



# Joint submission on Freedom of Religion and Belief and SOGI rights to the UN Independent Expert on Sexual Orientation and Gender Identity

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## Report submitted by:

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## **Executive summary**

This joint submission has been prepared by the International Lesbian, Gay, Bisexual, Trans, and Intersex Association (ILGA World) in collaboration with organisations from Armenia, Chile, Kenya, Peru, Sri Lanka, Sudan, and Zambia, as a response to the [call](#) published by UN Independent Expert on Sexual Orientation and Gender Identity for his upcoming report on the right to freedom of religion or belief (FoRB) in relation to sexual orientation and gender identity (SOGI).

The present submission will discuss the interplay between the rights of LGBTI+<sup>1</sup> persons and the right to FoRB. It will outline how, despite the narrative of “clashing rights” often pushed by anti-LGBTI+ actors, these rights are mutually reinforcing and indivisible. It will present examples of laws, policies, and practices that perpetuate human rights abuses against LGBTI+ persons in the name of religion, including those that undermine religious freedom. In particular, there will be a focus on same-sex marriage, the criminalisation of same-sex relationships, and so-called “conversion therapies.” Lastly, the submission will consider pro-LGBTI+ religious actors and the right of LGBTI+ persons to manifest their religious identity.

## **Perceived tension between FoRB and LGBTI rights**

Any analysis of the relationship between religious freedom and LGBTI+ rights must begin from the understanding that the two are mutually enriching. FoRB does not cover acts of violence and other harmful practices targeted at LGBTI persons<sup>2</sup> and, as is made clear in Article 5 of the ICCPR<sup>3</sup>, no right can be used to extinguish or violate another right. The increasing use of religious justification for anti-LGBTI+ discrimination<sup>4</sup> does not necessarily indicate a rift between FoRB and LGBTI rights but rather often reflects a misapplication of the concept of FoRB to cases that fall outside of its scope.

It is important to emphasize that FoRB is a right of individuals and not of states or religions<sup>5</sup>. As will be highlighted throughout this submission, there have been attempts by both state and non-state actors to enforce the dominance of particular religious beliefs, often to the detriment of the human rights of LGBTI+ persons, among others, while using the language of FoRB to justify their actions. However, the right to FoRB does not exist to uphold certain norms or traditions nor support legal expectations placed on others to express a particular religious status<sup>6</sup>. In this sense, a clash between dominant religious norms and LGBTI+ rights does not inherently amount to a clash between religious freedom and LGBTI+ rights. The obligation of states to protect the FoRB of citizens is entirely distinct from actions carried out by the state in the name of a particular religion. Moreover, laws and practices intended to force adherence to one set of religious interpretations undermine the essence of FoRB, that is, the right of individuals to freely develop an understanding of their own religion and manifest their religious practice as such<sup>7</sup>.

Each person's right to their own religious interpretations is one of the key areas of synergy between FoRB and LGBTI+ rights. Religiously motivated violence and discrimination based on SOGI can be understood as an attempt to impose dominant moral and political understandings of religion onto others.<sup>8</sup> When states impose legislation or policies in the name of religion that discriminates against LGBTI+ persons, this privileges certain religious beliefs in law and therefore undermines both freedom of religion and the right of non-discrimination based on SOGI. None of this is to say that instances cannot arise in which there is a clash between the right to FoRB and the right to freedom from discrimination and violence based on SOGI. Rather it is to reiterate that in a fundamental sense, these rights, as with all rights, are mutually reinforcing. Where religious freedom and non-discrimination appear to be at odds<sup>9</sup>, this should be addressed on a case-by-case basis<sup>10</sup> wherein every effort is made to ensure that all rights concerned are brought into practical concordance and protected<sup>11</sup>.

### **Religious narratives in anti-LGBTI campaigns:**

The perceived tension between the rights of people of diverse SOGI and religious freedom is often fuelled by the persistent use of religious rhetoric in narratives and campaigns which seek to undermine the equal rights of LGBTI+ persons and, at times, incite violence against this group. Such narratives can often be understood in the context of anti-gender backlash,<sup>12</sup> an international movement which frames feminism and LGBTI rights as an affront to a "natural, religious order" and charges human rights defenders with promoting so-called "gender ideology"<sup>13</sup>. The main pillars of these narratives are also based on patriarchal power dynamics, which have historically shaped and dominated all organic relationships, such as the nuclear family and extended family, especially in fragile global-south state systems.<sup>14</sup> For example, in Chile, the articulation of the "gender ideology" idea is used in many Christian communities to state that SOGI concepts are a sort of "global political project" promoted by "communism," gaining political significance for religious sectors.<sup>15</sup> Moreover, in Kenya, the Government has granted privileges to Christian religious actors, making gender roles (and norms rooted in the traditional Christian discourse that associates "femininity" with service to family and church) vehicles for religious intolerance and discrimination towards women in all their diversities (including LBT women).<sup>16</sup>

Another example of these tensions is Zambia, which was declared a Christian nation in 1991 as enshrined in the national constitution. This declaration was reaffirmed at a recently held conference in December 2022 due to perceived "increasing levels of immorality", which were directed to LGBTI+ groups based on religious assumptions. Hence, in Zambia, morality (predominantly from a Christian perspective) is the key point of argument in the anti-LGBTIQ+ narrative.<sup>17</sup>

A key rhetorical tool of the anti-gender movement is the false notion of competing rights. Religious freedom is posed as being under attack by the right to non-discrimination of SOGI-diverse persons. This is often framed in relation to the right to deny goods and services, including

healthcare, based on religious belief. Such claims are often based on a monolithic understanding of religion and aim to reinforce historical power structures perceived to be at risk.<sup>18</sup> Where LGBTI+ rights are framed as opposing the right to FoRB, a hierarchy of rights is ultimately constructed, with the latter being presented as superior. This logic undermines the core human rights principles of universality and interdependence.

As well as promoting anti-LGBTI+ rhetoric on the international stage, some religious actors also promote discrimination and violence based on SOGI within local and national contexts. Such cases can be seen across different religions and regions; however, they are united by their effort to construct SOGI-diverse persons and their rights as a threat to religious values. It is worth noting that some of these religious actors have significant cultural and economic influence, so the harm caused by their advocacy is compounded. For example, the Armenian Apostolic Church has presented SOGI diversity as something that has been imported to Armenia with the aim of destroying traditional morals and family values. The church plays a role in influencing public opinion, and church representatives spread their ideas regarding sexuality through different means, such as media interviews and discussions. Representatives of the Church are often the leading figures of anti-LGBTI+ campaigns and commonly refer to same-sex relationships as a “sodomy sin” and promulgate the idea that homosexuality should be condemned as “unnatural.” In 2018, the International Christian LGBT Forum was planned to be held in Armenia. This led to a wave of anti-LGBTI+ campaigning, including by the Armenian Apostolic Church. Demonstrations were held to protest the Forum taking place, and there were calls for the adoption of a law banning so-called “homosexual propaganda”<sup>19</sup>In 2019, trans activist Lilit Martirosyan addressed the National Assembly and raised the issue of transphobic crimes. In response, anti-LGBTI+ campaigners, including clergymen, began manifestation in front of the National Assembly building and spreading hateful speech towards LGBTI persons<sup>20</sup>.

In some contexts, advocacy by religious actors goes beyond discriminatory comments to direct calls for violence against LGBTI+ persons. In Sudan in 2020, a well-known psychiatrist conducted a televised interview in which he argued that LGBTI+ persons should be treated as equal citizens and protected from discrimination and violence through state laws. However, two Muslim Sheikhs publicly attacked the psychiatrist, declared that his arguments were against Islamic teaching, and stated that people who engage in same-sex relations should be killed<sup>21</sup>. Such incitement to hatred is deeply harmful and increases the risk of discrimination and violence for LGBTI+ persons. The use of anti-LGBTI+ religious narratives also entrenches the notion of SOGI diversity as being somehow contrary to religious freedom.

In Peru, a concrete example of the use of religious narratives as a justification to deny rights to LGBTI+ people derive from the approval of Legislative Decree 1323, published in January 2017<sup>22</sup>. The publication of the Decree, came as a surprise to anti-LGBTI+ rights sectors, who immediately began a campaign for its repeal, calling it a “gag rule”, because, according to these groups, it infringed on the freedom of opinion and religion of pastors and religious preachers.<sup>23</sup> The Decree sought to be repealed during the 2016-2019 Congress of the Republic. Despite the efforts

deployed by conservative sectors, it remains in force. Currently, an evangelical congressman has restarted efforts to eliminate this legislative decree, through the presentation of a bill for its repeal.<sup>24</sup>

## **Laws and policies relating to SOGI**

In many cases, religious actors with an anti-LGBTI+ agenda are well-funded, well-connected and highly influential<sup>25</sup>. Thus, such campaigns have, at times, contributed to the adoption of state laws and policies that undermine the rights of SOGI diverse persons. In other contexts, states may themselves be a driving force of religiously motivated discrimination against LGBTI+ people. This section will explore cases where anti-LGBTI+ laws and policies are justified by explicit reference to religion and/or have been informed by particular religious values.

### ***Same-sex marriage:***

Bans on same-sex marriage violate the right to a private and family life of SOGI diverse persons<sup>26</sup> and are often a priority of anti-LGBTI+ religious actors. In 2012 a Cardinal in Sri Lanka argued in relation to gay marriage that the “Sri Lankan culture based on religious beliefs, particularly Buddhism, should not be exchanged for economic benefits.”<sup>27</sup> He also argued, that “marriage is a relationship between a man and a woman. God’s Word says that man and woman shall unite in marriage and procreate, which is also the natural order. In that light, lesbian and homosexual unions cannot be allowed.”<sup>28</sup> Similarly, the Catholic Church in Kenya has opposed any form of acceptance of same-sex relationships, including same-sex marriages. Only opposite-sex marriages are permitted in Kenya and LGBTI+ family structures are marginalised and excluded in Kenyan society.<sup>29</sup> On the other hand, states themselves have attempted to defend bans on same-sex unions by reference to religious values. In *Oliari and Others v. Italy* [2015], the ECtHR rejected the argument that Italy’s ban on same-sex civil unions was justified by ‘religious sentiment’ and ‘religious inspiration’ and concluded that there was an ‘absence of a prevailing community interest being put forward’<sup>30</sup>.

As well as violating the right to equality and privacy of LGBTI+ persons, bans on same-sex marriage grounded in religious sentiment also pose a threat to FoRB. When states allow a particular religious value to form the basis of public institutions such as marriage and civil unions, this interferes with the freedom of religion of those who hold differing religious beliefs, including those without religious conviction<sup>31</sup>. This issue was addressed by the Supreme Court of Bermuda in *Ferguson et al. v the Attorney-General* (2018). The court held that the Parliament’s decision to replace same-sex marriage with domestic partnership threatened the rights of those who believe in same-sex marriage on religious grounds to manifest their beliefs by participating in legally recognised same-sex marriages<sup>32</sup>.

### ***Criminalisation of same-sex relations:***

Same-sex sexual relations between consenting adults are criminalized by law in 64 UN member States, and de facto in 2, including at least 38 countries that criminalize such relations between women<sup>33</sup>. Throughout the world, anti-LGBTI+ religious actors are often leading voices in support of criminalisation.

For instance, in Malawi in 2014 the Minister of Justice issued a moratorium on the criminal enforcement of the ban on same-sex relations, however backtracked after campaigning by conservative actors, including churches. In 2015 the moratorium was reinstated and in 2016 religious leaders made an application to the High Court to quash the decision, which made the continuation of arrests permissible. At the same time, the highest body of Catholic Bishops in the country issued a pastoral letter opposing the moratorium<sup>34</sup>. Similarly, in Belize in 2016, the Roman Catholic Church issued an appeal against a judicial decision that decriminalized same-sex acts, though this was later withdrawn, and the original decision was upheld<sup>35</sup>. More recently, in July 2020, the Conference of Bishops of Togo issued a statement by the Christian leaders in attendance lauding the government for pushing back against foreign pressure to decriminalize same-sex sexual activity and end discrimination based on SOGIE<sup>36</sup>.

Even where criminalisation is not commonly applied, the existence of these laws in the books is harmful to the LGBTI+ community and contributes to broader discrimination. For example, in Kenya, the penal code criminalizes “carnal knowledge against the order of nature” with imprisonment of 5 to 21 years. The law conflates homosexuality with pedophilia and bestiality, though in practice, it is more commonly applied to the latter. While there is no official state religion in Kenya, the government tends to Christianity. The penal code is in line with the heteronormative scripts adopted by most monotheistic Abrahamic religions in Kenya. In this context, discrimination against LGBTI+ persons is widespread and exists at all levels of society.<sup>37</sup>

It is also important to note that in many countries, criminalization is explicitly derived from religious law. For instance, Sudan’s legislation and judicial system is based on Sharia laws, and consequently, same-sex relations are illegal under Article 148 of the Criminal Code 1991<sup>38</sup>. In July 2020, Sudan’s Sovereign Council abolished the death penalty and flogging for so-called “sodomy”, however, increased the potential imprisonment from five to seven years. Moreover, a legal gap regarding sentencing allows judges to issue corporal punishment in cases taken under Article 148. Other common articles in Sudanese laws that are being implemented and used against the LGBTI+ community. Those are Articles 151, 152, 153, and 156, also known as law on the “Public Order”<sup>39</sup>. Sudan’s Sovereign Council also approved new laws and passed a package of amendments to those articles. For instance, Article 151<sup>40</sup> “Gross Indecency,” criminalizes any sexual act in both public and private spaces. Article 152 ‘Indecent and Immoral Acts’ criminalizes ‘indecent’ dressing, and consequently, the article is used to persecute non-binary and trans\* identities and an obstacle in front of freedom of expression for the LGBTI+. Article 153 “Materials and displays contrary to public morality,” criminalizes any possessing materials contrary to public morals. The article has been used against gay men and transwomen possessing what the Sudanese society considers “feminine materials.” All articles-imposed punishments varying from

flogging, imprisonment, and fines. The amendments removed flogging punishments and left criminal charges up to the judges' arbitrary decisions in all the articles.<sup>41</sup> Despite the amendments, the LGBTI+ community in Sudan is still subjected to a direct discriminatory legal framework. The removal of the death penalty from articles 148 and 151 is a positive change. However, the criminalization of homosexuality and the stigma due to religious discourse is still there.<sup>42</sup> 91 percent of Sudan's population is Muslim, meaning that core Islamic values and beliefs dominate public discourse. The right to freedom of religion is commonly misused to promote homophobia and encourage hate speech in Sudan. The Islamic concept of the Promotion of Virtue and the Prevention of Vice is the root of non-state violence against LGBTI+ groups in Islamic societies like Sudan. This concept has the ambiguity to be interpreted that if good Muslims forbid any acts against Islam's core beliefs committed by others, this will elevate their position as exemplary followers of their religion.<sup>43</sup> In addition, discrimination by service providers is embedded in the law and the religious-cultural codes. Criminalization of same-sex relations in the country means most LGBTQI individuals are subjected to discrimination and sometimes violence from service providers.<sup>44</sup>

### ***SOGIE Change Efforts (SOGIECE):***

So-called "conversion therapies"<sup>45</sup> or SOGIE change efforts are based on discrimination and often amount to cruel, inhumane, and degrading treatment or torture. Though there is an absence of sufficient research, evidence shows that between 7 and 16% of LGBTI+ persons have been exposed to SOGIECE depending on the country, with the highest figures being reported in Iran and South Korea<sup>46</sup>.

Religious leaders are one of the most vocal proponents of conversion therapy, claiming this practice is related to the manifestation of religion. Religious affiliated media outlets and lobby groups play an important role in presenting SOGIECE as being intimately related to religious practice. Accounts of survivors reveal that religious leaders, religious schools, and other religious institutions refer people to so-called conversion therapy, at times as a matter of policy<sup>47</sup>.

For example, in **Ghana**, anti-gay narratives promoted by religious leaders have allegedly played a significant role in promoting shame and guilt in relation to SOGI among members of religious communities. In 2018, 400 people voluntarily signed up for conversion therapies provided by an interreligious organization called the National Coalition for Proper Human Sexual Rights and Family Values. The coalition's leader revealed a plan to propose a bill to make conversion therapy mandatory for gay men<sup>48</sup> and in 2021 the Ghana Catholic Bishop's Conference issued a declaration based on biblical passages to condemn the practice of homosexuality in Ghana and called on the Government to close a LGBTI+ office space that was recently opened in Accra, firmly opposing to legalize the rights of LGBTI+ groups in the country. <sup>49</sup> Similarly, evidence from Armenia suggests that SOGIECE are a widespread practice in the country. In some cases, parents of LGBTI+ children may initiate this practice, isolating their children at home and forcibly taking them to clergymen<sup>50</sup>. In Kenya, there has been heightening stigma and discrimination towards LBQTI+ women by religious leaders, including those who attempt to change SOGIE by conducting non-affirming religious and spiritual guidance.<sup>51</sup> In Sudan, certain Islamic concepts have been

used by several health-care providers with a conversion therapy approach to propel guilt and shame in their LGBTI+ patients. For instance, the concept of curse in Islam, which means “being expelled and removed from goodness” has been used to justify this practice, as well as to justify violent behaviors targeted to persons who do not fit the heteronormativity standards.<sup>52</sup>

In Zambia, medical personnel have been reported to discriminate against patients perceived to be LGBTI+, based on their religious beliefs. Many health-care providers have not only outed the patients and reported them to the Police. They have also attempted to “convert” patients from homosexuality, and outright refusal to provide services.<sup>53</sup>

Similarly, in Peru, evidence has shown that SOGIECE are widely dispersed by relying on the validation of Christian psychological centers<sup>54</sup>. A study by the Peruvian LGBT organisation Más Igualdad Perú found that 40% of LGBT people who responded to their survey had been subject to SOGIECE. Of this group, over 60% were subject to these practices as minors and half of all practices were carried out in religious institutions or by people who subscribe to Christian religions<sup>55</sup>. It should be noted that these practices are validated in the public sphere by political actors linked to evangelical churches. In 2015, a then congressman and evangelical pastor argued that “many homosexuals have come and have had an encounter with God and have been healed... it is not an irreversible condition”. Similarly, in the municipal elections of 2018, an evangelical candidate for mayor raised the realization of “conversion therapies” for LGBT+ people as a campaign proposal. In 2021, following the presentation of a bill that sought to prohibit SOGIECE, a Christian lawyer and congressional candidate argued on Facebook that “banning conversion therapies... is an attack on the individual freedom of those who voluntarily do not wish to maintain an emotional attraction that causes them distress”<sup>56</sup>.

It has been well established in international human rights law that states have a responsibility to intervene in the practice of SOGIECE. The Committee against Torture, the Committee on the Rights of Persons with Disabilities, and the Committee on the Elimination of Discrimination against Women have all made recommendations to states to end the practice of so-called conversion therapy. However, only a small number of states have nationwide bans on the practice<sup>57</sup> and reference to FoRB is at times used to justify state inaction on SOGIECE.

An example of this can be seen in the 2022 Inter-American Court of Human Rights case, *Pavez v Chile*. In this case this case, a Chilean lesbian woman was dismissed from her teaching post at a Catholic school when it was found she was living with a woman. Her return to work was allegedly made conditional on her seeking “psychiatric therapy” to change her sexual orientation, and when she refused to do this, the documentation she required to work was revoked. The Chilean state defended this with reference to religious freedom, specifically the right of parents to ensure their children receive education in keeping with their own convictions. However, the court ruled in favour of Pavez and held that “there cannot be decisions that affect human rights that are outside the legal control of the State authorities”<sup>58</sup>. This case illustrates that states sometimes fail to address tensions between religious actors and LGBTI+ citizens in a way that protects the human rights of all involved.



Lastly, it is important to highlight that survivors of SOGIECE do not necessarily stop practicing their faith or belief. However, finding affirming allies and networks to both their SOGIE and their belief is challenging in certain contexts. For instance, a study in Australia indicates that Post conversion supports that are broadly religion-friendly are important given that survivors of conversion practices often retained religious affiliations.<sup>59</sup> Some survivors of SOGIECE have a recovery approach that involves seeking support from professionals or survivor support groups who allow them to explore their faith in more relational ways through safe and affirming spaces. For others, SOGIECE recovery processes include maintaining only affirming social contacts and removing all others. This could mean completely 'leaving the church' or keeping their faith but stopping attending church.<sup>60</sup>

### **The right to religious freedom of LGBTI+ persons:**

Lastly, it is also important to emphasize that, historically and in the present day, acceptance of SOGI diversity has formed part of some religious beliefs. Pro-LGBTI+ religious groups can be found among the followers of every major religion and, in some cases, may form an important element of an entire religious tradition<sup>61</sup>. SOGI diversity has often played an important role in the religious beliefs of many indigenous communities, such as the two spirits groups in North America. Those beliefs have been subject to violent repression in the context of colonialism<sup>62</sup>.

We can also find examples of these pro-LGBTI+ religious groups even within hegemonic religions in a country. In Sudan, for instance, Islam has different forms and practices. Sufi Islam adopts core values of acceptance and kindness; they usually don't lead any discourse based on hate and discrimination publicly or within their physical spaces. However, it must be noted that while referring to religious and cultural systems being supportive or positive towards queer community, one has to be careful not to generalize and within some contexts there is an information gap in these areas.<sup>63</sup> Similarly, research from Sri Lanka have indicated that the Hindu community generally exhibits more positive attitudes towards LGBTI+ people and that Tamil, Upcountry Tamil and Muslim communities clearly exhibited positive attitudes towards transgender persons<sup>64</sup>. In some cases, religious actors have taken active measures to promote the FoRB of LGBTI+ persons. For example, the Christian chaplaincies of La Moneda in Chile host believers groups for sexually diverse persons. Furthermore, the Coalition "Religions, Beliefs and Spiritualities in Dialogue with Civil Society", which is part of the Dialogue with Civil Society of the OAS, works together with organizations that defend the rights of sexual and gender minorities and seeks to use religious freedom to defend the spirituality of LGBTI+ people. Another example is the Alliance for Secularism, Religious Freedom and Human Rights in Latin America, which articulates eight civil society organizations to raise the link between secularism, religious freedom and the defense of the rights of women and the LGBTI+ community.<sup>65</sup>

### **Recommendations:**

- Encourage States to adopt a human right's-based approach when creating laws and policies that underpinned FoRB, and including SOGIE perspectives.

- Condemn hateful speech and discrimination which spreads intolerance and bias towards LGBTI+ people even if such speech is displayed by religious representatives<sup>66</sup>.
- Urge the States that still persecute same-sex relations by law to adopt legal reforms to decriminalize those and other identities under the LGBTI+ umbrella.
- Investigate SOGIECE practices as a fraud and as a threat to the life and health of LGBTI+ people<sup>67</sup>.
- Banning conversion practices is not enough. There is a need for in-person (as well as text/web chat and phone-based) crisis care and general counselling services for SOGIECE survivors that are both LGBTI+ inclusive and religion-friendly.<sup>68</sup>
- It is imperative to support LGBTI + and religious identities coexisting in more affirming frameworks and socio-behavioral/institutional re-engagements in efforts to break potential cycles of exclusion.<sup>69</sup>
- Support and encourage pro-LGBTI religious actors to get more involved with the UN and the international human rights law framework to visibilize their struggles and spread their views on religion and SOGIE.
- Highlight the systemic influences rooted in converging colonial, patriarchal and religious influences that continue to impact the lives of LGBTI+ people globally, particularly in the Global South and around indigenous communities.
- Apply the principles of inclusion and intersectionality and challenge the notion of “natural families”, “gender ideology”, and other essentialist conceptions around sexual and gender identities under both ForB and SOGI frameworks, in collaboration with feminist and LGBTI civil society (including pro-LGBTI religious groups)

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<sup>1</sup>Throughout this document we will use the abbreviation LGBTI+ which stands for lesbian, gay, bisexual, trans, intersex, and other identities. However, when a source of information uses another acronym for these groups or for referring to a specific composition of populations, we use the abbreviations employed on those sources. E.g. LGBT (lesbian, gay, bisexual and trans), LGBTI (lesbian, gay, bisexual, trans and intersex), LGBT+ (lesbian, gay, bisexual, trans and other), LGBTQ (lesbian, gay, bisexual, trans and queer), LGBTIQ (lesbian, gay, bisexual, trans, intersex and queer), LGBTIQ+ (lesbian, gay, bisexual, trans, intersex, queer and other), LBtQ (lesbian, bisexual, trans and queer), 2SLBTQI+ (Two-Spirit, lesbian, bisexual, trans, queer, intersex and other).

<sup>2</sup>“LGBT persons deserve that promise fulfilled: Statement by human rights experts on the International Day against Homophobia, Transphobia and Biphobia (to be held on 17 May 2021)” Available at: <https://www.ohchr.org/en/2021/05/right-freedom-religion-or-belief-and-right-live-free-violence-and-discrimination-based-sogi>

<sup>3</sup> International Covenant on Civil and Political Rights

<sup>4</sup> Report of the Special Rapporteur on Freedom of Religion or Belief on “Gender-based violence and discrimination in the name of religion or belief” 2020. [A/HRC/43/48](https://www.ohchr.org/en/hrb/docs/A/HRC/43/48)

<sup>5</sup> Ibid.

<sup>6</sup> Nazila Ghanea, “Back to Basics in Evaluating Belief” 36 Emory Int’l L. Rev. 661 (2022). Available at: <https://scholarlycommons.law.emory.edu/eilr/vol36/iss4/4>

<sup>7</sup> Nazila Ghanea (2022) Piecing the Puzzle—Women and Freedom of Religion or Belief, *The Review of Faith & International Affairs*, 20:3, 4-18, DOI: 10.1080/15570274.2022.2111804

<sup>8</sup> In relation to this, the Human Rights Committee has noted that restrictions on peaceful assembly imposed for the protection of morals cannot be based on opposition to LGBTI identities, nor any “... understandings of morality deriving exclusively from a single social, philosophical or religious tradition.” See General comment No. 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, Para. 46.

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<sup>9</sup> In such circumstances, it is also useful to consider that the Special Rapporteur on Freedom of Religion has held that “the universal right to equality is unqualified in a way that the right to manifest freedom of religion or belief, which can be subject to limitation where necessary to protect the rights of other, is not.” See report of the Special Rapporteur on Freedom of Religion or Belief on “Gender-based violence and discrimination in the name of religion or belief” 2020. [A/HRC/43/48](#)

<sup>10</sup> “Interview: Nazila Ghanea on Religious Freedom and Gender Equality as Non-Clashing Rights” 2022, International Centre for Law and Religion Studies. Available at: <https://talkabout.iclrs.org/2022/12/19/interview-nazila-ghanea/>

<sup>11</sup> Report of the Special Rapporteur on Freedom of Religion on State-religion relationships and their impact on freedom of religion or belief (2018) [A/HRC/37/49](#)

<sup>12</sup> This international movement represents a coordinated effort to undermine and restrict the human rights of women and LGBTI+ persons and promote an essentialist, cis-heteronormative understanding of gender and sex, based on hegemonic religious fundaments. One of the primary narratives of the anti-gender movement is that men and women are designed by God to be different, unequal and complimentary. Marriage is seen as existing to bring man and woman together, including as father and mother of children. For more information, see Damjan Denkovski, Nina Bernarding, and Kristina Lunz “Power Over Rights: Understanding and countering the transnational anti-gender movement Volume I” Centre for Feminist Foreign Policy (2021)

<sup>13</sup> Damjan Denkovski, Nina Bernarding, and Kristina Lunz (2021) Ibid.

<sup>14</sup> Information submitted by a LGBTI+ grassroots organisation in Sudan. The name is withheld for safety reasons.

<sup>15</sup> Inputs from Otros Cruces

<sup>16</sup> Inputs from Western Kenya LBQT Feminist Forum

<sup>17</sup> See <https://melomediazambia.com/2022/09/20/statement-by-the-minister-of-information-and-media-and-chief-government-spokesperson-hon-chushi-kasanda-mp-on-lesbian-gay-bisexual-and-transgender-lgbt-in-zambia/>

Information provided by Women’s Alliance for Equality Limited (WAFE)

<sup>18</sup> Damjan Denkovski, Nina Bernarding, and Kristina Lunz “Power Over Rights: Understanding and countering the transnational anti-gender movement Volume I” Centre for Feminist Foreign Policy (2021)

<sup>19</sup> Inputs from Pink Armenia

<sup>20</sup> Inputs from Pink Armenia.

<sup>21</sup> Information submitted by a LGBTI+ grassroots organisation in Sudan. The name is withheld for safety reasons.

<sup>22</sup> This Decree added to the Criminal Code the crime of discrimination based on SOGI explicitly. Before, the crime of discrimination had some assumptions (race, sex, language, among others) and a general category which was “and any other nature”. The issue with this category was that it left to the discretion of justice actors whether or not the LGBTI+ community could be included in this category. In a country like Peru, where there is still a lot of homophobia, this did not provide the minimum guarantees of protection for the LGBTI+ population. With the legal change, any possible controversy was eliminated. Information provided by PROMSEX

<sup>23</sup> Note of diario Perú (2017): <https://peru21.pe/lima/mis-hijos-metas-marcha-d-l-1323-califican-ley-mordaza-fotos-80986-noticia/> Information provided by PROMSEX.

<sup>24</sup> In this article, a congressman develops the idea of the “gag rule” and communicates the renewed efforts to achieve its repeal: <https://xn--alejandromuante-8qb.com/la-historia-de-la-ley-mordaza-o-decreto-legislativo-1323/>

Information provided by PROMSEX.

<sup>25</sup> Damjan Denkovski, Nina Bernarding, and Kristina Lunz “Power Over Rights: Understanding and countering the transnational anti-gender movement Volume I” Centre for Feminist Foreign Policy (2021)

<sup>26</sup> Upheld by the ECtHR in Oliari and Others v. Italy [2015]

<sup>27</sup> Inputs from EQUAL GROUND Sri Lanka. Source: <https://www.pressreader.com/sri-lanka/daily-mirror-sri-lanka/20121005/281732676707190>

<sup>28</sup> Inputs from Equal Ground Sri Lanka

<sup>29</sup> Inputs from Western Kenya LBQT Feminist Forum

<sup>30</sup> Endsjo, “The other way around? How freedom of religion may protect LGBT rights” The International Journal of Human Rights, 2020. <https://doi.org/10.1080/13642987.2020.1763961>

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

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<sup>33</sup> Human Rights Watch, “#Outlawed: The love that dare not speak its name” (2022). Available at:

[http://internap.hrw.org/features/features/lgbt\\_laws/](http://internap.hrw.org/features/features/lgbt_laws/)

<sup>34</sup> ILGA World: Kellyn Botha, Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions (Geneva: ILGA, December 2021). [https://ilga.org/downloads/Our\\_Identities\\_Under\\_Arrest\\_2021.pdf](https://ilga.org/downloads/Our_Identities_Under_Arrest_2021.pdf)

<sup>35</sup> ILGA World: Lucas Ramon Mendos, State-Sponsored Homophobia 2019: Global Legislation Overview Update (Geneva; ILGA, December 2019). [https://ilga.org/downloads/ILGA\\_World\\_State\\_Sponsored\\_Homophobia\\_report\\_global\\_legislation\\_overview\\_update\\_December\\_2019.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2019.pdf)

<sup>36</sup> ILGA World: Kellyn Botha, Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions (Geneva: ILGA, December 2021). [https://ilga.org/downloads/Our\\_Identities\\_Under\\_Arrest\\_2021.pdf](https://ilga.org/downloads/Our_Identities_Under_Arrest_2021.pdf)

<sup>37</sup> Inputs from Western Kenyan LBQT Feminist Forum.

<sup>38</sup> For the past decade Sudan had a legal framework where sodomy was a crime worth death penalty. Article 148 of the penal code 1991 forbids sodomy. Sodomy is defined in the text as “anal penetration” between two men or a man and a woman. The sentence for such an act is a hundred lashes or/and five years in prison for the first time. If the person is caught for a second time, they might face both penalties and for a third time they might face lifetime imprisonment or a death sentence. See BEDAYAA (2020) [Needs Assessment Report 2020. LGBTQI+ in Sudan.](#)

<sup>39</sup> [Shadow report for the third Universal Periodic Review of the Republic of Sudan Human rights violations based on SOGIESC in Sudan by Sudan SOGI Coalition \(SSC\).](#) Information provided by LGBTI+ grassroots organisation in Sudan. The name is withheld for safety reasons.

<sup>40</sup> The penal code in article 151 speaks about public ‘indecentcy’ which is translated to any act that could offend the public and disturb the order. This act as mentioned in the legal framework is anything that stands against society’s norms and religion. Indecency is not a standard measure; it rather depends on subjective standards of law enforcement. See BEDAYAA (2020) [Needs Assessment Report 2020. LGBTQI+ in Sudan.](#)

<sup>41</sup> HRW (2020) [Sudan’s Law Reforms a Positive First Step.](#)

<sup>42</sup> BEDAYAA (2020) [Needs Assessment Report 2020. LGBTQI+ in Sudan.](#)

<sup>43</sup> Information submitted by an LGBTI+ grassroots organisation in Sudan. The name is withheld for safety reasons.

<sup>44</sup> According to a needs assessment study conducted by an LGBTI+ sudanese organization in 2020, nearly half (49.2 %) of the surveyed LGBTI+ individuals reported not having good mental health. 28.1 % of LGBTI+ individuals reported facing discrimination in seeking healthcare services. The form of discrimination reported was verbal abuse, bullying, physical assaults, sexual abuse, and sexual harassment. 35.5 % faced either rejection or delay in health service provision. Information submitted by an LGBTI+ grassroots organisation in Sudan. The name is withheld for safety reasons.

<sup>45</sup> Conversion practices’ comprises of processes engaged in *towards* desired changes in gender and/or sexuality *based in conversion ideology*. Conversion practices may include (but are not limited to) counselling, group work, programs or interventions (perhaps therapeutic/corrective prayer, performing celibacy or endorsed sexual relationships, personal or group behavioural suppression, etc.). These practices can be formal or informal, and regionally variable. For more info see Jones. T., et al. (2021) Religious Conversion Practices and LGBTQA + Youth. Sexuality Research and Social Policy <https://doi.org/10.1007/s13178-021-00615-5>

<sup>46</sup> Jones et al “Religious Conversion Practices and LGBTQA+ Youth” (2021) Sexuality Research and Social Policy. Available at: <https://doi.org/10.1007/s13178-021-00615-5>

<sup>47</sup> ILGA World: Lucas Ramon Mendos, Curbing Deception: A world survey on legal regulation of so-called “conversion therapies” (Geneva: ILGA World, 2020) [https://ilga.org/downloads/ILGA\\_World\\_Curbing\\_Deception\\_world\\_survey\\_legal\\_restrictions\\_conversion\\_therapy.pdf](https://ilga.org/downloads/ILGA_World_Curbing_Deception_world_survey_legal_restrictions_conversion_therapy.pdf)

<sup>48</sup> Ibid.

<sup>49</sup> [The Ghana Catholic Bishops’ Conference \(Gcbc\) Issues a Declaration on Recent LGBTQI Activities in Ghana.](#) 2021. Information obtained through the [ILGA World Monitor.](#)

<sup>50</sup> Inputs from Pink Armenia

<sup>51</sup> Inputs from Western Kenya LBQT Feminist Forum.

<sup>52</sup> Information submitted by an LGBTI grassroots organisation in Sudan. The name is withheld for safety reasons.

<sup>53</sup> Information provided by Women’s Alliance for Equality Limited (WAFE)

<sup>54</sup> Report “Las terapias de la tortura”, published in La República (2019) <https://larepublica.pe/politica/2019/08/12/las-terapias-de-la-tortura/> Information provided by PROMSEX.

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<sup>55</sup> Más Igualdad Perú "Mental health problems, access to public and private mental health services and conversion practices in LGBTQ+ people" Lima, November, 2019. Available at: [https://www.masigualdad.pe/files/ugd/4aec54\\_828d1b98b2104571998801b398c0844f.pdf?index=true](https://www.masigualdad.pe/files/ugd/4aec54_828d1b98b2104571998801b398c0844f.pdf?index=true)

<sup>56</sup> Inputs from Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos-PROMSEX

<sup>57</sup> ILGA World: Lucas Ramon Mendos, Curbing Deception: A world survey on legal regulation of so-called "conversion therapies" (Geneva: ILGA World, 2020)

[https://ilga.org/downloads/ILGA\\_World\\_Curbing\\_Deception\\_world\\_survey\\_legal\\_restrictions\\_conversion\\_therapy.pdf](https://ilga.org/downloads/ILGA_World_Curbing_Deception_world_survey_legal_restrictions_conversion_therapy.pdf)

<sup>58</sup> Inter-American Court of Human Rights, Case of Pavez v. Chile, judgment of February 4 2022 [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_449\\_ing.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_449_ing.pdf) Information provided by Otros Cruces.

<sup>59</sup> Jones et al "Religious Conversion Practices and LGBTQA+ Youth" (2021) Sexuality Research and Social Policy. Available at: <https://doi.org/10.1007/s13178-021-00615-5>

<sup>60</sup> Tiffany Jones, Jennifer Power, Timothy Willem Jones, Maria Pallotta-Chiarolli & Nathan Despott (2022) Supporting LGBTQA+ peoples' recovery from sexual orientation and gender identity and expression change efforts, Australian Psychologist, 57:6, 359-372, DOI: 10.1080/00050067.2022.2093623

<sup>61</sup> Endsjo, "The other way around? How freedom of religion may protect LGBT rights" The International Journal of Human Rights, 2020. <https://doi.org/10.1080/13642987.2020.1763961>

<sup>62</sup> For example, North American religious and government forces strived to erode sexual and religious ideas among indigenous persons that ran counter to Western Judeo-Christian values of heterosexuality. In the 1890s, the Bureau of Indian Affairs in the United States imprisoned transfeminine indigenous persons, including spiritual leaders, and forced them to conform to male gender expression in prison. For more information see: Flores-Ortiz, Eric F., and Cherry L. Bennet. "Berdache, Two-Spirits, and LGBT in Indian Country: A Short Introduction to Gender-Variant History and Issues in North American Indigenous Societies." (2017).

<sup>63</sup> Information submitted by an LGBTI+ grassroots organisation in Sudan. The name is withheld for safety reasons.

<sup>64</sup> Pradeep Peiris, "Knowledge, attitudes and perceptions survey report" (2021) Social Scientists Association. Available at: <https://www.wfd.org/sites/default/files/2022-03/Final%20Report%20-%2012th%20Jan%202022.pdf> . Info provided by EQUAL GROUND

<sup>65</sup> Inputs from Otros Cruces

<sup>66</sup> Input from Pink Armenia

<sup>67</sup> Input from Pink Armenia

<sup>68</sup> Recommendation based on study made by Jones et al "Religious Conversion Practices and LGBTQA+ Youth" (2021) Sexuality Research and Social Policy. Available at: <https://doi.org/10.1007/s13178-021-00615-5>

<sup>69</sup> Recommendation based on study made by Jones et al "Religious Conversion Practices and LGBTQA+ Youth" (2021) Sexuality Research and Social Policy. Available at: <https://doi.org/10.1007/s13178-021-00615-5>