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Analysis of the effects of legal sex markers in detention: Single-sex detention facilities, conversion therapy, and violations of human rights

Cianán Russell

Abstract

Conversion therapies have been classified as inhuman treatment or torture on several instances, including by the UN Special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and are explicitly prohibited by several professional bodies around the world such as the World Medical Association and the World Professional Association for Transgender Health. They have been defined as "any treatment, practice or sustained effort that aims to change, repress and, or eliminate a person's sexual orientation, gender identity and, or gender expression" (Malta, 2016).

However, based on its functional definition, the concept of "conversion therapy" can be successfully used as a broader analytical framework to describe carceral practices that regulate gender identity and expression and, in particular, those implemented by sex-segregated detention facilities.

This paper argues that, coupled with often restrictive and sometimes impossible means for accessing legal gender recognition to change one's identity documents, single-sex detention acts as a form of conversion therapy for trans and gender diverse people at least in two ways by coercing detainees into adopting gender expression modes that do not align with their gender identity. In that sense, it can be said that sex-segregated detention acts to change the gender identity or expression of gender diverse detainees and, therefore, can amount to inhuman treatment or torture.

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