**SAME LOVE TOTI SOUTH AFRICA - SUBMISSION TO IE SOGI 2023**

**TOPIC:**

**FREEDOM OF RELIGION OR BELIEF AND FREEDOM FROM VIOLENCE AND DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY**

**Introduction**

Same Love Toti is a South African non-profit organization that is committed to promoting and advocating for the rights and well-being of the LGBTQ+ community. Our goal is to create a supportive and inclusive community that empowers LGBTQ+ individuals and works towards a more equitable society for all. We strive to achieve this through fostering inclusive and loving families, providing education on LGBTQ+ issues, preventing acts of violence and discrimination based on sexual orientation or gender identity, and developing policies that support the rights and well-being of the LGBTQ+ community.

In line with our values, we are submitting this to the Independent Expert on Sexual Orientation and Gender Identity to contribute to the report on the freedom of religion and the rights of LGBTQ+ individuals. We believe that the intersectionality of religion and LGBTQ+ rights are important, and we want to contribute our insight and experiences on this issue.

We engage with global actors to amplify the voices of the LGBTQ+ community in South Africa and join our efforts with the global LGBTQ+ community in pursuit of a just and welcoming world. We are honoured to be a part of this process and we hope that our submission will be useful in the advancement of LGBTQ+ rights in relation to freedom of religion and belief, and help to protect the LGBTI community from violence based on sexual orientation or gender.

**SUBMISSION:**

1. What are the actual or perceived points of tension (if any) between the right to manifest one’s freedom of religion or belief, and freedom from violence and discrimination based on sexual orientation and gender identity? Are there any areas in which they are mutually exclusive?

The freedom to express one's religious beliefs and the right to be protected from discrimination and violence based on sexual orientation and gender identity are often in conflict in South Africa. Mainstream religions, as well as traditional cultural practices, often condone discriminatory or violent actions towards LGBTI individuals. Efforts to prevent these practices are often perceived as a limitation on the right to religious freedom.

1. Are there any ways in which the right to freedom of religion or belief, and freedom from violence and discrimination based on sexual orientation and gender identity are mutually reinforcing?

In South Africa, the right to freedom of religion can be used to support and protect the rights of LGBTI individuals. Religious leaders can use their platforms to advocate for inclusion and against discrimination and violence based on interpretations of sacred texts that promote values such as compassion, kindness, patience, family, and social harmony. Similarly, traditional beliefs in South Africa, such as Ubuntu, also emphasize inclusivity and the common good. When inclusion is promoted, LGBTI individuals feel comfortable participating in religious gatherings and traditional practices.

1. Are there examples where gender and sexual diversity has been used in religious, traditional, or indigenous narratives or values in a manner which promotes the acceptance of LGBT+ individuals, or protects LGBT+ individuals from violence and discrimination? Has this informed any legal interventions or public policies?

In some traditional settings, the concept of "Ubuntu" - which emphasizes the inclusion of all individuals - is upheld. This can be seen in the acceptance of traditional healers who may identify as gender diverse or have same-sex partners. Additionally, there are policies in place to protect traditional and cultural practices, and there are also councils for Traditional Leaders.

1. What are the key trends or significant instances of discriminatory or abusive practices by individual providers of goods or services in the public sphere against LGBT+ and gender-diverse persons that rely on religious narratives?

LGBTI individuals often have their basic human rights disregarded. In South Africa, the police are known to engage in secondary victimization of those who report sexual or physical assault, leading to a lack of reporting of hate crimes. Similarly, healthcare workers may deny care or subject patients to ridicule and humiliation. Schools may expel students who are gender diverse or homosexual, ignore physical assault and bullying of queer youth, and some teachers may even participate in the humiliation of students. Government officials may refuse services or impede effective services for those changing their gender markers. Venues may also deny access to same-sex couples who wish to marry there. These homophobic and transphobic actions are often justified by freedom of religion and belief.

1. Has the State adopted, in public policy, legislation or jurisprudence, norms purportedly based on protecting freedom of religion or belief that promote, enable and/or condone violence and discrimination against individuals based on sexual orientation or gender identity? If so, please give examples, with commentary as needed to explain context, scope, and application.

Traditional practises are protected, which enables these abuses to continue. There are no policies that make allowances for LGBTI inclusion, or have protections for LGBTI from conversion therapy or punitive practises.

1. Has there been any legal challenge to these policies/provisions under any domestic, regional, or international human rights provisions? If so, state the outcome and rationale of the case. If not, provide your opinions as to why such a challenge has not yet been brought.

Not to my knowledge.

1. Are there any examples of State restrictions based on preventing violence and/or discrimination against LGBT+ persons that prohibit or limit practices undertaken in the name of the religion or spirituality, such as public accommodation non-discrimination protections? If so, have they been legally challenged on the basis of freedom of religion or belief? If yes, explain the outcome and rationale of the case(s).

Not to my knowledge.

1. What role (if any) has the concept of conscientious objection played in limiting the full enjoyment of the right to freedom from violence and discrimination on the basis of sexual orientation and gender identity?

This can be seen in previous answers.

1. Has the scope and application of conscientious objection been sufficiently defined, limited, and/or regulated so as to strike a fair balance between manifestation of one’s freedom of religion or belief, and freedom from violence and discrimination based on SOGI? Where the doctrine is invoked to permit the withholding of goods or services to members of the LGBT+ community (such as in the context of sexual and reproductive healthcare, provision of marriage licences, access to consumer goods, etc.), do State laws provide alternative access to goods or services?

The concept of freedom of religion is not well understood by the general public, which can lead to misinterpretation and ongoing discrimination against those who identify as LGBTI. To combat this, the government should make public service announcements that affirm the diversity of sexual and gender identities, address misconceptions, and educate communities. This will ultimately lead to a reduction in discrimination and violence against LGBTI individuals.

1. Where State legislation or policy requires the reasonable accommodation of religious beliefs, practices, and/or institutions, are there instances where such laws or policies limit freedom from violence and discrimination against LGBT+ and gender-diverse persons? These may include but are not limited to exemptions from non-discrimination legislation, and/or accommodations within the workplace, educational institutions, healthcare-settings, the justice system, etc. Are there reports of violence, spiritual abuse, and/or other forms of discrimination against LGBT+ and gender-diverse persons because of these practices?

It is alarming to hear reports of violence and abuse against the LGBTI community, particularly within religious institutions. These acts of spiritual abuse, including physical assault, are completely unacceptable and have no place in any society. Furthermore, it is deeply concerning to hear that traditional groups also engage in similar physical abuse of LGBTI individuals, which often results in severe injury and hospitalization. These acts of violence are often intended as punishment or as a form of conversion therapy, which is a widely discredited practice. It is crucial that we take immediate action to put a stop to these horrific acts, and it is imperative that our government takes steps to enact legislation that will protect the LGBTI community from these abuses.

1. Good Practices:
   1. Provide any examples of good practice – at the international, national or local level – where State and non-State actors (including faith leaders, groups and organisations, international organisations, civil society organisations, and the UN human rights system) have taken effective measures to protect and promote freedom of religion or belief of LGBT+ and gender-diverse persons, and made efforts to prevent, mitigate and respond to any violence and/or discrimination justified in the name of religion.

The Prevention and Combatting of Hate Crimes and Hate Speech Bill is currently under consideration by parliament. If passed, this bill will help educate the public on the true meaning of freedom of religion and belief and will provide crucial protections for the LGBTI community against violence and conversion therapy based on their perceived or actual sexual orientation or gender identity. It is essential that we take action to ensure the rights and safety of all members of our society, and this bill is an important step in that direction.

* 1. Provide any examples of measures by State or non-State actors to ensure effective participation of people with diverse gender identities and sexual orientations in religious, cultural, social, and public life. Please provide relevant examples where LGBT+ people have asserted their individual or collective rights to access (or establish) religious or spiritual frameworks and institutions.

LGBTI individuals may face exclusion from traditional religious institutions and practices, leading them to create their own spiritual communities. There are various small churches and a mosque that either accept or are solely governed by LGBTI individuals. Attitudes towards LGBTI vary, ranging from mere tolerance of their existence to full celebration of diverse genders and sexual orientations.

**IN CONCLUSION:**

**The LGBTQ+ community in South Africa is routinely discriminated against by multiple actors, and many hate crimes are committed under the false pretense that such bias is a part of an individual's faith or belief system. Unfortunately, many individuals are not exposed to the inclusive stances within their own religions that embrace diversity. To address this issue, it is essential to undertake a comprehensive education campaign utilizing various platforms. This will enable individuals to reconcile their faith with the inclusion of the LGBTQ+** **community, and understand that the acceptance of diversity is in fact synonymous with their religious beliefs.**

**Thank you for the opportunity to contribute to this report. Should you have questions or need clarification, please contact Kim Lithgow (CEO of Same Love Toti) on** [**samelovetoti@gmail.com**](mailto:samelovetoti@gmail.com) **or on cell number: +27826548635 in South Africa.**