

CONSULTATION ON SO-CALLED CONVERSION THERAPIES

5 February 2020, 9 am to 11 am

Room XXV, Palais des Nations

CONCEPT NOTE

Purpose

The next report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity to the 44th session of the Human Rights Council will focus on practices of so-called “conversion therapy” (hereinafter C.T.) 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 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 consultation will serve as one of the channels through which the Independent Expert will collect views and inputs to inform the preparation of his thematic report to the 44th session of the Human Rights Council.

Background

C.T. refers to any purported treatment having the objective or presenting itself as having 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-behavioral 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 it is an acceptable societal, community, family and personal objective to seek 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.

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 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 done in a handful of countries around the world, but where it has been effected, 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;
- it’s 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 Guglielmono, 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.

Objective and output

The purpose of the consultation is to seek views and inputs from all relevant stakeholders around the issue of conversion therapies and the impact on discrimination and violence based on sexual orientation and gender identity; discuss the impact of C.T. 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. Information shared will inform the report of the Independent Expert to the 44th session of the Human Rights Council.

Participants and methodology

The consultation is open to States, UN agencies, programmes and funds, regional human rights mechanisms, National Human Rights Institutions, members of civil society organizations, academic institutions, corporate entities, and all other interested stakeholders. The consultation will be held in English, no interpretation will be made available.

The consultation will start with a general segment during which the Independent Expert will introduce his work and his initial thoughts about the issue. Thereafter, participants will be invited to present their views and provide inputs to the discussion. A list of speakers will be circulated in the room and the Independent Expert will hear three interventions from each cluster of participants, i.e. States, civil society organizations, and other stakeholders, successively.

Guiding questions for the consultation

The following questions may guide the contributions of the participants at the consultation:

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.

Practical details and contact information

The consultation will take in **Palais des Nations, Room XXV, on 5 February 2020 from 9 am to 11 am.**

If you do not have a badge to enter the Palais des Nations, should you have any questions about this event, or should you wish to submit information related to the topics under consideration, please contact the Independent Expert through the Office of the High Commissioner for Human Rights (ie-sogi@ohchr.org, +41 22 917 9327 or +41 22 917 3298).



PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

Questions and comments can be sent in advance of the consultation to the Independent Expert at: ie-sogi@ohchr.org

The following hashtag will be used during the consultation: #IESOGI
