

Mandate of the Working on Business and Human Rights

Report to the 79th session of the UN General Assembly on respecting the human rights of LGBTI people in business operations.

Regional Consultation for Central and Eastern Europe and Central Asia

Background

In recent years, the business and human rights agenda has seen a real strengthening in support for greater equality and respect of the rights of lesbian, gay, bi, trans, and other gender diverse, and intersex (LGBTI) people. Alongside civil society actors and LGBTI movements, businesses and States have undertaken a number of actions and developed strategies and policies to tackle discrimination against LGBTI people. This includes taking action to address discriminatory laws, policies, attitudes and practices in the communities in which businesses operate, promoting inclusive working environments, as well as looking at business practices up and down the supply chain. At the same time, much more remains to be done to prevent and address human rights abuses from being perpetrated against LGBTI people and to ensure accountability when harm occurs in the context of corporate activities.

The UN Guiding Principles on business and human rights (UNGPs) make a key contribution to the implementation of human rights safeguards in the context of business activities. In order to effectively meet their respective human rights duties and responsibilities under the UNGPs, States need to adopt measures to effectively prevent and address violence and discrimination against LGBTI people, in line with their legal obligations under international human rights law. In line with their own responsibility to respect human rights, business enterprises are required to identify, prevent and mitigate any adverse impacts on people they may be involved with through their own activities, or as a result of their business relationships, including on people with different sexual orientation, gender identity or expression, or sex characteristics. This means considering how they face negative impacts differently and disproportionately and addressing additional barriers in seeking access to justice and to an effective remedy because of intersecting and multiple forms of discrimination they experience.

The diversity of contexts and of individuals making up the LGBTI spectrum confronts businesses with a wide range of potential human rights impacts requiring a nuanced and differentiated approach. This is particularly challenging in situations where discrimination based on different sexual orientation, gender identity or expression, or sex characteristics intersects with other forms of discrimination, such as age, race, ethnicity, disability, or socio-economic status.

The UNGPs acknowledge the importance for States and businesses to adopt a gender perspective, and the Working Group on Business and Human Rights (Working Group) [developed guidance on](#)

[gender](#) in 2019 (A/HRC/41/43) to incorporate a gender lens to the implementation of the UNGPs, with a specific focus on women and girls. The Working Group’s guidance proposed gender guidance specific to each of the 31 UNGPs. The guidance should be read together with other relevant standards, such as the [standards of conduct for business](#), published by the Office of the United Nations High Commissioner for Human Rights, aimed at tackling discrimination against lesbian, gay, bisexual, transgender and intersex persons. Yet, many countries lack adequate institutional and regulatory frameworks that comprehensively and systematically incorporate the situation of LGBTI people, including in national action plans on business and human rights, mandatory human rights due diligence regulations, or in disclosure or transparency requirements for companies and investors. In many parts of the world, the current corporate practice of human rights due diligence fails to identify, prevent, mitigate and account for adverse human rights impact on LGBTI people in a systematic and appropriate manner, if at all.

Against this backdrop, and building on discussions held during relevant sessions at the annual Forum on Business and Human Rights (see for example the session titled “[Gender-responsive human rights due diligence: from inclusion to effective protection](#)”), in its next thematic report to the 79th session of the UN General Assembly in October 2024, the Working Group seeks to provide further gender-related guidance to both States and businesses. This guidance will focus on how to adopt a LGBTI lens in implementing the UNGPs, with practical recommendations for what it means to protect, respect and remedy the rights of LGBTI persons in the context of business operations. It aims to contribute to a step forward in helping States and businesses translate their respective human rights obligations and responsibilities into practical action on the ground, and to seize an important opportunity to enlarge the role of business in tackling discriminatory practices in countries around the world.

This consultation is part of a series of consultations and the Working Group’s wider outreach to diverse stakeholders to receive inputs from relevant stakeholders in order to inform the preparations for the report.

To complement these consultations, the Working Group has also issued an open call to collect input from States and other stakeholders, which is available [here](#). The deadline for making submissions is 1 March 2024.

Consultation objectives and proposed guiding questions

This consultation will provide an opportunity for all stakeholders to provide inputs on what it means to apply a LGBTI lens to the implementation of the three pillars of the UNGPs, including:

General framing and scope of the report:

- Unpacking issues facing LGBTI people in the context of the business and human rights agenda: what are the different contexts and individuals making up the LGBTI spectrum, and why are the differences relevant for the scope of the report?
- Discussing the unique experiences of discrimination and violence suffered by LGBTI people, particularly when facing intersecting forms of discrimination — due to multiple factors including their age, race, ethnicity, disability, or socio-economic status;

- Exploring structural discrimination and societal barriers: gender norms, complex cultural biases and power imbalances (which differ in different contexts, industries, sectors and countries).

Pillar 1: Identifying measures required by States to ensure an enabling environment for the protection and respect of the rights of LGBTI persons in the context of business activities. This includes:

- The role of the State as a duty bearer: the impact of laws criminalizing LGBTI people on the business and human rights agenda.
- Addressing challenges and opportunities in integrating a LGBTI perspective into public policies and regulations addressing business-related human rights abuses.
- Steps to ensure the protection and respect of LGBTI human right defenders.

Pillar 2 : Exchanging concrete examples of how businesses can integrate a LGBTI perspective into their policies, processes and operations. This includes:

- Discussing lessons learned and the remaining gaps in relation to initiatives to address **diversity and inclusion issues**:
 - Employment discrimination and access to equal opportunities (e.g. equal representation and career opportunities) for the spectrum of LGBTI people working within a business enterprise.
 - Harassment and violence against LGBTI people in the workplace.
 - Upholding the rights of LGBTI people, ensuring the freedom of association and ability to engage in collective bargaining.
- Discussing the **ability of a business enterprise to conduct LGBTI-responsive human rights due diligence**, and exploring the challenges faced and the emerging positive practices:
 - LGBTI workers in different levels of supply chains, including in the informal economy.
 - Meaningful participation of LGBTI people in consultation processes led by States and businesses - including acknowledging and overcoming intersecting forms of discrimination while protecting the safety of LGBTI people.
 - Human rights due diligence and human rights impact assessments - including how issues relating to the rights of LGBTI people should be incorporated and prioritized in the saliency assessment as part of human rights due diligence processes;

Pillar 3 : Sharing the experiences of LGBTI people in accessing justice and effective remedies, and exploring both negative experiences and emerging positive practices, with a focus on:

- State-based judicial mechanisms, including issues facing LGBTI people such as judicial bias and instances where the members of the judiciary have a lack of knowledge and experience of handling issues facing LGBTI people.
- Non-judicial mechanisms, including those run by national human rights institutions.

- Company-level grievance mechanisms.
- Discussing any other relevant matters.

Practical information

The Central and Eastern Europe and Central Asia consultation to inform the report on respecting the human rights of LGBTI people in business operations is convened by the Working Group in collaboration by the Polish Institute for Human Rights and Business and Yaroslav Mudryi National Law University. The consultation will take place on **15 March at 2pm CET time**.

If you require any further information about the preparation of the Working Group's report, please contact Federica Morvay and Alexia Ghyoot, Human Rights Officers at the Office of the High Commissioner for Human Rights in Geneva at hrc-wg-business@un.org.