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December 19, 2019

VIA EMAIL: [IE-SOGI@OHCHR.ORG](mailto:IE-SOGI@OHCHR.ORG)

**Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

Office of the United Nations High Commissioner for Human Rights  
Palais des Nations  
CH-1211 Geneva 10, Switzerland

Dear Victor Madrigal-Borloz:

**Re: The Practice of “Conversion Therapy” in Canada**

We are writing in response to your letter dated November 21, 2019, requesting input from stakeholders regarding the practice of conversion therapy in Canada.

As you explained in your letter, “conversion therapy refers to any purported treatment having the objective or presenting itself with the objective to change a person’s sexual orientation or gender identity”.<sup>1</sup> The practice of conversion therapy is abhorrent and its consequences are devastating. It is premised upon the notion that sexual and gender minorities suffer from an illness that must be corrected. In a June 2019 report to the House of Commons on the health of LGBTQI2S communities in Canada, it was revealed that **“one-third of men who have undergone conversion therapy have attempted suicide”**<sup>2</sup>.

There is no federal legislation banning conversion therapy in Canada. Though we understand that the Government of Canada intends to implement legislation banning the practice of conversion therapy in 2020.<sup>3</sup> It remains to be seen when exactly this will happen in practice. For present purposes, the practice remains legal in several jurisdictions across Canada.

We eagerly await for this long overdue correction to be made to the *Criminal Code* and we intend to diligently monitor this legislative development to ensure that the legislation

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<sup>1</sup> United Nations Human Rights Office of the High Commissioner, “Call for inputs: Report on so-called ‘conversion therapy’ (deadline 21 December 2019)”, 21 November 2019, online: UN <[https://www.ohchr.org/Documents/Issues/SexualOrientation/Call\\_for\\_Inputs\\_EN.docx](https://www.ohchr.org/Documents/Issues/SexualOrientation/Call_for_Inputs_EN.docx)>.

<sup>2</sup> “The Health of LGBTQIA2 Communities in Canada”, *Report of the Standing Committee on Health*, June 2019, 42<sup>nd</sup> parl 1<sup>st</sup> sess., online: House of Commons <<https://www.ourcommons.ca/Content/Committee/421/HESA/Reports/RP10574595/hesarp28/hesarp28-e.pdf>>.

<sup>3</sup> See Justin Trudeau Prime Minister of Canada, “Minister of Justice and Attorney General of Canada Mandate Letter”, Government of Canada, 13 December 2019, online: Government of Canada <<https://pm.gc.ca/en/mandate-letters/minister-justice-and-attorney-general-canada-mandate-letter>>.



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will be accompanied by appropriate recommendations regarding implementation. It is critical that this legislation will meet its intended effect to protect vulnerable members of our community.

Historically, the Government of Canada has deferred the issue to the provinces and territories on the basis that the practice falls under the umbrella of healthcare, which is a matter of provincial and territorial jurisdiction. At present, several jurisdictions in Canada have banned the practice.<sup>4</sup> It is our understanding that conversion therapy is also “opposed by more than 49 professional associations”<sup>5</sup> around the world.

Although the Minister of Justice has described conversion therapy as a “cruel exercise that can lead to life-long trauma”<sup>6</sup>, he has explained that a multi-jurisdictional response is needed to eradicate the practice in Canada:

There is a movement across Canada to restrict or condemn practices that seek to change sexual orientation. Addressing the availability of conversion therapy is a complex issue. **We believe that a multi-faceted response is required. No one jurisdiction can end this dangerous practice alone.**

[...]

Canadians are proud of our country's diversity and inclusion. We believe that all Canadians should be safe to be themselves, and to express their sexual orientation and gender identity. We unequivocally denounce conversion therapy, and will be assessing what can be done at the federal level to ensure that LGBTQ and two-spirit people are not subjected to this misguided and destructive practice. **We strongly encourage you to take action to discourage and end conversion “therapy” within your jurisdiction.**<sup>7</sup>

The “patchwork of legislative responses”<sup>8</sup> that have been advocated by the Minister of Justice and employed by various levels of government in Canada have been criticized by the *Canadian Bar Association*:

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<sup>4</sup> Ontario, Nova Scotia, Manitoba, and Prince Edward Island, the cities of Vancouver and Edmonton, and the municipality of Strathcona County have all taken the initiative to ban conversion therapy.

<sup>5</sup> Florence Ashley, “Submission to the House of Commons Standing Committee on Health for the study of LGBTQ2 Health in Canada on the Matter of Conversion Therapy”, May 2019, online: <<https://www.ourcommons.ca/Content/Committee/421/HESA/Brief/BR10472186/br-external/AshleyFlorence-e.pdf>>.

<sup>6</sup> Letter to Alberta Justice Minister Doug Schweitzer from The Honourable David Lametti, 21 June 2019 online: SCRIBD <<https://www.scribd.com/document/416329772/Letter-to-Alberta-Justice-Minister-Doug-Schweitzer>>.

<sup>7</sup> *Ibid.*

<sup>8</sup> Salimah Walji-Shivji and Dorianne Mullin on behalf of the Canadian Bar Association, “Letter to The Honourable Bill Casey, M.P., re. LGBTQI2S Health in Canada”, *Canadian Bar Association*, 01 May 2019,



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We commend the federal government's recent position that "conversion therapies are immoral, painful, and do not reflect the values of our government or those of Canadians". However, we do not agree that combatting conversion therapy is largely a provincial and territorial issue or that existing Criminal Code offences are sufficient to prevent its practice in Canada.

[...]

**This approach creates a patchwork of legislative responses with no guarantee of equal protection across the country.**<sup>9</sup>

Egale Canada takes the position that the dynamics of Canadian federalism must not constitute a barrier to human rights protection. We believe this position is in alignment with the United Nations – who in September 2015, issued a joint statement from 12 UN entities<sup>10</sup> calling for an end to discrimination and violence against LGBTQI2S persons. This statement reads, in part:

All people have an equal right to live free from violence, persecution, discrimination and stigma. International human rights law establishes legal obligations on States to ensure that every person, without distinction, can enjoy these rights.

[...]

LGBTI youth and lesbian, bisexual and transgender women are at particular risk of physical, psychological and sexual violence in family and community settings...**They [LGBTQI2S persons] may also face abuse in medical settings, including unethical and harmful so-called "therapies" to change sexual orientation...**<sup>11</sup>

We urge the Independent Expert to consider the testimony of someone who has personally experienced conversion therapy while drafting your report on the implications of these practices. For example, in June 2018, Peter Gajdics described his experience with conversion therapy – and the importance of a legislative ban – to *Maclean's*, a publication in Canada:

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online: CBA <<http://www.cba.org/CMSPages/GetFile.aspx?guid=da2fdb2a-11ec-4420-9121-842e93db093d>>.

<sup>9</sup> *Ibid.*

<sup>10</sup> The joint statement was co-signed by: ILO, OHCHR, UNADIS Secretariat, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP and WHO.

<sup>11</sup> "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," *United Nations Human Rights Office of the High Commissioner*, 29 September 2015, online: OHCHR <<https://www.ohchr.org/EN/Issues/Discrimination/Pages/JointLGBTIstatement.aspx>>.



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**Bans like these tell all people everywhere that there is nothing wrong with being gay or trans.** They set the limits of a just and tolerant society. They place the onus on the practice of the therapist, not the sexuality or gender of the patient. **They say that we, as LGBTQ citizens, are valued and protected by our government.** They even tell us queers that when we struggle with feelings of rejection because of familial ostracism or religious persecution, that our very alienation is not, and has never been, a result of our true nature but the consequence of *shame*—of being subjected to voices of hatred and intolerance, even, in times past, to being criminalized, pathologized, and institutionalized; maybe even still to this day as a result of trying to “change” ourselves, through extraordinarily brutal and counterintuitive measures, into something we are not: to live a lie.<sup>12</sup>

We recommend the Government of Canada follow the lead of YQueerL, the Lethbridge Public Interest Research Group, and former MP Sheri Benson, who initiated a petition in the House of Commons to ban conversion therapy in September 2018.<sup>13</sup> This petition called upon the Government of Canada to:

- (a) enact legislation banning conversion therapy to minors in Canada;
- (b) enact legislation prohibiting transporting minors outside of the country for such purposes; and
- (c) have conversion therapy included in the *Canadian Human Rights Act* and the *Criminal Code*, to protect children from abuse.<sup>14</sup>

Finally, we would be remiss if we did not take this opportunity to stress that while a legislative ban on conversion therapy is important, there remains much to do to ensure the equal treatment of sexual and gender minorities in Canada.

The statements made by the Independent Expert carry a tremendous amount of weight, and we urge you to bring attention to the inequities and discriminatory treatment of LGBTQI2S persons – in health and long-term care, sports and recreation, housing, education, employment, and justice – that will remain outstanding, long after a federal ban on conversion therapy is implemented in Canada.

We strongly believe that everyone should be treated with human dignity and respect. To that end, we have prepared a **National Action Plan** on LGBTQI2S inclusivity, which we will

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<sup>12</sup> Peter Gajdics, “Opinion: I experienced ‘conversion therapy’ – and it’s time to ban it across Canada”, *Maclean’s*, 06 June 2018, online: *Maclean’s*, <<https://www.macleans.ca/opinion/i-experienced-conversion-therapy-and-its-time-to-ban-it-across-canada/>>.

<sup>13</sup> “Petition to Ban Conversion ‘Therapy’ in Canada”, *The Canadian Centre for Gender + Sexual Diversity*, 2017, online: CCGSD <<https://ccgsd-ccdgs.org/petition-to-ban-conversion-therapy-in-canada/>>.

<sup>14</sup> Petition No.: 421-03168, e-1833 (*Conversion therapy*), House of Commons, 20 September 2018, online: House of Commons <<https://petitions.ourcommons.ca/en/Petition/Details?Petition=e-1833>>.



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gladly share with you, to inform you of the challenges that continue to impact members of our community in Canada.

Thank you for the work that you have done, and continue to do, to improve the human rights of LGBTQI2S persons in Canada, and around the world.

We look forward to reading your report.

Yours very truly,

A handwritten signature in black ink that reads 'Helen Kennedy'. The signature is stylized and cursive.

Helen Kennedy  
Executive Director  
Egale Canada