

## Call for Inputs

*UN General Assembly Resolutions on “Strengthening and enhancing the effective functioning of the human rights treaty body system” and “Human rights treaty body system”*

*Submission by ILGA World, supported by Mitini Nepal, Transmen Indonesia, Mulabi, Ivy Foundation, Blue Diamond Society, and other collaborating organizations<sup>1</sup>*



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<sup>1</sup> See Annex.

## **Executive summary**

The submission presents the results of a collective discussion organized by ILGA World to respond to the call for inputs. The dialogue was focused on the questionnaire released by the OHCHR and involved LGBTI human rights defenders from different regions engaging with UN treaty bodies. The following topics covered in the dialogue were identified as the most pressing in the context of LGBTI human rights defenders: (1) Visa limitations and logistical challenges for LGBTI human rights defenders to attend treaty body sessions in person in Geneva; (2) Safety concerns and potential reprisals faced by LGBTI human rights defenders when engaging with treaty bodies; (3) Financial challenges faced by human rights defenders participating in treaty bodies' activities; (4) General challenges and obstacles encountered before and during engagement with treaty bodies; and, (5) Suggestions for potential mechanisms to encourage civil society organizations to actively engage with treaty bodies.

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## **Introduction**

On 26 January 2024, the Office of the High Commissioner for Human Rights (OHCHR) initiated a Call for inputs in relation to United Nations General Assembly Resolution 68/268, aimed at “Strengthening and enhancing the effective functioning of the human rights treaty body system,” adopted on 9 April 2014. The OHCHR released a questionnaire pertaining to the aforementioned resolution and Resolution 77/210, titled “Human rights treaty body system.” The OHCHR extended invitations for responses and comments from States, non-governmental organizations, national human rights institutions, and other stakeholders.

## **Methodology**

ILGA World, at the forefront of promoting LGBTI rights globally through treaty bodies and other United Nations (UN) mechanisms for the past decades, including ten-year dedicated UN Programme, convened LGBTI human rights defenders (HRDs) from across the world to engage in a fruitful dialogue to discuss the matters outlined in the questionnaire. This dialogue placed particular emphasis on the experiences of LGBTI HRDs and LGBTI civil society organizations (CSOs) when engaging with UN treaty bodies.

ILGA World brought together HRDs from various regions, representing CSOs working on specific populations within the LGBTI communities or the LGBTI communities as a whole, with a notable emphasis on the Global South. They collectively engaged in a dialogue to respond to the issues included in the questionnaire. Both online and offline platforms served for the exchange of ideas, challenges, experiences, and strategies to strengthen the human rights treaty body system. The organizations that participated in these internal consultations included Mitini Nepal (Nepal), Transmen Indonesia (Indonesia), Ivy Foundation (Malawi), Mulabi (Costa Rica), and Blue Diamond Society (Nepal), among others. Some organizations decided not to make their names public due to safety concerns and possible reprisals from State and non-State actors, based on their intersecting identities as HRDs and LGBTI persons.

## **The most pressing topics in the context of LGBTI HRDs and CSOs engaging with UN treaty bodies**

The topics covered in the dialogue were identified as the most pressing in the context of LGBTI HRDs and CSOs engaging with UN treaty bodies. The issues were the following:

1. Visa limitations and logistical challenges for LGBTI human rights defenders to attend treaty body sessions in person in Geneva;
2. Safety concerns and potential reprisals faced by LGBTI human rights defenders when engaging with treaty bodies;
3. Financial challenges faced by human rights defenders participating in treaty bodies' activities;
4. General challenges and obstacles encountered before and during engagement with treaty bodies; and,
5. Suggestions for potential mechanisms to encourage civil society organizations to actively engage with treaty bodies.

### ***1. Visa limitations and logistical challenges for LGBTI human rights defenders to attend treaty body sessions in person in Geneva***

Visa processes are complicated and costly for LGBTI HRDs from countries in the Global South, where financial resources are often limited. The high fees for visa applications present significant barriers, particularly for marginalized groups such as LGBTI HRDs, who may already face discrimination and lack adequate resources. The main issues encountered include the following:

- Visa requirements can be especially complex for first-time applicants, involving a **disproportionate number of necessary documents** and associated **costs**, as well as the **visa processing fee**. These expenses are usually high compared to the cost of living in the applicants' home countries. Additionally, certain activists, particularly those affiliated with LGBTI regional organizations, face **visa denials**, **language barriers** and **discrimination** during consulate interactions.

- Concerning the documents necessary for a visa application, they might include the following: A bank statement demonstrating a positive balance in the applicant’s bank account and an invitation letter, which can be particularly challenging to obtain, especially for small organizations or groups. Some groups highlight that they have successfully secured support from IWRAW Asia Pacific with invitation letters to attend CEDAW sessions.
- Certain embassies have recently started introducing **new requirements for visa applications**. For instance, they now demand a 6-month-old bank statement with a positive balance, as opposed to the previous 3-month-old requirement. In addition, the cost of printing bank statements in financial institutions can be very expensive. Additionally, some embassies insist on specific documents, such as the registry of the organization’s board of trustees, **without allowing flexibility for alternative documents**. This poses challenges for organizations that may not be registered in public registries due to financial limitations or security constraints.
- **Documents such as proof of housing and/or property ownership** in the country of origin, and/or **employment contracts** are required for certain visa processes. However, these documents can be challenging, if not impossible, for LGBTI HRDs to obtain. Housing issues stemming from discrimination are common, and HRDs often work under short-term contracts without employment security.
- In the visa application process, HRDs are required to **submit their passports** to consulates or embassies. This poses a significant inconvenience as they cannot undertake international travel without their passports while the application is being considered. This becomes especially problematic when the consulate or embassy is situated in a different country than that of the individual’s country of origin, requiring HRDs to stay – for a period not determined and not predictable – in the country where the visa is being issued.
- **Visas are typically granted for a short period of time**. This is an issue since the period granted is not proportionate to the numerous engagements that countries have within various UN mechanisms. This frequently requires activists to request a visa for each specific commitment they wish to participate in at the UN.
- **Trans persons encounter discrimination** in consulates when the name and sex marker in their passport and/or identity document do not align with their social name

and gender expression. In other words, trans persons are subjected to being “dead named.”

- Obtaining a Schengen visa is considered particularly challenging. The lack of flexibility, tight timelines, and constraints on international travel persist, as well as **the need to travel to a different country to initiate the visa process** due to the absence of some embassies and/or consulates in the activists’ countries of origin.
- Transiting through the Middle East to obtain a visa in a different country imposes a greater financial burden, and activists run the risk of encountering additional discrimination based on sexual orientation, gender identity, gender expression and/or sex characteristics. The attitude from officials is often considered “tough” or even “violent” when dealing with individuals holding a “weak” passport, such as those from the Global South.
- When a trans person’s passport does not align with their identity, traveling from one country to another becomes a traumatizing experience. They face discrimination from border control officials and airline personnel. LGBTI activists from the Global North often bring family members and/or partners to committee sessions for emotional support, but individuals from the Global South cannot do so due to financial and visa limitations.

## ***2. Safety concerns and potential reprisals faced by LGBTI human rights defenders when engaging with treaty bodies***

LGBTI HRDs from countries where LGBTI identities are criminalized or where structural discrimination exists towards LGBTI persons often encounter severe safety risks and potential reprisals for their advocacy efforts. Participating in treaty body sessions can expose them to heightened scrutiny and persecution from authorities and conservative elements within their societies.

The threat of violence, harassment, and legal repercussions looms large for LGBTI activists, making it challenging for them to openly and effectively engage with treaty bodies. Fear of reprisals not only undermines their personal safety but also **restricts their freedom of expression and association**, hindering their ability to contribute fully to treaty bodies’ activities. Additionally, the lack of institutional support and protective mechanisms at the

national level leaves LGBTI HRDs vulnerable and isolated, with few avenues for recourse or assistance in case of threats or attacks stemming from their engagement with treaty bodies.

HRDs have noted that their main concerns and encountered issues include the following:

- Some activists have pointed out that they have not faced reprisals yet, but they are afraid they might face them in the future.
- LGBTI HRDs have expressed concerns about potential future issues in the context of their engagement with treaty bodies related to the **anti-gender movement, harmful binary arguments, intra-community discrimination, and restrictive travel guidelines.**
- An LGBTI activist from the Global South shared their experience of their suitcase going missing during the flight from Geneva to their country of origin, with theirs being the only one missing on the flight. They were afraid that this event was related to their engagement with the UN.
- **Potential repercussions may arise from attending treaty body sessions** when conference attendance is recorded or registered without consent, for instance, by the State's ministries representatives.
- In some activists' visas, it is mentioned that they are attending a UN committee session. This information remains recorded within the National Ministry or relevant authorities, and it could have repercussions for the activists or their organization.
- Several LGBTI HRDs have reported experiencing **discriminatory remarks from State representatives** in Geneva during treaty body reviews.

### ***3. Financial challenges faced by human rights defenders participating in treaty bodies' activities***

Financial constraints pose significant barriers for LGBTI HRDs, particularly those from resource-poor settings, hindering their participation in treaty body activities. Limited funding opportunities and a lack of financial support mechanisms impede their ability to cover travel, accommodation, and related expenses, increase their dependence on donors. LGBTI HRDs, in particular, face additional financial burdens due to societal discrimination and exclusion from mainstream funding channels. The **scarcity of dedicated funding streams for LGBTI rights advocacy before treaty bodies** further exacerbates the financial challenges they

encounter in engaging with treaty bodies. Furthermore, the unequal distribution of resources within CSOs compounds the problem, as well-established organizations may monopolize available funding, leaving smaller grassroots groups and individual activists marginalized and unable to fully participate in treaty body processes. The main issues encountered are the following:

- There is a general **lack of funding** for CSOs to attend all committee sessions in person. Typically, CSOs interact with committees by sending written reports, but lack the means to travel to Geneva and attend the sessions and briefings. This significantly affects the effectiveness of advocacy and the possibility of LGBTI HRDs to provide important information to committee members and interact with them.
- When CSOs plan their funding, they may not have certainty about future session dates. **Accessing deadlines only two or three months before the session is insufficient for planning the yearly budget and arranging trips to Geneva.** If CSOs have not allocated funds for attending Geneva sessions in their annual budget, participation becomes nearly impossible, especially considering that delivering oral statements online is no longer an option, following the UN budget cuts.
- **Treaty body sessions take place in one of the most expensive cities in the world, Geneva.** The high cost of living in Geneva poses a significant challenge for planning, as finding budgetary references for activists is difficult. Various expenses must be taken into account, including hotels, meals, private transport (when necessary), emergency bursaries, and others.
- The **government's delay in submitting State reports** poses challenges for CSOs. CSOs encounter uncertainties, as they cannot submit their shadow reports without the government's prior submission, and the deadlines remain unclear. This delay affects fund planning, requiring them to revise their reports and often gather new information. Without the necessary funds, organizations miss crucial participation opportunities.



#### ***4. General challenges and obstacles encountered before and during engagement with treaty bodies***

- **Accessing deadlines and documents on the OHCHR website can be challenging and exhausting.** Navigating through the numerous documents for each session and committee is difficult and overwhelming for HRDs. Implementing a simpler system and a more user-friendly website is encouraged. Currently, a system exists for deadlines related to State reports and other submissions<sup>2</sup> – however, there is no similar system for civil society submissions.
- HRDs who have participated in trainings and/or have mentors are more likely to be familiar with the UN online system. However, this is the exception rather than the norm.
- **The terminology used by UN committees is highly technical and inaccessible** for HRDs, such as “LOI,” and “LOIPR”. There is a need for a third party to assist CSOs when engaging with the UN online system.
- It is challenging for local HRDs to understand how to use and implement concluding observations, general recommendations/comments, decisions on individual communications and inquiry protocols, at a local level. Activists on the ground, communities of concern, and lawmakers are often unaware of these instruments and their importance. Moreover, there is insufficient awareness at the local level regarding the significance of UN committees and how these mechanisms can be used.
- Many activists believe that **participation in UN spaces is reserved for a specific class of activists**, with specific preparation in the processes of the International Human Rights System. This perception is inextricably linked to the limited training on the subject and the insufficient commitment of some organizations to the UN system due to the lack of funding, lack of credibility in the UN system, and/or a sense of disconnection between Geneva and local realities. Moreover, when LGBTI HRDs express interest in learning and engaging with treaty bodies, they often find themselves starting from scratch, demanding substantial resources.
- During committee sessions, the time granted to CSOs for participation is considered limited.

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<sup>2</sup> [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/MasterCalendar.aspx?T%20type=Session&Lang=En](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/MasterCalendar.aspx?T%20type=Session&Lang=En).

- There is limited knowledge about the **UN registration process** for the sessions. Organizations such as ILGA World and RFSL provide guidance; however, a widespread lack of awareness about the UN system prevails.
- **Orientation in Geneva for HRDs**, including familiarity with UN spaces and the city, is lacking.
- **Trans individuals face additional challenges**, encountering potential transphobic remarks from HRDs, State officials, and UN representatives in UN spaces.
- First-time attendees find the process chaotic, highlighting the need for better orientation. Providing SIM cards with Internet access for communication within the UN and Geneva is suggested.
- When non-binary HRDs travel from their country of origin to Geneva, they might transit through a country that does not recognize “X” gender markers, and, as a result, they may not be allowed entry.
- **Power imbalances and unequal representation within treaty body sessions** can marginalize voices from the Global South and underrepresented communities, perpetuating a cycle of exclusion and reinforcing existing disparities in the human rights landscape.
- **Language barriers** hinder participation for HRDs who do not speak one of the UN official languages. Translation services are often inadequate or unavailable, making it difficult for participants to fully comprehend proceedings and effectively communicate their concerns to treaty bodies.

##### ***5. Suggestions for potential mechanisms to encourage civil society organizations to actively engage with treaty bodies***

- **Accessibility of documents:** Ensure that UN documents are user-friendly and accessible, and roll out knowledge-sharing to grassroots organizations.
- **Country level outreach:** At a local level, disseminate information about each treaty ratified by the States, the function of treaty bodies and their mechanisms.
- **Capacity building:** OHCHR offices should build capacity of HRDs on treaty bodies, the reporting process, individual communications, the implementation of general recommendations/comments, decisions on individual communications and concluding observations. Provide training focused specifically on LGBTI issues. Workshops on

treaty reporting, shadow reporting, and strategic engagement tactics can equip LGBTI activists with the skills and knowledge needed to navigate the treaty body process.

- **UN identification system:** Modify the UN registration system to be trans-friendly, or for individuals whose passport does not match their gender identity.
- **Informal briefings:** Conduct informal briefings, clustered by issues. This will help HRDs understand what the committee members' limitations and priorities are and tailor and improve the questions for them.
- **Relations with embassies:** CSOs and treaty bodies should strengthen their relations with embassies and consulates to reduce document requirements for visas, and for embassies to implement an LGBTI approach to their processes.
- **Oral statements and online engagement:** Address challenges related to the limited time allocated for oral statements in sessions. In line with United Nations General Assembly Resolution No. 77/210,<sup>3</sup> emphasize the importance of **establishing online engagement options for activists who cannot attend in person due to issues related to funding, logistics, situations of crisis, and health issues**. If HRDs cannot deliver oral statements, there is a perception of indifference from both the committees and the governments regarding the issues of their concern. Moreover, the option to deliver online oral statements facilitates access to grassroots communities that might lack the financial means to travel to Geneva.
- **Elitism and access to Internet:** Address issues of elitism and lack of Internet access in certain locations, which prevents HRDs from engaging with UN treaty bodies.
- **Enhancing funding:** Establishing dedicated funding mechanisms or grant opportunities specifically designated for CSOs from countries with limited resources can help alleviate financial barriers to participation in treaty body activities. Funding should prioritize grassroots groups and marginalized communities, such as LGBTI groups, ensuring that resources are distributed inclusively.
- **Following good practices:** In the case of Asia, the ASEAN SOGIE Caucus provides training alongside the OHCHR on UN mechanisms to HRDs.

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<sup>3</sup> "Notes that the COVID-19 pandemic showed the need to strengthen the capacity of the treaty bodies to engage and interact online, also notes the considerable potential of digitalization for improved efficiency, transparency and accessibility of the treaty bodies and the interaction with all relevant stakeholders, and encourages the treaty bodies to continue their efforts to further the use of digital technologies in their work, while stressing that in-person interaction remains a crucial component of the work of the treaty bodies."

- **Facilitating peer-to-peer exchange and networking opportunities among CSOs** within the region can foster collaboration, knowledge-sharing, and solidarity-building. Platforms for sharing best practices, lessons learned, and successful advocacy strategies can strengthen the collective capacity of activists to engage with treaty bodies and advance human rights agendas at the national and international level.

**ILGA World**,<sup>4</sup> established in 1978, is a federation comprising more than 1,900 organizations from over 160 countries and territories campaigning for lesbian, gay, bisexual, trans and intersex (LGBTI) human rights. Enjoying ECOSOC status, ILGA World consistently engages with United Nations human rights bodies, and conducts legal and socio-economic research on the situation of LGBTI persons. ILGA World supports local LGBTI civil society organizations in their engagement with United Nations treaty bodies, special procedures and the Human Rights Council. It also produces research publications on the social and legal situation of LGBTI persons. This includes Annual Treaty Bodies Reports,<sup>5</sup> a Treaty Bodies Strategic Litigation Toolkit,<sup>6</sup> and a Guide to LGBTI and SOGIESC references in general comments and recommendations.<sup>7</sup>

**Ivy Foundation**,<sup>8</sup> established in 2016 and formally registered in 2018, is a non-governmental organization committed to advancing the inclusion and rights of marginalized communities irrespective of their gender identity or sexual orientation. The foundation's central objective is to foster equity by enhancing the participation and welfare of vulnerable populations in all aspects of life.

**Mulabi**<sup>9</sup> is a non-governmental, non-profit, horizontal organization that brings together activists from the Global South of diverse identities (sexual, gender, ethnic, nationality and others). It works on sexualities and rights from a critical and celebratory point of view, promoting empowerment and autonomy especially for the most excluded people. Mulabi disseminates Latin American perspectives on these issues, using as its main strategy the common construction of transformative knowledge.

**Mitini Nepal**<sup>10</sup> is a non-governmental organization working on the issues of lesbians, bisexuals and transgender (LBT) and is the pioneer organization for LBT movement. It was established in 2005 with the aim of protecting and promoting human rights of the sexual and gender minorities' people of Nepal. After its initial inception in 2002, it has expanded its' services through two branches in Hetauda, Makwanpur as well as in Birtamod, Jhapa. It was established by first lesbian couple of Nepal Laxmi Ghalan and Meera Bajracharya. It has been dedicated to create an active network of LBT across the national, regional and international level. It is

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<sup>4</sup> <https://ilga.org>.

<sup>5</sup> Available at [https://ilga.org/treaty\\_bodies\\_annual\\_reports](https://ilga.org/treaty_bodies_annual_reports).

<sup>6</sup> Available at <https://ilga.org/Treaty-Bodies-strategic-litigation-toolkit>.

<sup>7</sup> Available at <https://ilga.org/treaty-bodies-general-comments-lgbti-sogiesc-guide>.

<sup>8</sup> <https://ivyfoundationmw.org/>.

<sup>9</sup> <http://www.mulabilatino.org>.

<sup>10</sup> <https://mitininepal.org.np>.

solely dedicated to make these people self-reliant, provide psychosocial counseling services, legal information and information regarding on sexually transmitted diseases like HIV/AIDS, SRHR, etc. in order to ensure the rights of sexual and gender minorities of Nepal. Mitini Nepal believes in multi-generational and intersectional issues in the LGBTI community and works for the elder LGBTI community members as well as advocates for their rights.

**Blue Diamond Society**<sup>11</sup> is an LGBTI rights organization that was founded in 2001 in Nepal and is committed to creating a society in which sexual and gender minorities can live with equal rights, freedom, dignity and a full range of opportunities. It aims to educate Nepalese society on sexual health, to advocate with local governments for LGBTI minorities, to encourage the artful expression of LGBTI youth, and to document violence against Nepalese queers. Moreover, it provides care, counselling, and services to victims of HIV/AIDS.

**Transmen Indonesia** is an organization of trans men in Indonesia that was established collectively by 21 trans men on 28 June 2022 (previously in the form of a working group, established in 2015). Transmen Indonesia aspires to be a safe and inclusive platform for trans men in Indonesia to fight for their human rights. They are connected with more than 100 trans masculine individuals in 15 provinces.

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<sup>11</sup> <https://bds.org.np>.