



Report on the United States of America’s Compliance with the Convention Against Torture with Respect to the Continuing Practice of Conversion Therapy on Lesbian, Gay, Bisexual, and Transgender Minors

Submission to the Committee on the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

September 17, 2014

I. Reporting Organization

The National Center for Lesbian Rights (NCLR) has been advancing the civil and human rights of lesbian, gay, bisexual, and transgender (LGBT) people and their families across the United States of America through litigation, legislation, policy, and public education since it was founded in 1977. NCLR is a non-profit, public interest law firm that litigates precedent-setting cases at the trial and appellate court levels, advocates for equitable public policies affecting the LGBT community, provides free legal assistance to LGBT people and their legal advocates, and conducts community education on LGBT issues. NCLR serves more than 5,000 LGBT people and their families throughout the United States each year, including LGBT parents, seniors, immigrants, athletes, and youth. NCLR’s legal, policy, and legislative victories set important precedents that improve the lives of all LGBT people and their families across the country. We also seek to empower individuals and communities to assert their own legal rights and to increase public support for LGBT equality through community and public education.

II. Introduction and Issue Summary

Family acceptance and support are critical to both the long-term and short-term health and wellbeing of LGBT youth. However, when an LGBT young person’s parents or legal guardians do not accept the youth’s identity, every state but two in the U.S. permits families to engage mental health professionals—licensed and authorized to practice by the state—to attempt to change the young person’s sexual orientation or gender identity. In addition to being ineffective, such practices can cause depression, substance abuse, self-harm, and suicide in LGBT youth. In 2012, California became the first state to prohibit state-licensed professionals, such as therapists, from engaging in this dangerous and discredited practice. *See* Cal. Bus. & Prof. Code §§ 865-865.2. New Jersey followed in 2013. *See* N.J.S.A. 45-1-55

The nation’s leading medical and mental health organizations have found that attempts to change a person’s sexual orientation or gender identity lack any scientific basis and present significant risks of physical and mental harm to patients who undergo them. For example, the American Psychological Association (the “APA”) has warned that sexual orientation change efforts “can pose critical health risks” to lesbian, gay, bisexual, and transgender (“LGBT”) people, including “confusion, depression, guilt, helplessness, hopelessness, shame, social withdrawal, [and] suicidality,” among other negative consequences. In particular, the APA determined that “the potential risks of reparative therapy are great, including depression, anxiety, and self-destructive

behavior.” And the American Academy of Child and Adolescent Psychiatry found that “there is no evidence that sexual orientation can be altered through therapy,” and that “there is no medically valid basis for attempting to prevent homosexuality, which is not an illness.”

The conclusions of these professional organizations, are in accordance with similar statements from the American Academy of Pediatrics, American Association for Marriage and Family Therapy, American Counseling Association, American Medical Association, American Psychiatric Association, American Psychoanalytic Association, American School Counselor Association, American School Health Association, National Association of Social Workers, and the Pan American Health Organization (a regional office of the World Health Organization). These organizations have stated that sexual orientation change efforts (1) are unnecessary and offer no therapeutic benefit because they attempt to “cure” something that is not an illness and requires no treatment, (2) are contrary to the modern scientific understanding of sexual orientation, (3) are ineffective, and (4) carry a risk of serious harm to patients.

The risks of harm are especially great for minors. Gay, lesbian, and bisexual young adults who experienced high levels of family rejection in adolescence based on their sexual orientation—of which conversion therapy is one form—are 8.4 times more likely to report having attempted suicide and 5.9 times more likely to report high levels of depression than peers from families reporting no or low levels of rejection. See Caitlin Ryan *et al.*, *Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults*, 123 *Pediatrics* 346 (2009). Transgender youth are at even higher risk of depression and suicide attempts—45% of transgender people between the ages of 18 and 24 report at least one suicide attempt—and exposure to conversion therapy only heightens suicidality. See Jaime M. Grant *et al.*, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, National Gay and Lesbian Task Force and National Center for Transgender Equality, available at http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf. The use of conversion therapy on children and adolescents poses particular ethical problems because minors cannot effectively refuse or resist treatment wanted by their parents or other authorities.

NCLR has experience working with survivors of conversion therapy. Survivors report that the conversion therapy was ineffective and succeed only in causing them great pain and anxiety. For example, one man who underwent sexual orientation change efforts beginning when he was six years old because his parents were concerned that he was “too feminine” explains that he “was made to feel by doctors that there was something wrong with him” and “was made to feel shame and engage in a fruitless labor that left him sad and broken.” Another survivor reports that his experiences with conversion therapy as a teenager drove him “to the brink of suicide” and led to “depression, periods of homelessness, and drug abuse.” Other young people who have undergone conversion therapy have not survived.

III. Concluding Observations

The Committee has not made any prior recommendations related to the continuing practice of conversion therapy in the United States. Accordingly, the U.S. Government response did not address the issue.

IV. U.S. Government Report

The U.S. Government did not address the issue in its report submitted to the Committee in August 2013.

V. Legal Framework

Article 16 of the CAT instructs: “Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation or with the consent or acquiescence of a public official or other persons acting in an official capacity.”

VI. The CAT Committee General Comments & List of Issues

Neither the 2005 list of issues to be considered during the examination of the second periodic report of the U.S., nor the 2009 list of issues prior to the fifth period report of the U.S. address conversion therapy.

VII. Other UN Body Recommendations

NCLR is unaware of any views, concluding observations, and/or final recommendations or reports issued by the other treaty bodies, Special Rapporteurs, or other UN mechanisms that have examined the issue. However, NCLR has submitted a UPR report on the United States’ Compliance with Its Human Rights Obligations in the Area of The Family Relationships of Lesbian, Gay, Bisexual, and Transgender People, for the second cycle, twenty-second session of the UPR Human Rights Council, which addresses conversion therapy.

VIII. Recommended Questions

1. What measures, if any, has the U.S. taken to prevent and discipline attempts by state-licensed professionals to change the sexual orientation or gender identity of minors?
2. What efforts has the U.S. made to offer resources, support, or legal recourse to minors who have been subjected to conversion therapy and consequently experience homelessness, resort to prostitution, become addicted to alcohol or drugs, or suffer depression or other mental health issues, or to the families of minors who have died from suicide?
3. What steps, if any, has the U.S. taken to measure and study the continued incidence of the practice of conversion therapy on minors and adults?

IX. Suggested Recommendations

1. Every state should adopt legislation or regulations prohibiting state-licensed professionals from attempting to change a minor’s sexual orientation or gender identity.

2. Federal and state child welfare officials and agencies should take all necessary steps, including the adoption of legislation or regulations, to ensure that youth in state care are not subjected to attempts to change their sexual orientation or gender identity, including by therapists, staff, or foster parents, and to ensure that lesbian, gay, bisexual, and transgender youth are provided with competent, supportive care.

CONCLUSION

Although attempts to change a person's sexual orientation or identity were long ago discredited as ineffective and dangerous by mainstream mental health organizations, the practice of conversion therapy continues largely unabated by law in the U.S. This practice constitutes "cruel, inhuman or degrading treatment" within the meaning of article 16 of the CAT, causing severe mental harm that can cause life-long mental health issues and lead to suicidality. Currently, all fifty states permit its practice on adults, forty-eight states allow its practice on minors, by state-licensed professionals without criminal or civil penalty. The U.S. should take steps to end conversion therapy, especially with respect to LGBT youth.