

NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Submission to the NI Committee for Communities on the Conversion Practices (Criminalisation) Bill

November 2026

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1. Introduction

1.1. The Northern Ireland Human Rights Commission (NIHRC), pursuant to section 69(1) of the Northern Ireland (NI) Act 1998, is required to review the adequacy and effectiveness of law and practice relating to the protection of human rights in NI.

1.2. In accordance with these duties, the following is submitted to the Committee for Communities in relation to the Conversion Practices (Criminalisation) Bill (the Bill). The NIHRC welcomes the opportunity to provide advice on the Bill and to assist the Committee for Communities (the Committee) in its scrutiny of the Bill. This advice considers the Bill in light of applicable human rights standards, including the European Convention on Human Rights (ECHR) and the case law of the European Court of Human Rights (ECtHR), as well as relevant standards developed by UN treaty bodies and special procedures.

1.3. As discussed below, while the decision as to the form of regulation of 'conversion practices' falls within the margin of appreciation under the ECHR, numerous UN bodies have recommended that the UK introduce a prohibition on conversion practices. The State has a positive obligation to protect individuals from harm. To prohibit, within appropriate lawful limits, conversion practices, will contribute to the State's discharge of that duty.

International and regional context

1.4. In 2024, the UN Human Rights Committee (HRC) recommended that the UK Government and NI Executive:

> continue its efforts and adopt the measures necessary to prohibit the practice of so-called conversion therapy against lesbian, bisexual and transgender persons, including in NI. Furthermore, it should take legislative and other measures to eliminate intrusive requirements for legal gender recognition, including psychiatric diagnosis, and provide for and effectively implement a quick, transparent and accessible procedure for legal gender recognition that is compatible with the provisions

> of the [UN International Covenant on Civil and Political Rights].[1]

1.5. In 2023, the UN Committee on the Rights of the Child (CRC) recommended that the UK Government and NI Executive:

> prohibit the promotion, facilitation and delivery of so-called 'conversion therapies' aimed at changing the sexual orientation and gender identity of children, in line with its commitment made in 2018, with particular attention paid to the vulnerabilities of children who may be subject to such harm.[2]

1.6. In 2024, the then Independent Expert on sexual orientation and gender identity, Victor Madrigal-Borloz, recommended that the UK Government and NI Executive "finalise consultations and adopt legislative bans on conversion practices".[3] The Independent Expert also recommended that the UK Government and NI Executive should "proceed with the proactive roll-out of effective support services for survivors, without waiting for legislative bans to adopt the necessary protection measures and effective remedies".[4]

1.7. In addition, a number of Council of Europe bodies have recommended that Member States introduce a prohibition on conversion practices. In January 2026, the Parliamentary Assembly of the CoE adopted Resolution 2643 urging Member States to ban conversion practices. The Resolution calls upon Member States to:

> provide criminal sanctions … based on a clear and comprehensive definition of the proscribed practices. Regulations should further clarify the scope of the legal ban, by explicitly covering specific forms of conversion practices

[1] CCPR/C/GBR/CO/8, 'UN Human Rights Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI', 3 May 2024, at para 19.
[2] CRC/C/GBR/CO/6-7, 'UN CRC Committee Concluding Observations on the Combined Sixth and Seventh Reports of the UK of Great Britain and NI', 2 June 2023.
[3] A/HRC/56/49/Add.1, 'Report of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity: Visit to the UK of Great Britain and NI', 11 April 2024, at para 97(a).
[4] Ibid.

across healthcare, education, religious and commercial settings with a view to closing possible legal loopholes.[5]

It also calls for the establishment of monitoring and reporting mechanisms to ensure effective enforcement.[6]

1.8. In 2024, then CoE Commissioner for Human Rights, Dunja Mijatović, called on CoE Member States to "ban and sanction the advertising and conduct of conversion practices targeting both children and adults and ensure that the ban covers gender identity and gender expression".[7] The CoE Commissioner for Human Rights stressed that "well-drafted bans should not target legitimate psychosocial counselling, which complies with clinical good practice, and is aimed at supporting a person in freely exploring, developing or affirming their sexual orientation, gender identity and gender expression, if and when needed".[8]

1.9. There are currently 11 CoE Member States that have prohibited conversion practices. The first Member State to introduce a total ban on these practices was Malta (2016), followed by Germany (2020),[9] France (2022), Greece (2022),[10] Spain (2023), Belgium (2023), Cyprus (2023), Iceland (2023), Norway (2024), Portugal (2024) and the Netherlands (2026). Albania adopted non-legislative medical guidelines (2020). Ireland is in the process of prohibiting conversion practices, while England and Wales introduced a draft bill containing a prohibition which is undergoing pre-legislative scrutiny.[11]

1.10. The ECtHR has not yet heard a case on the issue. In the absence of relevant jurisprudence, it is more difficult to provide definitive advice, but it is possible to provide advice on the relevant

[5] CoE Parliamentary Assembly Resolution 2643 (2026) 'For a ban on conversion practices', at para 9.
[6] Ibid.
[7] CoE Commissioner for Human Rights, 'Human Rights and Gender Identity and Expression - Issue Paper' (CoE, 2024), at 9 and 37.
[8] Ibid.
[9] Germany (2020) and Greece (2022) have partial bans on "conversion therapies" for children but not consenting adults.
[10] Ibid.
[11] CoE Parliamentary Assembly Committee on Equality and Non-Discrimination Report 'For a ban on conversion practices' (CoE, 2025), at para 25; European Parliament, 'Briefing: Bans on conversion 'therapies' The situation in selected EU Member States' (EP, 2024), at 3; Global Equality Caucus, 'IDAHOBIT 2025: Charting Global Progress on Banning Conversion Practices'. Available at: IDAHOBIT 2025: Charting Global Progress on Banning Conversion Practices — Global Equality Caucus; House of the Oireachtas, 'Human Rights. Dáil Éireann Debate, Thursday - 21 May 2026'; Office for Equality and Opportunity; 'Policy paper: Conversion practices draft bill' (Gov.UK, 2026). Available at: Conversion practices draft bill - GOV.UK.

principles that will be applied should the issue reach the domestic courts and the ECtHR.

Key human rights issues for the Committee

1.11. The key points for the Committee for Communities to consider during scrutiny of the Bill, from a human rights perspective include:

i. The criminalisation of conversion practices through primary legislation falls within the State's margin of appreciation under the ECHR. Accordingly, it is within the legislative competence of the NI Assembly to introduce a statutory ban on conversion practices should it choose so to do.

ii. If the NI Assembly wishes to criminalise conversion practices through the Conversion Practices (Criminalisation) Bill, it should satisfy itself that:

a. The Bill satisfies the principle of legal certainty under Articles 5 and 7 of the ECHR, for criminal offences and deprivation of liberty, and that

b. The Bill strikes a fair balance between the competing rights potentially engaged, including the right to freedom of religion, expression and private and family life.

iii. Even in the absence of a legislative prohibition on conversion practices, the State remains subject to positive obligations to protect individuals from physical or mental harm from others and to investigate and address any discriminatory motives, under Articles 3, 8 and 14 of the ECHR. The Bill might therefore help fulfil these obligations and safeguard individuals.

1.12. Below is a clause by clause analysis of the Bill from the strict perspective of compliance with the ECHR as incorporated by the Human Rights Act 1998. In addition, there is provided an analysis from the perspective of the broader international human rights law provisions, which are not directly incorporated but

which are binding on a State at the international level and relevant for the interpretation of the ECHR.

2. Clauses 1-3: Scope and elements of the Bill's criminal offences

2.1. The Bill creates three new offences: Offence of providing conversion therapy (Clause 1); Offence of engaging in coercive conversion behaviour (Clause 2); and Offence of removing a person from Northern Ireland for the purposes of conversion practices (Clause 3). It also defines 'Conversion therapy' (Clause 4) and 'Coercive behaviour' (Clause 5). In Clause 6, it is provided that "reference to a victim's sexual orientation or gender identity includes— (a) what the victim considers it to be, and (b) what the person considers it to be". It is therefore a perception test, which is commonly adopted in such legislation.

2.2. The Bill constructs the offences by setting a three-part test: (1) the action (conversion therapy, coercive conversion behaviour, removing for the purposes of conversion practices), (2) the specific intent (changing or suppressing the sexual orientation or gender identity of the victim), and (3) the required direct consequence (physical or psychological harm). All three elements must be present for the offence to occur.

2.3. A person found guilty of one of the offences under the Bill is liable (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

2.4. Under Clause 1, the offence of providing conversion therapy requires a person to carry out 'conversion therapy' with 'the intent of changing or suppressing the sexual orientation or gender identity of the victim' and the victim must suffer 'physical or psychological harm as a consequence of the therapy'.

2.5. In Clause 4, the Bill provides that 'conversion therapy' takes place if the person provides or carries out any of the following:

(a) counselling or any form of talking therapy, (b) coaching or instruction, (c) a treatment, or purported treatment.

2.6. The definition of 'conversion therapy' in the Bill expressly excludes therapy provided or carried out by an individual registered, or subject to regulation, by certain specific health regulatory bodies when done in accordance with those bodies' standards and code of ethics applicable at the time of the therapy.[12]

2.7. At Clause 5, the Bill provides that 'coercive behaviour' means (a) behaviour directed at the victim that is violent, (b) threatening, (c) controlling, regulating or monitoring the victim's day-to-day activities, (d) depriving or restricting their freedom of action, or (e) making the victim feel frightened, humiliated, degraded, punished or intimidated. It excludes omissions and applies only when the behaviour is repetitive.[13]

2.8. Criminal offences and offences that attract prison sentences engage, primarily, Articles 5 and 7 of the ECHR. Article 5 of the ECHR[14] (deprivation of liberty) requires legal certainty. This means domestic law must clearly define the conditions for deprivation of liberty and be foreseeable in its application, meeting the ECHR standard of "lawfulness". This standard requires that the law be sufficiently precise to allow the person (with appropriate advice if necessary) to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail.[15] The ECtHR has made clear that national laws authorising deprivation of liberty must be sufficiently accessible, precise, and foreseeable in their application.[16] Provisions which are interpreted in an inconsistent and mutually exclusive manner by the domestic authorities will fall short of the "quality of law" standard required under the ECHR.[17]

[12] Clause 4, Conversion Practices (Criminalisation) Bill, as introduced. The regulatory bodies mentioned in the Bill are (i) the General Medical Council, (ii) the Health and Care Professions Council, (iii) the General Pharmaceutical Council, and (iv) the Pharmaceutical Society of Northern Ireland.
[13] Clause 5, Conversion Practices (Criminalisation) Bill, as introduced.
[14] Article 5(1) of the ECHR says "Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law".
[15] *Khlaifia and Others v Italy* [GC], 2016, at para 92; *Del Río Prada v Spain,* 2013, at para 125; *Medvedyev and Others v France* 2010, at para 80.
[16] *N. v the United Kingdom*, 2016, para 77.
[17] *Nasrulloyev v Russia*, 2007, at para 77; Ječius v. Lithuania, 2000, at paras 53-59.

2.9. Criminal offences must also comply with Article 7 of the ECHR (no punishment without law),[18] which means that only the law can create a criminal offence and prescribe a penalty. Therefore, Article 7 requires a clear legal basis before imposing a sentence or penalty.[19]

2.10. The principle of legality requires an offence and corresponding penalty to be clearly defined by law. The concept of "law" within the meaning of Article 7 requires 'accessibility' and 'foreseeability' of the law.[20] These qualitative requirements must be satisfied for both the definition of an offence[21] and the penalty for the offence or its scope.[22] Insufficient "quality of law" in the definition of the offence and the applicable penalty breaches Article 7 of the ECHR.[23]

2.11. Accessibility means that the criminal "law" on which the conviction is based is sufficiently accessible to the perpetrator, meaning it is public.[24] Foreseeability demands that an individual know from the wording of the relevant provision and, if needed, with the assistance of the courts' interpretation and after taking appropriate legal advice, what acts will make them liable to the criminal sanction and what penalty is likely to be imposed.[25]

2.12. However, to remain flexible and adaptable, law can be drafted in relatively broad terms, with practice shaping their meaning and application. As the ECtHR observed in *Kokkinakis v Greece*, "the wording of many statutes is not absolutely precise. The need to avoid excessive rigidity and to keep pace with changing circumstances means that many laws are inevitably couched in terms which, to a greater or lesser extent, are vague. Criminal-law provisions on proselytism fall within this category. The

[18] Article 7(1) of the ECHR says "No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed".
[19] *Coëme and Others v Belgium*, 2000, at para 145; *Del Río Prada v Spain* [GC], 2013, at para 80.
[20] *G.I.E.M. S.R.L. and Others v Italy (merits)* [GC], 2018, at para 242; *Cantoni v France*, 1996, at para 29; *Kafkaris v Cyprus* [GC], 2008, at para 140; Del Río Prada v Spain [GC], 2013, at para 91; Perinçek v Switzerland [GC], 2015, at para 134.
[21] Jorgic v Germany, 2007, at paras 103-114.
[22] *Kafkaris v Cyprus* [GC], 2008, at para 150.
[23] Ibid, at paras 150 and 152.
[24] *Kokkinakis v Greece*, 1993, at para 40.
[25] *Cantoni v France*, 1996, at para 29; *Kafkaris v Cyprus* [GC], 2008, at para 140; *Del Río Prada v Spain* [GC], 2013, at para 79.

interpretation and application of such enactments depend on practice".[26]

2.13. In January 2026, the Parliamentary Assembly of the CoE adopted Resolution 2643 urging Member States to ban conversion practices. The Resolution defines them as 'all measures or efforts aimed at changing, repressing or suppressing a person's sexual orientation, gender identity or gender expression, based on the false belief that such core aspects of a person's identity are pathological or undesirable, or somehow able to change'.[27] The CoE have called on Member States to:

> provide criminal sanctions … based on a clear and comprehensive definition of the proscribed practices. Regulations should further clarify the scope of the legal ban, by explicitly covering specific forms of conversion practices across healthcare, education, religious and commercial settings with a view to closing possible legal loopholes.[28]

2.14. The definition of 'conversion therapy' in Clause 4 of the Bill is broad and does not expressly include the element of seeking to suppress, repress or change a person's sexual orientation, gender identity or gender expression on the basis of a belief that such core aspects of a person's identity are pathological or undesirable, and can or should be changed.[29]

2.15. The same applies to the definition of 'coercive behaviour' in Clause 5, which is also broad and does not expressly include the element of seeking to suppress, repress or change a person's sexual orientation, gender identity or gender expression on the basis of a belief that such core aspects of a person's identity are pathological or undesirable, and can or should be changed.[30]

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[26] *Kokkinakis v Greece*, 1993, at para 40, regarding the definition of the offence of "proselytism". In *Kokkinakis v Greece*, the applicant claimed that the definition of 'proselytism' was too vague to comply with the "prescribed by law" requirement of Article 7. The ECtHR stated that to allow for flexibility, the wording of many statutes is not absolutely precise. Criminal-law provisions on proselytism fell within this category. According to the ECtHR, the interpretation and application of such enactments depend on practice, and in this case, a body of settled national case law existed. This published and accessible case law supplemented the letter of the provision and enabled Mr Kokkinakis to regulate his conduct in the matter. The ECtHR found the provision to be therefore "prescribed by law". At paras 40-41.

[27] CoE Parliamentary Assembly Resolution 2643 (2026) 'For a ban on conversion practices', at para 1.

[28] Ibid, at para 9.

[29] CoE Parliamentary Assembly Resolution 2643 (2026) 'For a ban on conversion practices', at para 1; A/HRC/44/53, 'Report of the UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity: Practices of So-called "Conversion Therapy"', 1 May 2020, at para 17.

[30] Ibid.

2.16. The intention to suppress, repress or change a person's sexual orientation, gender identity or gender expression is arguably a defining element of conversion practices. While the Bill is clear that the criminal offence is committed only when the perpetrator acts with the "intent of changing or suppressing the sexual orientation or gender identity of the victim", the absence of this element from the underlying definitions may create uncertainty about the scope of the conduct that is captured by the legislation.

2.17. The NIHRC recommends that the Committee satisfy itself that the Bill's definitions of the offences and their associated penalties are sufficiently clear to satisfy the principle of legality.

2.18. The NIHRC recommends that the Committee consider whether the definition of 'conversion therapy' and 'coercive conversion behaviour' could be refined to more clearly identify the harmful practices targeted by the Bill, while ensuring the definitions are sufficiently comprehensive to capture conduct intended to change or suppress a person's sexual orientation or gender identity. A clear and comprehensive definition should not target legitimate supportive interventions that do not attempt to change, repress, or suppress a person's sexual orientation, gender identity and gender expression.[31]

2.19. The NIHRC recommends that Regulations should clarify the scope of the legal ban.

[31] CoE Parliamentary Assembly Resolution 2643 (2026) 'For a ban on conversion practices', at para 8; CoE Commissioner for Human Rights, 'Human Rights and Gender Identity and Expression - Issue Paper' (CoE, 2024).

3. Clause 7: Exclusions from criminal intent - Freedom of religion and expression as potentially engaged by the Bill – Articles 9 and 10 of the ECHR

3.1. The offences in the Bill require the perpetrator to act with the specific intent of changing or suppressing the victim's sexual orientation or gender identity. However, at Clause 7, the Bill provides that, for the purposes of the offences, such intent is not present where: (a) there is no intent to direct a victim towards a particular sexual orientation or gender identity, (b) the intent is solely to express beliefs or opinions, without directing a victim towards a particular sexual orientation or gender identity, or (c) the intent is to affirm the victim's sexual orientation or gender identity. Whether the conduct is capable of, or effective in, changing or suppressing the victim's sexual orientation or gender identity is irrelevant for the purposes of the Bill.

3.2. The Bill may engage the rights to freedom of thought, conscience and religion under Article 9 of the ECHR[32] and freedom of expression under Article 10 of the ECHR.[33] The exclusions in Clause 7 may contribute to providing safeguards for ECHR rights such as freedom of expression and freedom of religion but this is a balancing exercise that must be carried out carefully and comprehensively based upon the relevant circumstances in each case.

Article 9 of the ECHR - Freedom of religion

[32] Article 9 of the ECHR says: "Freedom of thought, conscience and religion 1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

[33] Article 10 of the ECHR says: "Freedom of expression 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

3.3. Article 9 of the ECHR protects the right to freedom of thought, conscience and religion. This includes a person's freedom to change their religion or belief and freedom to manifest their religion or belief, in worship, teaching, practice and observance. The right to not have or express a religious faith is also protected, as is the right to dispute religious faith (see further below).

3.4. Article 9(1) provides that the right to 'freedom' of thought, conscience and religion is unqualified, meaning it cannot be restricted.[34] However, the right to 'manifest' one's religion or beliefs under Article 9(2) is qualified, meaning it may be restricted if prescribed by law and necessary in a democratic society to pursue one or more of the legitimate aims set out in Article 9(2).[35]

3.5. Under Article 9(2) of the ECHR, the legitimate aims that may justify interference with an individual's manifestation of religion or belief are public safety, the protection of public order, health and morals, or the protection of the rights and freedoms of others. This enumeration of legitimate aim is exhaustive and restrictive.[36]

Convictions protected under Article 9

3.6. The scope of Article 9 of the ECHR is very wide. It protects both religious and non-religious opinions and convictions. However, not all opinions or convictions fall within the protection of Article 9, and the term "practice" in Article 9(1) does not cover every act motivated or influenced by a religion or belief.[37]

3.7. For a personal or collective conviction to benefit from the right to "freedom of thought, conscience and religion," it must attain a certain level of cogency, seriousness, cohesion and importance.[38]

3.8. However, the ECtHR has held that:

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[34] *Ivanova v. Bulgaria, 2007, at para 79.*
[35] *Eweida and Others v United Kingdom, 2013, at para 80.*
[36] *Svyato-Mykhaylivska Parafiya v Ukraine*, 2007, at para 132 and 137; *S.A.S. v France* [GC], 2014, at para 113; *Executief van de Moslims van België and Others v Belgium*, 2024, at para 91.
[37] *Pretty v the United Kingdom*, 2002, at para 82.
[38] *Eweida and Others v the United Kingdom,* 2013, at para 81.

> Even where the belief in question attains the required level of cogency and importance, it cannot be said that every act which is in some way inspired, motivated or influenced by it constitutes a "manifestation" of the belief. Thus, for example, acts or omissions which do not directly express the belief concerned or which are only remotely connected to a precept of faith fall outside the protection of Article 9 § 1. In order to count as a "manifestation" within the meaning of Article 9, the act in question must be intimately linked to the religion or belief. An example would be an act of worship or devotion which forms part of the practice of a religion or belief in a generally recognised form.[39]

Importantly, the manifestation of religion or belief is not limited to such acts; the existence of a sufficiently close and direct nexus between the act and the underlying belief must be determined on the facts of each case.[40]

3.9. For example, in *Eweida and Others v the United Kingdom,* the ECtHR held that the applicants' conviction that marriage is a lifelong union between a man and a woman and rejection of homosexual unions fell under Article 9 of the ECHR.[41] On the contrary, in *Abrahamsson v Sweden*, the ECtHR refused to endorse the grant of protection to a father's wish to inflict corporal punishment on his child.[42] Similarly, in *Van den Dungen v the Netherlands*, the ECtHR held against the applicant's right, although motivated by his Christian faith, to hand out tracts against abortion near an abortion clinic.[43]

3.10. The ECtHR case law indicates that not every act motivated by religious belief is engaged under Article 9 of the ECHR. The conduct must be sufficiently close and be directly linked to the underlying belief, which must be assessed on the facts of each case. Moreover, while the ECtHR has recognised that certain beliefs concerning marriage, sexuality and family life may attract

[39] Ibid, at para 82.
[40] Ibid, at paras 81-82; *S.A.S. v France* [GC], 2014, at para 55.
[41] *Eweida and Others v the United Kingdom,* 2013.
[42] *Abrahamsson v Sweden*, Commission decision of 5 October 1987.
[43] *Van den Dungen v the Netherlands*, Commission decision of 22 February 1995.

Article 9 protection, it has also recognised limits to the protection afforded to conduct motivated by religious convictions.

Interferences

3.11. As mentioned above, under Article 9(2) of the ECHR, the legitimate aims that can justify interference with a person's right to manifest their religion or beliefs are public safety, the protection of public order, health and morals, or the protection of the rights and freedoms of others. Interferences must be justified and proportional and must correspond to a "pressing social need".[44] The State has a wide margin of appreciation in deciding whether and to what extent a restriction on the right to manifest one's religion or beliefs is "necessary". The ECtHR may have regard to any consensus and common values emerging from the States Parties to the ECHR.[45]

3.12. As a matter of general principle, the enjoyment of freedom of religion is incompatible with any power of the State to assess and determine the legitimacy of religious beliefs or the manner in which those beliefs are expressed.[46] However, such interference may be justified under Article 9(2) if those expressions are incompatible with the key principles underlying the ECHR, such as, for example, polygamous or underage marriage or a flagrant breach of gender equality, or if they are imposed on the believers by force or coercion.[47] Furthermore, Article 17 of the ECHR is also relevant to restrictions of rights. Article 17 seeks to prevent States, groups, and individuals from using the ECHR freedoms as an excuse to destroy the rule of law, others' ECHR rights, or the operation of democracy.[48] Therefore, Article 17 prevents individuals from relying on the ECHR to perform, promote or justify acts amounting to or characterised by hatred;[49]

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[44] *Leyla Şahin v Turkey* [GC], 2005, at para 110; *Svyato-Mykhaylivska Parafiya v Ukraine*, 2007, at para 116.
[45] *Bayatyan v Armenia* [GC], 2011, at para 121-122; *S.A.S. v France* [GC], 2014, at para 129.
[46] *Hassan and Tchaouch v Bulgaria* [GC], 2000, at para 76; *Leyla Şahin v Turkey* [GC], 2005, at para 107.
[47] *Jehovah's Witnesses of Moscow and Others v Russia*, 2010.
[48] Article 17 of the ECHR says: "Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."
[49] *Perinçek v Switzerland* [GC], 2015, at paras 115 and 230; *Molnar v Romania* (dec.), 2012; *Belkacem v Belgium* (dec.), 2017; *Lilliendahl v Iceland* (dec.), 2020, at para 39; *Lenis v Greece* (dec.), 2023, at para 56.

violence;[50] xenophobia and racial discrimination;[51] anti-Semitism[52] and islamophobia;[53] terrorism and war crimes,[54] among others. Article 17 has a very high threshold of applicability. In *Ayoub and Others v France* and *Lenis v Greece*, the ECtHR applied Article 17 to expression involving extreme hostility towards LGBT people, including advocacy of violence, and therefore denied ECHR protection.[55] However, in *Lilliendahl v Iceland*, the ECtHR considered that the applicant's homophobic hate speech did not meet the high threshold of Article 17 and instead assessed it under Article 10 of the ECHR and held that the restriction on the applicant's freedom of expression was justified.[56]

3.13. Protecting other people's ECHR rights (such as to private and family life under Article 8 of the ECHR) is one of the legitimate aims that can justify a restriction of Article 9 of the ECHR. Importantly, if any particular conversion therapy was found to constitute a manifestation of religious freedom engaging Article 9 of the ECHR, under Article 9(2) the State may lawfully restrict it to protect others from stigma, discrimination, and homophobia/transphobia, and to protect victims from the physical and physiological harm they can cause. If applied within the parameters of the ECHR, such a restriction is highly unlikely therefore to violate Article 9 of the ECHR.

3.14. In *Abrahamsson v Sweden,* a father's criminal conviction for corporal punishment of his child was found not to violate Articles 8 and 9 of the ECHR, given that the mere fact that legislation regulates matters relating to family life does not, in itself, amount to an interference with Articles 8 and 9 of the ECHR. The ECtHR found that legislation prohibiting parents from physically chastising children was a legitimate measure aimed at protecting a vulnerable group.[57]

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[50] *Kaptan v Switzerland* (dec.), 2001; *Belkacem v Belgium* (dec.), 2017; *Romanov v Ukraine* [Committee], 2020, at paras 163-166; *Lenis v Greece* (dec.), 2023, at para 56.
[51] *Jersild v Denmark*, 1994, at para 35; *Glimmerveen and Hagenbeek v the Netherlands*, Commission decision, 1979; *Féret v Belgium*, 2009; *Ayoub and Others v France*, 2020, at para 134.
[52] *Pavel Ivanov v Russia* (dec.), 2007; *W.P. and Others v Poland* (dec.), 2004.
[53] *Soulas and Others v France*, 2008; *Zemmour v France*, 2022.
[54] *Orban and Others v France*, 2009, at para 35; *Leroy v France*, 2008, at para 27; *Roj TV A/S v Denmark* (dec.), 2018, at paras 46-47.
[55] *Ayoub and Others v France*, 2020; *Lenis v Greece* (dec.), 2023.
[56] *Lilliendahl v Iceland* (dec.), 2020.
[57] *Abrahamsson v Sweden*, Commission decision of 5 October 1987, at paras 1-3.

3.15. The UK Supreme Court has also considered cases where the protection of the rights of others justifies a restriction on ECHR freedoms. In *Safe Access Zones*, the Supreme Court unanimously held that legislation establishing "safe access zones" around abortion clinics and related premises was necessary to protect the rights of women seeking treatment or advice, and in the interests of the wider community, including other patients and staff of clinics and hospitals.[58] The Supreme Court observed that not all anti-abortion protest activities are protected by the ECHR. Examples, it is clear, such as conduct amounting to spitting at individuals, chasing them, threatening them, assaulting them, and subjecting them to verbal abuse is not engaged by and certainly not protected by Articles 9, 10 or 11 of the ECHR.[59] However, other conduct, such as holding a vigil, praying, and engaging in other non-violent demonstrations, was captured by the legislation and imposed a restriction on protesters' rights under Articles 9, 10, and 11 of the ECHR.[60] However, the Supreme Court went on to hold that these restrictions were justified under the ECHR because they were prescribed by law, pursued a legitimate aim, and were proportionate.[61] The legislation was therefore found to be within the Assembly's legislative competence because it did not conflict with the ECHR.[62]

3.16. In *(Williamson) v Secretary of State for Education and Employment*, the UK Supreme Court unanimously dismissed the appeal from Christian headteachers, teachers, and parents from independent Christian schools who claimed that a statutory ban on corporal punishment in schools violated their right to freedom of religion under Article 9 of the ECHR. They maintained that children's physical discipline was part of a sincere Christian fundamental belief based on the interpretation of the Bible. In dismissing the appeal, the Supreme Court did not question

[58] *Attorney General for Northern Ireland - Abortion Services (Safe Access Zones) (Northern Ireland) Bill* [2022] UKSC 32.
[59] See e.g. *Attorney General for Northern Ireland - Abortion Services (Safe Access Zones) (Northern Ireland) Bill* [2022] UKSC 32, at para 111.
[60] *Attorney General for Northern Ireland - Abortion Services (Safe Access Zones) (Northern Ireland) Bill* [2022] UKSC 32, at para 112.
[61] *Attorney General for Northern Ireland - Abortion Services (Safe Access Zones) (Northern Ireland) Bill* [2022] UKSC 32, at paras 113 - 115.
[62] The Supreme Court also reaffirmed that a provision of devolved legislation will only be outside legislative competence because it is incompatible with ECHR rights if it would give rise to an unjustified interference with those rights in all or almost all cases. *Attorney General for Northern Ireland - Abortion Services (Safe Access Zones) (Northern Ireland) Bill* [2022] UKSC 32, at paras 12 - 19 and 157.

whether the belief was legitimately held, however, it emphasised that:

> Everyone, therefore, is entitled to hold whatever beliefs he wishes. But when questions of 'manifestation' arise, as they usually do in this type of case, a belief must satisfy some modest, objective minimum requirements. These threshold requirements are implicit in article 9 of the European Convention and comparable guarantees in other human rights instruments. The belief must be consistent with basic standards of human dignity or integrity. Manifestation of a religious belief, for instance, which involved subjecting others to torture or inhuman punishment would not qualify for protection.[63]

3.17. In the *Williamson* case, the Supreme Court found that the belief fell under the protection of Article 9 of the ECHR and that the legislation interfered with that right, but it went on to hold that the restriction was necessary in a democratic society and justified and proportionate to achieve the legitimate aim of protecting and promoting children's wellbeing.[64] The Supreme Court noted the wide margin Parliament enjoyed in regulating this matter:

> the means chosen to achieve this aim are appropriate and not disproportionate in their adverse impact on parents who believe that carefully-controlled administration of corporal punishment to a mild degree can be beneficial… the legislature was entitled to take the view that, overall and balancing the conflicting considerations, all corporal punishment of children at school is undesirable and unnecessary and that other, non-violent means of discipline are available and preferable. On this Parliament was entitled, if it saw fit, to lead and guide public opinion. Parliament was further entitled to take the view that a universal ban was the appropriate way to achieve the desired end… Parliament was entitled to take this course because this issue is one of broad social policy. As such it is pre-eminently well suited for decision by Parliament. The legislature is to be accorded a

[63] *(Williamson) v Secretary of State for Education and Employment* [2005] UKHL 15, at para 23.
[64] Ibid, at para 49.

considerable degree of latitude in deciding which course should be selected as the best course in the interests of school children as a whole.[65]

The Supreme Court therefore held there had been no violation of the ECHR.

3.18. As illustrated, the State may impose proportionate restrictions on the right protected under Article 9 of the ECHR to achieve the legitimate aim of protecting the rights of others as per Article 9(2), for example, to protect other people's right to private and family life under Article 8 of the ECHR.

3.19. The Committee should satisfy itself that the Bill, in particular Clause 7, strikes an appropriate balance between the rights of individuals to manifest their religion or beliefs and the protection of the rights, dignity, health and wellbeing of those whom the Bill seeks to protect.

Religious freedom, family and education of children

3.20. Article 2 of Protocol No 1 (right to education) of the ECHR[66] requires States to respect parents' right to ensure education and teaching in conformity with their own religious and philosophical convictions. As long as there is no evidence of abuse, violence or unlawful coercion, decisions about whether to give a child a religious or non-religious education, whether to involve him or her in sports, science, arts or music, whether to provide unstructured free time or a strict daily routine, and whether to keep company with like-minded people, are to be made primarily by the child's parents or, as the case may be, the custodial parent. Such decisions fall within the sphere of the private and family life which is protected from unjustified State interference.[67] However, the State also has a role in safeguarding pluralism in education. The ECtHR has held that:

[65] Ibid, at paras 50 – 51.
[66] Article 2 of Protocol No 1 of the ECHR says: "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."
[67] *Taganrog LRO and Others v Russia*, 2022, at paras 174-175; *Catan and Others v the Republic of Moldova and Russia* (2012), at para 138.

> The second sentence [of Article 2 of Protocol No 1] aims at safeguarding the possibility of pluralism in education which possibility is essential for the preservation of the "democratic society" as conceived by the Convention. It implies that the State, in fulfilling the functions assumed by it in regard to education and teaching, must take care that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner. The State is forbidden to pursue an aim of indoctrination that might be considered as not respecting parents' religious and philosophical convictions.[68]

3.21. Thus, the ECHR reflects that parents are entitled to raise their children in accordance with their religious and philosophical convictions, and that decisions concerning a child's upbringing ordinarily fall within the sphere of private and family life. However, parental rights are not absolute and must be exercised in a manner consistent with the child's best interests, evolving capacities and ECHR rights.[69] Moreover, the right to education is not absolute and may be subject to proportional limitations. The State plays an important role in regulating education and enjoys a margin of appreciation in this sphere.[70]

3.22. If applied within the parameters of the ECHR, a restriction on parents' right to raise their children in accordance with their religious and philosophical convictions is unlikely to violate Article 8 and Article 2 of Protocol No 1 of the ECHR. Particularly where restricted by a measure designed to protect the best interests of the child and pluralism in education.

3.23. The Committee should consider the interaction between the Bill and the rights and responsibilities of parents in relation to the upbringing, education and religious formation of their children. In addition, the Committee should consider whether the Bill provides sufficient clarity or whether (as is the advice of the NIHRC), further associated guidance would assist in clarifying how the Bill

[68] *Catan and Others v the Republic of Moldova and Russia* (2012), at para 138.
[69] *Wunderlich v Germany*, (2019), at para 46.
[70] *Catan and Others v the Republic of Moldova and Russia* (2012), at para 140.

applies to ordinary parental decision-making and religious upbringing, while ensuring children remain protected from conduct intended to suppress or change their sexual orientation or gender identity.

Preaching and proselytism

3.24. Freedom to manifest one's religion includes, in principle, the right to attempt to convince and convert other people to one's own faith.[71] The ECtHR has observed that missionary work is often a vital dimension of a religion, involving not only affirming one's beliefs but also inviting others to consider them and seeking to persuade them of their validity.[72] The State can neither eliminate the possibility of spontaneous religious discussion among members and non-members of a given religion nor burden religious expression with restrictions greater than those applicable to other types of expression.[73]

3.25. Article 9 of the ECHR protects the right to try to convert others to one's own religion through non-coercive persuasion.[74] However, the ECtHR has distinguished legitimate evangelisation from 'improper proselytism', such as offering material or social advantage or applying improper pressure to gain new members for a church or religious group.[75] In *Kokkinakis v Greece,* the ECtHR held that:

> a distinction has to be made between bearing Christian witness and improper proselytism. The former corresponds to true evangelism, which a report drawn up in 1956 under the auspices of the World Council of Churches describes as an essential mission and a responsibility of every Christian and every Church. The latter represents a corruption or deformation of it. It may, according to the same report, take the form of activities offering material or social advantages with a view to gaining new members for a Church or exerting improper pressure on people in distress or in need; it may even entail the use of violence or brainwashing; more

[71] *Kokkinakis v Greece*, 1993, at para 31; *Nasirov and Others v Azerbaijan*, 2020, at para 60.
[72] *Ossewaarde v Russia*, 2023, at para 39.
[73] Ibid, at para 44.
[74] Taganrog LRO and Others v Russia, 2022, at paras 153-154.
[75] *Larissis and Others v Greece*, 1998, at para 45.

generally, it is not compatible with respect for the freedom of thought, conscience and religion of others.[76]

3.26. Article 9 protection does not therefore extend to proselytism which involves undue pressure, coercion, abuse of power, or harassment.[77]

3.27. In *Larissis and Others v Greece,* the ECtHR held that convictions of armed forces officers for proselytising lower-ranking personnel did not violate Article 9 of the ECHR.[78] The ECtHR found that, in hierarchical relationships such as within the armed forces, conduct that might otherwise be considered innocuous religious practice may amount to undue pressure or an abuse of authority. States may therefore take lawful measures to protect individuals in vulnerable positions from such conduct.[79]

3.28. The Committee should satisfy itself that the Bill is sufficiently clear and precise to avoid inadvertently capturing legitimate evangelisation, religious teaching or religious discussion protected under Article 9 of the ECHR, while remaining capable of addressing conduct involving coercion, undue pressure, abuse of authority or harassment.

Article 10 of the ECHR - Freedom of expression

3.29. Conversion practices are more than speech, and involve steps to suppress, repress or change a person's sexual orientation, gender identity or gender expression. The Bill's criminal offences require the concurrence of a specific action (conversion therapy, coercive conversion behaviour, removing for the purposes of conversion practices), an intent (changing or suppressing the sexual orientation or gender identity of the victim), and harm. Moreover, at Clause 7 the Bill provides that such intent is not present where the intent is solely to express beliefs or opinions, without directing a victim towards a particular sexual orientation or gender identity.

[76] *Kokkinakis v Greece*, 1993, at para 48.
[77] *Larissis and Others v Greece*, 1998; *Kokkinakis v Greece*, 1993.
[78] *Larissis and Others v Greece*, 1998.
[79] Ibid, at para 51.

3.30. Therefore, the NIHRC observes that cases where a belief or opinion is expressed about a person's sexual orientation or gender identity, without any attempt to change or suppress it, should not be captured by the criminal offences in the Bill. On the contrary, conduct that goes beyond mere expression or manifestation of belief and that involves 'directing' a victim towards a particular sexual orientation or gender identity will be within the scope of the Bill and therefore its criminal offences.

3.31. The NIHRC advises that the distinction between conversion practices and mere expression of belief or opinion (including receiving and imparting information and ideas) should be clear on the face of the Bill to avoid inadvertently capturing expressions protected under Article 10 of the ECHR that the Bill does not seek to prohibit.

3.32. Article 10 protects individuals' right to freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas without interference by public authority. The ECtHR has consistently emphasised that freedom of expression is one of the essential foundations of a democratic society and a fundamental condition for individual development.[80] Article 10 protects not only information and ideas that are favourably received or regarded as inoffensive, but also those that offend, shock or disturb. This reflects the principles of pluralism, tolerance and broadmindedness that underpin a democratic society.[81] The ECtHR has further recognised that democracy depends on genuine respect for diversity and the peaceful coexistence of persons and groups with different identities and beliefs.[82]

3.33. However, freedom of expression is not absolute. Under Article 10(2) of the ECHR, it may be restricted where the restriction is prescribed by law, pursues a legitimate aim, and is necessary in a democratic society, including for the prevention of crime, the protection of health or morals, or the protection of the rights and

[80] *Handyside v the United Kingdom*, 1976, at para 49; *Sanchez v France* [GC], 2023, at para 145.
[81] *Handyside v the United Kingdom*, 1976, at para 49; *Observer and Guardian v the United Kingdom*, 1991, at para 59.
[82] *Beizaras and Levickas v Lithuania*, 2020, at paras 106-7; *Chassagnou and Others v France* [GC], nos. 25088/94 and 2 others, at para 112, ECHR 1999 III; *S.A.S. v France* [GC], no. 43835/11, at para 128.

freedoms of others. In assessing freedom of expression, the ECtHR evaluates the proportionality of any interference, including the need to protect others' Article 8 rights.

3.34. For example, in *Vejdeland and Others v Sweden,* the applicants were convicted for distributing homophobic leaflets in pupils' lockers at a school. The leaflets described homosexuality as a "deviant sexual proclivity", claimed it had a morally destructive effect on society, and linked homosexuality to the spread of HIV/AIDS. The ECtHR attached weight both to the content of the leaflets and to the fact that they had been distributed in a school setting to young people of an impressionable and sensitive age. It held that the interference with the applicants' freedom of expression was justified to protect the rights and reputation of others and therefore found no violation of Article 10 of the ECHR.[83]

3.35. In *Lilliendahl v Iceland*, the applicant was convicted for comments posted online during a public debate on LGBT issues in schools. The ECtHR considered the comments to be seriously prejudicial and to promote intolerance and detestation towards homosexual persons. It found that the domestic courts had appropriately balanced the applicant's freedom of expression against the rights of LGBT persons and therefore declared the Article 10 complaint inadmissible as manifestly ill-founded.[84]

3.36. In *Bayev and Others v Russia*, the ECtHR held that State-endorsed stigma, prejudice and homophobia are incompatible with the principles of equality, pluralism and tolerance inherent in a democratic society.[85] Similarly, in *Macatė v Lithuania*, the ECtHR found a violation of Article 10 of the ECHR where restrictions had been imposed on a children's book depicting same-sex relationships. The ECtHR held that preventing children from accessing information portraying same-sex relationships as equivalent to different-sex relationships could not constitute a legitimate aim for restricting freedom of expression.[86]

[83] *Vejdeland and Others v Sweden*, 2012, at paras 54-60.
[84] *Lilliendahl v Iceland, 2020*; *Beizaras and Levickas v Lithuania*, 2020.
[85] *Bayev and Others v Russia*, 2017, at para 81.
[86] *Macatė v Lithuania* [GC], 2023.

3.37. This highlights that, while Article 10 of the ECHR affords strong protection to freedom of expression, such protection is not unlimited. The ECtHR has found that restrictions on expression may be justified where necessary to protect others' rights, including those of LGBTI persons, and has consistently emphasised the importance of equality, pluralism, and tolerance in a democratic society. Therefore, even if the Bill were to capture expression protected under Article 10 of the ECHR, a restriction within the ECHR's parameters would likely not breach this provision.

3.38. The NIHRC recommends that the Committee considers the extent to which conduct amounting to conversion practices as defined in the Bill would fall under the protection of Article 10 of the ECHR, particularly where it involves coercion, pressure, stigma, or the denigration of a person's sexual orientation or gender identity.

3.39. The NIHRC recommends that the Committee should satisfy itself that the Bill, in particular Clause 7, strikes an appropriate balance between the rights of individuals to express and hold opinions and to receive and impart information and ideas, and the protection of the rights, dignity, health and wellbeing of those whom the Bill seeks to protect.

4. Clause 1(c), 2(c), 3(c) and 8: Physical and psychological harm

4.1. The Bill provides that a criminal offence is committed where a victim has suffered physical or psychological harm as a consequence of the conversion practice (therapy, coercion), or where, in the case of removal from NI, the perpetrator was reckless as to such harm.[87] Clause 8 of the Bill further clarifies that psychological harm includes "fear, alarm or distress".

4.2. Both physical and psychological harm are capable of engaging Articles 3 and 8 of the ECHR. The assessment of harm is relative and depends on the circumstances of the case, including the

[87] Clauses 1-3, Conversion Practices (Criminalisation) Bill, as introduced.

nature and context of the conduct, its duration, its physical and mental effects, and the victim's sex, age, and state of health.[88] The assessment is therefore necessarily fact sensitive. The Bill does not appear to set a minimum threshold of severity for physical or psychological harm.

4.3. The Committee may therefore wish to consider whether the Bill provides sufficient clarity as to the level of harm required to attract criminal liability. In particular, it may wish to ensure that the assessment of harm accounts for all relevant circumstances, including the nature and impact of the conduct on the victim (especially children or vulnerable individuals), while reserving criminal offences with the possibility of imprisonment for conduct of sufficient seriousness.

5. Clause 1(c), 2(c), 3(c) and 8: States' positive obligation to protect individuals from harm under Articles 3, 8 and 14 of the ECHR

5.1. Even in the absence of a specific legislative prohibition on conversion practices, the State remains subject to positive obligations under Articles 3, 8 and 14 of the ECHR. These obligations require the State to take measures to protect individuals from physical or mental harm from other individuals and, where necessary, to investigate and address any discriminatory motive behind the conduct.

Article 3 of the ECHR* – prohibition of torture or inhuman or degrading treatment or punishment

5.2. Conversion practices could engage Article 3 of the ECHR,[89] where the treatment reaches the required level of severity. According to the ECtHR's case law, ill-treatment must reach a minimum level of severity to fall within the scope of Article 3 of the ECHR.[90] The

[88] *Stasi v France*, 2011, at para 75.
* In the most extreme cases, a conversion practice could engage Article 2 of the ECHR if someone dies as a result. The applicable principles on positive obligations for Article 2 of the ECHR are similar to those for Article 3.
[89] Article 3 of the ECHR says: "Prohibition of torture No one shall be subjected to torture or to inhuman or degrading treatment or punishment."
[90] *Stasi v France*, 2011, at para 75.

assessment of this minimum level is relative: it depends on all the circumstances of the case, such as the nature and context of the treatment, its duration, its physical and mental effects and, in some instances, the sex, age and state of health of the victim.[91] Ill-treatment under Article 3 of the ECHR also covers psychological suffering. The treatment is degrading when it causes victims feelings of fear, anguish and inferiority capable of humiliating and debasing them.[92] When the treatment does not reach the seriousness threshold for Article 3, Article 8 of the ECHR can still be engaged.[93]

5.3. If Article 3 of the ECHR is engaged, the obligation under Article 1 of the ECHR to secure for everyone within their jurisdiction the rights and freedoms in the ECHR, taken together with Article 3, requires States to take measures designed to ensure that individuals within their jurisdiction are not subjected to ill-treatment, including ill-treatment by private individuals.[94] This includes an obligation to enact effective criminal law provisions to deter offences against personal integrity, backed by law enforcement machinery to prevent, suppress, and punish breaches of those provisions.[95]

5.4. Further to the duty to protect, Article 3 also triggers procedural obligations requiring the State to conduct an investigation capable of establishing the facts and identifying and, if appropriate, punishing those responsible.[96]

5.5. States have a specific duty to prevent hatred-motivated violence. Where there is a suspicion that discriminatory attitudes induced a violent act, States need to ensure the effective application of domestic criminal-law mechanisms capable of uncovering the possible hate motive with homophobic overtones behind the violent incident and of identifying and, if appropriate, adequately punishing those responsible.[97]

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[91] Ibid.
[92] *Aghdgomelashvili and Japaridze v Georgia*, 2020, at para 42; *Lapunov v Russia*, 2023, at para 108.
[93] *Wainwright v the United Kingdom*, 2006, at para 43.
[94] *M.C. and A.C. v Romania*, 2016, at para 109.
[95] *Stasi v France*, 2011, at para 80.
[96] *Sabalić v Croatia*, 2021, at para 96, and *Oganezova v Armenia*, 2022, at para 84-85.
[97] *Sabalić v Croatia*, 2021, at para 105, *Hanovs v Latvia*, 2024, at para 48.

5.6. The State's duty to prevent hatred-motivated violence, and to investigate the existence of a possible link between a discriminatory motive and the act of violence, can fall under the procedural aspect of Article 3 of the ECHR, but may also be seen to form part of State's positive duties under Article 14 of the ECHR to secure the fundamental value enshrined in Article 3 without discrimination.[98]

5.7. The right not to suffer torture, or inhuman or degrading treatment or punishment under Article 3 of the ECHR is absolute. It may not be limited under any circumstances whatever. Importantly, a person cannot lawfully consent to conduct that would amount to a breach of Article 3.[99]

Article 8 of the ECHR – right to private and family life

5.8. Sexual orientation and gender identity are distinct, intimate characteristics deeply rooted in a person's identity, protected under the right to respect for private life protected by Article 8 of the ECHR.[100]

5.9. Private life covers a person's physical and psychological integrity, including their sexual life.[101] It can also include aspects of a person's physical and social identity.[102] Under the ECtHR case law, gender identity, name, sexual orientation and sexual life fall within the personal sphere protected by Article 8 of the ECHR.[103] Article 8 also protects the right to personal development and the right to establish and develop relationships with other human beings and the outside world.[104]

5.10. Article 8 of the ECHR may impose positive obligations on States to ensure effective respect for the rights to private and family life.[105] These obligations may involve adopting measures to

[98] *Sabalić v Croatia*, 2021, at para 91; *Identoba and Others v Georgia*, 2015, at para 63-64; *M.C. and A.C. v Romania* 2016, at para 106.
[99] *Laskey and Others v UK*, 1997, at para 44 and *R v Brown* [1993] UKHL 19, [1994] 1 AC 212.
[100] Sousa Goucha v Portugal.
[101] *X and Y v the Netherlands*, 1985, at para 22.
[102] *Y.Y v Turkey*, 2015, at para 56.
[103] *Dudgeon v the UK*, 1981, at para 41; *B. v France*, 1992, at para 63; *Smith and Grady v the UK*, 1999, at para 71; *Sousa Goucha v Portugal*, 2016, at para 27; *Beizaras and Levickas v Lithuania*, 2020, at para 109; *A.K. v Russia*, 2024, at para 30; *W.W. v Poland*, 2024, at para 82.
[104] *Schlumpf v Switzerland*, 2009, at para 77.
[105] *Hämäläinen v Finland* [GC], 2014, at para 62.

secure respect for private or family life, even in relations between individuals.[106] When determining whether such an obligation exists, States must strike a fair balance between the general interest and the individual's interests. In both contexts, the State enjoys a certain margin of appreciation.[107]

5.11. Violence from a third party will often engage Articles 2 and 3, but also Article 8 of the ECHR because violence threatens bodily integrity and the right to private life. Under Article 8, States have a duty to protect an individual's physical and moral integrity from other persons. Hence, they must maintain and apply, in practice, an adequate legal framework that protects against acts of violence by private individuals.[108] This duty is particularly important in cases involving children and victims of domestic violence.[109]

Article 14 of the ECHR – Prohibition of discrimination

5.12. The ECtHR has repeatedly included sexual orientation and gender identity among the "other grounds" protected under Article 14 of the ECHR.[110] Differences based on gender or sexual orientation require particularly serious reasons by way of justification.[111]

5.13. States have a positive obligation to secure the effective enjoyment of ECHR rights and freedoms. This obligation is particularly important for persons holding unpopular views or

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[106] *Oliari and Others v Italy*, 2015, at para 159.
[107] *B. v France*, 1992, at para 44; *Hämäläinen v Finland* [GC], 2014, at para 67. The ECtHR has found, for example, that there is a positive obligation to ensure the right of a post-operative transgender person ["transsexuals" in the language used by the ECtHR at the time of the judgment], to respect for her private life, in particular through legal recognition for her gender re-assignment. *Christine Goodwin v the United Kingdom* [GC], 2002, at paras 71-93; *Grant v the United Kingdom*, 2006, at paras 39-44.
[108] *Osman v the United Kingdom*, at paras 128-130; *Bevacqua and S. v Bulgaria*, at para 65; *Sandra Janković v Croatia*, at para 45; *A v Croatia*, at para 60; *Đorđević v Croatia*, at para 141-143; *Söderman v Sweden* [GC], at para 80.
[109] Regarding children, who are particularly vulnerable, the measures applied by the State to protect them against acts of violence falling within the scope of Article 8 must also be effective. This should include reasonable steps to prevent ill-treatment of which the authorities had, or ought to have had, knowledge and effective deterrence against such serious breaches of personal integrity (*Z and Others v the United Kingdom* [GC], at para 73; *M.P. and Others v Bulgaria*, at para 108). Such measures must be aimed at ensuring respect for human dignity and protecting the best interests of the child (*Pretty v the United Kingdom*, at para 65; *C.A.S. and C.S. v Romania*, at para 82). In cases of domestic violence, the ECtHR also holds States responsible for protecting victims, particularly when the risks of violence are known by State officers and when officers fail to enforce measures designed to protect victims of violence (*Bevacqua and S. v Bulgaria; A v Croatia; Hajduová v Slovakia; Kalucza v Hungary; B. v Moldova*).
[110] *Salgueiro da Silva Mouta v Portugal*, 1999, at para 28; *Fretté v France*, 2002, at para 32; *A.M. and Others v Russia*, 2021, at para 73.
[111] *Karner v Austria*, 2003, at para 37; *L. and v. v Austria*, 2003, at para 45; *Vallianatos and Others v Greece* [GC], 2013, at para 77, *A.K. v. Russia*, 2024, at para 34.

belonging to minorities, because they are more vulnerable to victimisation.[112] The State' duty to prevent the infliction of hatred-motivated violence (whether physical attacks or verbal abuse) and to investigate the existence of any possible discriminatory motive behind such violence may also be seen as forming part of the authorities' positive responsibilities under Article 14 of the ECHR to secure the fundamental values protected by other ECHR Articles without discrimination.[113]

5.14. These obligations may involve the adoption of measures even within the sphere of the relations of individuals between themselves. While the choice of the means in principle falls within the State's margin of appreciation, effective deterrence against grave acts where essential aspects of private life are at stake requires efficient criminal-law provisions.[114]

5.15. The Committee should consider whether the Bill, as one of the measures available to the State within its margin of appreciation, is sufficient to fulfil its positive obligations under Articles 3, 8 and 14 of the ECHR. These include protecting individuals' physical and moral integrity from harm caused by others, preventing hatred-motivated violence, and investigating any possible links between discriminatory motives and acts of violence. If a legislative ban is not introduced, these positive obligations remain and must be complied with by different measures. The Committee may therefore wish to consider the extent to which the current legal framework already protects adults and children from harmful conversion practices. The NIHRC doubts whether current provision is adequate.

[112] *Beizaras and Levickas v Lithuania*, 2020, at para 108.
[113] For example, *Stoyanova-Tsakova v Bulgaria*, 2022, concerned the duty under Articles 2 and 14 of the ECHR to investigate and punish violent attacks (resulting in death) by private persons motivated by hostility towards the victim's actual or presumed sexual orientation and, in particular, whether Bulgarian criminal law and its application by the Bulgarian courts in respect of this case made it possible to respond appropriately to the homophobic motives for the attack. The ECtHR found a violation of Article 14 taken together with Article 2 of the ECHR because, under the Bulgarian Criminal Code, murder motivated by hostility towards the victim on account of his or her actual or presumed sexual orientation was not considered "aggravated" or otherwise treated as a more serious offence on account of the special discriminatory motive which underlies it. In practice, although the Bulgarian courts clearly established that the attack on the applicant's son had been motivated by the attackers' hostility towards people whom they perceived to be homosexuals, they had not attached to that finding any tangible legal consequences.
[114] *Beizaras and Levickas v Lithuania*, 2020, at paras 106-116.

6. Human rights standards on legislative bans of conversion practices at the UN level

The International Human Rights Position on Conversion Practices

6.1. This section highlights key instances in which UN treaty bodies and office holders have considered the issue of conversion practices. It draws on General Comments and concluding observations, including observations concerning countries other than the United Kingdom, where these provide useful guidance on the relevant human rights standards and matters that the Committee may wish to consider. International human rights instruments do not have the same legal status as the ECHR. However, the ECtHR has reiterated:

> that the Convention has to be interpreted in the light of the rules set out in the Vienna Convention on the Law of Treaties of 23 May 1969, and that Article 31 § 3 (c) of that treaty indicates that account is to be taken of "any relevant rules of international law applicable in the relations between the parties". The Convention, including Article 6, cannot be interpreted in a vacuum. The Court must be mindful of the Convention's special character as a human rights treaty, and it must also take the relevant rules of international law into account …. The Convention should so far as possible be interpreted in harmony with other rules of international law of which it forms part.[115]

The ECtHR has had recourse to general comments of UN Treaty bodies[116] and to reports of UN Special Rapporteurs in its judgements.[117] In addition, UN Special Rapporteurs regularly provide interventions before the ECtHR.[118] "Conversion therapy" is used as an umbrella term to describe interventions of a wide-ranging nature, all of which are premised on the belief that a person's sexual orientation and gender identity, including gender expression, can and should be changed or suppressed when they do not fall under what other actors

[115] *Al-Adsani v United Kingdom*, 21 November 2001, at para 55.
[116] *Bayatyan v Armenia* (Application no. 23459/03) 7 July 2011, para 85
[117] *Delfi As v Estonia* (Application no. 64569/09), 16 June 2015 para 48 and 49.
[118] *Brother Watch and Others v the United Kingdom* (Applications nos. 58170/13, 62322/14 and 24960/15) 25 May 2001, para 311 to 314.

in a given setting and time perceive as the desirable norm, in particular when the person is lesbian, gay, bisexual, trans or gender diverse.[119]

6.2. The treaty-body findings and general human rights standards discussed below can be summarised as follows:

a. Treaty bodies have clearly condemned conversion practices as discriminatory, harmful and incompatible with rights to health, bodily and psychological integrity and autonomy and have expressly recommended their prohibition.

b. However, the treaty-body material discussed below does not provide detailed guidance on how human rights compliant legislation should be drafted.

c. The UN Human Rights Committee's general standards on freedom of religion or belief and freedom of expression provide a framework for assessing legislative clarity and any restrictions on those rights, including the requirements of legality, necessity, proportionality and non-discrimination.

Conversion Practices, Equality and Non-Discrimination

6.3. The application of international human rights law is guided by the fundamental principles of universality, equality and non-discrimination. The right to equality and non-discrimination is entrenched in the UN International Covenant on Civil and Political Rights (UN ICCPR),[120] the UN International Covenant on Economic, Social and Cultural Rights (UN ICESCR),[121] the UN Convention on the Elimination of All Forms of Discrimination against Women (UN CEDAW),[122] the UN Convention on the Rights of the Child (UN CRC),[123] and the UN Convention on the Rights of Persons with Disabilities (UN CRPD).[124] Practices of "conversion therapy" target a specific group on the basis of sexual orientation

[119] A/HRC/44/53*, "Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity", 1 May 2020, at Para 17.
[120] Ratified by the UK 1966 , See Article 2(1) and Article 26.
[121] Ratified by UK 1976, Article 2(2).
[122] Ratified by the UK 1986, see Articles 1-2.
[123] Ratified by the UK 1989, see Article 2.
[124] Ratified by the UK 2009, see Article 5.

and gender identity, with the specific aim of interfering in their personal integrity and autonomy. In that regard, several treaty bodies have found that these practices are inherently discriminatory. In its Concluding Observations on South Korea, the Human Rights Committee recommended that the:

> State party should clearly and officially state that it does not tolerate any form of social stigmatization of, or discrimination against, persons based on their sexual orientation or gender identity, including the propagation of so-called "conversion therapies", hate speech and violence.[125]

6.4. The UN CEDAW Committee has expressed concern regarding policies and measures intended to "rehabilitate" or "cure" lesbian, bisexual and transgender women noting that they are discriminatory.[126] It recommended that Malaysia, "expedite measures to discontinue all policies and activities aimed at "correcting" or "rehabilitating" lesbian, bisexual and transgender women and intersex persons."[127]

6.5. According to the UN Committee on Economic, Social and Cultural Rights (UN CESCR Committee), non-discrimination, in the context of the right to sexual and reproductive health, also encompasses the right of all persons, including lesbian, gay, bisexual, transgender and intersex persons.[128] In that regard, the UN CESCR Committee stated that regulations requiring that lesbian, gay, bisexual transgender and intersex 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.[129]

6.6. The UN CEDAW Committee expressed concern over the practice of "de-homosexualization" in Ecuador clinics originally established for the treatment of drug addiction continues and recommended that the State Party implement the legislation that

[125] CCPR/C/KOR/CO/4, "Human Rights Committee Concluding observations on the fourth periodic report of the Republic of Korea", 3 December 2015, at para 15.
[126] CEDAW/C/MYS/Q/3-5, "List of issues and questions in relation to the combined 3rd to 5th periodic reports of Malaysia: Committee on the Elimination of Discrimination against Women", 31 July 2017 at para 21.
[127] CEDAW/C/MYS/CO/3-5, "Concluding observations on the combined third to fifth periodic reports of Malaysia", 14 March 2018 at para 48 (c).
[128] E/C.12/GC/22, "General comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)", 2 May 2016 at para 23.
[129] Ibid.

prohibits practices of "de-homosexualization".[130] The UN Human Rights Committee additionally in its Concluding Observations on Ecuador recommended that the State Party, "should also redouble its efforts to eliminate fully the practice of placing such persons in institutions for treatment to "cure their sexual orientation or gender identity".[131] The UN Human Rights Committee additionally raised concern over the use of State owned buildings by private organizations for so-called "conversion therapies.[132] In 2026, the UN Human Rights Committee welcomed Canada's 2022 amendments to the Criminal Code criminalising conversion therapy, as well as provincial legislation in Quebec and Yukon.[133]

Conversion Therapy and the Risk of Torture or Cruel, Inhuman or Degrading Treatment

6.7. The UN Committee against Torture has expressed concern about coercive and abusive conversion practices and recommended their prohibition.[134] In its Concluding Observations on China the Committee recommended that China adopt the necessary legislative, administrative and other measures to guarantee respect for the autonomy and physical and personal integrity of lesbian, gay, bisexual, transgender and intersex persons and prohibit the practice of so-called "conversion therapy".[135]

6.8. The UN Independent Expert on sexual orientation and gender identity has further concluded that conversion practices conducted forcibly or without consent constitute cruel, inhuman or degrading treatment and may, depending on the severity of the suffering inflicted, amount to torture.[136] In the view of the

[130] CEDAW/C/ECU/CO/8-9, "Concluding observations on the combined eighth and ninth periodic reports of Ecuador",11 March 2015 at para 19 (c).
[131] CCPR/C/ECU/CO/6, "Concluding observations on the sixth periodic report of Ecuador, Concluding observations on the sixth periodic report of Ecuador", 11 August 2016 at para 11-12.
[132] CCPR/C/KOR/CO/4, "Human Rights Committee Concluding observations on the fourth periodic report of the Republic of Korea", 3 December 2015, at paras. 14 (c).
[133] Human Rights Committee, 'Concluding observations on the seventh periodic report of Canada' (23 March 2026) UN Doc CCPR/C/CAN/CO/7, para 3(c), (j).
[134] UN Committee against Torture, 'Concluding Observations on the Fifth Periodic Report of China' (3 February 2016) UN Doc CAT/C/CHN/CO/5, paras 55–56.
[135] Ibid, para 56(a).
[136] UN Human Rights Council, 'Practices of So-Called "Conversion Therapy": Report of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity' (1 May 2020) UN Doc A/HRC/44/53, paras 62–65.

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment:

> given that "conversion therapy" can inflict severe pain or suffering, given also the absence both of a medical justification and of free and informed consent, and that it is rooted in discrimination based on sexual orientation or gender identity or expression, such practices can amount to torture or, in the absence of one or more of those constitutive elements, to other cruel, inhuman or degrading treatment or punishment.[137]

6.9. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has recommended that States explicitly prohibit forced "conversion therapy".[138]

Conversion Practices and the Rights of Children and Adolescents

6.10 The UN Convention on the Rights of the Child at Article 3 establishes the principle that the child's best interests must be a primary consideration in all decisions relating to their welfare. The Convention goes on at Article 19 to provide that all appropriate legislative, administrative, social and educational measures must be taken to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.

6.11 The UN Committee on the Rights of the Child has connected conversion practices with violations of the rights of all adolescents to freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy.[139] The UN Committee on the Rights of the Child have emphasised,

> that parental direction and guidance be provided in a manner consistent with the evolving capacities of the child. The Committee defines evolving capacities as an enabling principle that addresses the process of maturation and learning through

[137] A/74/148, "Relevance of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment to the context of domestic violence", 12 July 2019, at para 50.
[138] Ibid, at para 75.
[139] CRC/C/GC/20, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, General 6 December 2016, at para 34.

> which children progressively acquire competencies, understanding and increasing levels of agency to take responsibility and exercise their rights.[140]

6.12 The UN Committee on the Rights of the Child, has condemned the imposition of so-called "treatments" to try to change sexual orientation and forced surgeries or treatments on intersex adolescents and has urged States to eliminate such practices.[141]

6.13 The UN Committee on the Rights of the Child and the UN Committee for the Elimination of Discrimination against Women in a joint general comment on harmful practices, highlight that;

> Harmful practices are persistent practices and forms of behaviour that are grounded in discrimination on the basis of, among other things, sex, gender and age, in addition to multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering.[142]

6.14 The Committees recognise that the UN Convention on the Rights of the Child;

> obliges States parties to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.[143]

6.15 The UN Committee on the Rights of the Child recommended that UK, "prohibit the promotion, facilitation and delivery of so-called conversion therapies aimed at changing the sexual orientation and gender identity of children, in line with its commitment made in 2018, with particular attention paid to the vulnerabilities of children who may be subject to such harm.[144]

6.16 In its Concluding Observation on the Russian Federation the UN Committee on the Rights of the Child expressed concern about the reports of coercive treatment of transsexual and homosexual

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[140] Ibid, at para 18
[141] Ibid, at para 34.
[142] CRC/C/GC/18/Rev.1, Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices, General 8 May 2019, at para 18
[143] Ibid, at para 34
[144] CRC/C/GBR/CO/6–7, "Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland", 22 June 2023 at para 35 (b).

persons, in particular children, and an attempt to diagnose transsexuality as psychiatric disease, as well as the lack of sexual health information for LGBTI children.[145] It recommended that the State Party put this to an end.[146]

Balancing Freedom of Religion and Competing Rights

6.17 Article 18(3) of the UN ICCPR permits restrictions on the freedom to manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.[147] The UN Human Rights Committee observes that paragraph 3 of Article 18 must be interpreted strictly: restrictions are not allowed on grounds not specified therein.[148] Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.[149]

6.18 It is therefore important to note that any prohibition on conversion practices must be carefully drafted so as not to criminalise the legitimate expression of religious doctrine, voluntary pastoral support, or prayer.

6.19 Article 18 (4) of the UN ICCPR state that,

> The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

6.20 As recognised by the UN Human Rights Committee, the manifestation of religion or belief under Article 18 may be exercised individually or in community with others, in public or private, and

[145] CRC/C/RUS/CO/4-5, "Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation", 23 February 2014, at para 55.
[146] Ibid, at para 56 (c).
[147] CCPR/C/21, "CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion) Adopted at the Forty-eighth Session of the Human Rights Committee", on 30 July 1993, at para 8.
[148] Ibid.
[149] Ibid.

encompasses worship, observance, practice and teaching.[150] Activities such as preaching religious views on sexuality, offering voluntary spiritual guidance, or praying with an individual at their request may, depending on the circumstances, fall within the scope of conduct protected by Article 18. This is reinforced by the UN Human Rights Committee's view that any restrictions on the manifestation of religion or belief must be interpreted strictly and applied only in the limited circumstances permitted by Article 18(3) as highlighted above. In Communication No. 2747/2016 - *Sonia Yaker v France* the UN Human Rights Committee stated that, "Article 18 (3) exceptions are to be interpreted strictly and not applied in the abstract".[151] Measures restricting the manifestation of religion should not be vague and should be proportionate to the aim sought, or be the least restrictive means that is protective of religion or belief.[152]

6.21 A prohibition of harmful or coercive conversion practices may pursue the legitimate aims of protecting health and the rights and freedoms of others. It is important to note that the UN Special Rapporteur on freedom of religion or belief has highlighted that the right to freedom religion or belief should never be used as a tool of discrimination, hostility and violence stating that such conduct should be condemned by all actors at every level of society.[153] International law rejects any attempt to use either religion or belief, or freedom of religion or belief, as justification for the destruction of either the rights and freedoms of others or of other rights and freedoms.[154]

6.22 The harmful effects of conversion practices have been documented by the former UN Special Rapporteur on Sexual Orientation and Gender Identity. He noted that, "Victims may suffer treatment of heinous physical and psychological violence in institutions and in the context of programmes carrying out practices of conversion therapy." He further reported, "Faith-based organizations that actively promote, and often perpetrate, practices of "conversion

[150] CCPR/C/21, "CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion) Adopted at the Forty-eighth Session of the Human Rights Committee", on 30 July 1993 at para 4. See also CCPR/C/123/D/2747/2016, Communication No. 2747/2016 - Sonia Yaker v France at para 8.4.
[151] CCPR/C/123/D/2747/2016, Communication No. 2747/2016 - Sonia Yaker v France at para 8.10.
[152] Ibid, at para 8.10 to 8.11.
[153] A/HRC/52/38, "Landscape of freedom of religion or belief Report of the Special Rapporteur on freedom of religion or belief, Nazila Ghanea*", 30 January 2023 at para 7.
[154] Ibid.

therapy" act on the premise that there is something inherently evil in diverse sexual orientations and gender identities".[155]

6.23 The UN Special Rapporteur on freedom of religion or belief has similarly noted:

> the rising number of hate crimes based on sexual orientation and gender identity worldwide correlates with a steep rise in faith-based groups using interpretations of religious teachings that promote gender-based violence and discrimination to violate the human rights of LGBT+ persons, including, inter alia, their right to life and freedom from torture.[156]

6.24 According to the UN Special Rapporteur on freedom of religion or belief:

> States have an affirmative duty to create the conditions in which all members of society can exercise their rights, including the right to hold a religion or belief. States have an obligation to ensure that, where they act to protect individuals' rights to manifest their religion or belief, this does not have the effect of impairing the enjoyment of the rights to equality and non-discrimination of any member of society.[157]

6.25 The UN Special Rapporteur in addition has stated that:

> when claims based on freedom of religion or belief and of non-discrimination collide, a careful analysis of all the relevant information should be made to maximize the protection of both sets of rights through a proportionality analysis rather than an abstract hierarchy of rights.[158]

Balancing Freedom of Expression and Competing Rights

6.26 Article 19(2) of the UN ICCPR requires States parties to guarantee the right to freedom of expression, including the right to seek,

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[155] A/HRC/44/53 'Practices of so-called "conversion therapy" - Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity', 1 May 2020.
[156] A/HRC/43/48 "Gender-based violence and discrimination in the name of religion or belief Report of the Special Rapporteur on freedom of religion or belief", 24 August 2020.
[157] Ibid, at para 70.
[158] Ibid, at para 71.

receive and impart information and ideas of all kinds regardless of frontiers.[159] This right includes political discourse, commentary on one's own and on public affairs, canvassing discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse.[160] The scope of "expression" is very broad.

6.27 Under Article 19(3) of the UN ICCPR, a restriction must be provided by sufficiently accessible and precise law; pursue respect for the rights or reputations of others, national security; public order, public health or morals; and be necessary and proportionate.[161]

6.28 The UN Human Rights Committee repeatedly warns against vague or overly broad restrictions on speech. The UN Human Rights Committee observed in General Comment No 27 that:

> restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; they must be proportionate to the interest to be protected…".[162] The principle of proportionality has to be respected not only in the law that frames the restrictions but also by the administrative and judicial authorities in applying the law.[163]

When a State party "invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat".[164]

6.29 The law must provide sufficient guidance to those required to comply and those charged with their execution can ascertain what sorts of expression are properly restricted and what sorts are not.[165]

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[159] CCPR/C/GC/34, "General Comment No 34: Article 19: Freedoms of Opinion and Expression", 12 September 2011), at para 11.
[160] UN Human Rights Committee, 'General Comment No 34: Article 19: Freedoms of Opinion and Expression' (12 September 2011) UN Doc CCPR/C/GC/34, at para 11.
[161] Ibid, at para 22.
[162] Ibid, at para 34.
[163] Ibid, at para 34.
[164] Ibid, at para 35.
[165] Ibid, at para 25.

6.30 Guidance from the international human rights system underscores that prohibiting conversion practices requires careful consideration to be given to distinguishing coercive, abusive or harmful conduct intended to change or suppress a person's sexual orientation or gender identity from the expression of religious beliefs, genuinely non-directive pastoral support and consensual discussion. While the former may be subject to restriction, the latter engage the protection of Article 19 and may be restricted only where the requirements of legality, necessity and proportionality are satisfied.

6.31 The Committee should be mindful of the international human rights law guidance relating to conversion practices as it considers the Bill and its compatibility with the ECHR.

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