350 Fifth Avenue, 34th Floor

New York, NY 10118-3299

Tel: +1-212-290-4700

Fax: +1-212-736-1300; 917-591-3452



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December 21, 2019

**Re: 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”**

Thank you for the opportunity to submit Human Rights Watch’s (HRW) comments in response to your call for inputs in preparation of a thematic report to the Human Rights Council on practices of so-called “conversion therapy” on lesbian, gay, bisexual, trans and gender diverse people around the world.

As you may be aware, HRW has issued several publications addressing the problems of conversation therapy, including our 2017 report[*“Have You Considered Your Parents’ Happiness?”: Conversion Therapy Against LGBT People in China*](https://www.hrw.org/report/2017/11/15/have-you-considered-your-parents-happiness/conversion-therapy-against-lgbt-people)*.*  HRW supports the goal of ending the dangerous and discredited practice of conversion therapy but emphasizes that it is key to do so using a rights-respecting approach. Rather than simply banning all purported therapies and punishing those who peddle them, states should use a variety of tools to help ensure efforts to change sexual orientation and gender identity are widely recognized and rejected as a harmful fraud. To this end HRW sets out a number of positions that we believe should be used to develop laws and policies to help end conversion therapy.

**Positions Concerning Conversion Therapy**

The term “conversion therapy” has been used in a variety of contexts, including medical, psychiatric, and spiritual settings, to refer to practices intended to alter one’s sexual orientation or gender identity. Human Rights Watch takes the following positions concerning the practices of conversion therapy:

1. Conversion therapy has been denounced by psychiatric professionals and associations around the world as unethical, unscientific, ineffective, and potentially harmful;
2. Human Rights Watch considers that to be rights-compliant, laws that ban conversion therapy must provide clear definitions capable of specifying exactly what forms of interventions are prohibited;
3. To the extent that conversion therapy bans restrict other human rights, such as freedom of expression, freedom of religion and belief, and children’s rights, those restrictions should comply with the criteria of necessity, proportionality and non-discrimination, so that they do not themselves give rise to rights violations;[[1]](#footnote-1)
4. Conversion therapy should be banned by law when such practices are directed towards children or individuals who are particularly susceptible to coercion or family pressure;[[2]](#footnote-2)
5. Conversion therapy should be banned by law when such practices amount to torture or other cruel, inhuman, or degrading treatment or punishment, as defined in regional and international law, and those who commit such practices should be subject to prosecution commensurate with the harm caused;
6. The advertisement or practice of conversion therapy should be banned by law in medical or therapeutic settings, whether it occurs in public medical facilities or in private medical settings with the acquiescence of state actors;
7. The advertisement or practice of conversion therapy should be banned by law in commercial settings as an effective form of treatment to alter someone’s sexual orientation or gender identity;
8. Conversion therapy should be investigated and punished when it violates existing laws, such as those prohibiting physical or mental harm, child abuse, or arbitrary detention;
9. Where conversion therapy is banned, punishments should be proportionate to the harm inflicted.

Human Rights Watch also encourages states to take proactive steps to curb the practice of conversion therapy. States might consider, for example, launching public education campaigns to illustrate the dangers of conversion therapy, developing professional training modules on sexual orientation and gender identity for therapists and counselors, suspending the licenses of professionals who persist in offering conversion therapy, creating mechanisms to report conversion therapy where it occurs, developing resources and support for survivors of conversion therapy, and addressing the stigma and discrimination that drive some to seek out conversion therapy. These and other interventions are important if states are to move beyond purely punitive interventions and develop a comprehensive response.

1. Human Rights Watch does not take the position that all conversion therapy bans violate these rights, as some have argued. As the parameters below illustrate, we believe conversion therapy should be banned in a number of contexts, for example as a discredited or harmful practice in therapeutic settings, and that such bans may be consistent with human rights commitments. [↑](#footnote-ref-1)
2. In keeping with children’s rights, Human Rights Watch recognizes that some children may be sufficiently mature to provide informed consent to treatments that others consider harmful. We therefore favor prohibitions that aim to limit coercion rather than those based solely on whether the person has reached 18. [↑](#footnote-ref-2)