

# When “Family” is Weaponized Against LGBTQI People

AT THE UNITED NATIONS

## 1. Introductory Remarks

The issues of faith, family and traditional values have become highly politicized and utilized within the UN system for a number of years. A review of conservative groups, their discourse and strategies has been extensively reported in recent years including in the NORAD report “Lobbying for Faith and Family: A Study of Religious NGOs at the United Nations” (2013) and the Observatory on the Universality of Human Rights “Rights at Risk” (2017).

Human rights organizations, including LGBTIQ groups and faith-based actors, have been working steadily to counter such actions. These efforts, by faith-based civil society actors notably, are extensively – if non exhaustively - detailed in the Arcus report on “Faith Efforts at the UN to Advance Human Rights Relating to Sexual Orientation, Gender Identity or Intersex Status” (2015). GIN-SSOGIE’s work very much goes in line with these efforts, seeking to bring to the fore the realities lived by individuals and communities from different contexts around the world, particularly from the Global South, and their religious experiences and interpretations. We believe that responding to right-wing groups will require the continued provision of facts and theological research by the very targeted individuals themselves. Continuing to work with representatives within the UN system, and bringing to the fore individuals from different regional contexts, is one strategy we have adopted to respond to right-wing messages anchored in lies

about and manipulation of people’s lived realities, and seeking to dismantle the human-rights system from within.

From 19 to 21 February 2018 at Auckland Lodge,

Johannesburg, South Africa, we, the Global Interfaith Network (GIN-SSOGIE) gathered rights-defenders, scholars, researchers, and religious leaders from diverse family backgrounds and traditions, including African traditional religions, Islam and Christianity, for our first dialogue on Family and Traditional Values. The gathering sought to reclaim and affirm the diversity of families in Sub-Saharan Africa, which also include the families of lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) people, both those which they create and those into which they are born, and to promote and defend these families locally, regionally and internationally.

The following Fact Sheet seeks to summarize the key points brought forward during our 3-day discussions, and to present them to CSO and faith-based actors seeking to impact the UN system as well.

## 2. Background Information: Human Rights’ Protection within Regional and International Frameworks

The right-wing discourse is based on the premise that LGBTIQ people are undermining the UN system and that (heterosexual) families are in need of protection (see OURs report for detailed analysis of the right-wing discourse and key messages).

Yet, it is essential to recall that the UN system has (started) to recognize the rights of all individuals, including LGBTIQ people:



## *UDHR and ACPHR*

The universality and indivisibility of Human Rights is proclaimed in the Universal Declaration of Human Rights (UDHR) (1948) and the African Charter on Human and Peoples Rights (ACPHR) (1986).

## *The UN SOGI Expert*

The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity was mandated for a 3-year period through Human Rights Council resolution 32/2 in 2016. The mandate holder has been invited to assess the implementation of existing international human rights instruments with regard to ways to overcome violence and discrimination against persons on the basis of their sexual orientation or gender identity, and to identify and address the root causes of violence and discrimination. So far, three reports have been presented (two to the HRC and one to the General Assembly) and have been supported by UN member states.

Furthermore, in the African continent's context:

## *The Maputo Protocol*

The 2003 Maputo Protocol was Africa's first women's rights legal framework, holding the potential to benefit millions of women when governments not only ratify but also ensure its domestication in national laws, with accompanying resources for its implementation.

Its key provisions include:

- Elimination of discrimination against women;
- Explicit mentions of violence against women, including in conflict;
- Elimination of harmful traditional practices, including female genital mutilation;
- Economic, Social and Cultural Rights;
- Sexual and reproductive rights, including right to abortion under specific circumstances and contraceptive use.

## *The Angola Resolution 275 and Agenda 2063*

Building on the aspirations set out in the Maputo Protocol (2003) on Sexual and Reproductive Health, and on the African Charter, the Angola Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity was adopted in 2013 by the African Commission on Human and Peoples Rights. In addition, Agenda 2063 was adopted in 2015 by the African Union, and commits Africa to having

- “• An entrenched and flourishing culture of human rights, democracy, gender equality, inclusion and peace;
- Prosperity, security and safety for all citizens”.

## 3. What The Right-Wing Says and Does

### *Right-wing attacks on human rights' frameworks*

While claiming to wish for the protection of individuals and the maintenance of the human rights system, right-wing groups have continuously worked towards dismantling the human rights' framework, including in regional settings. Although these right wing groups claim to be supportive of national sovereignty and traditional values in countries in Africa, the fact that they are intervening in fact undermines this sovereignty and contributes a to a muddying of the waters around what exactly constitute traditional values in these contexts:

- With regard to the Maputo Protocol, for example:

From the Family Watch International, Family Policy Brief on The Maputo Protocol:

“...the Maputo Protocol calls .... for governments to cease recognizing

differences between men and women in order to eliminate “discrimination.”

(...) “The motive behind this kind of language (if you look at the organizations most often behind these proposals at the international, national and state level) is not just to protect women from unjust discrimination, but it is to eliminate the traditional roles of husband and wife, mother and father, thereby destroying the family unit.”

### *Who are the Religious Right/right wing?*

Briefly, they are a network of religious organizations whose membership cuts across religious divides and are both ecumenical (from different churches) and interreligious (from different religions). Although primarily based in the US they have international networks that share a fundamental commitment to the preservation of the nuclear family against perceived threats foremost of which are equal rights for women and LGBTIQ people. These commitments drive their advocacy work at national and international levels (see OURs report for further details).

In the context of Sub-Saharan Africa, such right-wing individuals and groups have been at work in various regions and countries. An example is the work of Scott Lively, a US citizen and right wing evangelical. In 2009, he travelled to Uganda and began spreading homophobic and transphobic hatred throughout the country. His propaganda opened an avenue for the administration of President Yoweri Museveni to incite a witch hunt against LGBTIQ Ugandans. In 2014, the Anti-Homosexuality Act, largely promoted by Scott Lively was signed into law (and subsequently ruled invalid). Right wing groups are also at work in a number of other African countries, including Nigeria, South Africa (Oscar Bougaardt and Steven

Anderson, Angus Buchan, as well as Errol Naidoo of the Family Policy Institute), and Kenya.<sup>1</sup>

### *Where does “Family” fit into all of this? Politicization of the “natural family” and family rights within the UN system*

As introduced above, efforts to promote LGBTIQ rights at the UN and within regional mechanisms have not come without opposition. These have been fought strongly by some UN member states and right-wing groups, within different avenues and through different topics, most particularly “the family”. Indeed, the “protection of the family” found its institutional inspiration and grounding in the organizing around the tenth anniversary of the UN Year of the Family in 2004. Since then, it has become one of the loci for right-wing opposition groups to oppose rights related to gender and sexuality within a larger aim of protecting the so-called “natural family”. But far from being a celebration of the diverse forms of families around the world, this form of “pro-family” politics at the domestic and international level centers on a particular form of family—a father, a mother, and their children—with a clear hierarchy and power structure.

#### *i. The natural family and family rights*

The “natural family” is a term popularized by the World Congress of Families (WCF), which the organization defines as the “fundamental social unit of society,” centered on “the voluntary union of a man and a woman in a lifelong covenant of marriage.” According to WCF, one of the primary purposes of this union is to “welcom[e] and ensur[e] the full physical and emotional development of children.”

“Family Rights” in this context refers to policies and laws that seek to protect the ‘natural family’ against

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<sup>1</sup> Watch the documentary “God Loves Uganda” for a detailed account of American Evangelicals’ work throughout Africa: <http://www.godlovesuganda.com>

perceived threats. Two of these threats are feminists advocating equal rights for women and LGBTIQ people. In their social analysis of the oppression of women, feminists distinguish between sex and gender. Sex is biological i.e. one is born either male or female. Gender is the social construction of sex that is the way society/culture socializes and prescribes different roles and status according to one's sex. In other words one is born either male or female and through gender socialization one becomes a woman or man. Because gender is a social construction that changes over time and differs from culture to culture, feminists argue that the roles and status of women and men can be changed to be empowering for all.

Right wing religious groups and their allies oppose this argument on the basis that the roles of women and men are biologically determined and divinely sanctioned and therefore cannot be changed. In other words biological sex is the determining factor that prescribes one's role and status in life, being woman is fundamentally different from being man and the roles are the same irrespective of historical period, culture and context. Men impregnate and women bear children.

Within this framework there is no room for diversity among women and men, let alone for intersex people – all are the same with the same function and roles in family and society. Therefore anyone who does not fit into these prescribed roles is deemed 'unnatural.' The term 'unnatural' is used by some religious traditions for LGBTIQ persons and becomes the basis for denying them the right to fully express their humanity including their sexuality in nurturing relationships that may or may not include families.

The denial of equal rights to LGBTIQ is seen by the religious right as a means of defending the 'natural family.' However, the idealization of the 'natural family' comes at the cost of denying violations of human rights, violence and abuse that occur within and outside these families. The high rates of domestic violence globally makes the 'natural

family' a dangerous place for many women and children. Therefore any discourse on 'family rights' needs to include the rights of members of families to live lives free from abuse and violence. Similarly 'family rights' as part of the larger human rights agenda must extend to all and be inclusive of multiple forms of families that characterize contemporary society.

## *ii. "The Protection of Families" within the UN system*

This opposition has now been formalized notably within a Resolution on Protection of the Family, at the Human Rights Council, since 2014. Similar attempts to retain current power dynamics and institutions which uphold traditional centers of power (patriarchal family structures) have been found in other terms promoted by the religious right including "parental rights," "protection of children," "rights to culture and traditional values" and "rights to national sovereignty".

International human rights instruments recognize the "family" as the fundamental unit of society and include a variety of rights and obligations pertaining to the family (e.g. obligations not to interfere with the family life; obligations to ensure equality rights within the family and obligations to protect and assist the family). These obligations must be respected in all laws, policies and interventions pertaining to the family.

Examples include Article 16 of the Universal Declaration of Human Rights (1948), which defines "family" as "the natural and fundamental group unit of society ... entitled to protection by society and the State." Other international covenants to define "family" include the International Covenant on Economic, Social and Cultural Rights (ICESCR, art. 10); the International Covenant on Civil and Political Rights (ICCPR, art. 23(1)); the Convention on the Rights of the Child (CRC, preamble); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW, art. 44(1)); and the Convention on the Rights of Persons with

Disabilities (CRPD, preamble). The recognition of the family as the foundation of society requiring protection and assistance is also included in regional human rights instruments such as the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador, art. 15), and the African Charter on Human and Peoples' Rights (art. 18).

The overriding object and purpose of human rights treaties require that their provisions be interpreted in a manner that makes their safeguards “practical and effective” and that takes into account “present-day conditions.” When interpreting human rights treaties, courts and supervisory bodies should not give any significant role to the intention of the drafters, as reflected in the *travaux préparatoires*. They should replace the search for the historic intention of the drafters with an analysis of subsequent developments in domestic and international law.

This means that the ideas, beliefs and circumstances regarding the concept of “family” prevailing at the time when human rights treaties were drafted are no longer valid. According to the accepted rules for treaty interpretation (effectiveness and evolutive rules), interpreting the concept of “family” – as well as the duties to respect and protect the family included in human rights treaties – requires that the authorities look at the legal and social developments that have occurred regarding the family over time.

Over the years, perceptions as to what forms of treatment are acceptable from an equality and non-discrimination point of view have evolved, providing a broader protection to the people in diverse situations. In areas relevant to the concept of family, that evolution is found, for example, in the protection of children born out of wedlock, same-sex partners and LGBTQI-parent families and

single-parent families. In many countries, these different forms of families are now provided with legal recognition and protection. Human rights monitoring bodies are increasingly considering this evolution when interpreting human rights instruments.

Based on internationally agreed documents, it seems there is consensus today on the existence of various forms of family, depending on different cultural, political and social systems, as well as the changes undergone by the family as a social institution. This consensus is reflected in the work of human rights monitoring bodies. The United Nations monitoring bodies have been emphatic in recognizing the existence of various forms of families. From their work, it is evident that these families can arise from a formal and lawful marriage, but also from other circumstances.

For example, the UN Human Rights Committee has noted that,

“The concept of the family may differ in some respects from State to State, and even from region to region within a State, and [...] it is therefore not possible to give the concept a standard definition. [...] In view of the existence of various forms of family, such as unmarried couples and their children or single parents and their children, States parties should also indicate whether and to what extent such types of family and their members are recognized and protected by domestic law and practice.”<sup>2</sup>

This reality provides a window of opportunity for human rights defenders, including LGBTIQ and faith-based advocates, such as GIN-SSOGIE, who can continue to work with representatives within the UN system to push for a broader definition of

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<sup>2</sup> Human Rights Committee, General Comment 19, Article 23 (Thirty-ninth session, 1990)

the family and thereby, a greater recognition of people's real living conditions around the world.

#### 4. GIN-SSOGIE's Response: Anchoring "Family" within Lived Realities and Inclusive Faith-based Messaging

As described above, despite some progress, formal acknowledgments of the diversity of families by human rights monitoring bodies are still heavily influenced by the traditional family ideal, without giving sufficient attention to "LGBTQI families" and other diverse types of families, and leaving them without the equal enjoyment of family rights enshrined in international human rights treaties.

Therefore, re-affirming the universality and indivisibility of Human Rights, as proclaimed in the Universal Declaration of Human Rights (UDHR), and the African Charter on Human and Peoples Rights (ACPHR), and building on the aspirations of international human rights' frameworks including as set out in the Maputo Protocol (2003) on Sexual and Reproductive Health, the Angola Resolution 275 on Protection against Violence and Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity (2014) of the African Commission on Human and Peoples Rights, and Agenda 2063 of the African Union (AU), the Global Interfaith Network has developed a joint declaration, [the Johannesburg Declaration](#), aiming at acknowledging the rich diversity of family experiences in Sub-Saharan Africa, throughout history and to this day.

Recognizing that a whole range of families, including LGBTIQ families, have been excluded from the definition of 'natural family' by the extreme religious right and that the life-threatening impact of this discrimination and exclusion on our human communities and especially the most vulnerable people including children, single mothers, widows and LGBTIQ people is deep and complex, we call to reclaim and affirm the diversity of natural families in Africa, which also include the families of lesbian, gay, bisexual, transgender, intersex and queer

## SOME KEY MESSAGES

- Human rights, dignity, inclusion and non-harm are core family values.
- Relationship is the core value that defines family.
- A family exists where people are engaged in loving, supporting, non violent, human dignity affirming relationships that contribute to their well being and that of the community and wider national and global well being.
- Family is more than biological.
- Family is created by birth, marriage, adoption, invitation, love.
- Family is extended, communal, interdependent.
- Family is constituted by mutual love, care and accountability.
- Family is especially important for the most vulnerable members.

(LGBTIQ) people, both those that they create and those into which they are born, and to promote and defend these families locally, regionally and internationally.

Our message, values and ideals reach beyond the UN, and aim to broaden the definition of “families” for all nations and people across the globe, as we are seeing alliances formed between right-wing groups (essentially originating from the Global North/USA/Europe), member states (mainly from the Global South) and civil society groups and faith leaders in the Global South.

Recognising the value that many groups worldwide, and especially peoples and States in the Global South, attach to religious and cultural traditions, the Johannesburg Declaration asserts, from within these traditions, the following:

### *Reclaiming our faith and traditions*

- a. Prior to missionary evangelization and colonialization – Africa in its diversity had and continues to have thriving culture and religion, with Person, Community and Family inextricably linked as an integral part of life.
  - b. The definition of the “natural family” as being limited to the nuclear family, which is promoted by the Religious Right and the proponents of cultural and traditional values, does not therefore reflect the diversity of family life in contemporary Africa. The family has always been more than biology, both historically and in our sacred texts such as the Bible and Koran.
  - c. Family has always evolved and today manifests itself in many forms such as the nuclear family, single parent (mother/father/caregiver) family, cross-generational (grandparents-grandchildren) family, LGBTIQ-headed family (including same-sex parents), childless family, and child-headed family. All these models of family can and must find their place in the African family and policy-making processes.
- And these diverse forms of extended family into which members are born, married, formally or informally adopted, or invited, are all true, natural African families.
- d. Extended families are communal, characterized by interdependence, and are constituted by mutual love, care and accountability, especially for their most vulnerable members.
  - e. And above all, the African family is grounded in the concept of ubuntu – “I am because we are”; “I relate therefore I am” – which does not imply the domination of the one by the many but entails the achievement of balance between the one and the many. Therefore, we affirm Article 18 of the African Charter on Human and Peoples Rights, and note that it indeed takes a village to raise a child and therefore the communal nature of family, within the diversity of family systems and parental models, promotes the child’s own understanding of being in community.
  - f. We believe in contextual and liberation orientated readings of religious texts, which include historical and current context in the interpretation of sacred texts, and prioritize the voices of marginalized and oppressed people as starting points.
  - g. Further, we believe that our sacred texts affirm the goodness and intrinsic value of all of creation. All human beings without exception are created in the image and likeness of God. Therefore any violation of their rights or acts of exclusion or discrimination or harm in anyway contradicts this fundamental belief of our faith.
  - h. The diversity inherent in all of creation is also expressed in humanity as evident in our unique DNA, gifts and fingerprints. Diversity also extends to sexuality and this is found in our sacred texts. In the Bible there is, for example, mention of eunuchs; while in the Hadith, the Prophet refused to kill a mukhannath (female-presenting man)

because, he argued, “I have been prohibited from killing people who pray”.

- i. Also, we believe “do no harm” to be a core life-affirming principle, and any religion that does not promote love, understanding and compassion violates its own fundamental ethos of contributing to the flourishing and welfare of humanity and therefore is of no use.
- j. Finally, we understand freedom of religion to be the freedom to have and practice a religion, as well as the freedom not to have or practice a religion. And using the doctrines of any one religion as the basis of law and policy is a clear violation of the right of people not to practice a particular religion. Further, religious freedom/freedom of consciousness is a fundamental human right that applies to all people, including LGBTIQ people, and we claim the right to practice our faith in a way that affirms life, both for us and for others.

We believe that some of the key tools in our possession to fight right-wing groups are knowledge and expertise, which includes facts (statistics), expertise about religious texts and cultural traditions, as well as the voices of LGBTIQ people of faith from the Global South. Working with academics, theologians and religious leaders, including LGBTIQ people, is enabling us to bring forward the reality of families from around the world, as well as different interpretations of

religious texts including when it comes to family models. We believe that this knowledge, shared with our partners and allies, will be extremely empowering to us all.

### *Further information:*

The Johannesburg Declaration – GIN-SSOGIE, available at <http://www.gin-ssogie.org/johannesburg-declaration/>

*Colonizing African Values - How the U.S. Christian Right is Transforming Sexual Politics in Africa:* Kapya Kaoma, previously of Political Research Associates

*Globalizing the Culture Wars:* Kapya Kaoma

*The Vatican Anti-Gender Theory and Sexual Politics: An African Response:* Kapya Kaoma

The film, *God Loves Uganda*, by Roger Ross Williams

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