



Open Letter to the Muslim Judicial Council of South Africa on the issuing of the "short fatwa" on homosexuality on 5 July 2022

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Submission provided by the Sexuality and Gender Division



PsySSA is the professional body representing psychology professionals in South Africa. PsySSA has, since its inception, been dedicated to making a significant contribution to solving the pressing human development problems in South Africa. PsySSA is committed to the transformation and development of South African Psychology to serve the needs and interests of all South Africa's people. PsySSA advances psychology as a science, profession and as a means of promoting human well-being (<https://www.psytssa.com>).

Open Letter to the Muslim Judicial Council of South Africa on the issuing of the “short fatwa” on homosexuality on 5 July 2022

We write to you as the Sexuality and Gender Division of the Psychological Society of South Africa, a body which represents the profession of psychology and whose remit is the promotion of all aspects of mental health.

We are dismayed at the issuing of the recent “short fatwa” on homosexuality and note your comment that it could not cover everything in what should ideally be a “multi-faceted discussion”. We wish to contribute to, and deepen, that discussion.

South Africa is home to one of the most important constitutions in the world, forged as it was in the context of a country emerging from a violent and destructive past. Our Constitution guarantees all South Africans not just equality and justice, but dignity. The Constitutional Court has held that the “right to life and dignity are the most important of all human rights” and that “we are required to value these two rights above others”.

O’Regan J held in *S v Makwanyane* that dignity is “an acknowledgement of the intrinsic worth of human beings” and, therefore, that all “human beings are entitled to be treated as worthy of respect and concern”. This means that human beings have a right to develop their own humanness to its full potential and to realise their dreams, giving effect to their own sense of self-worth. To experience self-worth, one should not only feel secure in one’s own identity as an individual, but must also experience a sense of belonging to a particular community.

What the “short fatwa” does, in our view, is to impugn the dignity of queer South African Muslims because it requires them, in effect, to “choose” between two aspects of their identity, their faith and their sexual orientation. Ironically, while faith is always a choice, sexual orientation never is, it simply is who the person is.

A further irony which does not escape us, is that as a group of people of colour who were treated abominably by the apartheid state, a group whose dignity was profoundly disrespected, you lessen the dignity of members of your own community. This is, in our view, a form of symbolic violence, because it keeps queer Muslims in a double bind.

A double bind is a “psychological predicament in which a person receives from a single source conflicting messages that allow no appropriate response to be made”. In other words, for queer Muslims to reject their faith is to sever ties with their family and community, and their supreme

being, and yet to reject their sexual orientation is to sever ties with their own selves, their inherent nature.

Neither option is really possible and each one is associated with tremendous pain, loss and trauma. To ask someone to make this choice is cruel, and deeply unempathic. We acknowledge that you call on the Muslim community not to reject gay and lesbian members of the community, but we respectfully suggest to you that the double bind in which you place your queer members is intolerable and unachievable.

We further acknowledge that you encourage queer Muslims to, in effect, be celibate: if they do not act on their same sex desires then they remain members of the Muslim faith. But, we ask, is this possible? Is it respectful? Is it dignified to ask this of someone?

We turn to the words of the then Deputy Chief Justice, Dikgang Moseneke, when he opened the 13th Out in Africa Gay and Lesbian Film Festival in 2007. In his speech he reflected on his deliberations with members of the faith community about our new Constitution and legal decisions on queer rights which had flowed out of it.

And one of them said to him: "But I have seen you a few times in a church service... how do you live side by side with jurisprudence that you have been supporting and been a part of?"

"And I [the Deputy Chief Justice] said it's simple – it's clearly simple – we have committed to turn our back on all those things that seek to impede the fullness of each one of us and we should steadfastly continue to do so."

We invite you to turn your backs, not on queer members of your community, but on harmful acts and statements which do not promote belonging and inclusion but which, rather, are hurtful and exclusionary. The building blocks of our fragile democracy are in the every day words and actions of all South Africans – we urge you to be part of the building, not the breaking down, by valuing the dreams and dignity of our queer community, your *queer* community, in all its fullness.

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