**Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IE SOGI)**

**Call for input to a thematic report: freedom of religion or belief (FoRB) and sexual orientation and gender identity (SOGI)**

1. **Introduction**

The Global Interfaith Network for People of all Sexes, Sexual Orientations, Gender Identities and Expressions (GIN-SSOGIE) comprises individuals and organisations engaged with faith and spirituality who are committed to using their beliefs and traditions to ensure that the views, values, and rights of people of all sexes, sexual orientations, gender identities and expressions (SOGIE) are recognised, respected, and valued.

This submission was prepared using the information provided to GIN-SSOGIE by its members and partners in a consultation process conducted between December 2022 and January 2023.

1. **The rights of FoRB and non-discrimination based on SOGI are both mutually dependent to fully ensure human rights for all**

The rights to FoRB and to live free from discrimination and violence based on SOGI are perfectly compatible, do not hold any inherent contradiction, and are both cornerstones of the international human rights framework.

Certain narratives, coupled with false affirmations presented as science-backed facts, feed the inaccurate notion that there is an inherent conflict between the right to religious freedom and the basic human rights of LGBTQ+ individuals.

The purported fundamental contradictions between these rights are based on the false premise that the right to FoRB grants (only) some religious groups and perspectives a right to determine the laws and rights of everyone else based on their beliefs, which contradicts the core content of the right to FoRB - aimed to protect each one’s free choice to practice (or not) any religion or belief[[1]](#footnote-1) - as well as the principles of universality, indivisibility, and interdependence of human rights.

Globally, religious institutions perpetuate interpretations of religious tenets which promote gender-based violence and discrimination against women, girls, and LGBTQ+ persons. However, it must be noted that **religions and beliefs are not the source of gender (or any type of) discrimination and violence, but rather that patriarchal and distorted interpretations and practices of those beliefs have produced exclusionary or stigmatizing narratives on violence and discrimination against LGBTQ+ persons**.

Colonization - and the violent imposition of new religious and cultural traditions - played a pivotal role in expanding and strengthening discriminatory religious narratives against LGBTQ+ persons in the Global South. There is ample evidence showing that indigenous or pre-colonial forms of religion and spirituality were far more respectful and welcoming of individuals with diverse SOGIE. Some pre-colonial cultures even celebrated homosexual and gender non-conforming individuals, considering them to be sacred or divine, or holding a special cultural relevance within their communities.[[2]](#footnote-2) Nonetheless, the notion that SOGIE is something imported from the West contradicting local, national, or regional cultural or religious traditions and practices prevails in the Global South.

Every religious or indigenous spiritual tradition around the world shares core values of respecting one another and caring for those who are vulnerable. They teach us to regard every human being as valuable and possessed of equal dignity, and motivate us to find common ground in the human experience. International human rights frameworks, religions, and faiths worldwide share the concern to safeguard and promote the inherent and equal dignity of every human being, to guide people and societies in their quest for happiness, and to build a free and equal world for all.

Therefore, the rights to FoRB and freedom from discrimination and violence based on SOGI are both vital and necessary for fulfilling the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family [which is] the foundation of freedom, justice and peace in the world.”[[3]](#footnote-3)

1. **The weaponization of religion against LGBTQ+ by anti-rights actors**

FoRB - often under the guise of “religious freedom” - is frequently politicized and used to pit human rights against each other, particularly the rights of persons with diverse SOGIE.

In recent years, GIN members have reported a significant rise of anti-rights actors and narratives, which are increasingly using religious tenets or interpretations - along with factually incorrect information - to promote a social and political hierarchy that has as its cornerstone the patriarchal, cisheteronormative, and reproduction-oriented traditional family model. These well-coordinated and funded actors are misusing FoRB in the media, through litigation and political campaigns to counter the human rights of LGBTQ+ communities in the name of religion or belief.

Our members have reported mainstream churches and religious institutions from diverse faith traditions acting as key leaders in the anti-rights movements opposing any social, political, or legal visibility of LGBTQ+ persons.

The influence of those who attempt to use FoRB to discriminate or undermine other human rights is compounded by the inability or unwillingness of some religious and political leaders to challenge this rhetoric at every level, which contributes to continuation stigmatization, discrimination, and violence against LBGTQ+.

These narratives are also used by States in the UN and other international and regional human rights spaces to avoid their international commitments to respecting and ensuring the human rights of LGBTQ+ individuals, or discussing SOGIE. For example, in the Human Rights Council, we have witnessed how some blocs[[4]](#footnote-4) rely on religious considerations to oppose resolutions containing SOGI language, to try to sabotage the mandate of the IE SOGI, to refuse UPR recommendations received around the rights of LGBTQ+ people, among others.

1. **Laws, policies, and practices discriminating against LGBTQ+ people are often based on religious grounds**

Religious arguments that portray LGBTQ+ people as sinners, wrong-doers, or inherently evil lay the foundations for most discriminatory laws, policies, and State practices. These often derive from colonial structures that were superimposed on cultural views that were more accepting of diversity. These include the criminalization of sexual orientation and gender expression, the nonrecognition of all non-heterosexual families, the performance or tolerance of practices intended to change children’s SOGIE, the nonrecognition of gender identity, and the prohibition or lack of SOGIESC-inclusive education in schools.

Additionally, a wide range of services is often denied or restricted by public authorities and private individuals on the basis of SOGI, such as healthcare, education, employment, social security, law enforcement, public transportation, and government agencies issuing identity documents.

While the fundamental principle of equality and non-discrimination has been considered to be a peremptory norm of International Law (*jus cogens*), and the juridical framework of national and international public order rests on this principle, permeating the entire legal system,[[5]](#footnote-5)SOGI has been repeatedly acknowledged as protected grounds in the international and regional human rights frameworks.[[6]](#footnote-6)

Thus, as the Special Rapporteur on FoRB has emphasized, **the right to FoRB can never allow or justify any kind of discrimination or violence based on SOGI.**[[7]](#footnote-7) From a human rights perspective, the right to FoRB cannot be invoked to condone or excuse any form of laws, policies, or practices that discriminate or deny people equal legal protection on the basis of their gender or sexuality.

The right to FoRB of some cannot be at the expense of freedom from violence and discrimination for others. Any action that infringes the latter breaks the logic of indivisibility and interdependence that forms the cornerstone of the international human rights framework, and in fact undermines the core tenets of almost all religious traditions which regard every human being as valuable and possessed of equal dignity.

In the same way, what is commonly understood by “conscientious objection” can never confer on a person or group the right to discriminate based on SOGI, nor on any other protected ground in International Human Rights Law.

**4.1. Practices of “conversion therapy”**

The IE SOGI has acknowledged that practices intended to change the SOGIE of LGBTQ+ people - usually known as practices of “conversion therapy” - are often based on religious justifications.[[8]](#footnote-8) GIN members report that these practices are frequently offered by religious institutions and performed by religious leaders, as well as promoted within the communities they serve.

Practices of “conversion therapy” have been characterized as cruel, inhuman, or degrading treatment that may amount to torture in international human rights frameworks. GIN-SSOGIE emphasizes **the right to FoRB cannot be a valid justification for religious persons or institutions to perform, promote, finance, or tolerate harmful practices such as “conversion therapy”**.

Therefore, States should adopt an immediate ban on practices of “conversion therapy” especially for children and adolescents. Additionally, religious persons or institutions participating in these practices should be held accountable. The right to FoRB is not a valid ground to avoid their civil, administrative, or criminal responsibility.

1. **LGBTQ+ people have been deprived of the right to freely believe and practice a faith of their choice**

LGBTQ+ and gender-diverse persons are and have always been part of all faith traditions worldwide and deserve to be recognized as worthy of love and belonging.

Nonetheless, most LGBTQ+ people around the world - and especially in the Global South - grow up in families and communities where religion is weaponized against them, being told they are inherently evil or selfish because of who they are. The rejection and violence LGBTQ+ children and adolescents frequently experience from their families and communities is grounded in religious narratives filled with prejudice around SOGIE. In many contexts, religious leaders use their authority to amplify and reproduce these discriminatory narratives against LGTBQ+ people. This makes it impossible for openly LGBTQ+ people to practice the faith and religion they are born in, or any of their choice.

Moreover, the traumatic experiences of rejection and violence that LGBTQ+ people have experienced in the name of religion throughout their lives have led many to reject faith or spirituality.

GIN-SSOGIE emphasizes that exposure to discriminatory and exclusionary religious narratives and actors, along with the societal rejection it produces, has an enormous impact on the mental health and long-term emotional well-being of LGBTQ+ persons.

The ability of LGBTQ+ persons to belong to a faith of their choice or one into which they are born without being discriminated against, is thus vital to realizing human rights.

Restrictions to practice a belief or religion encountered within mainstream churches and or religious traditions due to stigma and discrimination make it almost impossible for LGBTQ+ people to follow a religious life and access religious leadership.

GIN members around the world have consistently reported LGBTQ+ religious leaders being separated, punished, or discriminated against by their churches or religious peers because of their SOGI. In practice, most religious leaders who are LGBTQ+ are forced to hide their SOGI to continue in their roles.

Even when some religious leaders have a positive approach towards LGBTQ+ individuals, it is very difficult for them to be vocal as they face hostile environments and possible reprisals from their religious communities. Thus, they are forced to choose between their jobs and status as religious leaders, and standing up for people with diverse SOGIE.

In fact, religious leaders have been punished or silenced for being vocal about their positive approach toward LGBTQ+ individuals, or for promoting or having conversations on gender and sexuality within their communities.

Finally, GIN-SSOGIE believes that it is critical to have more visible LGBTQ+ religious leaders with a strong theological understanding who are able to defend the position of the LGBTQ+ people within the spiritual spaces in order to debunk patriarchal interpretations of religious texts and traditions.

1. **Discriminatory, stigmatizing, or hateful speech against LGBTQ+ by religious leaders or institutions**

Incitement to violence and discrimination on the basis of SOGI by faith-based leaders has been documented globally by GIN members. in the past years, there is increased targeting of LGBTQ+ in religious homilies - which then influences politicians’ speeches, media reports, and community life.[[9]](#footnote-9) As a result, harassment and physical attacks against LGBT+ people have been commonly motivated or justified by religious considerations.

Such incitement constitutes hate speech and is protected neither by freedom of expression nor by FoRB.

GIN-SSOGIE believes that religious institutions are entitled to autonomy in the administration of their affairs and may have varying opinions about SOGI-related matters, but under no circumstances are their authorities entitled to incite violence or hatred towards LGBTQ+ individuals.

Therefore, States should not refrain from holding accountable religious leaders when they incite violence and discrimination on the basis of SOGI in accordance with the international human rights framework.

Additionally, religious authorities have a reinforced duty to ensure that their religion and traditions are not utilized to promote discrimination or violence against persons based on their SOGI.

1. **LGBTQ+-friendly and LGBTQ+-led religious communities, traditions, and practices**

Despite the prevalence of exclusionary and stigmatizing narratives against LGBTQ+ people in most mainstream religions, in the last decades we have seen many churches and religious institutions - progressively over time - welcoming LGBTQ+ people by producing affirmative narratives and interpretations of religious texts and traditions. In many of these religious spaces, LGBTQ+ are allowed and encouraged to follow a religious life and become faith leaders.

In fact, GIN is comprised of faith-based organizations and institutions from all regions of the world committed to using our beliefs and traditions to ensure that LGBTQ+ people are respected and valued. Besides GIN members, a multitude of churches, faith-based organisations, and religious leaders exist around the world and espouse affirming narratives around SOGIE while preaching equal rights for LGBTQ+ individuals.[[10]](#footnote-10)

Many of these faith-based communities and organisations create safe places for LGBTQ+ people to practice their faith as well as educate religious institutions and leaders in SOGIE, by producing materials debunking patriarchal and cisheteronormative misinterpretations of religious texts, organizing biblical reflections with LGBTQ+ communities, providing psycho-spiritual support for people excluded from their faith community, and by speaking out publicly against discriminatory acts in society and in the Church. Some faith-based organisations also provide training and awareness-raising on SOGIE and faith to essential service providers in order to prevent stigma and discrimination against LGBTQ+ persons.

Due to rejection and stigma from society and mainstream religious traditions, many LGBTQ+ people have engaged with other forms of religion and spirituality that offer safe spaces, unreserved acceptance, and belonging, such as Voodoo in Haiti.

Finally, GIN-SSOGIE emphasizes that religion or belief can be an important tool to empower women and LGBT+ persons of faith in their struggles for equality.

1. According to article 18 of the International Covenant on Civil and Political Rights (ICCPR), FoRB is about protecting individuals’ and groups’ right to have, adopt or change a religion or belief; to manifest and practice this religion or belief, alone or in community with others; and to be free from coercion and discrimination on the grounds of their religion or belief. [↑](#footnote-ref-1)
2. For example, communities in current Kenya, Bolivia, or Venezuela. [↑](#footnote-ref-2)
3. Preamble of the ICCPR. [↑](#footnote-ref-3)
4. Some of the most vocal have been members of the Organisation of Islamic Cooperation (OIC) such as Egypt, Pakistan, and Nigeria; as well as other States such as Russia. [↑](#footnote-ref-4)
5. I/A Court H.R., Case of Atala Riffo and daughters v. Chile. Merits, Reparations and Costs. Judgment of February 24, 2012. Series C No. 239, para. 79.

Article 53 of the Vienna Convention on the Law of Treaties “Treaties conflicting with a peremptory norm of general international law (jus cogens): A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.” [↑](#footnote-ref-5)
6. I/A Court H.R., Case of Atala Riffo and daughters v. Chile. Merits, Reparations and Costs. Judgment of February 24, 2012. Series C No. 239, paras. 85 and 91 ; I/A Court H. R., Case of Vicky Hernández et al. v. Honduras. Merits, Reparations and Costs. Judgment of March 26, 2021. Series C No. 422, para. 67; European Court of Human Rights. P.V. v. Spain. Judgment, 30 November 2010, para. 30; European Court of Human Rights. Identoba and Others v. Georgia. Judgment. 12 May 2015, para. 96; UN Human Rights Committee. G. v Australia (2172/2012), Views of 17 March 2017, para. 7.12. [↑](#footnote-ref-6)
7. Gender-based violence and discrimination in the name of religion or belief, Report of the Special Rapporteur on freedom of religion or belief, A/HRC/43/48, 24 August 2020, para. 69. [↑](#footnote-ref-7)
8. Practices of so-called “conversion therapy”, Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, A/HRC/44/53, 1 May 2020. [↑](#footnote-ref-8)
9. Cameroon, Venezuela. [↑](#footnote-ref-9)
10. For example, the Iglesia Filipina Independiente. See: Outrage Magazine. Iglesia Filipina Independiente asks forgiveness from LGBT community, extends hand with pro-equality statement. <https://outragemag.com/iglesia-filipina-independiente-asks-forgiveness-from-lgbt-community-extends-hand-with-pro-equality-statement/> [↑](#footnote-ref-10)