

Freedom of Religion or Belief and Sexual Orientation and Gender Identity

Submission to the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Introduction

Outright International is dedicated to working with partners around the globe to strengthen the capacity of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) human rights movement, document and expose human rights violations against LGBTIQ people, and advocate for inclusion and equality. Founded in 1990, with staff in over a dozen countries, Outright works with the United Nations, regional human rights monitoring bodies, governments and civil society partners. Outright holds consultative status at the United Nations where it serves as the secretariat of the UN LGBTI Core Group. This submission is a response to the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity's call for inputs for the upcoming thematic report "freedom of religion or belief and sexual orientation and gender identity."

The right to freedom of religion or belief and the right to be free from violence and discrimination based on sexual orientation and gender identity are interdependent rights that coexist under international human rights law. States have an obligation to respect, protect, and fulfill these human rights for all individuals on an equal and non-discriminatory basis. Unfortunately, violence and discrimination based on sexual orientation, gender identity or expression, and sex characteristics (SOGIESC) are often wrongfully justified on the basis of religion. Such violence and discrimination run afoul of international human rights law. Religious and faith leaders have an important role to play supporting the universality of human rights, the inclusion of all, and in addressing religiously-motivated discrimination against LGBTIQ people. Good practices show that religious and faith leaders can be some of the most effective allies in the realization of LGBTIQ rights.

The first section of this submission will outline fundamental human rights law principles underpinning the rights to freedom of religion or belief and freedom from violence and discrimination based on SOGIESC. The first section will also explain state obligations under human rights law. The second section of the report will explore common manifestations of religiously-motivated discrimination against LGBTIQ people. The third section will highlight good practices taken by states and by religious and faith leaders to address violence and discrimination against LGBTIQ populations. This submission will conclude with general recommendations for Member States.

I. The right to the freedom of religion or belief and the right to be free from violence and discrimination based on sexual orientation, gender identity or expression, and sex characteristics are universal, inalienable, interdependent, equal and non-discriminatory.

Human rights are universal, inalienable, indivisible, interdependent, equal, and non-discriminatory.¹ The universality and inalienability of human rights mean that every individual is inherently entitled to all human rights.² The indivisibility and interdependence of human rights mean that one set of rights cannot

¹ UN, *United Nations Declaration on Human Rights* (hereinafter "UDHR") (1948) at preamble, arts. 1-2, available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>; World Conference on Human Rights in Vienna, *Vienna Declaration and Programme of Action* (hereinafter "Vienna Declaration") (1993) at art. 5, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action>.

² UDHR at art. 1; Vienna Declaration at preamble.

be fully realized without all other rights.³ Finally, human rights belong to all people equally, and therefore each individual is entitled to their human rights without discrimination.⁴

The right to the freedom of religion or belief is the fundamental human right to manifest the religion or belief of one's choice, individually or in community with others.⁵ The right to freedom of religion or belief is set out by the Universal Declaration of Human Rights (UDHR),⁶ the International Covenant on Civil and Political Rights,⁷ and the United Nations General Assembly's Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.⁸ The right to be free from violence and discrimination based on sexual orientation, gender identity or expression, or sex characteristics (SOGIESC) stems from the UDHR's core tenant that all human beings are born free and equal in dignity and in rights, and are entitled to their rights and freedoms without distinction of any kind,⁹ including distinctions made on the basis of sexual orientation and gender identity.¹⁰ The right to freedom to religion or belief and the right to be free from violence and discrimination based on SOGIESC are also protected under regional human rights treaties, including the American Convention on Human Rights¹¹, the African Charter on Human and Peoples' Rights¹², and the European Convention on Human Rights.¹³ Both of these rights are universal and inalienable; every individual holds both of these rights at all times and in all places.¹⁴

Furthermore, the rights to freedom of religion or belief and the right to be free from violence and discrimination based on SOGIESC are indivisible and interdependent. In the report of the Special Rapporteur on Freedom of Religion or Belief on *Gender-based violence and discrimination in the name of religion or belief*, the Special Rapporteur pointed out:

The legally instituted limits on manifesting freedom of religion or belief reflect the fact that an essential part of the right to freedom of religion or belief is that freedom of religion or belief must not be used for ends that are inconsistent with the Charter of the United Nations or relevant human rights instruments. Both article 30 of the Universal Declaration of Human Rights and article 5 of the International Covenant on Civil and Political Rights further clarify that no human right may be invoked to destroy another human right.”¹⁵

Importantly, the Special Rapporteur highlighted that the freedom of religion or belief may not be used to further gender discrimination.¹⁶ Gender discrimination is prohibited by international law.¹⁷ Under

³ Vienna Declaration at art. 5.

⁴ UDHR at preamble, arts. 1, 7.

⁵ International Covenant on Civil and Political Rights (“ICCPR”), 16 December 1966, Article 18(1)

⁶ UDHR at art. 18

⁷ ICCPR at art. 18.

⁸ UNGA, *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, A/RES/36/55 (25 Nov. 1981) available at <https://digitallibrary.un.org/record/27624?ln=en>.

⁹ UDHR at arts. 1-2.

¹⁰ UNGA, *Protection against violence and discrimination based on sexual orientation and gender identity*, A/HRC/RES/32/2 (15 July 2016).

¹¹ American Convention on Human Rights, arts. 1, 12, available at <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

¹² African Charter on Human and Peoples' Rights, arts. 2, 8, available at <https://www.achpr.org/legalinstruments/detail?id=49>.

¹³ European Convention on Human Rights, arts. 9, 14, available at https://www.echr.coe.int/Documents/Convention_ENG.pdf.

¹⁴ UDHR at arts 1-2; Vienna Declaration at art. 5.

¹⁵ UNGA, *Gender-based violence and discrimination in the name of religion or belief*, A/HRC/43/48 (2020) at ¶60, available at <https://www.ohchr.org/en/special-procedures/sr-religion-or-belief/annual-reports>.

¹⁶ Id. at ¶61.

¹⁷ See International Covenant on Civil and Political Rights arts. 2-3, 26; International Covenant on Economic, Social and Cultural Rights art.2; Convention on the Elimination of All Forms of Discrimination against Women arts. 2, 5(a); International Convention on the Rights of the Child, art. 2; International Convention on the Protection of the Rights of All Migrant Workers

international law, discrimination against LGBTIQ people constitutes gender discrimination.¹⁸ As such, under international law, the right to the freedom of religion or belief may not be used to undermine the right to freedom from gender discrimination, including discrimination against people based on SOGIESC.

States are obligated to respect, protect, and fulfill human rights obligations.¹⁹ The duty to respect requires that States do not interfere with the enjoyment of human rights.²⁰ The duty to protect requires States to take action to prevent human rights violations.²¹ The duty to fulfill requires states to facilitate the enjoyment of human rights.²² As such, states have a role to play in ensuring all individuals can realize their full human rights. States must refrain from discriminating against LGBTIQ people on the basis of religion, take steps to protect LGBTIQ people from violations of their human rights, and act to facilitate the enjoyment of the rights to be free from violence and discrimination on the basis of SOGIESC and to freely practice religion and belief.

II. Religion is frequently invoked to justify discrimination against LGBTIQ people.

Discrimination against LGBTIQ people based on religion is widespread geographically and across faith traditions.²³ Common manifestations of religiously-based anti-LGBTIQ discrimination and violence include:

- laws prohibiting same-sex intimacy and gender diversity;
- marriage and civil union laws that exclude same-sex couples;
- forced or coercive conversion practices;
- so-called “religious exemption” laws which permit businesses and service providers to refuse service to LGBTIQ people on the grounds that doing so would violate their religious beliefs;
- violations of LGBTIQ people’s rights to freedom of expression, association and assembly based on claims related to religious conceptions of morality; and
- violence against intersex people.

This section will address, in turn, religiously-based support for laws prohibiting same-sex intimacy and same-sex marriage; forced or coercive conversion practices; and other examples of religiously-based anti-LGBTIQ discrimination including violations of the right to freedom of expression, association and assembly, “religious exemption” laws, and violence against intersex people.

A. Religiously-Based Support for Laws Prohibiting Same-Sex Intimacy and Same-Sex Marriage

Religious and faith leaders in every global region perpetuate harmful stereotypes about people of diverse SOGIESC.²⁴ Religious viewpoints are used to justify the passage or maintenance of laws that

and Members of Their Families, art. 7; International Convention on the Rights of Persons with Disabilities, arts. 5, 8(1)(b); Human Rights Committee, general comment No. 28 (2000) on the equality of rights between men and women, para. 21.

¹⁸ See, e.g., Committee on the Elimination of Discrimination against Women, general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19.

¹⁹ Vienna Declaration at art. 1.

²⁰ OHCHR, *International Bill of Human Rights*, available at <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights>.

²¹ *Id.*

²² *Id.*

²³ See Amie Bishop, *Harmful Treatment: The Global Reach of So-Called Conversion Therapy*, Outright International (hereinafter “Harmful Treatment”) (2019) available at:

<https://outrightinternational.org/our-work/human-rights-research/global-reach-so-called-conversion-therapy>.

²⁴ *Id.*

discrimination against LGBTIQ individuals, including laws that prohibit same-sex intimacy and same-sex marriage.²⁵

In the Caribbean, Christian leaders have pressured governments to maintain laws criminalizing same-sex intimacy. In Trinidad and Tobago, evangelical church groups led protests calling for buggery and gross indecency laws to remain on the books.²⁶ When the government was sued to decriminalize same-sex intimacy, the Trinidad and Tobago Council of Evangelical Churches lobbied the government and threatened that there would be political consequences were the government to decriminalize.²⁷ In Belize, the evangelical network Belize Action lobbied against the decriminalization of homosexuality.²⁸ In Jamaica, the Jamaica Coalition for a Healthy Society, a Christian organization, pressures regional governments to maintain sodomy laws.²⁹

In Latin America, the Catholic Church³⁰ has actively opposed developments in the recognition of LGBTIQ rights through formal Church pronouncements and statements by bishops and archbishops. For example, in Argentina, then-Archbishop of Buenos Aires Jorge Bergoglio, now Pope Francis, said of efforts to realize same-sex marriage:

The Argentine people will have to face, in the coming weeks, a situation whose outcome may seriously hurt the family. It is the same-sex marriage bill. At stake here is the identity and survival of the family: father, mother, and children. At stake is the life of so many children who will be discriminated against beforehand, depriving them of the human maturation that God wanted to be given with a father and a mother. At stake is a frontal rejection of God's law, engraved in our hearts.³¹

Another trend which has emerged in Latin America over the past decade is an effort by both Catholic and Evangelical churches to prevent governments from passing LGBTIQ-inclusive laws by campaigning against “gender ideology,” an umbrella term that anti-democratic movements use to collectively demonize sexual and gender diversity, gender equality, and sexual and reproductive health and rights. These campaigns have taken place in most countries in the region. One of the most successful to date was the campaign in Colombia against a peace plebiscite that included LGBTIQ people in transitional justice processes. The campaign effectively prevented ratification of the peace agreement.³²

In Africa, religious and faith leaders in numerous countries have publicly promoted discrimination against LGBTIQ people, and laws sometimes reflect anti-LGBTIQ religious viewpoints. For example, in Ghana, the Head Pastor of the Osu Church of Christ stated that in his view of Christianity, “Homosexuality is considered as a capital offence which is abominable and is accompanied by capital punishment.”³³ The

²⁵ *Id.*

²⁶ Arcus Foundation, *Faith-Based Efforts in the Caribbean to Combat Discrimination Based on Sexual Orientation and Gender Identity* (March 2020) available at <https://www.arcusfoundation.org/wp-content/uploads/2020/06/Arcus-Faith-Based-Efforts-in-the-Caribbean-to-Combat-Discrimination-Based-on-Sexual-Orientation-and-Gender-Identity-1.pdf>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Catholicism is the predominant religion in the region. Statista, *América Latina: porcentaje de afiliación religiosa 2020, por tipo* (2022), available at <https://es.statista.com/estadisticas/1285118/afiliacion-religiosa-en-america-latina-por-tipo/>.

³¹ TN, *La carta completa de Bergoglio*, available at:

https://tn.com.ar/politica/la-carta-completa-de-bergoglio_038363/

³² D. P. Gómez, *La emergencia de la ideología de género en Colombia: preferir un hijo muerto que marica*. Cuadernos de música, artes visuales y artes escénicas (2019) 14(2) at pp. 75-101.

³³ *Pastor Warns Government Against Homosexual Issues*, available at: <https://www.gbcghana.com/1.11598927>

Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill,³⁴ which prohibits same-sex intimacy, has been primarily propelled by religious fundamentalists.³⁵ In Uganda, evangelical groups supported laws criminalizing same-sex relations.³⁶

In Indonesia, conservative interpretations of Islamic teachings drive discrimination and violence against LGBTIQ people.³⁷ These anti-LGBTIQ teachings are embraced by large populations of society, and politicians echo these sentiments to garner political support.³⁸ Indonesia recently passed a law banning sex outside of marriage, which poses a particular threat to LGBTIQ people who cannot be married in the country. The law is informed by limited religious ideas of the institution of marriage.³⁹

In the United States, Christian groups have opposed a bill that would protect the right to same-sex marriage.⁴⁰ The U.S. Conference of Catholic Bishops and the Southern Baptist Convention have said that the bill is a “dire threat to religious liberty.”⁴¹

B. Forced and Coercive Conversion Practices

Conversion practices, more commonly known as “conversion therapy,” are efforts to suppress or change a person’s sexual orientation or gender identity.⁴² According to Outright’s research, religion is the reason most frequently cited for conversion practices.⁴³ These practices sometimes amount to violations of human rights which states have a mandate to address.

Through research conducted over several years by civil society organizations in Kenya, Nigeria and South Africa on the nature, extent and impact of conversion practices in these countries, a key finding was that religious leaders are amongst the main perpetrators of conversion practices and that such practices include forced or coercive acts.⁴⁴ Methods implemented by religious leaders and institutions in Nigeria included forcible detention and isolation and beatings.⁴⁵ In Kenya, conversion practices included false

³⁴ *Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill* (2021). Available at:

<https://cdn.modernghana.com/files/722202192224-0h830n4ayt-lgbt-bill.pdf>

³⁵ Outright International, *We deserve Protection: Anti-LGBTIQ Legislation and Violence in Ghana* (2022) at p. 4, available at: https://outrightinternational.org/sites/default/files/2022-09/GhanaReport_2022.pdf.

³⁶ Fredrick Nzwili, *Uganda’s Anti-Gay Bill Refocuses Attention on U.S. Evangelical Influence*, Christian Science Monitor (Feb. 25, 2014) available at

<https://www.csmonitor.com/World/2014/0225/Uganda-s-anti-gay-bill-refocuses-attention-on-US-evangelical-influence>.

³⁷ Outright International, *Creeping Criminalization: Mapping of Indonesia’s National Laws and Regional Regulations That Violate Human Rights of Women and LGBTIQ People* (2017) (hereinafter “Creeping Criminalization”) at pp.4-5, available at <https://outrightinternational.org/sites/default/files/2022-10/CreepingCriminalisation-eng.pdf>; Yenni Kwok, *LGBT Rights in Indonesia Are Coming Under ‘Unprecedented Attack’*, Time (Aug. 11, 2016) available at <https://time.com/4447819/indonesia-lgbt-rights-islam-muslim-gay-bi-transgender/>.

³⁸ *Creeping Criminalization* at p. 4.

³⁹ Ananda Teresia & Kate Lamb, *Indonesia bans sex outside marriage in new criminal code*, Reuters (Dec. 6, 2022) available at <https://www.reuters.com/world/asia-pacific/indonesias-parliament-passes-controversial-new-criminal-code-2022-12-06/>.

⁴⁰ David Crary, *Faith Groups Split Over Bill to Protect Same Sex Marriage*, AP News (Nov. 16, 2022) available at <https://apnews.com/article/religion-relationships-gay-rights-marriage-a6d9a92c4a5cda6e4b977f516a9a71a7>.

⁴¹ *Id.*

⁴² Harmful Treatment.

⁴³ *Id.* at p 4.

⁴⁴ Outright International, *Summary of the Research findings on the Nature, Extent and Impact of Conversion Practices in Kenya, Nigeria and South Africa*, (July 2022), available at:

https://outrightinternational.org/sites/default/files/2022-09/SOGIEReport_July192022_2.pdf.

⁴⁵ *Id.* at p. 19.

imprisonment in churches or in homes where religious leaders were invited by families to conduct conversion practices⁴⁶ and the deprivation of food by religious programs.⁴⁷

C. Other Examples

Other examples of religiously-motivated discrimination against LGBTIQ people include so-called religious exemption laws which allow providers of goods and services to refuse service to LGBTIQ people on the basis of their religious beliefs; religiously-based violations of the rights to freedom of assembly, association, and expression of LGBTIQ people; and violence against intersex people based on religious beliefs.

In the United States, “religious exemption” laws allow service providers to discriminate against LGBTIQ people. Seven U.S. states allow health care providers to decline to treat LGBTIQ people if they feel that doing so would violate their religious beliefs.⁴⁸ Other religious exemption laws that U.S. states have attempted to pass include bills which would allow vendors whose products are used in weddings to deny service to LGBTIQ people on the basis of their religious beliefs, and bills that would allow religiously-based adoption and foster care organizations to deny service to LGBTIQ applicants.⁴⁹

In numerous states, religion has been used as a basis to violate LGBTIQ peoples’ rights to assembly, association, and expression. In Turkey, religious extremists contributed to the Turkish government’s decision to ban Pride events in 2022.⁵⁰ Pride events in Turkey have been protested by religious groups; in response, police have detained LGBTIQ rights defenders under the guise of “protection,” while permitting religious groups to threaten LGBTIQ people.⁵¹ In Bangladesh, an LGBTIQ group was ordered not to hold a rally due to threats from religious extremists.⁵² In Georgia, a pride march was attacked by religious extremists; police did not protect protesters.⁵³ As a result, LGBTIQ individuals and groups have been unable to exercise their rights to assembly, association, and expression.

Intersex individuals have been subjected to attempts to align their sex characteristics with normative gender expectations; these practices have sometimes taken place against a backdrop of religious condemnation of intersex people’s existence.⁵⁴ Unnecessary coerced surgeries on intersex people violate their human rights, including the right to be free from discrimination. States are obligated to prevent

⁴⁶ *Id.* at p.9.

⁴⁷ Harmful Treatment at p.32 (citing Jacob Onyango, *Gay therapy church claims homosexuality can be cured through prayers and 3 days of starvation* (2018) available at <https://www.tuko.co.ke/249487-gay-therapy-church-claims-homosexuality-cured-prayers-3-days-starvation.html#249487>). .

⁴⁸ Jo Yurcaba, *More than 1 in 8 LGBTQ People Live in States Where Doctors Can Refuse to Treat Them* (July 28, 2022) available at <https://www.nbcnews.com/nbc-out/out-health-and-wellness/1-8-lgbtq-people-live-states-doctors-can-refuse-treat-rcna39161>.

⁴⁹ HRW, “*All We Want is Equality*”: *Religious Exemptions and Discrimination against LGBT People in the United States* (Feb. 19, 2018) available at https://www.hrw.org/report/2018/02/19/all-we-want-equality/religious-exemptions-and-discrimination-against-lgbt-people#_ftn2.

⁵⁰ *Id.*

⁵¹ FIDH, *Turkey: 373 LGBTIQ+ defenders detained during Istanbul Pride March* (7 June, 2022) available at <https://www.fidh.org/en/region/europe-central-asia/turkey/turkey-373-lgbtqi-defenders-detained-during-istanbul-pride-march>.

⁵² Outright International, *Visible: Pride Around the World in 2021 (June 2022)* at p.13, available at https://outrightinternational.org/sites/default/files/2022-09/VISIBLEWorldPride2021_0.pdf.

⁵³ *Id.* at pp. 24-25

⁵⁴ See OHCHR, *Human Rights Violations Against Intersex People: A Background Note* at p. 16, available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Discrimination/LGBT/BackgroundNoteHumanRightsViolationsagainstIntersexPeople.pdf> (“Medical interventions may also in some cases have religious justifications.”); see also p. 24 (“Intersex infants have also been condemned as bad omens and curses, leading to increased rates of violence.”).

human rights violations against intersex people and address their root causes.⁵⁵ However, very few states have passed laws prohibiting unnecessary coerced surgeries on intersex people.⁵⁶

III. Good Practices

A. *Legislative and Judicial Developments*

States have an obligation to respect, protect, and fulfill human rights obligations, including the right to freedom of religion or belief and the right to be free from discrimination based on SOGIESC. States can support the full realization of human rights by LGBTIQ people by passing laws which prevent and address religiously-based discrimination and ensuring that discriminatory views based on religion do not contribute to discriminatory legislation and policy. International courts also have a role to play in enforcing these rights through their decisions when states fail to abide by human rights standards.

Examples of state actions to protect and fulfill the rights to freedom of religion or belief and to the freedom from discrimination based on SOGIESC include removing laws criminalizing same-sex relations, which often stem from religiously-motivated objectives, in some cases imposed by former colonial powers.⁵⁷ Legislation allowing same-sex couples to enter into legal marriages despite religiously-motivated opposition protects the right of people to be free from discrimination based on sexual orientation.⁵⁸ Additionally, legislation protecting people from forced or coercive conversion practices that seek to alter a person's sexual orientation or gender identity, which are often perpetrated by religious actors, protects the human rights of LGBTIQ people.⁵⁹

The Inter-American Court of Human Rights took action to protect the human rights of LGBTIQ people when it held that Chile had not upheld its state obligation to respect the human rights to equality and non-discrimination when a religion teacher was fired due to her sexual orientation, per a law that allowed the Church to regulate religion teachers.⁶⁰ The court held that in firing the teacher due to her sexual orientation, the state had violated the principles of equality and nondiscrimination.⁶¹

States must continue to remove discriminatory laws and enact protective legislation to ensure everyone, including LGBTIQ people, can realize their full human rights.

B. *LGBTIQ Affirming Religious and Faith Leaders*

LGBTIQ-affirming religious and faith leaders can be impactful agents of change, sending a message to religious communities that people of all sexual orientations, gender identities and expressions, and sex

⁵⁵ *Id.* at 8.

⁵⁶ *Id.*

⁵⁷ IDAHOBIT statement, *supra* note 11.

⁵⁸ Marriage between same-sex partners is currently legal in 32 countries: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Denmark, Ecuador, Finland, France, Germany, Iceland, Ireland, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Portugal, Slovenia, South Africa, Spain, Sweden, Switzerland, Taiwan, United Kingdom, United States, and Uruguay. Andorra will allow same-sex marriage beginning February 2023. HRC, *Marriage Equality Around the World*, available at <https://www.hrc.org/resources/marriage-equality-around-the-world>; Sonia Elks & Hugo Greenhalgh, *Andorra Set to Become Latest Nation to Legalize Gay Marriage*, REUTERS, available at <https://www.reuters.com/article/us-lgbt-rights-civilliberties-factbox/factbox-andorra-set-to-become-latest-nation-to-legalize-gay-marriage-idUSKBN21A3AL>.

⁵⁹ Countries with laws protecting against “conversion practices” include Brazil, Canada, Ecuador, France, Germany, Greece, Malta, and New Zealand. For a comprehensive list of prohibitions on “conversion practices” see Global Equality Caucus, *Ban Conversion Therapy Now*, <https://equalitycaucus.org/banct/info-hub/legislative-progress>.

⁶⁰ Inter-American Court of Human Rights, Case of Pavez v. Chile ¶1 (Judgement, February 4 2022) available at https://www.corteidh.or.cr/docs/casos/articulos/seriec_449_ing.pdf.

⁶¹ *Id.*

characteristics should be respected. States should develop relationships with religious and faith leaders to address human rights violations.

Examples of LGBTIQ-affirming religious and faith organizations include the Cosmopolitan Affirming Community in Kenya, an inclusive faith community that welcomes LGBTIQ people to explore and experience their faith.⁶² In South Africa, the Institution of the Traditional and Khoi-San Leadership has developed a social cohesion program which aims to address social ills including the abuse of LGBTIQ persons and “unconstitutional cultural and religious practices.”⁶³ Also in South Africa, advocacy organization Access Chapter 2 developed a successful partnership with the National House of Traditional Leaders, a body composed of traditional faith leaders, to challenge conversion practices.⁶⁴ In Indonesia, a Muslim boarding school for transgender people provides a safe space for LGBTIQ people of faith to practice their religion while affirming their sexual orientations and gender identities.⁶⁵ A Church in Jakarta has expressed support for LGBTIQ people and openly discusses issues surrounding gender and sexuality.⁶⁶ The Indonesian Women’s Ulama Congress on Gender Equality, a group of women Islamic leaders, embrace diverse queer people of faith.⁶⁷

Conclusion

The right to the freedom of religion or belief and the right to be free from violence and discrimination based on sexual orientation, gender identity or expression, or sex characteristics are interdependent human rights that belong equally to every individual. Religion has often been used to justify discrimination against lesbian, gay, bisexual, transgender, intersex and queer individuals. Religiously-based discrimination against LGBTIQ people is prohibited under international law, and should not form the basis of public policy. States are obligated to take action to protect the human rights of LGBTIQ people, and religious and faith leaders can be powerful allies in the advancement of LGBTIQ rights. It is important that states, civil society, UN agencies, and religious and faith leaders work together to continue to fulfill human rights standards and uphold the universality of human rights for all.

General Recommendations

- Member states should repeal repressive and discriminatory laws, such as the laws that criminalize same-sex relations and prevent same-sex marriage, which create an ecosystem that enables discrimination and human rights violations against LGBTQ persons to thrive.
- Member states should pass comprehensive non-discrimination legislation that prohibits discrimination based on sexual orientation, gender identity, and gender expression, ensuring that no exemptions are created based on religious belief.
- Member states should ensure religious opposition is not used as a justification by state actors to curtail the rights of LGBTIQ people to freedom of assembly, association, and expression.

⁶² Learn more about the Cosmopolitan Affirming Community <https://cac-kenya.com/>

⁶³ Department of Traditional Affairs, *Annual Performance Plan 2022/23*, available at: https://static.pmg.org.za/DTA_APP_2022-23_Final.pdf

⁶⁴ Outright International, *Pathways for Eliminating Conversion Practices* (2022), available at: https://outrightinternational.org/sites/default/files/2022-12/Outright_Report_DEC2022.pdf.

⁶⁵ Beh Lih Yi, *Indonesia's transgender Muslims find safe haven for prayer during Ramadan*, Reuters (May 16, 2019) available at <https://www.reuters.com/article/us-indonesia-lgbt-ramadan/indonesias-transgender-muslims-find-safe-haven-for-prayer-during-ramadan-idUSKCN1SMONX>.

⁶⁶ Amanda Siddhartha, *LGBT in Indonesia: How First Church to Welcome Queer Members is a Lifeline for Some, Target for Others*, SCMP (Aug. 7, 2019) available at <https://www.scmp.com/lifestyle/family-relationships/article/3021586/lgbt-indonesia-how-first-church-welcome-queer>.

⁶⁷ *Kupi International Conference*, available at <https://kupi.walisongo.ac.id>.

- Member states should ensure that forced and coercive conversion practices, including in religious settings, are prohibited by law.
- Member states should adopt all measures necessary to eliminate the social stigma associated with sexual and gender diversity, including the development, implementation, and evaluation of an education and sensitization campaign to protect LGBTQ persons from all forms of discrimination and violence.
- Member states should raise awareness and sensitize communities, including religious communities, that sexual and gender diversity are not disorders to be corrected.
- Member states should ensure violations of the human rights of LGBTIQ people are investigated, and victims of violations have access to redress and compensation.
- Member states should develop long-term partnerships with LGBTIQ organizations, as well as with faith leaders and religious institutions, in order to dispel harmful, religiously-based myths which drive negative attitudes and exclusion of LGBTIQ people.