



# BEYOND PRIDE

**THE RIGHTS OF LGBTI PEOPLE AND THE  
CORPORATE RESPONSIBILITY TO RESPECT**

***Shift***

# IN EVERY REGION OF THE WORLD LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX (LGBTI) PEOPLE FACE SOME DEGREE OF VIOLENCE, PERSECUTION OR DISCRIMINATION:

From what is said around a family dinner table to who gets to compete in a sports contest; from who is welcome in a bathroom to who is sentenced in a court room; to forced sterilization and harmful medical procedures; and from who gets an apartment, job offer or promotion to who gets imprisoned, flogged or sentenced to death. The contexts for such violence and discrimination are as varied as the people in the LGBTI acronym, and pose a wide range of human rights risks for companies.

Businesses have a responsibility – under the [UN Guiding Principles on Business and Human Rights](#) (UNGPs) – to understand and address how their actions, decisions, omissions and business relationships can lead to negative impacts on people. In the case of LGBTI people, that means considering how they could be adding to the risk that they already face on the basis of their sexual orientation, gender identity or expression, or sex characteristics (SOGIESC). For example: a company's decision to promote a lesbian employee and send her to a country where risks to LGBTI people are high could place her in a position where she must choose between advancing her career and protecting her family; what may seem like a harmless requirement to include a birth certificate in a job application may exclude a prospective trans employee out of a recruitment process; a [decision to enter into a partnership](#) with an openly discriminatory government could bolster the persecution of gay or bisexual men and transgender women.

It is very positive to see an increasing number of companies – albeit mostly in the Global North – openly engaging with LGBTI issues. Numerous organizations and intergovernmental bodies have published a handful of resources to help guide their actions, many of which we list at the end of this piece. However, most of what is available to companies

focuses on allyship and corporate activism. In other words, the emphasis tends to be on how businesses can have a positive impact through their voluntary actions to advance LGBTI causes. While those are critical and very much needed efforts, they often do not delve into the ways in which companies can prevent and address harm that they are that they are connected to and respect the rights of LGBTI people. [The UN Standards of Conduct](#) on tackling discrimination against LGBTI people remind companies that as per the UNGPs, they should prevent and address risk to people, including in the workplace and marketplace. Yet, businesses still need support to figure out how to appropriately integrate LGBTI concerns into their human rights due diligence processes. This resource aims to help fill this gap.

The resource is not intended to provide exhaustive guidance on the topic; rather, it is to help enable more comprehensive discussions about the role of business in preventing and addressing risk to LGBTI people in their workforce, amongst consumers, in the communities and contexts where they operate and across their operations and value chain.

## USE THIS RESOURCE TO:

### LEARN

How business activities and relationships can exacerbate risks faced by LGBTI people.

### UNDERSTAND

Why risk can vary depending on geographical and cultural context, and what that means for global businesses.

### EXPLORE

How companies can understand the particular vulnerabilities experienced by LGBTI people to better identify risks and prioritize action.

### REVIEW

What companies are doing to address risks to the rights of LGBTI people, and where the gaps are in existing practice.

### CONSIDER

Meaningful ways in which companies can engage with LGBTI stakeholders and use their leverage with peers, partners, suppliers, governments and others

## THE CURRENT STATE OF PLAY: HOW COMPANIES TRADITIONALLY ENGAGE WITH LGBTI ISSUES

Over the past few decades, as LGBTI movements have reached important milestones in the recognition and protection of their human rights, we've seen an increasing number of global companies and brands starting to consider LGBTI issues. Several are taking important steps to recognize the needs and identities of LGBTI people. For example, sexual orientation and gender identity are starting to be explicitly protected in anti-discrimination policies. Some human resources departments have amended [parental leave policies to include same-sex couples](#); or health benefits to tend to the [needs of transgender employees](#). We've also seen a significant uptick in publicity directed at LGBTQ consumers (who represent over [\\$1 trillion in buying power in the US alone](#)); improved visibility of LGBTQ identities [in the media and advertising](#); and an important number of companies engaging in corporate social responsibility campaigns to raise funds for LGBTQI organizations. Some companies have also started tracking their performance on LGBT inclusivity (for example, through the [HRC Corporate Equality Index](#)) and expressing support for global initiatives, such as the [UN Standards of Conduct](#).

67

**Countries where consensual sex acts between adults of the same sex are criminalized. In six of them, is punishable by death.**

Source: [ILGA](#)

112

**Countries where employees can be legally fired based on their perceived or true sexual orientation.**

Source: [ILGA](#)

29%

**Percentage of transgender people in the US who live in poverty (vs 15% of the general population).**

Source: [Williams Institute](#)

1/3

**Only one in three bisexual employees would feel comfortable disclosing their sexual orientation to colleagues at work.**

Source: [Stonewall UK](#)

70%

**Percentage of LGBT people in the UK who claim that they have been sexually harassed at work.**

Source: [Stonewall UK](#)

&lt; 2%

**Fewer than 2% of countries have any legal protections against discrimination of intersex people.**

Source: [Living Free and Equal, page 67](#)





A number of companies are engaging with initiatives at a national level such as [Stonewall](#) and [Prout at Work](#), in the UK; LGBT Chambers of Commerce in Latin America; and local civil society organizations or multi-stakeholder initiatives in some parts of Asia and Africa.

Significantly, several companies have also begun using their influence – either through quiet diplomacy or publicly – [to advocate in favor of the rights of LGBT people](#), particularly in North America and Europe.

While many of these efforts are laudable and can result in critical differences in people's lives, current approaches tend to have a number of shortcomings. Most importantly, they rarely lead to long-term, comprehensive change because they are not embedded into decision-making processes across the business.

#### SHORTCOMINGS OF CURRENT APPROACHES

They frequently address **LGBTI people as a single, homogeneous group**.

They are sometimes **received with skepticism by LGBTI organizations and activists** (particularly when they are seen as an attempt to generate revenue or “pink wash”).

They often **rely on the leadership of a small group or individual(s)** within the company who take it upon themselves to move these issues forward.

They tend to be **siloed and disconnected** across functions.

Even when well-intentioned, they **may lead to poor or even dangerous outcomes** if they are not informed by affected stakeholders or lack a proper risk assessment.

## USING “RISK TO PEOPLE” AS AN ENTRY-POINT

When engaging on the rights of LGBTI people, it is important for companies to use a “stethoscope” before they use a “bullhorn.” In other words, to first identify the ways in which their operations, products and services, and business relationships are connected to harm to LGBTI people.

Assessing human rights risks should be part of any human rights due diligence process. In the case of LGBTI people, it is important for companies to also understand that through their actions, omissions and business relationships, they may be exacerbating risks that people are already facing on the basis of their sexual orientation, gender identity, gender expression and/or sex characteristics.

EVERYDAY  
DECISIONS CAN  
HAVE NEGATIVE  
IMPACTS ON  
THE RIGHTS OF  
LGBTI PEOPLE.

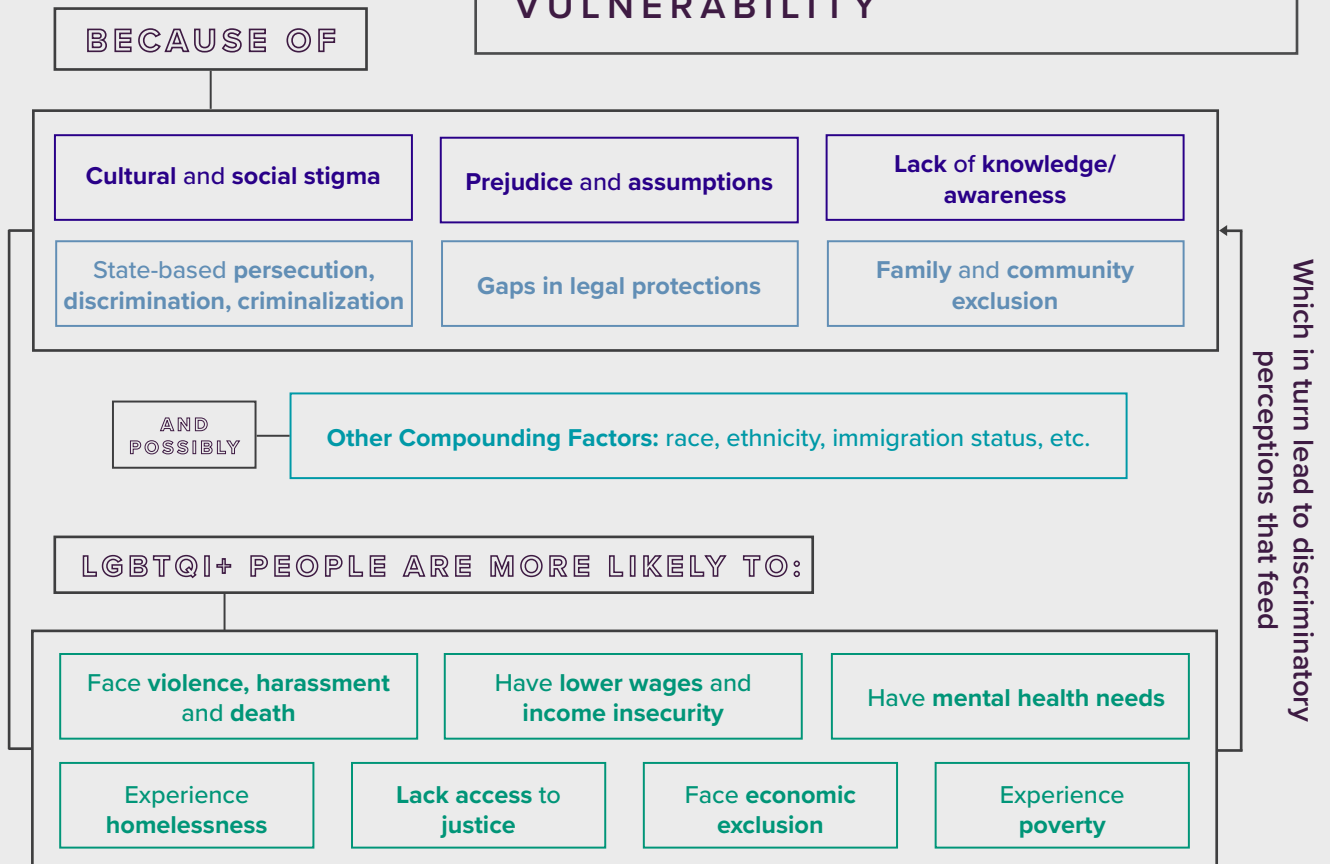
### FOR EXAMPLE:

- ⊙ **WHEN A COMPANY DEPICTS** LGBTI people in a negative or stereotypical way in its advertising, it is underpinning hatred and violence.
- ⊙ **WHEN SCHEDULES LEAD** to staff leaving work after dark in an area where violence against transgender women is prevalent, the company could be putting some of their employees at heightened risk.
- ⊙ **WHEN A COMPANY REQUIRES** an employee to transfer to a country that may be a hostile context for LGBTI people, it may be asking that employee to choose between advancing their career and protecting their life.
- ⊙ **WHEN A COMPANY LIMITS** the parental leave that employees can take based on their sex or gender, they may indirectly affect same gender couples and transgender employees.
- ⊙ **WHEN A COMPANY PROVIDES** funds to a government or another company that is hostile to LGBTI people, it could be bolstering persecution and/or violence.

LGBTI people often face cultural, social and legal environments that are hostile, or that do not grant them the protections that others may have. They are often more likely to face violence and harassment; to receive lower wages for the same work; and to face income insecurity and experience poverty. LGBTI people are at higher risk of experiencing homelessness, facing obstacles to access justice, or being denied access to basic public services and fundamental rights – including social security, the ability to inherit, migrate or to start a family.

These risks may be experienced in vastly different ways by people within the LGBTI acronym. For example, in a number of countries, laws that criminalize sodomy or buggery only apply to men, and are predominantly used against gay and bisexual men and transgender women – though in other countries, lesbian and bisexual women are also persecuted. On the other hand, lesbian and bisexual women are affected by a range of patriarchal cultural norms that impose gender roles on them and put them at higher risk of discrimination as well as sexual and gender based violence,

## UNDERSTANDING HOW STRUCTURAL DISCRIMINATION LEADS TO HEIGHTENED VULNERABILITY



while favoring men – including gay and bisexual men. In the vast majority of countries transgender people have no access to legal recognition of their gender – or are forced to undergo sterilization, divorce and other abusive requirements in order to obtain it. This underpins the widespread violence and many other rights abuses faced by trans people, including in education, employment, health, housing and travel. Intersex people are particularly at risk of abuse and harmful practices in medical settings, which can cause severe, life-long physical and psychological suffering.

## IT IS ALSO IMPORTANT TO CONSIDER THAT **LGBTI PEOPLE DO NOT EXIST IN DISCRETE GROUPS.**

Rather, sexual orientation, gender identity, gender expression and sex characteristics are layers of someone's identity, sexuality and physiology that could result in more or less risk of facing violence and discrimination. For instance, in certain contexts a transgender woman may face compounded violence because of her transgender status (the fact that she is transgender); and because of her gender (the fact that she is a woman). A gay man who has a stereotypically masculine gender expression may face less scrutiny than another gay man whose expression is considered feminine. Lastly, risks may also be heightened or mitigated by other compounding factors such as race, ethnicity, age, disability, origin, immigration and economic status – in the US, for example, LGBT Black, Indigenous and people of color who are often at higher risk of persons are at higher risk of poverty and homelessness than their peers.

Being aware of these complexities is critical for companies that wish to properly identify and address risks that they could be causing, contributing or linked to.



## RISKS VARY DEPENDING ON CONTEXT

While all LGBTI people face structural discrimination, risks on the basis of SOGIESC vary significantly, depending on context. To date, LGBTI people face [criminalization in dozens of countries around the world](#). In Barbados, for instance, consensual sex acts between same-sex adults are punished with up to 10 years of prison; in Indonesia, it can lead to public flogging. In Brunei, Iran, Mauritania, Saudi Arabia and Yemen, it could be death. Even where no criminalization exists, the large majority of countries lack legal protections against discrimination and hate crimes. This includes countries where opposition against legal protections for LGBTI people has become more overt in recent years, like [Poland](#), [Russia](#) and [Hungary](#); as well as countries where efforts to ensure full equality before the law have stalled, such as [Japan](#) and the [United States](#).

Only 40% of countries have any legal protections against discrimination in employment based on sexual orientation. That number drops to 10% in relation to gender identity and to 2% of countries in relation to sex characteristics. Very few countries offer legal recognition for the gender identity of trans people, and the majority that do,

FOR EXAMPLE, IN SOME COUNTRIES

### AN LGB EMPLOYEE MAY:



BE CHARGED WITH A CRIME FOR ENGAGING IN CONSENSUAL SAME-SEX SEXUAL ACTIVITY



BE LEGALLY FIRED, PREVENTED FROM RENTING A HOME OR BUYING A PRODUCT



NOT BE ALLOWED TO MARRY OR HAVE THEIR MARRIAGE RECOGNIZED



NOT BE ALLOWED TO ADOPT A CHILD WITH THEIR SAME-SEX PARTNER



NOT BE ALLOWED TO DONATE BLOOD

TO LEGALLY AFFIRM THEIR GENDER

### A TRANS EMPLOYEE MAY:



BE REQUIRED TO PRESENT A MENTAL HEALTH DIAGNOSIS



BE REQUIRED TO UNDERGO SURGERY



BE REQUIRED TO UNDERGO STERILISATION



BE REQUIRED TO DIVORCE

Source: ILGA, TGEU, [EQUALDEX](#)

## TERM DEFINED

### STRUCTURAL DISCRIMINATION

*Structural discrimination refers to rules, norms, routines, patterns of attitudes and behavior in institutions and other societal structures that represent obstacles to groups or individuals in achieving the same rights and opportunities that are available to the majority of the population.*

Source: [OHCHR](#)

have abusive requirements in place like forced sterilization or having to divorce their spouse. Intersex people face harmful practices in medical settings, particularly in Western countries.

It's important not to assume that because a country will have strong protections for lesbian, gay and bisexual persons, they will also have protections for trans and intersex people. LGBTI people also face violence and discrimination, even when strong protections may be in place. Brazil and Mexico, where such protections exist, are among the countries with the [highest number of murders](#) of trans and gender diverse people in Latin America.

Therefore, the ways in which a company could harm, exacerbate risk or be connected to impacts on people's rights, also vary, depending on context. For example, a company's policies may be written in a way that provides benefits to employees on the basis of their marital status. This could lead to discrimination against same-sex couples in countries where marriage equality is yet to be recognized. If a company offers health benefits to their employees in a way that is differentiated by sex (e.g. a private health insurance that covers gynecological visits for women, but not for men), transgender men could be affected. In contexts where there are high levels of harassment, violence and killings of transgender women, something as simple as shifting working hours in a way that forces employees to leave work after dark could put some employees at potentially lethal risk. And, where professional development inside a company is dependent on an employee's ability to relocate, this could limit the opportunity for LGBT employees if their relocation options are countries where their identities are persecuted and/or their rights are not recognized.

*"The kinds of challenges that LGBTQ+ people face around the world vary widely, so our approach to face them also has to vary. At P&G we know that, in some countries, using our voice can help bring about change while in others, it could lead to a dangerous backlash. That is why we've put in place tools to understand the challenges LGBTQ+ people face and the types of actions that we can take to have a positive impact in people's lives."*

- Clare Iery, **ASSOCIATE GENERAL COUNSEL P&G**

## UNDERSTANDING CONTEXT IS IMPORTANT NOT ONLY TO IDENTIFY RISK, BUT ALSO TO MAKE INFORMED DECISIONS ABOUT HOW TO TAKE ACTION.

For example, in a country with robust legal protections and wide social acceptance of the rights of LGBTQI people, a campaign celebrating diversity may be a good way to signal that a company offers a welcoming and safe space; in other contexts, the same campaign could provoke strong negative reactions and result in retaliation or persecution. Using a one-size-fits-all approach to the rights of LGBTI people regardless of context is not only ineffective; it could also lead to harm to people and consequently to the business.

## THERE ARE NUMEROUS RESOURCES AVAILABLE FOR COMPANIES WISHING TO BETTER ASSESS AND UNDERSTAND RISKS TO LGBTI PEOPLE ACROSS DIFFERENT CONTEXTS.

These include risk and legal protection maps, such as those provided by [ILGA](#) and [Transgender Europe](#); some international organizations like Human Rights Watch also track risks on a yearly basis in their [country profiles](#). While there is not yet comprehensive mapping in relation to intersex people, there is an increasing number of intersex organizations raising awareness of violence and discrimination on the basis of sex characteristics. Moreover, engaging with local and grassroots organizations is essential, not only to identify risks but also to understand political, cultural and social sensitivities. And as with other human rights issues, often the most effective way to understand human rights impacts is to engage directly with affected stakeholders.

# CONSIDERATIONS WHEN ENGAGING WITH

## AFFECTED LGBTI STAKEHOLDERS



Engaging with affected stakeholders is one of the cornerstones of quality human rights due diligence. In the case of LGBTI people, it is important for companies to understand how to effectively engage with stakeholders in a way that is inclusive, acknowledging the needs, identities and lived experiences of the wide diversity of people within the LGBTI acronym; and to be cautious of the ways in which poorly designed stakeholder engagement could put LGBTI people at risk.

In some cases, the design of stakeholder engagement processes could be implicitly discriminatory or biased against LGBTI people. For example, in-person consultations or consultations that require a person to provide their name, gender and/or marital or relationship status, could discourage some LGBTI people from participating, if they feel that information about their sexual orientation, transgender status or sex characteristics could be inferred, required or exposed. Companies should make conscious decisions about whether to require certain information from participants.



For instance, a company may believe that including multiple gender options in a survey is a way of signaling allyship to queer or gender-nonconforming people. At the same time, collecting that data could be particularly dangerous if the information can be traced back to participants, especially in contexts where certain identities and acts are criminalized or linked to increased risks of violence and discrimination. It is often the case that information such as “gender” is required as part of standard processes, without there being a real need for the company to have that information.

At times, companies may have legitimate reasons to consult specifically with people who are LGBTI, whether they are employees, consumers, community members or other. They will need to assess whether the conditions exist to do so in a safe manner and whether measures can be put in place to prevent or mitigate such risks. They should also be equipped to ensure that any data collected – including people’s identity – will be kept confidential and that the privacy of participants will be respected.

*“When we designed our engagement with transgender and intersex athletes, we were well aware that for some of them, **something as simple as showing up to a consultation could feel unsafe**. We worked to offer alternatives to those who wanted to participate but remain anonymous; we also made sure that we put in place safeguards for those who did come to the consultation. I believe that simple things like referencing our gender pronouns when introducing ourselves went a long way in creating a safe and welcoming space for dialogue.”*

- Katia Mascagni, **HEAD OF PUBLIC AFFAIRS**  
**INTERNATIONAL OLYMPIC COMMITTEE**

Identifying prospective stakeholders can also be a challenge, in and of itself. For example, a person who is gay, lesbian or bisexual may not wish to disclose their sexual orientation at work; a person who is transgender may not identify as transgender. A person with intersex characteristics may have very valid reasons not to disclose them, or even to identify as part of the LGBTI community. It could also be that an engagement requiring LGBTI participants to self-select could lead to results being biased towards those who are “out” or more comfortable disclosing their orientation or identity; at the same time, this might limit access to the experiences of those who may feel most at risk. That is why, when designing consultations, it is important for companies to

consider an array of options, from focus groups – where those who are comfortable may share their stories, experiences and concerns – to anonymized surveys or questionnaires. In the case of in-person consultations, companies should consider whether they have facilitators who are properly trained and referral pathways in case consulted parties need support before, during or after the consultation. Companies may also want to consider third-party facilitators, such as local LGBTI organizations, who could be better equipped to offer a safe space for stakeholders.

*“At L’Oreal we know that our different brands are used by different consumers, so the way they express support for LGBT rights cannot and should not be the same. However, we are convinced that regardless of how light or bold their LGBT advocacy may be, **all brands should embed respect for LGBT people in the way they market and communicate.** And that, in and of itself, can bring meaningful change in people’s lives.”*

- JULIE VALLAT, VP HUMAN RIGHTS, L’OREAL

## IT IS ALSO PARAMOUNT FOR COMPANIES TO ACKNOWLEDGE THE DIVERSITY OF IDENTITIES ACROSS THE LGBTI ACRONYM, WHEN IDENTIFYING POTENTIAL PARTICIPANTS IN STAKEHOLDER ENGAGEMENT PROCESSES.

A common mistake is for stakeholder engagements to aggregate LGBTI people into a seemingly homogeneous group of stakeholders, while failing to understand the vastly different lived experiences and needs of people on the basis of their sexual orientation versus their gender identity, expression or sex characteristics.

Lastly, grievance mechanisms are important vehicles for companies to assess risks and impacts that may exist, particularly where other forms of stakeholder engagement are not possible. However, LGBTI people may be discouraged from using such mechanisms if they are not safe or if it means that they would have to reveal their orientation or identity in order to access them.

## TAKING ACTION

LGBTI issues may seem to bring a high level of complexity to the already intricate challenge of assessing and addressing human rights risks. It is common for practitioners to be tempted to disregard them, particularly when working in industries or contexts where the rights of LGBTI people are ignored or even disputed.

While it may be true that the issues of sexuality and gender may be difficult to address in some contexts, it is also important to recognize that failing to do so can and does lead to severe harm and abuse. There are ways to ease the complexity:

### LEARN AND COLLABORATE

This is a topic that is challenging for many global companies, some of which may already have valuable experiences and learnings. Collaborating can also lead to more effective use of leverage (for instance, a group of companies that use the same supplier may be able to encourage them to include sexual orientation, gender identity and sex characteristics in their non-discrimination policy). Peer leverage can also be critically important when companies [use their voice and influence](#) to advocate for the rights of LGBTI people.

### SEEK EXPERT HELP

It is often the case that LGBTI issues are advanced by those who feel most fervently or personally engaged on the matter. That places an unnecessary burden on employees and groups who take it upon themselves to make progress on this topic in addition to their work responsibilities. It also can result in well-intended actions that lead to unintended harm; or, in diversity and inclusion groups, having a limited mandate to take action.

Companies that make the commitment to make progress on these issues should ensure senior leadership support, provide adequate resources including staff time, find more holistic ways to integrate the work of D&I groups into decision-making processes; they should also be ready to seek support from organizations that understand and work on these topics on a day to day basis.

### SELECT THE RIGHT LANGUAGE

LGBTI, as an acronym, may seem mainstream in Western settings. But, it may not be well known in other contexts. And, in some cases, it may even be understood as radical or colonialistic. Work with local

NGOs to understand what language and approach works best for each market.

## CHOOSE THE RIGHT ENTRY POINT

At times, starting with a broader conversation about discrimination and/or bias – particularly in contexts where mentioning the rights of LGBTI people could be contentious or dangerous – could help provide the space to discuss the issues of sexual orientation, gender identity and/or expression and sex characteristics.

## WHEN SUITABLE, USE THE BUSINESS CASE

While respect for human rights should not depend on whether the issue is profitable or beneficial, showing how inclusion and non-discrimination can be advantageous to a company or a country may be a useful entry point to begin a conversation.

### THE BUSINESS CASE

#### WHY RESPECTING LGBTI RIGHTS IS GOOD FOR BUSINESS



##### TALENT

Lower turnover costs, health costs, better outcomes, greater commitment to jobs.

Broader pool to hire from.



##### LEGAL

It is costly and inefficient to deal with multiple jurisdictions.

Prevents lawsuits.



##### SHARE PRICE

Companies that adopt LGBT policies/ have LGBT senior leaders see a positive effect in share price.



##### REPUTATION

Among an increasingly supportive consumer and prospective employee.



##### GDP

Compounded effect of discrimination/ exclusion can result in great economic loss.

(\$3 billion in India, \$730 million in Philippines, \$105 million in Kenya).

Source: [The Economic Case for LGBT Equality](#)



***Beyond Pride: The Rights of LGBTI people and the Corporate Responsibility to Respect***

Shift, New York. April 2021

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## **ABOUT SHIFT**

Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights. Shift's global team of experts works across all continents and sectors to challenge assumptions, push boundaries and redefine corporate practice in order to build a world where business gets done with respect for people's dignity. We are a non-profit, mission-driven organization headquartered in New York City.



[shiftproject.org](https://shiftproject.org)



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## SHIFT RESOURCES

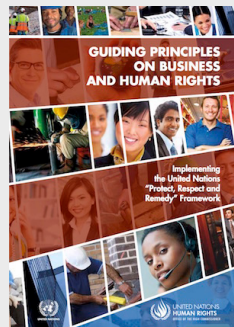


USING THE LENS OF  
VULNERABILITY TO ASSESS  
CORPORATE IMPACTS ON  
LGBTQI PEOPLE | **WATCH**

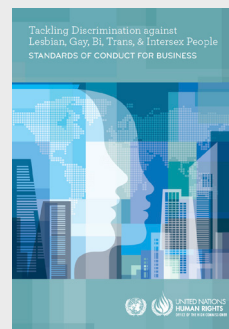


ON LGBT RIGHTS, TRUE  
CORPORATE ALLYSHIP MEANS  
USING A STETHOSCOPE, NOT  
A BULLHORN | **READ**

## EXTERNAL RESOURCES



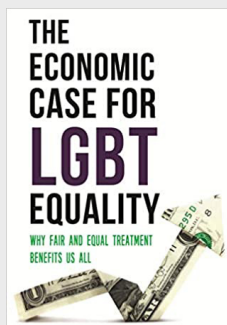
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RIGHTS | **READ**



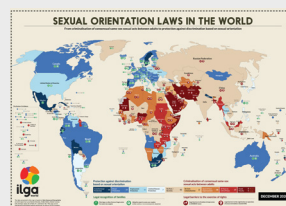
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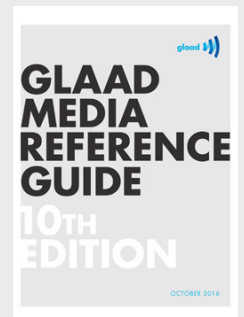
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