

From wars against diversity to an inclusive peace

Conflict-related violence based on Sexual Orientation & Gender Identity (SOGI)

In conflict, gender-based violence affects LGBT persons too.

International humanitarian law (IHL), applicable in times of armed conflict, prohibits discriminatory treatment based on sex or “any other distinction founded on similar criteria”. However, its application has so far failed to effectively address the differentiated experiences that people endure in conflict based on gender and sexuality and thus in establishing boundaries for those partaking in hostilities. As the UN Secretary-General and many scholars have pointed out, an updated interpretation of gender and sexuality, specifically as pertaining to LGBT (lesbian, gay, bisexual, trans and gender-diverse) persons’ experience during conflict has been identified as a “blind spot” of both customary and treaty international humanitarian law.

This report finds that LGBT persons are subjected to different forms of violence during armed conflict that range from systematic threats to the imposition of gendered and sexualized norms of conduct aimed at regulating

“normal” or “acceptable individuals” in conflict-affected areas. This violence also entails rape and other forms of sexual violence, as well as torture, unlawful killings, persecution, and other attacks to LGBT persons’ physical and mental integrity.

In the context of armed conflict, prejudice-based violence can be used as an umbrella concept to grasp different conducts that may affect minorities in war-torn realities. It highlights the social and cultural deeply rooted imaginaries that fuel such aggressions, rendering the use of violence against this population useful to advance in the interest of those taking part in hostilities, in both non-international and international armed conflicts.

Against this background, it is imperative to adopt a broad conception of gender and an intersectional approach when assessing the victimisation protected persons endure during conflict. The implementation of inclusive definitions of gender is indispensable to make visible, analyse and address the consequences of conflict-related violence for all persons that do not conform with the imposed traditional gender and sexual social expectations.





Both state and non-state actors have obligations to uphold LGBT persons' rights during conflict.

The intersection of different practices of international law and the Women and Peace and Security agenda create myriad obligations for State and non-State actors in situations of armed conflict. This robust body of law is the basis for a framework of prevention, protection, participation, redress, and sustainable peace for LGBT persons.

Under international humanitarian law, parties to conflict have several obligations:

- No one should be targeted based on their actual or perceived SOGI, including legitimate targets under international humanitarian law.
- Persons under the tutelage of occupation powers or subjected to war imprisonment cannot be discriminated against based on their actual or perceived SOGI.
- Sexual violence and other gender-based conflict-related forms of violence are strictly prohibited and thus, when committed against LGBT persons, can be considered grave breaches to IHL and potential war crimes.

Additional international standards for the protection of LGBT persons during armed conflict include:

- Under international criminal law, the socially extended prejudice that originates conflict-related violence against LGBT persons may be understood as the basis for persecution and potential convictions on crimes against humanity, including, among other, gender based persecution, sexual violence, enforced disappearance, killing, and other inhumane acts.
- Effective participation in peacebuilding measures is key to ensure the transformation of underlying prejudices that fuel violence against LGBT persons.
- Peace and Security mechanisms should cover situations in which LGBT persons are subjected to heightened risk of enduring prejudice-based violence due to overlapping crisis. For example, human rights defenders in conflict affected areas should be prioritised as subjects of protection without being subjected to stigmatising language that exacerbates risk to their life or personal integrity, or hinders their work.
- Under refugee law, States and humanitarian partners worldwide should assess the heightened risk of violence endured by LGBT persons in conflict-affected contexts when facing statelessness, forced displacement, and internal displacement.

LGBT persons should play a significant role in peacebuilding and transitional justice initiatives.

The assessment of the situation of LGBT persons in conflict-affected countries has shown that beyond victimization and heinous atrocity, victims, human rights defenders, and activists manage to challenge structural challenges to make their voices heard. In that regard, following the standards set forth in the Women, Peace and Security infrastructure, as well as in the consistent calls from other special procedures mandate holders like the Special Rapporteur on the Rights to Truth, Justice, Reparation and non-Repetition, **LGBT persons must play a significant role in peacebuilding and transitional justice initiatives:**

- LGBT persons should be active partners in the conversations on how to transition from conflict to peace. This entails creating specific mechanisms that ensure their voices are present when such dialogues are taking place.
- Peace Agreements, its related mechanisms, policies, and legislation should ensure there are differentiated approaches that support the comprehensive assessment of the gendered dimensions of conflict, including the different patterns and methodologies of violence to which LGBT persons are subjected.
- Transitional justice mechanisms, like truth-seeking institutions, special judicial processes, administrative reparation managers (among others) should disclose the scope of violence endured by LGBT persons, promote full redress of victims, and foster the transformation of the underlying factors leading to such violence to be perpetrated in connection with conflict, like social mores and ideologies that thrive on exclusion.
- States should ensure a safe and enabling environment for civil society organizations that work on the promotion and protection of the rights of LGBT persons affected by conflict and create programmes to stimulate action by civil society organizations that promote the rights of LGBT persons affected by conflict.
- In the security sector, doctrinal reform is fundamental to eliminate all remnants of homophobic and transphobic institutional ideologies that might create a fertile terrain for abuses against this population in the aftermath of conflict.
- Data gathering is a key step to assess the scope and reach of conflict-related gender-based violence. States undergoing transitional processes from conflict should map and gather data on the experience of LGBT persons during conflict. General public should have wide access to this information insofar it respects the privacy of victims. Data gathering processes should create safe spaces for LGBT persons and avoid re-victimisation.



The International Community can work together for a safer world for LGBT persons - and to a more inclusive peace.

States and non-state actors are key in the definition of international trends in the promotion of peace and security, which is also one of the United Nations pillars of action. All of these stakeholders have responsibilities in the compliance of certain guidelines to advance in a more comprehensive, victim-centred and gender-sensitive peace and security agenda.

Under international human rights law, States have the obligation to:

- Prevent all forms of conflict-related gender-based violence (CRGBV), including that committed against persons that are or are perceived to be LGBT.
- Protect all victims of these forms of violence, which entails favoring their resettlement in cases of forced displacement, and asylum in the case of refuge.
- Ensure that all victims of these forms of violence have effective access to the rights to truth, justice, reparation, and non-repetition.
- Secure effective access to holistic health treatments that deal with the physical and mental consequences of armed conflict.
- Implement all Women, Peace and Security-related policies including references to sexual orientations and gender identity.

In addition, the Independent Expert recommends that:

- The United Nations Security Council respond to the institutional (including the reiterated calls from the UN Secretary General), academic and civil society calls to back politically the expansion of the Women, Peace and Security agenda, with the purpose of including an intersectional approach that will in turn contribute to more comprehensive implementation and global monitoring of the agenda.
- United Nations peacekeeping and peace operations promote the recognition of gender diversity as an asset to enhance a culture of peace whenever their bodies are deployed.
- The UN Human Rights Council keep rejecting and shedding light on all forms of conflict-related gender-based violence, with special focus on the situations endured by LGBT persons who often lack of platforms to raise awareness on their issues.
- The UN Secretary General enhance their efforts to grasp the differentiated impact of conflict on LGBT persons in their annual reports on conflict-related sexual violence and on Women, Peace and Security addressed to the UN Security Council.
- United Nations Treaty Bodies and Special Procedures touching upon situations of conflict adopt an intersectional approach in their assessments, including sexual orientation and gender identity as relevant factors.

