



European Rainbow Sangha

18 Proposals to end so-called 'conversion therapy'

introduction

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A lot of acronyms are used in this document. These are the most common:

CT	Conversion Therapy
SOGI	Sexual Orientation and Gender Identity <i>For the purpose of this document we will refer to SOGI in a broader sense, meaning Sexual Orientation, Gender Identity and Gender Expression</i>
DERC-efforts	Diversity Eradication, Repression and Change Efforts <i>In this document we propose to use DERC-efforts as an umbrella term instead of CT</i>

Introduction

Many European nations are in the process of taking legislative and non-legislative actions to protect the public from so-called 'Conversion Therapy' (CT). This document is to assist European Buddhists in the dialogue with their governments. It suggests a universal definition & new umbrella term and gives an overview of possible actions to protect the public.

This document is an addition to our code-of-conduct: 'Conversion Therapy has no place in the modern medical and spiritual world.' (1 March 2018)

So-called CT (also known under different names such as gay cure therapy) is an umbrella term to describe a wide range of practices and methods which have in common that they pathologise certain sexual orientations or gender identities: they consider these inferior and approach them as an illness that needs a cure. In particular they aim (or claim to aim) at changing people from gay, lesbian or bisexual to heterosexual and from trans or gender diverse to cisgender.

This pathologising has no scientific justification as SOGI-diversity (Sexual Orientation and Gender Identity) is a natural phenomenon that does not constitute a disorder, disease or shortcoming of any sort. The term 'therapies' is also misleading, as these practices do not meet the scientific nor ethical standards of medical practice and can even include beatings, rape, electrocution, forced medication, isolation and confinement, forced nudity, verbal offence and humiliation and other acts of physical, psychological, and sexual abuse.

Scientific research concluded there is no reliable evidence that so-called 'conversion therapies' ever worked, while there is clear evidence that they can cause long-lasting psychological, physical and spiritual harm. They also lead to increased stigmatisation and social exclusion.

Worldwide, medical organisations such as the World Psychiatric Association, PAHO (the Pan American Health Organisation of the World Health Organisation) and several other leading professional medical organisations have spoken out clearly and unambiguously against these practices.

In 2018, the European Parliament condemned so-called CT with an overwhelming majority and urged all EU member states to take legislative initiatives to ban it.

In 2020, Victor Madrigal-Borloz, the Independent Expert on protection against violence and discrimination based on SOGI, submitted his report on so-called CT to the United Nations Human Rights Council. He concluded that these practices "are inherently degrading and discriminatory and rooted in the belief that LGBT persons are somehow inferior, and that they must at any cost modify their orientation or identity to remedy that supposed inferiority. Dismantling such biases and prejudices requires the concerted action of States, the medical community and civil society, including faith-based organisations, to ensure a worldwide ban on the practices."

I Background:

- During the **last decade**, several nations and regional governments have taken a wide variety of actions to stop so-called 'conversion therapy', which we will from now on mostly refer to as DERC-efforts [Diversity Eradication, Repression and Change Efforts] (see below)
- In **2018**, the **UK Government Equalities Office (GEO)** released the UK National LGBT survey findings, which gathered the views of over 100,000 LGBT people, and found that 5% of respondents had been offered so called 'conversion' or 'reparative' therapy (but did not take it up) and a further 2% had undergone it.
- In **2020**, the **UN Independent Expert on protection against violence and discrimination based on SOGI** addressed the UN Human Rights council and called for a world wide legal ban on DERC-efforts¹. The report by the UN Independent Expert² is the strongest international diplomatic incentive to date explicitly calling on all nations to take legislative actions to protect the public from DERC-efforts. Therefore, the question no longer is if, but when, legislative initiatives will be taken, and what such legislation will look like.

We believe initiatives to stop DERC-efforts should be based on the following principles:

- A. DERC-efforts are a violation of existing Human Rights, including the right to life and the right to dignity. Such Human Rights presume the right to live in accordance with and expression of one's unique individuality, including one's sexual orientation and gender identity
- B. The protection and empowerment of (potential) DERC-efforts victims should always be at the heart of any legislative initiative. Legislative action should never be implemented in such a way as to negatively impact individuals' access to mental or physical healthcare and social support, in particular with regards to issues that pertain to their gender identity or sexual orientation [see also point 6 of the UK Memorandum of Understanding on so-called CT (version 2, 2017)³]
- C. Initiatives to stop DERC-efforts should not be limited to the healthcare professions but also include religious organisations, schools, social services and policing. They should also include initiatives in order to increase public awareness, to increase acceptance of SOGI-diversity and to ensure that DERC-efforts are not endorsed or tolerated in any way

¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26051&LangID=E>

² <https://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/ReportOnConversiontherapy.aspx>

³ "This position is not intended to deny, discourage or exclude those with uncertain feelings around sexuality or gender identity from seeking qualified and appropriate help. This document supports therapists to provide appropriately informed and ethical practice when working with a client who wishes to explore, experiences conflict with or is in distress regarding, their sexual orientation or gender identity. Nor is it intended to stop psychological and medical professionals who work with trans and gender questioning clients from performing a clinical assessment of suitability prior to medical intervention. For people who are unhappy about their sexual orientation or their transgender status, there may be grounds for exploring therapeutic options to help them live more comfortably with it, reduce their distress and reach a greater degree of self-acceptance. Some people may benefit from the challenge of psychotherapy and counselling to help them manage dysphoria and to clarify their sense of themselves. Clients make healthy choices when they understand themselves better. Ethical practice in these cases requires the practitioner to have adequate knowledge and understanding of gender and sexual diversity and to be free from any agenda that favours one gender identity or sexual orientation as preferable over other gender and sexual diversities. For this reason, it is essential for clinicians to acknowledge the broad spectrum of sexual orientations and gender identities and gender expressions."

II Terminology: proposal to use DERC-efforts as an umbrella term

Attempts to change someone's sexual orientation or gender identity from undesired (LGBTQ+) to desired (heterosexual and cisgender) have so far been gathered under the umbrella term: Conversion Therapy (CT).

Historically this concept was used by those performing such practices (often in a religious context) and later adopted by those opposing them. As language is not neutral, we believe this adoption was rather ill-considered:

A. Problems with the concept '*conversion*':

1. The term conversion suggests that it is *possible* to change A into B in the first place, and therefore gives credibility to attempts to do so. In the context of SOGI there is no scientific evidence that this is possible
2. Conversion can also suggest a moral judgement as in conversion from a sinful situation of wrong behaviour to an accepted situation of good behaviour. To some groups performing DERC-efforts the use of the word conversion implies a condemnation of non-heterosexual and non-cisgender as aberrant and evil
3. In the context of protecting the public from CT, ambiguity of the term 'conversion' is sometimes used to suggest that a ban on CT would also imply a ban on healthcare for transgender persons (as it is suggested they 'convert' from cis- to transgender)

B. Problems with the concept '*therapy*':

1. The term therapy suggests a cure for an illness. The diversity of sexual orientation, gender identity and gender expression is a natural phenomenon that does not require a treatment
2. Therapy is often associated with talking therapy. CT however includes many other practices, some of which have been identified and condemned as physical torture and cruel, inhuman and degrading treatments⁴. The use of therapy as an umbrella term does not do justice to the immorality and inhumanity of such practices
3. Therapy is a medical term. Using it suggests these are evidence based practices endorsed by medical practitioners, psychologists, therapists and counsellors. This is evidently not the case

In 2009, the American Psychological Association replaced CT by **SOCE: Sexual Orientation Change Efforts**.

In 2020, ILGA⁵ (the International Lesbian, Gay, Bisexual, Trans and Intersex Association) advised always to refer to CT as '**so-called CT**'. Next to this, ILGA launched the new acronym **SOGIECE (Sexual Orientation, Gender Identity or gender Expression Change Efforts)** to refer to efforts to change a person's SOGI.

ILGA does not consider this a final concept, but rather an invitation to think of a better umbrella term.

Given that so-called CT includes practices that have been identified and condemned as torture, we find 'change efforts' a rather weak reference. Furthermore, some practices attempt to suppress rather than to change.

What all so-called CT have in common is the extreme hostility towards SOGI-diversity, even the blunt denial of its existence despite all evidence.

We think a good umbrella concept should include a reference to these facts, and therefore suggest the acronym **DERC-efforts: 'Diversity Eradication, Repression and Change Efforts'**

⁴ <https://irct.org/media-and-resources/latest-news/article/1027>

⁵ https://ilga.org/downloads/ILGA_World_Curbing_Deception_world_survey_legal_restrictions_conversion_therapy.pdf

III Importance of a clear umbrella term and definition

There is no single definition of so-called 'conversion therapy'. Any legislative initiative should be built around a clear definition. In particular we consider:

- The words 'conversion' and 'therapy' are ambiguous, not neutral and cause confusion
- The concept of conversion can be associated with moral judgement
- Some older definitions only refer to sexual orientation and do not include gender identity and gender expression
- De facto all attempts to convert are exclusively towards heterosexual and cisgender (while the term CT suggests a neutral position towards the direction of conversion)
- A definition should not only refer to attempts to *change* and *eradicate* SOGI-diversity, but also to attempt to *suppress* an individual's sexual orientation, gender identity and gender expression

(Replacing CT as an umbrella term by DERC-efforts covers these issues and avoids confusion)

- DERC-efforts can include acts of physical torture such as aversion therapies
- SOGI-diversity is a natural phenomenon and does not constitute a disorder, disease or shortcoming of any sort. DERC-efforts are therefore not legitimate healthcare practices
- DERC-efforts demonstrate a hostility towards the reality of SOGI-diversity and assume the viewpoint that a heterosexual orientation or cisgender identity is inherently preferable and superior to any other
- Everyone has the fundamental right to a unique individuality, including one's sexual orientation and gender identity. SOGI-diversity can never be used as a justification for discrimination. All people, regardless of their sexual orientation, gender identity or gender expression are equal under the law

Definition:

We propose a definition based on the Madrid (i) and Queensland (ii) legislation:

Diversity Eradication, Repression and Change Efforts or DERC-efforts, a.k.a. so-called 'conversion therapies':

- i) encompass all medical, psychiatric, psychological, religious, cultural or any other interventions that seek to erase, repress or change the sexual orientation and/or gender identity of a person, including aversive therapies or any other procedure that involves an attempt to convert, cancel or suppress sexual orientation, gender identity and/or gender expression.
- ii) do not include practices that— (a) assists a person who is undergoing a gender transition; or (b) assists a person who is considering undergoing a gender transition; or (c) assists a person to express their gender identity; or (d) provides acceptance, support and understanding of a person; or (e) facilitates a person's coping skills, social support and identity exploration and development.

IV Existing legal status and government responsibilities

It could be argued that DERC-efforts are already illegal due to various international Human Rights treaties and declarations, in particular:

- the Convention of the Rights of the Child (CRC, UN 1990),
- the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, UN 1987),
- and the International Convention on Civil and Political Rights (ICCPR, UN 1976)

However, this does not mean that that governments do not need to take any further initiatives to protect the public. On the contrary: the Human Rights commitments imply various governmental responsibilities:

To protect children:

Ignatius Yordan Nugraha, PhD Research Fellow specialised in International Human Rights and LGBT Rights (Human Rights Centre at the Faculty of Law and Criminology of the University of Ghent, Belgium):

“Given the fact that SOCE [Sexual Orientation Change Efforts] can cause physical or mental harm to children such as depression and suicidal thoughts, the application of these articles together sets out the obligation for States Parties to the CRC [Convention on the Rights of the Child] to not only undertake measures within the public sphere to ensure that SOCE are not promoted or performed, but also to follow the steps of California or Manitoba by interdicting SOCE for minors completely, including attempts by private institutions or family.

Article 19 of the CRC goes one step further by requiring States Parties to undertake ‘social and educational measures’ to protect the child from the abuse of SOCE, which means that it must also disseminate the information about its danger and futility to all relevant stakeholders.”⁶

*“The best interests of the child principle is a cornerstone principle of the CRC and functions as an interpretative legal principle and a rule of procedure. It also bestows a substantive right to children and **this implies that the best interest of LGB children to be protected from SOCE as a primary consideration shall be ‘appropriately integrated and consistently applied’ in all governmental measures.**(...) Based on such reading, it could be concluded that the CRC establishes a *lex specialis* that requires States to prohibit SOCE for minors as a whole.”*⁷

To protect adults:

Ignatius Yordan Nugraha:

*“There are grounds to establish that SOCE methods could amount to torture or CIDT [Cruel, Inhuman or Degrading Treatment]. This is especially the case for methods that incorporate physical pain, such as aversion therapy with electric shocks. In the case of psychological pain, however, the distinction between torture and CIDT is rather unclear, and thus each method needs to be assessed individually based on its nature, purpose and severity. **Nevertheless, States in general are obliged under Article 7 of the ICCPR [International Convention on Civil and Political Rights] to undertake positive measures to ban SOCE methods that induce physical and psychological suffering.**”*⁸

⁶Nugraha, Ignatius Yordan, *The compatibility of sexual orientation change efforts with international human rights law*, *Netherlands Quarterly of Human Rights* 2017, Vol. 35(3) 176–192, p 189

⁷ *Id.* p 192

⁸ *Id.* p 192

V Existing legislative initiatives worldwide

A large number of countries, states and regional governments have taken a wide variety of legislative initiatives to protect the public.

As mentioned above, the state's responsibility is not limited to determining that DERC-efforts are illegal. The state is also obliged to take positive measures to ban torture practices and protect the best interest of children. These positive measures include initiatives to increase public awareness, to increase acceptance of SOGI-diversity and to ensure that DERC-efforts are not endorsed or tolerated in any ways. Such initiatives must be appropriately integrated and consistently applied to all governmental policies.

With this in mind, we give some examples covering the various ways some countries have already taken legislative actions:

- In The Netherlands (and some states of the US and provinces in Canada) it is *illegal to offer health insurance coverage* for so-called CT (2012)
- In Ecuador, the 2014 Penal Code explicitly prohibits so-called CT and equates it to torture
- Madrid, Spain, made it illegal for so-called CT to be performed by anyone, including religious groups (2016)
- In Malta, the *Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act*, (2016) mentions explicitly in the law: "*no sexual orientation, gender identity or gender expression constitutes a disorder, disease or shortcoming of any sort*". The law makes it illegal for anyone to try to "*change, repress or eliminate a person's sexual orientation, gender identity and/or gender expression*"
- In the USA, the proposed (2017) *Therapeutic Fraud Prevention Act* would prohibit charging for so-called CT, and would bar advertisements that it is effective or harmless. There are also court cases challenging so-called CT as consumer fraud
- Victoria State, Australia, created the function of *Health Complaints Commissioner, with explicit powers to take action against groups performing so-called CT* (2017)
- Nova Scotia, Canada, *prohibits explicitly any adult in a position of trust or authority from promoting so-called CT to a young person* (2018)
- Taiwan did not declare specific legal initiatives or new regulations. Instead, the Ministry of Health and Welfare issued a letter (22 Feb 2018) to all local health authorities on the matter, which effectively banned so-called CT. In the letter, the Ministry states that sexual orientation conversion is *not regarded as a legitimate healthcare practice* and that any individual performing the so-called therapy is liable to prosecution under the *Criminal Code* or the *Protection of Children and Youths Welfare and Rights Act*, depending on the circumstances
- In 2018, Vancouver, Canada, also made it illegal for any business (including religious groups) to offer so-called CT regardless of age

VI 18 Proposals

To the governments that consider legislative and non-legislative options to protect the public from promoting, offering or conducting so-called 'conversion therapy', we propose ...

A. Terminology and definition:

1. to replace CT as an umbrella term by the acronym **DERC-efforts** [Diversity Eradication, Repression and Change Efforts]
2. to always refer to CT as “ **so-called 'conversion therapy'** “ (as CT is still widely known and used)
3. to use a clear definition which includes gender identity and gender expression: See supra (III, page 4)

B. Human Rights:

4. to highlight that governments already have an implicit duty to protect the public from DERC-efforts via existing international Human Rights treaties and case law, especially those aiming to protect children and ban torture. This duty is not limited to legislative initiatives (see supra: IV)
5. to recommend that legislative initiatives mention explicitly that Human Rights also presume the right for everyone to express and enjoy their unique individual identity, which includes sexual orientation, gender identity and gender expression. Such a statement would mean a strong support for and empowering of (potential) DERC-efforts victims who often live in hostile environments
6. to recommend that legislative initiatives must also declare explicitly that DERC-efforts committed *by any person on any person* are unethical and illegal (including in religious and spiritual circumstances)

C. Healthcare, insurance & advertising:

7. to declare that DERC-efforts are not legitimate healthcare practices
8. to make health insurance coverage, advertisements and promotion of DERC-efforts illegal
9. to acknowledge the government's responsibility to provide education and professional training in order for practitioners to be able to work competently with LGBTQ+ people of all ages and to provide them with a safe and respectful environment in which they can be who they are without fear

D. Integrated policies & SOGI Ombudsman:

10. to not limit Initiatives to protect the public from DERC-efforts to healthcare but also include policies to inform, educate and protect the public via Social Services, Schools and Education Programmes, Dialogue with Religions and Policing
11. to ensure Initiatives to protect the public from DERC-efforts include initiatives to increase public awareness, to increase acceptance of SOGI-diversity and to ensure that DERC-efforts are not endorsed or tolerated in any ways. Such initiatives must be appropriately integrated and consistently applied to all governmental policies
12. to advise the creation of a specific contact point for victims such as a **SOGI ombudsman** or a **Health Complaints Commissioner** (such as in Victoria State, Australia). This could significantly contribute to the protection of the public and empower people to take action

E. Protection of children, young people and vulnerable adults:

13. to explicitly prohibit any adult in a position of trust or authority from promoting DERC-efforts to a child, young person or vulnerable adult. This should explicitly include people with religious authority
14. to remind adults in a position of trust or authority they have an obligation to actively safeguard and always act in the best interest of the child
15. to not only protect children from exposure to DERC-efforts within the own nation but worldwide. It should be illegal for nationals or permanent residents to perform DERC-efforts overseas or take their child abroad to have DERC-efforts carried out

F. Ensuring access to healthcare and social support:

16. to ensure that legislative actions to respect and protect the dignity and unique individuality of SOGI-diverse people will never be implemented in such a way as to negatively impact their access to mental or physical healthcare and social support, in particular with regards to issues that pertain to their gender identity or sexual orientation
17. to ensure that legislative initiatives to protect the public from DERC-efforts will in no way impact the ability for transgender and gender non-conforming individuals to access and engage with gender identity health services, nor should such legislative initiatives in any way impact on these individuals engaging with medical transition, including, but not limited to, hormone therapy and gender confirmation surgeries
18. to ensure that people with uncertain feelings or distress around their sexual orientation or gender identity will be guaranteed access to appropriate healthcare and social support by professionals who are trained to have adequate knowledge and understanding of SOGI-diversity and are free from any agenda that favours one gender identity or sexual orientation as preferable over other gender and sexual diversities

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on behalf of the
European Rainbow Sangha
(the LGBTQ+ network of the
European Buddhist Union)

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