social phenomena and the ways they are spoken about are the subject of constant contestation and negotiation. No fixed essences can be accurately defined in any final sense. However, even when working from a social constructionist frame, it can be useful to provide definitions, provided it is understood that such definitions are not meant to indicate what the terms “really” mean but that the terms will be used to signify these meanings in this study unless otherwise indicated.

The definitions of the following terms are taken from the Psychological Society of South Africa [PsySSA] (2017) *Practice Guidelines for Psychology Professionals Working with Sexual and Gender-Diverse People*.

**Sexual orientation:** “A person’s lasting emotional, romantic, sexual or affectional attraction to others (heterosexual, homosexual/same-sex sexual orientation, bisexual or asexual)” (p. 62).

**Gender identity:** “A person’s private sense of being male, female or another gender. This may or may not match the biological sex that a person was assigned at birth” (p. 60).

**LGBTIQA+:** “‘LGB’ refers to sexual orientations, while ‘T’ indicates a gender identity, ‘I’ a biological variant, ‘Q’ a queer identified person, ‘A’ for asexual, and ‘+’ indicating other non-conforming minorities” (p. 61). These groups fall under one umbrella term because they have similar “experiences of marginalisation, exclusion, discrimination and victimisation in a heteronormative and heterosexist society, in an effort to ensure equality before the law and equal protection by the law” (p. 61).

**Gay:** “A man who has sexual, romantic and intimate feelings for or a love relationship with another man (or men). In the South African context, some lesbians also identify as ‘gay’ which, again, emphasises the importance of enquiring about self-naming and honouring such naming” (p. 59).

**Lesbian:** “A woman who has sexual, romantic and intimate feelings for or a love relationship with another woman (or women). Note, some lesbians prefer referring to themselves as ‘gay’” (p. 61).

**Bisexual:** “A person who is capable of having sexual, romantic and intimate feelings for or a love relationship with someone of the same gender and/or with someone of other genders. Such an attraction to different genders is not necessarily simultaneous or equal in intensity” (p. 59).

**Transgender:** “A term for people who have a gender identity, and often a gender expression that is different to the sex they were assigned at birth by default on account of their primary sexual characteristics. It is also used to refer to people who challenge society’s view of gender as fixed, unmoving, dichotomous and inextricably linked to one’s biological sex” (p. 63).

**Asexual:** “A person who has low or no sexual desire, little or no sexual behaviour, and a concomitant lack of subjective distress. Identifying as asexual does not preclude the ability for the person to have a romantic or love relationship with someone of the same and/or different gender” (p. 59).

**Queer:** “An inclusive term that refers not only to lesbian and gay persons, but also to trans and gender non-conforming persons, or anyone else who feels marginalised because of her or his sexual practices, or who resists the heteronormative system regarding sex/gender/sexual identity” (p. 62).

**Intersexuality:** “A term referring to a variety of conditions (genetic, physiological or anatomical) in which a person’s sexual and/or reproductive features and organs do not conform to dominant and typical definitions of ‘female’ or ‘male’” (p. 61).

**Heteronormativity:** “Related to ‘heterosexism’, it refers to the privileged position associated with heterosexuality based on the normative assumptions that there are only two genders, that gender always reflects the person’s biological sex as assigned at birth, and that only sexual attraction between these ‘opposite’ genders is considered normal or natural” (p. 60).

**Gender diversity:** “The range of different gender expressions that spans across the historically imposed male-female binary” (p. 60).

**Sexual diversity:** “The range of different expressions of sexual orientation and sexual behaviour that span across the historically imposed heterosexual-homosexual binary” (PsySSA, 2017, p. 62).

**WSW (women who have sex with women):** “Used in public health contexts to refer to women who engage in sexual activity with other women, including those who do not identify themselves as lesbian or bisexual, to avoid excluding women who identify as heterosexual” (p. 63).

**MSM (men who have sex with men):** “Used in public health contexts to refer to men who engage in sexual activity with other men, including those who do not identify themselves as gay or bisexual, to avoid excluding men who identify as heterosexual” (PsySSA, 2017, p. 61).

**Gender:** “The socially constructed roles, behaviour, activities and attributes that a particular society considers appropriate for either men or women” (p. 59).

**Heterosexual:** “Having sexual, romantic and intimate feelings for or a love relationship with a person or persons of a gender other than one’s own” (p. 61).

**Homophobia:** “Also termed ‘homoprejudice’, it refers to an emotional disgust, fear, hostility, violence, anger or discomfort felt or expressed towards lesbian women and gay men (or women), or same-sex sexuality more generally” (p. 61).

**Transphobia:** “Emotional disgust, fear, hostility, violence, anger or discomfort felt or expressed towards people who do not conform to the gender expectations of society. It is often

expressed alongside homophobic views and hence is often considered an aspect of homophobia” (p. 63).

### **1.5.2 “Street” Terms that are Used to Refer to Sexual and Gender-Diverse People**

Most official South African languages contain derogatory terms used to refer to people who are sexual and gender diverse. IsiZulu-speaking people often use terms such as “istabane”, “inkonkoni”, “ungqingili”, “sis-bhuti”, “indodamfazi” to refer to effeminate gay men. Rudwick (2010) stated that in townships and other predominantly black living spaces, gay men who are referred to by some of these terms are sometimes mistakenly thought to be hermaphrodites. Terms such as “husband-wife”, “boy-wife”, or “hlobongo” were used in mining compounds to refer to young men who were married to older men (Gear, 2007; Gear & Ngubeni, 2003; Rudwick, 2010). Rudwick also wrote about “skesanas” – homosexual men who are sexually attracted to masculine men. These individuals only feel like women in terms of sexual attraction but do not necessarily identify themselves as women. Scott (2015) stated that IsiXhosa-speaking people typically use the term “moffie”, an Afrikaans slang word meaning “faggot” or “acting like a girl” to refer to gay men. The term “talese” is also used to refer to gender non-conforming men. This word means hermaphrodite and is often used as a catch-all term. The term “nongay’ndoda” in Xhosa is used to refer to “butch” women who do not conform to stereotypical femininity, even if they are straight (Scott, 2015). All the terms discussed here, except “skesana”, are largely considered derogatory by the LGBTQ+ population. Their core function is to insult and instil shame, and they are predominantly used by heterosexual individuals. The term “skesana” appears to be more acceptable in that it appears to originate from within the LGBTQI+ community and is instead to make a distinction between different categories of gay men rather than to insult and/or shame.

Terms such as “top”, “bottom”, “versatile” are more acceptable to LGBTQ+ individuals. These terms are used to distinguish between those who play active/insertive, passive/receptive or both roles in sexual intercourse. “Bottoms” are receptive or are penetrated during sexual intercourse and are sometimes labelled effeminate and considered to be the epitome of gayness or homosexuality. “Tops” play the penetrative or active role; they are expected to be masculine and well sought after because they are perceived to embody the qualities of heterosexuality. Those who identify as versatile play receptive and penetrative roles, some more masculine and some more feminine (Henderson, 2017). There are also a

variety of other terms, such as “side”, that are sometimes used to signal non-conformity to the bottom-top-versatile categorisation. Farber (2022) explained that the term “side” was coined in 2013 by Dr Joe Kort, a sex therapist. This term has only gained popularity and acknowledgement in the gay community in the last decade. The term is generally used by men who find fulfilment in every kind of sexual act except anal penetration, for example, attaining sexual release through a broad range of oral, manual and frictional body techniques (Farber, 2022).

### **1.5.3 Terms Used to Refer to Offenders in South African Correctional Facilities**

The term “bandit” (or sometimes “bandiet”) is widely used by incarcerated individuals in South African correctional facilities (see Murray & Roscoe, 1998; Steinberg, 2004). This term is frequently used as both a noun (a bandit/bandits) to refer to a certain category of people (offenders) as well as a verb (ukubhantita) in reference to serving a sentence in a correctional facility. The term “isiboshwa” (meaning someone who is incarcerated), a Zulu term, is widely used in correctional facilities where isiZulu is the predominant medium of communication. The term “wyfie”, which is frequently used in Gear’s work (see Gear 2005; Gear, 2007; Gear, 2010; Gear & Ngubeni, 2003), is originally an Afrikaans word meaning female animal, which has been appropriated as a more general South African slang term used to refer to a woman. In a carceral environment, it is used to refer to male offenders who are in a same-sex sexual relationship, either consensual or through coercion with another male offender. This term is particularly famous in the Numbers Gang. In academic texts, “wyfie” is often translated as “catamite”, the classical Greek term for a boy or a young man in a sexual relationship with an adult man.

Terms that are exclusively used by lesbian women include “lipstick lesbians” and “isinanga”. “Lipstick lesbians” are described as feminine lesbians who wear wigs, lipstick and make-up, in contrast to “butch” lesbians who present with masculine characteristics and mannerisms. “Isinanga”, a term that denotes sexual activity between women, particularly in carceral spaces, appears in Dastile (2020) as “isinangananga”. Dastile argued that “isinangananga” is not just a same-sex sexual relationship between two females and includes a practice of “fisting”. However, the participants in this study exclusively used this term to refer to sex between women.

#### 1.5.4 General Terms

For the purposes of this thesis, homosexuality, sexual and gender diversity, and LGBTQ+ will be used synonymously. However, the term homosexuality will mainly be used to reflect its historical use in literature. While the LGBTQ+ acronym at times included I (intersex) and A (asexual), for the purposes of this thesis, LGBTQ+ will be used to reflect the predominant sexual orientation and gender identities in correctional institutions. The terms transgender and gender-diverse (TGD) will be used when specifically discussing gender diversity in contrast to sexual orientation (gay, lesbian and bisexual).

The terms “correctional institutions/facilities/centres” will be typically used throughout this thesis as preferred terms that have replaced the old term “prison(s)”. However, “prison” will also be used when reviewing international and historical literature. This term is also still widely used in most current African literature. The term “offender” will be used in line with the terminology used in the White Paper on Corrections (DCS, 2005) instead of “prisoner”. Imprisonment and incarceration will be used interchangeably throughout this thesis.

#### 1.6 Outline of Chapters

**Chapter 1: Introduction and Orientation to the Study:** the introductory chapter outlined the background of the study and presented the problem statement, which rationalised why this study has been conducted. It further delineated the purpose of conducting this study and its significance. Lastly, it defined terms used throughout this thesis.

**Chapter 2: Literature Review:** the literature review chapter guides the reader through the large volume of research that has been done over the years in the field of sexuality and gender diversity and sexuality in correctional institutions. The literature reviewed in this thesis includes but is not limited to, the history of homosexual identities in Africa, the history of punishment and imprisonment, early research in correctional sexualities, the conceptualisation of sexualities in correctional institutions, constructing and performing sexualities in correctional institutions, attitudes towards sexual and gender-diverse offenders; lived experiences of sexual and gender diverse offenders; sexual violence in correctional institutions and TGD offenders.



**Chapter 3: Theoretical Framework:** the theoretical framework chapter primarily discusses social constructionism as a theoretical lens through which the findings of the study will be viewed and interpreted. This chapter also discusses a number of models that have been developed over the years to understand same-sex sexual practices between men in closed spaces such as correctional institutions. These models include importation, imitation, gender fluidity, and rupture. The role and significance of heteronormativity, cisnormativity and homonormativity in the performance of sexual behaviours in the correctional space will also be discussed.

**Chapter 4: Research Methods:** this chapter provides a detailed description of the process involved and the methods used to collect and analyse data. It discusses the rationale for using the selected methods over others. It will further outline the processes and methods of data analysis and the steps taken to ensure the trustworthiness of the study's results. Lastly, it engages the reader in the application of ethics in safeguarding the well-being of the research participants.

**Chapter 5: Findings:** the findings chapter presents the study's key findings without in-depth interpretation. The first part of the chapter presents pen sketches of the participants, and the second part will document their narratives in a thematic fashion. Five primary themes are discussed: 1. Segregation vs integration, 2. Sexual and gender-diverse identities in the context of incarceration, 3. Systemic homophobia, 4. Relationships in correctional spaces: conventions and controversies, and 5. Resilience and wellness promotion. Each primary theme carries several secondary themes that are discussed in-depth.

**Chapter 6: Discussion of Findings:** this chapter interprets and describes the significance of the findings taking into account what is already known about the current research topic. In this chapter, the findings of the study are discussed in relation to and integrated with the theoretical framework and reviewed literature. The discussion of the findings is grouped under subthemes derived from the primary and secondary themes presented in Chapter Five. For theme one, segregation vs integration, discussion is presented through three subthemes: 1. Counteracting violence vs erasure of identities, 2. Corrupt access to special care sections, and 3. Lack of safe spaces for sexual and gender-diverse offenders. Under theme two, the social construction of sexual and gender identities, six subthemes are identified and discussed: 1. The social construction of sexual and gender identities, 2. Influence of

heteronormativity on the performance of diverse identities, 3. Reconstruction of gender and sexual identities, 4. Positive experiences and liberation of identities, 5. Intimate partner violence in same-sex relationships, and 6. “Planting” – when consent becomes coercion. Theme three is systemic homophobia, with three subthemes identified: 1. Performing homophobia and transphobia, 2. Denial of gender identity expression and gender-affirming healthcare, and 3. Homogenisation of diversities. The fourth and final theme is resilience and wellness promotion with four subthemes: 1. Demonstration of resilience in adversity, 2. From individual to multisystemic resilience, 3. Training on LGBTQ+ issues, and 4. Placement of more female officials in special care sections.

**Chapter 7: Conclusion and Recommendations:** primarily drawing from the findings and discussion chapters, a conclusion and recommendations for further research are provided. The limitations of the study are briefly outlined. This chapter also features personal reflections on my work as a psychologist in the DCS and reflections on my PhD journey.

## **1.7 Conclusion**

This chapter provided an overview of the current study. The rationale and importance of the current study, considering its academic and practical significance, have been discussed. The topic of sexualities in correctional settings has not been popular among academics and researchers and has not been considered significant by prison administrators. This resulted in a significant shortage of literature in this area. Most earlier studies focused on prison sexualities concerning HIV/AIDS and coercive sexual practices, and the pathologising of homosexuality largely overshadowed them. However, there seems to be a change in this trend as characterised by the emergence of studies that document the experiences of sexual and gender-diverse offenders. The DCS has recently started paying more attention to LGBTQ+ offenders in their care. On a practical level, this study will contribute to developing tools such as training apparatus that might assist the department in fine-tuning its management strategies to consider the psychosocial and security needs of sexual and gender-diverse offenders. This chapter further outlined and discussed relevant terms used in sexual and gender diversity and prison-specific terms. The following chapter unpacks the literature that is available in the areas of prison sexualities and broader LGBTQ+ identities.

## CHAPTER 2

### LITERATURE REVIEW

#### 2.1 Introduction

This chapter provides an in-depth discussion of the literature on prisons or correctional institutions, sexual and gender-diverse identities in general and how these identities are constructed and performed in correctional settings. Several topics are covered, starting with the history of homosexual identities in Africa and South Africa and its eventual decriminalisation in South Africa. This leads to the discussion on the history of punishment and imprisonment internationally and in Africa. The discussion includes the discrimination and prejudice in incarceration, for example, the incarceration of sexual minorities. The discussion of the early literature on prison sexualities is purposely presented separately from the discussion on homosexual identities in Africa. It is followed by the conceptualisation of sexualities in correctional institutions. Brief literature on attitudes towards sexual and gender-diverse offenders is presented, which connects to the literature on lived experiences of sexual and gender-diverse offenders. The last two sections discuss sexual violence and sexual coercion in carceral spaces and the vast challenges particularly experienced by TGD offenders in relation to transphobia, victimisation, denial of gender-affirming healthcare (GAH) and gender expression.

#### 2.2 The History of Homosexual Identities in Africa

Homosexuality continues to be a topic of great contestation in many African countries. In Africa, homosexuality continues to be perceived as a Western import. In 2015, the International Gay and Lesbian Association (IGLA) reported that homosexuality is outlawed in 34 out of 54 African countries (da Costa Santos, 2013; LGBT rights in Africa, 2023). In Benin, Burkina Faso, Ivory Coast, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Madagascar, Mali, Niger, and Rwanda, homosexuality has never been criminalised. It has since been decriminalised in Angola, Botswana, Cape Verde, Guinea-Bissau, Lesotho, Mozambique, São Tomé and Príncipe, the Seychelles and South Africa (LGBT rights in Africa, 2023). Bertolt (2019) provided a breakdown of the countries that criminalise homosexuality and the penalties they impose. He explained that in Mauritius and Namibia, the punishment for homosexuality

includes paying fines or being subjected to penal labour. In Algeria, Burundi, Cameroon, Comoros, Egypt, Eritrea, Guinea, Morocco, Senegal, Togo, Tunisia, Zimbabwe and Liberia, the penalty for homosexuality is incarceration to not more than 10 years. In Ethiopia, Gambia, Ghana, Kenya, Libya, Malawi, Sierra Leone, Swaziland, Tanzania, Uganda, Zambia and South Sudan, the punishment is incarceration for 10 years or more. Lastly, Nigeria, Mauritania, Sudan, and Somalia still uphold capital punishment. Bertolt (2019) pointed out that the countries previously colonised by Britain are disproportionately the ones that continue to criminalise homosexuality compared to those that France and Belgium colonised.

Although it cannot be denied that colonialism played an important role in moulding or remoulding African same-sex sexual practices, Bertolt (2019) argued that colonialism cannot fully explain contemporary enactments of anti-homosexuality laws and the modern forms of homophobia in most, if not all African countries. For example, he stated that although there is an association between anti-sodomy laws imposed by British colonisation and the criminalisation of homosexuality, the modern anti-homosexuality laws in the former British colonies no longer correspond to the old laws. The modern anti-homosexuality laws have either been renewed or strengthened regardless of the fact that homosexuality was long decriminalised in the United Kingdom (UK). Flowing from Bertolt's argument is the idea that in most, if not all, African countries, there appears to be an interplay between colonial or un-African homophobia that emanated from the old system and post-colonial or African homophobia re-created by contemporary Africans themselves.

Some African countries' prominent political, cultural and religious leaders have publicly voiced their distaste for homosexuality (Currier, 2011; da Costa Santos, 2013; Kennedy, 2006; Linonge-Fontebo, 2013; Reygen & Lynette, 2014; Rudwick, 2011). Kennedy (2006) noted that the former Zimbabwean president, Robert Mugabe, for a long time, publicly denounced homosexuality as a "Western perversion". Sam Nujoma, president of Namibia and Mugabe's counterpart, shared similar sentiments. At a conference, ironically, on human rights in Kampala in 2010, a Ugandan parliamentarian publicly announced that he would have to kill his son if he turned out to be gay (Rudwick, 2011). Rudwick added that the late King Goodwill Zwelithini stated that homosexuality was increasingly becoming a threat to the nation as it discouraged procreation and traditional family structures. Such sentiments, especially from African leaders that people look up to, are enough to instil negative perceptions or attitudes in

those who may not already harbour those attitudes and to confirm and cement them in those who already do. Linonge-Fontebo (2013) added that it is not only male authority voices that have publicly denounced homosexuality, but female parliamentarians have also made public their views. She cited Sabina Themhani, a member of parliament for Mufakos, Zimbabwe, who stated that homosexuality is un-African. She (Themhani) further maintained that it hurts mothers to know that their children are turning to homosexuality; thus, the children must be punished. Linonge-Fontebo further stated that in addition to politicians fuelling prejudice against sexually and gender-diverse people, religious institutions and leaders have also been vocal about their distaste for homosexuality. She reflected, “Moses Tazoh, contributor to *L’Effort Camerounais*, wrote that ‘homosexuality is an abnormal behaviour that goes against natural law and human behaviour’” (Linonge-Fontebo, 2013, p. 103).

Much of the homophobia that continues to plague most African countries is premised on the wildly inaccurate belief or idea that homosexuality is un-African, a Western imposition on the otherwise sexually “pure” Africa. Lyonga (2014) stated that the anti-homosexuality sentiments that numerous African leaders have echoed are grounded in the unfounded notion that homosexuality is un-African. Regardless of the belief that homosexuality is un-African, strong evidence exists that shows that same-sex sexual practices existed in Africa long before colonialism (Bertolt, 2019; da Costa Santos, 2013; Graziano, 2004; Ilyayambwa, 2012; Murray & Roscoe, 1998). Bertolt (2019) stated that in precolonial societies, e.g. among the Bafia people of Cameroon, it was permissible for older boys to penetrate young ones. Bertolt noted that this was influenced by a lack of easy access to girls as their sexuality was protected so they could be married off as virgins. Another example is that of enslaved men in Senegal who had sexual relations with each other because of the absence of female partners (Bertolt, 2019). Epprecht (2005) indicated that Judith Gay wrote about Basotho women who formed lesbian-like relationships partially due to the absence of young men who had gone to work at the mines.

Bertolt (2019) cited other examples of same-sex sexual relations that were not because of circumstances, such as those cited above. He pointed out that the male Pahuins in Central Africa continued having same-sex sexual relations with young boys without facing social sanctions despite being in heterosexual relationships. Some men of the Quibanda ethnic group in Angola engaged in same-sex sexual practices and wore women’s clothes; they were referred to as Quimbandas. In Zambia, among the Mukandas and Kivias, same-sex sexual practices for

men were part of the initiation process. They were thought to help men become more vigorous in their sexual encounters. In South Sudan, South Africa, Kenya, Nigeria and Benin, some practices involved older women and/or widowed women marrying young girls to help them raise children. Murray and Roscoe (1998) wrote about the diversity of sexuality in pre-colonial Africa. They draw on Evans-Pritchard's fieldwork on the Azande of Northern Congo, where warriors and princes engaged in same-sex practices "just because they like them" (Murray & Roscoe, 1998, p. 24). The authors also wrote that as early as 1719, Khoikhoi males, called *koetsire*, were sexually involved with other males. Falk (1920, as cited in Murray and Roscoe, 1998) noted that homosexuality was common among Khoisan married women. Murray and Roscoe also wrote about the Ila-speaking men of Zambia who dressed like women and performed the same tasks as women and a Zulu refugee named Nongoloza Mathebula who became a leader for a group of rebel bandits who encouraged his "soldiers" to take young males as "boy wives" and the subsequent practices of "boy wives" in mining compounds both in South Africa and Mozambique.

Bertolt (2019) argued that colonial and post-colonial administrations abolished same-sex sexual practices in Africa because they were perceived as disrupting the gender norms and practices established by the system of colonialism. He documented that the colonial "scientific" discourse painted Africans as having perverse sexual customs. Same-sex sexualities in Africa were perceived as primitive sexualities that needed to be eradicated since they did not fit in with the colonialist's conceptualisation of gender and sexuality (Bertolt, 2019; Murray & Roscoe, 1998). Bertolt argued that the invention of Africa as a 'purely' heterosexual continent is linked to the nineteenth-century Western preoccupation with heterosexuality. He noted that in most Western countries at that time, homosexuality was criminalised; in countries that did not have formal anti-sodomy laws, homosexual individuals suffered from social illegitimacy. Given the Western preoccupation with heterosexuality, their "civilisation project" for Africa was to eradicate or at least criminalise homosexual activities so that Africa would mirror those values and practices upheld by Western countries. Amusan et al. (2019) and da Costa Santos (2013) added that in some African countries, the old colonial anti-sodomy laws have been incorporated in current penal codes that prescribe punishment for homosexual acts.

The contemporary criminalisation of homosexuality carries the old "Western mandate" of eradicating non-normative behaviours. Most heteronormative values and morals transferred

to Africa had their origin in Christianity, which continues to be one of the religions that legitimise homophobia in many African countries. (Amusan et al., 2019; Arimoro, 2021; Bertolt, 2019; West et al., 2016). The criminalisation of homosexuality in Africa occurred because it was observed to be “an act against nature” – a term that appears in the book of Romans in the New Testament. Other books from the Christian Bible, namely Genesis and Leviticus from the Old Testament and Corinthians and Timothy from the New Testament, include scriptures that have been used to condemn homosexuality even though it can be argued that the core of Christianity is precisely to discourage the marginalisation of those who are judged and oppressed by “respectable” society.

### **2.3 Decriminalisation of Homosexuality in South Africa**

While the history of homosexuality and homophobia in South Africa more or less followed the same trajectory as in other African countries, it took a different turn with the fall of the apartheid regime. Brown (2014), in his illustrative paper on the history and emergence of the gay and lesbian movement in South Africa, sensitised the reader of the impact the apartheid laws had, not only on black people but also on the gay and lesbian community. He stated that due to its fixation on maintaining a “pure” South Africa (free of black and homosexual people), the apartheid government devised strict social requirements that essentially determined “with whom” procreative activities would be deemed legitimate by the state. Thus, due to the aspirations for “purity”, interracial intimacy and sexual relations were outlawed, as well as same-sex sexual practices. However, laws condemning homosexuality were not the invention of the apartheid system; rather, they predated it (Arimoro et al., 2021; Bertolt, 2019; da Costa Santos, 2013). Brown narrated that prior to the reign of the National Party (NP) government, the Dutch and British colonialists ruled South Africa and their governance was guided by Roman-Dutch law. Roman-Dutch law criminalised a number of sexual acts between men, between women, between men and women if not intended for procreation and any sexual acts that were perceived to be contrary to nature (for example, sodomy, masturbation, and bestiality).

While the apartheid laws had always been preoccupied with sexual policing (Retief, 1995, as cited in da Costa Santos, 2013), it was because of the increasing visibility of homosexual activity and establishments that the authorities went on high alert and started “cracking” down on homosexuality (Brown, 2014; da Costa Santos, 2013; Kennedy, 2006;

Makia, 2019; Rudwick, 2011). Da Costa Santos wrote that the apartheid government saw homosexuality as a threat to the South African civilisation and, in response, imposed additional repressive measures included in the Immorality Amendment Act 1969. The amended act criminalised the commission of acts intended for sexual stimulation or sexual gratification by two males at a party. It further outlawed the manufacturing, distribution and use of sexual apparatus such as sex toys. Lastly, it increased the legal age of consensual homosexual sex for males from 16 to 19 years (da Costa Santos, 2013). Brown (2014), Kennedy (2006) and da Costa Santos (2013) stated that as a result of the lobbying by the Homosexual Law Reform Refund, the amendments excluded the extreme measures that had previously been proposed. Nonetheless, the amended Act entailed certain intrusions into sexual and gender-diverse people's lives; for example, the police maintained control over places where gay people socialised (da Costa Santos, 2013). Ilyayambwa (2012) attested that in apartheid South Africa, gay and lesbian people were not protected under the law. In fact, they were excluded and punished in criminal, civil and family spheres.

Brown (2014), da Costa Santos (2013), and Kennedy (2006) noted that during the heightened reign of the apartheid government, the white and black gay and lesbian community was segregated along racial lines. In 1982, the Gay Association of South Africa (GASA) was formed and sought to unite gay and lesbian people. However, the majority membership of GASA was white conservative people with no political objectives. The organisation's apolitical stance led to its eventual collapse following the sentencing of Simon Nkoli, one of its members (da Costa Santos, 2013; Kennedy, 2006). Several racially mixed and politicised organisations emerged from the ruins of GASA, such as the Gay and Lesbian Organisation of the Witwatersrand (GLOW) and Lesbians and Gays Against Oppression (LAGO). Unlike GASA, these new organisations quickly immersed themselves in the politics of the day and boarded the train of the anti-apartheid movement (Brown, 2014; da Costa Santos, 2013; Kennedy, 2006). According to Brown, because of their public political stance, the new gay and lesbian movements paired themselves with other organisations involved in the anti-apartheid movement, primarily the African National Congress (ANC). Although the strong advocacy by gay and lesbian organisations and the support by some political parties subsequently led to the recognition of the rights of sexual and gender-diverse individuals, it must be noted that at that time, the focus was on people who identified as gay or lesbian. Other sexual identity categories remained in the shadows without a voice or direct advocacy, such as bisexual, men who have



sex with men (MSM), women who have sex with women (WSW) and transgender, among others.

As a result of local and international pressures, the NP government, from the late 1980s onward, started engaging in negotiations with different stakeholders involved in the anti-apartheid movement. Christiansen (2000) and da Costa Santos (2013) stated that as a means of transitioning to the new order, various stakeholders called for the Convention for a Democratic South Africa (CODESA) in December 1991. Unfortunately, the convention was unfruitful due to the ANC and the NP being unable to agree on their objectives. The gridlock was resolved by the emergence of the Multiparty Negotiation Forum (MPNF), founded in April 1993 (Brown, 2014; Christiansen, 2000; da Costa Santos, 2013). As part of the MPNF processes, the ANC, Inkatha Freedom Party (IFP), and Democratic Party (DP) submitted their Bill of Rights that called for the protection of gay and lesbian rights. While the ANC, IFP and DP were unanimous in their declaration of the unlawfulness of discrimination based on one's sexual orientation, the NP put forward a clause that was ambiguous. At the same time, the African Christian Democratic Party (ACDP) outright rejected the sexual orientation clause. Eventually, the commission adopted the clauses put forward by the ANC, IFP and DP. The adopted sexual orientation clause applies both vertically (between the person and the state) and horizontally (between institutions and individuals) (Brown, 2014; da Costa Santos, 2013). The authors stated that the interim Constitution came into effect in April 1994, and following the election of the ANC into government, it was adopted by the South African Parliament in 1996.

The inclusion of the sexual orientation clause in the South African Bill of Rights and the subsequent adoption of the Constitution marked a great victory for the gay and lesbian movements that had fought for the recognition of gay and lesbian citizens as well as their rights. As much as this was a tremendous achievement, one that positioned South Africa as a country with the most progressive Constitution and legislation, particularly with regard to gay and lesbian rights, it nonetheless did not bring as fundamental and widespread a transformation in people's lives as might have been expected. Rudwick (2011) stated that gay and lesbian liberation was and continues to be a political endeavour primarily endorsed by good legislation but inconsistently supported by most institutions. She further posited that the South African democracy is still relatively brittle, and issues such as corrective rape and violence towards gay and lesbian individuals are evidence of this. Graziano (2004) reiterated that despite South

Africa's progressive constitution, gay and lesbian individuals are still confronted by the homophobic remnants of the old government and its predecessors.

There is no doubt that the new democratic South Africa inherited many social ills from the former apartheid system and the other systems of governance that predated it. While most of those ills have been and continue to be rigorously addressed when they arise, homophobia and associated homophobic behaviours appear not to be addressed as consistently and as vigorously. This indifference, both vertically and horizontally, gives the impression that hostility and violence perpetuated towards gay, lesbian, bisexual and transgender people is not taken as seriously and as with much urgency as other social ills.

## 2.4 The History of Punishment and Imprisonment

Just as the present-day experiences of gender and sexually diverse inmates are coloured by the history of how society has responded to diversity, so too are their experiences shaped by the long history of incarceration. Prior to the practice of imprisonment at the end of the eighteenth century, punishment for crimes was cruel and overtly inhumane. O'Connor (2014) and Matetola (2012) noted that the early "modern" forms of punishment (prior to about 1800) were typically a public spectacle and consisted of inflicting pain on the body. In fact, punishment during that time solely focused on the human body. In the first chapter of his famous book, *Discipline and Punish: The Birth of the Prison*, Foucault (1977) wrote about the cruel execution of Damiens on 2 March 1757. Damiens was charged with an attempted assassination of King Louis XV. Foucault highlighted some events of that day:

Damiens the regicide was condemned 'to make the *amende honorable* before the main door of the Church of Paris', where he was to be 'taken and conveyed in a cart, wearing nothing but a shirt, holding a torch of burning wax, weighing two pounds'; then, 'in the said cart, to the Place de Grève, where, on a scaffold that will be erected there, the flesh will be torn from his breasts, arms, thighs and calves with red-hot pinchers, his right hand, holding the knife with which he committed the said parricide, burnt with sulphur, and, on those places where the flesh will be torn away, poured molten lead, boiling oil, burning resin, wax, and sulphur melted together and then his body drawn and quartered by four horses and his limbs then his body consumed by fire, reduced to ashes and his ashes thrown to the winds' (p. 3).

He further documented that Damiens's torture duration would have been less had everything gone according to plan. The operation of quartering took longer because the horses selected were not used to drawing; thus, instead of using four horses, six had to be used. While this might seem like an extreme example, such practices were not foreign in that period. Foucault (1977) explained that practices such as dismemberment, disembowelment, body amputation, branding on the shoulder or forehead or exposure to the public, whether dead or alive, were endorsed forms of punishment for certain crimes in the seventeenth and early eighteenth centuries. O'connor (2014) and Van Zyl Smit (1997, as cited in Matettoa, 2012) noted that at that time, the punishment was directed at the human body, which was often paraded in public as the torture was being inflicted. This form of public punishment served several purposes: first, the infliction of pain on the body served as "justifiable" punishment for having committed a crime (wronging society); second, it functioned as a supposed deterrence for future crime(s). It did not focus solely on the individual guilty of an offence; the public display of punishment served to instil a sense of fear in the whole society, thus acting as deterrence for any future criminal involvement (Tiwana & Singh, 2021). Although much literature on punishment references mostly the countries in the global north, Matettoa (2012) stated that most of the gruesome forms of punishment were also not unusual in the Cape in South Africa. She noted that similar to the global north countries, in the Cape, punishment was used as a form of deterrence performed in public spaces. The early colonial government practised these forms of punishment from 1652 onwards, and they were following the global north practice rather than an indigenous African practice. The later shift from physical punishment to (mass) incarceration, starting around 1795 with the British occupation of the Cape, was again a matter of following the trend set in Europe and the United States.

Although many forms of public punishment had endured many decades, if not centuries, the end of the eighteenth century and the beginning of the nineteenth century saw their decline regardless of the few attempts to revive them (Foucault, 1977). Foucault stated that the first change was the fading of punishment as a public spectacle. The *amende honorable* (a public apology with some form of reparation) was first done away with in France in 1791 and again in 1830 after its short-lived resurgence. Placing prisoners inside a pillory ended in France in 1789 and England in 1837. Using prisoners as free labour for public works ended at the end of the eighteenth and beginning of the nineteenth century (although this practice continued to be used extensively by the South African prison system throughout the nineteenth century and

thereafter in the mines) (Foucault, 1977; Matetola, 2012). The fading of punishment as a public spectacle led to loosening the grip on the body as the focal point of punishment. Branding became outlawed in England in 1834 and France in 1832, and in 1820, England stopped using quartering for perpetrators. Foucault further argued that while punishment consisting of imprisonment, servitude, forced labour and so on are physical in nature, unlike fines, their impact on the body differs markedly compared to that of the earlier practices. He discussed that even the modern mechanisms of execution attest to the diminishing “fascination” with the infliction of pain on the body. He explained that with modern forms of execution, death is momentary; there is no torture before and after the execution, and no additional actions are performed on the body. The elimination of these “multiple” deaths and their replacement with strict capital punishment, for Foucault, marked an ushering in of new morality concerning punishment.

Since the time of the execution of Damiens, forms and uses of punishment have evolved significantly, with the development of the prison system being the highlight of this evolution. Modern-day punishment through incarceration or imprisonment appears to be a more humane form of punishment, but only when compared to earlier practices. However, according to current standards, modern correctional institutions in most countries are the epicentre of the violation of human rights, and they are ridden with abuse, whether between offenders or between offenders and correctional officials. While there would be no justice in comparing modern forms of punishment to earlier times, there is nonetheless concern over the morality of modern practices. In fact, in its own right, modern punishment, in how it is administered, is inhumane; the difference is that it is carried out behind fortified structures, out of public sight. Foucault (1977) argued that one of the important changes that occurred regarding punishment in the late eighteenth to early nineteenth century was that the body ceased to be the focal point of punishment. However, the use of violence by law enforcement towards individuals suspected of doing crime, such as using extreme force to coax out a confession, suggests that the body still carries the brunt of punishment.

#### **2.4.1 Reasons for Imprisonment**

The reason why imprisonment is now so common involves a historical shift from overtly violent punishment to more impersonal, bureaucratic and ostensibly more rational ways of managing crime. Imprisonment is now commonly understood as an essential part of

managing society, and it is seen as achieving the following objectives (DCS, 2005; Matetola, 2012; O'connor, 2014; Tiwana & Singh, 2021):

- **Deterrence:** this is premised on the assumption that individuals are guided by pleasure and pain. This means that people will seek activities that reward them with pleasure while avoiding those that result in pain. Thus, the use of imprisonment (which is a source of both physical and psychological pain) as punishment for criminal offending will likely result in people desisting from engaging in criminal activities. Matetola (2012) wrote about specific and general deterrence. Specific deterrence refers to the punishment imposed on individuals for crimes committed to deter them from future criminal behaviours. In contrast, general deterrence refers to punishing the individual to deter the greater community from committing similar acts. General deterrence was evident in earlier public forms of punishments, such as Damians talked about previously and contemporary practices, such as the death penalty for particular crimes in certain countries. The use of imprisonment as deterrence is particularly pertinent for sexual and gender-diverse people living in African countries that criminalise homosexuality, for example, Nigeria, Uganda and Cameroon. In these countries, the use of imprisonment theoretically “eradicates” homosexual practices and discourages people from engaging in such behaviours.
- **Retribution:** this is based on the idea that punishment is justice-driven, which is an idea that is largely influenced by religious writings. Matetola (2012) stated that the theory of retribution rests on the notion that crime disturbs the legal order and that for equilibrium to be restored, the offender has to be punished for the crimes committed. Birzer and Roberson (2004, as cited in Matetola, 2012) further noted that retribution is also premised on the just deserts principle, which asserts that offenders deserve punishment for having unduly benefitted over others through their criminal activities.
- **Rehabilitation:** Morrison and Rothman (1998, as cited in O'connor, 2014) discussed that rehabilitation centres on using incarceration as an attempt to alter the individual for the better. Tiwana and Singh (2021) explained that the modern prison system is that of reformation to return offenders as useful members of society who will contribute to the welfare of the community. The idea of rehabilitation has become the predominant discourse in discussions and policy documents about incarceration, as reflected, for example, in the South African White Paper on Corrections (DCS, 2005). The White

Paper outlined a number of important pillars that support rehabilitation, importantly, development and care. Development refers to programmes and services to develop offenders' competencies through vocational and technical training, formal education and sports. Care speaks to needs-based services aimed at promoting offenders' well-being, including nutrition and healthcare, social work, and psychological and spiritual care services (DCS, 2005).

- **Incapacitation:** O'connor (2014) noted that the philosophy of incapacitation is premised on the recognition that imprisoning people will not necessarily deter them from engaging in crime, nor will it always reform people, but imprisonment does temporarily prevent the offender from engaging in further criminal or harmful behaviours. Matetoa (2012) stated that in the past, incapacitation included practices such as amputation of an offender's hands for the crime(s) of stealing or genital castration for the crime of rape; however, currently, the most acceptable form of incapacitation is incarceration. Needless to say, incapacitation is only a temporary measure unless applied for more extended periods.

Neatly summarising the above, Scott (2007) stated that:

The overarching aim of the prison is to fulfil its punishment role: the deliberate infliction of suffering and hardships upon those contained within its walls. Defenders of the prison have argued, with varying levels of plausibility, that imprisonment can be justified through its purported ability to positively change, reform or rehabilitate those it contains; through its provision of a means of social defence and public protection for future crimes by its deterrent or incapacitative effect; and/or through the fact that a prison sentence is a justly deserved and proportionate response to a person's wrongdoing. (p. 49)

#### **2.4.2 The Development of the Prison System: An International Perspective**

Rubin (2019) detailed the prison system's history, especially in the United States. The author explained that many jurisdictions relied on jails to temporarily detain wrongdoers such as debtors, runaway slaves, vagrants, people awaiting trial and those awaiting punishment. Matetoa (2012) and Soothill (2007) observed that from 1776 to 1858, British authorities repurposed old ships to house the overflow of the convict population, known as prison hulks.

The authors wrote that confinement to hulks was indiscriminate because men, women, the old and the young were often confined together. Rubin noted that in the early confinement facilities, which had emerged in Europe as well as in America, the dominant form of punishment was forced labour.

Soothill (2007) stated that in the early sixteenth century, England confined petty offenders to workhouses and subjected them to forced labour to instil in them a good work ethic. In the seventeenth century, England added transportation to its penal list, where criminals would be transported to other countries where they would be subjected to hard forced labour (Matettoa, 2012; Rubin, 2019). Matettoa indicated that the British used banishment as an alternative to the death penalty to deal with wrongdoers. The author noted that this practice was at the time thought to be sophisticated as it was believed that it would alleviate crime. King (2007) stated that the use of imprisonment as a form of punishment dates back to the eighteenth century, primarily in Europe and the United States. Its emergence was influenced by the writings of Enlightenment thinkers such as Beccaria (1764), who advocated for more humane, effective alternatives to corporal and capital punishment.

In colonial America, early efforts of confining petty and sometimes convicted offenders included the combination of workhouses and jails. It was in 1682 that the founder of Pennsylvania, William Penn, passed a relatively progressive law that reduced the colony's reliance on capital punishment and encouraged a move towards short confinement for convicted criminals. This law also allowed convicted criminals to be corporally punished, fined or confined in workhouses where they were subjected to forced labour. While progressive, this law was short-lived as the colony encountered challenges primarily relating to the construction of facilities to house convicted criminals (Matettoa, 2012; Rubin, 2019). Barnes (1921, pp. 42–43) stated that the early and closest resemblance to a modern prison was “the papal prison of San Michele, erected in Rome by Pope Clement X about 1704, and the prison at Ghent in Belgium, established by Hippolyte Vilain XIII in 1773”. These “prisons” made provisions for classifying and placing offenders in separate cells. In these prisons, labour was at the heart of reformation, which was the chief aim.

Unfortunately, these models did not attract much attention and recognition from England and America until the late 1720s due to the writings of the English prison reformer John Howard. Indeed, some authors (Barnes, 1921; Matettoa, 2012; Rubin, 2019; King, 2007;

O'connor, 2014; Soothill, 2007) agreed that the development of the modern prison system was largely influenced by the provocative writings of prison reformers and philosophers such as John Howard, Cesare Beccaria, Jeremy Bentham, Baron de Montesquieu, William Eden, David Hume, Adam Smith and many others. Barnes (1921) and Rubin (2019) stated that the most significant doctrine of some of these writers, and perhaps others not mentioned here, was the introduction of rationalism into the social and political spheres. Inadvertently, this facilitated a move towards the use of imprisonment as a preferred method of punishment. For example, Matetoa (2012) explained that Beccaria advocated for the segregation of offenders according to their gender, age and type of offence committed and suggested that offenders be treated humanely. Matetoa (2012) argued that Beccaria's system was widely accepted and implemented in numerous countries, including South Africa. Criminal justice systems worldwide, including South Africa, adopted Beccaria's theory of free will, which emphasises the severity of punishment so that people choose to avoid criminal activities (Matetoa, 2012).

King (2007) pointed out that Foucault (1977) and others have argued that although the rise of imprisonment was often portrayed as the humanisation of punishment, in actuality, it was a way of making punishment more efficient. The argument is that while earlier forms of punishment were typically directed at fewer wrongdoers, imprisonment became an apparatus for dealing with a larger number of offenders in a systematic and bureaucratised manner. King noted that the movement of imprisonment, also known as the "great confinement", saw the placement of the poor in workhouses, the mentally ill in asylums and the offenders in prisons. Barnes (1921) wrote that the adoption of imprisonment as a "punishment of choice" for a range of criminal behaviours necessitated establishing a prison system that would replace the system of jails and workhouses. What followed was the authorisation of the construction of prisons by three states in the United States between 1785 and 1794. In 1785, Massachusetts led the way by authorising a state prison that would be at a military fort on Castle Island. In 1790, Connecticut followed suit and authorised the second prison, which came to be known as the New-Gate Prison (Matetoa, 2012; Rubin, 2019).

Due to architectural failures of some of the early prisons in the United States, New York and Pennsylvania authorised the building of even bigger and stronger prisons. Two of the new prisons built, one in New York (Auburn) and one in Philadelphia, became prototypes for many other prisons built in the United States and other countries (Barnes, 1921; Matetoa, 2012;



Rubin, 2019; Soothill, 2007). Matetoa (2012) and Rubin (2019) explained that two separate and competing systems of punishment grew from the two prisons: the Auburn system and the Pennsylvania system. In the Auburn system, during the day, offenders would work silently in a factory-like setting while forbidden to communicate or even look at each other. The enforced silence functioned to prevent “contamination” between the offenders and was thought to be good for discipline. At night, they would be locked up in their single cells until the following morning. Barnes and Teeter (1959) noted that the Auburn system was also known as “congregate” or “silence”. Cornelius (2001) stated that in the Auburn prison, harsh corporal punishment was applied to offenders who were rebellious against the system. Siegel (2006, as cited in Matetoa, 2012) noted that discipline measures employed at Auburn were considered successful, as illustrated by zero escapes of offenders when they were tasked with building the Sing-Sing prison in 1825.

In the Pennsylvania system, offenders were kept strictly in solitary confinement for the duration of their sentence. The offenders were put to work in their own cells performing functions such as carpentry or shoemaking to avoid mental deterioration, as had been the case in other prisons that employed this solitary confinement (Cornelius, 2001; Matetoa, 2012; Rubin, 2019). Cornelius noted that the only outside contact the offenders had was through visitation by people carefully selected by the prison administration and through studying the Bible, which was the only text they were permitted to read. Matetoa stated that the primary objective of the Pennsylvania system was to curb corruption between offenders and eradicate or at least reduce future offending. These systems, both aimed, in varying degrees, at curtailing social interaction between inmates, seem harsh by current standards but point to a problem that continues into the present, namely, how to manage and restrict social (including sexual) contact between inmates to avoid the real or imagined harms that might flow from them. Although solitary confinement is now seen as an extreme measure, restricting some inmates to particular sections of the prison to reduce contact with others remains. This will be elaborated upon in the findings chapter as these restrictions appear to be a mainstay of prison management and, more specifically, the “management” of diverse identities.

Fast forward to the 1860s, when reformers started being attentive to the problem of young adult and first-time offenders being mixed with more seasoned and habitual offenders; thus, reformers started calling for the authorisation and construction of facilities that would

house young adults and first-time offenders. In 1876, a reformatory was opened in rural Elmira, and offenders in that facility were exposed to education, religion and vocational training (Barnes, 1921; Rubin, 2019). Rubin further posited that for a long time, female offenders had posed a big problem to the prison administration in that they cost more to maintain compared to male offenders and thus were perceived as draining the economy. In many prisons, female offenders were left to fend for themselves and to be preyed upon by guards. Medlicott (2007) stated that in contemporary correctional institutions, incarcerated women continue to suffer from structural and systemic issues similar to those seen in the mid-nineteenth century. The author argued that female offenders are still treated paternalistically by correctional staff, watched more closely, medicalised more often and have to negotiate their existence against the backdrop of patriarchy.

### **2.4.3 The Parallel Development of the Prison System in Africa**

The practice of incarceration and the subsequent development of prisons were used to advance the power and domination of the colonial settlers in Africa. Boahen (1985) stated that the period from 1880 to 1910 saw the second wave of mass invasion and occupation of the African continent by imperial powers and the establishment of the colonial system. Due to its subjection to European powers, African countries lost their independence along with their political will. Through their military superiority and the use of force and violence, the colonial settlers were able to replace the existing African politics with their own. Bernault (2003; 2007) stated that penal incarceration was virtually unknown to Africans before the European conquest. After their conquest, the colonial regimes built prisons to deter political opposition and ensure a steady supply of African labour. Since their independence from colonisation, different governments have maintained the prison system as the core of their legal systems. Bernault (2003) argued that despite the progressive changes in the prison system that were evident in Europe at the time, colonisers in Africa did not shy away from using crude forms of punishments such as corporal sentences, flogging and public exhibition, practices which had long been abandoned in Europe.

While in Europe and some other overseas countries such as the United States, imprisonment was oriented, initially, towards the reformation of the offenders (Barnes, 1921; Rubin, 2019; Soothill, 2007), in Africa, it was marked by the subjugation and domination of African people. Jefferson and Martin (2016) noted that during colonial domination, Africa

experienced periods of mass incarceration shortly before the “penal explosion” took place in Europe and the United States. The authors argued that this rise in incarceration in Africa was because of a number of factors, including tax extraction (from Africans whose failure to pay tax resulted in a prison sentence), the use of convict labour and the use of imprisonment as a tool to overpower those who resisted white domination (also see Matetoa, 2012). Jefferson and Martin argued that the end of colonial rule resulted in the deflation of mass incarceration in Africa, with the current picture being that Africa incarcerates people relatively less compared to other regions of the world, such as the United States.

#### **2.4.4 The Development of the Prison System in Southern Africa**

Bernault (2003) stated that the development of the prison system in Southern Africa followed a somewhat different course compared to the rest of Africa. First, rather than being a colonial import, the prison system emerged at the turn of the century and followed very closely the penal reforms that were taking place in Europe and America (Matetoa, 2012). Second, in the Cape Colony, prisons did not target criminals as much as they targeted offenders of the so-called pass laws (Human Rights Watch, 1994). Finally, from the 1880s going forward, prisons became experimental sites for racial segregation, a practice that became fully fledged during the rule of the apartheid government in South Africa (Motlalekgesi, 2022). Matetoa noted that while South Africa has a European ancestry regarding the development of the penal system, segregation was not actively encouraged in Europe. Bernault (2003) added that racial segregation was not the primary feature of the early penal system; rather, people were imprisoned on the merits of their crimes. For example, at the rudimentary jails in the Cape, punishment, namely public torture, was applied to all offenders irrespective of their race. Bernault noted that it was only in the late 1880s that different states started applying racial segregation in prisons. Motlalekgesi (2022) stated that in the Cape Colony, the government issued a proclamation in 1882 that enabled the Kimberley prison to segregate prisoners along racial lines. He explained that in 1868, the Natal prison system appointed a commission of inquiry to investigate a proposed system of a separate prison system. The system could not be implemented at the time due to a lack of accommodation. Seventeen years later, in 1885, the Natal penal system instituted racial classification a few years after it had been implemented in the Cape Colony (Motlalekgesi, 2022).

According to Human Rights Watch (1994), the penal system in South Africa was established in the nineteenth century during the expansion of colonial rule beginning in the Cape Peninsula. Initially, South Africa comprised different self-governed states or provinces. In 1910, the Union of South Africa was established, which brought together previously independent provinces (Human Rights Watch, 1994; Matetola, 2012; Singh, 2005). Among the many reforms necessitated by the unification of the different states was the reorganisation of the penal system, which was based mainly on the British system. This reorganisation was brought to life with the enactment of the Prison and Reformatory Act, Act 13 of 1911, and the institutionalisation of the Department of Prisons (Motlalekgosi, 2022; Singh, 2005). Singh pointed out that when the NP government came into power in 1948, prisons started being managed according to the apartheid rules. While during the colonial reign, racial segregation was present in prisons, as in other state institutions, the rise of apartheid led to the intensification and formalisation of such segregation (Bernault, 2003; Motlalekgosi, 2022).

Further developments pertaining to corrections that were in line with the ethos of the apartheid system occurred in the 1960s and 1970s. The Prisons and Reformatory Act, Act 13 of 1911, was rebranded as the Prisons Act (Act 8 of 1959). Not surprisingly, this new Act reflected little if any transformation in the prison system; rather, it further entrenched racial segregation in prisons, which was in line with the national policy on differential development (Singh, 2005). Murhula (2019) explained that the Prison Act 8 of 1959 was influenced by the Standard Minimum Rules for the Treatment of Prisoners developed by the United Nations in 1955, and it was able, to an extent, set out core responsibilities of the department of prison such as safe custody and rehabilitation of offenders. Murhula argued that the Act later rebranded as the Correctional Services Act 8 of 1959, proved problematic as some of its tenets conflicted with the Standard Minimum Rules. For example, the rules set out that the provisions should be impartially applied without discrimination on the grounds of race, gender, culture and other status. The Correctional Services Act 8, however, stipulated that as far as possible, offenders of different races shall be separated to prevent them from being within view of each other (Human Rights Watch, 1994; Motlalekgosi, 2022).

There is a long history and significant series of events that occurred between the rise of the apartheid movement spearheaded by the NP and the transition of South Africa to a democratic state; however, that history is beyond the scope of this thesis. Motlalekgosi (2022)

stated that the early 1990s ushered in transformational events in South Africa, starting with the unbanning of opposing political parties and the release of political prisoners. Christiansen (2000) noted that in December 1991, delegates from different political parties congregated for the CODESA forum. Subsequently, the MPNF convened after gridlock at the CODESA forum (also see Brown, 2014). Following a lengthy consultative process, an interim constitution was drafted in 1993. Enshrined in the interim constitution were the human rights of the country's free citizens and incarcerated offenders alike. This translated into the introduction of the human rights culture into the penal system and a focus on the safe and secure incarceration of offenders under humane conditions. (Christiansen, 2000; DCS, 2005). The safe detention of offenders has never been fully realised as correctional facilities in South Africa are rife with gang violence as well as violence between correctional officials and offenders that has resulted in numerous deaths (Matetola, 2019). The living conditions in most correctional facilities are, in most cases, far from humane due to overcrowding. Overcrowding also carries other associated problems, such as the spread of STIs and other infectious diseases such as tuberculosis. It also creates a breeding ground for psychosocial vices such as physical and sexual violence.

After the passing of the Constitution in 1996, the department undertook major legislative reforms, which paved the way for the passing of the Correctional Services Act 111 of 1998 (Motlalekgosi, 2022; Murhula, 2019). Some of the notable features of the Act included the entrenchment of fundamental human rights, limitation to the use of force and the involvement of both the public and private sectors in the operations of correctional centres (DCS, 2005). Several rehabilitation services were introduced and implemented in all correctional centres, namely, psychological and social work services, spiritual care, education and training and various correctional programmes. The renewed focus on rehabilitation by the department and the subsequent implementation of services signalled a significant change in the department's core business (DCS, 2005; Singh, 2005).

## **2.4.5 Incarceration of Marginalised Groups**

### **2.4.5.1 Incarceration of People of Colour**

The United States will be a regular point of reference given that it has the highest incarceration rates and that it is the only state where the country's minority represents the majority in correctional facilities (Mauer, 2011, 2016; National Research Council, 2014;

Western et al., 2004). To an extent, American racial history parallels South Africa's. During the colonial era, indigenous black people were subjected to slavery and other inhumane forms of treatment because they were perceived as inferior to their colonialist counterparts. Dissel and Kollapen (2002) stated that South Africa has a long history of racial discrimination. They noted that what set South Africa apart from other countries that have experienced racism, such as the United States, was the institutionalisation of racial segregation through the apartheid system.

In the United States, it was only after the dismantling of the old slavery system that the criminal justice system came into the picture, not necessarily to intervene but to become the new system of segregation (Alexander, 2010). In South Africa, however, because racial discrimination became formally implemented when the NP came into power, the South African criminal justice system joined the ball game much earlier than the United States. The criminal justice system was not only concerned with dealing with those who broke the law but was also involved in administering the apartheid laws. They argued that certain criminal sanctions were enacted to support the apartheid structure. For example, the Population Registration Act and Group Areas Act made provision for criminal penalties if a specific race group was found occupying premises reserved for another race group; The Reservation of Separate Amenities Act and Prohibition of Mixed Marriages Act 55 of 1949, which regulated public entertainment and prohibited interracial marriages. Countless numbers of black people were arrested and sentenced based on having "violated" these and many other acts that promoted racial segregation (Dissel & Kollapen, 2002; Human Rights Watch, 1994; Nagan, 1988).

The focus on mass incarceration while neglecting the obvious racial disparities in correctional institutions can be linked to the notion of colour blindness that continues to overshadow the criminal justice system in the United States and perhaps in South Africa as well. Given these two countries' racially sensitive history, numerous and sometimes exaggerated practices have been instituted to "minimise or erase altogether" racial differences in spheres of government and other public institutions. While those practices emanated from possibly good intentions and aimed to bring about racial equality, their execution has not been without significant flaws. In the United States, the notion of colour blindness in the criminal justice system opened doors to the deliberate mass incarceration of black people and Latino Americans while simultaneously closing doors to challenging discriminatory practices by law

enforcement, prosecutors, and judges (Alexander, 2010; Berdejó, 2018; Butler, 2010; Johnson 2010; Mauer, 2011).

In the United States, the current composition in correctional institutions is that the country's minorities (namely African Americans, Latinos and Hispanics) form the majority of the incarcerated population (Mauer, 2011; Tucker, 2017). This is echoed by Bobo and Thompson (2010), who noted that in the early 1950s, there were approximately 98 000 African Americans in correctional facilities; that number had climbed to 884 500 in 2002, marking a 900% increase, and to approximately 1 million in 2010. Considering these stark differences, Butler (2010) stated that:

The major race and crime problems of our time are the mass incarceration of African Americans and the extraordinary disparities between blacks and whites in the criminal justice system. The fundamental paradox is that, in 2010, while evidence of racial progress is everywhere, racial disparities in criminal justice have never been greater. Nearly one in three young black men has a criminal case: he's either locked up, on probation or parole, or awaiting trial. (p. 1045)

Muntingh (2013) stated that in South Africa, there are also substantial differences in incarceration with respect to race. He presented figures from 2011, which indicated that coloured males are incarcerated at 12 times the rates of Asians and whites, with almost 2000 coloured people incarcerated per 100 000. In contrast, African or black males are six times more likely to be incarcerated than their white counterparts. Further, the figures reveal a similar trend to the incarceration of coloured males compared to other races. The incarceration rates for black and white females are more or less equal, with that of Indian females being slightly less. The incarceration rates of males of different races reveal that coloured males are incarcerated at a higher rate, followed by black males, with white and Indian males incarcerated at more or less similar rates.

If, indeed, racial bias is at play in the criminal justice system, how does it manifest? What processes, does it follow? Who are the main players involved? It is perhaps best to start with the first point of contact people have with the criminal justice system: law enforcement or police officers. Kovera (2019) pointed out that encounters with the police mark the first point of entry into the criminal justice system. In these encounters, they argued, police have been

criticised for treating people differently based on race. Kovera mentioned a few situations in which these manifest: traffic stops, searches and arrests. According to the Bureau of Justice Statistics survey (as cited in Kovera, 2019), in the United States, black people are more likely to be the target of traffic stops compared to whites and Hispanics; in addition, police were two times more likely to provide no reason for why they stopped black drivers. Regarding searches, and also related to traffic stops, police are more likely to search people of colour compared to whites during traffic stops. Kovera added that police also differentially arrest people of different races for the same crime. For example, in New York, blacks are at least eight times more likely to be arrested for possession of marijuana compared to whites; Hispanics are five times more likely to be arrested for the same crime than whites.

Racial bias in sentencing was very much explicit and somewhat anticipated in the criminal justice system during the apartheid years in South Africa. Dissel and Kollapen (2002) stated that racial discrimination applied to both lower and higher courts. They argue that magistrates and judges were drawn from public service rather than the legal fraternity, which severely compromised their independence as they were accountable to the state. They were also not just any public servants but carefully selected; they were white, Protestant, and conservative and wielded strong support for the apartheid system. While that was then, the current concern is whether or not the remnants of apartheid still linger in South African courts. South African correctional facilities are largely populated by black and coloured offenders (Muntingh, 2013).

In the United States, popular perception holds that the current system is merely the old slavery system veiled in a new cloak. Mass incarceration, the offspring of the criminal justice system, carries out the mandate of the old system through the mass confinement of people of colour in correctional facilities, thus removing them from society (Alexander, 2010). In contrast, in South Africa, racial discrimination evolved slightly differently. In South Africa, instead of dismantling the old system (colonialism), it was formally implemented and rebranded as the apartheid system. The institutionalisation of apartheid saw the development of laws and parliamentary acts that supported and further strengthened the grip of racial discrimination. At that time, the criminal justice system fully immersed itself in the world of politics and rallied behind the apartheid system. The criminal justice system became instrumental in enforcing the laws designed to segregate and marginalise people of colour. It went a step further to ensure compliance with apartheid laws by imprisoning those perceived



as being defiant and rebelling against the oppressive policies and practices. The system warranted that different racial groups were not equal under the law and were treated accordingly. With the dawn of democracy, South Africa witnessed positive changes, albeit slow, in state and private institutions, including the criminal justice system and correctional facilities. The new constitution bolstered equality for all and eradicated and illegalised discrimination on the basis of race and many other characteristics. However, more than 20 years into democracy, the composition of South African correctional facilities has not seen significant transformations with regard to the offender population.

#### **2.4.5.2 Socioeconomics, Class, and Incarceration**

Socioeconomic factors have mostly been at the heart of theories and world views that have attempted to explain why minority groups are incarcerated at a higher rate compared to white people. As one would imagine, most of these have, as their point of departure, the idea that black or minority groups commit crimes at a higher rate than other groups. Whether there is truthfulness in that statement is an argument beyond the scope of this section. Western et al. (2004) delineated some theories attempting to decipher this phenomenon. They started by noting that the fall in wages and the parallel rise in mass incarceration transformed incarceration into a common life event for uneducated and unskilled men in the United States. In line with economic deprivation and a result of the lack of job opportunities, lower-class criminality can be explained by the strain theory, which holds that society, as a collective, prizes the attainment of material success; however, the means of acquiring that success are unequally and unevenly distributed in society (Jang & Agnew, 2015; Moon et al., 2008; Western et al., 2004). Merton (1983, as cited in Cheteni et al., 2018) indicated that people located at the lower socioeconomic hierarchy experience frustration in their failure or inability to attain materialistic success. As the gap in the hierarchy broadens (between the haves and the have-nots), so does the frustration and/or strain, which increases the likelihood of those low in the hierarchy committing crime, which is most common with income inequality. In the South African and United States contexts, such blockages could be historical denial of access to education, the right to vote and social benefits meant to better the living conditions of the countries' citizens. While the social strain view conceptualises the problem of crime and offending as larger systematic and societal issues, it has contributed, perhaps unintentionally, to the more stigmatising view of differential offending (Jang & Agnew, 2015; Moon et al., 2008). Although not entirely incorrect, the

differential offending view fails to consider the myriad of factors that drive or predispose some minority groups to crime and offending. Instead, this view has been primarily used by segregationists as confirmation that people of colour have an internal predisposition to crime and violent behaviours (Alexander, 2010).

South Africa is no exception with regard to the pervasiveness of social, racial, and economic inequality (Muntingh, 2013). Muntingh remarked on the enduring impact of colonialism and apartheid on the current socioeconomic status of black people in South Africa; however, he did not make any links between socioeconomics, education, and crime rates in the country. Cheteni et al. (2018) stated that South Africa is fraught with at least three primary social ills, namely, high crime rates, poverty, and inherent inequality. The authors argued that although there have been many claims about the relationship between poverty and crime, there has been limited evidence to support those claims. They acknowledged that most studies investigating the link between poverty and crime have chiefly been done in developed countries. In an attempt to produce local and contextually relevant literature on this topic, the authors carried out a study looking at drug-related crime in South Africa. They put it as their thesis that young people in impoverished areas are among the populations hit most by poverty and hardship, and as a result, their anger and frustration have been expressed through engaging in criminal activities. In addition, systematic neglect of unemployed youth has contributed significantly to the rise in crime. Cheteni and colleagues posit that a good number of drug-related crimes are committed by people who are unemployed and seek solace in drug use.

In South Africa, the rise of the COVID-19 pandemic further unveiled the inherent socioeconomic inequalities in the criminal justice system. Implementing regulations to curb the spread of the coronavirus, such as the ban on movement unless granted special permission and curfews, resulted in the influx of mostly black people in correctional facilities due to having violated these regulations. The threat of the pandemic led to the closure of many businesses, including small businesses owned by black and disadvantaged people, such as street vendors. National lockdown regulations stipulated that the majority of South Africans, except essential service workers, remain at their residences while overlooking the critical fact that many people had lost their livelihoods. Most people, primarily black people, were forced to violate the lockdown regulations and leave their residences to make ends meet for themselves and their families, and many of those individuals were arrested and detained for the violation of the

regulations. The period of strict lockdown revealed the systematic inequalities plaguing the country and the critical role played by law enforcement and criminal justice in maintaining and perpetuating those inequalities.

#### **2.4.5.3 Incarceration of Sexual Minorities**

Similar to other marginalised populations, sexual minorities have been disproportionately represented in the criminal justice system. Goldberg et al. (2019) stated that in the United States., sexual minorities were systematically targeted by law enforcement. The author highlights the famous 1969 Stonewall riots when LGBT people in New York rose to resist police harassment pervasive in gay bars and nightclubs. Brown (2014), Makia (2019) and Rudwick (2011) wrote about the 1966 Forest Town incident in Johannesburg, South Africa, where police raided a private gay party that led to the arrest of several men. Following the raid, religious conservative groups, together with the police service, lobbied for anti-gay legislation with the support of the then Minister of Justice, who was pushing for draconian anti-homosexuality legislation.

Writing from the perspective of the United States, Goldberg et al. (2019) discussed that while homosexuality has long been decriminalised in many states, police surveillance and targeting of sexual minorities remain pervasive in some places. Steele et al. (2018) added that policing of sexual minorities continues and is enforced through the regulations and ordinances implemented throughout the states. They further noted that this is reflected in the overrepresentation of sexual and gender minorities in correctional facilities, much like racial minorities. Goldberg and colleagues argued that in some states, people arrested for same-sex solicitation usually receive harsher sentences than their counterparts arrested for heterosexual sex solicitation. This speaks to the biased nature of the criminal justice system through the implementation of punitive laws for sexual and gender minorities who are in conflict with the law. Schwartz (2022) wrote about the interaction of sexual and gender-diverse youth with the criminal justice system. The author reported that in the United States, self-identifying gay, lesbian and questioning youth have reported more negative interaction with the police compared to their heterosexual counterparts. Research on transgender people in large cities such as New York revealed that this population experiences disproportionate and significant harassment by law enforcement, including accusations of prostitution and unjustified arrests.

Some of these practices are systemically supported by legislative practices that overtly or covertly legitimise the marginalisation and criminalisation of sexual minorities.

Goldberg et al. (2019), Johnson. (2011), and Steele et al. (2018) explained that for the past 30 years, law enforcement agencies in the United States have prioritised a quality-of-life policing strategy. This strategy encompasses several practices; however, the most important and popular is policing minor crimes like graffiti, littering, illegal street vending, public drinking and sleeping in public areas such as parks. Goldberg et al. (2019) noted that most sexual minorities can be disproportionately affected by the enforcement of this policing strategy. For example, sexual and gender-diverse young people whose home spaces are not safe and supportive may spend a lot of time congregating in public spaces and connecting with peers. This may put them at risk of being criminalised. Steele and colleagues add that the quality-of-life regulations allow law enforcement to target groups perceived as “disorderly or indecent” according to normative social standards. In fact, Steele and colleagues noted that, in general, sexual, gender and racial minorities are often targeted for looking “suspicious or abnormal”.

Dwyer (2011) stated that most studies emanating from the United States demonstrate that sexual and gender-diverse young people are more likely to be involved in risk-taking behaviours such as substance use, risky sexual behaviours, and prostitution as a survival practice compared to their heterosexual peers. These behaviours increase their chances of coming into contact with the criminal justice system. Dwyer further noted that sexual and gender-diverse people who are in conflict with their families may end up being homeless, thus increasing their exposure to further victimisation by law enforcement. In Australia, homeless people, including sexual and gender-diverse youth, face extreme police victimisation (Dwyer, 2011). This discussion speaks to the contextual and structural factors (marginalisation in employment, involvement in prostitution as a survival practice, homelessness, use of illegal substance for self-medicating and so on) that directly and sometimes indirectly marginalises and excludes sexual minorities, which inadvertently expose them to the criminal justice system.

It is important to note that while some sexual minorities do come into conflict with the law due to structural issues, others are, in fact, specifically targeted and criminalised due to their sexual and gender-diverse identities. In this regard, Goldberg et al. (2019) discussed that police officers’ underlying biases usually manifest negatively in their interaction with

individuals of diverse identities. Through profiling, police officers sometimes divert their attention from illegal behaviours but instead focus on identity-based assumptions. Goldberg and colleagues noted that this increases the unjustified surveillance and targeting of sexual minorities even if there is no evidence of criminal behaviours. Further, law enforcement subjects transgender people to extra scrutiny, for example, the policing of restroom use by gender-diverse people or to scrutinise their documents that may not match their physical appearance.

Heidari (2020) and White-Hughto and Clark (2019) stated that at least 16% of adult transgender adults have been incarcerated compared to 2.7% of the general population. Heidari continues to argue that while 1 out of 6 transgender people, in general, have had contact with the criminal justice system, for African American transgender people, the number is 1 in 2. This is supported by Sevelius and Jenness (2017), who contended that transgender women of colour are disproportionately represented in correctional institutions. Heidari surmised that transgender people of colour are among the vulnerable population due to multiple and intersecting discriminations such as transphobia, racism and classism. Further, as a result of police profiling of transgender people as mentally ill and predisposed to sex work, transgender people, particularly low-income transgender women of colour, face a greater risk of being arrested and incarcerated (Sylvia Rivera Law Project, 2007). James et al. (2016, as cited in Heidari, 2017) found that 57% of transgender people (irrespective of race) who came in contact with law enforcement experienced mistreatment in the form of verbal abuse, misgendering, physical and sexual assault in the hands of police officers.

Steele et al. (2018) stated that the full understanding of the interaction between sexual, gender and racial minorities demands application of the theory of intersectionality. Briefly, intersectionality speaks to the way people experience their social environment in varying ways depending on where they are located within interconnected systems of privilege and oppression (Steele et al., 2018). Steele and colleagues continued to discuss that these systems of advantage and disadvantage continuously shape people's experiences and outcomes. Others experience a coexistence of multiple oppressions, for example, sexual and gender minorities who are also racial minorities and unemployed (PsySSA, 2017). Goldberg et al. (2019) added that because of workplace and economic marginalisation and exclusion, transgender people, especially

transgender women of colour, sometimes find themselves involved in illegal sex work, which puts them on the radar of law enforcement.

Sevelius and Jennes (2016) further noted that transgender women of colour face disproportionate rates of incarceration coupled with heightened victimisation in correctional facilities compared to their heterosexual peers. As an unjustified policing and targeting strategy, law enforcement in the United States uses the possession of condoms, particularly by sexual minorities, as evidence of prostitution (Goldberg et al., 2019; Schwartz et al., 2022). Goldberg and colleagues noted that in a 2015 US-based transgender survey, 44% of the respondents who were arrested reported that condoms found in their possession were used as evidence for prostitution. This policing strategy discourages sexual and gender minorities from carrying and using condoms, undermining widespread attempts to curb the spread of sexually transmitted infections and HIV (Goldberg et al., 2019; Schwartz et al., 2022). Such practices fuel existing health and mental health inequalities and disparities confronting sexual and gender minorities (Jin et al., 2021; Luvuno et al., 2019; Muller & Hughes, 2016; Schwartz et al., 2022). Writing from the African perspective, Izugbara et al. (2020) noted that the pervasive lack of knowledge and understanding of sexual and gender minorities in many African countries exposes this population to significant dangers, poor health outcomes and systemic exclusion from social, economic and political processes. This exclusion, particularly from the economic process, exposes sexual and gender minorities to criminal activities, which increases their chances of arrest and incarceration.

While there is ample literature on the targeting of sexual and gender minorities by law enforcement in the United States, in contrast, in Africa, there is relative academic and research silence on this issue. What has been largely documented is the vulnerable and disadvantaged position held by sexual and gender-diverse people in relation to the criminal justice systems of many African countries (Amusan et al., 2019; Arimoro, 2021; Izugbara et al., 2020; Makia, 2019). Amusan et al. (2019) and Arimoro (2021) explained that previous colonial laws, religion (primarily Abrahamic faiths), and culture have and continue to play a significant role in the criminalisation of homosexuality in several African countries. Amusan and colleagues stated that religion influences people's perceptions of homosexuality, and the majority of people typically reject it based on the teaching that it is "ungodly" and a "sin". Arimoro added that Abrahamic faiths and former colonial laws have shaped the political and legal landscapes of

numerous African countries, with the criminalisation of homosexuality being one of the common practices.

In their papers, Amusan et al. (2019), Arimoro (2021), and Makia (2019) focused mainly on five African countries: Cameroon, Kenya, Uganda, Ghana and Nigeria. Amusan and colleagues stated that on the continent, Uganda and Nigeria appear to be at the forefront in the passing of draconian legislation that criminalises homosexuality. Makia noted that in Cameroon, the socioeconomic conditions of sexual and gender minorities have been uphauling and continue to worsen. Makia pointed out that while there has been an international outcry about the human rights violations of sexual and gender-diverse people in some African countries such as Uganda and Nigeria, Cameroon has largely escaped public scrutiny despite its long-standing practice of arresting and imprisoning gay people.

Arimoro (2021) stated that in Ghana, homosexuality is not necessarily seen as a human rights issue; rather, it is accepted as a social vice that demands cutting out from the country's social fabric. The author noted that in Ghana, there is no explicit legislation that criminalises homosexuality; however, it is punishable under section 104 of the 1960 Penal Code, which draws a distinction between non-consensual and consensual sexual intercourse in an "unnatural manner". In Kenya, homosexuality is criminalised under the country's Penal Code 162, 163 and 165. Arimoro stated that in Kenya, an anti-homosexuality bill proposed in 2014 sought life imprisonment for individuals convicted of sodomy and the death penalty (stoning to death in public) for foreigners convicted in the country on the offence of aggravated homosexuality. Fortunately, the bill was rejected by the Parliamentary Legal and Justice Affairs Committee on the grounds that it was unconstitutional and violated basic human rights. Nigeria continues to maintain a harsh stance with regard to the criminalisation of homosexuality (Amusa et al., 2019; Arimoro, 2021; Okanlawon, 2021). Arimoro stated that legislation that criminalises homosexuality in Nigeria includes the Penal Code, the Criminal Code, Same Sex Marriage Prohibition Act 2013 and various *Shari'ah* Codes. The Criminal Code prescribes a 14-year sentence for individuals found guilty, while the attempt to commit the offence carries a 7-year sentence. The recent 2013 Same Sex Marriage Prohibition Act prohibits marriage contracts or civil unions between people of the same sex. Further, the Act stipulates that public display of affection by people in a same-sex relationship and the formation of gay establishments and

organisations is an offence (under the Act). A 10-year imprisonment term is also prescribed for people who officiate, witness and support same-sex marriages.

Carrington (2014, as cited in Arimoro, 2021) stated that in 2010, a Ugandan tabloid published identifying information about “alleged homosexuals”, which led to the killing of several people. Arimoro noted that unlike other African countries, in Uganda, homosexuality is unconstitutional. In 2014, President Yoweri Museveni signed an anti-homosexuality bill into law. The bill created an offence of homosexuality with a life imprisonment sentence for those convicted of the offence. It further prescribed the death penalty for aggravated homosexuality; the bill also granted Uganda extraterritorial jurisdiction to extradite offenders to Uganda for prosecution. More recently, the Ugandan parliament passed a sweeping anti-gay bill that further criminalises LGBT people and imposes a death penalty for sexually active gay men and lesbian women. The bill expands on the already existing anti-homosexuality legislation; the added “promotion of homosexuality” clause stipulates that activists or anyone who supports LGBT people financially or in any other way face an imprisonment term of up to 20 years. Landlords who let their property to gay and lesbian couples face 20 years imprisonment. The bill also bans the dissemination of information on LGBT issues. It further stipulates that anyone who has information about another person’s LGBT identity is required to report it to the police or face 6 months imprisonment; anyone who celebrates a same-sex relationship with an unofficial marriage faces up to 10 years imprisonment (Reid, 2023). The bill was subsequently signed into law by the Ugandan president.

Many countries, both in the global north and south, criminalised homosexuality and imprisoned or punished those judged to have committed an offence. Many of those countries, including South Africa, have since struck down old anti-homosexuality laws; however, a few African countries continue to criminalise and imprison individuals who identify as sexual and gender diverse. This illustrates the modern-day use of incarceration in deterring and controlling behaviours, bodies and practices that do not conform to normative practices. In this case, the criminalisation and targeting of sexual and gender minorities function to promote hetero and cisnormativity through the public erasure of diverse sexual and gender identities and attempts to enforce compulsory heterosexuality.



## **2.5 Current Picture in South Africa: Response of Department of Correctional Service to Incarcerated Sexual and Gender-Diverse People**

As mentioned previously, South Africa is one of the African countries that have decriminalised homosexuality and is the only African country with a Constitution that prohibits discrimination on the grounds of sexual orientation. As one of the historic state apparatuses for the oppression and “social erasure” of racial (and sometimes sexual) minorities, the Department of Prisons (now called the Department of Correctional Services) underwent significant transformations after South Africa transitioned from apartheid to a democratic state (DCS, 2005; Sing, 2005). However, unlike some government departments, the DCS lagged behind in addressing LGBTQ+ issues in correctional facilities. Offenders who identify as sexually and gender diverse still encounter disproportionate discrimination, stigmatisation and victimisation compared to their heterosexual counterparts. As in free society, homophobia and transphobia have gone unchallenged by the department for a long time. It is only as recently as 2020 that the department drafted and disseminated the SOP on the management of LGBTIQ+ offenders.

The SOP was developed due to the mounting pressure from various platforms regarding the department’s treatment of sexual and gender-diverse offenders. Most of the pressure grew from the case of Jade September, a transgender offender who took the DCS to court over the harsh treatment she endured at the hands of correctional officials.

The SOP first aims to inform all DCS officials about what is expected of them when working with LGBTIQ+ offenders. Second, it aims to ensure that DCS officials render professional, non-judgemental and non-marginalising services to LGBTIQ+ individuals, their families, friends and supportive networks. Third, it promotes the protection of LGBTIQ+ persons who are victims of crime and the prevention of secondary victimisation. Lastly, it enforces the protection of the constitutional rights of LGBTIQ+ persons who are alleged perpetrators of a crime.

The SOP speaks to several important issues, starting with the interaction between correctional officials and offenders who identify as LGBTIQ+. It encourages open and respectful communication and the recognition and affirmation of the offenders’ sexual orientation, gender identity and expression. The SOP further promotes the practice of confidentiality and privacy regarding offenders’ sexual orientation. The use of derogatory

language and inappropriate behaviours by correctional officials towards LGBTIQ+ offenders are prohibited. The SOP further speaks to practical issues pertaining to admission procedures – this entails conducting a risk and needs assessment within 6 hours after admission of an offender or detainee to establish security and health risks, needs and vulnerabilities and for appropriate placement. Procedures regarding transportation of LGBTIQ+ offenders speak to safety issues during escorting to court, hospitals and transfers to another correctional facility. The SOP stipulates that transgender and intersex offenders should be transported separately (for example, transgender males to be transported together and transgender females to be transported together). Regarding searching procedures, the SOP stipulates that transgender offenders should not be subjected to unnecessary undressing. Removal of clothing apparel such as wigs and prostheses should only be done to search, and they should be returned to the offender after the search is completed unless classified as security risk. Body cavity searches are authorised to be conducted by trained medical officials or registered nurses only. Such probing should be done in a respectful and dignified manner and be witnessed by a correctional official of the same gender as the offender. Detention procedures focus mostly on issues pertaining to accommodation; the SOP stipulates that all transgender and intersex offenders and detainees be housed in a separate and dedicated section.

While the SOP tackles some important issues, some are left unattended. For example, concerning the transportation of offenders, it does not consider the risk of possible victimisation that might be faced by gay men (especially those who appear feminine) and lesbian women while being transported together with the general population of offenders. Although the SOP speaks to “safe” accommodation, the reality in most correctional facilities is that sexual and gender diverse, including intersex offenders, share a section with other vulnerable offenders, most of whom identify as heterosexual and some who might be homophobic/transphobic. In carceral spaces, sexual and gender-diverse offenders continue to be a minority, even in special care or protective sections. It can be argued that most of the practical interventions spelt out in the SOP cater more for transgender and intersex offenders and detainees, while other vulnerable categories appear to be neglected. Tellingly, the SOP is silent about issues of consensual same-sex sexual practices between LGBTIQ+ offenders. This signals the department’s blanket approach to punishing sexual behaviours in correctional facilities. The practical provisions of the SOP, such as transportation, searching and accommodation, might be easily monitored and enforced; however, issues of respect, dignity, confidentiality and privacy and the prohibition of

the use of harmful language and behaviour by correctional officials might prove to be more cumbersome to implement. The latter will require a change in the attitudes of correctional officials towards sexually and gender-diverse people.

Alongside the SOP and as per the order of the Equality Court (September v Subramoney and others, 2019), the DCS implemented diversity training for new and existing employees on LGBTIQ+ issues. The training is designed to capacitate correctional officials and professionals with the information and skills necessary for managing offenders who identify as LGBTIQ+, for example, the use of correct pronouns, avoiding misgendering, use of appropriate language etc. Contained both in the SOP and in the training are local and international legislative framework that speaks to the promotion of human rights, rights of offenders and rights of sexual and gender diverse people.

In South Africa, as in other countries, homophobia is not confined to a specific institution or geographical location; instead, it pervades all corners of society, and carceral facilities are no exception. As it will be argued in the following sections, correctional facilities are not necessarily self-contained and completely self-regulating as free society likes to think; instead, they are influenced and shaped by the larger society. This means that homophobia and its associated hostility and violence, as well as same-sex sexual activities that occur in carceral spaces, are not an invention of those spaces; rather, they have their roots in broader society.

## **2.6 Early Research in Prison Sexualities**

Although the previous sections have covered some ground regarding sexual and gender diversity in the correctional context, the following section provides an in-depth discussion on the evolution of research on prison sexualities and homosexuality in particular. It looks at how understanding same-sex sexual practices in the prison context has evolved over time and how the research focus has also evolved accordingly. Further, the section discusses the conceptualisation of sexual and gender-diverse identities in carceral settings, the attitudes of correctional officials and, to a lesser extent, of other offenders towards those who identify as sexual and gender-diverse. The limited literature on the lived experiences of sexual and gender-diverse offenders is presented. Substantial focus is awarded to the literature on sexual violence in correctional institutions, as most earlier studies almost exclusively documented sexual

coercion in these spaces. Attention is also given to the unique challenges that TGD offenders face in a highly cisnormative system.

Homosexuality has been a contentious topic in politics, religion, culture and human rights. There has been, and continues to be, a fierce debate about whether sexual and gender diversity is natural or a form of deviance from heterosexuality. The view that sexual and gender diversity is a form of deviance has had a profoundly negative impact on sex and sexuality research in correctional facilities. Tewksbury and West (2000) noted that the paucity of research on sex in correctional institutions between the 1980s and 1990s was indicative of the consensus among academics, researchers, correctional administrators and the general public that sexuality in these spaces was a topic of little significance. Agboola (2015) writes that homosexuality has been a controversial topic in carceral environments. The author argued that it has been described as unnatural, criminal and a form of mental illness. Tewksbury and West stated that research on sex in correctional institutions has been fraught with disagreements, often neglected and scarce, especially in the field of criminal justice. The authors noted that due to the negative perceptions about sex in general and, moreover, in correctional institutions, scholars are often reluctant to prioritise research in this area, and those few scholars who dare undertake sex research in carceral environments run the risk of being marginalised by their colleagues and viewed sceptically by the public. Fishman (1934, as cited in Hensley et al., 2000) stated that the subject of sex in correctional institutions, although so provocative and so essential, is shrouded in dread silence.

Writing from a sociological perspective, Novac (2013) presented a thorough history of sexual and gender diversity in carceral environments between 1890 and 1945. She noted that although, during that time, homosexuality intersected more often with the criminal justice system due to the prosecution of same-sex sexualities, there was little work being done with offenders who were involved in same-sex relations while incarcerated. She argued that one of the reasons for the dearth of studies in this area at that time was the criminalisation of homosexuality and the correctional culture that largely functioned under the cloak of secrecy. Linked to the previous criminalisation of diverse sexualities and genders is viewing homosexuality as a problem and posing a threat to heteronormativity. Smith (1945) stated that:

Certainly, it should not be surprising that the imprisonment of large numbers of persons of the same sex, with its attendant sexual deprivation, gives rise to problems of a sexual

nature. Some of the most troublesome and perplexing of these are related to homosexual activities. (p. 582)

The earlier conceptualisation of diverse sexualities and genders as problematic justified their criminalisation, discrimination and ill-treatment, especially in carceral spaces. Commenting on the discursive history of homosexuality in carceral environments, Novac (2013) stated that the subject of sex in correctional institutions went under-acknowledged and under-theorised for a long time, and it was in the mid-1900s that correctional institutions' administrators started engaging in discussions of how to manage the "problem" of homosexuality in correctional institutions. The recognition of the presence of diverse sexualities and genders in these institutions attracted the attention of scholars who started to study this subject. However, the subject was approached as a problem, an anomaly, a form of pathology. The focus was mainly on remedying the "problem", curing the illness. Smith (1945) stated that society had shown a steady interest in the subject of homosexuality. He noted that at the turn of the century, new concepts about homosexuality as a disorder had been introduced in the medical and psychiatric literature and that certain laws had been enacted (and revised) to deal with the problem. From the mid-1800s, homosexuality had been officially classified as a diagnosable mental illness. It was only in 1973 that the American Psychiatric Association (APA) removed it from the classification of mental disorders (Agboola, 2015; Drescher, 2015).

Hensley et al. (2000) provided a brief review of the history of sexuality research in correctional institutions. The authors stated that Otis (1913) was one of the pioneering researchers in sex research in this area. In an article titled "A perversion not commonly noted", Otis wrote about the unnatural relationships between black and white women in reform schools for girls. It can be argued that Otis's study was more focused on racialising sex than same-sex sexual relationships. Helleck and Hersko (1962, as cited in Hensley et al., 2000) collected data from girls in juvenile institutions. Their results revealed that at least 60% of the girls had engaged in some sexual activities with other girls. Ward and Kassebaum (1964) conducted a study in Frontera Correctional Facility for women where they found that the participants' relationships were unstable and explosive. The preceding studies appear to have been unspecific with regard to the nature of the relationships (consensual vs coerced); instead, they only documented the presence of same-sex sexual relations between females in carceral environments. In 1966, Giallombardo (as cited in Hensley et al., 2000) conducted a study in a

woman's reformatory in West Virginia. The author found that women developed close emotional relationships with each other. In 1976, Popper (as cited in Hensley et al., 2000) undertook a comprehensive study of consensual sexual activities in a women's correctional facility, and the researcher found that at least 14% of the participants were in a relationship with or married to another woman.

Of interest in earlier studies was the documentation of the consensual nature as well as the supportive function of these relationships (Hensley et al., 2000). However, the time in which this research was conducted was saturated with anti-homosexuality propaganda; thus, same-sex sexual practices in correctional institutions were not pardoned because they were consensual; in fact, they were punished more severely than coercive same-sex sexual practices.

Hensley et al. (2000) stated that during the emergence of sex research in correctional institutions, the focus on consensual sexual activities in male correctional facilities was very limited. They noted that most of the studies were conducted by Bennett and Inciardi (1995), Kane and Nacci (1983), Tewksbury (1989) and Wooden and Parker (1982). The authors indicated that during that time, there was more research on sexual coercion compared to consensual sexual activity, especially in male correctional facilities. They wrote that earlier work on sexual coercion was done by Davis (1982) in the 1960s. During the 1970s and early 1980s, more important work on the topic started surfacing. Weiss and Friar's (1974) study concluded that "homosexual rape" was widespread in the correctional environment. Carrol (1977) explored the rape of white offenders by black offenders in a maximum-security facility, and Lockwood (1980) documented the incidence of sexual assault in a New York State prison (Hensley et al., 2000).

Tewksbury and West (2000) observed that during the late 1980s and the early 1990s, there were efforts by *The Prison Journal* to draw on the little existing knowledge and to stimulate new research on sex in correctional institutions through the publication of two special issues in 1989. They wrote that the first issue featured articles on HIV/AIDS, sexual assaults and conjugal visits. The second issue featured articles on the nature and consequences of sexual relationships in correctional institutions. Tewksbury and West noted that although there was some research output on the area, only five articles (one-third) from both issues combined were marginally related to sex in correctional institutions. When the research on sex in correctional institutions gained more traction, the focus was on two primary areas identified by Tewksbury

and West (2000). The first was the development of policy (primarily focusing on identifying and managing HIV/AIDS in carceral spaces), and the second was the convergence of research and policy to address practical needs in correctional institutions. The second area focused primarily on documenting the incidents of sexual activity and sexual assaults in correctional institutions to elucidate how these issues impact institutional functioning.

Saum et al. (1995) noted that most of the researchers who have studied sex and sexuality in correctional institutions did so for the purpose of investigating the issue of HIV among incarcerated offenders. Contemporary examples include Andrinopoulos et al. (2011), who studied the impact of homophobia and stigma on HIV in Jamaican correctional facilities and Kelly-Hanku et al. (2015), who studied sex, HIV and violence. Sit and Ricciardelli (2013) also posited that the bulk of studies on sexual relationships among male offenders has been justified by political objectives, namely addressing the issue(s) of sexually transmitted diseases (STD), primarily HIV/AIDS and issues of sexual assault and rape. What can be concluded here is that most sex studies conducted in correctional institutions that have emerged over the years have been for the primary purpose of informing policy on the management of HIV in carceral environments and on understanding how same-sex sexual practices influence the functioning and regulation of correctional institutions. One would argue that the latter was instrumental for correctional administrators regarding the development of policing and control measures to address sexual activities in correctional institutions rather than a concern for the sexual well-being of offenders.

In addition to the limited scope of research in correctional institutions in terms of the rationale and purpose is the limitation regarding gender diversity. Sex research in correctional institutions has been criticised for being focused mainly on male-only correctional institutions, while women's correctional institutions have remained neglected. Gopal (2015) stated that women's correctional institutions have received little research attention both locally and internationally, while research on male correctional institutions continues to grow. Although this may be true to a certain extent, it may not necessarily be a global phenomenon. For example, Hensley et al. (2000) offered a short review of several studies that have been done in female correctional institutions. Several reasons have been suggested for the discrepancy in sexuality research in male versus female correctional institutions. Gopal (2015) stated, first, that the disproportionate sex research in female correctional institutions might partly be

because, for a long time, women have comprised a small fraction of the offender population. Second, there is an assumption that the development of women's correctional institutions and the experiences of female offenders closely resemble that of men's correctional institutions and male offenders. In line with this assumption, the conclusion might be that conducting research in male correctional institutions alone is enough, as the findings might be generalised to female offenders. It can be argued that this reasoning neglects important differences between male and female correctional institutions, such as the use of violence and coercion (i.e. male correctional institutions are generally thought to be more prone to violence and coercion compared to female correctional institutions). Offering a different view grounded in the heteronormative assumption about gender and sexuality, Tewksbury and West (2000) posited that the sexuality of female offenders has been under-studied compared to that of male offenders because females have traditionally been thought of as being less sexual than males. Notwithstanding these earlier and often misleading assumptions about women's correctional institutions, there has been a growing awareness that female offenders present unique and equally important dynamics regarding their sexual expression in enclosed spaces.

## **2.7 Conceptualisation of Sexualities in Correctional Institutions**

It would be an injustice to discuss the construction and performance of sexualities in carceral spaces without briefly reviewing the writing of Novac (2013). Her paper offered a discursive history of the earlier challenges faced by correctional administrators and social scientists working in the area of sexuality in correctional institutions. She noted that the critical discussion on same-sex sexualities and practices in correctional institutions arose from an epistemological conundrum. This conundrum emanated from earlier sociological studies and offender biographies, which indicated that, by and large, same-sex sexual activities in enclosed spaces occurred between men and women who self-identified as heterosexual prior to and after incarceration. This created some confusion among researchers because, during that era, sexual identity was understood to be fixed and immutable; one could either be heterosexual or homosexual, but never both.

From a sociological perspective, Novac (2013) wrote about the supposed sexual regime that was founded on Sedgwick's (1990) world mapping concept of sexuality-as-identity. According to this concept, every given person who was assigned to a male or female sex at birth can be assigned to a hetero-or-homosexual orientation/identity. Novac stated that,



according to the world mapping concept, the hetero-or-homosexual designation is based on one's sexual-object choice, which is expected to be consistent with one's inner character. Simply put, this means that if an individual identifies as heterosexual, then their sexual-object choice would and should be a person of the opposite sex, and vice versa for an individual who identifies as homosexual. Given that earlier social scientists widely adopted this epistemological view, the observation that the self-identified heterosexual male and female offenders were engaging in homosexual activities while incarcerated presented a significant challenge. The grand question was that if heterosexual individuals were engaging in homosexual activities, what then was their sexual identity? The possibility of fluid or malleable sexualities that could have better explained that phenomenon was, as Novac argued, far removed from the scope of sociological and sexological understanding of the time.

The comprehension of the construction and performing of sexualities in carceral spaces required a review of the earlier models that sought to explain the dynamics of sexual behaviours by offenders. Novac (2013) explained that due to the epistemological conundrum that sociologists and correctional administrators found themselves in, they attempted to develop theories to try to explain the "sexual phenomenon" occurring in correctional institutions. The theories and models that were developed were narrow in that they perceived the offender population as removed from the sexual norms of free society; the correctional institution was seen as a world unto itself, having its own unique sexual norms and proprieties. Novac stated that:

Same-sex sex in prison was considered a reaction to the unique pains and challenges of incarceration: it was 'circumstantial' or 'situational', driven not by desire but by the unique physical and psychological strains of prison life. For example, many commentators hypothesized that the majority of same-sex sex occurred as a necessary response to the pains of heterosexual deprivation; appropriately, this explanation was called the 'deprivation theory'. (pp. 117 & 118)

This thinking eventually gave rise to two concepts that dominated the landscape of sexuality research in correctional institutions for a long time, namely true homosexuality and situational homosexuality. It is worth noting that these concepts were not exclusively used in carceral environments. Rather, they were also applied to other situations of enforced gender segregation, such as boarding schools. Eigenberg (1992) wrote about the emergence of true vs

situational homosexuality. She started by noting that the literature on homosexuality has been framed primarily from two perspectives: the essentialist approach and the social constructionist approach. Sexuality, from the essentialist perspective, is defined according to a “dichotomous classification scheme” where individuals are classified as either heterosexual or homosexual. This view embraces sexual orientation as a static and permanent characteristic; it thus does not accommodate notions of bisexuality or any other sexual orientation or gender categories. Eigenberg (1992) continued to write that the essentialist perspective holds that homosexuality arises from a biological or psychological anomaly, a pathology that needs to be corrected. In addition to its being pathologised, homosexuality has been seen, particularly in conservative countries and in Africa, as a social problem or ill that threatens the integrity of family and community (Amusan et al., 2019; Arimoro, 2021; Currier, 2021).

As a result of the wide acceptance of essentialism, researchers and correctional administrators were mainly focused on drawing a distinction between heterosexuals and homosexuals. However, the “epistemological conundrum” necessitated further classification of offenders who were observed to be engaging in homosexual activities: those individuals could be either true or situational homosexuals. Alarid (2000), Eigenberg (1992), and Sit and Ricciardelli (2013) posited that true homosexuals were those individuals who had a homosexual orientation prior to being incarcerated. They were perceived as adopting a passive role in sexual intercourse (being penetrated during anal sex and performing oral sex). These individuals would engage in these practices regardless of the availability of women. In contrast, situational homosexuals were described as heterosexual males or females who engaged in same-sex sexual activities because of sexual deprivation (Currier, 2021; Eigenberg, 1992; Novac, 2013; Ricciardelli et al., 2016; Sit & Ricciardelli, 2013).

Kunzel (2008, as cited in Ricciardelli et al., 2016) wrote about “wolves”, “fairies” and “punks”. The author stated that the “wolves” are the active participants in sexual activities while the “fairies” or “punks” are the passive participants or recipients of penetration. Essentially, “wolves” are perceived as situational homosexuals, and this classification affords the “wolves” the privilege of engaging in same-sex sexual activities while retaining their heterosexual identity. “Punks”, in contrast, are classified as true homosexuals; these individuals are perceived to have identified as homosexual prior to their incarceration and would continue doing so after they are released. This might sound contradictory to the stereotypical narrative

of the originally heterosexual offender who is “turned” by stronger men while incarcerated, who force him into taking on a submissive sexual role. However, the implication might be that an offender who is “turned” most likely had features perceived by others as feminine or gay from the start.

One of the drawbacks of the essentialist approach to homosexuality, among many, was its lack of discrimination between rape and consensual sex (Alarid, 2000; Eigenberg, 1992). For example, Eigenberg stated that men who engaged in same-sex sexual relations because they were coerced (threatened with violence or withdrawal of protection, forced to offer sex as payment for goods provided to them, etc.) were classified simply as situational homosexuals. Further, the men initiating the rapes, namely the “wolves”, would also be classified as situational homosexuals instead of rapists. Eigenberg noted that the use of both physical and sexual violence by “wolves” appeared to be instrumental in affirming their heterosexual identity. Another drawback of the essentialist analysis is its “simplistic, unidimensional definition of homosexuality” (Eigenberg, 1992, p. 223). This definition perceives “true” homosexuals as weak and effeminate with respect to their appearance, behaviour and mannerisms. In contrast, the so-called situational homosexuals were expected to exhibit masculine behaviours in line with their heterosexual identity.

### **2.7.1 Deprivation Model**

The essentialist classification of homosexuality as either “true” or “situational” was bolstered by the deprivation model. Eigenberg (1992) and Forsyth et al. (2021) explained that according to the deprivation model, when individuals enter correctional facilities, they are deprived of their liberty, essential goods, heterosexual contact and their autonomy. Forsyth and colleagues further note that whatever the loss is, men tend to fill their void with gangsterism and homosexuality. Hensley et al. (2002) added that the loss of the privileges readily available to free individuals constitutes “pains of imprisonment” for the incarcerated individual. They further noted that these pains of imprisonment are experienced differently by men and women. While both forfeit their liberty, autonomy, privacy and so on, women have described losing their families as their greatest “pain of imprisonment”.

The classic works of Giallombardo (1996, as cited in Hensley et al. 2002) and Ricciardelli et al. (2016) are good examples to illustrate how women responded to the pains of

losing their families. Giallombardo's research at West Virginia Women's Federal Reformatory gave rise to the notion of "pseudo-families". Pseudo-families (also known as kinship networks) are intergroup partnerships which were created as substitute families for incarcerated women. Hensley et al. (2002) stated that relationships that emerged from these makeshift families were perceived as vital in meeting the psychological needs of incarcerated women. Further, inclusion in these families was theorised to be instrumental in fulfilling some of the women's loss of identity and emotional needs. Beer et al. (2007) stated that the formation of these families might have been driven by the fact that generally, there were (and still are) fewer female correctional centres compared to those for males; thus, female offenders might be placed in centres that are far removed from their familiar environment (Medlicott, 2007). This leads to disruption in family and social support; thus, pseudo-families provide a sense of connection to others and intimacy. Pseudo-families were seen as important coping mechanisms for incarcerated women (Ricciardelli et al., 2016). This view is in line with the adaptation model in that the formation of pseudo-families, specifically for women, was an attempt to alleviate certain deprivations brought on by incarceration (loss of emotional and social connection, loss of family relationships, loss of companionship and separation from their children, (Hensley et al., 2002).

However, Beer et al. (2007) noted that current research shows that pseudo-families are far less common due to changes in correctional structures and advancements in communication methods, such as social media. Hensley et al. (2002) further posited that homosexual activities in correctional institutions evolve from the physiological and psychological attempts to obtain things that have been lost through incarceration. Eigenberg (1992) stated that incarceration forces offenders to enact certain structures, whether physical or psychological, in an attempt to alleviate the perceived or actual deprivation. Furthermore, she argued that the offender's sexual behaviours arise from sexual deprivation and the unusual circumstances of a unisexual environment. Forsyth et al. (2002) and Forsyth et al. (2021) aligned the deprivation model with the notion of a correctional institution subculture. They stated that a correctional institution's subculture assumes that group norms and values arise from attempts to cope with the harsh experiences of incarceration. The assumption is that those individuals who accept and internalise the subculture will minimise their "pains of imprisonment" while those who reject the subculture run the risk of doing "hard time". Essentially, accepting the subculture means embracing same-sex relations or activities for reasons of fulfilling sexual desires or those of

intimacy and emotional connectedness (Forsyth et al., 2002; Forsyth et al., 2021; Hensley et al., 2002).

### **2.7.2 Constructing and Performing Sexualities in Correctional Institutions**

The construction and performance of sexualities in carceral spaces is a multifaceted and complex phenomenon. This section will explore how offenders engage in and enact diverse sexualities and genders while incarcerated. The section on social constructionism, discussed later, will provide more perspective on the social factors that are central to the construction of sexual and gender identities. Eigenberg (1992) noted that some of the language used in diverse sexualities literature by various authors alluded to same-sex sexual practices as something located outside the control of offenders. Sexualities, sometimes manifesting in same-sex sexual practices, were seen to be constructed around the notion of lack of control over biological needs or urges. Eigenberg cited “sexual starvation”, “tension-charged sexual atmospheres”, “lack of self-control resulting from the sight and smell of naked bodies parading around” as some of the “sympathetic” terms that were used by different researchers and authors to understand why males engage in same-sex sexual relations. Currier (2021) stated that in Malawian prisons, for example, cell leaders or *nyapalas* sometimes stipulate that offenders should be clothed when in the company of other offenders “lest a bare body excites sex-starved men” (p. 33).

By rendering offenders powerless against their sexual urges, their engagement in same-sex sexual activities could not be reduced to a homosexual identity which was riddled with stigma; rather, it could be perceived as a “biology-based struggle” that some offenders eventually succumbed to, especially those who had been incarcerated for extended periods. Through this conceptualisation, individuals who engaged in same-sex sexual activities would only be “guilty” of being sexually weak’, a “crime” far less serious and more tolerable than that of homosexuality. Huffman (1960, as cited in Eigenberg, 1992) posited that black offenders’ participation in same-sex sexual activities was a result of their all-consuming desire for sexual relief, while white offenders’ participation stemmed from their need for emotional involvement. Although grossly stereotypical, this racialised view, at the time, also served to locate reasons for participating in same-sex sexual relations in something other than the homosexual identity.

Offering a slightly different but related perspective, Ricciardelli et al. (2016) reported that respondents in their study drew a distinction between homosexual identity and same-sex sexual behaviours. The respondents noted that engaging in same-sex sexual activities did not necessarily constitute the adoption of a homosexual identity. This disjuncture was apparent in cases where offenders engaged in same-sex sexual relations for gain or profit. The authors argue that in these instances, offenders who used sex as a commodity, even though they were relegated to a lower social status, could maintain their heterosexual identity, thus averting the stigma associated with a homosexual identity. In other instances, offenders who held a heterosexual identity prior to incarceration and who had girlfriends outside engaged in same-sex sexual behaviours not because they were under duress or exchanged sex for material goods but because those behaviours were perceived as a behavioural pastime justified by a lack of options for sexual release while incarcerated (Ricciardelli et al., 2016).

Due to homophobia and the stigma associated with same-sex sexual relations and practices, the construction of same-sex sexuality in correctional institutions by offenders can be understood as strategies enacted to manage their anxieties and fear of being associated with homosexuality (Sit & Ricciardelli, 2013). In their study with parolees who had served time in a Canadian Penitentiary located in Ontario, Sit and Ricciardelli found that homosexuality was presented as a phenomenon that 1) did not exist in the facilities where the parolees had been incarcerated, 2) was observed as occurring in specific categories of offenders (for example, offenders serving life sentences, those convicted of sex offences and offenders with physical disabilities), and 3) was enacted by offenders who were true homosexuals. These distancing and “othering” strategies were also found by Andrinopoulos et al. (2011) in their study in one of the largest correctional facilities in Jamaica and by Linonge-Fontebo (2013) in two of the largest correctional facilities in Cameroon. Most of the participants in both Andrinopoulos et al. (2011) and Linonge-Fontebo’s (2013) studies denied the existence or practice of homosexuality in the centres where they were incarcerated, and in cases where participants knew about homosexual activities, it was about “others”, in other sections, in other correctional centres. Ricciardelli et al. (2016), in their study of 56 Canadian men released from a federal correctional facility in the greater Toronto area, found that offenders who embraced the binary construction of sexuality (the conception that individuals are either attracted to males or females and never both) socially distanced themselves from same-sex sexual activities, denied any participation in these activities and even their existence in Canadian correctional institutions.

While the conceptualisation of same-sex sexual practice as a result of unavoidable biological urges seeks to distance those practices from the homosexual identity within the individual, distancing and “othering” attempts to locate homosexuality or homosexual practices completely outside the individual and in the other. In the latter case, same-sex sexual activities cannot, irrespective of their motivation, be associated with the individual; they are disowned, and, in some instances, their very existence is denied. In this case, same-sex sexualities are constructed as a phenomenon that lies outside of the individual, a phenomenon that occurs in other places and is embraced by already stigmatised others (those convicted of sexual offences and those with physical disabilities).

Beyond the conceptualisation of the construction of sexualities in carceral environments, researchers have also sought to capture the occurrence of same-sex sexual practices in these spaces. Contrary to popular belief, there has been a growing realisation that consensual sexual practices are a frequent occurrence in correctional environments (Currier, 2021; Hensley et al., 2002; Krienert et al., 2014; Niehaus, 2000). Currier stated that despite the invisibility of prisons in the social construction of sexuality, particularly in African literature, they are important and complex spaces for the production of same-sex sexual practices. Currier further argued that while the dominant narrative is that homosexuality is un-African and largely “absent” from many African societies, there is acknowledgement and perhaps understanding that same-sex sexual practices are very much present in African prisons. The author cited the 1999 Penal Reform International report about HIV/AIDS in Malawian prisons; the report comments that while homosexuality is rare in Africa, it is prevalent in African prisons. Of course, the first part of this statement is widely inaccurate and can be interpreted as an “othering” strategy where homosexuality is seen as existing everywhere else but in Africa. The last part of the statement holds true in that same-sex sexual practices are prevalent in complete institutions such as prisons (as much as they are prevalent in free society).

Same-sex sexual practices in correctional environments (as was the case in the South African mine compounds) appear to be modelled on heteronormativity. Niehaus (2000) compared same-sex relations in the early mine compounds to those that occurred in correctional environments. The author stated that “in the compounds, male-male sexual relations more closely approximated heterosexual marriages at home” (p. 84). The author further noted that same-sex sexual relations enabled the migrant man to assume the role of husband (at work), to

have a fulfilling intimate relationship with a faithful partner and to enjoy the comforts of home. Niehaus explained that a young man who accepted a relationship proposal became a “wife” and lived with his senior partner or “husband”, offered himself for thigh or anal sex and performed various domestic duties such as cooking and washing his husband’s clothes. In contrast, the husband provided for the wife (brought groceries and clothes for the wife and gave him money to spend on himself). Same-sex sexual relations in correctional institutions, according to the writings of Niehaus, did not deviate much from those that were observed in the mine compounds. In her study, she stated that the participants distinguished coercive from consensual sexual practices. She explained that consensual sexual practices followed a proposal and were performed within a framework of formal relationships. These relationships were between the dominant (husband) and a subordinate (boy or boy-wife). The participants in her study estimated that same-sex sexual relationships were frequent, and they typically involved individuals of the same Numbers Gang.

Gear and Ngubeni (2003) delineated the phenomenon of “heteronormativity in same-sex sexual relations”. The authors stated that “carceral marriages” provide a common setting for sexual relationships between offenders. These marriages, as alluded to by Niehaus, take place between “husbands” and “wives” and are governed by rules of how these individuals relate to each other. They are also characterised by inherent power imbalances where “husbands” wield power over their “wives”. The authors explained that the behaviours of the “wives” and their interaction with other offenders, as well as correctional officials, are largely regulated by their “husbands”. Gear and Ngubeni observed that these “marriages” are legitimised by rules and protocols developed by offenders, and they are perceived as an appropriate “institution” where sex can take place. The authors noted that the “wives” accede to their “husbands” demands; they are expected to perform domestic work and, most importantly, avail themselves sexually to their “husbands”. Gear (2005) wrote about the genesis of carceral marriages and how certain offenders are converted into “women” or “wyfies”. The author noted that the path to “womanhood” commences when a new offender, unfamiliar with the “rules of engagement” of the correctional institutions, is offered and accepts goods and services (such as food, drugs, cigarettes, and protection) from seasoned offenders. Through the provision of these goods and services, a debt has been created. The newcomer will later learn that they must settle this debt by providing sex to the debtor, refusal of which might lead to both physical and sexual violence (see also Eigenberg, 1992). The newcomer is subsequently



taken as a “wife” and enters a “marriage” with their debtor, who becomes the “husband”. Gear and Ngubeni (2003) highlighted that part of being a “wife” or a “woman” is to be sexually penetrated. They stated that being a “woman” in the all-male correctional facility is not a reputable position: “women” are constantly humiliated, are an easy target of abuse and are highly sexualised. Gear and Ngubeni (2003) and Gear (2005) stated that carceral marriages are usually institutionalised in the powerful structures of the Numbers Gang, whose offshoots appear to be widespread in most, if not all, South African correctional facilities.

Although coercion and manipulation appear to be central in the performance of same-sex sexual practices in carceral environments, consensual sexual practices are not necessarily precluded. Currier (2021) wrote that although some African prison literature portrays same-sex sexual practice as coercive, some authors (for example, Achmat, 1993) have documented consensual practices characterised by love, romance and pleasure between incarcerated men. Gear and Ngubeni (2003) explained a practice that is less formal and less organised, that lies outside the gang structures, “ushintsha ipondo”, which means “to exchange a pound”. In this practice, sexual relations arise from mutual agreements between the offenders involved. In contrast to carceral marriages, in this practice, neither partner is considered superior or inferior to the other; rather, the interaction is taken as an equal exchange of sex, and both participants take turns to penetrate and receive during sex. According to the authors, the practice of “ushintsha ipondo” is considered deviant and “outlawed” by the Numbers Gang. This practice is regarded as disrupting the “gang gender system” where gender identity is allocated in terms of role performance during sex; that is, those who penetrate are considered to be “men”, and those who are penetrated are identified as “women”. This practice further challenges the systems of inequality entrenched in the Numbers Gang by introducing egalitarianism in same-sex sexual practices. This system is perceived as problematic because it dismantles power dynamics and “sexual hierarchies” inherent in the conceptualisation and performance of sexuality in carceral environments. Gear and Ngubeni noted that the practice of “ushintsha ipondo” is associated with homosexuality which is regarded as deviant according to heteronormative standards.

Maeve (1999) provided an intriguing account of same-sex sexual relations among incarcerated women and how the performance of those relationships mirrored heterosexual relationships on the outside. Maeve’s account was somewhat different from that of Gear and

Ngubeni (2003) in that it reflects heterosexual dynamics (which are often characterised by inequalities) in same-sex sexual relations. Whereas Gear and Ngubeni's practice of "ushintsha ipondo" appear to be premised on egalitarianism in sexual relationships. However, as much as these authors presented different examples of the performance of sexuality in carceral environments, they centre around a similar argument, that of consensual same-sex sexual practices.

The participants in Maeve's (1999) study spoke of "participating" as a phenomenon where women came to love each other emotionally and sexually. The term "turning out" was used to describe a process where an individual came to accept or desire the idea of love and sex between women. The participants noted that an individual became "turned out" when she had her first sexual experience with another woman while incarcerated (Maeve, 1999). A common theme that emerged in Maeve's study was the strong influence of heteronormativity in the construction and performance of same-sex sexual relations and practices among the participants. The author stated that:

Consistent with social customs in the "free world," women in prison often approached their love and sexuality through traditionally understood male-female roles. For instance, partners were often conceptualized in terms of "him" and "her." Some women were always referred to through the use of masculine pronouns. These women were expected to assume a traditional male countenance with their female partners. (p. 58)

Maeve further explained that some women would assume the masculine role and cut their hair in male styles, walk and sit like men and court their potential partners through a process called wooing, which entailed protecting the potential partner and showing sexual bravado. Those relationships also mimicked heterosexual relationships with regard to the use of force and violence. More often, the violence was perpetrated by women who assumed masculine roles while those who assumed feminine roles were held accountable for perceived flirtatiousness with other female offenders. Beer et al. (2007) stated that one of the few empirical studies on female relationships in correctional facilities conducted by Lindquist (2000) found that close relationships between female offenders were characterised by increased hostility. In their study, Beer and colleagues found that female offenders involved in romantic relationships were likely to experience anger and hostility as well as increased internal disciplinary problems. The authors noted that in their 2000 study, Lindquist hypothesised that

sharing complaints about the realities of imprisonment with intimate others increased female offenders' awareness of their harsh realities, which contributed to the increased anger and hostility. One might argue that such a hypothesis does not adequately explain intimate partner violence between female offenders; it comes across as a generic experience that might be experienced by anyone (whether in a relationship or not) in harsh total institutions.

Maeve (1999) stated that same-sex relationships which appeared to conform to traditional gender roles were easily understood and, to a certain extent, accepted by correctional officials. The author stated that the women whose relationships closely mirrored traditional heterosexual relationships (one partner being masculine and the other being feminine) were less likely to be reprimanded by correctional officials for engaging in homosexual activities. She argued that this might have been related to the fact that gender binary forms of relating appear to be easily understood and accepted. Maeve pointed out that some intimate relationships between women offenders did not develop in the traditional heterosexual fashion. These relationships evolved from friendships and later blossomed into intimate and sexual relations. The author noted that due to the nature of their evolution, the women in these relationships did not alter their appearance or behaviours and generally reflected traditional feminine appearances and behaviours. It was the classically feminine partners who were frequently reprimanded and charged for engaging in homosexual practices. The author posited that these relationships appeared to be perceived by correctional officials as more offensive compared to those that conformed to traditional heterosexual gender roles.

The construction and performance of sexuality in carceral environments is a complex phenomenon (Forsyth et al., 2021; Gibson & Hensely, 2013). According to the literature reviewed in this section, sexualities in correctional institutions generally are constructed and performed in ways designed to distance those behaviours and practices from "homosexuality" (Andrinopoulos et al., 2011; Linonge-Fontebo, 2013; Ricciardelli et al., 2016). Ricciardelli and colleagues posited that sexual orientations are organised in a hierarchical fashion with heterosexuality occupying the privileged position over homosexuality. Sexualities in correctional institutions, unsurprisingly, have been constructed in alignment with heteronormativity, and their performance is grounded in traditional heterosexual gender roles. Aligning same-sex sexual relations and practices to heterosexuality has been instrumental in keeping the stigma associated with homosexuality at bay and in enabling the participants to

engage in these relations while maintaining heterosexual identities. Certain rules, codes of conduct and protocols governing carceral spaces have been devised by the offender population, and they are put into place to control and legitimise same-sex sexual relations between sexual and gender-diverse offenders. In addition, those protocols serve to ground same-sex sexual relations within the heterosexual framework and to protect participants from being labelled as homosexual.

Similar to the outside world, behaviours and practices that refuse to be regulated by codes and rules in carceral spaces are frowned upon and are often punished by violence. The deprivation model, as discussed earlier, was developed in order to try and explain sexuality in correctional institutions. While it, to a certain degree, captures the reality of same-sex sexual relations in carceral spaces, it minimises the reality of sexual and gender diversity and the fluidity of sexual identity, thus reinforcing the superiority of heterosexuality. While some offenders participate in same-sex sexual and intimate relations, those who do not constantly have to assert their heterosexuality and masculinity so as to ensure that they keep the “taint” of homosexuality off their doorstep. These “non-participating” offenders who battle with fear of being associated with homosexuality in their everyday parade their male bravado and hegemonic masculinities in order to affirm to the spectators that they are “strictly” heterosexual (Andrinopoulos et al. 2011; Ricciardelli et al., 2016). However, this peacocking of masculinity is not only the practice of non-participating offenders; even those who engage in same-sex sexual relations, for the same reason, also engage in the theatrics of flaunting behaviours traditionally associated with masculinity and heterosexuality, lest they be labelled as homosexual or taken advantage by “more” masculine males.

### **2.7.3 Attitudes Towards Sexual and Gender-Diverse Offenders**

Attitudes of correctional officials, administrators and offenders towards same-sex sexual practices and towards sexual and gender-diverse identities play a critical role in the construction and performance of sexuality in correctional institutions. Blackburn et al. (2010) stated that few studies have examined the attitude of offenders towards sexual and gender identities in correctional facilities; much is still not known in this area. Sit and Ricciardelli (2013) noted that it is only recently that correctional administrators and scholars have focused on offender’s attitudes towards issues of sexuality in correctional institutions. The authors noted that for a long time, studies on sexuality in carceral spaces were driven by the political

mandates that sought to address the issue of HIV/AIDS and sexual assaults. In their study with parolees who had served a sentence in a Canadian penitentiary, Sit and Ricciardelli discovered that negative attitudes towards homosexuality in correctional facilities are pervasive. They reported that the presence of homophobia in Ontario federal prisons was a dominant theme among the participants. Indeed, most of the participants held strong homophobic beliefs. In their study on gender differences in offenders' attitudes towards homosexuality, Blackburn et al. (2010) found that female and offenders were more accepting of sexual and gender-diverse offenders. The authors noted that their findings are consistent with those from previous studies (for example, Hensley, 2000, as cited in Blackburn et al., 2010). In their systematic review of qualitative research evidence focusing on the experiences of LGBTQ+ offenders, Donohue et al. (2021) found that there is consensus among several authors that more male offenders tend to demonstrate homophobic attitudes and disapproval of same-sex sexual practices compared to the general public. They argued that this tends to mirror the attitudes and behaviours of correctional staff.

Alarid (2000) conducted a study with gay and bisexual males in protective custody in an undisclosed county jail in the United States. The results of the study revealed that at least 83.7% of the total sample felt that bisexual and gay offenders were treated with disrespect by other offenders. While 88.9% of gay offenders were vocal about the disrespect they received from other offenders, 16.7% felt that officers and staff tolerated gay relationships between offenders. In contrast, almost all bisexual participants (90.7%) felt that officers disrespected their group more than the offenders in the general population. Eigenberg (1989, as cited in Tewksbury & West, 2000) sought to uncover whether correctional officials' personal attitudes influenced their willingness to respond to cases of rapes reported by offenders. She found that most officers held stereotypical views about same-sex sexual practices (particularly between men). She further noted that the officers' view of homosexuality, together with varying degrees of religiosity, influenced the officers' willingness to respond to reported incidents of rape.

In their study in an all-male maximum correctional facility in Jamaica, Andrinopoulos et al. (2011) found that there was a clear consensus among the participants, including those who had engaged in sex with other men, that in Jamaican prisons, and to an extent in broader society, homosexuality was perceived as an abominable act deserving of punishment. The participants in the study differentiated between "big men", who were respectable heterosexual

men, to “boys”, who were homosexuals segregated into the homosexual or special section. To capture the deeply entrenched homophobic belief held, one participant referred to sexually diverse offenders as “those things”. The authors stated that the only work available for those in the special section (primarily sexual and gender-diverse offenders) was removing refuse and/or cleaning toilets. Offenders described that kind of work as another way the offenders in the special section lowered themselves to become “groundsed” (sic) or the “socially untouchables”. The participants noted that offenders sometimes ended up in the special section for protection against the “big men” who threatened to kill them. However, once an offender goes to the special section, they become branded as a homosexual for life, both inside and outside. The participants also spoke about how masturbation and oral sex were conflated with homosexuality. Of interest is that, generally, these sexual behaviours (masturbation and oral sex) were not necessarily seen as predictive of a homosexual identity; however, because these behaviours were perceived as deviant in the Jamaican culture, they were easily associated with homosexuality, as the “other deviance”. Female offenders in Linonge-Fontebos’ (2013) study equated lesbianism with prostitution. One of the participants labelled lesbians as “bad girls” and linked them to the use of drugs. Both these studies (Andrinopoulos et al., 2000; Linonge-Fontebo, 2013) highlighted a consensus in attitudes shared by both male and female offenders.

Gopal’s (2015) study in one of South Africa’s correctional facility found that some participants who were engaging in same-sex sexual relations reported being discriminated against by the correctional nursing staff. One white participant who was in a relationship with a black female offender reported that she felt doubly prejudiced against: first, for the fact that she was white and was involved in a sexual relationship with a black offender and second, for being involved in a same-sex sexual relationship. Further, Gopal stated that women who have sex with women (WSW) in correctional facilities are sometimes charged, and those charges are reflected on their files, which are available for perusal by the members of the Correctional Supervision and Parole Board (CSPB). The latter could possibly jeopardise the offender’s chances of receiving parole due to having an “unclean record”. This means that at times, sexual and gender-diverse offenders receive double punishment, for the crimes they committed and for being in consensual same-sex relationships with other offenders.

#### 2.7.4 Lived Experiences Of Sexual and Gender-Diverse Offenders

A review of the literature highlighted the dearth of research on the lived experiences of offenders who identify as sexual and gender diverse. The bulk of the literature referenced in this literature review focused on the coercive nature of same-sex sexual practices. In addition, the participants in those studies identify primarily as heterosexuals who have observed, from a distance, same-sex sexual practices in correctional facilities (see Andrinopoulos et al., 2011; Forsyth et al., 2002; Gear & Ngubeni, 2003; Gear, 2006; Lilonge-Fontebo, 2013; Ricciardelli et al., 2016; Sit & Ricciardelli, 2013). Some of the studies that have, as their participants, offenders who identify as sexual and gender diverse include Agboola (2015), Alarid (2000), Beer et al. (2007), Blackburn et al. (2010), Bromdal et al. (2018), Dastile (2020), Gopal (2015), Jenness and Fenstermaker (2014), Maeve (1999), Sevelius and Jenness (2017), White-Hughto et al. (2018) and Yap et al. (2019). For example, Alarid (2000) analysed the participants' experiences of being either incarcerated or detained in county jails. Gopal (2015) focused on the participants' experiences of how correctional officials, particularly the nursing staff, perceived their sexualities. Agboola (2015) focused on the participants' experiences and perceptions of consensual same-sex sexual relations and, to an extent, their analysis of factors that influenced the occurrence of those relationships. Jenness and Fenstermaker (2014) interviewed offenders identifying as transgender women in an all-male correctional facility. Blackburn et al. (2010) studied gender differences in offender attitudes towards homosexuality in correctional facilities. Beer et al. (2007) focused on incarcerated women who were involved in intimate relationships to ascertain the role of those relationships in offender well-being. Participants in Maeve's (1999) study spoke at length about the process (turned out) in which some women end up being involved in consensual same-sex relationships.

Agboola's (2015) study on consensual same-sex relationships in female correctional institutions yielded interesting findings where some of the participants reported sexual and/or romantic relations (with other female offenders) that deviated from the commonly documented same-sex sexual practices in correctional institutions that resulted from coercion, manipulation and/or overt use of force and violence. One participant spoke about how another offender fell in love with her and how they eventually engaged in a consensual, intimate relationship. Another participant spoke about how fulfilling her relationship was with her same-sex partner (they helped each other and shared resources) and how her partner's family had come to accept

her. Although not common in the literature, these precious accounts defy the long-held myth that sexual relationships in carceral environments are only born out of violence, that they occur when those who have power and resources use their “privileged” positions to entice, manipulate and coerce those who hold little power in terms of physical strength and resources. In contrast, Yap et al.’s (2019) study focused on male offenders who identified as either gay or bisexual. The participants primarily spoke about the importance of displaying masculine traits such as not showing weakness, publicly confronting other offenders who challenge their sexuality and standing their ground during a confrontation or altercation.

What is interesting about these two studies (Agboola, 2015; Yap et al., 2019) is that, whether intentionally or not, they highlight traditional gender roles that are expected from males and females. Agboola’s study portrays female offenders as loving, tender and nurturing towards their partners, while Yap et al.’s study portrays male offenders as hypermasculine, aggressive and tough. The latter highlighted several levels of gendering taking place. At one level, offenders import certain gender norms from free society into the carceral environment (Forsyth et al., 2021). Those gender norms influence how their experiences are constructed and communicated (i.e. in-carceral experiences are fitted into traditional gender norms even though they might deviate from them). On the other level, researchers further gender the research process by selectively hearing what is being communicated by offenders to fit in with their preconceived notions of gender (i.e. women as being caring and affectionate and men as being violent). It is perhaps this multileveled gendering process of research, whether intentionally or by accident, that numerous research studies end up arriving at or yielding “gendered” results, particularly in the area of gender and sexuality, when attempting to research the same phenomenon.

While some studies have documented positive experiences of sexual and gender-diverse offenders (for example, Agboola, 2015; Maeve, 1999), some studies have highlighted difficulties experienced by sexual and gender-diverse offenders. Donohue et al. (2021) discussed a few themes that arose from their systematic review of studies about the experiences of LGBT+ offenders, namely intrapersonal, interpersonal and institutional factors. On intrapersonal factors, they stated that studies show that many LGBT+ offenders chose not to disclose their gender identities or sexual orientation out of fear of homophobia, transphobia and biphobia. In fact, studies have shown that this population experiences discrimination,



stigmatisation, physical and sexual violence. The review also highlighted that the psychosocial needs of LGBT+ offenders are at times ignored; for example, the incidences of depression, anxiety and suicide are higher in this population compared to their heterosexual counterparts. The second theme on interpersonal factors speaks to the heightened risk of harassment, abuse and violence that confront sexual and gender-diverse offenders. The third theme, institutional factors, speaks to how sexual and gender-diverse people are forced to navigate the heterosexual and hypermasculine correctional environment. Donohue and colleagues noted that in the correctional context, the discrimination and marginalisation of sexual and gender-diverse offenders occur in a continuum, from being rendered invisible and non-existent to overt abuse.

Apart from the few studies cited above, sexually and gender-diverse offenders' lived experiences have been under-researched. Most literature in this area tends to subsume participants' experiences under other social phenomena such as HIV/AIDS, "pains of imprisonment", access to condoms, attitudes of correctional institutions towards sexual and gender diversity etc. While these topics are of great significance and usually run parallel to offenders' experiences, they nonetheless tend to minimise other experiences such as the construction and performance of gender and sexuality, adjustment to the carceral environment and everyday nuanced challenges stemming from the performance of diverse sexualities and genders in a predominantly heterosexual environment. What has been studied relatively in-depth, however, is sexual violence in carceral institutions. As mentioned before, most earlier studies (and perhaps some contemporary) have focused more on coercive sexual practices, predominantly in male correctional facilities.

### **2.7.5 Sexual Violence in Correctional Institutions**

The phenomenon of sexual violence in correctional institutions is neither novel nor isolated; rather, it is rooted in sexual violence in the broader society. Sivakumaran (2005) provided a comprehensive review of male-male rape in society and the myriad of issues that surrounds this phenomenon. The author started by foregrounding male-male rape within the traditional feminist understanding of rape. He stated that the power dynamic theory considers that there exists a hierarchy of power in society where men occupy the top position(s) while women are relegated to the bottom of the hierarchy. The theory posits that in an attempt to ward off the threat of losing their power and their position, those at the top of the hierarchy may resort to using sexual violence as an attempt to impose their dominance and power on those at

the bottom. In line with this view, rape is perceived as an act of maintaining a gender-stratified society where women occupy a disadvantaged and vulnerable position. McPhail (2015) stated that with the advent of feminist theories of rape, the entire conceptualisation of rape changed. Rape was no longer perceived as the end in itself but as means of further entrenching gender roles where men are positioned at the top of the hierarchy. She added that according to Brownmiller, rape is an exercise of power, and its function is intimidation, where men keep women in a state of fear (also see Eigenberg, 2000; Richters et al., 2012).

Some authors (for example, Cohen, 2014; Walklate, 2013), both cited in Mgozeli and Duma (2020), have criticised the feminist theory in that it has largely neglected male rape and male victimisation. They noted that this might be because, from the perspective of feminist theory, men have largely been seen as perpetrators and women as victims. Eigenberg (2000) argued that, regarding rape occurring in correctional institutions, researchers tended to focus on the “homosexual” nature of the act. However, the focus has recently shifted to rape as an expression of power and control. She argued that this view, however, continues to neglect the gender aspect of rape by disregarding the association of rape with traditional definitions of masculinity and femininity. Sivakumaran (2005) noted that although traditional power theories explain the dynamics behind male-female rape, they fail to account for dynamics in male-male or female-female rape. He argued that the latter is because these views perceive masculinity and femininity as graded polar opposites rather than recognising the power hierarchies evident within masculinity and femininity.

Sivakumaran (2005) recognised that male-male rape has been (and continues to be) a neglected topic for a number of reasons, but most importantly, because of its conflation with homosexuality. This has also been observed by other authors (see Eigenberg, 2000; Gear, 2007; O’Donnell, 2004). Mgozeli and Duma (2021) stated that in South Africa and internationally, men who are victims of rape experience significant marginalisation. Locally, social media campaigns that challenge gender-based violence, including rape, typically exclude male victims. Further, throughout the world, rape crisis centres typically do not cater to male victims of rape. In trying to understand why male sexual victimisation has taken the back seat, both in academia and in healthcare, Sivakumaran started off by deconstructing the problem inherent in the use of language in the discourse of male-male rape (often, the term homosexual rape is used). He noted that the term male-male rape means the rape of a male by another male, and

there is no additional meaning or connotations attached to that term. In contrast, the term homosexual rape has two meanings, one derived from etymology and the other from everyday use. The etymological meaning of homosexual rape denotes the rape of a member of one sex by a member of the same sex, which parallels that of male-male rape. The everyday use describes rape whereby one or both parties are homosexuals. The author argued that should the term homosexual rape be used to refer to cases where one party is homosexual and one is heterosexual, the popular assumption would be that the assailant is homosexual while the victim is heterosexual. This perception would perpetuate the ineffectual notion that it is only homosexual males who rape other males. This would obviously contrast with studies that have shown that the majority of perpetrators in such cases identify as heterosexual (Sivakumaran, 2005).

In support of this view, Gear (2007) posited that researchers themselves have contributed to this confusion in their use of the term homosexual rape, which implies that the perpetrator is homosexual. She asserted that the rape of a male by another male is an offence that no self-identified gay or bisexual incarcerated male will likely commit; rather, this act is typically perpetrated by incarcerated heterosexual males. Sivakumaran's position is that homosexual rape should be used to refer to instances where the aggressor and victim both identify as homosexual. I contend that the use of the term homosexual rape reduces the act to sex and sexuality while neglecting the power and control issues that motivate this act. As was mentioned earlier, rape is used to assert power and control and to dominate the other. This is irrespective of the sexual identity of the aggressor or the victim. Whether both the parties involved identify as homosexual or heterosexual or one is homosexual, and one is heterosexual, the act of rape places the perpetrator in the position of power and dominance while it subordinates the victim, stripping them of their actual or perceived power and control. Narratives of male rape survivors in Mgozoli and Duma's (2021) study speak to inherent power dynamics involved in the act of raping and being raped. The survivors spoke about being physically overpowered by the perpetrators, which resulted in feelings of powerlessness and helplessness. They also spoke about mental-physical paralysis, where their bodies felt frozen and their minds blocked, which further disabled them from fighting off the perpetrators.

O'Donnell (2004), reflecting on the pervasiveness of sexual violence in correctional institutions, noted that when an individual is sentenced either to a reform school or correctional

facility, the second sentence imposed on that individual is one of a high probability of being raped or sexually victimised. Lara (2010) stated that because of the brutality and pervasiveness of sexual violence in correctional facilities in the United States, both offenders and correctional officials consider it an inevitable experience of incarceration. Richters et al. (2012) reported that studies on the prevalence of both consensual and non-consensual sexual practices in correctional institutions have been highly inconsistent. They noted that the reported rate of sexual contact ranged between 1–2% and 65% in one atypical study. Papadakaki et al. (2019) pointed out that there is a big difference in the rates (falling in high-low extremes) of sexual violence reported by the majority of studies. Other studies reported conservative rates of 1–3% (also see Morash et al. 2012), while others reported incidents as high as 11–40%. Morash et al. (2012) noted that the differences in incidents might be influenced by geographical settings and varying methodologies used in each of the different settings. They reported that in Australia, 26% of offenders between the ages of 18–25 years reported experiencing sexual assault, while 8% reported being assaulted weekly or daily. In prisons in the United States, 1 in 5 offenders reported experiences of sexual misconduct, and 7% reported being sexually assaulted. The Bureau of Justice Statistics survey identified that 4.5% of federal offenders were sexually victimised over a period of 1 year. Further, in 2011, the U.S. National Prison Rape Statistics Program identified that 4% of sentenced offenders and 3.2% of detainees revealed experiences of sexual victimisation (Morash et al., 2012). In addition, Lara (2010) stated that studies have reported that transgender offenders encounter sexual violence at an alarming rate of 59%, while as a non-heterosexual group, gay, bisexual and lesbian offenders suffer from sexual violence at an even higher rate of 67%.

Accounting for the low reported incident rates, Richters et al. (2012) noted that sexual violence or assaults may go unreported because of the stigma and taboo associated with victimhood in a culture characterised by hegemonic masculinity. Sivakumaran (2005) also noted that male victims of sexual violence are compelled to overcome hurdles associated with notions of masculinity before they can report the assault. He noted that society's construction of masculinity is associated with one's ability to exert power and control over the other, typically through the use of force. Male sexual victimisation then stands in stark contrast to the widely accepted notions of masculinity. For example, some of the survivors in Mgozozeli and Duma's (2021) study reported feelings of not being man enough or feeling like they have been turned into women. Others spoke about the rape being a permanent mark of weakness. In

addition, because of the conflation of male-male sexual assault with homosexuality, the victims, according to Sivakumaran (2005), may consider themselves “tainted” with homosexuality. Indeed, Mgozeli and Duma reported that some of the survivors expressed fears of becoming gay following the rape. Gear (2007) noted that the many anxieties by the public that surround crime, violence, and homosexuality typically result in male-male sexual violence being associated with homosexuality.

The issue of sexual violence, specifically male-male sexual violence and the associated homophobia, cannot be discussed without considering the role and influence of hegemonic masculinities (heteronormativity and hegemonic masculinity are discussed in detail in the next chapter). Sexual violence and attitudes of homophobia are deeply rooted in the traditional and rigid conceptualisation of masculinities. Sit and Ricciardelli (2013) stated that numerous researchers hold unanimous views on the pervasiveness of negative attitudes towards homosexuality, particularly in male-dominated carceral spaces. These negative attitudes stem from the unfounded perception that male homosexuality threatens the dominant notions of manhood (Sit & Ricciardelli, 2013). Hegemonic masculinity positions heterosexuality as the dominant and the only acceptable sexual orientation; thus, any other form of sexual expression that fails to conform to this conceptualisation of sexuality is ostracised and relegated to the margins. Connolly (1991, as cited in Gear 2007) stated the preceding well, she wrote that:

Those not conforming to heterosexuality thus threaten the system that demands heterosexuality as an essential condition for ‘manhood’ or ‘womanhood’. Because maintaining this notion is necessary for maintaining the status quo and the elevated position of heterosexual masculinity within it, other forms of male sexuality represent a fundamental threat to ‘masculinity’. (pp. 213–214)

Weeks (1985, as cited in Gear, 2007) posited that masculinity is achieved and maintained by continuously rejecting femininity and homosexuality as identities that represent what “masculinity is not”. Weeks noted that, with male-male sexual violence, the perceived “vulnerability and weaknesses of the victim quickly become associated with femininity, while same-sex sexual contact is allied with homosexuality. The author argued that this connection withholds the male victim’s claim to manhood, which is premised on the idea that males are invulnerable and, thus, cannot be raped. Whitehead (2005, as cited in Gear, 2007) conceptualised male-male sexual violence as “exclusive” violence. According to this view, the

function of sexual violence is to exclude the male victim from the category of “man” and make him unworthy to be called a “man”. By invalidating manhood and/or his masculinity, this form of violence reaffirms masculinity, with its associated heterosexuality, power and dominance, of the perpetrator.

The enactment and “attainment” of masculinity through the control and forced submission of the other, though prevalent in free society, its presentation in a carceral environment is unique. Lara (2010) ascertained that the distinctive environment of an all-male correctional facility gives rise to a social order and, by extension, a culture that is different from that of the outside world. She argued that the very nature of the environment requires an offender to stand guard for his safety and social standing continuously. When there are actual or perceived threats to the individual’s position in the power hierarchy, using violence to force other offenders into submission becomes “necessary”. This violence can be physical or sexual. Those offenders who succeed in using physical force to subdue or control others become positioned at the top of the hierarchy, and they are perceived as more masculine. Lara argued that this constructed social order ushers in a kind of carceral argot both correctional officials and offenders understand. In this argot, those men who are more aggressive and “masculine” are referred to as “jockers”, “wolves”, or “daddies” (also see Eigenberg, 1992). These “wolves” then typically pair themselves (through the use of force or manipulation) with heterosexual males who are perceived as weak, timid or who display effeminate tendencies. Due to their perceived “weakness”, these offenders are physically forced or coerced to provide sexual services to the “jockers”.

Similar to Gear’s (2005) carceral marriages discussed earlier, Donaldson (2001, 2003, as cited in Trammell, 2011) wrote about protective pairing in correctional institutions whereby men (usually those who are stronger) protect the weaker ones in exchange for sex. Donaldson categorised this practice as a form of rape. Trammell noted that the victims hardly report such incidents because of the facilities’ informal “code of silence”. The interviewees in Trammell’s study referred to “protective pairing” in gendered terms (husband and wife) in order to legitimise the arrangement. Trammell argued that these relationships are constructed in a manner in which the “husband” holds all the power while the “wife” is used for sex and treated like property. Gear (2010) stated that participants in her study reported that sexual violence appears to be rife when offenders are newly admitted into correctional facilities; as time passes,

the violence aspect fades away, and sex becomes more consensual within the context of “marriages”. The author argues that rather than diminishing, the recognition of the victim as well as the sexual violence disappears into the recognised institution of “marriage” or, in Trammell’s case, “protective pairing”. In these instances, the aggressor (husband) continues sexually assaulting the victim (wife); however, because they are in a “marriage”, this assault becomes muted, and sex is rendered consensual.

A number of authors have documented examples of horrifying cases of sexual violence in correctional facilities. Robertson (2011) documented the case of Parsell:

As a boy entering a prison housing adults in 1978, T.J. Parsell faced long odds against living a dignified life behind bars. He came up way short; within twenty-four hours into his confinement in Michigan State Prison, four inmates repeatedly raped the once defiant boy prisoner. After they had their way with the seventeen-year-old, they flipped a pink token to determine who “owned” him. (p. 820)

O’Donnell (2004) cited an example originally documented by Rideau and Sinclair (1982):

While the boy was still unconscious, the attackers jabbed his arms, neck and body with a tip of a pencil, so that the boy's body twitched making it more sexually stimulating for the aggressors. Then one of the attackers, in a final sadistic gesture... shoved his hand up the boy's rectum and ripped out a mass of bloody haemorrhoids. (p. 242)

Equally or more debilitating than the actual physical trauma of sexual violence is the psychosocial sequelae. Sivakumaran (2005) stated that males who are victims of sexual violence experience similar difficulties as female victims. Those difficulties include but are not limited to post-traumatic stress disorder (PTSD) or acute stress disorder, depression, anxiety and, in some instances, substance use disorder. In addition, Mgozeli and Duma (2021) documented that the survivors in their study reported feelings of deep hatred both for the self and the perpetrator, anger, general mistrust and poor self-image. Social difficulties may include having to deal with the stigma of having been raped (more so in all-male environments) and feeling of shame and fear to report the crime. Moreover, male victims confront an additional emotional and social chaos, the perceived and ascribed loss of their “manhood” or sense of

masculinity. Part of the panic and dread experienced by potential victims and victims themselves is because victims of sexual violence are perceived to have permanently lost their masculinity and surrendered their claim to “manhood” (Mgolozeli & Duma, 2021; Robertson, 2011). The humiliation and degradation these individuals experience are irreparable; it becomes part of their lives. The permanency of this humiliation and loss of identity is either ascribed by others who have witnessed the assault or is internalised by the victim and becomes part of the defining features of the self. Gear (2005) also talked about this phenomenon at length. She discussed “un-man-ness – a state of prison woman-ness” – which is an abrupt and sometimes brutal break from one’s identity as a man with whom the individual has lived for a long time. This break occurs when their identity, without their consent, is substituted with that of “woman” through rape and being forced to become a “wife”.

In part, the perpetuation or curbing of the epidemic of sexual violence in carceral spaces rests on the attitudes of correctional officials and administrators towards this issue. In her classic study on correctional officials’ definition of male rape in correctional institutions, Eigenberg (2000) found that 12% of correctional officials believed that some offenders deserve to be raped because of how they act, 16% felt that homosexual offenders get what they deserve if raped, 17% felt that offenders deserve rape if they dress up in feminine ways and one-fourth of officials expressed that offenders deserve to be raped if they had engaged in consensual same-sex before or accepted goods in exchange for sex. Eigenberg further found that younger, more religious, and less educated male officials expressed more negative or condemning attitudes towards homosexuality. In addition, those officers who expressed more negative attitudes were more apt to blame the victim for the sexual assault. Victim blaming expressed by some participants in Eigenberg’s study mirrored the predominant attitudes of law enforcement on the outside regarding male-female sexual violence. Eigenberg (2000) stated that officer’s responses to victims of sexual assault appear to be influenced by situational variables. For example, victims are less likely to be believed (and are sometimes blamed for the assault) if they have had prior social interaction with the perpetrator or had used drugs or consumed alcohol before the sexual assault.

Sexual diverse offenders are at a higher risk for violence, including sexual violence. This, however, does not exclude heterosexual offenders, especially juveniles, those who are or



appear physically weak and those who appear feminine. However, TGD offenders are considered to be more vulnerable to discrimination, victimisation and sexual violence.

## **2.8 Transgender and Gender-Diverse Offenders**

An often neglected (especially in carceral spaces) subgroup is that of transgender and gender-diverse (TGD) people. Compared to other sexual minorities, TGD offenders are considered an even more vulnerable population due to their heightened exposure to victimisation. Unlike sexually diverse offenders, TGD offenders also present with special needs primarily pertaining to secure placement/housing and access to GAH.

Much like homosexuality, “transgenderism” has and continues to endure discrimination, stigmatisation and pathologising. Heidari (2020) explained that in 1980, gender identity disorder (GID) appeared in the 3rd edition of the *Diagnostic Statistical Manual of Mental Disorders*. The inclusion of GID in the Diagnostic Statistical Manual (DSM) drew a direct link between an individual’s gender diversity and mental illness. However, with the publication of the 5th edition of the DSM, gender dysphoria replaced GID, which marked the first step in the dismantling of the pathologising of gender diversity (Heidari, 2020). In the 5th version of the DSM, gender dysphoria is characterised as an incongruence between an individual’s experienced gender and the gender assigned to that individual at birth (APA, 2013). Rudolph (2021) argued that while some transgender individuals may experience marked discomfort due to the incongruence between their experienced gender and their sex assigned at birth, this discomfort is not universal and will not be experienced by all TGD individuals. Due to its conflation with GID and gender dysphoria, “transgenderism” has been and continues to be narrowly understood. Popular understanding is based on the medical and psychiatric definition, which continues to pathologise deviations from social norms. The Joint United Nations Programme on HIV/AIDS [UNAIDS] (2015) provided a broad definition of transgender, which transcends the rigid medical/psychiatric understanding. The document reads:

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. (p. 47)

As liberal as this definition may be, TGD people continue to face considerable stigma and discrimination both in free society and in carceral spaces. The first part of the UNAIDS definition is usually the source of most stigma. In general, people who deviate, in action or expression, from traditional practices are shunned and marginalised. White-Hughto et al. (2018) noted that different societies, particularly across modern Western history, have organised themselves around a binary gender system based on biological sex characteristics. Under this system, having a gender that aligns with one's primary and secondary sex characteristics is accepted as a norm. Whereas possessing a gender identity that conflicts with one's sex characteristics is grounds for exclusion and being labelled as the "other". White-Hughto and Clark (2019) confirmed that transgender individuals experience widespread stigma and discrimination because of their "non-conformity" to normative societal practices.

Heidari (2020) drew an important link between stigma, discrimination and marginalisation experienced by transgender people and poor mental health outcomes. The author cited several studies that have shown the heightened prevalence of mental illness among transgender people: Klemmer et al.'s (2018) study found that 57% of the 233 transgender women sampled suffered from depression, and 41% were diagnosed with anxiety. James et al. (2016) found that 40% of the participants in the United States transgender survey had attempted suicide at some point in their lives compared to the 4.6% lifetime suicide prevalence in the general population. Keuroghlian et al. (2005) noted that substance abuse disorders are more prevalent among transgender people compared to the general population. There is little doubt that experiences of stigma and discrimination can contribute to the onset or worsening of psychological conditions; however, it is also equally plausible that factors such as unemployment, lack of social support, abusive relationships and untreated gender dysphoria can also lead to poor mental health outcomes (Kirkpatrick, 2016). Regardless of the cause, what stands is that transgender people are more likely to suffer from psychological and/or psychiatric

conditions compared to the general population due to the myriad of challenges that they are forced to navigate (Kirkpatrick, 2016; Sevelius & Jenness, 2017).

The notion that discrimination and marginalisation by different spheres of society likely lead some transgender individuals to participate in criminal activities for basic survival has gained considerable momentum. Due to their exclusion from the legitimate economy, some transgender people turn to sex work and other survival crimes. Others turn to criminalised sources of medications, such as buying hormones from the black market, in an attempt to deal with the discomfort of gender dysphoria (Heidari, 2020; Rudolph, 2020; Sylvia Rivera Law Project, 2007; White-Hughto et al., 2018). This involvement in what Rudolph (2021) called “survival crimes” is one of the reasons why most transgender people come in contact with the criminal justice system (see Chapter 2, Section 2.4.5: Incarceration of Marginalised Groups, for a detailed discussion).

Correctional institutions are constructed and function according to clear and strict gender/sex classifications (Sumner & Jenness, 2014, as cited in Heidai, 2017). Transgender and gender diverse (TGD) offenders thus present a special challenge to such environments as they challenge long-held beliefs and norms about gender. Sexton et al. (2010) stated that mass incarceration has been accompanied by new challenges facing correctional officials, such as managing diverse populations of offenders requiring specialised treatment. They further noted that correctional institutions have had and continue to confront challenges associated with incarcerating transgender women, who, biologically, are male but identify and present as women in all-male correctional facilities. This forces correctional administrators to reconceptualise taken-for-granted practices such as admission intakes, access to medical care, housing and placement that were traditionally modelled on gender binary (Sexton et al., 2010). Sevelius and Jenness (2017) argued that the gender binary system has created a myriad of problems with regard to the care and management of transgender offenders in contemporary correctional institutions. Five major factors directly affecting TGD offenders, which correctional administrators have had to focus on, include classification procedures, placement/housing, access to health care, victimisation and denial of gender expression. Traditionally, the first two factors have not needed much attention from administrators because correctional institutions were managed as entities highly segregated along the lines of biological sex; thus, correctional officers only had to manage either males or females but never

both at the same time. With the increasing transgender offender population, these factors have needed renewed attention and extensive modifications.

### **2.8.1 Classification**

Routh et al. (2015) stated that the classification process marks the beginning of the “humiliation journey” for TGD offenders. They noted that this process involves offenders being strip searched in the presence of correctional officials and other offenders for security purposes (checking for possible concealed contraband) and to determine their gender by inspecting their genitalia. This practice is excruciatingly humiliating, especially for transgender women who are on feminising hormones but still have their primary sex organs. Heidari (2020) added that strip searches can be experienced as traumatic by transgender offenders, especially when they are carried out by correctional officials of a different gender and when the offender’s genitals are exposed for the sole purposes of degradation and humiliation. Routh and colleagues argued that this process is also problematic because the offender’s experienced and expressed gender identity is overlooked, and they are classified according to their sex assigned at birth. Essentially, their gender expression and preference are denied, and their femininity (transgender women) or masculinity (transgender men) is dismantled.

### **2.8.2 Placement/Housing**

As mentioned earlier, correctional facilities across the world are segregated along the lines of sex; therefore, offenders are housed according to their sex assigned at birth. This means that transgender women who have not fully transitioned are housed in all-male correctional facilities; the same applies to transgender men (Sylvia Rivera Law Project, 2007). The project report stated that because visibly TGD, lesbian, gay, and sometimes bisexual offenders are at a high risk of discrimination and physical and sexual violence, they are usually housed in protective custody or protective sections. Progress in this regard has mainly been evident in developed countries with access to resources (Sevelius & Jenness, 2019; Sylvia Rivera Law Project, 2007). South African correctional facilities have also made progress in this regard. While protective sections cater for sexual and gender offenders, they also house other vulnerable offenders such as judges, police officers and correctional officials (Sylvia Rivera Law Project, 2007). The White Paper on Corrections in South Africa outlines that the human rights culture adopted by the DCS and by the South African Constitution stipulates that

correctional facilities should be safe environments where the safety of offenders, staff and visitors take precedence. It further states that safe and secure incarceration allows the state to make meaningful structured interventions in the lives of offenders (DCS, 2005). It is against this backdrop that South African correctional facilities take care to ensure that vulnerable and special needs offenders are separated from the general population.

The United Nations Office on Drugs and Crime [UNIDOC] (2009) handbook stated that international human rights instruments compel states to ensure that lesbian, gay, bisexual, and TGD offenders under their supervision are protected. This necessitates developing and implementing policies, procedures, and strategies (e.g. protective sections) to ensure that this population does not experience victimisation at the hands of other offenders and staff. Nonetheless, the use of protective custody has not escaped scrutiny. The Sylvia Rivera Law Project (2007) stated that the level of safety provided by these sections varies from one correctional facility to the other and, by extension, from one country to another. While these sections provide safety from violence perpetuated by other offenders, sometimes they function to isolate TGD offenders, thereby placing them at greater risk of violence by correctional officials. Routh et al. (2015) lamented that correctional officials are the primary perpetrators of violence in protective sections. Second, compulsory strip searches conducted on offenders in protective sections when they leave or return to the section usually lead to the humiliation and harassment of TGD offenders by staff. Heidari (2017) stated that sometimes TGD offenders are moved to protective sections to deter them from reporting sexual abuse. Heidari further noted that these sections wield an even greater threat given that they differ only slightly from solitary confinement, thus punishing the victims instead of the perpetrators. Participants in Bromdal et al.'s (2018) study expressed that individual perceptions (of correctional staff) and inadequate policies on the proper management of TGD offenders can result in further victimisation. The U.S. Department of Justice (2007) released a special report on the use of restrictive housing. The report stressed that TGD offenders should not be placed in protective custody or restricted housing solely on the basis of their experienced or expressed gender identity; rather, placement should be guided by the needs of individual offenders (Routh et al., 2015).

### 2.8.3 Access to Gender-Affirming Healthcare

Sevelius and Jenness (2019) stated that “gender-affirming healthcare begins with interacting with transgender women in ways that respect their self-identified gender by using their preferred names and pronouns at all times” (p. 35). They further noted that the provision of GAH leads to more positive mental health outcomes for TGD offenders. White-Hughto et al. (2018) added that GAH involves acknowledging and respecting the individual’s gender identity and facilitating access to hormone and other therapies and interventions for TGD individuals desiring to medically affirm their gender. The gender binary system operating in correctional facilities, transphobic attitudes of correctional staff as well as a general lack of information about TGD people significantly contribute to the lack of access to GAH by TGD offenders (Routh et al., 2015; Sevelius & Jenness, 2017; White-Hughto et al., 2018; White-Hughto & Clark, 2019). Denial of necessary GAH has been linked to many adverse health and mental health outcomes for TGD offenders. White-Hughto and Clark (2019) noted that denial of these healthcare services possibly leads to the development or worsening of depression, self-injury and death by suicide among TGD-incarcerated offenders. Bromdal et al. (2018) also stated that TGD offenders who are denied GAH may engage in “self-treatment” such as self or auto-castration in an attempt to deal with the discomfort of gender dysphoria. Rudolph (2021) began her paper with a short case study of a transgender offender who attempted self-castration; she stated:

On September 29, 2015, in the early evening, 27-year-old transgender inmate Adree Edmo composes a note: “I do not want to die, but I am a woman and women do not have these.” She wants to be clear that she is not attempting suicide and leaves the note in her prison cell. She opens a disposable razor and boils it to disinfect it; she scrubs her hands. Then, she takes the razor and slices into her right testicle with the blade. This is only the first of Adree’s self-castration attempts, and while there is too much blood and she does not succeed, she will try again. (p. 95)

The Sylvia Rivera Law Project (2007) report stated that complaints about denying basic health care, discriminatory service providers, denial of hormone therapy, and other gender-affirming therapies are common in correction institutions. In addition, despite the assurance of medical experts that gender-affirming therapies, such as hormone therapy, are medically necessary for TGD individuals, safe and non-experimental, their provision continues to be

regularly denied in correctional facilities. The report highlighted that in New York State, in order for TGD offenders to access hormone therapy, they require a diagnosis of gender dysphoria, and they should have been taking hormones (by prescription) prior to their incarceration (also see Heidari, 2017; Routh et al., 2015). Those who manage to access hormone therapy while incarcerated confront challenges such as being given incorrect doses or the treatment being abruptly terminated. These issues may lead some offenders to purchase hormones from other offenders or to engage in self-castration.

White-Hughto et al. (2018) noted that while transphobic attitudes of staff and service providers create treatment barriers, at other times, the problem lies with the staff and health service provider's lack of cultural competence. They defined cultural competence first as "knowledge and ability to use gender affirming terminology, supportive attitudes and interactions" (p. 3). Second is a lack of clinical competence, defined as "knowledge and ability to administer hormones" (p. 3). They argued that structural barriers to accessing GAH need to be addressed at the institutional level (correctional managers and senior management) and need to be complemented by educational interventions to equip staff and healthcare providers with both cultural and clinical competence so that they will be able to better care for TGD offenders. Hormone therapy for TGD, particularly transgender individuals, constitutes a medical necessity. Access to GAH has been shown to contribute to improved quality of life and good mental health outcomes (reduced depression, substance abuse and suicidality) (Maruri, 2011; Sevelius & Jenness, 2017; White-Hughto & Clark, 2019). Sevelius and Jenness recommended that TGD offenders on hormone treatment before incarceration should not have their treatment discontinued when they get incarcerated, as this may lead to adverse psychological and physical outcomes. In addition, they noted that TGD offenders who express the need to commence with hormone therapy while incarcerated should be evaluated by qualified mental health and health professionals to determine their needs.

#### **2.8.4 Victimization of Transgender Offenders**

Jenness et al. (2019) documented the varied experiences of victimisation shared by transgender participants in their study. While it is generally acknowledged that LGBTQI+ offenders experience sexual abuse at a rate significantly higher than their heterosexual counterparts, Jenness and colleagues' study revealed that TGD offenders endure different forms of abuse. They stated that incarcerated transgender women experience both verbal harassment

and physical abuse. Most participants also reported misgendering as a regular occurrence. Sexual harassment was reported, such as unwelcome groping, grabbing, and fondling by other offenders. Jenness and colleagues documented that for most of their participants, experiences and incidents of sexual victimisation typically involved one perpetrator and usually occurred in the context of an intimate relationship or a “marriage”. Some participants reported engaging in sexual relations with their partners or “husbands” not because they wanted to but because they needed material support (also see Gear & Ngubeni, 2003). Some spoke about protective pairing, where they entered sexual relationships with other offenders because they needed or were promised protection from victimisation (also see Gear, 2005; Trammell, 2011). A few participants described experiences of being “pimped out” by their partners to other offenders. One participant reported that she was pimped out to different gang members and threatened with being brutally stabbed if she refused. Another reported that her front teeth were removed by gang members so that she would not be able to bite when performing unwanted oral sex on them. Other participants reported experiences of “direct” rape. One participant stated:

I was raped in [name of prison] in [year]. It was brutal. He beat me. He knocked me out. When I came to, he was on top of me. He beat me again. He broke my jaw. I found the underwear he used to wipe himself off and reported him. They told me to take a shower and I gave the Lieutenant the underwear. The underwear disappeared. They didn’t do anything (Jenness et al., 2019, p. 618–619)

Jenness and Fenstermaker (2016) reiterated that transgender women in all-male correctional facilities face numerous challenges, most related to being vulnerable to sexual violence. Donohue et al. (2021) asserted that a number of studies have shown that transgender offenders experience significant overt discrimination, violence and sexual victimisation in hypermasculine correctional environments. As mentioned earlier, this victimisation is coupled with the denial of GAH health care and suppression of gender expression.

### **2.8.5 Denial of Gender Expression**

Participants in White-Hughto et al.’s (2018) study shared various experiences related to being transgender women in an all-male correctional facility. One of the themes pertained to the “dismantling of their femininity”. One participant expressed that:



They would do whatever they could to like, dismantle your femininity. Like if you had a wig on, they'll take your wig off. They'd laugh at your clothes, stuff you'd be wearing, they made it a huge point to say "you're a male," you know, they pick at you. (p. 6)

Jenness and Fenstermaker (2016) cited the experiences of Ms Diamond, a transgender woman at a male facility; Ms Diamond was forced to strip in front of other male offenders. Due to hormone therapy, she had started developing breast tissue; she reported that the experience of male offenders and correctional officials seeing her breasts left her feeling exposed and humiliated. The Sylvia Rivera Law Project (2007) confirmed that denial of gender-appropriate clothing, make-up and other items associated with gender expression as well as punishment for possessing those items, are frequent concerns for TGD offenders. Participants in the project expressed that they had been sent to solitary confinement for wearing make-up and were not allowed to wear gender-appropriate clothing such as bras and female underwear unless they had developed breast tissue or had fully transitioned. Others were forced to cut their hair and trim their nails.

A well-known South African case that went before the Equality Court exposed the discrimination and prejudice occurring behind the walls of some South African correctional facilities. The case involved Jade September (applicant), a transgender woman who at the time was incarcerated at Malmsbury Medium Correctional A Centre and Mr Subramoney (first respondent), who was the Head of Helderstroom Correctional Centre (September vs Subramoney and others, 2019). September submitted that, initially, she was allowed to express her sexual identity at Helderstroom. However, when she was briefly transferred to Brandvlei Correctional Centre, on her arrival, her female underwear and make-up were confiscated, and she was referred to as a man. Upon her return to Helderstroom, things had changed. The correctional officials and management were now less accepting of her expressing her gender identity. She was not allowed to wear her hair long and in a feminine style; she was also banned from wearing make-up, female underwear and jewellery, and she could not be addressed as a woman but as a man.

Further, Ms September submitted that at some point, she was detained in segregation (solitary confinement) for expressing her gender identity. In opposing the application, the respondents noted that Ms September's gender was constrained by her sex assigned at birth, her primary sex characteristics and her safety and security during her incarceration. They

further submitted that since Ms September is anatomically and legally male, there were no grounds on which she could have been discriminated against (September vs Subramoney and others, 2019). The respondents held that Ms September's female underwear and other feminising articles were removed from her to protect her from sexual victimisation. The experiences of Ms September echo those of many TGD offenders locally and internationally, most of whom are afraid to speak up or of the further victimisation that might follow if they challenge the system or do not have the resources to challenge correctional institutions in the court of law. White-Hughto et al. (2018) stated that transphobia appears to be inherent in the policies and procedures of correctional institutions, which forces TGD offenders to conform to traditional gender norms. They further noted that these restrictive policies are tools abused by correctional officials in enforcing and maintaining the gender binary in correctional institutions.

## **2.9 Conclusion**

The discussion in this chapter has shown that homosexuality is still a problematised identity in many African countries and more so in correctional settings. Imprisonment, initially or theoretically, was meant to act as a deterrent for criminal behaviours and later for rehabilitating those in conflict with the law with the ultimate goal of eradicating or at least reducing criminality in free society. However, there is ample evidence that imprisonment has been used as a mechanism of control and for the marginalisation of previously (and currently) disadvantaged groups such as racial and sexual minorities and the economically excluded. The marginalisation of diverse sexual and gender identities in prison studies has demonstrated the pervasiveness of homophobia in research and academia.

Only recently has there been growing attention to prison sexualities with a focus on the psychosocial and security needs of sexual and gender-diverse offenders, while previously, the focus was on HIV/AIDS and coercive sexual practices. Contemporary researchers are becoming aware of the layered dynamics inherent in the conceptualisation and performances of non-heterosexual identities in heterosexual and hypermasculine correctional settings and the challenges faced by sexual and gender-diverse offenders in navigating these dynamics. There is also a growing realisation of the challenges faced by sexual and gender diverse offenders, such as discrimination, victimisation and rape, as well as the systemic and institutional challenges confronting TGD offenders, such as placement, access to GAH and denial of gender

expression. Nevertheless, there is still a shortage of literature that attends to the lived experiences of this population of offenders.

The following chapter, the theoretical framework, will examine the conceptualisation of sexual and gender diversity in correctional institutions using social constructionism. It will further explore the models that have been used to understand the occurrence (and function) of same-sex sexual practices, particularly in closed institutions such as correctional institutions.

## CHAPTER 3

### THEORETICAL FRAMEWORK – SOCIAL CONSTRUCTIONISM

#### 3.1 Introduction

The first part of this chapter presents an overview of the central tenets of social constructionism and, to a lesser extent, some of the debates associated with this paradigm. In this chapter, the discussion on the social construction of realities, experiences and practices will be expanded to examine how societies have and continue to construct gender and sexuality. Models (in line with the social constructionist paradigm) that have been developed to understand same-sex sexual practices, particularly in gendered institutions such as mines and correctional institutions, will be briefly discussed. This chapter will close off with a brief discussion of the role of heteronormativity and cisnormativity in constructing and performing diverse sexual and gender identities, particularly in correctional institutions.

#### 3.2 Social Constructionism

Burr (2015) stated that social constructionism includes several related theoretical frameworks that collectively challenge the basic assumptions of research practices in the field of mainstream psychology. Gablin (2014) presented social constructionism as a theory of knowledge and sociology that attempts to understand the constructed meaning of the world. Citing the work of Gergen (1985), Gablin stated that this theory perceives human life as existing due to social and interpersonal influences. Burr (1995) noted that in their anti-essentialist stance, Berger and Luckmann (1966) argued that humans create and sustain social phenomena through social interaction and practices. They wrote about three important processes: externalisation, objectivation and internalisation (also see Gablin, 2014). On externalisation, the argument is that people “externalise” when they act on their world and create certain artefacts. They used the classic example of the sun revolving around the earth; this idea is externalised through storytelling and/or documentation. The idea then enters the social space; people retell the story or read the written text on the idea, and eventually, the idea takes on a life of its own and becomes an object in society (objectivation). Through objectivation, the idea develops a factual existence; it evolves into a certain truth and becomes naturalised. As future generations are born into the world, they encounter the already existing idea, either through

stories that have been passed down or preserved through written material; those generations then accept the idea as true and natural, and they internalise it and make it part of their consciousness (Burr, 1995; Gablin, 2014). Andrews (2012) stated that the repetition of this action or these behaviours is eventually cast into a pattern, which makes its reproduction effortless in future interactions.

As illustrated above, social constructionism is interested in how knowledge is constructed through social interactions. Andrews (2012) stated that this theoretical perspective views knowledge and the truth as created rather than discovered entities. Berger and Luckmann (1991, as cited in Andrews, 2012) argued that constructionism is rooted in the belief that knowledge and the truth are created through social interaction. Andrews believed that while concepts are socially created (rather than discovered), they correspond to events/practices that exist in the real world. The author noted that this is consistent with the idea of Berger and Luckmann and the realism of Hammersley (1992) that although reality is socially created, it relates to everyday life subjective experiences and how the world is understood compared to the objective reality of the natural world. Indeed Burr (2015) argued that social constructionism problematises the notion that knowledge or our understanding of the nature of the world is based on objective observation, hence the belief that what exists is what we perceive to exist.

Burr (2015) stated that social constructionism's epistemological stance is that of relativism or perspectivism. This position holds that there can never be one objective and final truth about a particular phenomenon; instead, there exists a multitude of truths and perspectives, perhaps as many as there are people in the world. This means that multiple realities of the same social phenomenon exist, and the different ways of understanding that phenomenon coexist parallel to each other, with none claiming to be the ultimate truth (Andrews, 2012; Burr, 2015). Burr and Dick (2017) added that embracing the constructionist philosophy demands that we embrace the notion that multiple perspectives exist on any given event, object or person. The authors argued that embracing certain perspectives or realities as accurate is a matter of politics and power relations rather than a consideration of other plausible attributes.

Social constructionism further foregrounds the importance of historical and cultural context in the generation of knowledge (Burr, 1995; Burr, 2015; Burr & Dick, 2017). Burr (2015) stated that the influential work of Gergen (1978) proposed that knowledge, including psychological knowledge, derives from a particular historical period and cultural location. As

previously discussed, the constructionist perspective sees all human, psychological and social phenomena arising from interaction between people. Burr argued that these interactions are given structure and content by the culture in which people live, the socio-economic conditions of the time and the power relations embedded in that society. However, these social conditions are not static; they change with time and differ with location. In fact, Burr and Dick (2017) argued that how the world is categorised and arranged varies from one historical period to the next and from one cultural context to the next. What is important to note is that while knowledge and or social phenomena can be modified, added, and transformed over time and across cultural contexts, they do not lose value, meaning or power. Burr cautioned against assumptions that current and local knowledge is superior because it represents more accurate accounts. The author argued that such thinking has contributed to the imperialistic view of other cultures and their subsequent colonisation.

MacLeod (1997, as cited in Gablin, 2014) pointed out that social constructionism has several features that make it distinct from other schools of thought or theories. First, it rejects the traditional positivist approaches that perceive knowledge as non-reflexive. Second, it takes a critical stance on the taken-for-granted knowledge in society, which often serves the values and interests of dominant groups. Third, it upholds the notion that the way people understand the world is a product of both historical and cultural processes of interaction and negotiation between and among different groups of people. Finally, it aims at redefining certain taken-for-granted psychological constructs as being socially constructed rather than being intrinsic to the individual. Burr (1995) added two more features: First, knowledge is sustained through social processes, meaning that people's knowledge and understanding of the world is not natural; rather, it is socially constructed between them in their daily interactions. Second, knowledge and social action go together; that is, knowledge and understanding invite or necessitate different kinds of action from individuals as determined by time and context.

Andrews (2012) stated that from a philosophy of constructionism, subjective realities are typically achieved through the process of socialisation. Berger and Luckmann (1991, as cited in Andrews, 2012) noted that socialisation is typically driven by significant others who mediate and render socially meaningful the objective reality of society, which is in turn internalised by others. Andrews stated that the process of socialisation is carried out through the medium of language, which arguably is one of the critical features of social constructionism.

Andrews contended that it is through language that concepts and ideas are created and exist across space and time; concepts do not form language; rather, language predates concepts and provides a structure of how people experience and engage with their world.

DeLamater and Hyde (1998), summarising the treatise of Berger and Luckmann (1966), explained that language provides a basis or a structure for how people make sense of the world around them. Language provides categories and typifications that are used to organise external experiences. However, it is also used to internalise those experiences. Berger and Luckmann (1991, as cited in Andrews, 2012) emphasised that conversations (through language) are paramount in modifying, reconstructing and maintaining subjective reality. Further, subjective realities carry or transmit concepts that are easily shared and understood by others because the shared meaning enables others to understand the concepts without them having to be defined and redefined every time they are used in social interactions. Gablin (2014) stated that from this perspective, language is much more than just a medium of connecting people; rather, people exist in language. The focus then becomes less on the individual and more on the social interaction in which language is generated and sustained.

### **3.2.1 Issues and Debates**

Burr (2015) stated that relativist epistemology, which is a critical feature of the social constructionist paradigm, has been regarded as a controversial issue. Burr noted that relativism has been heavily criticised for neglecting political issues and not challenging oppressive practices and structures in society due to its “inability” to demonstrate the “truth” of one version of events or the superiority of one moral code over the other. Further, it is said to be characterised by an “anything goes” principle where one view is as valid as the other. Essentially, much of the criticism stems from the fact that relativism fails to take any side, whether political or moral, and this thwarts the agency of persons and societies in challenging and dismantling oppressive structures. Andrews (2012) argued that relativism is seen as problematic due to its conception of multiple and equally true realities; this leads to the conclusion that nothing can be definitively known or proven. Andrews added that social constructionism’s anti-realist stance has also been criticised as it refutes that knowledge is a direct perception of reality. Bury (1986, as cited in Andrews, 2012) noted that social constructionism challenges the biomedical reality and critiques stable and “self-evident” realities without offering sound evidence for their contention. Burr (2015) noted that the

mounting criticism, particularly over relativism, led to the development of critical relativism by philosopher Roy Bhaskar. Critical relativism sees social systems as real, and while constructed by individuals, they are externally located. This means that oppressive social structures can be challenged as they have an objective nature that goes beyond discourse. Burr argues that this position has been important for scholars interested in the analysis of power relations and the marginalisation of certain groups in society.

### **3.3 Social Construction of Gender and Sexuality**

Lorber (1994) stated that because many activities and functions of society rest on the premise of gender, questioning it would be similar to thinking about whether the sun will rise (or not) the following morning. She posited that while gender may be perceived by many as a “built-in” function of humans, like culture, it is constantly created and recreated through human interactions. DeLamater and Hyde (1998) asserted that from the social constructionist position, gender is not seen as an individual trait but rather a process that lies outside the individuals. The authors pointed out that gender is created and defined through interaction and language use. A captivating aspect of Lorber’s argument is that because of the omnipresence and familiarity of gender, its signs are so universal that people fail to notice them until they are absent or ambiguous. In the absence of those “gender signs”, an individual becomes uncomfortable, even dislocated, until the other person (with ambiguous signs) is placed in a clear gender category. Schilt and Westbrook (2010, as cited in van der Schyff, 2021) attested that in the absence of, or when gender signs are not clearly visible, a struggle to categorise arises, which gives way to a breakdown in interaction, creates anxiety and sometimes anger on the part of those who are trying to categorise or label.

Let us consider those individuals who are perceived as “deviating” from traditional gender norms, such as transgender, gay and lesbian individuals. A transgender man or woman does not “bear the traditional signs” of a male or female, nor does a feminine gay male uphold signs of a heterosexual male and a masculine or “butch” lesbian the signs of a heterosexual female. The outcome of the ambiguity of these signs is a general discomfort felt by others, the observers – those who bear the salient and “congruent” signs of gender. To an extent, this analysis can be used to understand social vices such as corrective rape and “gay bashing”– where the “observers”, due to their discomfort and sense of dislocation, attempt, through force and violence, to instil congruent gender signs in the otherwise gender incongruent or ambiguous



others. The premise here is that homophobia and the associated violence is not necessarily a vehicle for instilling “cultural and or religious appropriateness”; rather, it is used to ease heterosexual people’s discomfort and anxieties.

Marecek et al. (2004) stated that social constructionism has rebutted the conventional notion that there are only two genders. They cite examples of societies that do not necessarily share the binary view of gender – they pointed out that in India, *hijras* constitute a third gender. Hijras (anatomically male) adopt many practices that are traditionally assigned to women; however, they do not attempt to pass themselves off as women. In Thailand, *kathoeys* are anatomically male but dress in women’s clothing. Similar to *hijras*, *kathoeys* are not men who wish to be women, nor do they perceive themselves to be men trapped in women’s bodies. Marecek et al. (2004) stated that *hijras* display their femininity through wearing heavy make-up, having long, unbound hair and sexualised gestures which set them aside from women. Similarly, *kathoeys* dress and behave in dramatic and brash ways that are incongruent with norms of femininity in Thailand. This deviation from traditional femininity signals that these third genders are not necessarily an extension of traditional femininity that “embodies” womanhood; instead, they are separate genders in and of themselves.

The social construction of sexuality is as complex as that of gender. Berger and Luckmann (1966, as cited in DeLamater & Hyde, 1998) acknowledged the biological component of sexuality; however, they also acknowledge that biology does not determine sexual practices (for example, where, how and with whom individuals engage in sexual behaviour). This means that sexuality and sexual practices are largely channelled socially rather than biologically. DeLamater and Hyde stated that Gagnon and Simon (1973) developed a theory of sexuality that reflects a constructionist perspective; the theory dismissed the essentialist notion that sexuality is a universal phenomenon. It viewed sexuality as culturally constructed; it talked about the defining of some relationships as sexual and the learning and internalisation of those definitions and scripts by members of the particular society. DeLamater and Hyde further stated that Foucault also argued that sexuality is not biological or a naturally occurring inner drive that is stable across time and space. He conceptualised sexuality as a product of how different social institutions think about sexuality and sexual practices, in essence, social discourses on sexuality. Foucault also stressed the role of language in communicating and transmitting these sexual discourses.

Merecek et al. (2004) and DeLamater and Hyde (1998) noted that same-sex relations and sexual activities are interpreted differently in different societies. They stated that in some societies, same-sex sexual activity between young unmarried men was, and to an extent, might still be considered developmentally appropriate; for example, among the Sambia people of the Highlands Province of Papua New Guinea, the insemination of young boys was considered normal until a few decades ago. This practice involved the transfer of semen from adult male relatives to prepubescent boys as a means of ushering the boys into manhood. In such societies, sexual orientation boundaries are considered to be permeable, which allows individuals to move between different sexual orientations (DeLamater & Hyde, 1998). Ratele (2011 as cited in Linonge-Fontebo, 2013) wrote about the study by Kendall found that there were widespread and normative erotic relationships between Basotho women; however, these relations were not defined as sexual and not a single Mosotho woman involved in these relations identified herself as lesbian. Similarly, Merecek et al. (2004) documented similar relations between Native American women in the 19th century. They stated that these women spent many days in each other's homes and wrote passionate letters describing their joys and perfect love for each other. However, at that time, no one identified those women (including those women themselves) as lesbians.

Murray and Roscoe (1998), in their book *Boy Wives and Female Husbands*, offered a rich collection of articles about same-sex sexual practices in Africa. In one article, Haberlandt (1899) wrote about "contrary" sex among the black population of Zanzibar (1899). While this short article is written from a colonialist and cultural imperialist perspective, it nonetheless demonstrates long-standing same-sex sexual practices in Zanzibar. Haberlandt wrote about male prostitution, mainly among black inhabitants and sometimes those of Arabic descent. The author noted that those who engaged in this trade did so openly. Many of these men would wear female clothing and dance among women. The term predominantly used in the article to refer to same-sex practices is contrary, which denotes stubborn unruliness and resistance to guidance, and pederasty which refers to sexual activity involving a man and a boy/youth. The author discussed both male and female homosexuality and noted that while professional catamites or prostitutes were generally despised, "inborn homosexuals" were tolerated due to the belief that behaviours were the will of God.

Murray and Roscoe's book features another article by Amory (1995), who wrote about homosexual behaviours and cross-dressing on the East African Coast. Amory noted that historical and ethnographic literature regularly mention transvestites or passive homosexuals on the Swahili coast. The author wrote about male cross-dressers who would adorn themselves with female clothing during cultural celebrations. The article made references to earlier writings that spoke about male homosexuals who would openly walk in female attires and veils on their faces. These writings emphasise homosexuality in Islamic and Arabic societies. Amory cited the work of Wikan (1977, 1982), where the author talked about the Omani *khanith* tradition, which is inclusive of cross-dressing and homosexuality. Wikan noted that locally, the individual's identity was conceptualised as consisting of complex traits, with homosexuality considered and accepted as one of the natural attributes. Thus, the *khanith* was seen as constituting a third gender because these behaviours were perceived to be occurring naturally within Islamic cosmology.

The preceding accounts illustrate that same-sex relations, whether sexual or not, have existed in numerous societies at different times; in some societies, these practices were not necessarily labelled either as gay, bisexual or lesbian. However, with new developments in various fields of study, researchers and clinicians started relying on certain typologies (heterosexual, homosexual, bisexual) to describe and categorise sexualities, but those categories have proven to be insufficient and unreliable in accounting for the varied and complex human sexuality (Merecek et al., 2004). Merecek and colleagues emphasised the dynamic and fluid nature of human sexuality, which is contrary to earlier attempts at rigidly categorising it. They stated that sexual identity, for example, can be discordant with sexual practices. For example, Part (1993, as cited in Merecek et al., 2014) found that some women held on to their lesbian identity even though they were in a heterosexual relationship, in the same way as some men identify themselves as heterosexual, although they have sexual relations with both males and females. Merecek and colleagues added that in some cultures, the term sexual identity is used very selectively. For example, in some Latino subcultures, the Spanish equivalent of the term "homosexual" selectively refers to men who assume a passive role in a sexual encounter (those who are penetrated and or those who are perceived to be feminine). This implies that those who penetrate and are masculine are identified as heterosexual.

### 3.4 Models for Understanding Same-Sex Sexual Practices in Closed Institutions

Several models have been developed to further understand the construction and performances of same-sex sexualities. Two of those models, namely importation and gender fluidity, are presented in this section and discussed together with two local models, imitation and rupture, which have been used extensively in South African literature. The importation model was developed alongside the deprivation model, which was discussed earlier (see Section 2.7.1). The importation model, together with the other listed models, is strategically discussed here because of the common tenets they have with social constructionism. In this section, these models are framed within carceral and gender-segregated environments.

#### 3.4.1 Importation Model

The importation model holds that carceral social systems exist because individuals import their values and practices from the outside community to these systems. Further, the model assumes that the offender population condone homosexual behaviours because offenders come from outside subcultures that endorse homosexual activities (Eigenberg, 1992). Forsyth et al. (2021) and Forsyth et al. (2002) stated that the importation model seeks to make a connection between an individual's previous characteristics and their behaviours while incarcerated. They argued that this model challenges the adaptation and subculture perspectives that view correctional institutions as largely closed off from external influences. The authors indicated that the importation model speaks to how men transplant outside experiences to the correctional environment, thus adopting gender and sexual roles consistent with their free world lives. Hensley et al. (2002) stated that:

The importation model argued that patterns of behaviour, social and cultural experiences, race, social class, previous incarceration, and membership in various groups predispose the characteristics, actions, and adherence to the subculture values of an individual during incarceration. (p. 126)

Eigenberg (1992) and Hensley (2002) stated that according to the importation model, sexuality is an imported commodity; it is assumed that those who engaged in same-sex sexual relations or activities while they were outside will continue doing so when incarcerated, "sexuality, then, is just one behaviour/value that follows an inmate from the street to prison"

(p. 127). Sit and Ricciardelli (2013) added that the sexual experiences of the offenders are viewed as the extension of their pre-incarceration socialisation.

Giallombardo's (1996, as cited in Hensley et al., 2002 & Ricciardelli et al., 2016) work on pseudo-families in women's correctional facilities can also be used here as an illustration of importation. Although these pseudo-families were perceived primarily as systems that were used to provide stability and mitigate the "pains of imprisonment", they still maintained the traditional normative gender structures (Ricciardelli et al., 2016), and they performed all the functions attributed to heterosexual families, except procreation (Hensley et al., 2002). Hensley and colleagues noted that in instances where sexual relations transpired, they were between the "daddy" and the "mommy" in the "family". The structures of these pseudo-families and the performance of functions were entrenched in the normative practices of free society; this means that the women who enacted these families imported certain beliefs, values and practices rooted in their pre-incarceration socialisation into the carceral context. This illustrates that, in line with the importation model, it is not only homosexual behaviours or practices that are imported by offenders from free society; rather, gender normative practices can also be imported and integrated with same-sex sexual activities inside correctional facilities. This is also observable in male offenders' behaviour, particularly in the so-called "wolves" (Eigenberg, 1992; Ricciardelli et al., 2016), who engage in homosexual activities while maintaining heterosexual identities.

### **3.4.2 Imitation Model**

The importation model closely aligns with a more local model of imitation that was primarily used to understand same-sex sexual behaviours and practices in mine compounds in South Africa. On the perspective of imitation, Harries (1994), Moodie (1994) and Onselen (1984, as cited in Gear, 2005) stated that the gendered identities that were central to "mine marriage" represented or were aligned with the miner's gender and sexual identities outside of the mine compounds. It should be noted here that the majority of the miners were black migrants from various provinces and countries around Southern Africa, and most hailed from established family structures (they had wives and children or were young adults emerging as children from such families). Gear (2005) noted that through various cultural systems, the incorporation of certain domestic practices in the mine compounds and the performance of certain gendered roles tied the miners to their home lives. In essence, the gendered systems in

the compounds were an extension of gendered systems from outside, from their families. As an example, Harries (1994), Moodie (1994) and Onselen (1984) spoke about the moral economy of the “mine marriages” (occurring between older males and younger males). In these marriages, the older males assumed the masculinised roles of taking care of the younger males (referred to as the wives) by providing financial support. In return, the “wives” were expected to perform passive sex roles and take care of their “husbands”. This practice closely imitated the heterosexual relationships of the miners with their wives back at home. Traditional rural family structures consisted of a male (husband) who provided for the family and the wife who performed domestic duties and saw that her husband’s needs were met.

### **3.4.3 Gender Fluidity Model**

A lesser documented model that hardly appears in the correctional sexuality literature is that of gender fluidity, which emanated from the work of Faith (1993, as cited in Forsyth et al., 2002). It must be noted here that the work of Faith exclusively focused on incarcerated women, and the analysis is that of same-sex sexual practices between women. The gender fluidity model stands in stark contrast to the previously discussed models of adaptation and importation. It is based on the premise that the concept of gender is not static and that gender roles are dynamic and flexible. Faith’s account of female sexual interaction is nested in the understanding that gender and sexual boundaries are fluid and contested and continue to evolve with ongoing interaction (Forsyth et al., 2002). Faith argued that women in correctional institutions learn to give and receive intimacy with one another, not because they are deprived of male intimacy and thus use each other as substitutes. Faith argued that the notion of deprivation and substitution is premised on theoretical presumptions based on studies of homosexuality in male correctional institutions. Forsyth et al. (2002) stated that:

Faith (1993) criticizes the other theories by pointing out that women did not think of their close relationships in prison as role playing or a temporary mode of adaptation. She asserts that they have learned to overcome their fears of loving women and although most would return to men in the free world, they did not consider their relationships in prison to be vilified by being referred to as merely a reaction to the deprivations of prison life. (p. 71)

Faith also argued that not all women who engage in same-sex sexual relations identify themselves as lesbians. She noted that some women in carceral environments learn to love other women and, in the process, learn to love and appreciate themselves. She mentioned the factor of being understood and having certain experiences in common as a connecting experience for these women (Forsyth et al., 2002). This is in line with the work of Maeve (1999) on how love and sexuality are constructed in women's prisons. Maeve commented that studies have shown that some incarcerated women come to love each other intimately. The obvious drawback of Faith's analysis is that it tends to ignore a number of factors that influence sexual construction and performance, such as culture and socialisation, as well as contextual factors (carceral environments). Her analysis is also unidimensional in terms of gender in that it cannot account for the process and dynamics in same-sex sexual practice and relations between male offenders. This analysis indirectly implies that unlike female offenders and perhaps females in general, males lack the capacity to form deep emotional connections or relate to each other in ways that do not necessarily involve sex. This, however, does not nullify her contribution.

The view of gender and sexuality as fluid and flexible is increasingly being incorporated into contemporary literature on sexuality and gender diversity. Sexual orientation is no longer seen through dichotomous lenses (heterosexuality or homosexuality). Homosexuality itself is not perceived as an all-inclusive category, and the sub-categories of sexuality and gender diversity are not seen as mutually exclusive and immutable. There is a growing recognition that people's sexual orientations and/or sexual identities are not fixed and that people can move along the sexual orientation continuum. Perhaps the greatest realisation that is steadily gaining traction within and outside the field of sexual and gender diversity is that people have autonomy and liberty to self-label and that those identities need not be muted in one category. Although these significant developments are not necessarily credited to the work of Faith (1993), what cannot be disputed is that her notion of gender fluidity stands as the rudimentary premise of contemporary understanding of sexuality and gender diversity.

#### **3.4.4 Rupture Model**

One might argue that the rupture model is a "male version" of Faith's gender fluidity model. The basic tenets of the rupture model are similar to those of the gender fluidity; however, this model is premised on male sexual behaviours primarily in mine compounds. Achmat (1993, as cited in Gear, 2005) criticised the imitation analysis. Niehaus (2002) stated

that Achmat argued that the available accounts of male-male sexual experiences (if one is viewing them from the imitation perspective) served to nullify the significance of desire and pleasure. Achmat (1993) posited that the male and his sexuality have not only been bound to performing reproductive duties but were also required to accumulate wealth and maintain a certain status. Achmat noted that mine compounds and urban correctional facilities have offered new spaces for men where non-reproductive sexual practices attained new validity (Niehaus, 2002). Achmat (1993, p. 106, as cited in Gear, 2005, p. 197) maintained that compounds “partially freed the male body in its enslavement”; they ushered changes concerning the interplay between the concepts of sexual practices for pleasure and desire as opposed to reproduction. In Achmat’s view, the compounds or correctional facilities could be seen as institutions that facilitate a “rupture” in that the inhabitants broke away from certain practices, beliefs and worldviews from their outside lives. Through that break, the inhabitants were and are presented with new possibilities and opportunities to explore new sexual practices for desire and pleasure (Gear, 2005).

It is important to highlight the important similarities between the above models briefly. At close view, there are fundamental commonalities between the importation and imitation models. The central tenet of both models is that behaviours and practices enacted in certain spaces (e.g. correctional institutions) are not necessarily the product of those environments; rather, they emanate from pre-existing societal doctrines. The individuals “import” those behaviours and practices to other environments. Specific to sexuality in correctional institutions, same-sex sexual behaviours and practices are not created in carceral spaces; rather, they are recreated or re-enacted. Similarly, the gender fluidity and rupture models also share some principles. Both models significantly depart from the importation and imitation models; here, carceral and gender-segregated environments are perceived as “fertile grounds” for cultivating new experiences and practices. Same-sex sexual practices in these new environments signify a break from the shackles of traditional gender norms and practices. Individuals participate in these new experiences because they desire to and because it is liberating for them.

Dirsuweit (1999, 2003, as cited in Gear, 2005) argued that neither of these perspectives (imitation and rupture, and by similarity, importation and gender fluidity) adequately captures and explains sexual identities in carceral institutions. The argument is that the imitation



perspective suggests that identities remain constant through space and time and etch meaning in those spaces. In contrast, the rupture perspective assumes that compounds and or correctional institutions constitute new separate spaces sheltered from free society where the inhabitants can re-create themselves. Dirsuweit's perspective is that the interaction between spaces and identities is dynamic, ever-changing and constantly renegotiated. The author posited that it is possible and perhaps likely, with regard to mine compounds, that the traditions from rural communities where the miners came from were carried into the compounds, while at the same time, the entry into new and free spaces, free from norms and traditions allowed them to re-create themselves and explore same-sex sexual relations based on new customs and codes. Essentially, this view seems to be an integration of the imitation and rupture perspectives.

This new perspective stands as being inclusive and better explains sexual identities in carceral environments. It does not conceptualise these environments as sheltered and disconnected from the free society; rather, it recognises that norms, values, and traditions from free society can and do make their way into the carceral spaces. However, it also appreciates that carceral spaces, as much as they are connected to the larger society, have their own unique set of codes and protocols, their own subcultures and practices that may or may not be influenced by dominant cultures and practices. Considering the uniqueness of carceral spaces, it is conceivable, then, that its residents are at liberty to reconstruct their identities and become open to exploring practices that may be intricately connected to the subculture of those spaces.

### **3.5 Heteronormativity, Cisnormativity and Homonormativity**

While the social construction of gender and sexuality has been in a constant state of flux across historical periods and cultural landscapes, some basic notions and premises have remained constant and shared across time and space. Heteronormativity and cisnormativity have dictated how gender and sexuality are performed in societies for centuries. While connected to the essentialist view of gender and sexuality, I contend that these systems are not objective and naturally occurring; rather, they emerged from a long history of human interaction and discourse about gender and sexuality. Heteronormativity and cisnormativity are discussed here because of their critical view of diverse sexual and gender identities. Although socially constructed, these institutions have and continue to challenge and deny sexual practices and gender identities that are seen as non-normative, regardless of the fact that they (diverse identities) have existed alongside heterosexuality for centuries. Homosexuality, in particular,

is only somewhat “accepted” when it assimilates the values of heterosexuality and when members of this group conduct themselves in accordance with the standards and expectations of heteronormativity and cisnormativity. Homonormativity emerged from the need to accept and recognise homosexuality in largely heterosexual societies. This has, over time, transformed how diverse sexual and gender identities are practised in different societies and social institutions, including correctional institutions around the globe.

Gendering bodies, sexualities and behaviours has been and continues to be one of the core features and functions of heterosexuality. Peake (2017) defined normative heterosexuality as the naturalisation of attraction between people of opposite sexes. Normative heterosexuality positions opposite-sex attraction as universal, normal and the “correct way of being”. Olson (2015) stated that the institutionalisation of heterosexuality creates a system of power inequality, not just between heterosexual and non-heterosexual identities but between men and women as well. Normative heterosexuality is enforced through the punishment of those with diverse sexual and gender identities, which are perceived as non-conforming, for example, the criminalisation of homosexuality in many African countries (Olson, 2015).

### **3.5.1 Heteronormativity**

A superordinate system in which normative heterosexuality is nested is heteronormativity. Robinson (2016) succinctly stated that “heteronormativity is a hegemonic system of norms, discourses and practices that construct heterosexuality as natural and superior to all other expressions of sexuality” (p. 1). Robinson explained that the term heteronormativity was coined by the queer theorist Michael Warner (1991) to draw attention to the privileges associated with heterosexuality which consequently marginalises sexual minority groups. By its nature, heteronormativity promotes and legitimises the discrimination of sexual minorities in different structures and institutions in society (Robinson, 2016). Heteronormativity has been conceptualised as functioning at different levels of the social hierarchy; indeed, it is seen as a social hierarchical structure in and of itself that qualifies whiteness, middle class, heterosexuality and hegemonic masculinity as normal and natural identities while labelling different identities as abnormal and inferior (van de Schyff, 2021).

The norms of heteronormativity, according to de Oliveira et al. (2013), are maintained by institutional (legal, cultural, religious) practices that adhere to the binary view of gender.

This binary view is driven by the assumptions that gender reflects biological sex (nature) and that sexual attractions between opposite genders are acceptable and natural. The entire system of heteronormativity rests not only on nature but also on the social construction of reality and meaning-making. The nature aspect focuses on biological sex, the normalisation of two sexes and the sexual attraction between opposite sexes for the purposes of reproduction. The sexes, in and of their own, in their naturally occurring state, are free from social configurations and have no meanings attached to them. Social construction steps in as a process where the sexes are assigned genders, and specific meanings are attached to those genders. Masculinity and femininity become unique gender codes and markers that differentiate males from females and attach meaning, roles and functions to manhood and womanhood. De Viggiani (2012) argued that gender differences between males and females become deeply embedded in cultural practices through the process of socialisation, which results in conformity to certain gender norms, roles, practices and responsibilities. Across time and space, both these processes (natural and social construction) have co-existed and produced and reproduced practices and systems that have become accepted as normal and fixed, such as heteronormativity. However, it is critical to note here that social constructionism, as a system of meaning-making, cannot be reduced to the dominant discourse of heterosexuality; through social constructionism, new systems, identities, and social functions are produced and reproduced and take up certain spaces in society.

Robinson (2016) stated that heteronormative practices and discourse that legitimise the marginalisation of non-heterosexual identities are present in all social institutions, including correctional institutions. De Viggiani (2012) added that most social and public institutions are largely premised on patriarchal, heteronormative and hegemonic masculine values. Correctional facilities and other public institutions typically reflect the cultural and normative practices and beliefs of the society they are part of. As completely gendered institutions, the successful performance of heteronormativity in correctional institutions rests on the enactment of hegemonic masculinities, particularly in all-male institutions. Curtis (2014) indicated that masculinity or “real” masculinities are socially perceived as comprising authority and dominance over others, control and violence, normative heterosexuality and middle to upper-class socioeconomic position. Notably, the author pointed out that few men (if any) have all the characteristics of hegemonic masculinity; instead, hegemonic masculinities represent an

idealised way of being that legitimises social hierarchies between men and women and between men and men.

De Viggiani (2012) noted that carceral communities are comprised of hierarchies and are governed by institutional normative codes. When individuals enter the system, they are compelled to abide by these normative codes (representative of hegemonic masculinities). The individual is then positioned in the hierarchy based on the hypermasculine qualities they possess (Bandyopadhyay, 2006; de Viggiani, 2012). Bandyopadhyay (2006) explained that scholars have argued that two hierarchical practices mark the enactment of hegemonic masculinity: violence towards and the debasement of women by men and subjugation of subordinate men by “elite men”. Sabo et al. (2001, as cited in de Viggiani, 2012) suggested that in a correctional system, the lives of incarcerated men can be seen through the practice of dominance and subordination, where relationships are constructed through the performance of multiple masculinities. Establishing hierarchies and performing hegemonic masculinities (in the absence of female counterparts) in carceral institutions can be seen as a prerequisite for establishing unequal power dynamics between men.

Bandyopadhyay (2006) explained that hierarchical relations based on certain differences exist between male offenders. Aggressive and violence-prone offenders usually occupy the higher echelons of these hierarchies, while soft, weak and feminised men are located at the bottom. While physical strength (and dangerousness) is the typical attribute of dominance, other markers such as access to money and goods, the nature of the crime committed and having certain connections with high-ranking correctional officials also come into play. De Viggiani (2016) elucidated that the core characteristics that enable offenders to occupy privileged positions in the hierarchy are those associated with patriarchy and heterosexuality, such as competitiveness, aggression, violence, and controlling behaviours. One might add that in South African correctional facilities, holding a high-ranking office in the Numbers Gang organisation positions individuals at the top of the masculinity (and power) hierarchy. The Numbers Gang uphold heteronormativity through the establishment and institutionalisation of carceral marriages between the “real” men or husbands and the boy wives or “wyfies” (see Gear, 2005; Gear & Ngubeni, 2003). These marriages are founded on coercion and violence, illustrating the gross power differences between husbands and “wyfies” (see previous discussion on sexual violence in correctional facilities).

### 3.5.2 Cisnormativity

Heteronormativity exists and functions side by side with cisnormativity or cisgenderism to enforce normative heterosexual gender ideals and values while simultaneously denying non-heterosexual and non-cisgender identities and practices. Heterosexuality draws a distinction between hetero and non-heterosexual (homosexual) identities. Cisgenderism distinguishes between cisgender and non-cisgender (predominantly transgender) identities. Aultman (2014) and Rogers (2017) stated that the term cisgender (*cis* in Latin denoting same side) describes individuals whose gender identity (and expression) is consistent with their sex assigned at birth. Aultman suggested that the term cisgender, when used appropriately, distinguishes between different sex/gender identities without necessarily reproducing norms associated with cisness. However, the author acknowledged that others (Enke, 2013) have argued that the term “cisgender”, regardless of how it is used, functions to position normativity on the side of cisness. This automatically “others” and positions transness as different and abnormal. Emanating from the cisgender identity is cisgenderism. Lennon and Mistler (2014) stated that:

Cisgenderism refers to the cultural and systemic ideology that denies, denigrates, or pathologizes self-identified gender identities that do not align with assigned gender at birth as well as resulting behaviour, expression, and community. (p. 63)

The authors further stated that this ideology reinforces an unequal system of power and privileges where cisgender identities are valued and elevated above non-cisgender identities. In addition, this ideological system enacts a set of rigid beliefs and rules about gender, gender identity and expression. Those who do not conform to these rules face prejudice, discrimination and sometimes violence (Lennon & Mistler, 2014).

Rodgers et al. (2017) stated that correctional institutions, built on the principles of cisnormativity, pathologise and render vulnerable unconforming gender identities such as transgender. They argued that cisnormativity, much like heteronormativity, presents diverse sexes and genders as illegitimate while naturalising cisgender identities. Segregated along sex and gender lines, correctional institutions are excellent examples of spaces that demand cisgender identities from their residents, or at least the performance of cisgender identities. As in free society, TGD identities find that they have no place in correctional institutions, structurally, administratively and in social interactions. The use of violence, including sexual

violence and marginalisation, becomes some of the tools that are used to try and control, subordinate and even eradicate unconforming sexual and gender identities. One might argue that the war against sexual and gender-diverse identities is a frantic attempt to maintain gender and sexual “purity”, that is, to preserve heterosexuality and cisgender as the only identity. In turn, these attempts enable and, in some contexts, promote transphobic and homophobic attitudes and behaviours. Lennon and Mistler (2014) and Rogers (2017) noted that there seems to be a move from focusing on transphobia (and, by extension, homophobia) as they do not critically capture the larger systemic and cultural ideologies (heteronormativity; cisnormativity) that produce and legitimises the discrimination, marginalisation and criminalisation of diverse sexual and gender identities. Rather, there is now a growing focus on the actual ideological systems and ways of reconstructing those systems so that they are more inclusive.

### **3.5.3 Homonormativity**

While heteronormativity and cisnormativity play a crucial role in structuring and shaping sexual and gender identities and performances, homonormativity has also taken centre stage as another important ideological system that influences sexual and gendered behaviours. Seuffert (2009) explained that:

The term ‘homonormativity’ has been coined by Lisa Duggan to represent the normalisation of particular types of intimate homosexual relationships that reflect social hierarchies, including race, gender, class and other configurations of privilege. (p. 4).

Robinson (2016) added that homonormativity functions as a political strategy employed by sexual minorities that reinforces the values and norms of heteronormativity. Indeed, de Oliveira et al. (2013) argued that heteronormativity is enforced by sexual and gender-diverse people through their conformity to homonormative values and practices. The authors added that Rosenfeld (2009) conceptualised homonormativity in two ways: post-war and neoliberal. The post-war conception speaks to the construction of “acceptable” homosexuality through adherence to the dictates of heteronormativity, such as gender conformity. In contrast, neoliberal homonormativity is more passive; it does not challenge heteronormative beliefs but upholds them and seeks inclusion. Essentially, homonormativity functions to legitimise or make homosexuality acceptable in a predominantly heterosexual society by aligning same-sex

relationships and practices to the values of heteronormativity (de Oliveira et al., 2013). Robinson (2016) noted that sexual and gender minorities may align themselves with dominant practices through their consumption practices, engaging in monogamous relationships, marriages and reproduction. These demonstrate that they (sexual minorities) are similar to their heterosexual counterparts except for their sexual attraction/orientation and gender diversity.

Homonormativity further demands that sexual and gender-diverse individuals carry and present themselves as “respectable” and “normal” so that they gain acceptance into mainstream society. This might require distancing themselves from sexual and gender-diverse behaviours and practices that are perceived as deviating from traditional heterosexual values. This co-occurs with the minimisation of experiences of sexual minorities and groups whose identities are seen as non-conforming or as challenging the dictates of heteronormativity and cisnormativity. Robinson (2016) stated that sexual and gender-diverse individuals who “successfully” integrate into the heteronormative system receive more rights and privileges compared to those who do not. For example, TGD people tend to be pushed to the margins of the LGBTQ+ community due to their perceived non-conformity to heteronormative gender roles (Robinson, 2016).

Due to the nature of correctional institutions, sexual and gender minorities typically do not have the luxury of enacting homonormativity in traditional ways, such as engaging in dominant practices such as marriage and reproduction. However, due to the “necessity” of heteronormativity and cisnormativity, carceral communities, particularly in South Africa, constructed and reproduced their own homonormative practices that reinforce the heteronormative way of life. One of the most illustrative examples of this is that of prison marriages, extensively documented by Gear and Ngubeni (2003). These marriages are largely characterised by the performance of heteronormative gender roles (husbands and wives) and clear and rigid scripts that each participant needs to follow that are aligned with their assigned gender. Through strict heterosexual gender conformity, carceral marriages are somewhat accepted because they align themselves more closely with heterosexuality than homosexuality. They are also more privileged and protected compared to more egalitarian practices, such as *ushintsha ipondo* (Gear & Ngubeni, 2003), which deviate from normative gender roles. The work of Maeve (1999) on lesbian offenders also provides a good example of the acceptance of

lesbian relationships by correctional officials only if they conform to heteronormative gender roles (masculine/manly lesbian and feminine lesbian).

### **3.6 Conclusion**

The bulk of the literature discussed in this review clearly illustrates that human sexuality is multifaceted, complex, dynamic and fluid; it does not neatly fit into predefined categories. Carceral sexualities are even more complex, and they appear to deviate markedly from the heterosexual-homosexual-bisexual view of sexuality, both in their construction and performance. Traditional theories, such as essentialism, failed to explain the complexity of how carceral sexualities are constructed and performed. Essentialism branded same-sex sexual relations in correctional institutions as a vice resulting from the “pain of imprisonment”, and this perception inarguably perpetuated negative attitudes about same-sex sexual relations, both in the free society and in carceral spaces. In contrast, social constructionism presents a different perception of human sexuality. Eigenberg (1992) stated that social constructionism sees human sexuality as occurring in a continuum from exclusive heterosexuality to exclusive homosexuality. Social constructionists acknowledge that sexuality and/or sexual orientation are fluid and that people may identify themselves differently at different times and in stages of their lives. The central question in social constructionism is how people identify themselves (in terms of sexual identity) and how different definitions of sexuality impact this process (Eigenberg, 1992). Further, social constructionism appraises gender and sexuality as social constructs created and recreated through human interaction, influenced by traditional and present views of these constructs.

The carceral context, as a semi-closed community, is not free from the influences of society. However, the carceral community is not a passive recipient of these influences; rather, it actively modifies and creates its own practices and codes of conduct that significantly influence sexuality construction and performance. This means that participants involved in these processes construct their sexualities and identities based on pre-incarceration interactions with others as well as the interaction with other offenders during their incarceration. What is born out of these diverse interactions are not uniform sexualities and identities but complex and fluid sexualities and identities. The use of social constructionism as a theoretical framework in this study allows for a rich and in-depth understanding of how incarcerated individuals construct and perform sexualities in carceral environments. The use of this framework ensures



that the participants' experiences are not seen or interpreted through pre-existing formulations of gender and sexuality; rather, they are seen and interpreted in the very context and time in which they occur. The value of social constructionism lies in its flexibility and appraisal of social phenomena as primarily created and recreated by human interactions. Sexualities then, especially carceral sexualities, are not fixed in time; this does not mean that they are disconnected from previous practices; indeed, former practices may set precedents. However, those precedents, according to social constructionism, are not taken as the status quo; rather, they are dismantled and recreated in each context and time.

## CHAPTER 4

### RESEARCH METHOD

#### 4.1 Introduction

This chapter provides a detailed description of the processes that guided data collection and analysis. It presents the aim and objective of the study, which provide a refined focus on the desired end results. The research method is broadly looked at, followed by the research design, which encompasses recruitment, sampling and inclusion/exclusion criteria for the selection of study participants. Data collection is discussed and followed by data analysis, focusing on the thematic method of data analysis. Trustworthiness in qualitative research and, specifically, in the current study, is explored, followed by a discussion on ethical considerations when conducting qualitative research and the application of ethics principles in the collection of data for the current study. Data collection was conducted during the COVID-19 pandemic; thus, a brief discussion of steps taken to protect both the participants and myself will be discussed.

#### 4.2 Aim and Objectives

The aim of this study was to explore and document the lived experiences of sexual and gender-diverse offenders in two South African correctional facilities located in the Gauteng Province, namely Kgosi Mampuru II Management Area and Johannesburg Management Area. Many studies that have been done in the area of carceral sexualities have largely focused on limited and conventional sexual orientation or sexual identity categories, primarily gay, lesbian, bisexual and, to a lesser extent, transgender, thus neglecting other sexual identities that do not fit in these conventional categories. While this study aspired to widen its focus to include all offenders who identify as sexual and gender-diverse, including, but not limited to, lesbian, gay, bisexual, transgender, queer, intersex, asexual, gender non-binary and men and women who identify as heterosexual but have sex with others of the same sex, offenders that showed interest typically identified themselves using conventional labels. It is possible that the stigma attached to sexual and gender diversity coupled with a narrow understanding of this concept thwarted the willingness of offenders who do not identify as gay, lesbian, bisexual, queer, or transgender but who nonetheless engage in same-sex sexual relations to participate in the study. It is worth

mentioning that many other offenders who openly identify as gay, lesbian, bisexual, queer and transgender were also unwilling to participate due to personal reasons that were not disclosed. There was a realisation during the early stages of the study design that attracting participants would be a challenging task, given the nature of the study. Indeed, I experienced challenges in some centres where offenders showed little to no interest in engaging in the study. This necessitated that I repeatedly visit the special care sections to recruit participants and explain the study's significance. Fortunately, in the end, enough participants across the two management areas were recruited.

This study has three broad objectives, which carry with them specific objectives.

1. To explore and document sexual and gender diversity in Kgosi Mampuru II and Johannesburg Management Areas.
  - To explore the diverse sexual orientation categories or sexual identities in correctional facilities.
  - To explore the diverse forms of sexual practices engaged in by offenders in correctional facilities and to interpret these in terms of how they appear to draw on or resist social constructions of normative gender and sexual practices.
  - To explore offenders' narratives of their experiences in relation to the expression of diverse sexualities and genders within the correctional environment.
  - To explore positive emotional and/or sexual experiences in the context of same-sex sexual relations between incarcerated offenders.
2. To explore the relational dynamics between sexual and gender-diverse offenders and their largely heterosexual environment.
  - To explore sexual and gender-diverse offenders' experiences/journeys from being arrested to serving time in a correctional facility.
  - To explore how sexual and gender-diverse offenders interact with the correctional environment in general.

3. To explore sexual and gender-diverse offenders' perception of the nature of interaction between them and heterosexual offenders and correctional officials. To document sexual and gender-diverse offenders' perceptions of the availability (and effectiveness) of affirming health services and incarceration policies and procedures in correctional facilities.
  - To explore sexual and gender-diverse offenders' perceptions of and experiences with regard to the availability of affirming health care services in correctional facilities.
  - To explore sexual and gender-diverse offenders' perceptions of and experiences with regard to the existing measures taken to ensure their secure and humane detention and incarceration.
  - To critique existing and propose new policies, procedures and practices aimed at ensuring the safe and humane detention and incarceration of sexual and gender-diverse people.

### **4.3 Research Method**

This study is rooted in the qualitative approach. The motivation behind the use of this approach is that qualitative research seeks to understand a problem or issue being researched from the perspective of the participants. Cropley (2019) stated that the central premise of qualitative research is to examine how people make sense of their real-life experiences. He noted that qualitative research centres on the idea that "reality" is subjective; that is, people construct personal views of the world on the basis of their interaction with the external world. The task of qualitative research, then, is to gain insight into these subjective constructions to understand the nature of the world as it is experienced and interpreted by people (Cropley, 2019). Yin (2011) presented five crucial features of this method of inquiry, some of which overlap with Cropley's definition. Yin stated that qualitative research first concerns studying the meaning that people attach to a certain phenomenon under real-world conditions. Second, qualitative research differs from other methods of inquiry because of its ability to represent the views and perspectives of people's lives. Thus, the narratives that emerge through qualitative inquiry represent the meanings given to real-life events by people who lived them and not the values and preconceptions of the researcher. Third, qualitative research covers contextual

conditions (social, institutional, environmental) in which people's lives take place. Fourth, qualitative research is not merely a collection of everyday chronicles; instead, it is a method of inquiry-driven by a desire to explain social phenomena through existing or new concepts. Lastly, qualitative research strives to collect, integrate and present information from a variety of real-life sources.

The aim of this study, which is to look at the lived experiences of sexual and gender-diverse offenders, can be framed in Yin's (2011) four of five features of qualitative research (note, the fifth feature is not included as data was collected from a single source):

- Studying the meaning of people's lives under real-world conditions: this study explored sexual and gender-diverse offenders' lived experiences and the meaning(s) they attach to those experiences.
- Representing the views and perspectives of the participants: this study documents and represents the original perceptions and experiences of the participants obtained through interviews.
- Covering the contextual conditions within which people live: the study was conducted in the participant's "natural" setting (correctional facilities) and attempted to understand their lives within this setting. In addition, this study ensures that the participants' experiences are contextualised in terms of the South African and international history of race, gender and sexuality and the social structures and discourses that shape the current socio-political status quo.
- Contributing insights into existing or emerging concepts that may help explain social behaviour: this study drew from the existing body of knowledge (both empirical studies and theories) to make sense of themes and data that emerged from the interaction with participants.

## **4.4 Research Design**

### **4.4.1 Study Site**

As stated earlier, the study was conducted at Johannesburg Management Area and Kgosi Mampuru II Management Area. Johannesburg Management Area consists of four centres: Medium A, which houses male remand detainees or those who are still attending trial

and has an average population of 5200; Medium B (average population of 3000); and Medium C (with an average population of 408) are designated for male sentenced offenders. The female section houses both awaiting trial detainees and sentenced offenders with a grand average population of 1200. The female centre also consists of a mother and baby section; as of 1 August 2023, there were 23 infants. Kgosi Mampuru II Management Area consists of six correctional centres: the remand detention centre, named local remand, housing male detainees only, with an average population of 3400; a female centre housing both awaiting trial detainees and sentenced offenders with an average population of 250 and a central correctional centre for sentenced males with an average population of 2200. ODI Correctional Services (a correctional centre) is located outside the Pretoria central complex, houses sentenced male offenders, and has an average population of 1100. Atteridgeville Correctional Services (the correctional centre) is also situated outside the central complex; it has an approved bed space of 546; however, the recent population (as of 1 August 2023) was 83.

At Johannesburg, participants were sampled from two centres, Medium A (remand detainees) and Medium B (sentenced offenders). At Kgosi Mampuru II, participants were from three centres: the female centre, central and Atteridgeville. Due to their size, these management areas allowed access to a diverse population of offenders with diverse and rich experiences. These management areas were strategically chosen because they have centres for both male and female offenders, which ensured inclusive representation of the study in terms of sex and diverse sexuality and gender categories. However, due to certain constraints, female participants were only sampled from Kgosi Mampuru II Management Area.

#### **4.4.2 Recruitment Description and Sampling Strategy**

Lopez and Whitehead (2013) stated that the primary purpose of sampling is the suitable selection of participants so that the aim or “focus of the study can be appropriately researched” (p. 124). This study primarily employed the purposive sampling technique. According to Lopez and Whitehead (2013), “purposive sampling is designed to provide information-rich cases for in-depth study. This is because participants are those who have the required status or experience or are known to possess special knowledge to provide the information researchers seek” (pp. 124–125). Due to the sensitive nature of this study, recruiting participants through purposive sampling did not yield a sufficient sample, and the snowball technique was activated to try to recruit more participants. Lopez and Whitehead (2013) explained that the snowballing

technique, also referred to as the networking technique, occurs when the researcher relies on the existing participant(s) to connect him/her to other people who might meet the criteria for the study. This technique is particularly useful when the study sample comprises marginalised or vulnerable individuals (Lopez & Whitehead, 2013). Participants successfully recruited using purposive sampling were asked to identify other offenders potentially interested in participating and to connect me to those offenders.

#### **4.4.3 Recruitment Strategy**

Participants were identified primarily from special care sections and, in one instance, in a general section for male participants. All the female participants came from general sections as there is no designated special care section in the female facility at Kgosi Mampuru II correctional services. Permission to collect data was granted by the DCS Research Ethics Committee (RCM). The area commissioner's offices in both study sites were my first point of contact. The offices of the head of centres linked me with the psychologists or social workers, who in turn introduced me to the unit managers of special care sections and other sections. I was not allowed to go into the female sections; rather, a female correctional official on duty was asked to speak to the female offenders briefly about the research and take down the names of all those interested in participating. At the male facilities, the social worker, psychologist and an appointed correctional official accompanied me to the selected section to talk to the offenders about the study. This first phase of recruitment employed purposive sampling technique. Of note, I am a psychologist employed by the DCS, stationed in Boksburg Management Area, Gauteng region. I speak more about this in the conclusion chapter under reflections. I would argue that being in the employ of the DCS and being familiar with social workers and psychologists in the study sites helped create an in-road for me, especially with the data collection process.

In one male centre, the social worker identified a transgender offender whom she had worked with in the past and asked her to spread the word in her section that a researcher would be coming to do a study in the area of sexual and gender diversity. The offender was asked to collect the names of other offenders who were interested in meeting with me, the researcher, for more information. The second phase of recruitment involved the snowball technique. When I visited the centre, I met with the offenders who had registered their names. Unfortunately, half of them had a change of mind and expressed their disinterest in participating. Those who

had agreed to participate were asked to identify other offenders who identify as sexual and gender diverse who might be interested in participating. In all the centres except Medium A (for remand detainees) in Johannesburg, some offenders who had initially expressed interest in participating backtracked. I had to rely on those who showed a strong interest in identifying and recruiting other offenders to participate in the study. The remand detainees expressed eagerness to participate, and all those who initially expressed interest went on to participate in the study. It is possible that one of the motivators for their eagerness was the shock associated with entering a correctional facility and a resulting need to talk to someone about the challenges they were experiencing.

Recruitment yielded a sample of 24 participants between the ages of 22-43 years. Five of the participants were female from the female section at Kgosi Mampuru II and nineteen were male from different sections across the two Management Areas. The racial composition of the participants reflected the incarceration trend in South Africa, 23 of the participants were black and one white. A detailed breakdown of the of the demographics of the participants is outlined in the first part of the findings chapter.

#### **4.4.4 Inclusion and Exclusion Criteria**

- The primary focus was on offenders who identify themselves as sexual or gender diverse. However, the study was also open to those who did not identify as sexual or gender diverse but had intimate or sexual relations with offenders of the same gender.
- The study was open to both sentenced offenders and remand detainees. There was no set minimum incarceration or detention period for participation.
- For my safety and security, only offenders in the medium security facilities were admitted to the study. There were no foreseeable limitations to excluding offenders in maximum-security facilities.
- All adult offenders who met the abovementioned inclusion criteria in both management areas were admitted to the study.

There are four categories of security classification in the DCS. Category A are minimum correction centres housing offenders who pose a minimum risk to the department. Category B are medium correctional centres where the risk profile of the offender poses a medium or moderate risk to the department and where the focus is on involvement in rehabilitation



programmes, skills development and preparation for release. Category C are maximum correctional centres where high levels of security supervision is required based on the risk profile of the offenders. Lastly, Category D are closed maximum correctional centres for offenders who need strict security supervision and pose a major security risk to the department and the public. In addition, offenders who are placed in C-Max facilities are those who present with continuous aggressive behaviour patterns, those involved in organised crimes that pose a risk to the public and notorious offenders.

#### **4.5 Data Collection**

All offenders who expressed interest in participating were provided with the study sheet and informed consent (see Appendix C). A short question and answer session afforded the participants an opportunity to seek clarity on issues they did not understand about the study. The informed consent sheet was presented in English; however, I was available to clarify points/terms that the participants struggled to understand. Majority of the participants conversed well in English. Generally, the participants used English and isiZulu (as one of the largely spoken Nguni language in South Africa) interchangeably. Occasionally, participants used their first language in conjunction with the aforementioned languages. In all the centres, interviewing commenced immediately after the recruitment process. I spent 5 days in the female centre, 3 days in Atteridgeville and 5 days in Johannesburg (3 days in Medium B and 2 days in Medium A).

Qualitative or unstructured interviewing was used in collecting data. Lopez and Whitehead (2013) stated that unstructured interviews are informal and conversational in nature, which encourages participants to respond freely and naturally. The unstructured interview usually starts with a broad question; for example, the researcher might ask the participants to talk about their experiences in relation to a particular topic. In this form of interviewing, the researcher may use a topic list so as to be reminded of the general issues to be covered (Lopez & Whitehead, 2013). Yin (2011) discussed three characteristics that make this method different from structured interviews. First, the relationship between the interviewer and interviewee is not scripted, and there is no formal script containing specific questions to be posed to the interviewee or participant; rather, the interviewer or researcher has a mental framework for the topics to be discussed. Second, the interviewer does not adopt any formal demeanour, and the interview or interaction leads to the development of rapport between the researcher and the

participant. The catalyst for developing rapport between myself and the participants was adopting an informal conversational technique. Third, the questions in a qualitative interview are open-ended instead of closed-ended; the researcher encourages participants to speak freely and elaborate as much as possible on their responses.

An interview guide (Appendix D) was used as a reference for the general topics that were covered during the interview. Given the conversational nature of unstructured interviews, each interview lasted 50–90 minutes. Initially, the proposed number of participants was a minimum of 15 and a maximum of 20; however, the final number was largely influenced by reaching saturation. In total, 24 offenders participated in the study.

In general terms, saturation is taken to indicate that continued data collection will not yield any further new themes and/or codes (Fusch & Ness, 2015; Mason, 2010; Saunders et al., 2017). Although widely accepted, particularly in qualitative research, the principle of saturation is shrouded by a lack of consensus with regard to its operationalisation and practical use (see Mason, 2010; Saunders et al., 2017). Regardless of the existing challenges, data collection for the current study was primarily guided by the principle of saturation. In all the centres, saturation was reached by the fourth interview (with the exception of the central male section, where only two offenders agreed to participate).

All interviews were audio recorded; I also occasionally documented important topics that emerged during the interview. Informed consent was obtained from the participants before the interview commenced. I discussed with the participants that I would safeguard the audio recordings by storing them in a lockable cabinet and password protected device and that transcribing would only be done in the privacy of my office/home. I further explained that audio recordings would be made available only to the supervisors if a need arose. All participants provided consent by signing the consent form. A detailed discussion informed consent and the protection of confidential information is included in the ethics section. During the interviewing of the female participants, a female correctional official sat in the same office where the interview took place. This was the condition of the head of the centre for security purposes. Nonetheless, the participants appeared unfazed by the presence of an official and spoke freely about their experiences (including their relationships, sexual experiences and access to contraband, i.e. cell phones). In the female facility, a psychologist's office located in the administration passage was made available for the interviews and participants were escorted to

the office. Initially, the same set-up was to be used in all the centres; however, it proved to be cumbersome for two of the male centres (Atteridgeville in Pretoria and Medium B in Johannesburg). In Atteridgeville, during the week of data gathering, there was a shortage of correctional officials operating the special care section; thus, no one was available to escort the participants from the section to the psychologist. A compromise was to see the participants in the section, and the unit manager's office was made available for conducting the interviews. This worked famously well, as the participants were easy to reach, and I got to interact with them in their familiar environment. In Johannesburg, participants seemed unwilling to make the long walk from their section to the psychologist's office, so the strategy used in Atteridgeville was again utilised.

After data collection, all audio interviews were transcribed into English. I decided to take on the mammoth task of data transcription so as to familiarise myself with the data. Fortunately, most interviews were in English; some participants responded in isiZulu, and a few in Setswana and Sesotho. Generally, participants switched between their home language and English. The data transcription process was invaluable as it allowed me to be immersed in data and get to know the participants even better.

#### **4.6 Data Analysis: Thematic Analysis**

Thematic analysis was selected as the preferred method of data analysis. Braun and Clarke (2006) stated that "thematic analysis is a method of identifying, analyzing and reporting patterns of themes in data" (p. 6). They argue that qualitative analytical methods can be grouped into two camps. The first camp encompasses those that stem from a distinct theoretical or epistemological position, and these include but are not limited to conversation analysis and interpretive phenomenological analysis. In the other camp are those methods that are relatively independent of theory and epistemology and can be applied to a wide range of theoretical and epistemological approaches. Braun and Clarke stated that thematic analysis is firmly located in the second camp and compatible with both the constructionist and essentialist paradigms. They write that the essentialist or realist paradigm focuses on participants' experiences, meanings, and realities. In contrast, the constructionist perspective concerns itself with how realities and experiences are affected and shaped by societal systems and discourses. The middle ground of these two paradigms is the contextualist perspective, "which acknowledges the ways individuals make meaning of their experience, and, in turn, the ways the broader social context

impinges on those meanings” (Braun & Clarke, 2006, p. 9). Although the current study is framed within the social constructionist perspective, it does acknowledge the value and usefulness of the contextualist perspective.

Braun and Clarke (2006; 2012) wrote about the important factors that affect the positioning of the analysis which researchers need to think about, namely inductive vs theoretical (deductive) approach and semantic vs latent level of analysis. The authors explained that the inductive approach to data analysis is a “bottom-up” approach where coding and analysis are driven by the contents of the data. In this approach, the themes do not necessarily follow from the researcher’s theoretical orientation or interest in a particular field of study. This means that the themes do not fit into preconceived coding frames or the researcher’s analytical orientation. The deductive or theoretical approach can be characterised as “top-down” in that the researcher brings in certain concepts, topics and ideas into the data pool, which influences how the data is analysed and interpreted. Essentially, in this approach, the researcher’s theoretical tradition influences the data to a certain extent (Braun & Clarke, 2006, 2012). The authors align the inductive approach with the essentialist framework and the deductive approach with the constructionist framework. This study leans more towards the deductive or theoretical approach, which complements the social constructionist framework adopted. However, Braun and Clark (2012) noted that, in reality, analysis tends to employ both inductive and deductive approaches, although one tends to predominate.

The second issue that was considered in the analysis in this study was the level of analysis. Braun and Clark (2006) stated that at the semantic level of analysis, themes are approached at the explicit and surface level, and the analysis (at first) does not look beyond what is expressed by the participants. At this level, the analysis progresses (ideally) from description, where data are organised and presented (findings chapter), to interpretation, where the significance of the findings is theorised, usually from the lens of previous literature (discussion chapter). At the latent level, the analysis looks deeper and identifies the underlying assumptions that are theorised as shaping the content of the data. Essentially, at the latent level, the development of themes and the analysis already involve interpretation and theorising. The semantic approach is predominant in the current study; however, there is no rigid adherence to this approach.

Nowell et al. (2017) delineated some of the advantages of using thematic analysis. They state that the advantage of using this method is that, through its theoretical independence, it is a highly flexible approach which can be adapted to meet the needs of different studies. The flexibility of this method is also evident in the preceding discussion, where there is no rigid adherence to one approach or framework; rather, the analysis can have different “flavours”. However, it is important (as done here) that predominant positions are explicitly mentioned (and applied) lest this method fall in the critique of “anything goes” (Braun & Clarke, 2006). Nowell and colleagues further wrote that since thematic analysis does not require in-depth theoretical and technical knowledge compared to other qualitative methods, it offers a more accessible and user-friendly form of analysis, especially for novice researchers.

In their relatively recent work, Braun and Clarke (2019) wrote about an “updated version” of this method, reflexive thematic analysis. They explained that their approach to thematic analysis is meant to reflect their view of this method as reflexive and creative, where the subjectiveness of the researcher is accepted as a valuable resource rather than a potential hindrance to knowledge generation. This is particularly powerful given that for a long time, objectivity has been prized and thought to be more valuable in the study and understanding of a phenomenon or subject matter. In this study, I perceived my own experiences (discussed further in the reflective chapter) as a psychologist in the employ of correctional services as valuable in terms of establishing a space of “mutual understanding” for myself and the participants. Braun and Clarke persuasively wrote that from their standpoint, the qualitative inquiry is built on meaning-making, and the qualitative analysis “is about telling ‘stories’, about interpreting, and creating, not discovering and finding the ‘truth’ that is either ‘out there’ and findable from, or buried deep within, the data” (p. 591). They further stated that reflexive thematic analysis is thus reflective of the values of the qualitative paradigm, which promotes researcher subjectivity and the organic processing and engagement with the data. In this approach, the researcher’s role is perceived as invaluable in the production of knowledge. This approach only asks that the researcher be transparent in implementing their theoretical tradition and strive to be aware of (and to make explicit) the theoretical assumptions informing their use of this analytic method. These expectations are not once-off; rather, they are to be enacted throughout the analytic process and in the reporting of findings.

Braun and Clarke (2006), Dawadi (2020), and Maguire and Delahunt (2017) offered a detailed step-by-step guide to thematic data analysis. They explained, however, that some of the phases or steps of analysis are not necessarily unique to thematic analysis; instead, they are similar to those of other forms of qualitative data analysis. The following steps functioned as a guide for the data analysis process.

### **Phase 1: Being familiar with the data**

This phase entails reading and re-reading the data in an active way, searching for meanings and patterns. Braun and Clark (2006), Dawadi (2020), and Maguire and Delahunt (2017) stated that when working with verbal data such as interviews (as in the current study), the data will first have to be transcribed into a written form before analysis can commence. They noted that while the transcription process can be tedious and time-consuming, it does offer the researchers an opportunity to familiarise themselves with the data sets. In addition, they signalled that this phase requires rigorous and accurate transcription of verbatim data; of importance is that the transcripts retain the true and original nature of the verbatim accounts.

The first step of this phase entailed transcribing the data into written form and translating certain data sets to English. The orthographic approach was used to ensure that all the data was captured well (verbatim account and non-verbal utterances). Although tedious, transcribing the data allowed me to get to know the “raw” data. After this process, I took time to read and re-read data in an active and engaging manner. This resulted in a deeper understanding of the data sets. Braun and Clark (2006) noted that time spent transcribing is never wasted, and the process forms part of the early analysis stages. It is worth noting that this was not a linear and once-off process; rather, I found myself going back repeatedly to the data sets for more clarity and better understanding. While the focus was on the written data, I sometimes found myself going back to the audio recordings to see if certain data sets were captured correctly, to remind myself of the exact language and phrases the participants used and to try to listen to the tone they used when they expressed certain experiences.

### **Phase 2: Generating codes**

Braun and Clark (2006) and Maguire and Delahunt (2017) stated that this phase begins after the researcher has developed a basic list of ideas of what is in the data and what is

interesting about them. This phase involves the production of initial codes for the data. Elliott (2018) argued that coding is a fundamental feature of the analysis process; it allows the researcher to break down the volumes of data into manageable sizes. It involves taking data apart to see what it contains and assembling it back together. Elliott explained that coding is about indexing or mapping data so that the researcher can understand how they relate to the research question. In addition, coding can be a way of tagging data that speaks to a point, for example, all data relevant to a certain question or topic.

Following the rigorous transcribing stage and familiarising myself with the data, I started to break down the data sets and generated initial preliminary codes based on what appeared to be interesting about the data. This process entailed grouping or organising the data into related and meaningful groups. This was an iterative process that involved redefining and sometimes completely dropping certain codes and developing entirely new codes to organise the data. What was helpful in this process (and which continued to be extremely helpful throughout the analysis process) was using a journal to record all these processes and to keep track of the changes made.

Coding was done manually, initially on paper and, subsequently, electronically. Documenting codes on paper formed the initial part of the process, and the codes were basic and preliminary. The advanced stage of the process was the development of a Word document with the final codes and the extraction (or the lifting of data segments) from the transcribed interviews and matching them to the specific codes. The original location of the data segments was also recorded next to the codes for ease of reference. The coding process was not restricted, meaning I coded for as many potential themes as possible to ensure no potential theme was missed.

### **Phase 3: Searching for themes**

This phase involves sorting all the codes (developed in the previous phase) into potential themes. In this phase, the researcher analyses codes to see how different codes may be combined to form broader themes. The researcher then goes on to think about the relationship between the codes, themes, and the different levels of themes (broader themes and subthemes). The authors recommended using visual representation to assist in sorting themes (e.g. tables, maps, diagrams) (Braun & Clark, 2006; Dawadi, 2020; Maguire & Delahunt, 2017).

This process started with reviewing the list of codes that were generated in the preceding phase and identifying relationships between the codes. Due to their high relatedness, some codes were easily integrated to form meaningful themes. Others, however, appeared different at the surface level and required “magnification” to determine their relatedness at a deeper analytic level. These codes were either collated to form one overarching theme while others became subthemes of the overarching theme. The tabulated Word document that was developed in the previous phase was useful and functioned as a visual aid in sorting out the codes into themes. This phase was revisited through supervision, and the themes were almost completely reworked. Most of the initial themes were discarded, and new themes were developed. Once suitable themes were developed, supporting data extracted were copied from the individual transcripts and pasted into the Word document alongside the corresponding themes.

#### **Phase 4: Reviewing themes**

Braun and Clark (2006) and Maguire and Delahunt (2017) indicated that this phase involves two levels of reviewing and refining themes identified in Phase 3. Before the refining process, some themes were discarded because they did not have enough supporting evidence. Some were collapsed into other themes due to their relatedness and similarity, while others were subsumed under general themes and became subthemes. The researcher then moves on to reading the combined data extracts and considers if they form a coherent pattern. If the data extracts do not form a pattern, then the researcher needs to scrutinise whether the theme was not constructed correctly or whether the extracts do not belong to the theme. In this case, the researcher would need to rework the theme, create a new theme or simply discard the extracts from the analysis. The process moves to the second level if the combined data extracts form a coherent pattern. The second level involves considering the validity of the themes in relation to the data set. At this level, I read and re-read the data set for two purposes: first, to determine if the themes are coherent or in “agreement” with the data set, and second, to code any additional data that might have been missed in the initial coding phase. Similar to the previous level, if there was no validity or agreement between the themes and the data set, I went back to refine coding until the developed thematic “map” corresponded with the data sets. This process highlights the back-and-forth nature of thematic analysis. It required me to engage with the data critically and to be flexible enough to move forward and backwards between the different



phases or stages. At the end of this stage, I had an idea of how the different themes and subthemes fit together and the story that was emerging.

### **Phase 5: Defining and naming themes**

Braun and Clark (2006) indicated that at this stage, the researcher needs to identify the central meaning of each theme and to determine which aspect of data the theme speaks to or captures. Here, the researcher is cautioned not to get the themes to explain too much or be too diverse or complex. My task at this stage was to conduct a detailed analysis of each theme and to identify the narratives told by those themes. I also had to think about how the themes relate or speak to the research questions and the overarching aim of the study. The second task was refining and naming themes; Braun and Clark advise that theme names should be concise and immediately give a reader a sense of what the theme is about rather than being long and verbose.

### **Phase 6: Producing the report**

Braun and Clark (2006) wrote that the task of a write-up of a thematic analysis is to narrate a complicated story of the study data to convince a reader of the merit and validity of the study analysis. The onus rests on the researcher to ensure that the analysis provides a concise, coherent, non-repetitive and alluring account of the story that emerges from the data. Importantly, the write-up must provide compelling evidence of the themes found in the data; for example, there should be enough data extracted to demonstrate the prevalence of a theme clearly. Ideally, vivid and uncomplicated data extracts that demonstrate the central point of the theme should be used. Finally, the analysis should go beyond the description of the data and build a good argument that ties the data to the research question or aim (Braun & Clark, 2006; Dawadi, 2020; Maguire & Delahunt, 2017).

The first stage of producing the report is the formal analysis and reporting of the findings (Chapter 5). Braun and Clarke's (2019) reflexive thematic analysis approach was critical in how the results were presented and interpreted. The results reflected the organic fashion in how the participants presented their stories and how I interacted with those stories. My subjectiveness as the researcher was not constrained during the presentation of the results.

#### 4.7 Trustworthiness in Qualitative Research

Nowell et al. (2017) and Leung (2015) asserted that one of the important features of qualitative research, which is also applicable to data analysis, is that of trustworthiness. They write that trustworthiness is one of the ways that qualitative researchers can convince themselves and their readers that their research is worthy of attention. Nowell et al. (2017) and Shenton (2004) stated that Lincoln and Guba (1985) redefined trustworthiness by introducing the criteria of credibility, transferability, dependability and confirmability. They argue that these criteria parallel those of validity and reliability conventionally found in quantitative research. Shenton (2004) and Hadi (2016) provided a good summary of these criteria; Shenton stated that credibility (in preference of internal validity) relates to how congruent the research findings are with reality. The following are the steps that the researcher can take to ensure that the research process, as well as the findings, are credible (Hadi, 2016; Shenton, 2004):

- **Adoption of well-established research methods:** this study employed data collection and analysis methods that have been successfully used in previous studies (purposive and snowball techniques for sampling, qualitative interviewing for data collection, and thematic analysis for data analysis). These methods have also been rigorously researched and proven to be reliable.
- **Development of familiarity with the culture and environment of participants:** to achieve this, I consulted previous studies that have been done in similar environments. I also work as a psychologist at a correctional facility; thus, I have good experience with the carceral environment, its culture and general functioning.
- **Triangulation:** although the study used one method of data collection (interviews), the study participants were sampled from two correctional facilities in different geographical locations. Shenton (2004) and Hadi (2016) argued that the use of several institutions reduces the effect (on the study) of factors unique to one institution.
- **Ensuring honesty from participants:** each participant was afforded an opportunity to decline from participating in the study without any prejudice. This ensured that the study involved those who were genuinely willing to participate.
- **Use of debriefing sessions:** during data collection, I was in frequent contact with my supervisors to discuss the process and progress of the study as a whole and the data

gathering process. The sessions allowed for the evaluation of the data-gathering process approaches used and the need for new approaches or revision of current ones.

- **Researcher’s “reflective commentary”:** Shenton (2004) and Hadi (2016) noted that this entails a reflective commentary by the researcher primarily about the effectiveness of the techniques used throughout the study. I kept a journal for documenting all the relevant processes and observations relating to the study. The journal assisted me in critically and reflectively thinking about each section and step of the study.
- **Member checks:** Shenton (2004) and Hadi (2016) explained that this involves the participants reading through transcripts of dialogues in which they participated. Unfortunately, due to time and other logistical constraints, participants did not have the opportunity to read the transcripts. However, continuous reflection on the participants’ narratives during the interview to ensure that the information correctly captured the participant’s experiences functioned as an informal verification of the data (informal member check).
- **Thick description of the phenomenon being studied:** Shenton (2004) and Hadi (2016) argued that this is important for promoting credibility as it helps convey the actual phenomenon being investigated and the contexts that surround it. For the current study, this was achieved through an in-depth literature review, a detailed description of the findings and an in-depth discussion of the findings in the discussion chapter.

The generalisation or transferability of the results is not a paramount aim of this study. Shenton (2004) stated that it is the reader’s decision to relate the findings of the study to their position should they deem the context of the study to be similar to theirs. Sufficient contextual and procedural information about the fieldwork is available to assist the reader in making such a transfer. Ultimately, the findings of this study are to be understood within the context in which data was collected (correctional facilities). Should there be a need to assess the extent to which the findings hold true for other populations in other settings, similar projects employing the same methodology should be carried out in those environments.

In addressing dependability, all relevant processes involved in carrying out the study were documented in as much detail as possible; this will assist other researchers to repeat the same study, although not necessarily to obtain the same results. Shenton (2004) and Leung (2015) noted that proper and in-depth coverage of the study process also allows the reader to

determine to which extent proper research processes were followed in the implementation of the study.

To ensure confirmability, triangulation and informal member check were used to reduce or eradicate researcher bias. The use of an audit trail shows how the data was collected and analysed, as well as how and why certain recommendations were made (Carcary, 2009; Hadi, 2016; Leung, 2015; Shenton, 2004). Carcary (2009) writes that several authors agree that a study's trustworthiness can be established if a reader can audit the events involved in the development of the study. She notes that the concept of an audit trail emanates from the idea of a fiscal audit where others can independently audit accounts using available documentation. Carcary further writes that in developing an audit trail, the researcher provides an account of all research decisions and activities. To develop a research audit trail, the researcher needs to maintain an activity journal/log, maintain research documents, data collection and analysis procedures. As part of the audit trail for the current study, I kept a research journal that documented all research related processes and activities as well as decisions taken jointly with supervisors. Research journals used for the literature review were all maintained, and the data collection and data analysis steps clearly documented in the thesis document.

## **4.8 Ethics in Qualitative Research**

Mohd-Arifin (2018) stated that the protection of human participants through the thoughtful and appropriate application of ethical principles is paramount to qualitative research. The author added that ethical issues become more important when conducting face-to-face interviews with vulnerable participants. This applied to the current study.

### **4.8.1 Application of Ethics Principles**

#### **4.8.1.1 Informed Consent and Voluntary Participation**

Mohd-Arifin (2018) noted that the process of obtaining informed consent involves the following: consent should be given freely (voluntary), consent should be informed (participants should know what is being asked of them, and the person giving consent should be competent, emotionally and intellectually). For this study, participants were given the freedom to either agree or decline to participate; it was emphasised that a decision to decline would not entail any negative consequences. In the interests of transparency and enhancing the participants'

ability to make a truly informed decision regarding their participation, I disclosed my identity as a psychologist in the employ of the DCS. It is important to note here that the role of the correctional officials was not to ensure that offenders participate in the study, their role was to assist those who had decided to participate with logistical issues (escorting them to the interview room), thus there was no form of coercion involved. The participants were ensured that privacy and confidentiality would be paramount during the study and in the presentation and publication of the study findings. A study sheet available in English was available to the participants, however, I was available to clarify points/terms that the participants struggled to understand. Participants were asked to go through the study sheet and were encouraged to seek clarity where there was lack of understanding. Prior to the commencement of data collection, participants were asked to sign and date consent forms. Participants were informed that they had the right to withdraw from the study at any time, even after consenting.

#### **4.8.1.2 Anonymity and Confidentiality**

Bourke and Wessely (2008) stated that confidentiality pertains to the principle of keeping secure (from others) information shared by an individual during a professional relationship. Further, confidentiality promotes the dignity of the individual sharing the information, prevents the information from being misused and protects autonomous decisions taken by the individual. The participants in the study constitute a vulnerable group; the use of pseudonyms ensured that their identities were protected in the analysis and reporting of the study findings. The recruitment process necessitated the involvement of correctional officials working at the sections as well as professional staff (social workers and psychologists) in some centres. The staff was made aware of the sensitive nature of the study as asked to ensure the privacy of the participants, for example, not disclosing to non-participating offenders why the participants were interviewed. It is important to mention here that majority of the participants were sampled from special care sections. For offenders to be admitted to a special care section, there must be a valid and documented reason (protection from victimisation, LGBTQI+, member of the judicial system etc.). Sexual and gender diverse offenders in special care sections would have had to disclose to the correctional officials their identities. Female participants who were sampled from a general section were open about their identities (masculine/butch lesbians). It is highly unlikely that participation in the study 'outed' any offender as their identities would likely have been known by the correctional officials by their

placement and general presentation. In fact, participants expressed that their sexual identities are known by correctional officials and other offenders in their section.

#### **4.8.1.3 Privacy During Data Collection**

Arrangements were made for the provision of private offices for interviews. As noted in the data collection section, a female correctional official sat in the office during interviews with female participants. Security reasons were cited for this. The official was briefed about the study and the importance of ensuring and maintaining the confidentiality of participants.

The interviews were audio recorded; however, I also took notes of important topics and/or themes that emerged from the interviews. The audio recorder and notes were stored off-site in a lockable cabinet. Only pseudonyms were used for the notes and voice recordings to identify the participants.

#### **4.8.1.4 Privacy in Data Analysis and Dissemination of Findings**

I undertook data transcription and translation. Data transcribing was done in a private room to avoid the possibility of recordings being heard by other people. Identities of participants were removed during transcription, including their names or any other significant aspect of identity. As mentioned earlier in this section, pseudonyms were used to refer to participants and for verbatim quotes in the dissemination of findings. Written consent or any other documents containing the particulars of participants were/are kept under lock and key.

#### **4.8.1.5 General Data Protection**

All materials that were used for data gathering purposes were/are kept under lock and key by myself. Electronic material and data are kept in a password-protected personal computer. Information kept in external hard drives or disks is also password protected. Both written and electronic data from the study will be kept for 5 years and thereafter will be destroyed in accordance with the University of South Africa's (Unisa) research procedures.

#### **4.8.2 Care for Vulnerable and/or Distressed Participants**

The United Nations Office on Drugs and Crime's [UNODC] (2009) handbook on prisoners with special needs stated that all offenders are vulnerable to varying degrees. The handbook noted that:

When the liberty of a group of individuals is restricted and they are placed under the authority of another group of people, and when this takes place in an environment which is to a large extent closed to public scrutiny, the abuse of power has proven to be widespread. Even where no abuse exists, prison conditions themselves in a large majority of countries worldwide are harmful to the physical and mental well-being of prisoners, due to overcrowding, violence, poor physical conditions, isolation from the community, inadequate prison activities and health care. (p. 4)

The handbook (UNODC, 2009) also draws attention to a sub-category of offenders who are in particularly vulnerable positions and who need additional and special care. The category includes offenders who identify as LGBT, offenders suffering from mental illness, those with disabilities and elderly offenders. With regard to sexually and gender-diverse offenders, the handbook emphasises that they "are at risk of abuse from other prisoners and prison staff, due to prejudicial attitudes and discriminatory perceptions entrenched in society itself, which are more pronounced in the closed environment of prisons" (p. 4). Further, these individuals may be at risk of physical and sexual violence and humiliation due to their gender and/or sexual orientation (UNODC, 2009).

Care was taken to ensure that the participants were protected from any unintended harm. The ethical principles mentioned above (informed consent and voluntary participation, anonymity and confidentiality and privacy of data) were applied to ensure that participants do not feel compelled to participate and that their identities are protected. Distressed participants were referred for psychological intervention to psychologists in their respective centres. As mentioned earlier, participants were informed of their rights to withdraw from the study should they feel overwhelmed. The purpose of the study was only to be disclosed to relevant gatekeepers for the purposes of gaining access to the facilities; this ensured that participants were not victimised by correctional officials and/or other offenders for their participation.

#### **4.8.2.1 Conducting Research During the COVID-19 Epidemic**

Data collection for the study commenced in November 2021. The progress and implementation of the study were guided by Unisa's COVID-19 position statements and guidelines on research ethics, starting with the document published on 9 April 2020 and including subsequent guidelines. The university's initial statement called for the use of responsible approaches in research, including human participants, community engagements, animals, and the environment during the wake of the COVID-19 epidemic. It also emphasised the implementation of clear, pragmatic risk-mitigating measures to ensure the protection of participants, the researcher and research support staff from any risk or harm in the course of conducting research. Implementing such measures became salient, given that data collection for the study required face-to-face contact with participants. Measures for ensuring the safety of both the researcher and participants included:

- Provision of surgical masks – both the researcher and participants used face masks during the interview.
- Provision of hand sanitisers – each participant was provided with an alcohol-based hand sanitiser to sanitise their hands upon entering the interview room.
- After each interview, sanitiser spray was used to sanitise surfaces (table, armrests on the chairs, pens).
- A safe distance between the researcher and participants (1.5 metres) was kept.
- The offices used for interviews were well-ventilated.

In addition to being guided by the Unisa position statements and guidelines, I also consulted and adhered to the DCS' general research guidelines for conducting research in correctional facilities.

#### **4.9 Ethical Approval**

Ethical approval was obtained from the ethics committees in the College of Human Sciences, University of South Africa (Unisa) and the Research Ethics Committee (REC) of the Department of Correctional Services (DCS).



#### **4.10 Conclusion**

This chapter provided a detailed discussion of the methodological processes that guided data collection for the current study. I attempted to include as detailed information as permissible to promote a deeper understanding of how the data was collected, the challenges faced and how those challenges were mitigated. The thematic method of data analysis was discussed at great length so as to facilitate and enhance understanding of the process and steps that were taken in the analysis and reporting of the study's findings.

## CHAPTER 5

### FINDINGS

#### 5.1 Introduction

The overarching aim of this study was to gather and document the lived experiences of sexual and gender-diverse offenders in two South African correctional facilities. Although the goal is not that of generalisation, it is hoped that the findings will provide a glimpse of how this population typically fares behind bars. This chapter is structured in two parts: the first presents the participants' pen sketches. This is aimed at giving a brief idea of who the participants are, thus enabling the reader to relate to them at a human level. The second part presents and analyses the findings of the study. The findings are presented in a way that will hopefully give life to the narratives of the participants. The overall aim of this section, as outlined in the title of this study, is to present the stories of the participants so that they can be heard beyond the correctional facilities in which they are incarcerated.

#### 5.2 Getting to Know the Participants

The age range of participants fell between 22–43 years. Twenty-one participants identified as black, two as coloured and one as white. Regarding nationality, twenty of the participants were South African, one was Mozambican, and three were Zimbabwean. Some of the foreign national participants have been living in South Africa for a significant part of their lives. Regarding sexual identities, five participants identified as butch/masculine lesbians, one as a transgender woman, six as gay-feminine, four as gay masculine/straight acting, one as between being gay and bisexual, two identified as bisexual, one identified as gay but occasionally has trans moments, three identified as just gay and one identified as heterosexual. It is worth noting that sexual preferences and sexual and gender identities are fluid and may be communicated, experienced and performed differently depending on circumstance and context. Therefore, the identities chosen by the participants need to be seen against this backdrop. Five of the participants were awaiting trial detainees, and nineteen were sentenced. The duration of incarceration at the time of the interview for the sentenced participants ranged from 5 months to life imprisonment (25 years). For the participants in remand detention, the duration of detention ranged from 1 month to 1 year, 7 months.

As a standard ethical practice in research and due to the sensitive nature of this study, pseudonyms were used to protect the identities of the participants. Other identifying information and/or details relating to participants and other people referred to or mentioned by participants have also been changed to further ensure privacy.

**Jill-Scott is a 38-year-old black female** who identified as a butch lesbian. At the time of the interview, she had been incarcerated for 3 years in a female correctional facility. She was anxious at first as she did not know what to expect from the interview. I also carried my own anxiety as Jill-Scott was the very first participant to be interviewed. She warmed up surprisingly quickly to me and the interview process. She was articulate in her history telling. She brightened up when reflecting on her former occupation in security, particularly in a unit predominantly male-dominated. She described herself as having masculine traits and engaging in activities traditionally associated with masculinity, such as lifting and moving heavy objects in the correctional centre. She also highlighted her love for classical music, poetry and history. Her demeanour and body language portrayed masculinity and assertiveness. She spoke fearlessly and with much enthusiasm about the intersection of homosexuality and culture and challenged the notion that homosexuality is un-African. From the conversation, one could gauge the activist in her. Apart from the crime that she is incarcerated for, which she did not discuss, she came across as a person who largely walked the straight and narrow. Her mother passed away when she was young, and she was raised by her father, who was described as principled, a devout Christian and an advocate for education, but who was also warm and accepting of her. She said, *“He emphasised education, doing what you love, being comfortable with being you and understanding where you come from”*. Jill-Scott is a mother of a 12-year-old girl whom she adopted. After being granted bail for the current case, she relocated to KwaZulu-Natal and started her own business. The case was withdrawn, but unfortunately for Jill-Scott, it was reopened, leading to her arrest and subsequent incarceration.

**Kaybee is a 44-year-old black female** who, at the time of the interview, had been incarcerated for 7 years for a murder case. She identified herself as lesbian. Her demeanour and body language communicated masculinity or butch-ness, and during the course of the interview, she also confirmed that she embraces masculinity. She narrated that in a relationship, she assumes the role of being a husband. She was soft-spoken and appeared to be shy; nonetheless, she engaged well with the researcher and shared a fair amount of her life history.

She was born in a family of eight: five sisters and three brothers. Her mother passed away when she was 13, and her father when she was 23. She went up to Grade 12 and later started her own small business, which she ran until incarceration. Concerning her sexuality, she indicated that before incarceration, she passed for a heterosexual woman as she had not (or had chosen not to) embraced her masculine side. However, she dated other women. She noted that she fully embraced her masculine side when she entered the correctional facility. Kaybee came across as a person who primarily kept to herself and was very mindful of the rules governing the correctional facility.

**Tebza is a 33-year-old black female** who has been incarcerated for 15 years. Irrespective of her “small boy” stature (and looks), she came across as quite confident and assertive. In fact, she basked on the idea that she could easily pass for a boy; she related that outside, most people easily mistook her for a boy, giving her a sense of satisfaction. She grew up in Pretoria and was raised by her grandmother. Her mother passed away when she was 2 years old, and her father introduced himself to her when she was 14 years. Since from a young age, Tebza related to boys better than she did to girls and engaged in activities (and play) traditionally associated with males. She stated: *“I befriended boys, and I did not like playing with girls. I used to play soccer, sometimes I would wrestle, play with cars and all that”*. Such behaviours did not come without consequences; sometimes, she would experience rejection from other girls; they would say she was ugly and looked like a boy. Nonetheless, she always found solace and support from her male counterparts and her family, who accepted her. As she grew up and started interacting outside of home and school, she found the environment accommodating and accepting; she noted that most boys (and men) accommodated and treated her as one of their own. Unlike most participants, Tebza reported that most of her pre-incarceration experiences were largely affirming, and she did not encounter many obstacles regarding her sexual identity. She appeared to have found her footing inside the correctional centre and no longer *“sweats the small stuff”*.

**Lelo is a 36-year-old black female** who has been incarcerated since July 2021. She was small in stature and looked quite young for her age. She was open and frank during the interview and displayed deep regret for the behaviours that led to her incarceration. Lelo has been in and out of correctional facilities primarily due to drug abuse. She indicated that she would engage in criminal behaviours such as theft to support her drug habit. Lelo grew up in a

family where her father was critical and disapproving of her “boyish” behaviours. He actively discouraged her from playing soccer despite her being selected for one of the country's prominent women's soccer teams. She indicated that the harsh treatment she received from her father drove her to drug use in order to escape her reality. When she was in Grade 10, she got involved with a much older woman who was already working and had kids. She moved in with her and subsequently contracted HIV from her. She separated from her partner due to infidelity in the relationship. Lelo spoke bitterly about her life on drugs, how they have consumed her over the years and damaged her relationships. At some point, she found herself living in the streets of Pretoria after separating from her partner. While her mother and siblings understood her sexual diversity, her father's relentless disapproval and criticism made her home an emotionally unsafe and threatening space. For example, she stated, “*He would say that he does not see any use in me; it would have better if I did not exist. So, I realised that I am useless in life*”. She noted that she received more love and acceptance from people in the community than she did at home. At the time of the interview, Lelo was on a path of weaning herself from using drugs, and she was determined to get her life on track so that she would avert future possibilities of being incarcerated.

**Kelly is a 29-year-old black female** who, at the time of the interview, had been at the correctional centre for 3 years. She is originally from Mozambique. Kelly moved to South Africa when she was 14 years old. She lost her mother when she was 12 years old; her grandmother took over the role of raising her. Unfortunately, her grandmother also passed away shortly after. After both her maternal figures passed, Kelly suffered sexual abuse at the hands of a male family member. The sexual abuse prompted her to run away to South Africa with her peers. As she narrated her life story, she had to stop herself from crying because of the emotional pain associated with her experiences. In that space, one could tease out the sense of helplessness she felt as a young girl growing up among “wolves” and having no one to protect her. Kelly associated her sexual identity with a number of experiences, such as growing up with abusive men and sexual abuse. She stated that “*I identify as lesbian ... at the time that I was raped, I told myself that I do not want men in my life anymore, so, since growing up, I have been attracted to women. I do not want to be around men; men are so abusive*”. Although residing in South Africa, Kelly still visits home to see her younger sister, who lives with her aunt. She relayed that homophobia and discrimination in Mozambique is still rife and socially “acceptable”. As a person with multi-country experiences, her experiences in South Africa as

a lesbian woman were described as largely positive and affirming. Despite her previous difficult experiences, Kelly noted that she loves the person she has become. At the time of the interview, she was in a long-distance relationship with a woman in Mozambique. The true test of her faithfulness, for her, was being in space with women, sometimes seeing them naked – she noted that such experiences call for stern self-control. Kelly was pleasant to converse with and was more than willing to share her life story. While she appeared shy and anxious at the beginning of the interview, she quickly warmed up and relaxed.

**Jacky is a 30-year-old black female** who has been incarcerated for 4 years. She is the only child of her parents and the mother to a 12-year-old daughter. Jacky identified herself as bisexual. She narrated that she frequently questioned her strong attraction towards other women compared to her attraction to men. She spoke about the intensity of her feelings, especially for a female partner. She said, *“You get to love a person in a scary way, you can actually kill for your partner, jah. With everything, you just become insecure, everything you do, you do it excessively”*. In addition, she said, *“I want the person to be mine alone; she must be in this cage where I will be the only one to see her, which is not safe; it’s very dangerous”*. She noted that such experiences scare her; she spoke about them against the backdrop of witnessing abuse at home when she was growing up. She narrated that her father physically abused and cheated on her mother. Her mother told her she stayed in the marriage because she did not want her to grow up without a father. Jacky described her mother as a devout Christian who is unlikely ever to accept her sexual identity. In fact, her mother had tried to connect her with “suitable” male counterparts from her church. At the time of the interview, Jacky was involved with three females, one with whom she is incarcerated with and two she met on Facebook. She described and presented herself as masculine/butch with strong adherence to traditional gender roles; for example, she stated, *“I am a better man to my woman”*. Interestingly enough, however, in her current relationship, she is the more domesticated one – she cooks and does the dishes because her partner is “lazy”. This demonstrates a sense of flexibility and ability to adjust to different situations. She was an interesting and fun person with whom to converse. She was enthusiastic about sharing her life story and, overall, oozed with good energy, which made the interview even more fascinating.

**Shane-D is a 34-year-old black male** who, at the time of the interview, had been incarcerated for 13 years for murder and robbery. Walking into the interview room, he appeared

to be uninterested in participating. His facial expression, demeanour, and body language, for the first few minutes, accentuated my feeling of being an outsider reliant on the willingness of the participants to offer me knowledge about their world. However, to my surprise and delight, his presentation changed a few minutes into the interview. He provided a wealth of information about his life and his incarceration experiences. Shane-D was raised by a single mother and grew up with two sisters. He relayed that growing up, he felt more comfortable playing with girls. In Grade 4, he started being intimate with a girl. One day, his sister caught them and told his mother, who reprimanded him heavily. Reflecting on that experience, Shane-D noted that if his mother knew that he would grow up and embrace a gay identity, she would have just turned a blind eye to his “naughtiness”. He spoke at length about his desire to have children who would carry his family name. The pressure comes from being the only male child in his family and the related expectation that male children carry the family name forward. Shane-D identified himself as gay. He indicated that he never needed to come out to his family because, early on, they realised that he was gay. He never experienced any rejection from his immediate family because of his sexuality. In fact, his mother defended him from people who were “concerned” about his sexual identity. He noted that at school, he used humour to defend against negative experiences. He was also interested in photography and sold sweets, which made him somewhat famous. His first intimate relationship, when he was still in high school, was with a bisexual male who lived an “after 9” life – that is, during the day, he was strictly heterosexual, and during the night, he “played” with other boys. While his first relationship was exciting, it was also challenging because he was forced to interact with his partner differently during the day and in the presence of other people. Shane-D was arrested at age 19 for the current case and has been in a correctional facility ever since.

**Lefa is a 38-year-old black male** who was serving a life sentence and had spent a good number of years incarcerated. Like Shane-D, who was interviewed before him, Lefa came across as unwelcoming, perhaps because of the time he had spent in the waiting room (over an hour) waiting to be interviewed! However, unlike his counterpart, Lefa did not seem to warm up to the interview. His responses were short and brief and only minimally addressed what was asked. He was born in North West province and was raised by his mother. At age 13, he was raped by his 15-year brother. He indicated that he does not remember much of what happened; he was not sure if perhaps he was drugged. He confronted his brother, who denied it; he wanted to report him but was afraid of retaliation as he was famous for fighting. Growing up, Lefa

concealed his sexual identity. Only after incarceration did he open up to others, but his family still does not know. He identifies as gay bottom; however, he presented as masculine, a typical heterosexual guy one might walk past the busy streets of the central business district (CBD) of Johannesburg. There was no expression of femininity throughout the interview, highlighting the great and widely held fallacy that “bottomness” is synonymous with femininity. However, he wore exceptionally tight, barely fitting pants that clearly outlined his bottom structure. That left me pondering if that is an expression of a feminine identity or if there was a shortage of well-fitting uniforms. In addition to having been raped at a young age, Lefa also spoke about experiences of being in a physically and emotionally abusive relationship while incarcerated. He became quite emotional to the point that the interview had to be stopped. He was referred to a psychologist in his centre.

**Tyrone is a 23-year-old black male** who, at the time of the interview, had been incarcerated for 5 months. He was born and grew up in a small community situated in Pretoria. Before his arrest, he lived with his mother, sister and stepfather. He left school in Grade 10 due to learning difficulties and decided to go into sports (soccer) as it was his passion. He identified himself as a bottom straight gay. When asked about being “straight gay”, he indicated that *“I do not show that I am gay or I do not act gay so people cannot see that I am gay. I do not talk like a woman; I am straight acting. I am not flamboyant; I do not put on make-up”*. Tyrone narrated that as much as he is a straight gay, his feminine side would sometimes come out at school, especially using feminine gestures when talking. Some boys would remark that he is talking like a prostitute – a conflation of male femininity with prostitution. However, he reported more affirming experiences at home. His mother accepted and embraced his sexual identity and rallied behind him. Tyrone held a rather pessimistic view of relationships. He indicated that he has never been in an intimate relationship with another male because he does not want to be stressed. He indicated that he typically opts for “situationships”, essentially hook-ups where people “help” each other with sexual favours. Inside the correctional facility, he has never been involved with anyone emotionally or sexually. He voiced his lack of support for intimate and sexual relations between offenders, and he felt that those incarcerated are there to serve their sentences, hopefully, get rehabilitated along the way and then leave. There was a sense of strictness in how he perceived his environment; there was an expectation of the self and others to rigidly abide by the rules of the facility regardless of fairness or lack thereof. Incarceration appeared to have prompted him to reflect on his previous behaviours, especially



drug use. He expressed his dedication to continued sobriety and positive change of lifestyle so that he can avoid incarceration in the future.

**Carl-M is a 39-year-old black male** who, at the time of the interview, had been incarcerated for 2 years. He was born and grew up in Mamelodi with both of his parents and three sisters. Raised by religious parents (his father is a pastor), Carl-M needed to find ways to navigate the rough seas of sexual and gender diversity and Christianity. When he came out to his family as gay, his mother and sister accepted him and loved him even better. However, his father has continued to struggle with the matter. At school, he concealed his sexual identity because he witnessed how other gay learners were treated. He mentioned that *“I could see the treatment towards them, it was not very good, it was not good, especially the name calling ... I still remember, I cannot forget such names ... names such as stabane, moffie ... those horrible names”*. Nonetheless, his first relationship, which lasted for 2 years was in high school. However, only his close friends knew. In an attempt to “fix” his sexuality, Carl-M’s father found him a wife, a pastor’s daughter and paid lobola for her on his behalf. When Carl-M returned home for a weekend visit (from Limpopo, where he was doing his basic training in the army), he was surprised to learn that he had a bride. He noted that they had never consummated their marriage and that she eventually bore a son for someone else. Nonetheless, they are still married; she still lives with his family, and the parents believe the child is Carl-M’s. Carl-M hesitantly spoke about some traumas he experienced in his adult relationships. He narrated that he was infected with HIV by his partner, who failed to disclose his status. Out of anger, he set out to infect as many as he could, which he did. One of the victims kidnapped and dragged him with a vehicle and stabbed him, demanding his HIV-negative status. Reflecting on these experiences, he realised that his initial “betrayal” turned him into something he did not want to be. It turned him into something he hated. At the time of the interview, Carl-M was in a relationship with a heterosexual offender. He indicated that he helped him get into the special care section by lying about his sexuality and claiming he was gay. He noted that in an environment with no women, it is easy for men to get into intimate and/or sexual relations with each other, regardless of their sexual identities. Overall, Carl-M was easy to converse with; although he was guarded initially, he did not take much time to immerse himself in the interview process fully.

**Jamie is a 26-year-old black male** who was incarcerated for just over a year at the time of the interview. He was born and bred in North West province and was raised by his maternal grandparents. His parents did not live with them, but his mother would come over to him from time to time. Although he knew who his parents were, he grew up calling his grandmother his mother. She passed away when he was in Grade 7, and his grandfather assumed the role of raising him. He went to boarding school when he was in Grade 8 until he matriculated. He narrated that he started paying attention to his diverse sexual identity when he got to boarding school, an all-male school. He noted that other boys used to do things with each other, sexual things, and in that environment and context, those things were perceived as normal. However, behaviours would change when people return to their homes during school breaks; they would suddenly have girlfriends and lead entirely different lives. That was not Jamie's reality; what he felt was deep and unchanging, regardless of the environment or context. He stated, *"To my surprise, out of all the guys that had same-sex relations at the boarding school, to them it was just passing time, but to me, the feelings were deeper and stronger, and I would be jealous"*. Nonetheless, he could not allow himself to be the person he felt he was due to the homophobia that was ever present in his family. Jamie spoke about his struggle with his sexual identity and the shame surrounding it; he stated, *"Being gay made me feel embarrassed. I felt like I had failed someone, like I had disappointed someone"*. His grandfather, who was a father figure, was a strict and traditional man who held stern negative views about homosexuality; he was the important figure that Jamie felt he had disappointed by being gay. After matriculating, he enrolled at the University of the Witwatersrand (WITS) but left the following year and went to the University of Pretoria, where he completed his Bachelor of Business Management. He was arrested when he was doing his postgraduate studies. Jamie narrated that he initially identified as bisexual and dated both men and women; however, for the 2 years before his incarceration, he was strictly involved with men. He indicated that he has now settled with being gay. A tall, easy-on-the-eye young man with a hint of femininity, Jamie appeared to have some activism in him. He spoke about how he, on different occasions, challenged the correctional system on its treatment of LGBTQ+ offenders.

**Jessy is a 39-year-old coloured male** who, at the time of the interview, had been incarcerated for 7 years. Jessy was the last participant of the day and was due to be released the following day. He was working at the mess preparing food that was sold to correctional officials. Word on the street was that he was one excellent cook. Unlike other interviews that

took place inside the correctional centres, Jessy was interviewed in a professional-looking boardroom situated at the mess hall where he worked. He possessed a big and loud character. He excitedly and loudly shared his life story prior to incarceration for most of the first part of the interview. He grew up in a coloured community in Cape Town. He indicated that he learned at a very young age that his mother was “*loose and unwilling to get her life together*”. She abandoned her firstborn in the hospital after giving birth to her. Unfortunately, the baby died. After having Jessy, she again abandoned him, leaving him to be raised by his grandmother and aunts. Jessy reported that he endured repeated abuse at the hands of his mother whenever she was around. He noted with sadness that in all the family pictures they had, there was not even one where he was with his mother. At age 11, he was moved to a children’s home and later on to a place of safety because of his mother’s abuse. At that time, his grandmother was old, and his aunts were usually at work, and that is when his mother unleashed her abuse. Part of Jessy’s story is about growing up in a very religious family. They attended the Seventh Day Adventist Church. He painstakingly narrated that he had to suppress his identity as a gay person because of the homophobia that infused the family atmosphere. His grandmother vehemently forbade him from associating with boys who hinted at being gay. This forced staying in the closet brought with it a sense of shame. He stated, “*I felt like a coward because others were out, they were visible in the streets, they were taking insults and gay bashings*”. In addition to all those experiences, he also went through the trauma of being raped at about 7 or 8 years old. He noted that he and his friend were playing in an open field away from their homes when they were suddenly surrounded and held against their will by a group of older boys who raped them. They both did not report the incident to their families out of fear of getting punished for playing away from home. Jessy fully embraced his identity as a gay man after gaining his independence and individuating from his family. He had a good career as a professional chef and a corporal in the army; however, all that came crumbling down when he went into drugs. He lost his job and started doing crime in order to support his drug habit. That resulted in going in and out of correctional facilities.

**Kevin is a 27-year-old black male** who, at the time of the interview, had been incarcerated for almost 7 months. Kevin grew up in an orphanage, where he stayed until he was 18 years of age. He was given an option of staying further, but only if he abided by the rules of the orphanage. He chose to leave and experience life for himself. He was forced to take refuge in a homeless shelter with nowhere to go and no means of self-sustenance. He indicated that he

struggled with the conditions of the shelter and left for the streets. Some of his experiences from then were sleeping in the streets and parks and bathing in cold river water. Difficult and trying as those experiences were, Kevin struggled through and made sure that he did not look the part (of being homeless). He stated, *“I never had parents, and although I did not have a roof over my head, people could never tell. I always looked presentable. I always wore the best clothes. I always made sure that I was neat and clean. I would go to extreme extents to make sure that I look presentable”*. Kevin identified himself as bisexual; he indicated that growing up, most people never knew his sexual identity as he easily passed as a heterosexual; the only thing that might have given him away is his voice, which is feminine. He noted that for a long time, he struggled with his sexual identity and always longed to be heterosexual because all his friends were heterosexual. However, he did not want to live a lie. Prior to incarceration, he had fully embraced his sexual identity and was in a same-sex relationship. Unlike the other participants housed in the same special care section in the correctional facility, Kevin stayed in a communal cell in a general section. Although he encountered challenges in the general section, he was not willing to relocate to the special section. Having no family to visit him and buy him essential items, Kevin indicated that he had to, on many occasions, offer his body in exchange for material goods. Given his history, Kevin's reality was having to do everything he could to look after himself as no one else would.

**Miss Stacey is a 38-year-old transgender woman** who, at the time of the interview, had been incarcerated for 9 years. She described herself (and is described by others) as an activist for LGBTQI+ offenders in her centre, and she certainly looked and played the part. Miss Stacey grew up in a less than favourable environment. She was sent to live with her aunt at a young age because of issues between her mother and grandmother. She reported that she endured abuse at the hands of her aunt, and she had no one to tell. She eventually moved back to live with her grandmother, where she felt the abuse was better because it was mostly verbal and emotional. Her family held rigid gender views; for example, child play was clearly demarcated along the lines of sex. She indicated that she was always scolded for playing with girls and forced to play with boys. Playing with boys was uncomfortable for her as they would sometimes play rough. As the only male child, she was expected to look after her sisters and female cousins. She would sometimes interfere in their relationships because they were too young to date, which would result in him being beaten by their boyfriends. At school, she experienced a lot of bullying, and she stated, *“There were guys who bullied me at school.*

*Because of how I raised at home, I always found myself involved in fights with those who were bullying me. Sometimes I would come home with torn uniform; for me, it was a life that I was living*". Experiencing how gay people were treated and spoken about, she forced herself to lead a heterosexual life, which meant associating with rough boys who were involved in crime. Her feminine character prompted other boys to question her sexual identity. In response, she would try to be tougher and engage in even more extreme activities in order to prove her heterosexuality and "expected" masculinity. As she grew up, she struggled even more with her gender identity as she felt a strong incongruence between her sex assigned at birth and her gender identity. At some point in the interview, she stated, *"I tried to commit suicide a number of times because I felt like I was in a wrong planet. It is difficult to be me; I sometimes believed that maybe if I die, maybe God may give me a chance, and I would be reborn either a male or a female"*. However, with further growth and learning came freedom and full acceptance of the self and, surprisingly, acceptance by her mother. In fact, her mother endorsed the chosen name that she now uses. Miss Stacey demonstrated a burning passion for the rights and well-being of LGBTQ+ offenders in her section and spoke without fear about the treatment that this population received in this particular correctional centre.

**Lenny is a 32-year-old coloured male** who, at the time of the interview, had been incarcerated for 1 year. He identified himself as predominantly gay but occasionally has trans and intersex moments. He grew up in Hillbrow, back when it was still "good", as he put it. Growing up, his father was physically abusive to his mother. He indicated that his father abused him emotionally but never physically because he was soft-spoken. Before incarceration, he did choreography, event management, and many other creative functions. Interestingly, he described himself as a CMO – Creative Multiple Organism! His mother passed away in 2014, and subsequently, his relationship with his sisters crumbled. He stated that his siblings stole his inheritance whilst he was incarcerated (for a different case from the present one). He narrated that he wore his hair long when he was still outside, but when incarcerated, he started cutting it and going to the gym. At first glance, he seemed like a "regular" buff, bold, masculine male. It was only in the interaction in the interview that his femininity became visible. He did, in fact, describe himself as feminine, sometimes more feminine than women. His decision to "buff up" and cut his hair short was an attempt to "fit in" in a space predominantly perceived as masculine and where exaggerated masculine qualities are valued.

**Zolani is a 32-year-old black male** who, at the time of the interview, had been incarcerated for over a year. He grew up in the Eastern Cape and was raised by his paternal grandparents. They were financially stable and, therefore, provided for him sufficiently. Growing up being gay in the Eastern Cape, as is in many rural areas and small conservative towns, was hard. He hid his identity for fear of being victimised or ostracised. He stated, *“Where I grew up, in Mthatha, when people spoke about this issue, for example, when walking to school, other boys would say, ‘I do not like those dogs’ They would use such words to refer to gay people, they would say ‘these things piss us off, we do not want them’”*. Zolani mentioned that most, if not all, of his friends were girls; they came to learn of his sexual identity and offered a safe space for him to be himself. After finishing high school in 2009, he frequented Gauteng to visit his mother who was working as a nurse. After a few years, he relocated to Durban to study and, in 2016, completed his diploma in media. He returned to Gauteng and found a job as a client consultant in one of the banks. Zolani came across as a goal-orientated person. He noted that while incarcerated, he had been indulging in textbooks related to his field of study so that he could further his career or start his own business when he got out. He appeared unconcerned about usual happenings in correctional spaces, such as sex, relationships and drugs. In fact, he drew a clear and solid line between himself and people who engaged in those activities.

**Mpumelelo is a 33-year-old black male** serving a 3-year sentence. At the time of the interview, he had been incarcerated for 24 months. Initially, he was reluctant to participate in the interview and was not hesitant to show it. He eventually came around and was a great participant. He is quite tall, well-built, and good-looking, and he knows this all too well. He stated, *“As I grew up, I became quite handsome, I was attractive, people would stare at me, men and women”*. Mpumelelo was born in Soweto to a Nigerian father who identified as Muslim and a Xhosa Christian mother. He indicated that he was raised by his mother, who did not care much for him, and his father lived between Nigeria and South Africa, so he was hardly in the picture. He noted that his father also did not want anything to do with him because he was seeing who he (Mpumelelo) would become (anything but heterosexual). He left home at the age of 16 after he finished high school and never looked back. After leaving home, he lived on the streets and struggled to find work. He met up with an older white male who took him in, fed him and took him to school in exchange for his body. As young as he was, Mpumelelo was forced into doing things he was unhappy about to build himself up. He mentioned that *“when*

*my mom told me that I was not good enough for her to take me to university, I chose to go and find a way*". He eventually left the relationship that was loveless for him and attempted to live an independent life. He mentioned that along that path, he was stabbed three times for his belongings and found himself renting a small back room. He eventually reached a breakthrough and secured employment with one of South Africa's biggest and most prominent auditing firm. He later left that job due to scandals in the firm and found another job at the Auditor-General's office. Mpumelelo is someone who built his life from the ground up and reached the stage where he was living the life he desired. However, all that collapsed when he got into an abusive relationship that resulted in him severely assaulting his partner and getting convicted for the case. Asked about his sexual identity, he narrated that he has tended to be "flexible" over the years – he has dated both men and women. When he got to the correctional facility, he allowed himself to experiment with new things, such as using make-up. He indicated that he was settling more towards identifying himself as gay, but that is not necessarily a definitive identity for him. Mpumelelo is someone who is sure-footed concerning his beliefs and values and cannot be easily swayed by context.

**Kudzai is a 32-year-old black male** who has been incarcerated for 9 years (18-year sentence). He was born and raised in Zimbabwe, Bulawayo. He is the only boy at home and grew up with three sisters who appear to have been second parents to him. He related that when he was growing up, his parents were usually unhappy and sometimes forbade him from bringing friends at home, especially boys. He recalled that as a young boy, some people in the community used to call him "istabane" (a derogatory term predominant in the isiZulu language used to refer to gay people and men who are emotionally or sexually involved with another man), and he never knew what they meant by that. In retrospect, that might have been connected to his interest in *"wearing female clothing, and I would mimic what women did, like sweeping the yard"*. He made a friend, we will call him Vela, with whom he became very close, and his family was worried about their relationship. They frequently questioned why he brought home this male friend instead of girls. At age 18, his parents informed him that they would pay lobola and take a wife for him, the same-age girl with whom he went to school. He noted that their actions might have been driven by the fear that he might be or turn out to be gay. He mentioned that *"People in Zimbabwe hide their sexuality, sexuality and gender diversity is not readily accepted"*. Thus, his parents forcibly taking a wife for him was their attempt at hiding his sexuality. He left his bride at his home in Zimbabwe and came to Johannesburg, where he found

a male partner and entered into a relationship. He narrated that his partner involved him in criminal activities, which led to his first arrest. Fortunately, he only spent time in remand detention before the case against him was dismissed, and he was released. During his time in remand detention, he met and became close to a pastor who rendered spiritual services to the centre where he was detained. His sisters, who also live in South Africa, were very much opposed to his sexuality; therefore, he could not stay with them when he was released. Instead, the pastor funded his accommodation and lifestyle. The current case that he is incarcerated for has to do with the pastor.

**Mulweli is a 36-year-old black male** incarcerated for 4 years. He was born in Zimbabwe but moved to South Africa when he was 18. His father was Ndebele from Zimbabwe, and his mother was Zulu from South Africa. When they married, they moved to Zimbabwe and started a family there. The parents eventually separated, and Mulweli's mother moved back to South Africa while he stayed behind with his father. His father took another wife who often mistreated him and deprived him of things she afforded her children. At a young age, Mulweli mainly had friends who were girls. As he grew up, he started realising that he did not have feelings for women. Confused by being different from other boys, he disclosed to his father, hoping that he might be able to shed light on the matter. However, his father told him, *"Something like that will never happen in his home"*. Whereas his mother was supportive of him and encouraged him to move to South Africa, which he eventually did. His first relationship with another male was when he was in his early twenties. He indicated that his partner lured him to crime, and they were eventually arrested together. When they got out, they were no longer on good terms and parted ways. Mulweli presented as a "typical" masculine individual with no hint of femininity, although he identified himself as bottom gay. He was soft-spoken and appeared to be a little shy. He noted that during his previous incarceration, he had disclosed his sexual identity to correctional officials and other inmates and that led to nothing but victimisation. With the current incarceration, he hid his identity for a very long time, stayed in a general section and easily passed as a heterosexual male until he was outed by an offender whom he had been incarcerated with previously.

**Tendai is a 32-year-old black male** who was still awaiting trial at the time of the interview. He narrated that he was born and raised in Zimbabwe and moved to South Africa in 2014. Prior to being arrested, he was working as a hairdresser. Tendai is no novice at



incarceration; back when he was still living in Zimbabwe, he was arrested for what was termed “aggravated indecent assault” – in his case, a cover for “practising homosexuality in an exclusively homophobic country”. He described his experiences at the Zimbabwean prison as hostile. He experienced excessive victimisation because of the nature of his case. Fortunately, the case was thrown out of court due to lack of credibility. His parents passed away when he was young, and his sisters and other family members raised him. He narrated that as a child, he experienced sexual abuse at the hands of his sisters, and he carried that trauma throughout his childhood and adulthood. He stated, *“I was a child, 6 years old when my mother passed away; they were supposed to be there for me and protect me”*. When he came to South Africa after being released from prison in Zimbabwe, he lived with one of his sisters, who had sexually abused him as a child. As a result of the toxicity in that environment, he decided to move out and met an older male who took him in. This individual did everything for him, including sending him to do hairdressing, not for free, but in exchange for his body. He indicated that he was also abusive and controlling and sought to alienate him from his significant others. Tendai noted that life became difficult after he left the relationship and that the money he made from hairdressing was insufficient to support him. He turned to crime, which led to his arrest. He was fierce and outspoken about how he experienced the correctional facility. He identified as bisexual and appeared quite masculine; however, his feminine side came out during the conversation.

**Dave is a 32-year-old black male** who had been in the remand detention centre for over a month at the time of the interview. He described himself as typically a jolly and happy-go-lucky person who grew up in a good and loving family. After completing high school, he went to college to do civil engineering and architecture. Upon completion, he was hired by the municipality and started living the life he desired. However, things started changing about 5 years ago when he lost his job. The behaviour of his family towards him started changing for the worse. He stated, *“They lost all that respect for me because I did not have a job; they started treating me like I was nothing. It got to a point where they started influencing kids at home to also see me as nothing”*. He indicated that what his family did to him was the opposite of how families should ideally treat one of their own when he/she/they are down and out. Coming to his sexual orientation as a gay man, he indicated that he did not have to disclose it to his family because, presumably, they knew. His family never felt comfortable about his sexuality because they were more concerned about what other people thought; he noted that they were more

worried about how other people would perceive them as a family with a gay son. Dave came into contact with the criminal justice system in 2018 when he violated the protection order his mother had taken against him because of his drug use and related behaviours. Later, his mother withdrew the case. However, their relationship remained volatile as he continued using drugs. He is detained for the case of destruction of property to his home because they were refusing to open for him at night. Clearly, Dave's behaviour outside had become volatile and unpredictable because of his drug use, which possibly affected his relationship with his family. However, from his viewpoint, his family had wronged him, and he was not or was minimally to blame. Although he had been detained for only over a month before the interview, Dave had much to say regarding his experiences in the correctional centre.

**Daniel is a 42-year-old white male** who, at the time of the interview, had been in the remand detention centre since October 2021. He came across as someone who typically keeps to himself. The interview with him was short as he tended to respond to what was asked of him and rarely expanded on his responses. He was born and grew up in Gqeberha (formerly Port Elizabeth) with both his parents; however, his father passed away when he was 16. His mother later re-married, but her second husband also passed away. Daniel has been married to females twice; he was married to the mother of his two sons for 5 years and his second wife for 10 years. He described both his marriages as war zones characterised by constant fighting. After divorcing his second wife in 2017, he came out as gay. He noted that his attraction to other men might have been there, and he was suppressing them. Currently, he is married to another male, and they live together with his two sons. His mother and grandmother still reside in Gqeberha, and he supports them financially as he owns his own company. Daniel complained bitterly about the poor health care service in the correctional facility as he is suffering from a myriad of illnesses (diabetes, hypertension, heart disease and a history of nearly lethal blood clots).

**Sakhi is a 41-year-old black male** who, at the time of the interview, had been in the remand detention centre since June 2021. He grew up in Soweto with his grandmother. He reported that his parents separated when he was young, and they fought bitterly for his custody, which was eventually awarded to his mother. He left school in Grade 9 and went to a technical school where he did his N1 and N2 in graphics. After he finished his studies, he established his career in the logistics sector. Sakhi identified himself as heterosexual. He indicated that people typically take him as gay because of the way he walks. He did not express any concerns with

people thinking that he was gay. He stated, *“I am okay with that. I am fine with it because I also do not even like having sex with women”*. Early in his detention, when he was still placed in a general section, he was sexually assaulted by another detainee. Another detainee then advised him to tell the officials that he was gay so that he could be moved to the special care section for his own protection. Sakhi was very vocal about the hardships that gay and bisexual detainees experience in his section; since he identified himself as gay to the officials, he was also subjected to the same hardships.

**Zipho is a 30-year-old black male** who, at the time of the interview, had been in the remand detainee section since August 2020. He identified himself as “madala stokisi”, which literally translates to “the old man of the holding cell”. It is used to refer to people who have been detainees for a relatively long time. He was born and grew up in South Coast, KwaZulu-Natal. He was raised by his aunts and grandmother and never knew his parents. He narrated that he grew up in a rural area, and like some people in rural areas, he herded cattle and sometimes helped with house chores. Zipho never went to school. His family did not believe in education. He stated, *“They were quite old fashioned. They did not believe that one can changes his/her/their life through education”*. Zipho identified himself as top gay; however, because of the context he grew up in, he hid his sexual identity. In his community, people were not used to sexual and gender-diversity; they never understood how a man could be attracted to another man. In 2009, he moved to Johannesburg to live with his uncle, where he helped in running the uncle’s businesses. Although he became more accepting of his sexual identity when he moved to Johannesburg, he still did not allow himself to engage in intimate, emotional or sexual relations with other men. He feared what his uncle would say if he found out. Zipho, his uncle, and other family members they were staying with were driven out of their homes by community members who wanted to occupy their land forcibly. He indicated that his uncle’s business sat on a large piece of land that people wanted so that they could build their shacks. They started threatening them and fearing for their lives, they moved to the city.

Having presented the biographical details and brief pen sketches of the participants and my impressions gained upon meeting them, I now discuss the themes that emanated from the data.

### 5.3 Discussion of Themes

The development of themes and patterns followed the iterative process that is characteristic of thematic analysis. The first phase involved a complete immersion into the data until I was familiar with all aspects of the participants' narratives. As indicated by Braun and Clark (2006, 2019), this process involves reading and re-reading actively and engagingly to uncover themes and patterns that link individual narratives. The process of reviewing identified themes was also nonlinear. It involved the renaming and rephrasing of themes, discarding some themes because they lacked sufficient evidence, and integrating some themes with others in order to form one theme. In contrast, other themes were further broken down to form several new themes. It is worth noting that the process of reviewing and refining themes was not a definitive one. Rather, it continued throughout the data analysis stage, which ensured that the themes were properly refined, defined and meaningfully presented.

In this chapter, themes will not be presented in a strict categorical fashion; rather, they will be presented in a narrative manner. In this way, the storytelling will echo how the participants narrated their stories during data collection. In essence, the analysis of the data will be grounded in how the participants told the stories.

Initially, twelve primary themes were identified, and through the reviewing process, some were discarded, and some were integrated, bringing the total number of refined primary themes to five. The first primary theme speaks to the segregation of sexual and gender-diverse offenders to special care sections versus integrating them with the wider correctional population, that is, placing them with heterosexual offenders in general/communal sections. This theme carries four secondary themes: the first is voluntary vs forced segregation, which speaks to the voluntary move of sexually and gender diverse offenders to special care sections compared to forced placement without consultation; unequal treatment between butch and lipstick lesbian offenders with regard to segregation and the use of segregation as a tool of rendering this population invisible. The second, being unsafe in a place of safety concerns the lack of safety for sexual and gender-diverse offenders in a space designed to make them safe. It speaks to the victimisation of this population by predominantly heterosexual offenders and officials in special care sections. There is full awareness of the assumptiveness of the preceding statement. It is possible that not all the "victimisers" are heterosexual. However, some might have adopted the heterosexual identity for various reasons, such as to escape societal stigma

and discrimination or cope with their own internalised homophobia. The third secondary theme, the privilege of heterosexuality, examines differential treatment between heterosexual and sexual and gender-diverse offenders in special care sections. The last secondary theme, integration: sexual and gender-diverse offenders in general sections, is on integration and zooms into the experiences of sexually and gender-diverse offenders' experiences in general/communal sections. These experiences include primarily the challenges that sexual and gender-diverse participants endured in general sections.

The second primary theme is sexual and gender identities in the context of incarceration, and has two secondary themes. The first secondary theme, the sexual identity continuum, examines offenders identifying as strictly heterosexual upon entry to correctional facilities and then identifying as sexually diverse due to contextual factors. The second, sexual and gender expression: liberation in incarceration, concerns finding sexual and gender diversity liberation in an environment that actively functions to thwart the freedom of its residents.

The third primary theme is systemic homophobia and comprises five secondary themes. The first secondary theme, homophobic others, examines the undisguised homophobia of correctional officials, some professionals and heterosexual offenders. The second, performing homophobia, is on how homophobia is performed or perpetuated in these contexts, for example, the use of dehumanising language, misgendering and prevention of gender expression, and discrimination in employment on the grounds of sexual and gender diversity. The third secondary theme, the homogenisation of diverse populations and speaks to the treatment of sexual and gender-diverse offenders as a group with similar needs and challenges, it is followed by the fourth theme, the lack of affirming and appropriate sexual healthcare, raises the alarm on the lack of access to STI/HIV preventative measures such as female condoms and lubrication and lack of access to gender-affirming healthcare. The last secondary theme, the culture of silencing, speaks to the active attempt by the system to render sexually and gender-diverse offenders voiceless and powerless to retaliate.

The fourth primary theme, relationships in correctional spaces, examines the conventions and controversies arising therein and bears three secondary themes. The first one, authentic interactions (and related contextual challenges), primarily speaks to the development of authentic emotional connections and the functions those connections play. However, issues of fear and mistrust come up as hindrances to developing enduring connections. The second

one, criminalising consensual sex: the practice of “planting”, highlights how consensual sex is criminalised. The fourth secondary theme, intimate partner violence: perpetrators and victims, raises awareness of intimate partner violence in same-sex relationships, examining the perspectives of both victims and perpetrators.

The fifth and final primary theme, resilience and wellness promotion, focuses on the resilience of sexually and gender-diverse offenders. This theme boasts two secondary themes. The first one, demonstration of resilience and strength, which examines the ability of sexual and gender-diverse offenders to shore up strength during adversity and their ability to stand their ground and challenge the status quo. The second one, the way forward: wellness promotion, speaks to fair treatment, balanced staffing, and education. It calls for equal treatment of sexual and gender-diverse and heterosexual offenders, the possible placement of female correctional officials in special care sections and the appropriate training of both correctional officials and professionals on LGBTQ+ issues so that they can work affirmatively with this population in correctional facilities. Table 1 outlines the themes.

**Table 1***Summary of Themes*

<b>Primary Themes</b>	<b>Secondary Themes</b>				
<b>Theme 1:</b> Segregation vs integration	<b>Theme 1a:</b> Voluntary vs forced integration	<b>Theme 1b:</b> Being unsafe in a place of safety	<b>Theme 1c:</b> The privilege of heterosexuality	<b>Theme 1d:</b> Integration: Sexual and gender-diverse offenders in general sections	
<b>Theme 2:</b> Sexual and gender-diverse identities in the context of incarceration	<b>Theme 2a:</b> The sexual identity continuum	<b>Theme 2b:</b> Sexual and gender expression: liberation in incarceration			
<b>Theme 3:</b> Systemic homophobia	<b>Theme 3a:</b> Homophobic others	<b>Theme 3b:</b> Performing homophobia	<b>Theme 3c:</b> Homogenisation	<b>Theme 3d:</b> Lack of affirming and	<b>Theme 3e:</b> Culture of silencing

Primary Themes	Secondary Themes		
		of a diverse population	appropriate sexual healthcare
<b>Theme 4:</b> Relationships in correctional spaces: conventions and controversies	<b>Theme 4a:</b> Authentic interactions (and related contextual challenges)	<b>Theme 4b:</b> Criminalising consensual sex: the practice of “planting”	<b>Theme 4c:</b> Intimate partner violence: perpetrators and victims
<b>Theme 5:</b> Resilience and wellness promotion	<b>Theme 5a:</b> Demonstration of resilience and strength	<b>Theme 5b:</b> Way forward: wellness promotion	



### **5.3.1 Theme 1: Segregation Vs Integration**

#### **5.3.1.1 Theme1a: Segregation Vs Integration**

Owing to the predatory nature of the correctional environments, sexual and gender-diverse offenders are classified, whether formally or informally, as a vulnerable group. This classification necessitated the provision of special care or protective sections to house this population. However, as will be seen in the following themes, special care sections, at least for this population, have not always been conducive or protective. At times, the placement process itself has been exploited to fulfil homophobic institutional mandates. The alternative, which is communal or general sections, unfortunately, is not any better. Typically, these sections are a breeding ground for sexual and physical victimisation; they are not conducive for sexual and gender minorities.

In South African correctional facilities, as mentioned in Chapter 2, sexual and gender-diverse offenders, together with other vulnerable groups, are placed in special care sections. The expectation is that vulnerable offenders will be identified at admission. While this is usually an easy process for other vulnerable groups, such as law enforcement personnel and members of the judiciary, for sexual and gender-diverse offenders, it becomes a cumbersome process, and many go unidentified and end up in general sections.

The idea behind special care sections is the protection of offenders (through segregation) who have been identified as vulnerable and thus at risk of being abused or victimised by the general offender populace. Typically, special care sections are single-cell sections for enhanced protection. However, primarily due to overcrowding and other issues (some of which will be discussed later), each single cell is shared by two to three offenders. Sexual and gender-diverse offenders form part of the category of offenders who are vulnerable to emotional, physical and sexual abuse by heterosexual inmates. A relatively small number of the male participants explicitly indicated that they declared their sexual orientation when they entered the system. Some of the participants had some knowledge about special care sections, and thus, for them, segregation was voluntary.

Carl-M stated that:

*To tell you the truth, I have never stayed at a communal cell. When I got to reception, I disclosed my sexual orientation; even when I was still an awaiting trial detainee, I stayed in a single cell. So, I have never experience being in a communal cell.*

With Carl-M, opening up about his sexual identity saved him the trouble of having been placed in a communal section where he would possibly have endured some victimisation. However, for one participant, Tyrone, personal disclosure initially did not equate to protection as he did not know that there was a special section. He stated that:

*I came this side; I did not know that there is a special care unit. When I got to reception, I told them that I am gay, they told me that they will not place me in a communal section because there is a special section for people like me, so I did not stay at the communal section.*

While the majority of male participants resided in special care sections, only two indicated that they were open about their sexual orientation at admission. Most of the participants reported that their segregation was not voluntary; for example, they were outed by other offenders. One participant, Mulweli, due to a previous incarceration experience, decided to withhold information about his sexual identity but was outed by another offender, which led to his placement in a special care section. Mulweli stated:

*Incarceration was really painful for me because when I came to prison, I revealed my sexuality, and when you do that in prison, you experience a lot of oppression. What I discovered is that the same people enter the prison system. I eventually met up with inmates that I was with at [name of facility] who were also now in [name of facility]. They started talking and saying that I was gay, initially denied it. However, I feared that it will lead to the same problem I encountered before, so I decided to tell the officials and asked to be placed in a special section.*

Jessy, a male participant residing at a special care section, narrated that when he got sentenced, he met up with two offenders from his hometown who promised to protect him and coached him on how to be straight acting so that he would not go to a special care

section. The gentle pleading of a female correctional official led him to agree to segregation reluctantly. Jessy narrated that:

*I saw this captain lady, and she came to me and said they needed to talk to me, and they took me all the way to the office. Now, I was a little scared, wondering what was going on. After them trying to get the truth out of me, the very same lady said can I speak to you alone, and we went out, she explained to me that if I come out and tell them that I am gay, then they can place me in a place of safety. She said I need to know that if I am in that place, there will be limited movement for me, and that is because, in prison, gay people are utilised. They don't use them like they use others, sorry to say this term, prison bitches, making them to wash clothes, collecting the drugs or for sex.*

While the initial experience in segregation for Jessy felt like eternal doom and gloom, in the end, he learned to adapt, and his stay there turned out to be quite all right. He stated that:

*Eventually, they moved me to the single cells. Oh Lord, when I got there, I thought that I had signed a death warrant. I thought I was not going to survive. There were three other gay people there, but the other one was in hospital, and the other two were there. The other gay inmate came the following morning and said hello sister, how are you, then I felt some acceptance; the other one was just a madam, a queen. After some time, I had to learn to accept my surroundings. I knew it was for my own safety; there was less pressure and less stress for me. In the evenings, I would meditate and was spending time with myself and my thoughts, writing them all down, trying to forgive myself for things I had done and forgiving others. It actually helped me; it helped me.*

Unlike Jessy, Tendai's move to the special section was neither gentle in the beginning nor bearable in the long run. He narrated how humiliating and dehumanising his forced segregation was. Tendai stated:

*On the 26th of December, the captain took me out of the section and placed me in the current section ... I do not know how I got to the single cell. He just said to me,*

*'hey, wena sfebe [hey you whore], take your belongings'. He said that in front of everyone. I went, and I packed my things. I did not know where I was going. He took me to the single cells; I heard him saying something about me being gay to the other officials. They then asked if I am gay. I said to them I am not gay, they said so, how did you get here? One official said that this particular captain was notorious for moving people from his section to the single section without them knowing why they were being transferred. I told them that the captain came and stood about five metres away from me and, looked at me, and then decided that I am gay.*

Unfortunately, the officials could not return him to his original section, and they said he would be placed in a different communal section. However, in that section was an offender who had stabbed him prior to incarceration. He was without a better option and did what he could to stay out of harm's way. He said, *"They said I cannot go to single cells because I am not gay; at that point, I told them that I am gay, they asked me to write a short statement stating that, which I did"*.

Some female participants reported somewhat similar experiences where segregation was imposed on them without any prior consultation. The major difference is that while special care sections in male facilities are primarily premised on the principle of protection, in the specific female facility, a separate section was created primarily to control "problematic butch" lesbians. Stated differently and perhaps more directly, both men and women are placed in special care sections in an attempt to limit sex and sexual violence among offenders. However, men are typically placed in special care sections because it is thought that they should be protected from other inmates, whereas women are typically placed in special care sections because it is thought that other inmates should be protected from them. Tebza stated that:

*There was a time when they said lesbians must be separated from other inmates. We were once taken to single cells where we had to stay alone there because they used to say when we are at communal cells, some people are not comfortable. So, they decided that these people [lesbians] must be taken to single cells. I think it was also the head of centre. She was against lesbianism, that is why she decided that let's take these people and put them in their own section so that they can stay there*

*and be separated from their girlfriends and other inmates to avoid dating and intimacy.*

In this narrative, one gets the feeling that, in this particular instance, the decision to introduce segregation emerged from a place of discomfort with same-sex sexual practices. In this case, segregation was not only designed to seclude lesbian women but also to prevent them from establishing intimate relations with other offenders. Of course, to the participants, the motivation for segregation was camouflaged with security issues, as Jill-Scott narrated:

*I think it got to me in 2019 when I was moved to a different section. I was staying at a student section, and I was moved to what was known as a lesbian section, and then I asked, I said, 'What?' They said, 'No, no, no, you guys are going to stay together'. I said, 'What is the reason?'. They said, 'It is because of violence'. I said, 'What violence? If there is one inmate who happens to be lesbian and violent, then your response is to separate us from the rest of the masses like animals, and you say we can handle each other'.*

At the heart of this involuntary displacement was the lack of consultation; participants were not told beforehand of any problems that necessitated their segregation, which was done after they had been placed in the separate section. While correctional officials would probably not see unilateral decisions about where offenders are to be placed as an abuse of their powers, it disregards the individual autonomy and agency of offenders, thereby violating their right to basic human dignity. Tebza stated that:

*There was no consultation because we were just called, and they said you know what, guys, the ones who think they are men, that is the way they addressed us, isn't it you guys say you are man, you have balls? You need to pack your stuff and go to your own section where you can stay alone, mhhh ... and be separated from other inmates.*

The lack of consultation meant that only females with visible masculine features were segregated, regardless of whether they identified as lesbian or not. Thus, if an offender

looked lesbian, then she probably was! This approach cut a line between butch lesbians and those who appear feminine (lipstick lesbians). Kaybee lamented that:

*When I came in here, when I came that section was still working. I was admitted and taken to that section, only to find that I do not feel comfortable. And no one told them that I am lesbian. They just looked at my physical appearance and said ah, you will give us problem; go to that section.*

She further stated that:

*It's from the way we looked and from rumours that this one is dating this one, but it was unfair because there were some who were wearing weaves and dating each other but they could not identify them as malumes [uncles] or whatsoever. We also once raised it that how can these people not be sent to our section? Is it because they are not wearing boxer shorts? Is it because they are not butch? But they are wearing weaves and dating each other. And some came in as straight women and decided to change while they were in prison and decided to act as if they were lesbians. But they did not change anything; we identified them as lipstick lesbians, they did not take them there.*

One might be tempted to argue that because of their visible masculine traits, butch lesbians become misconstrued as having a propensity to violence and troublemaking, similar to most men. In contrast, lipstick or feminine lesbians are typically perceived as with gentle and vulnerable and thus need to be protected from butch predators.

In some cases, the decision to segregate offenders is not unilateral but is made in response to requests from offenders who need protection. However, as was the case for Sakhi and his friend Tseko, this might only happen after the offender has already been victimised. Sakhi narrated:

*When I came here, I went to B Section, and I was forced to sleep with a man as they thought that I am gay. I tried explaining to the officials, but they did not listen to me. They did not take my complaint. I met up with Tseko. We were on our way from court. I explained to him what happened. Apparently, he had experienced a similar*

*issue. He took me to the captain, and he told that captain that I am gay. The captain said if I am gay, I must go to A-Max.*

For others, as demonstrated by the preceding narratives, segregation was a tool to control behaviours deemed undesirable by separating from the rest those who wield those behaviours. In essence, segregation was used as a means to contain the “problem” lest it spread throughout the facility. Unfortunately, the undesirable use of segregation does not end there. It has also been used as a mechanism to render sexually and gender-diverse offenders invisible, out of public sight and thus non-existent. This means that merely containing the “problem” is not enough. It has to be locked so deep that it eventually disappears in the consciousness of the system. Mpumelelo painstakingly stated that:

*Now they want to separate us from everyone. They want to place us in the cells next door; in those cells, there are no windows. They are segregation cells. They want to take all 21 of us and place us in 8 cells. At the rate of admission, by July this year (2022), there will be 80 to 90 of us occupying 8 cells.*

Further, he precisely hit the nail on the head when he said:

*They want to move us into an even smaller space. Can you imagine 40 people in such a small space? There will be no movement, no school, no soccer. We will not be able to do anything; they basically want to lock us up 24/7 just to keep us out of sight. We cannot even fight against this because these things always blow up in our faces. We get beaten, insulted. In this instance, the decision to further segregate sexually and gender-diverse offenders was masked with concerns for the well-being of this population and a desire to keep them safe. Unconvinced, Jamie states that:*

*I feel like that safety is sometimes discriminative ... they say you cannot work at certain places inside prison, you cannot go outside to the courtyard and mix with other inmates for your own safety. If indeed it's for our own safety, they should escort us everywhere we need to go, but they will often let you go on your own from this section to other sections.*

For Lenny, this further segregation did signify being rendered invisible only, but it was also equated to punishment. He narrated that:

*Like now, they want to take us from the special care section and put us in the bomb cells. Bomb cells are isolation cells where they take people for punishment if they have done something wrong. I feel like it is isolation; I have every right to live among other people.*

One could argue that housing a certain group of people in a place designated for punishing is symbolic of a desire to punish those people without outwardly appearing to be punishing. Tebza recalled exactly how it felt to be involuntarily segregated. She stated that:

*We felt rejected. It was part and parcel of rejection because you are also human. It's not like we did ... for an instance, let me say from my side: I did not choose; I grew up the way I am. I think it was rejection.*

The original thought behind the development of special care sections was to protect vulnerable offenders, such as those who identify as sexual and gender diverse, from exploitation and victimisation by the general correctional population. It is undeniable that some offenders have found sanctuary and community in these sections. It is also equally undeniable that in other instances, segregation through separate sections has been used as a tool to isolate, punish and hide those seen as departing from normative practices.

### **5.3.1.2 Theme 1b: Being Unsafe in a Place of Safety**

Part, and perhaps the biggest issue reported by participants that have made special care sections less of sanctuaries and more of danger zones, is the exodus of heterosexual offenders from general sections to special care sections under the pretext of being gay. As one would expect, some offenders gravitate towards special care sections because they are regarded as safe havens, a place to go when they want to escape the ills of general sections. Tendai reported:

*You get those who lie and say they are gay while they are not so that they can be moved to single cells. Single cells are much better than the other sections; that is why they want to come here.*

Miss Stacey further qualified Tendai's assertion and stated that:



*Sometimes at night, we hear people screaming because other inmates are beating them up for stealing from them. Then suddenly, that person turn into being gay and he is brought here to stay with us. Most of these people are gangsters, so there is no way of the management knowing if these people are not gay, so they end up mixing them with us; that is the challenge.*

The lack of effective placement procedures makes it easy for non-vulnerable offenders to move to special care sections, as alluded to by Miss Stacey's account. In addition, money makes the boundaries of special sections even more porous. Like other public institutions, correctional institutions are susceptible and perhaps prone to corruption. Given that money can buy anything and/or anyone in the hands of offenders, it becomes an access card to anywhere, including special care sections. Mpumelelo stated that:

*There are various reasons, I would say the important one is money. This section was designated for LGBTQ inmates and those who were working for the government, such as the police, magistrates and those who had to be kept safe from other inmates. However, other inmates come here with money, and they bring their friends, and the officials sell the cells to them.*

Lenny also attested to the above, saying, "You find that these straight men are intimidated by other men in the general sections, then they pay like R1000 or R1500 to come and stay in the special section."

The resulting problem likely to emanate from the mixing of heterosexual and sexual and gender-diverse offenders is victimisation, and most of the time, the minority becomes the victim. Mpumelelo narrates that:

*In this section, the heterosexuals are running brothels, they are sleeping with each other, and they still maintain that they are straight. They are taking advantage of juveniles, people who are 20; when the juveniles come in, they are miserable and scared, then they get told that in order for them to be safe, they must join a gang.*

Mpumelelo further stated that:

*They have gang meeting in this section, in cell 20. The funny thing is that we are the minority as the LGBTQ community in here; we stay with rapists and murders. At some point, I stayed with someone who butchered six girls. When he told me, I was horrified. I could not believe what he was telling me.*

Expressing similar sentiments, Dave stated:

*I somehow do not feel safe because there are people who are homophobic and who have certain issues with gay people, so they might just take out their frustrations on you, so we are not safe at all, we are not safe. We are exposed to many dangers; we are exposed to so many issues. There is this one guy; I was passing by his cell and asking for a lighter. He just said, 'get away from my door', he poured water on me.*

Most participants shared a sense of fear and unease about staying with homophobic and potentially dangerous heterosexual offenders. For some, the dangers were perceived as imminent and turning to correctional officials would yield less than desirable results as they sometimes work with the perpetrators. Miss Stacey recalled a case where the rape victim was silenced with a bribe. She narrated that:

*A lot of LGBTI members who have been raped in this section since I arrived here, the cases end up nowhere. Why? It is because those inmates come from other sections and say they are LGBTIQ members; they come here and demand that we have sex with them; if you do not agree, they rape you. When you lay a case of rape in the office, they say 'Ay you LGBTI or gays, you have drama'. They speak with the perpetrator and try to resolve it quietly. One guy who was raped, they brought him a TV to try and silence him.*

Zipho also strongly felt that officials cannot be trusted as they sometimes work with corrupt offenders. Sometimes, the officials themselves are gang members. He explained:

*The officials and inmates sometimes work together for mutual benefits; sometimes, officials are also part of the number gangs. I did not know that they affiliated with the number gangs. I always thought that I am safe when I am around them.*

While most of the abuse is perpetuated by other offenders, several participants indicated that correctional officials also played an active role in making special care sections unsafe, especially for certain categories of offenders, such as those who identify as sexual and gender diverse. Sakhi stated that:

*I do not feel safe in this place. I do not trust the officials; they are supposed to protect us and keep us safe, but now, if I see an official, I see someone who can kill me. I do not feel safe in this place; they are the ones who are brutalising us here in prison; they are the ones who are killing us.*

Mpumelelo echoed these sentiments, “*It’s the officials that are not making it unsafe; this place can be safe. It’s just the people who work here who compromise our safety.*”

At times, the officials indirectly promoted the lack of safety by being physically absent from the section. Their absence allowed abuse and victimisation to thrive unchecked. Mpumelelo commented:

*An official would come in at 7, open for us to have breakfast, open for his friends and leave the section only to return around 11 a.m. During that time, we are left alone, we are abused and tortured, we get insulted, and there is nothing we can do.*

At other times, the officials are directly responsible for the abuse and victimisation, Zipho spoke about a traumatic experience he encountered when he moved to the special care section; he stated that:

*When I got there, I became a target for the officials. I ended up getting hurt on the forehead. One official, Chief Xane hit my head against the steel bed bunker. He was saying that I am Zulu, but I claim to be gay. He accused me of lying about my sexuality, saying that he can see that I am lying about being gay. He even touched my bums; he inserted his finger and asked me how I feel when he does that.*

Zipho further stated, “*I was traumatised by what Chief Xane did to me; whenever I heard his voice, I would become anxious and start panicking.*”

Relating a somewhat similar but extreme experience to that of Zipho, several participants narrated the story of Nomcebo, a gay offender in the special care section whom correctional officials brutalised. While Nomcebo was initially on the list of participants, his name was removed by the official due to his state of mind after the assault and perhaps out of the fear that he would speak up about his near-death experience at the hands of those meant to protect and safeguard. Sakhi narrated the horrifying events of the day of the assault:

*There is a gay guy at A-Max (Nomcebo) that was brutally beaten by seven or eight officials. There was a guy who wanted to sleep with him, and he beat that guy and broke his glasses. He called the homophobic chief, he came up, opened the cell, and they beat that gay guy. He was supposed to come here and explain his story, but they said his name was not on the list. I don't know; maybe they do not want him to tell his story, but we are now telling you that they brutally beat him. It was eight of them. They were breaking his joints; he was lying flat on the ground; they were beating him all over. When he woke up, he was swollen. After the beating, they left him in his cell; they chained his legs, they poured water on his bed. He was crying the whole night. The whole night, he was asking for help. In the morning, they went in and took out the chains because they knew the captain was coming. They unchained him and took him to the hospital before the captain could see him.*

Daniel also spoke about how traumatising the experience was for him:

*He had black bruises, not blue, but black bruises; they cuffed him, his hands and his feet and put him back in the cell and left him there until the next morning. So that was very traumatic for me. The cell doors are steel, but they have a flap in them, so when we heard the commotion, we looked through but the officials switched off the light when they saw that we were looking, but we saw what was happening.*

On the surface and to an outsider, special care sections function to protect vulnerable offenders from victimisation and harm. There is no doubt that when properly managed, they provide safety and a sense of community. However, when they are poorly managed, they become a breeding ground for violence, dehumanisation and violation of

people's basic rights. Sexual and gender minorities seem to get the short end of the stick. The defeating reality is that the abuse and victimisation are not only perpetuated by other offenders; officials also seem to play an active role. Sexual and gender minorities thus find themselves in a tight and volatile space where there is nowhere to turn and no help available.

### **5.3.1.3 Theme 1c: The Privilege of Heterosexuality**

As though victimisation is not enough for sexual and gender minorities in special care sections, they also have to confront the issue of marginalisation and being relegated to the margins of the carceral community. Like in many parts of society, all-male correctional facilities champion heterosexuality and reward those perceived as embodying it. Heteronormativity in carceral contexts seeks to clearly distinguish between real men and those who are not, with sexual and gender-diverse offenders falling in the latter category. Thus, as much as the environment seeks to punish those who deviate from the sexual and gender norms, it simultaneously privileges those who conform.

The prominent complaint among the participants in this regard was the unequal allocation of bed spaces between sexually and gender-diverse and heterosexual offenders. Miss Stacey ragefully narrated:

*You know, the heterosexual inmates we are sharing the unit with they stay alone in a single cell, while we are forced to stay either in twos or threes; that has been my complaint that this does not balance out. We are not treated equally and fairly. Since these heterosexual inmates are supposedly not homophobic, why do they not share their cells with us? When they arrive to the unit, if there is no space, they are placed with us; why is that?*

With visible frustration, Lenny also mentioned:

*In the gay section, you will see that all the straight men stay alone in a cell. However, we end up staying three in a cell. I sleep in the top bunker; what I find is that when I get there, I struggle to breath because there is not air circulation up there even though the windows are open.*

During data gathering, in one of the correctional facilities, I was granted an opportunity to enter a few of the single cells occupied by sexual and gender-diverse offenders. The cells are very small, and bunk beds are stacked up to the ceiling. Mpumelelo spoke about the casualties that have resulted from offenders falling from the top bunker; he stated:

*Bunk beds are stacked up so high that some sleep very close to the light. Some fall at night from the top bunkers. One inmate is now mentally disturbed because he fell from his bed. People are now taking advantage of him and victimising him.*

Although having ample space and freedom to live alone in the cell was reported to be the chief privilege for heterosexual offenders, it is not the only one. One participant indicated that they also enjoyed freedom of movement from one section to another. At the same time, the same privilege was not extended to sexual and gender-diverse offenders. Dave stated: *“I get that they are protecting us, but why do heterosexuals get away with walking everywhere? They get that freedom to go wherever they want. We [gay offenders] are always locked up; there is isolation.”*

Dave further lamented that heterosexual offenders are treated with respect and given favours. He added that rules are also not applied and enforced equally between heterosexual and sexually and gender-diverse offenders; he stated:

*They are actually treated with respect [heterosexual offenders]; they get favours, and we don't. The question then is why should other people get favours and others don't? Why are we not treated equally since we are in the same section? The rules should be applied equally to everyone and not to favour some people over others.*

Forced segregation and lack of consultation, being rendered invisible, victimisation, and marginalisation appear to be the vices of special care sections and segregation, at least for sexual and gender minorities. All this considered, in the case of sexual and gender-diverse offenders, the bad seems to outweigh whatever good can be found in segregation. Unfortunately, integration, as much as it offers some benefits (most of which come at a cost), does not offer a complete reprieve for this population. This

inflates the feeling of lack of belonging for sexual and gender minorities, not really fitting in in communal sections but also not welcome in special care sections.

#### **5.3.1.4 Theme 1d: Integration - Sexual and Gender-Diverse Offenders in General Sections**

General or communal sections have a long-standing reputation for being breeding grounds for violence, abuse and sexual victimisation. While heterosexual offenders also fall victim, those who are sexual and gender diverse are more at risk due to their identifiable vulnerability (it might be how they look, feminine mannerisms and behaviours or openness about their sexual and gender identity). The widespread practice of gangsterism by Numbers Gangs also threatens the well-being of non-normative sexualities and those with certain vulnerabilities (physically weak, young, lacking social support).

The initial experiences of many of the participants as they entered the system were characterised by unexpected kindness from heterosexual offenders. However, the kindness came with conditions or a price tag. Kevin shared his experiences:

*They definitely expect you to do something; it happened a few weeks ago. I am always hungry, so these guys kept giving four slices and tea every morning. Eventually, they got tired, and they wanted something in return. They wanted sex in return; they said it has been long, we are always giving you food, when are we getting something in return.*

Carl-M also shared that some sexually and gender-diverse inmates are lured into general sections by false promises:

*They ask you why you are staying at H Block (special care section), they tell you to come to the communal section, and they will take care of you; they tell you that you will not lack for anything ... they know that if you move to the communal cell, they can have their own way with you. The first night, they would be telling you that they love you and you should not worry. They have sex with you the first time, then the second time, after the third time, they discard you in a section where you do not know anyone.*

Carl-M further indicated that after being discarded in a section where they do not know anyone, the individual will end up going from one “pimp” to another so that they can survive. While the term pimp generally means somebody who connects customers with sex workers for money, in the South African corrections context, it is also used to mean somebody who provides protection and physical comforts in exchange for intimacy and sex. Certainly, there are luxuries that come with being the “bottom bitch” to the pimps. However, those luxuries come at a steep cost. Carl-M stated:

*They get whatever they want from their pimp, food, drugs, their own cell phone and airtime; they get to sleep on comfortable beds, their clothes are washed for them, they don't even clean the cell. They become queens. That is how it works until the pimp has had enough, and he passes them to other pimps.*

Similarly, Jessy spoke of his experiences of being “queen of the castle”. He stated:

*When I came in, everything was there: sheets, blankets, toiletries, luxuries. I would tell them that I have my own money, and they would say no, leave your money; we will do it for you. The bosses had their boys do everything for me. I would just lie in my bed.*

It is a fact that many newly admitted offenders or detainees misconstrue these acts of kindness as genuine acts of goodwill until they find themselves knee-deep in debt that they cannot repay. For Tyrone, his saving grace was the advice he received from the correctional officials, he narrated:

*I went to the officials and told them that people are approaching me and offering me cigarettes and drugs, and they are saying they love me. The officials told me that here in prison, there are men who pretend to be women, there are also number gangs, so the decisions come from you if you will accept their things, but if you accept their things, you will have to repay them, you will have to have sex with them.*

Unfortunately for some participants, the initial kindness resulted in sexual victimisation and rape. Shade-D narrated his first sexual victimisation encounter on his first day in remand detention that left him HIV-positive; he stated:



*We ate, and I bathed. I was just tired, so I went to sleep. In the middle of the night, he woke me up, he wanted sex ... you know ... he wanted sex in the middle of the night. I met again when I went to trial to visit some of the inmates that I had met when I was detained. He said do you know that I gave you AIDS? I was like, what? I became worried because I knew we had sex without protection ... when we had sex, I was scared even to ask for protection.*

Miss Stacey also shared her traumatic experience of sexual victimisation during her first incarceration:

*I fell into a trap of these guys who were trying to be friendly with me only to find out that they were luring me to live in a cell that was far from the office. When I got there, they pulled out a makeshift knife and threatened that if I don't want to have sex with them, they will stab me, and I will bleed internally, and by the time the officials find me I would be dead.*

Zolani also shared the experience he had as a new admission with a cell monitor who was initially friendly and generous towards him:

*That night, I remember he touched me. I pretended that I was sleeping, he started kissing me. I pushed him. He then said let us go to the toilet. I won't lie. I went with him, when we got there, he told me to take off my clothes, my mind went numb, and I was shocked, and I did not know what I was doing.*

Being newly admitted and not knowing how to work the ropes in their new environment, some participants fell into the traps of sexual predators. Their crippling fears disabled both their fight-or-flight responses. One might be tempted to argue that this is the reality of many vulnerable offenders who are not better orientated to the predatory culture of the carceral environment.

Having discussed both segregation and integration, what stands out is that there is no place for sexual and gender-diverse offenders in contemporary correctional facilities. The victimisation and dehumanisation they experience in special care sections, and segregation are similar and sometimes more than that experienced in general or communal sections. While other offender categories appear to have found their place in the system,

sexual and gender minorities continue to linger in limbo, not knowing where to locate themselves. The system itself does not seem to have much concern about the successful integration of this population with the larger correctional community. Rather, the response is to displace and hide the “problem”.

### **5.3.2 Theme 2: Sexual and Gender-Diverse Identities in the Context of Incarceration**

The idea of segregation typically depends on being able to make clear-cut distinctions between people who are different from the majority of the offenders in terms of their gender and sexual identity and expression. In the conversation with the participants, it became clear that the matter of identity is complex and fluid. Thus, it is important to unpack how the issue of identity plays out in the correctional environment.

#### **5.3.2.1 Theme 2a: The Sexual Identity Continuum**

All the participants appeared confident about their sexuality and gender identities and were able to share their understanding of what their identities meant to them. Sexual diverse male participants (gay, bisexual, versatile) did not identify as women, contrary to popular beliefs. Daniel stated, *“For example, they [officials] would walk in the section and say, ‘Hey you ladies’, not all gays are ladies”*. Similarly, lesbian participants, although boasting with masculine mannerisms, did not identify as men. Jill-Scott mentioned, *“They [officials] first relate with your appearance rather than getting to know you. It’s how they see it, but I identify as a woman, mother as well”*. Echoing Jill-Scott’s sentiments, Jacky also stated, *“I do not really pay much attention to name-calling; if you want to call me boy, that is your business, but you know that I am she”*. This quickly dispelled the popular myth that sexually diverse people always identify with and/or want to be the sex opposite to the sex assigned at birth.

Contrary to how participants understood their sexual identities, the system has its own way of recognising, understanding and reconciling non-normative or diverse identities with traditional gender binaries. For lesbian participants, the system inherently understood them as men and as representing masculinity. This is evident in the terms used to refer to lesbian offenders who appear masculine. Jill-Scott stated:

*They say we will call you malume [uncle], which is a norm in prison, the culture. They would call you that, that uwumalume [you are an uncle]. They would not refer to you as a girl, but they would say brother, because of what they see.*

Tebza reported an experience similar to that of Jill-Scott: *“They gave us a nickname; they were calling us malume, they used to call us malume in that section. They used to call it central ... central is the male facility, even the officials.”*

The term umalume or uncle is generally reserved for male figures. Its original use was to refer to one’s mother or father’s brother; however, it has since evolved and now is widely used as a sign of respect for an older male, not necessarily an elder, but any male considered as older in relation to the one using the term. Its use in carceral spaces, particularly in a female facility, has its implications; for example, Tebza noted:

*If there is a task that needs to be done like lifting heavy stuff, let’s say for instance, we need people to carry this thing [points at the heavy-looking air cooler], they will say call the men of the prison. We carry the tables, we carry the chairs, cleaning material, all the heavy stuff. They say call men power.*

While prior to incarceration, the lesbian participants retained their identity as lesbian women, their entry into the correctional system brought about changes in how they are perceived and identified by others. They stopped being lesbian women and started to be abomalume, the men of the prison. Thus, whenever hard work had to be done (traditionally associated with men), they had to be called. However, this context-specific identity had far-reaching implications than just lifting tables and mowing the lawn. They resulted in them being segregated to a designated section because their new identities did not neatly fit in with the gender binary approach of the facility; they were, for all intents and purposes, men in a women’s facility.

The system’s attempt to marginalise diverse identities does not seem to have halted the development of those identities. Lesbian participants spoke at length about women who came into the facility identifying as heterosexual but who, at some stage of their incarceration, began identifying as lesbian. Most participants attributed this to material gains that come with having a “well-off” girlfriend. Jill-Scott succinctly put it:

*What I have seen over the years is that people do it for survival. Remember that the norm here in prison is that if you are lesbian, your girlfriends should support you financially, your girlfriends should wash for you, they have to do all these things, you become like the man of the house. If there is a need for tidying up the house [cell], they do all those things. So, they end up falling for all of that; they think that the only way to survive is to get a girlfriend who will buy food at the shop, who will wash, who will shave you.*

Tebza shared the same sentiments:

*In prison, there is this tendency of lesbians dating girls to suck them dry. When I am lesbian, I am going to date some who will be able to support me. They take it as a support system. You are not dating her because you love her; you are dating her because you want to benefit something from the girlfriend.*

The transactional nature of these relationships parallels those reported by some male participants (exchanging intimacy and sex for comforts and luxuries). However, female offenders' relationships appear to differ from the equivalent male relationships with female offenders. First, the issue of protection is less salient, and second, the provider of the sexual services is sometimes seen as the exploitative partner. A third difference in the adoption and performance of diverse identities in male and female facilities is that female offenders often assume the whole identity of being lesbian and engaged in intimate relationships. Whereas with male offenders, the identity of being gay or bisexual is never adopted; instead, offenders still retain their heterosexual identity while having sex with other men for financial or material gain. Shane-D noted:

*There are even prostitutes ... there are those who smoke nyaope. They are straight from outside, but they start behaving weird in here. When they go to the phones, they would be talking to their girlfriends, but when they want their next fix, they sell themselves. They would even confront you and tell you that they are selling themselves, maybe for R20.*

Kevin also expressed that *“its quite shocking how far they would go just to get nyaope, other drugs or food. They even become bottoms just to get what they want or need.”*

There is something quite interesting in the participants’ perceptions of people who turn “gay for pay”. While female participants looked at that practice with disapproval and perhaps disappointment, male offenders perceived it with disdain and disgust, rather strong emotional reactions. It is arguable that with males, there is still the inherent stigma associated with MSM; it is amplified when they have sex with other men for material gains.

### **5.3.2.2 Theme 2b: Sexual and Gender Expression – Liberation in Incarceration**

Perceptions about adopting diverse identities in incarceration were not unanimous. Other participants felt that some offenders adopted or expressed diverse sexual and/or gender identities in incarceration because they might have found the environment liberating and, perhaps, to some extent, allowing for that. This is particularly intriguing given that the basic premise of incarceration is thwarting offenders’ freedom as punishment for wrongdoing(s). Kaybee narrated:

*It happens, you find that someone is not a lesbian; they are straight, and then even when she comes to prison, she joins the group of people who criticise. Then later, if she is serving a long sentence neh, you see that person also joining those people [lesbians], and you see that now she understands why these things are happening.*

Shane-D also expressed that while some offenders initially engage in same-sex sexual practices because of the situation (unavailability of women), once they get the taste of it, they find that they enjoy sex with other men:

*Some have children outside, but inside, they are doing it because of the situation. I cannot say that some are bisexual because when they are outside, they never had sex with other men, you understand. So, I would say that most of the people here who do it, it is because of the situation. People start with wanting to have a taste, and then they become hooked.*

Experimentation and a sense of curiosity were also flagged as potential reasons why some inmates turn “gay or lesbian”. While they may have been reluctant to experiment in

free society out of the fear of being harshly judged and negatively labelled, in incarceration, they found freedom and courage, as Carl-M put it:

*Others do it because they want to experiment, while others might have struggled to accept their sexuality while they were outside, so they feared trying it out, but when they get here, they develop the courage of trying it out, and they enjoy it, and it works for them.*

Shane-D expressed similar thoughts:

*One thing I have noticed about the guys, half of the population, if not all of it, they have that curiosity about how gay sex is performed. Three days ago, it was hot, so they had opened the court yard. I was wearing my shorts, they were very short. I could see the way they looked at me, I could see that if they got a chance, they would say let's do this.*

These observations imply that for some people who were initially homophobic, their incarceration prompts them to look at diverse identities differently. However, it has not only changed their perceptions, but it also led to the adoption and embracing of those identities that were once despised. The concept of “situational homosexuality” has been around since the early twentieth century and appears to have stood the test of time and remains relevant, as evidenced by the preceding narratives. Reflection on the writing of Novac (2013), discussed in depth in the earlier chapter – speaks to the occurrence of same-sex sexual relations between heterosexual men and women in enclosed spaces. During that time, same-sex sexual practices in carceral spaces were perceived as a reaction to the “pains of incarceration”; these behaviours were understood to be “circumstantial or situational” and would not necessarily occur outside of enclosed spaces. While this somewhat resonates with some current reported experiences, it falls short in describing the full range of experiences (e.g. those who engage in these practices out of curiosity and perhaps interest).

Some participants directly spoke about how they experienced the environment as freeing; it enabled them to be who they truly are without fear of what their families and others would say. In a sense, although incarcerated, they experienced the environment as sexually liberating. Jacky narrated:

*When I got to prison, I don't know; I just felt free regarding my sexuality. I felt relieved that no one is seeing me, I do not have to wear make-up even when I don't want to; no one will be asking me why you are wearing those jeans, why do you want boxer shorts, things like that. I felt free when I came here.*

For Lefa, incarceration bolstered his courage to come out to others about his sexual identity, something that he had kept hidden all his life:

*When I was growing up, I did not tell anyone about my sexuality. I only started telling people when I got to prison, but outside, I did not tell anyone; even my family does not know that I am gay.*

Kaybee narrated that for her, incarceration helped her better understand herself in terms of her sexual identity, to stop running and embrace her identity:

*I have gotten to understand that I have to be who I am so that I can enjoy my life because I cannot keep on running and hiding. So I feel more comfortable, and I can talk about it. I don't hide anything at all.*

The participants' narratives and experiences challenge the notion of fixed and static sexuality and gender identities. They demonstrate that identities do not exist in a vacuum but are influenced and sometimes actively shifted by context and external factors. Grasping this is extremely important in correctional institutions whose operations rest on a binary approach to gender and sexuality. For sexual and gender-diverse offenders and perhaps the general offender population, incarceration should not function as punishment but as an opportunity for growth and rehabilitation. Corrections authorities perhaps imagine that growth/rehabilitation happens only within the confines of formal rehabilitation programmes. However, in reality, it probably mainly happens outside such programmes, for example, through sexual liberation. Expectedly, the latter is never considered, let alone encouraged, in these spaces. The participants' narratives, however, promote the idea that sexual liberation may very well be part of rehabilitation and, as such, should be given some thought.

### 5.3.3 Theme 3: Systemic Homophobia

An implicit assumption underlying the emphasis on segregation versus integration is that discrimination or violence from other offenders is the main issue that sexually and gender-diverse offenders need to deal with. However, in fact, many problems experienced by this category of offenders arise not only from other offenders but from various forms of systematic homophobia that threaten to relegate them to the margins of the correctional community. Some of these issues (particularly violence from correctional officials) were briefly discussed under the secondary theme “unsafe in a place of safety”. In this section, systemic homophobia will be fully unpacked, starting with sexual and gender-diverse participants’ experiences of direct homophobia from the carceral community.

#### 5.3.3.1 Theme 3a: Homophobic Others

While the correctional environment might enable some to express their diverse sexual and gender identities, as illustrated under theme two’s secondary theme, “Sexual and gender expression: liberation in incarceration” above, it does not mean it is free of homophobia. The opposite is, in fact, true; the majority of the participants reported experiences of homophobia from other offenders, some professional staff and, significantly, from correctional officials. For Jessy, the experience of homophobia started at the scene where he committed the crime, he stated:

*I experienced discrimination even before I got to the police station; from the time I was arrested at the store, I was called stabane, I do not speak any of the African languages, I only speak Afrikaans and English, so I would only catch a few labels. But I remember very well how I was told I am disgusting.*

The term istabane, explained in Chapter 1, is part of the group of derogatory terms predominantly used in the isiZulu language to refer to effeminate men and generally to men who are romantically or sexually involved with other men. Its “unsurpassed popularity” lies in its ability to effectively communicate a widely understood message about one’s sexual orientation. While it might seem like its use is becoming normalised, it nonetheless continues to carry the same dreadfulness as its sister terms, inkonkoni, ungqingili.

For Jessy, his ordeal did not end with being called stabane, rather things escalated:



*There was one security guy who slapped me; he slapped me because he asked me if I was gay, and I did not answer him. I did not understand the question, and I asked him in English what he meant when he asked me a question in his language. The other woman started shouting are you gay, I said yes, I am and then what? That is when he slapped me.*

Unfortunately, the police did not offer any solace or support instead, they continued on the same streak, Jessy noted: “*When the police came, they were quiet. They were observing what was going on. They were asking me uncomfortable questions, such as how you get fucked, and I thought to myself no, you cannot ask me questions like that.*”

Although Jessy’s initial experiences were unconnected to the correctional system in the strictest sense, they nonetheless demonstrate the pervasiveness of homophobia in different but interconnected societal institutions. Closer to home, Jamie narrated his experiences with the poor camouflaging of homophobia among correctional officials:

*The interaction with officials made me realise that many people are still homophobic, especially the officials. A lot of people are low-key homophobes; they will say that we don’t have a problem with you, but gays are doing this and that. They would speak about people who are getting fucked in prison and who have diseases.*

This account closely resonates with Jackie’s experience, where homophobia is poorly concealed in people’s religious beliefs:

*She [captain] is the one to quote the Bible to you. She would say which scripture says that a woman should date another woman. This thing of yours does not exist; you are just negatively influenced by the prison and by bad people. She is like that; she still stands on her beliefs that a woman cannot be in love with another woman.*

Professionals in correctional services are also not exempt from being homophobic. Miss Stacey recalled a rather disappointing interaction with nurses who were clearly uninformed about the World Health Organization’s (WHO) position on transgender issues:

*There are two nurses that I have come across who are homophobic; they would say don't tell me that you are a lady, WHO. That is the first time I heard WHO from the nurses, 'World Health Organization' said you are a male.*

Dave also narrated his experience with a nurse perceived as behaving disparagingly towards sexual and gender-diverse offenders. He stated:

*The other day, I was speaking to the nurse. I feel like she is homophobic; she does not treat us well as gay people, but she is fine with straight men. With us as gay people, she does not like us; she gives us an attitude or a straight [stern] face.*

### **5.3.3.2 Theme 3b: Performing Homophobia**

True to what they say, actions speak louder than words! While the above narratives demonstrate somewhat “soft” homophobia”, the actions of correctional officials speak volumes about their attitudes towards sexual and gender minorities. Unfortunately, these behaviours go unchecked because they feed off the greater homophobic culture of the system. It starts with the use of dehumanising language, Mpumelelo confirmed this by saying, “*We are referred to as things, as shit, as disgrace – that is how they talk to us, people in high positions. They are able to do that because no one protects us*”.

Sakhi had a mouthful to say about the use of untasteful language, to say the least, by homophobic correctional officials in their belligerent interactions with sexually and gender-diverse offenders:

*There is this other official, I have forgotten his name, he does not like gay people, he is always swearing at gay inmates, he ill treats us. When he just comes in the section, we must feel that he has arrived. He would say, 'voetsek, fuck off you gay bastards, go into the cells. This is not home, this is prison'.*

To my disbelief, Sakhi had to reiterate:

*Exactly what I said. 'You gay bastards, get in the cells you fucken shits'. We then go to the cells, and he locks us up. Even if you try to be nice to him and you greet him, he will look at you and swear at you, 'voetsek satan', he loves that term.*

Such homophobic behaviour is anything but subtle, unlike what was reported by participants earlier. The use of dehumanising language, which is said very loudly for others to hear, serves to instil a sense of deep shame in the recipient. It serves to publicly embarrass and communicate to others that this person lacks any sense of worth. Used on a daily basis, it chips away at one's self-esteem, depleting any reserves of self-worth, leaving the recipient feeling truly like "shit".

The use of dehumanising language was by no means the only tool of discriminating and marginalising the sexual and gender diverse. Some participants spoke about being hit on the face with a "no vacancy for gays" sign, metaphorically speaking. In reality, Jamie, Kevin and Mpumelelo were not allowed to work or freely choose where to work within their respective facilities. This denial was thinly masked with security concerns. Jamie stated:

*They said I am gay; I cannot work there, and that was masked in security concerns ... I told them that you cannot say that to me. I said to that official who was female, I said it's the same issue as someone saying you cannot work in a particular place simply because you are a woman.*

In protest, Kevin decided to leave the special care section and move back to the general section because he was not allowed to work. He complained about being locked up all day every day and not doing anything. He noted, "*I do not have a problem with staying in special care, but I do not want to stay there and then not have a job. It would drive me nuts just sitting there the whole day*".

While Kevin and Jamie's prospects of getting work were completely shut down, Mpumelelo was told that he could work in only one place or not work at all. Mpumelelo explained:

*I applied for a job so that I can keep myself busy. That was 5 months ago. I still have not gotten a response, but other inmates keep on being assigned to work every day. But I was told that because I am a homosexual, I cannot work where I wanted to work; they want me to go and work at Manase [mess hall] where they sell food. They said if I do not want to go and work there, then I will not find a job.*

Apart from being blatant discrimination, denying sexual and gender minorities the opportunity to work and gain work experience and possibly a new skill renders the department's rehabilitation mandate through self-development moot. The issue of security concerns would imply that sexual and gender-diverse offenders are vulnerable to rape or other forms of victimisation in broad daylight at their respective workplaces within the correctional facility. One would argue that such an argument holds little, if any, weight, given that victimisation is likely to occur inside sections and cells.

Denial of sexuality and gender identity expression also came up in the interaction with the participants. Some lesbian participants expressed that even prior to incarceration, they had an aversion to wearing skirts and dresses; rather, they preferred jeans and pants as those were more affirming of their sexual identity. For example, Jill-Scott narrated:

*I have suffered, going through the travesty of wearing a skirt when I was growing up. I would feel that there is air coming in, and I would think to myself people, please help me. As I grew up, I realised that, you know what, I need to move away from this shadowing thing and come out in the open. Then I started feeling comfortable with wearing jeans, and that is when my masculinity prevailed.*

However, that was challenged when she entered the correctional system; she was expected to wear a skirt or a dress because it represented femininity. In that space, masculinity and all that came with it was seen as an imposter and had to be eradicated or overshadowed by accentuating things that embodied femininity. Jill-Scott stated:

*It happened to me last week, an official, a senior official, I was fitting another pair of pants because my uniform was worn out. I was at the sewing place. She said why are you wearing pants? I expect you to wear a dress. A skirt is a representation of femininity, a straight woman, you understand. Not a lesbian woman, but a straight woman, feminine. It was, to me, I would say, mockery, trying to create mockery out of the situation.*

Miss Stacey, a transgender woman, also narrated her challenges with gender identity expression in an all-male centre. She indicated that although a blind eye was turned

on her wearing a dress in the section, she was vehemently denied the same “privilege” when she stepped out of the section. She lamented:

*I have been asking them to consider providing me with gender-appropriate uniform dresses. For me wearing a trouser all the time it does not make me feel good, most of the time I stay in the section because I can wear my dresses in the section. Whenever I have to go and do programmes, I am forced to wear a trouser. I do not like it; I do not want to wear it.*

This partly speaks to the argument made earlier that sexually and gender-diverse offenders and their “eccentricities” are tolerated to a limited extent when they are hidden, out of sight and, thus, out of the social consciousness of the larger system. Her wearing her dress was “tolerated” so long as she did it in segregation, where she would be visible to only a few people. Wearing it in the passages where many more others would see her reminded the system that the “problem” is still exists, concealed but nonetheless still present, and that could not be allowed. It was not only the dress that was the problem, but other gender-affirming accessories such as make-up and weaves were denied, Miss Stacey noted:

*I transferred this side [Medium B] because that side I was requesting my weaves, my bras, gender-appropriate underwear. That side, they had a problem with me wearing make-up. I had make-up because I was attending a hairdressing class, so they gave us make-up, and I would apply it on myself. The captain and the officials would force me to go and wash it off my face.*

Unfortunately, denial of gender identity expression was not Miss Stacey’s only problem. She also had to deal with the issue of misgendering continuously. She recalled two unsettling incidents:

*This other official was saying to me hey, baba, come here so that I can search you. I got cross because I always ask officials politely not to call me baba; I am not ubaba. He asked me what my name is, and I said I am Miss Stacey. He did not want to talk to me; even today, he does not even greet me. The other official, I don’t know if she is a nurse, she just wears a white coat, she was saying to be ‘we baba, come*

*here'. I was offended because I know that if someone does not know how to address me, they should ask me how I want to be addressed.*

Ubaba is predominantly a Zulu term but is also present in other Nguni languages. It is typically used to refer to a person who is a father (i.e. a person with children). However, it is also generally used as a sign of respect when referring to a male figure, especially to older males and those in certain positions associated with power and authority. Given that Miss Stacey identifies as a transgender woman, being referred to as ubaba is being misgendered, a disregard for her gender identity.

Similar to the female section, which seems to place femininity above all else, in the male section, gender-affirming accessories were seen as posing a threat to the institution that rests on the performance and the enforcement of heterosexuality and, by extension, masculinity. Thus, everything that goes against the status quo had to be eradicated.

### **5.3.3.3 Theme 3c: Homogenisation of a Diverse Population**

Well-known and long practised, homogenisation serves to render similar diverse populations. The resulting accentuation of similarities, often the negatives, enables and normalises the discrimination of a group based on identified negative characteristics. This blanketing approach is not foreign in correctional spaces. As much as it is applied to specific groups of offenders, it is also applied to the general offender population, Jill-Scott observed:

*Remember, in prison, they deal with you collectively and not as an individual. They were not trained to deal with people, to be able to tell that this individual needs to be treated this way. You are categorised as an inmate; that is how they will handle you, that what they call you, and that is how you are treated.*

Of interest here, however, is the blanketing approach when it comes to sexual and gender-diverse offenders. Recall the issue of involuntary segregation of butch lesbian offenders earlier in this section. Jill-Scott discussed that the motivation for segregation was that an undesirable behaviour was observed from a lesbian offender who was then generalised to the entire lesbian offender population: “*Just because a person does not know how to handle an inmate that is of this particular gender specification [lesbian], it all*

*because of that, then they treated us collectively, which is something I complained about in the beginning.”*

Other participants complained that the blanket of promiscuity was cast over them because of the misconception that gay people are lovers of sex or because of a few instances where gay people were observed indulging in sexual practices. Lenny stated:

*They put us all under one umbrella, which is horrible. Just because I am gay does not mean that I will throw myself to people. I still respect everyone the same way. I would never throw myself at anyone well, knowing that it might make them feel a particular way. I am conscious of that.*

Mpumelelo also expressed similar concerns, *“they have this notion that gay people always want to have sex, or they sell themselves”*.

Homogenisation in this context appears to function to eliminate the differences between sexual and gender-diverse offenders. In this regard, their individual needs would not need to be catered to or attended to because they are seen as having one overarching need. This filters into the larger notion that this population is invisible. It cannot be seen as diverse because those diversities would have to be recognised and considered, and if that is the case, it means that this population is an integral part of the system.

#### **5.3.3.4 Theme 3d: Lack of Affirming and Appropriate Sexual Health Care**

Structural homophobia in this context is not limited to the negative treatment of sexual and gender minorities. However, it also extends to the availability of essential services that are key to their well-being, such as sexual healthcare. The majority of lesbian participants complained about the lack of female condoms in their facility. The greatest concern, as one would imagine, was STIs and HIV infection resulting from unprotected sex. Jill-Scott spoke about the link between the department’s disapproval of consensual same-sex sexual practices and the unavailability of protection:

*By the way, sexual intercourse here is referred to as isinanga. They will tell you straight that isinanga is against the policy, so you cannot go to the clinic and ask*

*for that latex thing for oral sex, so they end up doing it without that thing leading up to people just infecting each other.*

Kaybee expressed a similar view:

*They say our rights are limited here. We are here to serve our sentences because snanga is not allowed because we fight because of it, and maybe they think if they give us those condoms, it will not correspond with what they say. They say we must not do this [sex], so if they still give us those condoms; it will be like they are promoting it.*

In South African corrections, the term isinanga or snanga is used to refer to sexual practices between women. This term appears to be exclusively used in correctional facilities and not in the general lesbian community. None of the female participants were able to provide information on its genesis or the reason behind its exclusive use in the carceral environment.

In the rare instances where some consideration and acknowledgement were given to the occurrence of sexual practices in the centre, male condoms were provided. Lelo expressed her experiences in that regard:

*They do not usually bring female condoms; they normally bring male condoms. I usually see male condoms at the section. I do not know what they do with them. I don't really pay attention to what they do with them. Me and my partner have never used them. You find that during sex, there is no protection.*

The above practice proved futile. As Lelo mentioned, male condoms were not perceived as appropriate for female-to-female sex. Lelo and her partner resorted to practising unsafe sex, which put them at risk of contracting STIs or HIV. In fact, most of the lesbian participants spoke about being in intimate relationships with an HIV-positive partner. Thus, for the HIV-negative partner, sufficient protection was paramount. Jacky commented:

*I have entered into this situation where my partner is positive, and I am negative, so how do we go about having sex in safe way, you see? When I was googling, they*



*showed condoms, then I thought to myself, in here they know that sex takes place, even though they do not acknowledge it, they should provide condoms.*

Kaybee spoke about how not having protection negatively impacted her sexual experience with her HIV-positive partner:

*It was not enjoyable [sex] because you have limitations, and sometimes even that partner feels that they are not loved enough if you don't go there, so that person will ask what is going on. So, it's not the same, you see.*

As much as protection was seen as vital in staging off STIs and HIV infection, it was also perceived to be important for a healthy sexual relationship, especially for couples where one partner was HIV-negative and the other HIV-positive.

The picture in the male facilities, however, was somehow different. Almost all of the participants reported that condoms were provided, and they accessed them with relative ease. The chief complaint was the total unavailability of lubricants. Kudzai complained:

*We have access to condoms, but lubricant is hard to find. As I said, things are going from bad to worse; shortage of lubricant is something that started in 2018. We have to resort to using Vaseline, which is also not safe. I once had sex, and the condom broke. I was terrified. That person was HIV-positive and on medication.*

For Miss Stacey, in the rare instance where lubrication was available, it was stashed and sold by offenders working at the hospital section. Either way, the eminent risk was that of contracting HIV, she stated:

*Currently, there are condoms, and there is lubricant, but we do not get the lubricant. We only get condoms. You can either buy the lubricant from the offenders working at the hospital, or you must befriend them. The thing with the condom is that you should not use it with other stuff like Vaseline or body lotion, but that is what we end up doing. Sometimes, the condom bursts, and people contract HIV.*

While condoms do offer protection from STIs and HIV infection, in this case, their effectiveness becomes significantly compromised by the lack of appropriate lubrication,

especially when they are used for anal sexual intercourse. The use of petroleum jelly or body lotion compromises the structural integrity of the condom, making it break easily, which increases the chances of STI or HIV infection. The equitable distribution of lubrication is sometimes hindered by misadministration and corruption. Essentially, what this means is that offenders' health is compromised. As one would expect, this issue does not seem to take priority as it falls at the centre of undesirable and detested practices in correctional facilities.

Another issue that is not unique to correctional institutions in South Africa but which appears to be a global phenomenon is the lack of gender-affirming healthcare for transgender offenders. For Miss Stacey, a transgender female wanting to initiate hormone therapy, this is a difficult issue to deal with, she narrated:

*The only challenge that I have is not getting my hormones because I have not been getting them. I requested to start taking hormones. I went to the psychologist, the only challenge that I have is that no one was assisting me to go to Baragwanath [hospital]. People who go to outside hospital are booked to go there either by the nurse, psychiatrist or medical doctor. I was referred to the psychiatrist by the psychologist. I went there and saw him. I never heard anything from him; he saw me and took notes, and I never heard from him again.*

Discussed in depth in Chapter 2, the gender binary approach of correctional institutions globally and in South Africa, coupled with the transphobic attitudes of correctional administrators and even governments, largely contribute to the lack of GAH care for TGD offenders. A number of studies have documented the myriad negative health and mental health outcomes associated with the lack of access to GAH, such as self-injury (auto-castration or self-castration), depression, anxiety and suicidal behaviours. However, the availability of GAH has been shown to lead to positive health and mental health outcomes.

Unfortunately, correctional institutions still have a long way to go concerning providing gender-affirming healthcare as it is seen as merely cosmetic and not medically necessary. However, this is not to say that they cannot play an active role in assisting offenders who want to initiate, for example, hormone replacement therapy. Given that

some public hospitals provide such services, the onus would be on the department to create and facilitate an appropriate referral system. However, because of the marginalisation of gender minorities, this issue finds itself at the bottom of the pile, both for correctional management and professionals.

### **5.3.3.5 Theme 3e: The Culture of Silencing**

When it comes to issues of sexual and gender minorities, ignorance and disregard of the other are simply allowed to thrive. This is in part because the system itself appears to be inherently homophobic and transphobic but also because, in such environments, there is a pervasive culture of silencing. The victims are not allowed to speak up; they are not given a platform to communicate their discontent. Lenny expressed, *“I am faced with so many challenges. I should be able to speak out against injustice, but I find myself being so submissive and scared of even opening my mouth”*.

Mpumelelo hopelessly spoke about the unlikelihood of the system ever changing due to the silencing of offenders’ plights by correctional officials, the very people charged with seeing to their well-being; he stated:

*I do not think there will ever be change here because we are silenced by the officials, the very people who are supposed to be protecting us. There are officials that would chase your visitors away so that so that they do not see how badly they assaulted you. When your family wants to see you, they would tell them that they cannot find you.*

His sentiments resonated with those of Sakhi, who spoke about the silencing of Nomcebo, the gay inmate whom correctional officials brutally assaulted. He was silenced by not being allowed to talk to the researcher out of fear that he would narrate his story as clearly as he experienced his assault. Sakhi noted:

*They do not want him to tell his story; it’s something that is hurting us. Even this morning, when he was crying, we wanted to cry with him; that is why I am telling you his story. It’s wrong to brutally hit someone like that.*

Homophobia and transphobia function to oppress and marginalise those who are seen as deviating from normative and traditional gender roles, identities and practices. The narratives and experiences of the participants evoke a gloomy picture of correctional facilities. It would seem that homophobic and transphobic practices have been allowed to flourish. There appears to be no regard for the mental, emotional and even physical well-being of sexual and gender-diverse offenders.

#### **5.3.4 Theme 4: Relationships in Correctional Spaces: Conventions and Controversies**

Correctional spaces provide a unique and sometimes challenging environment for the development and growth of relationships and/or emotional connections. Although the issue of relationships has been touched on in previous themes (such as the discussion about transactional relationships involving sex in exchange for safety or luxuries), the current theme will expand on what has been covered. It will also present a different perspective on carceral relationships rooted in authentic interactions rather than transactions.

Sexual and gender-diverse offenders find themselves having to navigate a myriad of issues, some of which have been discussed, yet they still strive to meaningfully connect with others. As in other spaces of human interaction, relationships and intimate connections in carceral spaces are not independent of contextual factors; rather, they are influenced and, to an extent, shaped by those factors, hence their uniqueness.

##### **5.3.4.1 Theme 4a: Authentic Interactions (and Related Contextual Challenges)**

Notwithstanding the challenges inherent in correctional facilities, especially for sexual and gender-diverse offenders, a few participants reported having established meaningful and authentic intimate connections with others. Kaybee shared that:

*I have experienced positive connections. I think I mentioned that some they want support, some they do it because they feel lonely. So, with me, it was different, that's why every time it happened, it was positive because I look at what I want neh, it's not about financial support, it's about feelings. When you love, and you show that person love, they tend to love you too. We did things together; we helped each other. The things that people want from other people, we made sure that we got them on*

*our own. If you have half and I have half, we share; if we don't have, we don't have, so it's been positive.*

Contrary to relationships and intimate interactions where one party stands to gain materially and/or financially, as discussed under the performance of diverse sexual and gender identities, Kaybee's narrative speaks of authentic and equal intimate interactions that rewarded her with positive experiences. Lefa spoke about his 10-year-long relationship with his former partner. They met at the beginning of their incarceration, got separated when they were reclassified, but reconnected again and continued with their relationship, he stated:

*He propositioned me, I said yes, and we stayed together. He was then reclassified as medium risk and was transferred here to [name of facility] in 2013. In 2014, I was also reclassified, and they transferred me here. When I arrived, I reconnected with him, and we continued ... he heard that I was at C Section, and he came to see me; our relationship then continued until 2018, until he was released. We had been together for 10 years!*

Prior to incarceration, Lefa had never been involved in an intimate relationship with another male. However, during incarceration, he was able to not only establish a relationship but to maintain it for a relatively long time. Their relationship endured them being placed in different facilities due to risk classification.

Two participants who struggled with drug addiction spoke about the "saving" role their partners were or perceived as playing towards their envisaged sobriety. For these participants, their relationships held them accountable, which motivated them to change for the better. Lelo noted:

*The current one does not do drugs. The one I previously lived with used drugs, so I realised that my life will go backwards if I continue with this person. But if I continue with the one who does not use drugs, then it means I will never come back to prison. I wish to have her in my life.*

Tebza spoke about how her partner, whom she has been with for close to 3 years, fought for her to be a better person despite her drug abuse problem. She expressed that

through her partner's support and encouragement and through her own commitment to the relationship, she hoped to have a chance to be a better person:

*She is a good motivator, and she is a good person to hang around with because the only thing she wants for me is the best. So, she is busy fighting, fighting for me to quiet and be a normal somebody, a better somebody, so every time we have an argument, it is because of the drugs, and that is what I have realised. I really think I need to change my ways, I think she is the last person. Otherwise, I will never find someone who will tolerate me.*

Tebza further spoke about how other offenders and sometimes correctional officials praised the kind of relationship she has with her partner. For some, it was inspiring:

*Some they get inspired; they used to tell me that, you know what, in this prison, we have never seen a relationship like yours. Sometimes they would criticise other's relationships and say ah, some abomalume are not like you. You and Lee really love each other. It has been a while now that you have been together. It's transparent.*

While the acceptance of same-sex relationships by correctional officials seems like a rare occurrence, some participants, predominantly female, spoke about how correctional officials sometimes grudgingly acknowledge and allow same-sex relationships in the correctional environment. Lelo noted that while correctional officials frown upon same-sex sexual practices, they sometimes allow offenders some quality time with their partners, “*sometimes they allow us to spend time with our partners, but making love is not permitted*”.

Jill-Scott also indicated that some correctional officials require that relationships be conducted in a respectful manner, “*there are officials who understand [that intimate relationships are there], and they say do it respectfully*”. Kelly expressed similar sentiments. She indicated that usually, no harm comes to people for being in relationships, as long as they are respectful in their conduct, “*actually nothing happens, as long as you behave yourself and respect the officials then it's fine*”.

Jacky demonstrated that the carceral environment is not the only pool for potential partners. She spoke about how she met her two partners on Facebook. She narrated:

*There are contrabands [cell phones], but we do have them, so you might meet someone from Facebook and feel that you are connecting with them. The conversation is flowing. Then you get surprised when the person tells you that they are coming to the visit, asking you to provide them with visiting hours. I actually have two outside [partners].*

One might say that dating people in free society, apart from some of the material benefits it might provide, helps offenders to feel connected to a world that they are temporarily no longer part of. The fact that offenders do, in fact, meet new friends/romantic partners from outside feels like an affirmation of their dignity and a repudiation of the idea that their life story as members of society has to be placed on hold until they are released. It instils a sense of belonging and connectedness and perhaps a hope of longevity or continuation of the relationship even after they are released from incarceration.

In contrast to the latter, carceral relationships' life spans appear to be largely contingent on the partner's sentence length. For some of the participants who had established relationships with other offenders, the relationships ended when or soon after one of the partners was released from incarceration. Kaybee stated:

*She went out, we were in touch, but it just ... I am sure she got tired, and she continued with her life outside, of which I cannot say it's wrong. I think it's happened because I was left inside, knowing that I will still be here for long, so you cannot expect that person to wait.*

Similarly, Lefa's 10-year relationship ended when his partner was released. However, unlike Kaybee's partner at his release, Lefa's partner never looked back. He noted, "When I was still with him, he would say that when he goes out, he will come back and visit me in prison, but he never came back to visit."

The relative "short shelf life" of relationships is not necessarily unique to the carceral environment; however, for this population, the inevitable ending of relationships

discourages some from actively pursuing them. At best, they psychologically prepared themselves for temporary relationships with no hope for longevity. Kelly expressed:

*When I meet someone that I know they will go out first and I will be left in here, I set my mind that let it be for here, because if I expect something bigger, obviously, there is a high possibility that will be disappointed.*

To some, the leaving of a partner reminded them of the fluid nature of sexuality as most returned to their heterosexual lives. Jill-Scott noted, “*When they get released, the officials even say we saw so-and-so walking with her boyfriend and their children*”. The notion of fluid sexualities and sexual identities is also a reality for many same-sex relationships in free society when one or both partners are also involved with a person of the opposite sex. The differences between these realities (carceral vs free) are largely on the reasoning behind the fluidity.

There was an acknowledgement from some participants that some offenders get into intimate relationships not necessarily because of intrinsic motivation but also not for material or financial gains, but because being in a relationship with someone helps them “push” their sentence. The notion of pushing time or pushing the sentence is essentially about getting through one’s sentence with as little pain of incarceration as possible. Offenders push their sentence/time by enrolling in school, others work at production workshops, and others become involved in sporting activities. Involvement in these activities (in addition to self-development) distracts offenders from constantly ruminating on their incarceration and creates an illusion that time is moving fast.

Some participants’ narratives signal that being in an intimate relationship also provides offenders with something to focus on (creating a good distraction), which helps to buffer against or, at most, reduces the pains of incarceration. Jacky voiced out:

*For some, it’s one of those where it’s just doing it for the sake of pushing the sentence. Let me put it like this: some are doing it to shift focus from being an inmate to dating. They know that if they are dating, their partners will come and spend time with them. So, most of them, at least 75%, do it because they want to push time, that is why I do not think that they have [same sex] partners outside.*



Lelo expressed similar sentiments: *“When you come in here, you find someone else, and you date them, which helps you to push your sentence”*.

These narratives spoke to the participants’ positive experiences of finding love and meaningful connections in spaces that actively discourage such. For some participants, being involved in meaningful intimate relationships was “saving”; their partners supported them through their road to sobriety, and the relationship kept them accountable. Whatever the reason is behind these meaningful connections, whether it is “pushing the sentence”, what seems to matter is that those involved in them derive worthwhile and positive experiences. The connections help them endure the pain of incarceration. However, an undeniable reality is that most carceral relationships have a relatively short life span as they are mainly dependent on both partners inhabiting the same space.

Unfortunately, authentic and positive connections are not the only things that thrive in carceral environments, but so does the “criminalisation” of consensual same-sex practices.

#### **5.3.4.2 Theme 4b: Criminalising Consensual Sex – the Practice of “Planting”**

Criminalising same-sex sexual practices, even consensual ones, is a long-standing practice in South African correctional facilities, and this largely stems from and is supported by administrative practices. However, a new pattern seems to be emerging, one where offenders drive the criminalisation of consensual sexual practices. Two participants spoke about the practice of “planting”. Shane-D succinctly described it:

*Here there is this thing where you have a consensual relationship with someone, and then they turn around and say you raped them. They then demand money, maybe R5000. A person would sleep with you willingly, when you finish, they say you raped them, and they demand R5000, and they would want it maybe the end of the month. In the meantime, they would go and open a case. They would take the condom that you used and smear themselves with your sperm so that there is evidence. You will be forced to pay them because you also want to go outside.*

Miss Stacey also shared that:

*There are some gays who say they are raped because you had sex with them. There was an agreement that you were going to pay them, then after you refuse to pay them, then they open a case of rape.*

In this case, the criminalising appears to be spearheaded by a consenting partner, primarily for financial reasons.

Planting also contributes to a sense of mistrust; for example, Carl-M noted, *“I did not date anyone there, you know offenders are not very truthful. They are dishonest, they are full of lies, they are manipulative”*. Jamie also expressed similar views. He stated, *“In this environment where there are a lot of gay guys, there is a lot of backstabbing”*. This practice and the issues of mistrust were reported only by male participants. This might be construed as implying that male offenders innately gravitate away from intimacy and authentic interactions, which is the “forte of females”. A more plausible interpretation might be that such issues (mistrust and planting) reflect more the predatory nature of male correctional facilities.

The practice of planting stands in contrast to and might even be the nemesis of authentic connections or interactions as it serves to instil fear of being involved in intimate or sexual interactions. However, it needs to be strongly noted that, given how difficult it is to report rape (both in free society and in corrections), the bias should be towards believing the accuser, which has recently become the norm. The politically correct position on rape is that false accusations are rare and that the intensity of talk about the threat posed by the possibility of such accusations is out of proportion to how uncommon they actually are. Although “prison” talks about planting should be taken seriously in the context of pervasive lawlessness and mistrust, it should also be understood as part of the broader social fantasy regarding how common planting is relative to actual rape.

#### **5.3.4.3 Theme 4c: Intimate Partner Violence: Perpetrators and Victims**

Carceral same-sex relationships are as similar as they are different from same-sex and heterosexual relationships in free society. While it is widely accepted that intimate partner violence is the province of heterosexual relationships, it also occurs and may even be common in same-sex relationships. Some participants reported either being perpetrators

or being victims of intimate partner violence in their carceral relationships. Jacky spoke about her possessive nature, which led her to be violent towards her partner. She stated:

*I want you to be mine alone, so that thing got me to a point where I became violent towards her. I got to a point where I was assaulting her. I felt like she did not listen to me, but she wanted me to listen to her. So, in a way, I realised that it's dangerous. On our separation, she pointed out that I controlled her, I don't want her to have friends, I am possessive, and I am abusive.*

While Jacky was the perpetrator of violence in her relationship, Lefa got the short end of the stick in his. He narrated how his partner of 10 years physically abused him even though he (the partner) was at times unfaithful. He narrated:

*It occurred frequently [physical abuse]; sometimes, he would hit me, and I would report him to the officials. He stayed at the single cells, and some of my friends also stayed there, so they would tell me that your boyfriend is dating so-and-so when I asked him, he would say those people are lying.*

When Lefa tried to leave the relationship, he would be accused of having affairs with his friends. The all too familiar characteristic of perpetrators, isolating their victims, came out in full in Lefa's relationship. His partner also resorted to death threats as a way of controlling him:

*When I told him that it is better that we separate, he would fight me. He would say he suspect that I am dating one of my friends, and he would tell me that he does not want to see me with them anymore. He would say that I can never leave him. If I did, someone would die.*

To demonstrate the far-reaching impact of the abuse, Lefa became visibly distressed and teary as he narrated his abusive experience with his ex-partner. Lenny also spoke about how his partner assaulted him in the passage because he refused to "obey" him:

*The guy physically assaulted me, and my tooth actually came out. He called me while I was waiting at the gate. He wanted to show off, I refused to go to him. He*

*grabbed me, pushed me down. I was literally down on the floor, and he was on top of me.*

With Lenny's experience, the assault came with a great display of power from his partner. It occurred in the passage and was witnessed by other offenders, thus enforcing his dominance and control over him. Lenny's partner's abusiveness was not hidden, which feeds into the normalcy of men-men violence that is rarely questioned by society. As in other settings, in correctional spaces, intimate partner violence creates power imbalances where the abuser has more power and control over the victim and essentially over the relationship. In correctional settings, the latter might be influenced and even amplified by the limited control offenders have over various aspects of their lives. Thus, exerting control over others might create an illusion of regaining one's lost sense of control and autonomy.

Generally, there is great silence around intimate partner violence; as one might expect, this silence grows greater when considering same-sex relationships due to the already existing stigma surrounding sexuality and gender diversity. There might even be greater silence in carceral settings because of two salient issues – 1) intimate and/or sexual relationships are officially not allowed, and 2) sexual and gender diversity is heavily frowned on. Thus, victims of intimate partner violence (implication that they are dating other offenders of the same sex) are unfavourably placed and actively disempowered from breaking the silence on violence in general and intimate partner violence specifically. As a result of these issues, intimate partner violence might be grossly underreported, and if reported, the intimate partner part might be censored and the matter reported as general assault.

### **5.3.5 Theme 5: Resilience and Wellness Promotion**

The predominant pattern that emerged in many of the narratives is of struggle, particularly with how the correctional system approaches the issue of sexual and gender diversity and those who identify as such. However, this does not nullify the positive stories that have been told, such as being in a freeing environment and finding love. The current theme, resilience and wellness promotion, connected and added to the positive stories participants shared. While most of the previous themes may position participants as helpless victims, this theme offered a different perspective. It presents some participants as

resilient and demonstrating strength during adversity. In some of the preceding narratives, the correctional environment was described as silencing. However, this theme establishes that some offenders shout over the silencing and demand to be heard.

### **5.3.5.1 Theme 5a: Demonstration of Resilience and Strength**

A few participants narrated experiences highlighting their internal resilience and strength to personal challenges. Shane-D spoke about how he dealt with the news about his HIV status. He narrated that on his first night in a remand detention facility, he found himself having sex with another detainee and was too afraid to ask for protection. After he was sentenced, he again met the offender who, unprovoked, said to him, “*Do you know that I gave you AIDS?*” In response to that revelation, Shane-D decided to go for voluntary testing; he narrated that:

*So, I went for an HIV test, and I found that I was positive. I cried so much. You know, when you get such news while you are among foreign people, stranger, but then I told myself that I had to be strong for myself because in here I don't have my sister or brother or mother.*

Shane-D's story demonstrates strength in adversity in an environment foreign to him, an environment that feeds off vulnerability. He chose to be strong for himself because he had to.

Jessy spoke about how he chose to make peace with being placed in the special care section. Expectedly, he went through the process of resistance and fighting until the fighting had become unbearable. He spoke about how difficult it was to pretend to be a straight offender living in the general section. He noted, “*I could not bear walking like a straight man every day. I had to shower with K every single day so that he makes sure no one rapes me.*” Through the conscious process of accepting his reality and what it meant to be gay in a general section, he eventually allowed himself to be placed in a special care section, where he found peace and rest. He narrated:

*After some time, I had to learn to accept my surroundings. I knew it was for my own safety; there was less pressure and less stress for me. In the evenings, I would meditate and was spending time with myself and my thoughts, writing them all*

*down, trying to forgive myself for things I had done and forgiving others. It actually helped me; it helped me.*

He further stated:

*I got some peace and quiet, something I know for a fact that others would kill to have, just to have 2 weeks with no phone calls, no social media, no nothing, just spending time with yourself, then go back to the busy world. So, I said to myself, I will take this because not everyone gets this chance.*

Although Jessy was “pushed” to the special care section, he made conscious efforts to make the environment work for him once he got there. One might interpret this as a process of finding resilience.

Another participant spoke about his experience with resisting “incarceration pressures”. While it might be tempting for some to engage in intimate or sexual relations during incarceration, Zolani chose to remain single and focus on self-development. He remained true to his word and was not easily swayed by external pressures. He stated:

*There are a lot of guys that come to me and propose. I am a straightforward person, so I tell them that I am not here for those things, I am gay, but I am not here for those things. I believe that when one is in prison, that thing must always be in your mind so that you can remain focused and know how you should behave. You find that some people in here do all these stupid things – I do not blame them. We are all different from each other. I am not trying to be better than others. I believe in this notion of respecting yourself so that others will also respect you.*

Zolani’s narrative speaks to standing one’s ground and holding on to one’s most prized values regardless of the context. For Zolani, respect, especially in carceral spaces, is facilitated by being grounded in one’s belief and that grounding, in turn, inspires respect from others.

In their narratives, other participants challenged the injustices inherent in the correctional system and, specifically, injustices towards sexual and gender-diverse

offenders. Responding to the lack of female condoms and the possible rationale for the shortage, Jill-Scott stated:

*I remember when I was doing the HIV course, I raised up my hand and said but you, as the clinic, know that there are lesbians; you know that whether you tell people about policy, that they cannot be intimate, they will still engage, they will find a way of doing it. Whether they are in a communal cell or single cell, they will find a way of doing it. So, if we know that it's there [sexual practices], why don't you order condoms?*

Jill-Scott challenged the concept of “sodomy”, which essentially criminalises same-sex sexual practices and, in turn, “rationalises” the “conservative and inconsistent” provision of condoms and sometimes lubricants. Her argument touches on the reality that just because sexual intimacy is barred in correctional spaces does not mean it does not occur.

Also, talking about the issue of “sodomy”, Jamie recalled an experience where he stood up and challenged one of the managers addressing sexual and gender-diverse offenders and using the term “sodomy” to refer to consensual sexual practices. He stated:

*Immediately, I stood up. That was the first time in my life that I reacted. I had listened to homophobes say things, and I would let them slide, but on that day, I stood up because I became very agitated. I said to him, ‘You cannot use that term; it is outdated, it does not exist, sodomy was a charge used back in the day for men sleeping with other men; currently, men are allowed to sleep with each other’.*

Jamie gained the strength whilst incarcerated, to speak up against homophobes, which he had not done before. Like Jamie, Mpumelelo spoke about his fierce response to the unjust environment. While passionate in his engagement with verbally abusive correctional officials, Mpumelelo still employed sound strategies to convey his views. He noted:

*I have become rude, and I retaliate, so I am not bothered much about the language the officials use because I talk back. You know, when you have raised yourself because I basically raised myself, you tend not to allow other people to change who*

*you are, so I always try to defend myself but using the right strategies that do not entice violence from them. I use the department's procedures against them.*

In addition to using the departmental procedure to aid his battles with the unfair system, he also narrated that his participation in the current study was to break the silence, to speak up with the hope that his voice and perhaps the voices of other sexual and gender-diverse offenders will be amplified, and their stories told to the greater public:

*Initially, I thought why should I participate in this study, but then I thought that if the information I provide will go beyond this place, then that is an advantage. It will go out and reach the broader community. I was sceptical, and I did not want to at first. I think they told us about 3 weeks ago that a researcher will be coming in, then yesterday I realised that I need to do this and that I will not lose anything by participating. I think it's better that we become vocal about these issues.*

Other participants, like Shane-D, go beyond procedure and verbal fierceness and take matters into their own hands, literally, to defend themselves against their aggressors, Shane-D stated:

I have never been bullied in prison. I do not remember being bullied because I am a kind of person who fights; I fight. I remember there was this one time this guy was mocking me, saying you are gay this and gay that, I assaulted him, you know ... I do not want to be mocked, especially about my sexuality.

Tendai shared how he used threats and his ability to follow through with them to deal with a correctional official who was victimising him:

*At one point, I threatened Chief M; I told him that if he lays a finger on me, I will pour boiling water on him. I am capable of doing anything to him because of how he treats me. He is victimising me.*

The themes discussed so far demonstrate active approaches to dealing with injustice and discrimination on the basis of sexual and gender diversity. This discussion presented participants actively standing their ground, actively being empowered and resilient. However, other participants reported using passive forms of engagement that nonetheless



helped them deal with issues of homophobia and other related issues. Lelo narrated that her strategy of “not taking issues to heart” assisted her in averting mental and physical challenges that sometimes lead to suicide. She noted:

*Sometimes, others use derogatory terms, but I do not take it to heart because I am on medication. The minute you take what people say to you, you will be traumatised emotionally, spiritually and physically. You might even attempt suicide.*

Kevin spoke about ignoring his aggressors as a helpful strategy for dealing with homophobia and preventing the escalation of issues into physical fights:

*I just ignore them; it really helpful just to ignore, even with the other inmates, when they start being homophobic. It does not help if you are trying to defend yourself. It can just end up in a big fight, so I just look at them and leave because I know I have a short temper. We will fight, and it will escalate.*

These passive and non-confrontational strategies, one might point out, are as important and valuable as active strategies. They demonstrate profound resilience and empowerment to regulate one’s emotions and behaviours amidst triggering situations. Overall, the stories told here are those of resilience, challenging the status quo, empowerment and standing one’s ground. These stories are the loud voices of participants that were not muffled or silenced by adverse experiences during their incarceration.

### **5.3.5.2 Theme 5b: Way Forward – Wellness Promotion**

Participants quoted above worked to consciously manage and improve their personal situation as individuals, but they were also clear about insisting on structural changes that go beyond developing personal resilience. For example, some spoke about interventions that should be put in place to promote the social, physical, and psychological well-being of sexual and gender-diverse offenders. The bare minimum asked by some participants is to be treated first and foremost as people and second to be treated fairly and justly as most heterosexual offenders. Lenny’s plea is for sexual and gender-diverse offenders to be afforded some priority and not be seen as “sex slaves”, he noted:

*I would like them to just allow us to be, also to make us a priority and not an option. Allocate us enough cells and treat us the way they treat other people. The only value that we have here in prison is that of being sex slaves for other men.*

Lenny's narrative creates an image where fairness and justice for sexual and gender-diverse offenders are an option and not a priority.

Mpumelelo spoke about the practice of humane-ness in the treatment of sexual and gender-diverse offenders. Important is the treatment of these offenders as individuals who are inherently different from other people whom they also share similarities with, he noted:

*Officials also need to learn to deal with inmates as individual people, not as gay or straight. Yes, they must provide a dedication section for LGBTQ inmates, but they should be treated as people and not as gay people. I find myself involved in fights that have nothing to do with me but because of this blanket approach.*

Mpumelelo's narrative resonates with the earlier discussion of the practice of homogenisation of sexual and gender-diverse offenders, the use of a blanket approach where these offenders are seen through the lens of just being gay and nothing more. The obvious danger here is that the individual disappears into the masses and is never truly seen. The individual ends up carrying a yoke put on the masses.

Speaking on practical and tangible changes, some participants spoke about the placement of female officials in special care sections. Perhaps this comes from a potential lack of empathy from male correctional officials when it comes to the issues of male-to-male rape in correctional spaces. The assumption is that female officials might be more understanding and empathic to the experiences of sexual and gender-diverse offenders, Miss Stacey noted:

*I suggested when I was talking to the psychologist and the social worker is that we need a female official to work with male officials. When we are experiencing incidents of rape, we need someone who will be able to listen and understand the pain we are going through.*

Mpumelelo shared the sentiments that female correctional officials are needed in special care sections: *“I think they need to employ more females. In this section if they can place at least two females”*. These sentiments, I would argue, speak volumes in terms of sexual and gender-diverse offender’s experiences with male correctional officials, experiences that might have been anything but tender and supportive. However, this does not detract from the help and support that some male correctional officials have extended to some of the participants.

Further, several participants spoke strongly about the value of education and training on the issues of sexual and gender diversity for correctional staff. Carl-M indicated that education might ameliorate people’s outdated ideas. He expressed that education should also be extended to offenders as well. He stated:

*There is a lot that must be done. I think there should be educational programmes about this community because there are many people who are still outdated in their thinking. The programmes should be directed firstly at the officials and to us as inmates.*

Kevin felt that homophobia and ill-treatment of sexual and gender offenders are fuelled by a lack of sound knowledge about this area or community:

*Officials should be educated about bisexuality, about people who are gay. Currently, no one cares about gays; people are not educated, that is why they act like fools. That is why you still get people who are homophobic and people who judge us. It is because they are not educated.*

There was consensus that education and training in this area might potentially alter and improve negative attitudes towards sexual and gender-diverse offenders. Some participants felt that some of the pervasive issues of systematic homophobia and discrimination might be eradicated through education and training., Mpumelelo felt, *“The department should introduce a learning criterion about LGBTQ people that will be compulsory for all the officials. That will eliminate most issues that arise from misunderstanding and lack of knowledge.”*

Jamie felt that sometimes blame is blindly placed on correctional officials without due consideration of the lack of education and training they are afforded in this area:

*The officials must be well informed about LGBTQI issues. There must be workshops done. Sometimes, we might blame officials, only to find that they are not well informed. One official always asks us questions. He is a little older; he tells us that he wants to understand more because he also has children, and if one of them says they are this kind of person, he wants to know how to handle that.*

Jamie's story further captures the experience of a correctional official who showed interest in learning about sexual and gender-diverse issues for his own development. The need for knowledge might potentially be held by many other correctional officials who might not have space to voice those needs.

In addition to personal survival and growth strategies implemented by individuals and structural changes that have to be implemented by the authorities, a third way in which people make things better might be acting collectively – standing up for one another and providing support. Unfortunately, that was the biggest missing piece for some of the participants. Mpumelelo noted he does not usually associate with other sexual and gender-diverse offenders: *“To be honest, we don't get along as LGBTQ inmates. I don't have gay friends, I never associate with most of them, we did before, but the direction they were going in was not for me.”*

This was echoed by Lenny, who felt misunderstood and disrespected by his gay cellmates. Further, the disconnect between him and them was fuelled by the lifestyle they live, which he disagreed with:

*I stay in a cell with two gay people. I am actually transitioning into a spiritual healer, and I find myself so disrespected because they do not see what I am going through. I do not live like them. They have been in and out of prison, so they are used to this life, but I feel like it is degrading for my integrity to be sleeping around, doing this and doing that. I think I am better than that.*

Dave shared that he encouraged cooperation among sexual and gender-diverse offenders in his section, but he was met with resistance. He noted, *“We do not support each*

*other. I suggested that we should work together, write complaints and submit them, but none of them did that". Zipho also attempted to bring about unity among sexual and gender-diverse offenders in his section, and fortunately, his attempt bore some fruits: "We have recently started supporting each other. Previously, people only cared or looked out for themselves. I have been advocating for unity, and I now feel they are supporting my vision."*

Incarcerated sexual and gender-diverse offenders have a voice. As expressed by some participants, their voices are their strongest and may be the only method to defend against homophobia, discrimination and victimisation that is forever present in carceral spaces. The powerful narratives presented here attest to the resilience and strength of sexual and gender-diverse offenders. The narratives tell a story, not of victimhood but of individuals who chose to, against all threats, stand up to homophobia-induced bullying. Of course, this does not erase sexual and gender-diverse offenders' reality of victimisation, discrimination and marginalisation. However, it does say that amidst all those challenges and hardships, some offenders stand their ground and challenge injustices. Although not a paramount threat to resilience, the reported weakened collectiveness, cooperation, and support between some sexual and gender-diverse offenders does raise concerns as it might increase vulnerabilities to victimisation and present a fragmented front.

It is worth mentioning here that focusing on resilience does not mean ignoring the social or correctional ills that force people to become resilient. The resilience demonstrated by some participants does not mean that these troubling contextual issues should be allowed to fester just because people have found ways of coping with them. In this case, the resilience and empowerment of sexual and gender-diverse offenders should be promoted in conjunction with advocacy and activism aimed at dismantling some of the "homo-toxic" traits of the correctional system while simultaneously entrenching those that promote the social, psychological and physical well-being of this vulnerable group.

## **5.4 Conclusion**

This chapter presented the analysis of the main findings of the study. The tone of the analysis was set by a pen sketch of the participants. While this primarily functioned to provide the reader with some basic information about the participants, it also gave life to the data by embedding the summarised life stories of the storytellers. This presented the

participants as “living” people with a collection of vast experiences. Five primary themes were presented, namely segregation vs integration, sexual and gender-diverse identities in the context of incarceration, systemic homophobia, relationships in correctional spaces: conventions and controversies, as well as resilience and wellness promotion.

The first theme, segregation vs integration, captured the participants’ experiences related to placement, whether in special care or general sections. For some, segregation was a voluntary process, while others were forced into it with minimal or no consultation. Overall, the participants reported adverse experiences in special care sections where, instead of safety, they encountered discrimination, violence (including sexual violence) and exploitation from offenders (who identify themselves as heterosexual) and sometimes correctional officials. Thus, there was a general experience of being unsafe in a space meant to promote safety. The adverse experiences and how they were addressed by correctional officials cemented the privilege of heterosexuality; that is, participants felt that there was a qualitative difference in the treatment of sexual and gender diverse and heterosexual offenders, where the latter are afforded some privileges compared to the former. The alternative, integration into general sections, also came with its fair share of challenges, especially for male offenders. A few participants reported that on entry to general sections, they were met with unexpected kindness from other offenders, only to find that those acts of kindness came with terms and conditions. Some participants reported experiences of sexual victimisation during their stay in general sections. However, female participants expressed a preference for general section living. For them, segregation meant discrimination, and their experiences in segregation were deleterious.

The second theme, sexual and gender identities in the context of incarceration, broadly spoke to the continuum of sexual diversity. The participants’ narratives highlighted the “endlessness” of sexual diversity. Female participants primarily spoke about females who come to correctional centres identifying as heterosexual but eventually adopting a lesbian identity. This diversity process was understood to be facilitated and motivated by financial needs; that is, some heterosexual women adopted diverse identities to benefit materially from same-sex relationships. Some male participants also noted that some offenders engaged in same-sex sexual relations (not necessarily adopting diverse identities) for material gains. While incarceration largely signals the loss of one’s freedom, some

participants expressed that they found liberation in incarceration regarding their sexual and gender identities and the ability to express those identities.

The third theme, systemic homophobia, presented participants' experiences of homophobia, discrimination and marginalisation perpetuated by both correctional officials and other offenders. While some offenders were active in perpetuating homophobia, correctional officials were said to be the main culprits. Participants experienced homophobia in a variety of ways, including being denied work opportunities for supposed security concerns, use of derogatory language by correctional officials and denial of gender expression. Owing to the stereotypes associated with sexual and gender-diverse people and perhaps other marginalised groups, some participants felt they were treated as a homogenous group solely because of their shared experiences. In addition to negative interpersonal experiences, some participants, particularly female participants, had to deal with inadequate sexual healthcare, namely the lack of female condoms. Several participants spoke about offenders coming to correctional facilities being HIV-negative and leaving with positive statuses. Correctional facilities globally continue to experience challenges with regard to the provision of gender-affirming healthcare. The transgender female participant expressed that she struggled with accessing hormone therapy from the internal hospital and being referred to an external public hospital for these services.

Theme four spoke to the controversial and as well as conventional issues surrounding intimate relationships in correctional spaces. Some of the participants narrated their experiences of developing meaningful emotional connections with other offenders. These experiences stand in stark contrast to those mentioned earlier about heterosexual offenders getting into relationships with sexual and gender-diverse offenders for material gains. Others indicated that being in intimate and meaningful relationships eased their pains of incarceration. Unfortunately, it appears that most positive experiences in correctional institutions are matched with negative ones. Some participants spoke about the practice of planting, which entails offenders consenting to sex but later reporting or threatening to report it as rape as an attempt to extort money or other goods from the partner. This is a contentious issue, given that actual rapes occur more frequently. Another vice that continues to sweep through free society is intimate partner violence. One participant reported being a perpetrator of violence in her relationship, while one was a victim in his.

Ending on a positive note, theme five narrated the resilience of sexual and gender-diverse offenders despite the challenges they experienced and continue experiencing in correctional institutions that are laden with discriminatory practices. Resilience was about surviving the difficult environment, while for others, it was about challenging the status quo. As owners of the narratives and experiences, participants proposed interventions that would promote their well-being in correctional facilities. Some felt that the placement of female correctional officials in special care sections might empower victims of sexual abuse to come forward and report without fear of being judged or blamed for the abuse. Others expressed that the department should invest in the training of correctional officials on LGBTQ+ issues so that they can be empowered to work affirmatively with this population. Yet others felt that sexual and gender-diverse offenders need to learn to work together and to support one another.

Having presented the finding of the study, the following chapter will present a more integrated discussion of the findings and how they relate to the literature available in the field of correctional sexuality.



## CHAPTER 6

### DISCUSSION OF FINDINGS

#### 6.1 Introduction

The topic of sex and sexuality in correctional institutions did not receive much attention until the last few decades. Tewksbury and West (2000) noted that the dearth of research in this area was primarily due to researchers and correctional administrators' lack of interest in studying this field. It can also be argued that same-sex sexual practices, whether in free society or in enclosed spaces, have and continue to be conflated with homosexuality. Thus, the "taint of homosexuality" made the area of sex and sexuality undesirable and to be perceived as lacking academic and practical significance. In earlier studies, homosexuality in correctional institutions was studied primarily from a psychopathology perspective, attempting to understand why offenders engage in homosexual behaviours. It was largely studied for the purposes of developing hypotheses and theories for understanding homosexual behaviours in those spaces (Eigenberg, 1992; Hensley et al., 2000; Novac, 2013). It was not until recently that research in this area sought to look at the impact of homophobia, discrimination and marginalisation of offenders who identify as sexual and gender diverse (Andrinopoulos et al., 2011; Gopal, 2015; Sit & Ricciardelli, 2013). Globally, there has been a positive and progressive move towards the normalisation of sexual and gender diversity, which started with the depathologising of homosexuality by the American Psychiatric Association (APA) in 1973 (Drescher, 2015). A few affirming documents and guidelines have emerged, particularly in South Africa, for example, PsySSA guidelines for Psychology Professionals Working with Sexual and Gender Diverse People and the Southern African HIV Clinicians' Society Gender-Affirming Healthcare Guideline for South Africa. These documents have attempted to normalise sexual and gender diversity. These developments have also reverberated in carceral spaces, thus bringing about some transformation in how sexual and gender diversity is perceived.

The findings of this study primarily speak to the challenges that sexual and gender-diverse offenders confront in correctional spaces. Despite the changes in perception that have occurred over the years, carceral spaces continue to hold conservative views on sexual

and gender diversity and same-sex sexual practices. However, this narrative is not exclusive to these spaces; free society also continues to hold fast to conservative and discriminatory views and beliefs. As discussed earlier in the literature review, correctional institutions are not entirely closed off from free society; as much as they are self-regulating, they are also continuously influenced by society.

The focus of this study was on the exploration and documentation of lived experiences of sexual and gender-diverse offenders in two South African correctional facilities in Gauteng Province, namely Johannesburg Management Area and Kgosi Mampuru II Management Area. The overarching objectives of the study were:

- To explore and document sexual and gender diversity and identities in Gauteng correctional facilities.
- To explore the relational dynamics between sexual and gender-diverse offenders and their largely heterosexual environment.
- To document offenders' perceptions of the availability (and effectiveness) of sexual and gender-diverse affirmative healthcare services and incarceration policies and procedures in correctional facilities.

This section will discuss the results presented in the previous chapter. The findings will be discussed in relation to the literature review, the theoretical framework (social constructionism) as well as the objectives of the study.

## **6.2 Segregation Vs Integration**

### **6.2.1 Counteracting Violence Vs Erasure of Identities**

Correctional institutions across the globe are breeding grounds for violence, including sexual violence. The Community Law Centre (Muntingh, 2009) stated that offenders are at a heightened risk of being assaulted, raped, and even killed at the hand of correctional officials and other offenders. Rolfe and Tewksbury (2018) explained that violence occurs in most, if not all, settings; what distinguishes carceral violence is the context in which it occurs. Being a diverse community of people, correctional facilities house offenders with different vulnerabilities and characteristics, whether physical,

psychological or social, that predispose them to various forms of violence and victimisation. It is against this backdrop that most correctional institutions around the world, including those in South Africa, have put measures in place to protect vulnerable offenders. These measures include the establishment of protective or special care sections.

In South Africa, the White Paper on Corrections (DCS, 2005) and the Correctional Services Act No. 111 of 1998 make provisions for the protection of offenders, including vulnerable offenders, through safe and secure detention. In most circumstances, this is realised by separating vulnerable offenders from other offenders who might cause or perpetuate harm. In South African correctional facilities, offenders who were part of the judicial system (law enforcement, correctional services), who identify as sexual and gender diverse and who are victims of sexual violence are typically housed together in special care sections to protect them from victimisation/harm or further victimisation.

The placement of sexual and gender-diverse offenders in special care sections, in principle and perhaps occasionally in practice, reduces their risk of victimisation, specifically sexual violence and/or exploitation. A comparatively small number of participants reported positive experiences in special care sections. Those participants were open about their sexual orientation at admission for purposes of protection from other offenders. Yap et al. (2019) suggested that voluntary disclosure of one's sexual identity in a largely heteronormative carceral environment can result in unwanted consequences such as victimisation. The participants in their study adopted a "wait and see" approach or waited many years before coming out. For those participants, the motivation for delayed disclosure was the fear of being ostracised. However, some participants in the current study disclosed their sexual identities upon entry, largely motivated by the fear of being sexually assaulted by other offenders. Interestingly enough, the participant's disclosures were well received by admitting correctional officials who facilitated placement to special care sections. Unfortunately, these positive experiences appear to be few and far between.

A recommendation I made in the Southern African HIV Clinicians Society (SAHCS) gender-affirming healthcare guideline for South Africa is that sexual and gender-diverse offenders be placed in protective sections if that is their preference. However, there should be awareness and foresight that such segregation might lead to further victimisation (Tomson et al. 2021). This necessitates a process of consultation with the offenders and

their consent sought before their placement to special care sections. In the current study, most participants were involuntarily placed in special care sections without due consultation.

Two arguments may arise from this – the first one being that the placement was for the participants’ protection from possible victimisation given the predatory nature of the correctional environment. Thus, in this case, the justification is that safety and security take precedence over offenders’ will and preferences. Second, segregation might have been an implicit act of homophobia and functioned to remove all those regarded as non-conforming from the general correctional community, locking them away so that they fade from the general consciousness and awareness of the larger carceral community, thus “out of sight, out of mind”. In support of the second argument, female participants who were segregated had never experienced victimisation in the general section; they did not feel that their lives were threatened, yet they were removed and placed in a “protective section”. Of note, only butch or masculine lesbians were segregated, while feminine or “lipstick” lesbians were allowed to stay in general sections. In an all-female correctional facility, there is an expectation that femininity should be the norm. Masculine behaviours and tendencies expressed by butch lesbian offenders threaten and challenge this expectation. In the current study, the correctional administrators dealt with this threat by secluding the masculine lesbians from “vulnerable” heterosexual females. Feminine or lipstick lesbians were spared from involuntary segregation because of their feminine characteristics, mannerisms and behaviours.

### **6.2.2 Corrupt Access to Special Care Sections**

Being rendered invisible by segregation appeared to be evidence of a much larger problem, considering the depth of victimisation and violence that some participants experienced in special care sections. There was consensus among male participants that access to special care sections is highly unregulated and that any offender who claims to be gay, bisexual or transgender can be admitted without any due diligence being done. This laissez-faire approach allows opportunistic behaviours where any offender, including drug users and gang members, can claim to be sexual or gender diverse in order to gain access to special care sections. From the participants’ accounts, while special care sections have been made to be non-conducive for sexual and gender-diverse offenders, they are a utopia

for heterosexual offenders because they are not overcrowded compared to general sections. As in other settings, corruption in correctional institutions is rife; the placement of unqualifying offenders to special care sections is usually aided by corrupt financial transactions between correctional officials and offenders.

Muntingh (2006) and Pyman (2021) confirmed that corruption thrives in correctional facilities due to a conflation of factors such as poorly paid correctional officers, unequal power dynamics and offenders deprived of certain goods and services. Pyman noted that in this context, both correctional officers and offenders play active roles in the initiation and perpetuation of corruption. Correctional officers may seek bribes from offenders and/or their families in order to perform certain acts; offenders also bribe officers to access certain privileges such as special placements. One participant noted that men who are intimidated by other men in general sections pay correctional officials something like R1000–R1500 so that they can be moved to special care sections. While there are inherent power dynamics between correctional officials and offenders, access to financial resources also creates fundamental unequal power dynamics between offenders themselves. Those with access can manipulate the system for their benefit, while those without access suffer oppression from both officials and “well-off” offenders. Some participants reported having poor social support from their families either because they come from disadvantaged backgrounds or because they are in conflict with their families as a result of their sexual and/or gender identities. Thus, their identities and lack of access to financial resources doubly prejudice them.

### **6.2.3 Lack of Safe Spaces for Sexual and Gender-Diverse Offenders**

The exodus of heterosexual offenders to special care sections in an unregulated and corrupt manner means that sexual and gender-diverse offenders continue being a minority, which exposes them to discrimination, victimisation and violence. Narratives of some participants portray special care sections as equally or more dangerous than general sections. Participants revealed that they still had to contend with sexual violence where other offenders would demand sex from them solely on the grounds that they identify as gay, bisexual, or transgender, and refusal would sometimes lead to rape and/or assault. Sexual and gender-diverse offenders struggling with drug addiction were said to be even more vulnerable to sexual exploitation as they are easily lured by the promise of drugs or

money. Unfortunately, integration into general sections presents more or less similar challenges for sexual and gender-diverse offenders.

A few participants narrated experiences of sexual coercion in general sections. One participant reported negative experiences which involved coercive sex and having to prostitute himself for material goods. Donohue et al. (2021) stated that sexual and gender-diverse offenders are disproportionately affected by sexual victimisation compared to their cisgender counterparts. Bromdal et al. (2018) noted that research has consistently shown that offenders who are perceived as “transgressing” traditional heteronormative sexuality and gender boundaries are at a heightened risk of coercion as well as sexual violence compared to the general offender population. Within the predominantly homophobic system of corrections, sexual and gender-diverse offenders are usually seen as transgressors of these traditional boundaries and sexual violence levelled as punishment. While sexual and gender-diverse offenders are more vulnerable to sexual violence, offenders who are perceived as physically weak or possessing characteristics that are associated with femininity, such as emotional vulnerability and/or feminine mannerisms, are potential victims of sexual violence. Lara (2010) and O’Donnell (2004) argued that due to the pervasiveness of sexual violence in correctional institutions, rape is considered inevitable or highly probable by both correctional officials and offenders themselves.

Rolfe and Tewksbury (2018) distinguished between three forms of sexual violence in carceral spaces – forcible rape, coerced sex and coerced prostitution. They argued that contrary to popular belief, forcible rape is the least common of the three. Coerced sex and prostitution have been the most visible and documented forms of sexual violence in carceral settings. Gear (2005) wrote extensively about the interplay between sexual violence, specifically sexual coercion and the Numbers Gang. She noted that in male correctional facilities, the population is typically divided into those who identify as “men/husbands” and those who are perceived as “women/wifies”. The husbands typically provide materially while the wives are tasked with being “homemakers” and providing sexually for the husbands. Male participants in this study shared experiences of being showered with “kindness” when they came into the system only to find out that this kindness carried a sex price tag. Through this process, a debt is created. The debtor typically targets offenders with poor social support, knowing that they will not have access to financial support to

repay the debt; thus, the only available payment plans are for the offender to become the “wyfie” (sexual coercion) or to be sold to be “pimped” to other offenders (coerced prostitution) and sometimes both. Lack of submission by the new offender to either of these terms leads to rape and/or assault.

I would like to argue, however, that the “strong visibility” of coercive sexual practices, especially in South African correctional facilities, does not mean that overt rape is not rampant. Internationally, inconsistent figures of non-consensual sexual practices in correctional institutions have been reported (Morash et al., 2012; Papadakaki et al., 2019; Richters et al., 2012), some as low as 1% and others as high as 40%. This mirrors rape figures in free society where there is inconsistency in reporting, but predominately, gross underreporting. Male-on-male rapes are severely underreported, both in free society and in correctional facilities. Richters et al. (2012) noted that underreporting is due to the stigma associated with victimhood in a culture of hegemonic masculinities. Gear (2007) and Sivakumaran (2005) added that the association of male rape with homosexuality discourages victims from coming forward out of fear of being labelled homosexual. However, it is not only the “taint” of homosexuality that contributes to underreporting, but also the demasculinisation, the transition from man-ness to prison woman-ness (Gear, 2005). That said, gay or bisexual offenders, for example, may refrain from reporting rape out of fear of publicly losing their man-ness and sense of masculinity and thus being further targeted by perpetrators. It goes without saying that overt manliness and aggressive masculinity in the carceral setting shields against victimisation and, most importantly, sexual violence. Those who have been stripped of these characteristics through rape or coercive sexual practices face the perpetual risk of sexual victimisation.

Sexual violence was not the only vice reported by participants. They also had to contend with violence meted out by correctional officials. The story of Nomcebo, as narrated by participants from his section, is a particularly disturbing one. It illustrates how quickly lethal violence can get when motivated by hatred of the other because of their undesired difference, such as sexual orientation or gender identity. Another participant reported being fingered and assaulted by a correctional official following an argument about his sexual orientation. These acts of violence in this context parallel the devastating murders of 20 sexual and gender-diverse people in 2021 (Human Rights Watch, 2022).

Participants reported a concerning trend where they experienced more violence from other offenders in general sections, while the main perpetrators of violence in special care sections are reported to be correctional officials. While the carceral environment, in general, is a breeding ground for different acts of violence, special care sections (in some correctional facilities in Gauteng) are further breeding grounds. In these contexts, violence thrives because it is sheltered and deeply hidden from the general offender community, let alone free society.

The current data demonstrates that for some sexual and gender-diverse offenders, special care sections are anything but safe. They have been portrayed as festering with victimisation, assaults and sexual violence perpetrated by other offenders and correctional officials. Some participants felt that segregation was, at times, used as a tool to further marginalise and render them invisible. It appears that these sections have become secluded places where violence goes unchecked. It is worth noting that it is not the sections themselves that create these experiences, but it is the people who manage them and those who reside in them. Thus, it cannot be generalised that all special care sections in all correctional facilities function the same. Indeed, some may be true places of safety. Unfortunately, integration is by no means a viable alternative as it comes with more or less similar challenges, at least for sexual and gender-diverse offenders. The message here is clear: there is no place for sexual and gender-diverse offenders in correctional facilities.

### **6.3 Sexual and Gender-Diverse Identities in the Context of Incarceration and Relationships in Correctional Spaces**

The two themes, sexual and gender identities in the context of incarceration and relationships in correctional spaces, are discussed jointly because of their interrelatedness. These themes speak to the diversity of identities and sexual practices in the carceral context. They also highlight the role of heteronormativity and homonormativity in the legitimisation of diverse identities and same-sex sexual practices and relationships.

#### **6.3.1 The Social Construction of Sexual and Gender Identities**

Early literature in the area of gender and sexuality was dominated by binary notions of gender and sexuality, where these were seen as fixed and immutable (Alarid, 2000;



Eigenberg, 1992; Novac, 2013). Individuals were classified as either homosexual or heterosexual (sexual orientation) and male or female (gender). Further, in carceral environments, those who engaged in same-sex sexual practices were classified as either true or situational homosexuals. The boundaries of these seemingly separate categories were seen as fixed and impenetrable, and individuals were not expected to move between them. While there have been positive changes in perceptions, the remnants of past thinking still linger. Lorber (1994) posited that society feels at ease when they can reconcile the individual's behaviours, characteristics and mannerisms to the gender that matches their sex assigned at birth. With butch or masculine lesbian participants in the current study, this was achieved by segregating them and treating them as "men of the prison". Conversely, gay men are sometimes perceived as, addressed, and treated as women. Participants spoke about how correctional officials use language to ascribe "manhood" or "womanhood" to them. One gay participant narrated that some correctional officials would come in the section and call them "ladies" – a term typically used to refer to women. Wong (2018) wrote about gender inversion stereotyping, which alludes to the beliefs that gay men share characteristics and interests with heterosexual women while lesbian women embody characteristics and interests similar to those of heterosexual men.

Lorber (1994) stated that because gender has become a norm in society, most people struggle to believe that it is "constantly created and re-created out of human interaction, out of social life, and is in the texture and order of that social life" (p. 54). Lorber argued that gender construction is a life-long process that is present at each stage of development. While this process has been presented as, and believed to be, synonymous with nature, Lorber reminds us that there is no femininity or masculinity and femaleness or maleness for human beings. However, once those gender norms are ascribed to people, society imposes expectations alongside sanctions for those who fail to comply. Lorber makes an intriguing point; she argues that gender signs or characteristics are forever present and that we sometimes overlook them – until they are missing or unclear. She goes on to say that in those situations when the characteristics are absent or unclear to us, we become uncomfortable and attempt to place the "ambiguous" individual in a gender category so that we can feel properly orientated.

The lesbian participants are biologically female; thus, there are expectations that their behaviours, mannerisms, and characteristics mirror femininity. However, those who present with masculine characteristics and behaviours challenge the social construction of women-ness and create dissonance and perhaps disorientation for the observer. In this case, the responses of observers – being correctional officials, were the overshadowing of masculine offenders’ women-ness or femaleness through the use of terms such as “abomalume” a term used to refer to males, assigning them heavy-duty work traditionally associated with masculinity and secluding them from the general female population. The practice of placing “ambiguous” offenders into a particular gender status is influenced by the binary view of gender, where people are better understood and accepted if they fall into one of the two gender categories. Further, in this case, the segregation of masculine lesbian offenders adhered to the gender binary-ness of correctional institutions where placement is demarcated along gender (and sex) lines.

The work of Kite and Deaux (1987, as cited in Wong, 2018) illustrated that people tend to assign feminine traits to gay men while simultaneously assigning masculine ones to lesbians. This kind of stereotypical thinking, coupled with conservative “gendered” thinking, contributes to the conflation of sexual orientation and gender identity, where gayness is aligned with femaleness and lesbianism with maleness. A typical example of gendering is task/chore allocation; through social interactions and the construction of meaning, females and males are allocated gender “appropriate” tasks. Females are expected to perform domestic or household-related tasks which represent femininity, while males are assigned tasks that require physical strength to display their masculinity and physical strength. A few masculine lesbian participants narrated that as “men” in the female correctional centre, they are expected to carry out heavy-duty work; for example, one participant noted that when there are tasks, such as lifting heavy objects, the correctional officials will call the “men of the prison”. In South African mining compounds, “male wives” rendered domestic services such as cleaning, doing laundry and cooking for their husbands. A similar practice was adopted primarily by the Numbers Gang in correctional facilities in the institution of “prison marriages” (Gear, 2005; Niehaus, 2002).

### 6.3.2 Influence of Heteronormativity on the Performance of Diverse Identities

Heteronormativity has and continues to influence and shape same-sex sexual practices and “performance of relationships” both in free society and correctional spaces. According to Robinson (2016), heteronormativity foregrounds heterosexuality in social relationships while simultaneously legitimating homophobia and relegating diverse sexualities and genders to the margins. In correctional institutions, particularly all-male facilities, heteronormativity functions to promote gender dominance and/or masculinity hierarchies. In this context, heterosexuality is performed by the demonstration of power and dominance through the use of violence, coercion and manipulation (including sexual violence or sexual coercion). Those who can exert power and dominance over others are regarded as real men, while the ‘dominated’ is used for sex or or domestic labour. However, in situations involving same-sex sexual practices, a dissonance arises given that according to the standards of heteronormativity, heterosexuality and homosexuality are regarded as binary opposites, and their intersection is inconceivable (de Viggiani, 2012; Robinson, 2016; van der Schyff, 2021).

De Oliveira et al. (2013) stated that in a largely heteronormative society, homonormativity functions to make homosexuality more acceptable by producing sexual and gender-diverse people who align their behaviours (and, to an extent, themselves) with heteronormative values and practices. In same-sex sexual relationships, in particular, homonormativity requires that traditional gender differences are upheld. The performance of same-sex sexual practices in the institution of marriage by the Numbers Gang in South African correctional facilities is a classic example of “gender enactment” in same-sex relationships (Gear, 2005; Gear & Ngubeni, 2003). In these same-sex marriages, there is an adherence to binary gender roles; the husband plays a dominant masculine role while the “boy-wife” or “wyfie” takes on roles and functions associated with femininity. The roles they both play towards each other and within the correctional community correlate with their socially assigned and context-specific genders. However, these gender role performances extend well beyond the structures of the Numbers Gang; as narrated by the participants, same-sex relationships in carceral spaces are benchmarked on male-female/masculine-feminine dichotomies. These relationship structures are accepted or at least tolerated because they conform to the norms and values of heteronormativity.

Maeve (1999) noted in her study that correctional officials were more tolerant of relationships between butch (masculine) and feminine lesbians because they “imitate” male-female relationships. However, relationships between feminine lesbians were punished because they represented homosexuality. Robinson (2016) stated that sexual and gender people who assimilate to heteronormative structures through the adoption of homonormative practices receive more privileges compared to those who do not, as was evident in Maeve’s study. Some female participants in the current study also reported that some correctional officials accepted their intimate relationships with other offenders; this was reported by participants who are butch/masculine and who date feminine lesbians.

Gear and Ngubeni (2003) wrote about “ushintsha ipondo”, an egalitarian sexual practice characterised by an equal exchange of sex where both parties take turns in receiving and penetrating during sex. This practice, within the Numbers Gang organisation, is considered disruptive as it eliminates power dynamics (dominance and submissiveness) inherent in many heterosexual relationships. This highlights a marked difference in the experiences of incarcerated males and females who identify as sexual and gender diverse or those who engage in same-sex sexual practices. In male facilities, same-sex sexual relationships appear to be accepted or at least tolerated if they occur with the institution of marriage with defined power dynamics. They are less tolerated if they occur outside of these structures because they are seen as representing “true homosexuality”. Because female facilities are not ridden with the formations and practices of the Numbers Gang, same-sex sexual practices are not restricted to or prescribed by specific structures. However, they are expected to adhere to heteronormative norms for them to be “legitimised”.

### **6.3.3 Reconstruction of Gender and Sexual Identities**

There have been interesting reconstructions of gender and sexuality over the past decades. Faith (1993, as cited in Forsyth et al., 2002) and Forsyth et al. (2021) have written about gender fluidity, which is premised on the concept that gender is not static and that gender roles are dynamic or forever changing. In South African literature, same-sex sexual practices that dominated mining compounds are an excellent example of the performance of sexual diversity, which significantly departs from the traditional understanding of gender and sexuality (Gear, 2005; Niehaus, 2002). Correctional institutions have also been spaces

where traditional sexual diversity categories of gay, lesbian and bisexual have and continue to be challenged by the “emergence” of more diverse sexual practices. Participants in the current study spoke about offenders who identified as heterosexual prior to incarceration but started engaging in same-sex sexual practices once incarcerated. Female participants spoke strongly about heterosexual offenders who developed intimate or sexual relationships with feminine lesbian offenders for the purpose of “sucking them dry”. According to participants, these relationships, at least for previously heterosexual offenders, centre on the exchange of sex/intimacy for material goods. In this case, offenders who do not receive social support from family or friends will adopt masculine traits and identify and target feminine lesbians who have good social support. Interestingly, in this case, the feminine lesbian provides material goods and performs household tasks for their masculine partner, who in turn provides intimacy and sex. One participant narrated that they are taking it as a support system; they are not dating “the girl” (feminine lesbian) because they love her, but they are dating her for material benefits.

The latter is atypical of male carceral same-sex sexual practices where the masculine partner’s (husband) role is to provide material goods. In contrast, the feminine partner (wife) takes care of the household duties such as cooking and cleaning the cell. Male participants’ experiences seem to align with existing literature where the feminine or gay partner provides sex and household services to their husbands who may identify as gay top or heterosexual, and they, in turn, provide goods and services, predominantly drugs and cigarettes. At the core of both the male and female participants’ experiences are money and sex. Gear and Ngubeni (2003) stated that sex forms an important aspect of the correctional economy. The authors argued that visitors become the primary source of goods and services; therefore, those who do not receive visitors are pushed to consider alternative sources of obtaining valued goods.

There are several perspectives that have developed over the years that seek to explain and perhaps understand this departure from traditional heterosexual behaviours. According to the deprivation model, incarcerated individuals are deprived of essential goods and privileges. According to this model, homosexual behaviours in this context arise as a result of offenders’ attempts to obtain the things they lost through incarceration, such as intimacy and sex (Eigenberg, 1992; Forsyth et al., 2021; Hensley et al., 2002;

Ricciardelli et al., 2016). Forsyth et al. (2021) explained that the decisions that male and female offenders make regarding their sexual behaviours are influenced by the structural and cultural contexts in which they were socialised before incarceration, as well as the contextual factors of the institutions they are incarcerated in. Closely related to the importation model is the imitation perspective, which primarily spoke to the same-sex sexual practices in South African mining compounds. This perspective holds that the sexual and gender systems in mining compounds mimicked those in free society (i.e. the husbands and male wives' practices and the roles and tasks allocations resembled the heterosexual husbands and wives' practices in free society). These perspectives largely locate the individual's behaviours to external pressures and influences. In contrast, the gender fluidity model is based on the idea that sexual and gender identities are not static or stagnant; rather, they are dynamic and amenable to change. The works of Faith (1993 and Maeve (1999) on female offenders have shown that sexual identities in carceral spaces are anything but constant (Forsyth et al., 2002; 2021).

Although seemingly dominant, material-based intimate and sexual relationships are not the only practices in correctional spaces. Participants spoke about heterosexual offenders engaging in intimate or sexual relationships due to feelings of loneliness, desire for intimacy or experimentation. These practices largely do not involve financial or material transactions; they appear to be more authentic regardless of the motivation. These voluntary sexual practices provide an excellent example of the deconstruction and reconstruction of sexuality, particularly in correctional spaces. Sexuality is generally socially constructed alongside gender, and both are primarily viewed from the binary perspective. From this perspective, individuals are classified as either male or female, and their sexuality is expected to be aligned with their gender identity. The gender binary perspective discourages individuals from moving between genders and, by extension, sexual identities because these are seen as fixed and immutable. In correctional facilities, deconstruction occurs when heterosexual individuals, whose normative genders have always been in line with their sexual behaviours, engage in sexual and/or romantic relationships that deviate from dominant ideas of sexuality and gender. Faith's (1993) concept of gender fluidity, as previously mentioned, speaks to the permeability of gender boundaries. Faith observed that incarcerated female offenders learn to give and receive intimacy with each other, not because they are deprived of male intimacy.

Female participants from the current study spoke about heterosexual offenders who engage in same-sex sexual activities simply because they want to and because they find it enjoyable. For others, carceral intimacy helps them to push their sentence by easing the pains of imprisonment. Maeve (1999) explained an interesting phenomenon of “participating” in female correctional facilities. In the facility where she conducted her study, women spoke about participating, a process where women “come to love each other, emotionally and sexually” (p. 56). The participants in her study narrated that when women participated, they became “turned on”, which alludes to desiring and accepting the notion of same-sex love and sex. The second step is being “turned out”, which involves women having their first sexual experiences with other women. Maeve stated that this process was relatively quick for women who had sexual or intimate involvement with other women prior to incarceration, while for those without that history, the process unfolded gradually over time. This resonates with the narratives of the participants in this study; for example, one participant noted that some heterosexual offenders come into correctional facilities and criticise lesbians, but with time, they start engaging in similar practices because they have developed an understanding of why these practices take place in those spaces.

#### **6.3.4 Positive Experiences and Liberation of Identities**

Positive experiences emanating from being involved in intimate relationships were reported by some participants. Having a partner encouraged accountability for one’s actions and motivated some participants to rethink and change their behaviours, such as drug use while incarcerated. Involvement in intimate relationships helped others to better cope with their incarceration experiences; participants spoke about relationships helping offenders in “pushing their sentences”; these experiences were primarily reported by female participants. Beer et al. (2007) stated that the social impact of incarceration for women is qualitatively different from that experienced by male offenders; for example, because of the limited number of female correctional facilities, most female offenders find themselves placed in facilities far from their social support structures. As a result, female offenders experience more social isolation from loved ones, including their children, compared to their male counterparts (Beer et al., 2007). Beer and colleagues stated that romantic or intimate relationships may promote an individual’s well-being (contingent on the quality and healthiness of the relationship). Their study explored the link between

intimate relationships and female offenders' well-being. Interestingly, they found that female offenders involved in romantic relationships were more likely to experience anger and hostility and increased disciplinary problems. Beer and colleague's findings are somewhat in contrast to the findings of the current study, where female participants indicated that they derived primarily positive experiences from intimate or romantic relationships. It is important to mention that while some participants related rewarding experiences from intimate relationships, they acknowledged that they also experienced relationship challenges that are considered normal in most if not all, intimate or romantic relationships.

In addition to positive experiences derived from intimate relationships, participants reported having observed that some heterosexual offenders find a certain level of sexual liberation in incarceration. Participants hypothesised that some of these offenders might have been afraid to experiment with same-sex sexual activities on the outside due to the fear of discrimination and/or victimisation. Indeed, Achmat (1993, as cited in Gear, 2005) stated that for men, mining compounds and correctional institutions offered spaces where non-reproductive sexual practices were validated. This validation liberates men and women to experiment and enjoy same-sex sexual activities without the societal expectation of reproduction. Achmat argued that this marks a rupture from traditional and normative practices that validate sexual activities that are expected to lead to reproduction. Achmat's notion of rupture, which aligns well with Faith's gender fluidity perspective, stands in stark contrast to the deprivation and imitation models. It can be argued that rupture and gender fluidity speak to the social reconstruction of sexuality and gender. This reconstruction is context-responsive and signals a departure from the essentialist view of sexuality and gender.

A few participants shared their own experiences of sexual liberation in incarceration; one participant noted that up until his incarceration, he had never spoken to anyone about his sexual identity. Another participant shared that before incarceration, she experienced pressure from her religious mother to find a male partner. However, incarceration liberated her, allowing her to have female partners without fearing a possible backlash from her mother. Sexual liberation in correctional facilities does not necessarily mean that the spaces are less homophobic or more liberal compared to free society. It can



be argued that, given that correctional institutions are sex-segregated spaces, there is some awareness that same-sex sexual activities are inevitable. While this awareness may not necessarily translate to overt acceptance, it does seem to create some understanding and empathy regarding sexual activities between offenders. It is possible that this empathy contributes to some sexual and gender-diverse offenders feeling liberated to live their lives authentically while it simultaneously enables offenders who identify as heterosexual to experiment with same-sex sexual activities or relationships.

### **6.3.5 Intimate Partner Violence in Same-Sex Relationships**

While associated with positive emotional and social outcomes, intimate relationships and consensual same-sex sexual practices in correctional spaces come with their share of challenges. Some participants spoke about experiences of intimate partner violence (IPV) in their carceral relationships. One lesbian participant reported that she was a perpetrator of IPV in her relationship, while one gay participant was a victim in his. Rollè et al. (2018) and Kar et al. (2022) defined IPV as an act of violence against a partner, regardless of gender, that involves physical and verbal aggression, sexual violence, emotional and psychological abuse and controlling behaviour. As an illustration of the preceding, the female participant remarked that she was violent towards her partner; she was controlling and possessive and did not want her to have friends. Murray (2006/2007) noted that IPV has been recognised as a severe problem that results in negative outcomes such as physical injury, poor mental health and impaired interpersonal functioning. Rollè et al. (2018) stated that IPV research has predominantly focused on heterosexual relationships, with very little research done on same-sex relationships. Kar et al. (2022) and Murray (2006/2007) noted that the burden of IPV is not exclusive to heterosexual relationships; rather, there is growing evidence of its prevalence in same-sex relationships and the unique challenges it produces. Available statistics paint a very clear picture of the burden of IPV in same-sex relationships. The lifetime prevalence of IPV in lesbian, gay and bisexual relationships appears to be similar or higher than in heterosexual relationships – 61.1% of bisexual women, 43.8% of lesbian women, 37.3% of bisexual men, and 26.0% of homosexual men experienced IPV during their life, while 35.0% of heterosexual women and 29.0% of heterosexual men experienced IPV (Kar et al., 2022; Rollè et al., 2018). Rollè

and colleagues further reported that when considering severe episodes of violence, prevalence was higher for lesbian, gay and bisexual adults compared to heterosexual adults.

Discussing risk factors of same-sex IPV, Kar and colleagues highlighted the influence of traditional gender roles. For example, in many societies, masculinity is characterised by aggression and dominance and sometimes men resort to violence to guard against appearing weak, unmanly, or emotionally vulnerable. Gay and bisexual men, when feeling insecure about their masculinity, particularly in a carceral environment, may use violence to exert their dominance over their partners and to bolster their masculinity (consider the influence of homonormativity). The male participant who was a victim of IPV played the role of a bottom (associated with femininity) while his partner, the perpetrator, was a top (associated with masculinity). The perpetrator's use of violence was to control and dominate his partner and to showcase to his friends that he was in control or the "man" in the relationship.

Kar et al. (2022) and Murray et al. (2006/2007) further wrote about the role of internalised homophobia in the perpetuation of IPV. The authors noted that from the victim's or survivor's perspective, a negative self-concept (resulting from internalised homophobia) instils a sense of deserving of the abuse because of their sexual identity. Conversely, perpetrators with internalised homophobia may direct their negative emotions to their partners (projection), which sometimes results in the use of violence. Murray and colleagues noted that exposure to violence in the family of origin also contributes to enacting violent and abusive behaviours in the individual's relationship. They added that lesbian perpetrators of IPV report more experiences of violence in their family of origin. This is consistent with the account of the lesbian participant in the current study who was abusive towards her partner. She reported witnessing her father physically abusing her mother when she was growing up.

### **6.3.6 "Planting" – When Consent Becomes Coercion**

A few participants narrated that sexual and gender-diverse offenders also must contend with the criminalisation of sex by other offenders through the practice of "planting". Participants indicated that the receptive partner who initially consented to sex would threaten to report the sexual encounter as rape to correctional officials unless they

were paid a certain amount of money or compensated with material goods. One participant expressed that the possibility of being “planted” with rape made him wary of engaging in sexual relationships with other offenders. De Zutter et al. (2017) stated that false allegations are dangerous as they are likely to cause harm; in the case of incarcerated offenders, internal disciplinary processes can be instituted against the alleged perpetrator or external processes such as an additional court case which, if the said offender is found guilty, time is added to their sentence. De Zutter and colleagues argued that not all allegations of crime are truthful, and false allegations of rape, in particular, stir up heated debates. They further noted that although there is much controversy surrounding false allegations, their existence cannot be refuted. A bulletin prepared by the National Institute of Corrections (Owens et al. 2007) published correctional staff perspectives on barriers to identifying and investigating sexual assaults. Participants agreed that all allegations of rape should be investigated. However, they cited several challenges that hinder investigations, namely the reluctance of offenders to report incidents, lack of evidence and witnesses, changing of stories and poor cooperation by the alleged victim. Participants also expressed that sometimes offenders use allegations of rape against other offenders that they do not like, want to get into trouble or as leverage against them for compensation. Other participants noted that offenders sometimes use rape claims to manipulate the system for personal gain, such as being moved to another section or housing unit.

A few participants in the current study reported that some offenders in general sections use claims of rape so that they can be placed in special care sections. It cannot be refuted that others request placement to special care sections because they have indeed been raped or are in physical danger. However, it is also true that others use claims of rape or of being in danger to escape drug-related debts that they cannot repay or because they are tired of staying in overcrowded communal cells. Still, others move to special care sections (under false claims) because they will have easy access to sexual and gender-diverse offenders who are vulnerable to sexual victimisation. Without invalidating the participants’ experiences, it needs to be noted here, as was in the findings section, that, in general, false accusations of rape are few compared to the actual occurrence of rape. As it stands, we perhaps do not have statistics that correctly reflect the prevalence of rape due to underreporting, both in free society and in correctional facilities. Same-sex rape is even more difficult to report because of the “double stigma” reporting thus demands that the

survivor demonstrate exceptional courage and be willing to weather the stigma that comes with being raped by a person of the same sex. The onus then rests on correctional officials and investigators to thoroughly investigate, with due diligence and without bias or assumptions, all allegations of rape or sexual assaults. Correctional officers in the study conducted by the National Institute of Corrections recommended that investigators remain objective despite the organisational culture that discourages believing offenders' allegations.

#### **6.4 Systemic Homophobia**

The criminalisation of same-sex sexual activities and relationships still plagues modern correctional institutions. The concept of sodomy inherited from the colonial legal system, is still used in South African correctional facilities to refer to same-sex sexual practices. This is coupled with the enforcement of anti-sodomy rules that seek to regulate this "undesired" practice. With the advent of democracy, South Africa saw major political changes. One of those changes was the striking down of the sodomy law and the legalisation of same-sex sexual relationships by the Supreme Court in 1998 (Matetoa-Mohapi, 2021). Although anti-sodomy laws have long been abolished, correctional facilities around South Africa still criminalise same-sex sexual practices and still employ the outdated term of sodomy. This blanket approach fails to distinguish between consensual and coercive sexual practices, and so does the punishment for those found guilty of "sodomy". As can be expected, this discourages some of the offenders from engaging in same-sex sexual activities or relationships; for example, Gopal (2015) stated that while some female offenders are open to same-sex intimacy, they are discouraged by the institutional criminalisation of intimacy, at times the "infraction" is recorded in the offender's file which compromises their chances of being placed on parole due to having an "unclean file". It is interesting that "sodomy" or same-sex sexual activities are not included under the list of punishable infractions listed in the Correctional Services Act 111 of 1998.

The Constitution of South Africa, regarded as the highest law of the land, stipulates that the state may not discriminate against anyone on the grounds of sexual orientation (Constitution of the Republic of South Africa, 1996). The concern then pertains to the legality of the criminalisation of same-sex sexual activities or "sodomy" in correctional

facilities. While participants in the current study did not speak at length about the criminalisation of same-sex sexual activities in correctional facilities, a few spoke about the use of the term “sodomy” in the context of homophobia and discrimination. The continuous enforcement of the outdated anti-sodomy law by correctional facilities functions to legitimise institutional homophobia, discrimination and marginalisation of sexual and gender-diverse offenders as well as heterosexual offenders who engage in same-sex sexual activities. Most of the participants, particularly male participants, reported significant experiences of homophobia. A few studies reviewed in the literature section have documented the prevalence of homophobia in correctional institutions (Andrinopoulos et al., 2000; Alarid, 2000; Linonge-Fontebo, 2013; Sit & Ricciardelli, 2013).

#### **6.4.1 Performing Homophobia and Transphobia**

Homophobia can be performed or demonstrated in a number of ways, including the use of dehumanising and derogatory language when referring to sexually and gender-diverse people. Participants narrated that correctional officials and other offenders typically conveyed their intolerance of sexual and gender diversity through the use of harmful language. One participant reflected on one senior correctional official’s choice of words – “*shit*”, “*gay bastards*”, and “*satan*” – which he uses to address sexual and gender-diverse offenders in the special care section. Jeewa and Bhima (2021) stated that “speech carries tremendous power. It shapes our realities, influences our consciousness and, often, the chance for any real change requires changing the way we speak” (p. 325). In addition to moulding our own realities, speech also influences other people’s realities, the recipients of the speech. What is also fundamental to Jeewa and Bhima’s statement is that realities and experiences can be changed or improved by changing how we speak or use speech. Fasoli et al. (2016) wrote about the use of homophobic epithets to dehumanise gay men; they define homophobic epithets as highly offensive terms that serve to nullify a person’s or group’s sense of worth by dehumanising them. They argue that despite their hostility, homophobic epithets such as “faggot” are commonly used. Jeewa and Bhima also note that despite South Africa’s hate speech laws, it is common to find stories about racist or homophobic language unashamedly directed at marginalised groups. This speaks to how people and societies have become desensitised to harmful language and a disregard for

marginalised groups. Incarcerated sexual and gender-diverse people contend with “double minority-ness”; that is, they are marginalised by virtue of being offenders and for being non-heterosexual. As closed-off institutions of social control, correctional institutions are the epicentre of the violation of human rights. While hate or discriminatory language is censored and punished in free society, it often goes unopposed in these closed-off institutions. Fasoli et al. (2016) argued that instead of operating as a generic insult, homophobic epithets dehumanise the target, and when people are dehumanised, they are relegated to the lower levels of the human hierarchy.

In a correctional context, one would expect that homophobia and general ill-treatment of offenders will predominantly (if not exclusively) be perpetuated by correctional officials, given that their primary concern is security. The expectation is that health care professionals, as well as other professional staff, will show more compassion if not professional integrity. However, a few participants narrated that they experienced discrimination from healthcare professionals. One participant noted that one of the nurses in his centre does not treat gay people well; she gives them attitude. Gopal (2015) recorded that some participants in her study reported negative experiences with healthcare professionals; one white lesbian participant felt doubly prejudiced by the nurses, first, because she was in a sexual relationship with a black offender and second because she was in a same-sex sexual relationship. The transgender participant in the current study reported that on several occasions, she was misgendered by some of the nurses in her centre. They identified her with her sex assigned at birth and disregarded her gender identity. She noted that the nurses kept referring to the WHO to legitimise their misgendering and transphobic behaviours. This illustrates how being misinformed and being behind with major developments in the healthcare field solidifies people’s negative attitudes towards diverse sexualities and genders. These narratives also remind us that homophobia and transphobia are not the forte of a certain demographic but that anyone can hold and express negative attitudes if they choose to.

Parallel to the homophobia is the issue of transphobia in correctional facilities. Routh et al. (2015) stated that because correctional facilities are sex-segregated, individuals who do not conform to traditional gender identities present a conundrum. Bromdal et al. (2018) and White-Hughto et al. (2018) noted that due to the stigma that is associated with

feminine gender identity and expression, particularly in an all-male facility, incarcerated transgender women face considerable discrimination and are at heightened risk of verbal and physical harassment. The transgender female participant reported a number of issues, such as misgendering, refusal of gender expression and denial of gender-affirming health care that she had to contend with due to her gender identity in a male facility. Howansky et al. (2021) stated that discrimination against people with “intermediate” social identities, such as transgender people, largely stems from identity denial – the invalidation of a person(s) membership to a group which they consider themselves part of. If we are to operationalise this, we would say discrimination against transgender women, for example, forms part of denying their preferred or chosen identity, and, by extension, denying them membership to the gender (female) that they identify with.

Misgendering is one of the pathways to identity denial, and most transgender men and women have ample experiences of being misgendered (Howansky et al., 2021). The participant spoke about how some correctional officials would refer to her as “baba”, and the healthcare professionals would completely reject and disregard her gender identity. Misgendering stems from cisgenderism, Lennon and Mistler (2014) argued that cisgenderism perpetuates the belief that cisgender identities are more valued or ought to be valued than transgender identities, which creates an unequal system of power and privileges that are skewed towards cisgender identities. Howansky and colleagues stressed that misgendering has been associated with numerous negative social and emotional outcomes, such as poor self-esteem, experiences of stigmatisation, anxiety and feelings of inauthenticity. In addition to misgendering, Howansky et al. (2021) discussed another identity denial pathway, degendering – a process whereby people refer to transgender individuals using gender-neutral or non-binary pronouns or by refraining from using pronouns altogether when they would not otherwise refrain from using pronouns when referring to cisgender men or women. Howansky and colleagues acknowledged that for other people, abstention from using pronouns may be due to unfamiliarity or uncertainty as to which pronoun to use and in this case, degendering can be ruled out.

#### **6.4.2 Denial of Gender Identity Expression and Gender-Affirming Healthcare**

Refusal of gender expression for transgender offenders, especially transgender women, has been an international problem. The transgender female participant related how

she is not allowed to wear her dress when walking in the passages or attend programmes outside of her section and that correctional officials would force her to wash off her facial make-up. The issue of affirming clothing was also reported by some female lesbian participants who were expected to wear dresses to affirm their “women-ness”. Refusal of gender and sexual expression is not new in South African correctional facilities; the case of Jade September (September vs Subramoney and others, 2019) made it more visible to the larger society. Participants in the Sylvia Rivera Law Project (2007) reported being sent to solitary confinement for wearing make-up and not being allowed to wear gender-appropriate clothing such as bras and female underwear unless they had developed breast tissue or had fully transitioned. White-Hughto et al. (2018) stated that the narratives of the participants in their study illustrated how the sex-segregated correctional environment presents transgender offenders as “abnormal”; this fosters an institutional culture where transgender women and feminine expressions are stigmatised. Further, correctional institutional policies force transgender offenders to conform to traditional gender categories by restricting their gender expression. Although the Jade September case represented a victory and perhaps new and promising frontiers for transgender offenders, in practice, transphobia and related practices of discrimination and marginalisation continue unabated in correctional facilities.

Lack of access to GAH care by transgender offenders hinders their ability to express their gender identity fully. The gender binary system operating in correctional facilities combined with the transphobic attitudes of correctional officials as well as a general lack of information about TGD people significantly contributes to the lack of access to GAH (Routh et al., 2015; Sevelius & Jenness, 2017; White-Hughto et al., 2018; White-Hughto & Clark, 2019). The transgender participant in the current study noted that she had made numerous attempts at getting help to access GAH, namely hormone therapy, to facilitate the process of transitioning. Currently, the DCS does not provide GAH services; however, some of these services are provided by public hospitals. The participant noted that she was sent from one professional to another for assessments; however, none of those frustrating processes placed her any closer to being referred to the public hospital for further assistance. The Sylvia Rivera Law Project (2007) report stated that complaints pertaining to the denial of GAH, such as hormone replacement therapy, as well as discriminatory service providers, are common in correctional institutions. In addition, despite the



assurance of medical experts that gender-affirming therapies, such as hormone therapy, are medically necessary for transgender individuals, their provision continues to be regularly denied in correctional facilities. This is also despite ample evidence that denial of necessary GAH has been linked to many adverse health and mental health outcomes for transgender offenders. It is arguable that in addition to transphobia and cisgenderism, the inaccurate belief that GAH is non-essential or cosmetic also contributes to correctional institutions' unwillingness or at least lack of initiative and proactivity in implementing in-house GAH services, particularly hormone therapy.

Parallel to GAH for TGD offenders is sexual health for sexual and gender-diverse offenders as well as heterosexual offenders who engage in same-sex sexual activities. SeyedAlinaghi et al. (2022) noted that incarcerated people are considered a key population at high risk of being infected with STIs as well as other blood-borne diseases. Despite the prevalence of same-sex sexual activities and the high risk of HIV and STIs in correctional facilities, Moazen et al. (2021) reported that only 58 countries in the world have reported distributing condoms in correctional facilities. South Africa is one of the countries on board with providing condoms to the incarcerated population. All the male participants in the current study reported that they have access to condoms. However, at times, they are in distribution points that are not readily accessible, such as the hospital section or the unit manager's office. In these instances, participants are sometimes met with stigma and judgement when trying to access condoms compared to accessing them in convenient areas such as the bathrooms in the section. The only complaint was the lack of lubricants which is inconsistently provided, which forces offenders to use Vaseline or body moisturiser as lubrication for anal sex. With one exception, all the female participants reported that they had never seen a female condom in their centre before.

Female participants raised concerns about HIV and STIs due to the lack of protection. Some spoke about not engaging in sexual activities with their HIV-positive partners, which strained their relationships. Participants felt that perhaps the reason they are not provided with condoms is that it would conflict with the department's stance on same-sex sexual practices in correctional facilities. Butler et al. (2013) and Moazen et al. (2021) suggested that the lack of condom provision in correctional facilities might be due to infrastructural constraints such as a lack of financial resources. However, they cited the

main reasons as the misconceptions of policymakers and administrators that the provision of condoms condones sex in correctional facilities, that it would increase the risk of sexual assault, may be used to conceal contraband and promote the perception that correctional institutions encourage promiscuity and homosexuality. The findings of the study by Butler and colleagues demonstrated that the provision of condoms does not necessarily increase consensual or coercive sexual practices among incarcerated offenders. Despite the findings and endorsement of condoms due to their effectiveness in curbing the spread of HIV and STIs, their rollout in correctional institutions remains a contentious issue (Butler et al., 2013; Moazen et al., 2021).

### **6.4.3 Homogenisation of Diversities**

The bulk of the preceding discussion has focused on overt and direct enactments of individual and institutional homophobia and transphobia. However, participants also spoke about nuanced and indirect behaviours by correctional officials that were illustrative of their negative attitudes towards sexual and gender-diverse offenders. A few participants spoke about their experiences of being homogenised, whereby their individual characteristics, histories and defining differences were muted while their shared experiences were amplified. They shared that the representation of sexual and gender-diverse people as a homogenous group with collective experience reduces their differences, individualism, and complex identities to a group identity. For example, as discussed earlier, some female lesbian participants reported that they were involuntarily moved to a separate cell designed to house only lesbians. The facility administrators did not consider the vast differences within this group – some people were smokers and drug users while others were not; some were students, and others were not; some had aggressive and violent tendencies while others were vulnerable to abuse. The section was dismantled, and the participants re-integrated into the general sections because of the concerns of some not fitting in with the group because of individual differences.

Almost all the gay participants reported that correctional officials predominantly employ a blanket approach in their treatment of sexual and gender-diverse offenders. For example, when reporting issues of sexual assault, the officials would shrug it off as “gay people just being promiscuous”, and when raising concerns about structural issues and experiences of discrimination, correctional officials would attribute it to “gay people being

dramatic”. The practice of homogenising minority groups and cultures is a long-standing one; it renders the individual differences of the group members invisible, making it easier to silence. In fact, some participants spoke about the culture of silencing in correctional facilities; one participant lamented that it is unlikely that the status quo will change with regard to the ill-treatment of sexual and gender-diverse people because their voices are constantly silenced by correctional officials. In this context, the voices of sexual and gender-diverse offenders are not heard, and even if they are heard, they are seldom taken seriously or believed due to the negative stereotypes associated with this group (e.g. gay people are dramatic; therefore, they tend to make issues bigger than they really are). While nuanced and not readily judged as homophobia, these practices (homogenisation and silencing) play an important role in promoting the discrimination and marginalisation of sexual and gender-diverse people.

## **6.5 Resilience and Wellness Promotion**

### **6.5.1 Demonstration of Resilience in Adversity**

Hunter et al. (2020) stated that there has been a call by many scholars for research to move away from solely focusing on the risks and challenges encountered by marginalised groups, including sexual minorities, to focusing on protective factors such as resilience. This will enable scholars and researchers to comprehensively address the health and mental health challenges of these populations and those with intersecting discriminations. The previous discussion has largely been on the challenges experienced by sexual and gender-diverse offenders in correctional facilities and how different systemic discrimination intersect to marginalise them. Although the participants’ narratives focused primarily on the challenges they experienced as sexual minorities, some spoke about their experiences of resilience amid adversity and their ability to speak against the oppressive and discriminatory system.

Much work has been done in the area of resilience, and the understanding of resilience has changed and improved over the years (Chan & Mak, 2021; Hunter et al., 2020; Meyer, 2015; Wilks et al., 2022). Meyer (2015) defined resilience as one’s ability to survive and thrive in the face of adversity. Hunter and colleagues added that resilience speaks to the positive adaptation to everyday stressors to significant critical life events and

the ability to navigate these experiences in a manner that promotes one's well-being. In addition, these authors differentiated resilience from coping in that coping refers to the efforts or acts of the individual employed to address stressful situations, while resilience denotes a successful stress response that functions to minimise adverse health effects. Participants demonstrated resilience in how they successfully adapted to the challenges they were experiencing. One participant spoke about adapting to living with HIV, which he contracted through sexual coercion. Another spoke about adapting to the correctional environment after the gates were locked behind him. Others spoke about the continuous weathering of discrimination and marginalisation with which they were confronted. From the participants' narratives, resilience plays a critical role in helping them to deal with situations outside of their control and adapt to the rapid changes of the carceral environment. It can be argued that resilience for incarcerated sexual and gender-diverse offenders helps mitigate and buffer against poor mental health.

The role of resilience is even more salient when thinking about the minority stress that sexual and gender-diverse people experience. Hunter et al. (2020) and Meyer (2015) stated that minority stress is based on the premise that the stigma and discrimination levelled against sexual minorities produce unique stressors, and in turn, those stressors are likely to give rise to adverse health and mental health and social outcomes. Hunter and colleagues further argued that individuals with multiple intersecting marginalised identities are significantly vulnerable to the adverse outcomes of minority stress. Considering the participants of the current study, their sexual and gender identities intersect with their incarceration status and other factors, such as lack of social support and substance abuse, to create layers of discrimination that render them particularly vulnerable to discrimination and sexual coercion. Some participants shared that in both special care and general sections, some sexual and gender-diverse offenders are used for sex, cleaning cells and washing clothes by heterosexual offenders and compensated with drugs. Others, because of poor social support from families and significant others, engage in sexual transactions for basic goods that are not provided by the facility, such as cosmetics and "luxury" foods (milk, cereal, pasta etc.). Promoting resilience among incarcerated sexual and gender-diverse offenders requires scholars, external and internal service providers and correctional administrators to be aware of these multiple intersecting discriminations and the resulting negative physical, psychological and social outcomes.

### 6.5.2 From Individual to Multisystemic Resilience

In addition to individual resilience, which most participants illustrated and continue to illustrate as they serve their sentences, is multisystemic or community resilience. In fact, individual resilience has been criticised for being rooted in the Western ideology of individualism, which emphasises the role of innate personal characteristics in the attainment of resilience (Hunter et al., 2020; Meyer, 2015). The authors further argued that this view of resilience negatively affects disadvantaged populations (including sexual and gender minorities) because not everyone has the same opportunities for developing resilience when underlying sociocultural and socioeconomic structures are not equal. Hunter and colleagues argued that the Western, individualistic notions of resilience fail to consider systemic oppression (homophobia, transphobia, racism, sexism, socioeconomic inequality) faced by many underprivileged or marginalised communities and groups. Wilks et al. (2022) stated that while the individual cannot be removed from the concept of resilience, the over-focus on the individual tends to minimise the impact of other systems on the individual's ability to demonstrate resilience.

Community or multisystemic resilience has been conceptualised as the involvement of communities (structures, institutions and people) in capacitating and further enhancing the well-being of the individual. Community resilience can operate on all levels, from national to interpersonal. The operationalisation of multisystemic resilience in correctional facilities with regard to sexual and gender-diverse offenders would entail the collaboration between policy developers who will develop (through consultation with experts) affirmative policies and/or SOPs at a national level; Area Commissioners and their executive committees (at the Management Area level) who will ensure the application of relevant policies; Head of Centres, health professionals, psychologists, social workers and unit managers, and correctional officials at the interpersonal level who will apply affirmative policies and practices in their interaction with sexual and gender-diverse offender to ensure the promotion of their well-being.

Connected to individual and multisystem resilience, particularly at the interpersonal level, is group engagement or collective action. A few participants lamented the lack of collectivism and standing up for each other among sexual and gender-diverse offenders. The participants described this population as largely disjointed, with people concerned

about their individual interests. This is not particularly surprising, given the harsh nature of the correctional environment. One participant advocated for collective engagement and noted that some of the sexual and gender-diverse offenders in his section were opening up to the idea. Chan and Mak (2021) stated that collective action may reduce people's sense of vulnerability and buffer against the impact of discrimination. The social identity theory posits that threatened social identity can negatively impact the group members' self-concepts; thus, they mobilise to counter the threat through individual mobility, social creativity and social competition (Chan & Mak, 2021). Social competition is relevant here, a "group-level strategy that requires group members to join force collectively to improve their devalued group status and protect the value of the groups in which they belong" (Chan & Mak, 2021, p. 3). There is a good possibility that collective participation or group engagement by sexual and gender-diverse offenders might lower their sense of vulnerability and create a space for emotional support, which might counter the impact of discrimination, victimisation and marginalisation and foster group coherence. However, it is difficult to predict if collective action might bring about structural and systemic changes unless it is directed at involving the judicial system (for example, September vs Subramoney and others, 2019). It is worth noting barriers that might prevent some offenders from engaging in collective participation, such as lack of trust of others due to the nature of the environment, fear of backlash from correctional officials, lack of motivation to engage with others, and involvement in destructive activities such as drug abuse.

### **6.5.3 Training on LGBTQ+ Issues**

In addition to the practices and strategies that can be employed by sexual and gender-diverse offenders in dealing with structural and systemic issues, participants strongly advocated for the training of correctional officials on issues of sexual and gender diversity with the hope that education might bring about attitude change. One participant felt that some correctional officials are homophobic because of their outdated knowledge about this population, and thus, education might help them think differently. Regarding TGD offenders, there appears to be a consensus that a lack of sound knowledge and information about this population, as well as their needs, partly breeds negative and discriminatory attitudes held by correctional staff, including health services providers

(Bromdal et al., 2018; Hughton & Clark, 2019; Hughton et al., 2018; Jenness & Fenstermaker, 2010). White-Hughto and Clark (2019) noted that insufficient training of correctional healthcare providers creates an unsuitable environment for transgender offenders and contributes to healthcare access barriers through the refusal of care by providers or avoidance of care by transgender offenders. Addressing this problem, according to Sevelius and Jenness (2017), requires that training be provided to all correctional staff to help them develop an understanding of gender identity and diversity inside and outside of carceral facilities. Preliminary results of the feasibility study for a training intervention by White-Hughto and Clark (2019) showed that the transgender-specific training equipped participants with the required cultural competence to provide GAH for transgender offenders.

The court order specified in the Jade September was that the DCS introduce transgender sensitivity training for all employees as part of training for new and current employees. In response to this order, the DCS developed SOPs for the management of LGBTQI+ offenders. Subsequent to that, the department started rolling out LGBTQI+ training for correctional officials, including managers. These efforts by the department, are likely to pave the way for the promotion of rights and well-being of sexual and gender-diverse offenders if implemented correctly and mindfully. In addition, these efforts have the potential of benchmarking good practices by the department. The potential danger in this case would be the “literal” implementation of the court order, which solely focuses on transgender offenders with the exclusion of lesbian, gay, bisexual, gender diverse and heterosexual offenders who engage in same-sex sexual practices.

Regarding the training of correctional staff, the challenge will be the facilitation of the training by people not versed in LGBTIA+ issues, challenges and intersectionalities. The current practice in some correctional facilities is that the training is facilitated by human resource development staff. Although most authors quoted here have spoken about transgender training specifically, in the context of corrections, the training should be expanded and tailored for all sexual and gender-diverse offenders, given that there are more lesbian, gay, bisexual and heterosexual offenders who engage in same-sex sexual activities compared to TGD offenders in South African correctional facilities.

#### **6.5.4 Placement of More Female Officials in Special Care Sections**

A few participants were of the view that placement of (more) female correctional officials in special care sections would ensure the promotion of their well-being. This largely stems from gay, bisexual and transgender participants' experiences of homophobia and discrimination primarily perpetuated by male correctional officials. Lim (2002) stated that a large portion of research on homosexuality has focused on gender differences in attitudes towards homosexual individuals. She noted that some studies, if not the majority, have shown that, indeed, gender differences exist and that heterosexual men tend to hold more negative attitudes and higher levels of prejudice towards people who identify as homosexual compared to heterosexual women. However, there have been inconsistent results with regard to gender differences in attitudes towards lesbians. Explaining these gender differences and particularly why men tend to be more homophobic, Herek (1986, as cited in Theodore & Basow, 2000) stated that societies place heterosexuality as one of the strongest measures of masculinity; by this definition, what is not heterosexual is not masculine, hence the tension between heterosexual masculinity and homosexuality. Herek further argued that heterosexual males, especially those who strongly identify with traditional notions of masculinity, internalise societal gender expectations, and the fear of not fulfilling those expectations breeds anxiety. This anxiety propels heterosexual males to reject homosexuality (through homophobia and sometimes violence) in a frantic attempt to reaffirm their own insecure masculinities (Theodore & Basow, 2000).

Theodore and Basow mentioned that a number of empirical studies have provided support for Herek's assertions and hypotheses. In the correctional environment, two factors may present or construe male correctional officials as homophobic. First, it may be that, indeed, males hold more negative attitudes towards sexual and gender-diverse people, and this would be in line with empirical evidence from previous studies. Second, it is possible that male correctional officials may not be more homophobic than female correctional officials, but because they are the majority in all-male correctional facilities, sexual and gender-diverse offenders are in contact with them more frequently. This makes comparison difficult, and thus, it is possible that in correctional facilities, male correctional officials are equally homophobic as female correctional officials. Both these possibilities have different implications; if indeed male correctional officials hold stronger negative attitudes towards



homosexuality, it might enhance the well-being of sexual and gender-diverse offenders if more females are placed in special care sections. However, if the second possibility holds true, the placement of either male or female correctional officials may not bring about positive outcomes for this population of offenders if there are no changes in attitudes.

The preceding discussion shows all possible solutions were suggested, considered, discussed and possibly exhausted; however, participants were of one mind and voice, stating, *“We would like them to just allow us to be, also to make us a priority and not an option”*.

## **6.6 Conclusion**

This chapter provided an in-depth discussion of the findings presented in this study. The discussion was guided by subthemes that were developed in relation to the primary themes. Segregation vs integration featured counteracting violence vs erasure of identities, which looked at the protective role of segregation but also how it functions to render invisible sexual and gender diverse identities. Corrupt access to special care sections spoke to how heterosexual offenders and those not at immediate risk of being harmed in general sections gain access to special care sections through corrupt relationships with correctional officials. The lack of safe spaces for sexual and gender-diverse offenders emphasised the dangers that confront sexual and gender-diverse offenders in both special care and general sections. Sexual and gender identities in the context of incarceration and relationships in correctional spaces featured a discussion on how sexual and gender-diverse identities are socially constructed (and reconstructed) in correctional spaces. This discussion drew on the tenets of social constructionism. The role and influence of heteronormativity on the performance of diverse identities highlighted practices such as assimilation employed to attempt to align sexual and gender diversity to traditional heterosexuality. However, discussion on positive experiences and liberation of identities showed that adherence to heteronormativity is not always the status quo; instead, the carceral environment sometimes nurtures freedom of sexual and gender identity expression. The discussion on IPV and the practice of planting demonstrated that these problems are not exclusive to heterosexual relationships but are also evident in same-sex relationships/interactions, even those occurring behind bars.

The discussion on systemic homophobia examined how homophobic and transphobic practices are enacted in correctional spaces, for example, through dehumanising language, violence, homogenisation of diverse people and misgendering. Transphobia, together with the lack of resources and knowledge, were closely associated with the denial of GAH for transgender offenders. Finally, resilience and wellness promotion looked at the resilience demonstrated by sexual and gender-diverse offenders despite many hardships confronting them. However, the notion of individual resilience was critiqued due to its neglect of larger systemic issues that influence the individual's ability to remain resilient. A move towards multisystemic resilience was advocated for as part of wellness promotion. In addition, the potential of further education and training on LGBTQI+ issues, as well as placement of female correctional officials in special care sections to buffer homophobia and transphobia, were discussed.

## CHAPTER 7

### CONCLUSION AND RECOMMENDATIONS

#### 7.1 Introduction

Same-sex sexual practices continue to be the epicentre of an ongoing controversial debate in many African countries. Although a few African countries, including South Africa, have moved to decriminalise homosexuality, homophobia and homophobia-related violence remain highly prevalent (da Costa Santos, 2013; Linonge-Fontebo, 2013; Reygen & Lynette, 2014; Rudwick, 2011). Still, several African countries continue to criminalise homosexuality and mete out harsh punishment for those found living it (Amusan et al., 2019; Arimoro, 2021; Izugbara et al., 2020; Makia, 2019). Recently, Uganda passed a highly contentious and criticised anti-LGBTQ+ law with severe penalties, including the death penalty (Human Rights Watch, 2022). Many African nations have embraced the idea that homosexuality is un-African and was imposed by the colonisers on African people. However, a review of the literature clearly shows that same-sex sexual practices were present in pre-colonial Africa (see Bertolt, 2019; Msibi, 2011; Murray & Roscoe, 1998). This rhetoric that homosexuality is un-African has legitimised the enactment of anti-LGBTQ+ laws, systemic homophobia and worse, the brutal killing of people who identify as sexual and gender diverse.

The negative attitudes towards sexual and gender diversity in greater society continuously seep into correctional institutions. While correctional facilities form part of complete institutions, they are still connected to free society. This means there is an ongoing interplay between these two systems; more often, values, beliefs and practices of free society are imported into correctional institutions and form part of the subculture of the carceral environment (Forsyth et al., 2021). Among other things that get imported is homophobia, which is at times enacted through marginalisation and victimisation of sexual and gender minorities. These beliefs are fuelled and maintained by the institutional systems of heteronormativity and cisnormativity, which prioritise and naturalise heterosexuality and the traditional gender binary. Under these systems, diverse sexual and gender identities are seen as deviant and unnatural and thus need to be corrected or altogether eradicated (de Oliveira et al., 2013; de Viggiani, 2012; Robinson, 2016; van der Schyff, 2021). Several

authors have documented negative attitudes in correctional institutions held by both correctional officials and other offenders towards offenders who identify as sexual and gender diverse (Alarid, 2000; Andrinopoulos et al., 2011; Gopal, 2015; Linonge-Fontebo, 2013). The current study also found that homophobic attitudes continue to be pervasive in carceral environments. In the correctional facilities where the current study was conducted, systemic homophobia was found to be largely problematic. It was performed in a number of ways, including the use of derogatory and defamatory language, denial of gender identity expression and GAH and use of physical violence.

It is important to note that the criminal justice systems of many countries also play an active role in the promotion and reproduction of homophobia. Several studies in the United States have documented the pervasive policing of sexual minorities (Goldberg et al., 2019; Schwartz et al., 2022; Steele et al., 2018). This has resulted in a high number of sexual minorities, including young sexual and gender-diverse people, coming into contact with the criminal justice system and eventually being incarcerated. For this population, incarceration entails the continuation of victimisation and marginalisation and increased chances of sexual victimisation. In most African countries, while there are no direct policing strategies like in the United States, the harsh anti-LGBTQ+ laws enable unjust arrests and prosecution of sexual and gender minorities (Amusan et al., 2019; Arimoro, 2021; Izugbara et al., 2020; Makia, 2019). Some of the participants in the current study narrated negative and homophobic experiences with security personnel and police officers leading up to their arrest. These experiences speak to the ubiquitousness of homophobia in different institutions of society.

As much as they are part of free society, correctional facilities are also communities in their own right, with their own “laws”, procedures and practices (de Viggiani, 2012). The offender community has demonstrated its ability to assimilate societal practices, re-create them or create entirely new practices unique to them. Sexuality is one phenomenon that has been assimilated, re-created and created anew in carceral communities. As much as homophobia thrives in these communities, so do alternative sexualities and sexual practices. Like the mining compounds in South Africa, correctional facilities have been perceived by some researchers as “sexually liberating” environments where individuals are enabled to experiment with their sexuality (Gear, 2005; Niehaus, 2002). The findings of

this study demonstrate that carceral institutions play a fundamental role in the construction and reconstruction of sexual and gender identities. For some offenders, carceral spaces enable free exploration of sexualities; for others, they offer a space where they can live authentically. Regardless of homophobia in correctional facilities, some offenders develop and nurture positive emotional connections through same-sex friendships and intimate relationships. However, other carceral practices actively function to extricate all traces of homosexuality from same-sex sexual practices. For example, predominantly in South African correctional facilities, the institution of carceral marriages invented by the Numbers Gang serves to promote same-sex sexual relations without the “taint of homosexuality” (Gear, 2005; Gear & Ngubeni, 2003). Unfortunately, in these marriages, sex and material goods are weaponised to control and dominate others. Correctional research, old and new, consistently shows that carceral spaces are highly complex and dynamic, particularly with regard to sexuality. Construction and performances of sexualities in these spaces demonstrate and attest to the ever-evolving and fluid nature of gender and sexuality.

For the longest time, the DCS has been largely quiet about the LGBTQ+ offender population in South African correctional facilities. It was only after the ruling on the Jade September case (September vs Subramoney and others, 2019) that the department started looking into the well-being of this category of offenders. As mentioned earlier in this thesis, this was operationalised through the development of the SOP on the management of LGBTQI+ offenders and the capacitation of new and existing correctional officials on LGBTQI+ issues. This marks a great departure from the department’s previously held and endorsed attitudes towards this category of offenders. If implemented mindfully and intentionally, these strategies are likely to contribute to the promotion of the well-being of sexual and gender-diverse offenders. Some of the participants in this study strongly encouraged the educating of correctional officials on LGBTQ+ issues with the hope that this will lead to shifts in perceptions and attitudes.

These unprecedented developments are likely to problematise long-held beliefs and practices in the department. For example, consensual same-sex sexual practices have been a contentious issue, probably since the inception of the prison system in South Africa. While not mentioned as part of punishable disciplinary offences in the Correctional

Services Act 111 of 1998, sexual practices, typically referred to as sodomy, are criminalised and punished in correctional facilities. The same approach applies to intimate relationships between incarcerated offenders. First, the SOP (like the Act) does not address sexual and intimate relationships between sexual and gender-diverse offenders, as well as the general offender population. This leaves little direction, if any, for correctional officials to navigate these issues when they do arise. Second, the issue of confidentiality mentioned in the SOP, that correctional officials should not disclose private and personal information disclosed by offenders in confidence if it has no direct bearing on security issues or the safety of the offenders poses another challenge. Discussions held with correctional officials about this issue illustrated confusion in terms of how to navigate the issue of confidentiality. For example, the majority of the correctional officials felt that if an offender who is placed in a general section confides in them about their sexual or gender identity, even if that information has no bearing on security issues or the safety and well-being of the offender, they will feel forced to disclose that information to their colleagues to protect themselves should the aforementioned offender experience sexual victimisation.

A criticism of the current SOP is its primary focus on transgender and intersex offenders, which seems to minimise the vast challenges experienced by lesbian, gay and bisexual offenders. For example, in terms of accommodation and transportation arrangements, the SOP stresses that transgender females should be accommodated/transported together, similarly for transgender men and intersex offenders. Data from the current study revealed that some gay offenders in special care sections experience sexual victimisation/rape as a result of being placed in the same cell as heterosexual offenders. This suggests that the well-being and safety of all sexual and gender-diverse offenders should be equally addressed and prioritised. All said, there ought to be recognition of the efforts by the DCS in working towards creating carceral spaces that are safe and conducive for sexual and gender-diverse offenders as well as the general offender population.

The current study is perhaps one of the few in South Africa that has looked at the lived experiences of sexual and gender-diverse offenders. The majority of studies in this field have tended to focus on “bystander” accounts of how this category of offenders is defined and treated in correctional facilities. It is only recently that more studies,

internationally, are focusing on the direct experiences of this population and working directly with the custodians of those experiences as participants. In Africa, due to the homophobic landscape, most studies continue to approach the topic of correctional sexuality from a pathology perspective. Although homosexuality is still vehemently denied and erased in many African countries, there is a growing recognition that same-sex sexual practices are very much present in African prisons (Currier, 2021). The growing academic focus on correctional sexualities, particularly in the South African scholarship, will hopefully transform the landscape that has been fraught with homophobia and the pathologising of diverse identities.

In this study, the narratives and experiences of participants on the performance and construction of diverse sexual and gender identities were interpreted and understood from the social constructionism framework. From this perspective, social phenomena such as human sexuality are seen as emanating from human interaction. Social constructionism rejects the essentialists' and positivists' notion of objective reality; rather, it holds that "truths", experiences and practices are socially constructed across time and cultures. In fact, cultures and traditions themselves are constantly being constructed and reconstructed. Similarly, gender and sexuality are not rigid and stagnant; through social interaction, they are re-created, and new forms are created. This perspective does not recognise either sexuality or gender as absolute categories; rather, it recognises that there are many sexual and gender categories that different people can identify with.

To best capture the depth and richness of the participants' varied and diverse experiences, the study adopted a qualitative research method. The allure of qualitative research is that it allows researchers to immerse themselves in the experiential world of the research participants, thus better understanding their experiences and narratives. Thematic analysis was used to analyse the data with a focus on reflexive thematic analysis, which values the subjectivity of the researcher both in data collection and analysis. Given the sensitive nature of this study and, by extension, the double vulnerability of the participants, appropriate ethical principles were applied to safeguard the well-being of the participants.

## 7.2 Limitations of the Study

Research on correctional sexualities, particularly in the African context, has largely been an uncharted territory; therefore, doing research in this area comprises learning and discovering new ideas and practices. The following are some limitations of the study that have been identified:

- Although the purpose and nature of the study design was not to generalise the findings to the larger population, it is perhaps worth mentioning that the participants in this study represent only a small section of the offender population as well as a specified locale and context. Thus, these findings do not uniformly represent the experiences of offenders in all South African correctional facilities.
- The total number of study participants was 24, of which 6 were female offenders. It is possible that the inclusion of more female offenders from the Johannesburg Management Area might have yielded rich diversity in the experiences of female sexual and gender-diverse offenders.
- The study focused on adult offenders; the inclusion of juvenile offenders might have produced rich knowledge on the performance of sexualities in juvenile correctional facilities. It would have been interesting to see how juvenile offenders construct/reconstruct sexuality and gender in carceral spaces compared to adult offenders.
- Although all female participants appeared comfortable discussing their experiences, the presence of a correctional official in the interview room might have inhibited the sharing of some information out of concern for confidentiality, being judged and even punished. For example, the participants might not have been entirely comfortable sharing how correctional officials truly treat sexual and gender-diverse offenders and might have cast them in a good light.
- Lastly, initially, the study aimed to include as many categories of sexual and gender diversity as possible, including MSM/WSM. However, due to the nature of the study and its perceived association with homosexuality, only offenders who identify as LGBTQ+ and who are typically out with their identities showed interest in participating. I imagine that the inclusion of MSM/WSW and those who are still “closeted” about their sexual and gender identities might have yielded rich



knowledge about their experience on how they navigate the sexual and intimate terrain in carceral spaces.

### **7.3 Recommendations**

It is only recently that the DCS started homing in on the category of offenders who identify as sexual and gender diverse. This is not to say that the department has not been aware or mindful of this category; rather, there have not been standardised active attempts to promote their well-being nor challenge the stigma and homophobia prevalent in correctional facilities. One of the objectives of this study is to contribute to the development of policies, procedures and practices aimed at safeguarding the safety and human rights of this population and promoting their well-being. From the findings of this study, the following recommendations are made, particularly to the DCS:

- Future revision(s) of the SOP to safeguard and equally promote the rights and safety of all sexual and gender-diverse offenders, including MSM/WSW. As mentioned earlier, the current SOP leans more towards protecting transgender and intersex offenders over and above other categories of sexual and gender diversity.
- Future alignment of the SOP on the management of LGBTQI+ offenders with other DCS's SOPs, the Correctional Services Act 111 of 1998 and the White Paper on Corrections is essential to ensure no conflict. For example, conflict may arise where one SOP demands management of offenders in a way that might violate the rights of a certain group of offenders, such as the sexual and gender diverse. Thus, it is important that all the documents speak to each other.
- Policy review regarding sexual practices: although consensual sexual practices between offenders are a highly contentious issue in correctional institutions globally, this does not change the fact that sex is a biological inevitability but can also be seen as a fundamental human right. It is against this awareness that the DCS should embark on a comparative review of policies and procedures relating to consensual sex in correctional settings around the world. They should engage with stakeholders to frame new policies and procedures that consider this issue.
- Policy review regarding GAH: the provision of GAH, especially hormone therapy, is still perceived as largely cosmetic, particularly in correctional institutions. The

DCS is encouraged to further engage in a comparative review of policies, procedures and practices of other countries concerning the initiation and provision of hormone therapy for TGD offenders. Engagement and consultation with external experts in the area of GAH are strongly encouraged for drafting relevant policies, implementing practices and the capacitation of in-house health and mental health professionals who might play an active role in providing these services.

- The revision of the Correctional Service Act to reflect sexual and gender-diverse offenders as a category of offenders that require special attention due to the high risk of victimisation, abuse, and marginalisation.
- Training: currently, the training of correctional officials on LGBTQI+ issues is voluntary. This means that people may choose not to attend the training, especially those with homophobic attitudes. Given that the victimisation and abuse of sexual and gender-diverse offenders is a human rights issue, the training should be made compulsory for all correctional officials so as to capacitate everyone on how to work affirmatively with this population or at least how to work within the human rights framework.
- Placement of offenders: while being fully cognizant of the problem of overcrowding in correctional facilities across South Africa, the DCS should review the placement procedures for sexual and gender-diverse offenders. The results of the study show that special care sections are not always safe for this population, with sexual victimisation being perpetrated by heterosexual offenders. This calls for the renewal of strategies to ensure safe detention for this population. Clearly outlining these strategies (such as not mixing sexual and gender-diverse offenders with heterosexual offenders in the same cell) in the SOP may ensure standardised implementation.
- Female correctional officials: as suggested by most participants, the DCS should also think about further capacitating female correctional officials on LGBTQI+ affirmative practices and ensuring that all special care sections have at least one female correctional official.

## **7.4 Future Research**

As mentioned earlier, the area of correction sexuality in Africa and South Africa is not saturated with research. The following recommendations are made for future research:

- Research focusing on the experiences of sexual and gender-diverse juvenile offenders and how diverse sexual and gender identities are constructed and performed in juvenile correctional facilities.
- Research on the experiences of correctional officials who have participated in the training on LGBTQI+ issues facilitated by the DCS, evaluating the perceived usefulness of the training and identifying gaps.
- Research on current and perceived challenges associated with the provision of GAH for transgender offenders by the DCS (and, by extension, public health institutions).
- Research on the promotion of multisystemic resilience would prove invaluable in the wellness promotion of marginalised offender categories, sexual and gender-diverse offenders. It is noted that multisystemic resilience has rarely been featured in correctional research in general.

## **7.5 Personal Reflections**

### **7.5.1 Reflection on My Work**

Like most psychologists working in correctional facilities, my first few months were marked by anxiety and a persistent urge to look for employment somewhere else “safe”. However, with time, I was acclimatised to the environment, and I found that my earlier passion for correctional psychology was revived. Apart from being unpredictable, I found that the environment offered vast and rich opportunities for learning and growing in terms of conducting risk assessments and psychotherapy. Although the new environment provided (and still provides) enriching experiences, it also opened my eyes to entrenched injustices, one of those being how sexual and gender-diverse people are treated in carceral spaces. This challenged me to think about how to use my profession to address injustices against this offender population that were evident in my correctional centre. What would arise from those challenges was a series of mini projects aimed at partially addressing these injustices.

The first workshop I conducted was with psychologists, social workers and correctional officials and was on how to work with sexual and gender-diverse offenders. That was the first mini project, which was aimed at raising awareness about sexual and gender diversity in general with the hope that it would encourage those in attendance to start thinking differently about this category of offenders in their care. Although a few correctional officials fully embraced and shared the message that I was spreading, some continued in their homophobic ways as widespread ill-treatment was often reported by gay offenders. They would be called names and sometimes threatened with unjustified punishment if they did not “abandon their homosexual tendencies and become men!” An opportunity to continue challenging the widespread institutional homophobia came when the regional coordinator for development and care asked that I facilitate a workshop for psychologists and social workers in the Gauteng region. In February 2020, I facilitated a workshop on affirmative practices when working with sexual and gender-diverse clients. While the contents of the workshop were well received, it did feel like I was preaching to the converted, given that victimisation seems to be primarily perpetuated by security personnel.

Following the Jade September case and the ruling of the Equality Court, the DCS published the first-of-its-kind SOP on the management of LGBTQI+ offenders. Alongside the development of the SOP, the department started offering training, initially for senior managers, on LGBTQI+ issues, which was later cascaded to all the other levels of the DCS hierarchy. The human resource development office in the Management Area where I am stationed approached me and asked that I take over the LGBTQI+ training. This presented yet another opportunity for me to work with as many correctional officials as possible in challenging long-held prejudicial and homophobic attitudes and beliefs. I have trained over 50 correctional officials to date, and what continues to stand out for me are the myths, misconceptions and beliefs that people grew up with and internalised as the truth. Those beliefs became the bedrock or foundation for the homophobic attitudes that most correctional officials hold to this day. However, other officials have demonstrated great understanding, support and respect for people who identify as sexual and gender diverse; a few identify as sexual and gender diverse themselves. In my Management Area, there appears to be a growing discipleship of people who have been “saved” from their previously held prejudicial and homophobic beliefs.

My involvement in this training, my involvement with the sexuality and gender division of PsySSA, my involvement with the LGBTQ+ Africa Human Rights Project (a subsidiary of the Sexuality and Gender Division, SGD) and my exposure to the emerging work on sexual and gender diversity in South Africa has contributed largely to broadening my understanding. As a queer individual myself, I grew up with the unfounded notion that I know everything that is to know about queer or sexual and gender-diverse people. It was through exposure to this vast and constantly evolving field that I was humbled by the realisation that as much as I may know a lot about myself, I know very little about sexuality and gender diversity in general. In addition, engagement with my PhD has also widened my perspective and understanding of issues I was largely conservative about. I feel that I am able to work affirmatively with sexual and gender-diverse offenders, with MSM, with offenders who are still questioning their sexual and gender identities and with offenders who have sex with other offenders of the same sex for a wide array of reasons.

My perception of correctional facilities from the lens of sexual and gender diversity is that of an ever-evolving and dynamic institution. Consistent with the findings of this study, I continuously come to the realisation that sexuality is hardly static in carceral spaces; rather, it is in a constant state of flux. Some people come to know and accept their sexual and gender identities through incarceration; others come to experience liberation and freedom to live authentically when they are part of the correctional community. For carceral intimate relationships, there is no expectation (or pressure) for procreation, marriage, or extending one's surname; rather, people engage in relationships and sex because they want to and because it is enjoyable for them. Of course, there is homophobia; yes, there is marginalisation, but there appear to be good experiences as well. Through my engagement with this study, I have come to realise and appreciate that sex and love happen in correctional facilities!

### **7.5.2 Reflection on My PhD Journey**

My plan to pursue a doctorate degree can be traced back to my university days. When I joined correctional services in 2017, I felt that it was time to put that plan into motion; however, I found myself stuck, not knowing what area I wanted to explore. I sat in that stuck position for a while, brainstorming different topics which did not feel like the right fit for me. When I started working with sexual and gender-diverse offenders,

witnessing their frustrations, marginalisation and victimisation that seemed covertly supported by the larger institution, I thought, “How can I help? What role can I play in this context to challenge these institutional practices that are clearly toxic and harmful?” Any health or mental health professional knows too well the strained relationship between rehabilitation and security. Most of those in rehabilitation, especially mental health and social work professionals’ value and promote the human rights and dignity of offenders. Conversely, those in security are concerned with maintaining law and order and sometimes “minimum force” is used to enforce law and order. The violation of basic human rights and dismantling of people’s sense of dignity and self-respect occur all too often in correctional institutions. More often, challenging unjust and harmful practices and the devaluation of offenders are met with resistance.

It was from those frustrations that I decided to challenge the system in a different way through research and education. However, in my challenging the system, I also needed to help sexual and gender-diverse offenders express their frustrations with the system for them to be listened to and heard. The topic of my study was born out of that need, and I decided to take it upon myself to document their narratives so that others may hear them, read them and know what happens behind bars. This was not motivated by a desire to “expose” how some correctional officials treat sexual and gender offenders and how the system is complicit in that; no, instead, the motivation was to create a platform for marginalised and silenced voices to narrate their experiences. It is a fact that the offender identity is highly stigmatised in free society; it is also a fact that the sexual and gender-diverse offender identity is doubly stigmatised, both inside and in free society. As has been mentioned numerous in this thesis, there have been very few studies in South Africa and perhaps in Africa that have directly looked at the experiences of incarcerated sexual and gender-diverse people. This offered me an opportunity to contribute to knowledge generation. In addition to documenting people’s stories, I intended to use the findings of the study to challenge and critique current systemic practices in correctional services, including policies and incarceration procedures that marginalise sexual and gender-diverse offenders and offer recommendations on how to move towards fully promoting the well-being of this population. Throughout this process, I have not been blind to the fact that I am advocating for people who are incarcerated, and only so much wellness promotion can be achieved. South African correctional facilities are fraught with a myriad of challenges,

such as smuggling in contraband, drug use, violence, gangsterism and overcrowding; thus, the promotion of human rights, rehabilitation and complete health are constantly threatened by these social vices.

I started working on my proposal in 2020 at the peak of the COVID-19 pandemic and lockdown. This period saw a spike in the incarceration of people who were in violation of the lockdown regulations. The pandemic exacerbated deeply entrenched socioeconomic inequalities in our society; for example, some of the people who were arrested for violating regulations were people who were trying to make ends meet because they literally could not afford to stay home. Some of those people had lost their jobs when many businesses were forced to pause their operations for the duration of the lockdown. People's intersecting discriminations were highlighted, and that resonated deeply with me, given that I was embarking on a journey of working with people who have been marginalised and denied space in society. I imagine that some of the participants would have intersecting discriminations such as their sexual and gender identity, race and socioeconomic status. The following year, 2021, did not offer much reprieve for the LGBTQI+ community as the country witnessed the "serial" killing of sexual and gender-diverse people. That year alone, 20 gay and lesbian people were violently murdered under circumstances that suggest they were targeted for their sexual orientation or gender identity. This stripped away people's sense of safety, especially for sexual and gender-diverse people living in areas with overt homophobia. What was defeating for me was that as a country that acts collectively on many issues, such as racism, femicide, rape and abuse of women and children, we failed to rally together against the murders of gay and lesbian people; it became "their problem" and not a problem that affects all South Africans. This clearly demonstrated deep-seated societal homophobia and negative attitudes that sexual and gender-diverse people are forced to confront and deal with decades after the decriminalisation of homosexuality in South Africa.

The data collection process for the study started towards the end of 2021 until February 2022. Prior to data collection, I had been sitting with anxiety about finding enough participants for the study, given the sensitive nature of the topic. I had very little difficulty recruiting female participants. They appeared eager to participate, which settled me a little. At Pretoria Central, I only managed to get two participants; most of the

offenders who identified as sexual and gender diverse were unwilling. In Atteridgeville, I encountered exceptional assistance from both the psychologist and the correctional officials who were in charge of the special care section. My last interview in Atteridgeville was with Miss Stacey, who was very vibrant, welcoming and eager to participate. Unlike the other participants I interviewed in the section, I interviewed Miss Stacey at the mess hall where he worked, and interestingly enough, he was going out on parole the following day. Before our interview started, he brought me a pot of tea and delicious scones, which worked in my favour as the weather was unforgivingly cold that day. The next set of interviews were conducted at Johannesburg Management Area. Similarly, the psychologist, social worker and correctional officials were welcoming and helpful. However, the struggle was getting people to participate. The majority of people who had initially registered their names for participation suddenly retracted, and on the day of the interview, I had to recruit anew. Fortunately, enough people expressed motivation to participate. Initially, the plan was to utilise a psychologist's office to conduct the interviews. This worked famously with female participants, as the office was not too far from their section. However, for subsequent interviews in male centres, I had to rethink the strategy as the offices were far removed from the sections, and most of the participants were not willing to make the long journey. The correctional officials kindly accommodated me in their office located inside the section. I did feel that the arrangement also worked well; the participants seemed relaxed, and it was in an environment they were familiar with.

Overall, the data collection experience was highly rewarding for me. I had an opportunity to interact with amazing people with rich and vast experiences who were more than willing to share those experiences with me. Most of the experiences were difficult and painful to hear and, at times, brought tears to my eyes. As a queer person myself, some of the pre-incarceration experiences resonated with me, such as experiences of homophobia at school, name-calling and being treated differently. At times, I got worked up hearing about deeply entrenched homophobic practices that are rife in other correctional centres and largely perpetuated by correctional officials. However, not all seemed lost; a few participants spoke about correctional officials who are supportive, helpful, and respectful towards them. There is great hope that the recent initiatives by the department will steer both rehabilitation and security operations towards inclusiveness and LGBTQ+ affirmativeness. There is also hope that education on LGBTQ+ issues will facilitate



changes in long-held negative attitudes or at least encourage correctional officials to respect the human rights of sexual and gender-diverse offenders.

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## APPENDICES

## Appendix A: Ethical Consent



## COLLEGE OF HUMAN SCIENCES RESEARCH ETHICS REVIEW COMMITTEE

21 January 2021

Dear Nkanyiso Lionel Madlala

NHREC Registration # :  
 Rec-240816-052  
 CREC Reference # :  
 2020-CHS - 50654950

Decision:  
 Ethics Approval from 21 January  
 2021 to 21 January 2024

Researcher(s): Nkanyiso Lionel Madlala      Email: [50654950@mylife.unisa.ac.za](mailto:50654950@mylife.unisa.ac.za)

Supervisor(s): Professor M. Terre Blanche      Email: [terremj@unisa.ac.za](mailto:terremj@unisa.ac.za)

: Professor E. Fourie      Email: [fourime@unisa.ac.za](mailto:fourime@unisa.ac.za)

Title: *"Telling our stories": Exploring and documenting the lived experiences of sexually and gender diverse offenders in Gauteng correctional facilities*

Purpose: PhD

Thank you for the application for research ethics clearance by the Unisa College of Human Science Ethics Committee. Ethics approval is granted for three years and you may request extension afterwards.

The *medium risk application* was reviewed by College of Human Sciences Research Ethics Committee, on 21 January 2021 in compliance with the Unisa Policy on Research Ethics and the Standard Operating Procedure on Research Ethics Risk Assessment.

The proposed research may now commence with the provisions that:

1. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the UNISA Policy on Research Ethics.
2. Any adverse circumstance arising in the undertaking of the research project that is relevant to the ethicality of the study should be communicated in writing to the College Ethics Review Committee.



## Appendix B: Department of Correctional Services Ethics Approval Certificate



### correctional services

Department:  
Correctional Services  
**REPUBLIC OF SOUTH AFRICA**

Private Bag X136, PRETORIA, 0001 Poyntons Building, C/O WF Nkomo and Sophie De Bruyn Street, PRETORIA  
Tel (012) 307 2770, Fax 086 539 2693

Dear Mr N Madlala

**RE: 'TELLING OUR STORIES' EXPLORING AND DOCUMENTING THE LIVED EXPERIENCES OF SEXUALLY AND GENDER DIVERSE OFFENDERS IN KGOSI MAMPURU II AND JOHANNESBURG MANAGEMENT AREA**

I wish to inform you that your request to conduct research in the Department of Correctional Services has been approved

Your attention is drawn to the following:

- This ethical approval is valid from **8th July 2021 to 8th July 2024**
- The relevant Regional and Area Commissioner where the research will be conducted will be informed of your proposed research project.
- You are requested to contact the Area Commissioner before the commencement of your research.
- It is your responsibility to make arrangements for your interviewing times.
- Comply with COVID-19 safety and hygiene procedures during data collection processes
- Ensure that all participants have been duly screened for Covid19 according to DCS screening protocols
- Your identity document/passport and this approval letter should be in your possession when visiting regional office/correctional centre.
- You are required to use the terminology used in the White Paper on Corrections in South Africa (February 2005) and Correctional Services Act (No.111 of 1998) e.g. "Offenders" not "Prisoners" and "Correctional Centres" not "Prisons".
- You are not allowed to use photographic or video equipment during your visits, however the audio recorder is allowed.
- You are required to submit your final report to the Department for approval by the Commissioner of Correctional Services before publication (including presentation at workshops, conferences, seminars, etc) of the report.
- Should you have any enquiries regarding this process, please contact the REC Administration for assistance at telephone number (012) 3072894/95/0723271937

Thank you for your application and interest to conduct research in the Department of Correctional Services.

Yours faithfully

**ND MBULI**  
Chair: DCS Research Ethics Committee  
DATE: 08/07/2021

## **Appendix C: Study Sheet and Informed Consent**

### **1. The Research Study**

I would like you to participate in this study that seeks to explore the lived experiences of sexual and gender-diverse offenders in Kgosi Mampuru II and Johannesburg Management Areas. Sexual and gender diversity includes (but is not limited to) people identifying as lesbian, gay, bisexual, transgender, queer, intersex, asexual, and gender non-binary.

### **2. What am I trying to learn with this research?**

With this study, I am trying to learn more about the everyday experiences of sexual and gender-diverse offenders. The type of experiences that are the focus of this study are related (but are not necessarily limited) to adjustment to correctional facilities, general treatment by correctional officials and offenders who identify as heterosexual or “straight”, experiences of homophobia, availability and adequacy of affirming healthcare, practices and procedures used in correctional facilities to ensure the safety of sexual and gender diverse offenders and other challenges faced by this population.

### **3. Why is it important?**

One of the objectives of this study is to use the information shared by the participants to encourage the Department of Correctional Services to develop, revise, and improve incarceration policies, procedures and practices to ensure that sexual and gender-diverse people are incarcerated and detained in a safe environment to prevent victimisation and/or discrimination on the basis of their sexual orientation or sexual identity. It is hoped that the findings of this study will contribute to the development of context-specific training, which may be used to train correctional officials on issues of sexual and gender diversity with the aim of transforming negative attitudes and perceptions.

### **4. Who can take part in the study?**

Suitable participants for the study are those offenders who identify as sexual and gender diverse and who are already sentenced and incarcerated at Johannesburg and or Kgosi Mampuru II Management Areas.

### **5. What will it mean if you participate in the study?**

First, it is important to understand that your participation in this study is completely voluntary. There will be no consequences should you decide not to participate. If you agree to participate in this study, you will be asked to engage in a conversation that will explore your overall experiences as a sexual or gender-diverse offender in the correctional facility that you are incarcerated in. The conversation might require you to disclose personal information or experiences. Should you experience discomfort during the interview, please alert the interviewer.

The interview will be between 45 to 90 minutes but might be longer. Your responses will be audio recorded, and the interviewer will also note down some or all of your responses.

### **6. Is there any disadvantage to participating in this study?**

There is a possibility that you might feel uncomfortable discussing some experiences or that you might find that some issues will evoke painful emotions. Should this occur, please communicate it to the interviewer, and counselling services will be organised for you if you need them.

### **7. What if I change my mind later?**

As mentioned previously, your participation is voluntary; this means that you can choose to withdraw from the study at any stage, and your decision will not disadvantage you in any way.

### **8. Who will see the information that we collected?**

All records pertaining to the study will be securely stored by the researcher. Your identity will be kept anonymous, which means that a pseudonym or a “fake” name will be used when the results of the study are written up. The correctional facility where you are incarcerated will not have access to the audio and interview notes. Should you desire, the results of the study will be made available to you once the write-up of the study is completed.

**9. Who to contact if you want to know more or if you have a problem at any time?**

If you need more information about the study before deciding whether to participate or if you participate and later need help or have questions, arrangements can be made with the social work or psychology department in your correctional facility to help you contact one of my supervisors:

Professor M. Terre Blanche

Professor E. Fourie

Tel:

Tel: 012 4298 523

Email: [terremj@unisa.ac.za](mailto:terremj@unisa.ac.za)

Email: [fourieme@unisa.ac.za](mailto:fourieme@unisa.ac.za)

Consent to participate.

I, \_\_\_\_\_ agree to participate in the research study entitled “‘Telling our stories’: exploring and documenting the lived experiences of sexual and gender-diverse offenders in Kgosi Mampuru II and Johannesburg Management Areas”. I have been provided with and familiarised myself with the study information sheet. I have been made aware of the advantages and disadvantages of participating in the study and that I can withdraw from participating at any stage without being prejudiced.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_


## Appendix D: Interview Guide

The interviews will be carried out in a conversational style. The researcher will not be using an interview schedule with structured questions. Instead, an interview guide with broad topics will be used to remind the researcher of the topics that need to be covered.

1. Getting to know the participant (rapport building) – invite the participant to tell you about themselves. Cover the following areas:
  - Background history (where they come from, how they grew up, significant people in their lives).
  - Issues around sexuality – invite participants to share their understanding of sexual and gender diversity.
  - If the participant is comfortable enough, invite them to share their experiences living as a sexual and gender-diverse person.
  - Invite participants to share their lived experiences in a correctional facility. Also, prompt participants to share events that led to their incarceration.
2. Invite the participants to share their knowledge and experiences of sexual orientation categories or sexual identities in correctional facilities (their current centre or other centres that they have been to).
3. Invite participants to share their experiences of expressing their sexual or gender identities or their observation of others expressing their identities and sexualities in carceral environments.
  - Allow participants to share, from their experiences, how the expression of diverse identities in a free society differs from expressing those sexualities in a carceral environment.
4. Invite participants to share their experiences of positive emotional connections, romantic/intimate experiences, and meaningful friendships during their incarceration.

5. Invite participants to share their experience with other offenders and correctional officials who identify as heterosexual (nature, style, quality, approach in their interaction).
6. Explore participants' perceptions of the availability and effectiveness of affirming and sexual healthcare in their correctional facilities.
7. Explore participants' sense of safety in their environment (consider issues of the number of gangs, and sexual violence).

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## Appendix F: Turnitin Report

"Telling our stories": Exploring and documenting the lived experiences of sexual and gender-diverse offenders in two South African correctional facilities

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