

Mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Call for Inputs

Deadline 21 December 2019

Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity with focus on practices of so-called “conversion therapy”

21 November 2019

In accordance with my mandate as Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 32/2 and 41/18, I intend to present a thematic report at the 44th session of the Human Rights Council, which will focus on practices of so-called “conversion therapy” on lesbian, gay, bisexual, trans and gender diverse people around the world.

The report will explore the human rights implications of these practices and interrogate their relationship with violence and discrimination based on sexual orientation and gender identity. It will discuss the forms and scope of “conversion therapy” (hereinafter, “C.T.”) as it is practiced across the globe, its impact on the persons that are subjected to it, measures adopted to prevent its practice and to penalize or prosecute those who perform it, and remedies provided to injured parties. Finally, the report will formulate recommendations.

This call for inputs will serve as one of the channels through which the Independent Expert will collect information to inform the preparation of his report to the Human Rights Council. The information-gathering process will also include a literature review and expert meeting, a consultation, and possibly a survey.

Background

“C.T.” refers to any purported treatment having the objective or presenting itself with the objective to change a person’s sexual orientation or gender identity. “C.T.” might also be referred to as gay cure, reparative therapy, ex-gay therapy or sexual orientation change efforts. Nowadays, these denominations appear to encompass a wide range of practices, from religious and spiritual interventions to smartphone app-sponsored programs offering a 60-day “gay cure”. Some licensed medical professionals, including psychologists, administer cognitive-behavioural therapies, drugs and, physical

interventions such as electric shock treatment or aversion techniques. Recipients of these treatments include lesbian, gay, bisexual, trans and gender diverse people, ranging from children to adults.

These practices appear to be based on the assumption that seeking to change a person's sexual orientation and/or gender identity deviating from what is seen as the norm in a particular time and a particular place is an acceptable societal, community, family and personal objective.

Forms of "C.T." have been condemned by world health associations¹, United Nations entities² and human rights mechanisms such as the Committee against Torture, which have expressed that the practice can amount to torture, cruel, inhumane or degrading treatment.³ It appears to produce long-lasting negative effects on individuals subjected to the practice, as it can lead to physical and deep psychological harm, such as depression, anxiety, drug use, homelessness, and suicide.⁴ It also appears that children under legal age are especially vulnerable to it.

There is currently a trend, in certain parts of the world, to ban "C.T." This has been witnessed in a handful of countries around the world. When addressed, it appears to apply only to registered health professionals (for example, in Argentina, Brazil, Fiji, Samoa and Uruguay).⁵ In a few countries, such as in Malta and Ecuador,⁶ it is considered a criminal practice.

Even though "C.T." seems to be widespread, information on the subject is insufficient. There is little systematized knowledge on:

- The different practices related to conversion therapies, the range of techniques applied and their prevalence across the globe;
- The social norms, beliefs and systems that underlie the practice;
- The consequences of these practices on victims; and
- Good and best practices in legislations, jurisprudence and public policy in relation to these practices.

¹ World Medical Association, *Statement adopted by the 64th General Assembly*, 2013; World Psychiatric Association, *WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviours*, 2016.

² United Nations Joint Statement, *United Nations entities call on States to act urgently to end violence and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) adults, adolescents and children*, 2015. The Pan American Health Organization also issued a statement identifying purported therapies aimed at changing sexual orientation as ethically unacceptable and lacking medical justification. See *"Cures" for an illness that does not exist*, 2012.

³ Committee against Torture, *CAT/C/ECU/CO/7 and CAT/C/CHN/CO/5; SPT: CAT/C/57/4*. See also *CCPR/C/KOR/CO/4; CCPR/C/ECU/CO/6; CRC/C/RUS/CO/4-5; CEDAW/C/ECU/CO/8-9; and CESCR General Comment No. 22 ("regulations requiring that LGBTI persons be treated as mental or psychiatric patients, or requiring that they be 'cured' by so-called 'treatment', are a clear violation of their right to sexual and reproductive health.") and CRC General Comment No. 20 ("the rights of all adolescents to freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy" and condemned "the imposition of so-called 'treatments' to try to change sexual orientation")*. Other Special Procedures mandate holders than the mandate of the Independent Expert on SOGI have also addressed the issue, including the Special Rapporteur on Torture (A/HRC/22/53, para. 76 and 88; A/HRC/31/57, para. 48 and 72(i)); the Special Rapporteur on the Right to Health (A/HRC/14/20/2010, para. 23 and A/HRC/35/21, para. 48-49).

⁴ ILGA, *Input to General Comment on the implementation of article 3 of the Convention against Torture*, 2017.

⁵ Respectively, Law 26657, Art 3C; CFP Res 01/1999; Mental Health Decree 2010; Mental Health Act, 2007; Law 19529 (Ley de Saude Mental).

⁶ *Malta's Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act*, 2016; Art. 151, Ecuador's Penal Code. For a critique on actual implementation see Guglielmo, Martina. *Fight Against "Reparative Sexual Therapy" in Ecuador*, Council on Hemispheric Affairs, 2017.

The consultation process aims at gathering information on the above mentioned areas through input from all relevant stakeholders, for the ultimate goals of raising awareness and supporting effective State measures through identifying best practices in legislations, jurisprudence and public policy, as well as shortcomings and discrepancies with human rights norms, in relation to “C.T.”

Call for input

To inform my report, I am seeking inputs with information, data and views from all relevant stakeholders (Member States, civil society organizations, including medical and religious associations, National Human Rights Institutions, United Nations agencies, regional institutions, corporate entities, etc.) and I kindly invite you to consider the following questions:

1. What different practices fall under the scope of so-called “conversion therapy” and what is the common denominators that allow their grouping under this denomination?
2. Are there definitions adopted and used by States on practices of so-called “conversion therapy”? If so, what are those definitions and what was the process through which they were created or adopted?
3. What are the current efforts by States to increase their knowledge of practices of so-called “conversion therapy”? Are there efforts to produce information and data on these practices?
4. What kinds of information and data are collected by States to understand the nature and extent of so-called “conversion therapies” (e.g. through inspections, inquiries, surveys)?
5. Has there been an identification of risks associated with practices of so-called “conversion therapy”?
6. Is there a State position on what safeguards are needed, and what safeguards are in place to protect the human rights of individuals in relation to practices of so-called “conversion therapy”? This question includes the following:
 - a. Safeguards to protect individuals from being subjected to “conversion therapies”.
 - b. Broader statutory rules or administrative policies to ensure accountability of health care and other providers.
7. Are there any State institutions, organizations or entities involved in the execution of practices of so-called conversion therapy? If so, what criteria have been followed to consider these as a form of valid State action?
8. Have any State institutions taken a position in relation to practices of so-called “conversion therapy”, in particular:
 - a. Entities or State branches in charge of public policy;
 - b. Parliamentary bodies;
 - c. The Judiciary;

- d. National Human Rights Institutions or other State institutions;
- e. Any other entities or organizations.

Responses to the questions above can be submitted in English, French or Spanish, and in Word format.

If you wish your submissions to be kept confidential, you are kindly requested to make an explicit request in your submission. Otherwise information will be published in the mandate's document repository, and may be referenced in the report.

I would be particularly grateful to receive the information requested at your earliest convenience, and preferably by 21 December 2019 at the latest. Responses may be addressed to the Independent Expert at the Office of the UN High Commissioner for Human Rights and can be submitted by email (ie-sogi@ohchr.org).

For any further question or clarification, please do not hesitate to contact me through the Office of the United Nations High Commissioner for Human Rights (Ms. Catherine de Preux De Baets, telephone: 022 917 93 27, email: cdepreuxdebaets@ohchr.org or Ms. Alice Ochsenbein, telephone: 022 917 32 98, aachsenbein@ohchr.org).



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