

FORCED CONVERSION OF MINICULOUS (LGBTQI) IN TO MAJORITY & LAW: A LITERATURE BASED APPRAISAL

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Abstract

Human world is full of variation and sometimes it surprises us. When a child born we at first divide on basis of sex i.e. male and female and later relationship between these male and female known as heterosexual. Being male, female and their heterosexual relationships are acceptable in society. On the contrary, if anybody born with intersex condition or find with transgender identity or homosexual orientation (gay, lesbian, bisexual), then majority tries their level best to convert them to fit in to binary sex and heterosexual relationship. Conversion therapy is one of tool to forced conversion. We often ignore science and evidence based research to meet with stereotypes criteria. Conversion therapy is a painful process and also results in long-term harm but it still in practice. Many medical professionals, religious leaders, clergy and unprofessional have been using various inhuman methods and treatments of bodily conversion as well as psychological conversion. Being homosexual or transgender or intersex is neither a disease, or a sin or a crime. This paper is a literature based attempt to discuss the concept, science, history, impact and efficacy of conversion practice. Further this paper is surveying global law, ethical and human rights stand upon this practice. At last author suggests some legal and policy changes to ban this ill practice and make society aware about such conditions.

Keywords: Sexual Orientation, Transgender, Conversion Therapy, Homosexuality

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I Introduction

“Conversion therapy’ [practice] is not a single event it is a process of continued degradation and assault on the core of who you are. There are often repeated violations in the form of psychological and sometimes physical abuse...It is not one instance — it is a continued sense of rejection. The pressure is enormous.”

George Barasa, gay gender non-conforming Kenyan living in South Africa, survivor of ‘Conversion Therapy’¹

THE FATE of any kind of minority lies on the treatment by the majority with them. Sexual or gender based minority community which widely known as Lesbian, Gays, Bisexual, Transgender, Queer, Intersex and other such variations (hereinafter LGBTQI) are no longer exception in this regard. Varieties of sexual orientation and gender expression are a natural component of human development. Sex and gender often used as interchangeable but sex is biological expression (mostly divided in male and female) whereas gender is social construct (masculine and feminine). As they get closer to puberty and beyond, it's also acceptable and healthy for kids and teenagers to experiment with their gender identification and sexuality.

On the other hand, most of the civilized societies of the world are not ready to accept these variations and this result in to forced conversion. Homosexual relationships and Transgender Identity both have been facing homophobic and trans phobic treatment from the hand of heterosexual and those who believes in binary system of sex. Involuntary conversion practices are one of the types of homophobic and trans phobic treatment. For the scope of this paper the conversion therapy means forcing LGBTQI people for anatomical changes and psychological changes to convert in to mainstream binary.

This research paper is based on analysis of existing literature in form of journal articles, incidents reported in news reports, research reports, legal and judicial documents etc., where author tries to find out existence, types, history, and efficacy of conversion therapy. The scope

¹ Bishop, A. *Harmful Treatment: The Global Reach of So-called Conversion Therapy*. Out Right Action International, (2019)available at: <https://outrightinternational.org/sites/default/files/2022-08/AC2-conversion-report.pdf>. (last visited on April 1, 2024)

and basis of paper is limited to existing literatures. The paper will also figure out existing legal, ethical and human rights status for conversion therapy. Indian legal and judicial perspective has also given special emphasis as our society is still not so inclusive. In last part this paper has given some civil and criminal remedies which can possibly change existing scenario if adopted.

II Definitions

Genes and the environment interact to produce most human characteristics. Environmental variables influence the expression of genetic traits (e.g., skin colour), whereas genetic factors influence ostensibly environmental qualities (e.g., a person's college).²

Society largely considers that LGBTQI people are ‘born that way’ and makes a claim about a genetic basis for sexual orientation (individual’s emotional, physical and romantic attraction towards other) or gender identity (individual’s personal sense of one's own gender corresponding to sex). When a trait consists of thoughts and sensations that a child is unable to exhibit, it is impossible to determine whether it exists at birth.³

Several significant terms are repeatedly used throughout this paper. It is essential to understand these ‘terms’ meanings. Sex refers to biological attributes that characterize maleness and femaleness. Gender is a set of socially construction which may be corresponding to sex or may not. Gender identity refers to an individual person’s basic sense of being masculine, or feminine. Sexual orientation refers to the sexual attraction to persons of the same sex (homosexual *i.e.* lesbian and gays), opposite sex (heterosexual), both sexes (bisexual), or neither sex (asexual). Transgender is an umbrella term used to describe people with a different gender identity than the sex assigned at birth.

²Tia Powell and Edward Stein, "Legal and Ethical Concerns about Sexual Orientation Change Efforts," LGBT Bioethics: Visibility, Disparities, and Dialogue, special report, *Hastings Center Report* 44, no. 5 (2014): S32-S39. DOI: 10.1002/hasr.368

³*Id*

Sexual orientation and gender identity alteration efforts (SOGICE), also called conversion therapy, known as “*it is a practice attempting to convert lesbian, gay, bisexual, transgender, queer, or questioning (LGBTQ) individuals to be heterosexual and/or cisgender.*”⁴

In another view, ‘Conversion therapy’ or ‘reparative therapy’ or change oriented therapy or gay cure therapy refers to “*any form of intervention, such as individual or group, behavioral, cognitive, or milieu/environmental operations, that attempts to change an individual’s sexual orientation or sexual behaviors (sexual orientation change efforts [SOCE]) or an individual’s gender identity (gender identify change efforts [GICE]).*”⁵ In a simple term conversion therapy is basically an aim to change homosexual in to heterosexual or all sex and gender variations in to their corresponding gender in line with birth assigned sex.

Conversion therapy is practice rooted in false beliefs that being LGBTQI is pathologic and a disorder or mental illness that can be ‘cured’.⁶ According to independent expert of UN, Victor Madrigal-Borloz, these interventions are consistently aimed at “*effecting a change from non-heterosexual to heterosexual and from trans or gender diverse to cisgender.*”⁷ As per the British Psychological Society (BPS), conversion therapy is tried to change someone's sexual orientation or gender identity.⁸ LGBTQI are victim of rejection and blame or condemn, leading to an ongoing demand for ban on ‘conversion therapy’, both by LGBTQ people themselves as well as by their families, faith communities, and broader society.⁹

III Medical History and Practice of Forced Conversion

In past, medical science was also not well versed with LGBTQI and their orientation. The American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders*

⁴Anna Forsythe, “Humanistic and Economic Burden of Conversion Therapy among LGBTQ Youths in the United States”, *JAMA Pediatr.* 2022;176(5):493-501. doi:10.1001/jamapediatrics.2022.0042

⁵John Bancroft, *et al.*, Peer Commentaries on Spitzer, 32 *Archives Sexual Behavior.* 5, 419-68 (Oct. 2003); Carl Streed, *et al.*, “Changing Medical Practice, Not Patients — Putting an End to Conversion Therapy”, 381 *New Eng. J. Med.* 6, 500-02 (Aug. 2019).

⁶Human Rights Campaign, “The lies and dangers of efforts to change sexual orientation or gender identity” available at: <https://www.hrc.org/resources/the-lies-and-dangers-of-reparative-therapy> (Last visited on March 1, 22)

⁷Human 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 UN Doc_A/HRC/44/53 (May 1 2020) The United Nations Human Rights Council.

⁸What is conversion therapy and when will it be banned?, *BBC News*, 11 may 2022, available at: [https](https://www.bbc.com/news/health-61444444) (Last visited on July 10, 2022)

⁹*Supra* note 1.

(DSM) classified homosexuality as a mental disorder. Initially Physicians in the United States had seen homosexuality as a medical problem, thus practised medical solutions to “cure” individuals.¹⁰ These practices included testicle implants, castration, rectal massage and bladder washing.¹¹ Although by 1913, doctors started to realize that these techniques did not useful.¹²

Even after this realization, the practice of change sexual orientation became prominent in the mid-twentieth century.¹³ Practitioners recommended and implemented techniques like electroshock therapy, lobotomies, and additionally talk therapy.¹⁴ The employment of aversive procedures, such as making patients feel sick or paralyzed in reaction to homoerotic pictures and telling them to snap their wrists with a rubber band if they were aroused by such ideas, was a common emphasis of behavioral therapy.¹⁵

Therapists also experimented with non-aversive methods. These included efforts to help patients become better at dating people of the opposite sex; training men in assertiveness (which was often necessary because it was thought that dominant mothers and weak fathers produced gay sons); teaching stereotypically feminine and masculine behaviors; orgasmic reconditioning; and, among other methods, using hypnosis to change the direction of arousal and desire.¹⁶

As the “*gilded age*”¹⁷ (the period from 1940s to 1960s), view of professional had taken wide shift regarding the effectiveness and correctness of conversion therapy among psychotherapists. Supported by the 1940s through early 1970s definitions of mental disorders, the majority of psychology and psychiatry schools functioned as providers of “conversion therapy.”¹⁸ Behavioral

¹⁰See J. Seth Anderson, “Why We Still Haven’t Banished Conversion Therapy in 2018”, *WASH. POST* (Aug. 5, 2018), available at:

https://www.washingtonpost.com/news/made-by-history/wp/2018/08/05/why-we-still-havent-banished-conversion-therapy-in-2018/?utm_term=.d0ce86aa4b8e (Last visited on April 10, 2021)

¹¹*Id* at 2.

¹²*Id* at 3.

¹³Kenji Yoshino, Covering, 111 *YALE L.J.* 769, 790 (2002), available at: https://www.yalelawjournal.org/pdf/327_ise8w5fz.pdf (Last visited on April 10, 2024)

¹⁴ Jonathan Katz, “*Gay American History: Lesbians and Gay Men in the U.S.A.*” 170-73, 191-93 (1976). See also Kenji Yoshino, Covering, 111 *YALE L.J.* 769, 790 (2002) (Minute details are missing like Title should be in Italics, publishers are missing, if research paper, it should in inverted comas)

¹⁵*Id* at 770

¹⁶*Id* at 772

¹⁷See Jack Drescher et.al., “Sexual Conversion Therapy: Ethical, Clinical And Research Perspectives” 11 (2001)

¹⁸ See Conversion therapy global research, available at: www.ilga.org/Conversion-therapy-global-research-ILGA-World (Last visited on October 18, 2022)

therapy techniques became famous, especially in the 1960s¹⁹ and psychotherapy became more prominent in administering conversion therapy among mental health professionals.²⁰ Since 1998, the American Psychiatric Association has rejected conversion treatment for sexual orientation and eliminated homosexuality from the Diagnostic and Statistical Manual of Mental Disorders' second edition in 1973.²¹

The earliest known sex reassignment procedures for transsexuals were performed in 1931, if not before.²² In late 2018, gender dysphoria remains listed in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders but some opposed gender identity conversion.²³ Mental Illness Classifications for Homosexuality and Gender dysphoria (1948-2019) as per the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) as per following table:²⁴

S.N.	Number and year of DSM	DSM was for
1.	In DSM-1 (1952)	Homosexuality was measured a “sociopathic personality disturbance.”
2.	In DSM-2 (1968)	The categorization was updated to “sexual deviation.”
3.	In DSM-3 (1973)	Based on sizeable research, it resulted that change in sexual orientation was not possible and that

¹⁹American Psychological Associations', Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation 22 (2009), available at: <https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf>. (Last visited on 18/10/22)

²⁰*Supra* note 10

²¹“American Psychiatric Association Rebukes Reparative therapy” EurekAlert! (14 December 1998) available at: https://www.eurekalert.org/pub_releases/1998-12/APAAPAR-141298.php (Last visited on June 12, 2022)

²²Tonia Poteat et al. “History and Prevalence of Gender Dysphoria” in *Transgender Medicine: A Multidisciplinary Approach* (Leonid Poretsky & Wylie C Hembree eds) 5 (Switzerland: Humana Press, 2019); see also Darryl B Hill, “Sexuality and Gender in Hirschfeld’s *Die Transvestiten*: A Case of the ‘Elusive Evidence of the Ordinary’” 14(3) *J Hist Sex* 316 (2005).

²³American Psychiatric Association, Position Statement on Conversion therapy and LGBTQ Patients (December 2018), available at: <https://www.psychiatry.org/getattachment/3d23f2f4-1497-4537-b4de-fe32fe8761bf/Position-Conversion-Therapy.pdf> (last visited on April 1, 2024)

²⁴American Psychological Association (APA), Task Force on Appropriate Therapeutic Responses to Sexual Orientation. (2009), Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation. available at: <https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf> (last visited on April 1, 2024)

		same-sex attraction was normal gamut of human sexuality. ²⁵
4.	In DSM-5 (2018)	Sexual orientation was removed from the list of mental disorders. In addition, “gender identity disorder” was eventually replaced by “gender dysphoria,” and remains in the present classification. ²⁶

The World Health Organization has classified homosexuality in the following ways in the *International Classification of Diseases (ICD)*:²⁷

S.N.	Number and year of ICD	ICD was for
1.	In ICD-6 (1948)	Homosexuality classified as a “sexual deviation” that seemingly represented a fundamental personality disorder.
2.	In ICD-10 (1992)	“Sexual deviation” was delisted, but “ego-dystonic sexual orientation” was continued, meaning that while a person’s sexual orientation or gender identity was not in question, the individual wished it to be different and “may seek treatment to change it.” ²⁸ First time in ICD-10, the Gender non-conformity was classified as a gender identity disorder. ²⁹
3.	In ICD-11 (2018)	Homosexuality was totally removed, and gender

²⁵Robert Spitzer. “A proposal about homosexuality and the APA nomenclature: Homosexuality as an irregular form of sexual behavior and sexual orientation disturbance as a psychiatric disorder” (1973) *American Journal of Psychiatry*, 130, 1214-1216. The APA Task Force on Appropriate Therapeutic Responses to Sexual Orientation cites the extensive literature supporting the depathologization of homosexuality.

²⁶American Psychiatric Association, 2009.

²⁷World Health Organization. *International Classification of Diseases (ICD)*, 10th Revision. (1992).

²⁸*Ibid.*

²⁹Susan D. Cochran *et al.* "Proposed declassification of disease categories related to sexual orientation in the International Statistical Classification of Diseases and Related Health Problems (ICD-11)". *Bulletin of the World Health Organization* (2014); 92:672-679. doi: <http://dx.doi.org/10.2471/BLT.14.135541>. Jack Drescher *et al.* "Gender incongruence of Childhood in the ICD-11: controversies, proposals, and rationale." *The Lancet Psychiatry* 297-304(2016) .

		identity disorder was changed as “gender incongruence” and moved to a new chapter on sexual health. ³⁰ “Gender incongruence in childhood” remains in the ICD-11, despite significant concerns. ³¹
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The World Health Organization (WHO) has stated that homosexual attraction is a normal departure of human sexuality but not made a direct statement condemning “conversion therapy.” The WHO has considered “conversion therapy” along with forced or coercive sterilization, anal examinations, forced genital, needless surgery and treatment on intersex children without their permission as discriminatory and abusive practices experienced by LGBTIQ people around the world by medical setup.³²

In 2018, the WHO delisted all left over disorders correlated with homosexual attraction, such as “ego-dystonic sexual orientation”.³³ Section 302.01 of the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-III) carries the title of Ego-dystonic Homosexuality³⁴ which means a strong wish by the patient to alter his or her sexual orientation. The World Medical Association (WMA) has strongly emphasized “*that homosexuality does not represent a disease, but a normal variation within the realm of human sexuality.*”³⁵ The key medical and mental health association in, Canada, the United States, Australia, and the European

³⁰World Health Organization, International Classification of Diseases (ICD), 11th Revision. (2018), *available at*:<https://icd.who.int>.(last visited on April 1, 2023)

³¹Mauro Cabral *et.al.* "Removal of gender incongruence of childhood diagnostic category: a human rights perspective". 3 (5) *The Lancet Psychiatry*. 405-406 (May 01, 2016).

³²World Health Organization. Sexual health, human rights, and the law. (2015), *available at*: <https://apps.who.int/iris/bitstream/handle/10665/175556/9789241564984_eng.pdf?sequence=1> (last visited on April 1, 2024). ILO, UNAIDS, UNDP, UNESCO, UNHRC, UNFPA, UNICEF, UNODC, WFP, and WHO. Joint statement on Ending violence and discrimination against lesbian, gay, transgender and intersex people. (September 2015. *available at*:

https://www.who.int/hiv/pub/msm/Joint_LGBTI_StatementENG.pdf?ua=1 (last visited on April 1, 2024).

³³ World Health Organization, proposed declassification of disease categories related to sexual orientation in the international statistical classification of diseases and related health problems (ICD-11) 92 Bulletin of the World Health Organization:672-679 (2014).

³⁴Jaime Smith,"Ego-dystonic Homosexuality, *Comprehensive Psychiatry*" Volume 21, Issue 2, March–April 1980, Pages 119-127, [https://doi.org/10.1016/0010-440X\(80\)90088-7](https://doi.org/10.1016/0010-440X(80)90088-7)

³⁵ World Medical Association. Statement on Natural Variations of Human Sexuality. World Medical Assembly, (2024) *available at*:<https://www.wma.net/policies-post/wma-statement-on-natural-variations-of-human-sexuality/>. (last visited on April 1, 2024)

Union (EU) countries, as well as in many other countries, have condemned the practice of ‘conversion therapy.’³⁶

IV Types and Worldwide Occurrence

In the past, talk therapy, aversive conditioning techniques like electric shocks or induced nausea and vomiting, and other cognitive or behavioural treatment techniques like hypnosis and biofeedback were used to help people change their sexual orientation or gender identity.³⁷ Some mental health professionals, various clergy or religious advisors have practiced these therapies.³⁸ Specific efforts to change individuals’ gender identity have also been considered conversion therapy.³⁹ Since the mid-1990s, most conversion therapists’ have used counselling and talk therapy.⁴⁰

The review of literature, classified types of different therapies which inter alia includes, psychodynamic, behavioural, faith based and interpersonal therapies. Same is further elaborated and sub classified as under:

S. N.	Name of Therapy	Sub- Types
1	Psycho-dynamictherapy	Talk therapy or psychotherapy, including group therapy (e.g., exploring life events to identify the

³⁶“Groups such as: the American Medical Association, the American Psychiatric Association, the American Psychological Organization and many others in the U.S.; the Royal College of Psychiatrists, the UK Council for Psychotherapy, and the British Psychological Society and a coalition of others in the U.K.; the German Medical Association; the Australian Psychological Society; The Psychological Society of South Africa; the Lebanese Psychiatric Society; the Hong Kong College of Psychiatrists and the Hong Kong Psychological Society; the Chinese Psychological Association; the Indian Psychiatric Society; and the Psychological Association of the Philippines. Human Rights Campaign, Policy and position statements on conversion therapy (2018)”, *available at*:<https://www.hrc.org/resources/policy-and-position-statements-on-conversion-therapy>> (Last visited on August 2022)

³⁷APA Task Force on Appropriate Therapeutic Responses to Sexual Orientation. (2009), Report of the Task Force on Appropriate Therapeutic Responses to Sexual Orientation. Washington,DC: American Psychological Association.

³⁸"Conversion Therapy and LGBT Youth.Los Angeles", CA: The Williams Institute UCLA School of Law. (2018)

³⁹Substance Abuse and Mental Health Services Administration, Ending Conversion Therapy: Supporting and Affirming LGBTQ Youth. HHS Publication No. (SMA) 15-4928. Rockville,MD: Substance Abuse and Mental Health Services Administration, 2015.

⁴⁰Cella AS. "A voice in the room: the function of state legislative bans on sexual orientation change efforts for minors". *American Journal of Law & Medicine*, 40(2014): 113-140.

		cause)
2	Medical Therapy	Medication (including anti-psychotics, anti-depressants, anti-anxiety, psychoactive drugs, and hormone injections); Electroshock or electroconvulsive therapy (ECT) -to induce seizureelectric currents send through the body several times in a single session. Aversive treatments involve exposing a person to a stimulus when they experience a negative, painful, or otherwise upsetting sensation, with the idea that the stimulus will come to be linked with the unpleasant experience. (Such include administering nausea-inducing drugs or electric shocks to the hands and/or genitalia while presenting homoerotic stimuli). ⁴¹
3	Behavioral therapy	Eye Movement Desensitization and Reprocessing (where a person experiences bilateral stimulation while concentrating on a distressing memory); Hypnosis
4	Faith based therapy	Exorcism, Faith-based interventions are sometimes combined with exorcism(e.g., beating the individual with a broomstick while reading holy verses or burning the individual's head, back, and palms). Distinct leaders of faith-based groups and traditional healers use rituals and exorcism to drive out evil energies that are sometimes linked to sexual and gender diversity. ⁴²

⁴¹“Aversion is a practice, through which a person is subjected to a negative, painful or otherwise distressing sensation while being exposed to a certain stimulus, under the premise that the stimulus will become associated with the negative sensation. Treatments may include, but are not limited to, shock therapy, sensory deprivation, and submersion in ice-cold baths”.

⁴²“There are testimonies of such rituals being performed in contexts as wide-ranging as Bolivia, Brazil, Canada, France, Germany, Italy, Mexico, Nigeria, Peru, the Republic of Moldova and the United Kingdom, often in evangelical Christian churches. See Practices of so-called “conversion therapy, Human Rights Council Forty-fourth

5	Inter personal therapy	Force-feeding or food deprivation; Forcing an individual to be undressed in the presence of others; Forced Behavioral changes- forced in dressing or walking in a particular way; Putting Isolation including solitary confinement or stopping to interact with others; Verbal abuse and humiliation ; Beatings and other ‘corrective’ violence, including rape ⁴³ ; Masturbation reconditioning.
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The Aversion methodologies were declined in use, after late 1970s, but contemporary reports point out that electric shocks have been still in used as aversive treatments in Australia, China, Ecuador, India, Indonesia, Iran (Islamic Republic of), Lebanon, Malaysia, Panama, the Russian Federation, Sri Lanka, Uganda, the United States, Vietnam and Zimbabwe.⁴⁴

In terms of faith-based opinion homosexuality is considered as a sin by the Catholic Church. While, in 2013 and against all odds, Pope Francis said: “*if someone is gay and is looking for the Lord, who am I to judge?*”, he then triggered some controversy in August 2018 after saying that homosexuality in young children should be corrected particularly through psychiatry, which put an end to any progressive hopes.⁴⁵ Same sex marriage is allowed by most of western countries and currently 36 countries, where same-sex marriage is legal.⁴⁶

Various studies have reported existence of different kind of practices for conversion of Trans people. Malaysia and Vietnam have described being forced to see leaders of faith-based

session” 15 June–3 July 2020 A/HRC/44/53 available at: http://arc-international.net/wp-content/uploads/conversion-therapy-IESOGI-A_HRC_44_53_E.pdf (Last visited on August 12, 2022)

⁴³ Josina Bothe, "It's Torture Not Therapy, A Global Overview Of Conversion Therapy: Practices, Perpetrators, And The Role Of States", Thematic Report, 2020, available at: <<https://www.paolaparedes.com/>> (Last visited on August 12, 2022)

⁴⁴ *Supra* note 41

⁴⁵ Eric Jozef, Sur l'homosexualite, le pape fait scandale, l'Égliserétropédale , August 28, 2018, Libération, available at: https://www.liberation.fr/france/2018/08/27/sur-l-homosexualite-le-pape-fait-scandale-l-eglise-retropedale_1674864 (Last visited on August 12, 2022)

⁴⁶ Andorra, Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Norway, Portugal, Slovenia, South Africa, Spain, Sweden, Switzerland, Taiwan, the United Kingdom, the United States of America and Uruguay'. Marriage Equality Around the World, available at: <https://www.hrc.org/resources/marriage-equality-around-the-world> (Last visited on April 12, 2024)

organizations to be “healed” by prayers.⁴⁷ In Indonesia, mentoring through a group creation where lesbian, gay, bisexual, trans and gender-diverse persons could “*live with heterosexual identities and be comfortable on the path of local religion and customs*”.⁴⁸

Incidents of brutality have reported like in the Russian Federation, LGBT and gender-diverse children being taken to church and beaten with rods while others prayed for them.⁴⁹ In the United Republic of Tanzania, medical approaches and traditional approaches are practiced, often in conjunction with circumcision rites and religious worship.⁵⁰ Traditional medical approaches like *ayurvedic*, homeopathic and other approaches are also allegedly applied, including in India⁵¹ and Sri Lanka.

The incidents of miracle cures have been reported, including the pouring of oil in the vagina in Nigeria.⁵² Reports suggested that parents are taking their LGBT and gender-diverse children to traditional healers to “cure” them, where “treatment” sometimes includes an element of physical punishment, for example in Cambodia⁵³ and Vietnam.⁵⁴

In UK, some religious groups have constantly opposing any ban as they belief that all sex outside a heterosexual marriage is sinful. The Evangelical Alliance, (represents 3,500 churches), said that a ban could jeopardize religious freedoms, such as supportive prayer. On the contrary, the Church of England said that: “*the practices have "no place in the modern world" and a group of Christian leaders wrote a letter to the prime minister calling for trans people to be included,*

⁴⁷ *Supra* 42, See also Vietnam country report, available at: www.undp.org/content/dam/rbap/docs/Research%20&%20Publications/hiv_aids/rbap-hhd-2014-blia-viet-nam-country-report.pdf. (Last visited on August 12, 2022)

⁴⁸ Indonesia LGBTIQ conversion therapy, available at: www.abc.net.au/news/2018-12-06/indonesia-lgbtqi-conversion-therapy/10576900. (Last visited on August 12, 2022)

⁴⁹ See Anastasia Golubeva, Hypnosis and holy water: Russian 'cures' for gay people, 3 May 2017, available at: www.bbc.com/news/world-europe-39777612 (Last visited on August 12, 2022)

⁵⁰ The Global Reach of So-Called Conversion Therapy, *OutrightInternational*, August 12, 2019 available at: outrightinternational.org/reports/global-reach-so-called-conversion-therapy. (Last visited on 5/7/22)

⁵¹ International Rehabilitation Council for Torture Victims ‘Conversion therapy is a torture’ available at: <https://irct.org/media-and-resources/latest-news/article/1027>. (Last visited on 10/6/22)

⁵² “Gay in Nigeria: Everybody sees me as an abomination”, *BBC News* 30 December 2019 available at: www.bbc.com/news/av/world-africa-50869022/gay-in-nigeria-everybody-sees-me-as-an-abomination. (Last visited on June 10, 2022)

⁵³ Being LGBT in Asia: Cambodia Country Report, available at: www.asia-pacific.undp.org/content/rbap/en/home/library/democratic_governance/hiv_aids/being-lgbt-in-asia--cambodia-country-report.html. (Last visited on June 10, 2022)

⁵⁴ Vietnam LGBT report Available at: www.vn.undp.org/content/vietnam/en/home/library/democratic_governance/vietnam_lgbt_report.html. (Last visited on June 10, 2022)

as have various psychotherapists and counselors”.⁵⁵The Independent Expert depicts a harrowing picture of pervasive rape – grotesquely called “corrective” – and other forms of sexual violence against lesbian, bisexual and trans women in all regions of the world, including in India, Nigeria and South Africa.⁵⁶A journalistic investigation conducted in 2015 highlighted the use of hormonal treatment being prescribed in New Delhi by a sexologist who claimed to have “cured over 1,000 homosexuals” in the preceding 15 years.⁵⁷

In the Islamic Republic of Iran, hormone therapy is prescribed to lesbians to allegedly “cure” their so-called “*gay affliction*”.⁵⁸Current medical practices mostly rely on medication or hormone or steroid therapy. The invalid use of medication appears to be widely prevalent, taking place in many countries, including China, Ecuador, El Salvador, France, India, Iran (Islamic Republic of), Panama, the Russian Federation, Sri Lanka, Turkey, Uganda, the United Arab Emirates, the United States and Vietnam.⁵⁹

Apart from this the Inter-American Commission on Human Rights reported example of lesbian women being shackled, beaten, subjected to force-feeding or food deprivation, forced nudity, isolation and solitary confinement, restrained for days and raped in so-called ‘clinics’ in Ecuador.⁶⁰

The practice of conversion therapy also exists in India. Reports of “conversion therapy” persist, that electric shock therapy, psycho tropic medications, hormonal treatments, aversion

⁵⁵Elizabeth Arnold, Religious leaders urge PM to include trans people in conversion therapy ban, 2022, ‘available at: <https://www.independent.co.uk/news/uk/rowan-williams-boris-johnson-archbishop-canterbury-prime-minister-b2050620.html> (Last visited on June 10, 2023)

⁵⁶*Id*

⁵⁷ See Delhi doctors use electric shock to treat homosexuality, May 27, 2015, *available at:* www.indiatoday.in/mail-today/story/homosexuality-cure-delhi-doctors-exposed-conversion-therapy-254849-2015-05-27. (Last visited on May 10, 2022)

⁵⁸*Supra* 45 and Human Rights Report: Being Lesbian in Iran July 26, 2016, *available at:* <https://outrightinternational.org/content/human-rights-report-being-lesbian-iran>. (Last visited on June 10, 2022)

⁵⁹Outright International, “Harmful Treatment: The Global Reach of So-Called Conversion Therapy,” *available at:* https://outrightinternational.org/sites/default/files/2023-09/092523_Outright_Conversion2023%20%281%29.pdf (last visited on January 10, 2024)

⁶⁰ Pedro Felipe Rivadeneira Orellana, , “Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas”, Inter-American Commission on Human Rights, 2015, para. 200; Anastasia Moloney, Gays in Ecuador raped and beaten in rehab clinics to “cure” them, February 8, 2018, *available at:* <https://www.reuters.com/article/ecuador-lgbt-rights-idUSL8N1P03QO> (Last visited on June 10, 2022)

therapy, and corrective rape all are used.⁶¹ A 21-year-old student, Anjana Hareesh, committed suicide allegedly she was forced into conversion therapy by her family for months after coming out as bisexual⁶². Similarly Adam Harry, a pilot who is a transgender man, was locked in a room and subjected to 'therapy'.⁶³ A medical doctor was banned from practicing by the Delhi Medical Council in December 2018, after being found by the Delhi High Court to have been treating gay and lesbian people with electric shock therapy and hormonal therapies.⁶⁴ In a global survey, over 870 persons who had experienced such heinous methods including detention/imprisonment, physical abuse, kidnapping and forced pregnancy.⁶⁵

A 2019 study by UCLA Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy, resulted almost 700,000 lesbian, gay, bisexual, transgender and queer/questioning (LGBTQ) adults in the U.S. had received “conversion therapy;” in addition, an estimated 57,000 youths will receive change efforts from religious or health care clinicians before they turn 18 years old.⁶⁶ In a national survey, conducted with over 35,000 LGBTQ youth ages 13–24, 13% of respondents reported being subjected to “conversion therapy,” with 83% reporting it occurred when they were under 18.⁶⁷ Another study found that nearly 18% of middle-aged and older men who have homosexuals reported experiencing “conversion

⁶¹ Parth Sharma, "It's 2018, And There Are 'Doctors' Who Are Still Trying To 'Cure' Homosexuality". *News18.com*, June 29, 2018, available at: <https://www.news18.com/news/buzz/its-2018-and-there-are-doctors-who-are-still-trying-to-cure-homosexuality-1794547.html> (Last visited on August 12, 2022)

⁶² Winy Daigavane and Anubhav Das, "An analysis of conversion therapy in India: The need to outlaw and the allied socio-cultural concerns", available at: <https://blogs.lse.ac.uk/gender/2020/06/15/an-analysis-of-conversion-therapy-in-india-the-need-to-outlaw-and-the-allied-socio-cultural-concerns/> (Last visited on May 10, 2022)

⁶³ Vignesh Dhananjayan, "Conversion Therapy: Will 'Get Treated' Really Stop, Asks Trans Medical Student" Published: 08 Sep 2022, available at: <https://www.thequint.com/neon/gender/ban-on-conversion-therapy-by-doctors-loopholes#read-more> (Last visited on May 10, 2022)

⁶⁴ Delhi High Court summons doctor treating homosexual patients using electric shocks. *Outlook*, (8 December 2018.)

⁶⁵ "Statement on Anal Examinations in Cases of Alleged Homosexuality", Independent Forensic Expert Group, available at: <https://irct.org/wp-content/uploads/2022/08/IFEG-Statement-Anal-Examination.pdf>. (Last visited on May 10, 2022)

⁶⁶ Christy Mallory & Taylor Brown *et al.*, "The Williams Institute on Sexual Orientation and Gender Identity Law", UCLA School of Law, *Conversion Therapy and LGBT Youth Update* (Jun. 2019), available at: <https://williamsinstitute.law.ucla.edu/publications/conversion-therapy-and-lgbt-youth/> (Last visited on May 10, 2022)

⁶⁷ The Trevor Project, National Survey on LGBTQ Mental Health 2021 (May 2021), available at: <https://www.thetrevorproject.org/wp-content/uploads/2021/05/The-Trevor-Project-National-Survey-Results-2021.pdf>. (Last visited on May 10, 2022)

therapy.”⁶⁸Therefore, the literature and reports are clearly indicating about existence, occurrence and practice of various conversion therapies without any scientific base of success.

V Impact

All forms of conversion therapy, including talk or psychotherapy, can cause intense physical and psychological pain and suffering.⁶⁹In countries where Electric shock Therapy is still administered in its unmodified form (*i.e.*, without anesthetic and muscle relaxants), it not only causes significant psychological harm, but leads to violent convulsions commonly resulting in joint dislocations and bone fractures.⁷⁰

Several studies show that, the rates of suicidal ideation and suicide attempt are several times higher than in other LGBTQI, and gender diverse populations who have not been exposed to conversion therapy.⁷¹The Studies⁷² shows that Sexual Orientation changing participants

⁶⁸Steven Meanley, *et.al.*, "Characterizing Experiences of Conversion Therapy Among Middle-Aged and Older Men Who Have Sex with Men from the Multicenter AIDS Cohort Study (MACS)", *Sexual Res. & Soc. Pol'y* (Jun. 2019).

⁶⁹Dehlin J, *et.al.*. "Sexual orientation change efforts among current or former LDS church members". 62(2) *Journal of Counseling Psychology*95-105 (2015); Ozanne Foundation. 2018 National Faith & Sexuality Survey. *available at:* <https://ozanne.foundation/faith-sexuality-survey-2018/>. Published July 8, 2019, (Last visited on May 10, 2022).Shidlo A & Schroeder M. "Changing sexual orientation: a consumers' report". 33:*Professional Psychology-Research and Practice*, 249-259 (2002); Haldeman, D. "Therapeutic Antidotes: Helping gay and bisexual men recover from conversion therapies" 5 (3)*Journal of Gay and Lesbian Psychotherapy* 117-130 (2002) .

⁷⁰ Statement on Conversion Therapy, Independent Forensic Expert Group, IRCT research on conversion therapy *available*

at:https://www.ohchr.org/sites/default/files/Documents/Issues/SexualOrientation/IESOGI/CSOsAJ/IFEG_Statement_on_C.T._for_publication.pdf. (Last visited on May 10, 2022)

⁷¹ Turban JL, &Beckwith N, *et.al.*. Association between recalled exposure to gender identity conversion efforts and psychological distress and suicide attempts among transgender adults. *JAMA Psychiatry*. 2020;77(1):68. ,Ryan C, Toomey RB, Diaz RM, & Russell ST. "Parent-initiated sexual orientation change efforts with LGBT adolescents: implications for young adult mental health and adjustment", *Journal of homosexuality*, 2009; 67(2):159-173. The Trevor Project. National Survey on LGBTQ Mental Health 2019. *available at:*<https://www.thetrevorproject.org/survey-2019/?section=Conversion-Therapy-Change-Attempts>. June 2019.(Last visited on May 10, 2022)

⁷²Ariel Shidlo& Michael Schroeder, Changing Sexual Orientation: A Consumers' Report, 33 Professional Psychology: Res. & Practice 3, 249-59 (2002). American Psychological Association. Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation. Published 2009, *available at:* <https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf>, (Last visited on May 10, 2022) Blossnich JR, Henderson ER, Coulter RWS, Goldbach JT, Meyer IH. "Sexual orientation change efforts, adverse childhood experiences, and suicide ideation and attempt among sexual minority adults," United States, 2016-2018. *Am J Public Health*. 2020;110(7):e1-e7. doi: 10.2105/AJPH.2020.305637, Turban JL, Beckwith N, Reisner SL, Keuroghlian AS. "Association between recalled exposure to gender identity conversion efforts and psychological distress and suicide attempts among transgender adults". *JAMA Psychiatry*. 2020;77(1):68-76. doi:10.1001/jamapsychiatry.2019.2285. Beckstead, A.L., & Morrow, S.L. "Mormon clients' experiences of conversion therapy: The need for a new treatment approach". *The Counseling Psychologist*, 32(5), 651-690(2004).. Haldeman, D.C. . Therapeutic antidotes: Helping gay and bisexual men recover from conversion therapy. *Journal of*

reported significant long-term harm like Depression, Anxiety, suicide attempt, Suicide, self-harm, the failure of conversion therapy often exacerbates the individual's feelings of inadequacy, self-worthlessness, and shame *etc.*⁷³ Children and minors are particularly vulnerable and if exposed to conversion therapy, a significant loss of self-esteem and a sharp increase in suicidal or depressive tendencies can be seen.⁷⁴

Sexual orientation and gender identity change efforts (SOGICE) also put a significant monetary burden on patients and society at large. A financial evaluation published in JAMA Pediatrics estimated that:

“LGBTQ youth subjected to SOGICE incur \$83,366 in lifetime excess health care costs, primarily associated with suicidality, anxiety, severe psychological distress, depression and substance abuse. The total economic burden associated with SOGICE was estimated to be \$9.23 billion annually, including \$650 million in health care costs in 2021 alone. In contrast, the total potential savings from the provision of affirmative therapy—psychotherapy that validates the positive expression of sexual and gender identities—instead of SOGICE was estimated to be nearly \$6.19 billion each year.”⁷⁵

Gay and Lesbian Psychotherapy, 5(3/4), 117-130(2001). Ryan, C., Toomey, R.B., Diaz, R.M., & Russell, S.T. . "Parent-initiated sexual orientation change efforts with LBT Adolescents: Implications for young adult mental health and adjustment". *Journal of Homosexuality* (advanced online publication),(2018)doi: 10.1080/00918369.2018.1538407. Ryan C, Toomey RB, Diaz RM, & Russell ST. Parent-initiated sexual orientation change efforts with LGBT adolescents: implications for young adult mental health and adjustment, 67(2) *Journal of homosexuality*, 159-173 (2009); American Psychiatric Association, Position statement on therapies focused on attempts to change sexual orientation (reparative or conversion therapies). *Am J Psychiatry*. 2000;157:1719-21. Bancroft J. "Deviant Sexual Behaviour: Modification and Assessment". Clarendon Press, Oxford; 1974, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 10 Leading Causes of Death by Age Group, United States, available at: <https://www.cdc.gov/injury/wisqars/LeadingCauses.html>; Andrea Miranda-Mendizábal, et al., Sexual orientation and suicidal behavior in adolescents and young adults: systematic review and meta-analysis, 211 *Brit. J. Psychiatry* 2, 77-87 (Aug. 2017).

⁷³Dehlin J, Galliher R,et.al., "Sexual orientation change efforts among current or former LDS church members". *Journal of Counseling Psychology*. 2015;62(2):95-105. Haldeman, D. "Therapeutic Antidotes: Helping gay and bisexual men recover from conversion therapies". 5 (3) *Journal of Gay and Lesbian Psychotherapy*. 117-130 (2002).

⁷⁴Turban JL. Ryan C,et.al., "Parent-initiated sexual orientation change efforts with LGBT adolescents: implications for young adult mental health and adjustment", *Journal of homosexuality*, 2009; 67(2):159-173. Fjellstrom, J. "Sexual orientation change efforts and the search for authenticity". *Journal Of Homosexuality*, 2013;60(6): 801-827.

⁷⁵Anna Forsythe, et.al., "Humanistic and Economic Burden of Conversion Therapy among LGBTQ Youths in the United States", *JAMA Pediatrics* (published online Mar. 2022). available at: <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2789415> (Last visited on June 10, 2022)

There is no scientific proof that change initiatives alter gender identity or lessen sexual attraction, even if those undergoing them may report or seem to exhibit behavioral changes.⁷⁶Change efforts may force or promote people to conceal their sexual orientation or gender identity.⁷⁷

The empirical evidence⁷⁸ has resulted that a sexual and gender identities variation are normal and not intrinsically linked to mental illness. However, the unsubstantiated misconception of sexual orientation and gender identity “conversion” famous among some health, spiritual and religious practitioners.⁷⁹

A 2018 study in the U.K found that among those respondents who had gone through some sort of “conversion therapy” (10% of the 4,613),⁸⁰ more than half reported mental health issues. Of those who sought change, nearly two-thirds said that they had been “ashamed of my desires,” while nearly 75% said they sought change because they believed that their wishes were “sinful.” Less than one-third said that “they had gone on to lead a happy and fulfilled life,” and almost 50% said that they had “found it hard to accept myself for who I am.”⁸¹ Nearly 20% (91 people) said they had attempted suicide, while nearly 60% (193 people) said they had had suicidal thoughts.⁸²In fact, a study of transgender individuals revealed that those who received conversion therapy had a higher chance of being unemployed, having a lower household income,

⁷⁶Maccio, E. "Self-reported sexual orientation and identity before and after sexual reorientation therapy," 15(3) *Journal of Gay and Lesbian Mental Health*, 242-259 (2011).

⁷⁷Fjelstrom, J."Sexual orientation change efforts and the search for authenticity". 60(6) *Journal of Homosexuality*, 801-827 (2013) , .

⁷⁸American Psychological Association, Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation (Aug. 2009).

⁷⁹Jack Drescher, "Ethical issues in treating gay and lesbian patients", 25 *Psychiatric Clinics N. Am.* 3, 605-21 (Sep. 2002).

⁸⁰Ozanne Foundation. Faith and sexuality survey executive report. (2018) available at: https://thinktheology.co.uk/blog/article/the_2018_national_faith_sexuality_survey_some_reflections (Last visited on June 10, 2022)

⁸¹Outright International "Harmful Treatment: The Global Reach of So-Called Conversion Therapy", available at: https://outrightinternational.org/sites/default/files/2023-09/092523_Outright_Conversion2023%20%281%29.pdf (last visited on January 10, 2024)

⁸²*Id*

attempting suicide more frequently, and having a lifetime history of mental discomfort and suicidal thoughts.⁸³

According to a study from San Francisco State University, LGBTQ youth who experienced "high rejection" as compared to those who were "not rejected" or "only a little rejected" from parental or caregiver were roughly eight times more likely to have attempted suicide, six times more likely to report high levels of depression, three times more likely to use illegal substances, and three times more likely to be at high risk for HIV/STIs.⁸⁴ Rejection causes and can also intensify a patient's emotional distress and mental fragility.⁸⁵

An independent expert report identity for the United Nations on sexual orientation and gender, has highlighted psychological consequences and use of harmful acts including "beatings, rape, forced nudity, force-feeding or food deprivation, isolation and confinement, forced medication, verbal abuse, humiliation and electrocution".⁸⁶ Expert also warned against the hazard of conversion therapy and describes this therapy as:

"Intrinsically discriminatory, cruel, inhumane, and degrading; and depending on the severity of these practices, or on the physical and mental suffering or pain inflicted on the victims, conversion therapy can be assimilated to acts of torture."⁸⁷

⁸³Turban, Jack L. Beckwith, *et.al.* "Exposure to Conversion Therapy for Gender Identity is Associated with Poor Adult Mental Health Outcomes among Transgender People" in *the US 57 (10) Journal of the American Academy of Child & Adolescent Psychiatry* (2018).

⁸⁴Ryan C, Huebner D, *et.al.*, "Family rejection as a predictor of negative health outcomes in white and Latino lesbian, gay, and bisexual young adults". 123 (1) *Pediatrics* 346-52 (2009).

⁸⁵*Id.*

⁸⁶International Federation for therapeutic and Counseling Choice, "Submission to Victor Madrigal-Borloz: Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity" (21 December 2019) available at: <https://www.ohchr.org/fr/stories/2020/07/conversion-therapy-can-amount-torture-and-should-be-banned-says-un-expert>; see also available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/SexualOrientation/ConversionTherapyReport.pdf> (Last visited on June 10, 2023)

⁸⁷United Nations, 'Les thérapies de conversion' peuvent être assimilées à des actes de torture et devraient être interdites, déclare un expert de l'ONU, July 13, 2020, OHCHR, available at: https://www.ohchr.org/fr/NewsEvents/Pages/ConversionTherapy_and_HR.aspx (Last visited on July 10, 2022)

“Conversion therapy” is favourable to psychological and physical pain and suffering.⁸⁸ The Independent Forensic Expert Group has summarized that:

“All practices attempting conversion are inherently humiliating, demeaning and discriminatory. The combined effects of feeling powerless and extreme humiliation generate profound feelings of shame, guilt, self-disgust, and worthlessness, which can result in a damaged self-concept and enduring personality changes. The injury caused by practices of ‘conversion therapy’ begins with the notion that an individual is sick, diseased, and abnormal due to their sexual orientation or gender identity and must therefore be treated. This starts a process of victimization”.⁸⁹

In reality, attempts to modify one's sexual orientation and gender identity are a type of profound rejection that is made worse by social rejection, stigmatization, and marginalization.⁹⁰ Medical, mental health, and human rights organizations are relying on evidence that SOGICE is ineffective and detrimental⁹¹, formally oppose it.⁹²

⁸⁸Dehlin, J. P., Galliher, R. V. *et.al*, "Sexual orientation change efforts among current or former LDS church members". 62(2), *Journal of Counselling Psychology*, 95–105 (2015) available at: <https://doi.org/10.1037/cou0000011>. (Last visited on July 10, 2022)

⁸⁹Fjelstrom, J., "Sexual Orientation Change Efforts and the Search for Authenticity", *Journal of Homosexuality*, 60(6), pp. 801–827, (2013). doi: 10.1080/00918369.2013.774830. (Last visited on June 10, 2022)

⁹⁰C Ryan, D Huebner, *et.al.*, “Family rejection as a predictor of negative health outcomes in white and Latino lesbian, gay, and bisexual young adults” 123 (1) *Pediatrics*, 346-352. (2009).

⁹¹Kinitz DJ, Salway T, Dromer E, et al. “The scope and nature of sexual orientation and gender identity and expression change efforts: a systematic review protocol” *Syst Rev*. 2021;10(1):14. doi: 10.1186/s13643-020-01563-8

⁹² American Psychological Association . Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation. Published 2009. available at:

<https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf>, (Last visited on June 04, 2022) American Academy of Child and Adolescent Psychiatry. Conversion therapy. Published 2018, available

at: https://www.aacap.org/AACAP/Policy_Statements/2018/Conversion_Therapy.aspx, (Last visited on October 04, 2022). American Medical Association . Issue brief: LGBTQ change efforts (so-called “conversion therapy”),

Published 2019. available at: <https://www.ama-assn.org/system/files/2019-12/conversion-therapy-issue-brief.pdf>, (Last visited on October 04, 2022). American Psychiatric Association. APA reiterates strong opposition to conversion therapy. Published 2018. available at:

<https://www.psychiatry.org/newsroom/news-releases/apa-reiterates-strong-opposition-to-conversion-therapy> (Last visited on October 04, 2022) Committee On Adolescence . Office-based care for lesbian, gay, bisexual, transgender,

and questioning youth. *Pediatrics*. 2013;132(1):198-203. doi: 10.1542/peds.2013-1282 American Counseling Association. Resolution on reparative therapy/conversion therapy/sexual orientation change efforts (SOCE) as a significant and serious violation of the ACA code of ethics. Published 2017. available at:

[https://www.counseling.org/docs/default-source/resolutions/reparative-therapy-resolution-letter--final.pdf?sfvrsn=d7ad512c_4](https://www.counseling.org/docs/default-source/resolutions/reparative-therapy-resolution-letter-final.pdf?sfvrsn=d7ad512c_4), (Last visited on October 04, 2022). United Nations Human Rights Office of the High

VI Efficacy

The literature review and supporting data refute the alleged “efficacy” of change in sexual orientation.⁹³ When altering one's sexual orientation was the intended outcome, change initiatives failed.⁹⁴ In 1991, a study concluded: “There is no evidence from any of the studies reviewed here to suggest that sexual orientation can be changed.”⁹⁵

As per the American Psychological Association Task Force findings:

“results of scientifically valid research indicate that it is unlikely that individuals will be able to reduce same-sex attractions or increase other-sex sexual attractions through SOCE [sexual orientation change efforts]”. There is insufficient evidence to support the use of psychological interventions to change sexual orientation.”⁹⁶

The British Psychological Society and other professional body marked all kinds of conversion therapy are “*unethical and potentially harmful*”.⁹⁷ The Pan American Health Organization stated in 2012 that “conversion therapies” posed a serious risk to the health and

Commissioner, “Born free and equal: sexual orientation, gender identity and sex characteristics in international human rights law”, Second edition, Published 2019. *available at*: https://www.ohchr.org/Documents/Publications/Born_Free_and_Equal_WEB.pdf (Last visited on October 04, 2022);

Alempijevic D, Beriashvili R, Beynon J, *et.al.*; “Independent Forensic Expert Group. Statement on conversion therapy”. *J Forensic Leg Med.* 2020;72:101930. doi: 10.1016/j.jflm.2020.101930

⁹³ American Psychological Association 2009.

⁹⁴ Flentje, A., Heck, N.C., *et.al.*, “Sexual reorientation therapy interventions: Perspectives of ex-ex-gay individuals”. *Journal of Gay and Lesbian Mental Health*, 17(3), 256-277,(2013). Weiss, E.M., Morehouse, J.*et.al.* “A qualitative study of ex-gay and ex-ex-gay experiences”. *Journal of Gay and Lesbian Mental Health*, 14(4), 291-319,(2010). Beckstead, A.L., & Morrow, S.L. . “Mormon clients’ experiences of conversion therapy: The need for a new treatment approach”. *The Counseling Psychologist*, 32(5), 651-690,(2004). Dehlin, J.P., Galliher, R.V.,*et.al.*, “Sexual orientation change efforts among current or former LDS church members”. *Journal of Counseling Psychology*, 62(2), 95-105,(2015). Maccio, E. (2011). “Self-reported sexual orientation and identity before and after sexual reorientation therapy”. *Journal of Gay and Lesbian Mental Health*, 15(3), 242-259. Haldeman, D.C. . “Therapeutic antidotes: Helping gay and bisexual men recover from conversion therapy”. *Journal of Gay and Lesbian Psychotherapy*, 5(3/4), 117-130.(2001).

⁹⁵ *Id.* Haldeman DC, p. 159.

⁹⁶ APA Task Force on Appropriate Therapeutic Responses to Sexual Orientation. (2009), Report of the Task Force on Appropriate Therapeutic Responses to Sexual Orientation. Washington, DC: American Psychological Association.

⁹⁷ *Supranote*8.

human rights of affected individuals'.⁹⁸In 2016, the World Psychiatric Association found that “there is no sound scientific evidence that innate sexual orientation can be changed”,⁹⁹conclusions supported by the consensus of professional associations around the world.¹⁰⁰

The policy statement issued in 2018 by the American Academy of Child and Adolescent Psychiatry found “no evidence to support the application of any “therapeutic intervention” operating under the premise that a specific sexual orientation, gender identity, and/or gender expression is pathological.”¹⁰¹The majority of health care providers, mental health specialists, and religious leaders agree that attempts to change sexual orientation that include physical, psychological, or emotional suffering or deprivation are detrimental and ineffectual.¹⁰²

Psychiatrist Malick Briki, while discussing the efficacy of conversion interference, said that:

“the classification of homosexuality as a mental illness has resulted in the strengthening of homophobia. Homosexuality never should have been classified as an illness, to consider it as such caused the stigmatisation of homosexuals. This diagnosis reinforced homophobia. Homophobia can be

⁹⁸Cures For An Illness That Does Not Exist, *available at: www.paho.org/hq/index.php?option=com_docman&task=doc_view&gid=17703*. (last visited on January 10, 2024) Available at <https://www.paho.org/hq/dmdocuments/2012/Conversion-Therapies-EN.pdf> (last visited on January 10, 2024)

⁹⁹ World Psychiatric Association, Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviours. *World Psychiatry*. 2016;15(3):299–300. *available at: https://www.psy.fi/files/1342/WPA_Position_Statement_on_Gender_Identity_and_Same-Sex_Orientation_Attraction_and_Behaviours_2016.pdf*. (last visited on January 10, 2024)

¹⁰⁰ Lucas Ramón Mendos (International Lesbian, Gay, Bisexual, Trans and Intersex Association World), “Curbing deception: a world survey on legal regulation of so-called ‘conversion therapies’”, 2020 *available at: ilga.org/Conversion-therapy-global-research-ILGA-World*. (Last visited on June 10, 2022)

¹⁰¹ American Academy of Child & Adolescent Psychiatry. 2018. *available at: www.aacap.org/AACAP/Policy_Statements/2018/Conversion_Therapy.aspx*. (Last visited on June 10, 2022)

¹⁰² Cella AS. "A voice in the room: the function of state legislative bans on sexual orientation change efforts for minors". *American Journal of Law & Medicine*, 40(2014): 113-140. American Medical Association. Health care needs of lesbian, gay, bisexual and transgender populations. H-160.991. 2017. Byne W, Bradley SJ, Coleman E, et al; "Report of the American Psychiatric Association Task Force on Treatment of Gender Identity Disorder". *Arch Sex Behav*. 2012;41 (4):759-796. American Academy of Child & Adolescent Psychiatry. 2018. Rafferty J; Committee on Psychosocial Aspects of Child and Family Health; Committee on Adolescence; Section on Lesbian, Gay, Bisexual, and Transgender Health and Wellness. Ensuring comprehensive care and support for transgender and gender-diverse children and adolescents. *Pediatrics*. 2018;142(4):e20182162.

social, domestic or internalised by homosexuals who bring them to reject themselves and can lead to self-depression, and suicide attempts.”¹⁰³

Unfortunately, in countries like China¹⁰⁴, the Republic of Korea,¹⁰⁵ the United States¹⁰⁶ and countries in Eastern Europe, mental health professionals continue to carry out such practices.¹⁰⁷ Numerous conversion therapy procedures are comparable to actions that are recognized globally as torture or other cruel, inhuman, or humiliating punishments.¹⁰⁸

VII Lawson Ban of Conversion Therapy

Laws around the World

According to an organization namely Stonewall; nearly 16 countries which include Brazil, Canada, Ecuador, Malta, and Taiwan and Germany have introduced a full or partial ban conversion therapy. In 1999, Brazil banned conversion therapy. In 2007, Samoa enacted a law stating that different Sexual orientation does not qualify a person as "mentally ill." Fiji followed in 2010, and Taiwan in 2018 with the introducing a criminal ban for health practitioners. Argentina banned it in 2010 and Uruguay in 2017. Ecuador in 2014 and Malta in 2016 have introduced criminal bans for those found to be practicing conversion therapy. In 2020, Germany banned conversion therapy. In 2017, Madrid, Valencia, Andalusia and Aragon all has put

¹⁰³ Julie Declos, *La longue bataille des droits des homosexuels*, July 29, 2011, RTBF, *available at*: https://www.rtb.be/info/societe/detail_la-longue-bataille-des-droits-des-homosexuels?id=6522593 (Last visited on June 15, 2022)

¹⁰⁴ FanFan, “Five years later, who really needs to be ‘corrected’?”, LGBT Rights Advocacy China, public WeChat account, 2019. Cited in and *available at*: http://arc-international.net/wp-content/uploads/conversion-therapy-IESOGI-A_HRC_44_53_E.pdf. (Last visited on June 10, 2022) “Beijing LGBT Center, “Investigation report on attitudes of mental health and psychological counselling practitioners towards minorities”, 2017. In China, a randomized survey found that roughly 50 per cent of “conversion” agents were public hospitals. Roughly one third of some 1,000 mental health professionals interviewed in a study carried out in China said that being gay was a form of mental illness and that they regarded practices of “conversion therapy” as effective”.

¹⁰⁵ Korean Society of Law and Policy on Sexual Orientation and Gender Identity, “Human rights situation of LGBTI in South Korea”, 2016.

¹⁰⁶ See *Conversion Therapy and LGBT Youth*, June 2019 *available at*: <https://williamsinstitute.law.ucla.edu/publications/conversion-therapy-and-lgbt-youth/>; (Last visited on August 12, 2022) and C Ryan, *Parent-Initiated Sexual Orientation Change Efforts with LGBT*, 2018, *Available at*: www.utah.gov/pmn/files/513643.pdf. (Last visited on June 10, 2022)

¹⁰⁷ Submissions by the Eastern European Coalition for LGBT+ Equality, Such cases have been documented by the Russian LGBT Network.

¹⁰⁸ National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, *10 Leading Causes of Death by Age Group, United States*, *available at*: <https://www.cdc.gov/injury/wisqars/LeadingCauses.html>. (Last visited on August 12, 2023)

criminal bans. In 2020, Queensland State and in 2021 Victoria in Australia made conversion therapy in healthcare settings a criminal offence. Although Conversion therapy banned for minors across several Canadian territories but in December 2021, Canada's House of Commons voted unanimously for a federal ban.¹⁰⁹

In USA, till April 2022, 20 states (California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Nevada, New Hampshire, New Jersey, New Mexico, New York, Maine, Massachusetts, Oregon, Rhode Island, Utah, Vermont, Virginia and Washington) and the District of Columbia have enacted laws banning "conversion therapy" for minors.¹¹⁰ California was the first state in the US to prohibit conversion therapy, which it referred to as 'SOCE'. Passed in September 2012 as an amendment to the Business and Professions Code,¹¹¹

Although discrimination on the basis of sexual orientation is forbidden by the Chinese Psychological Society, "conversion therapy" is not specifically forbidden. In fact, the third edition of the Chinese Classification of Mental Disorders (CCMD-3), published in 2001, declassifies homosexuality as a mental disorder, it still includes "sexual orientation disorders," which refer to "psychological disorders such as unwillingness, hesitation, anxiety, depression, and pain resulting from one's sexual development and sexual orientations."¹¹² The Taiwanese Government in February 2018 made "conversion therapy" illegal and banned (The ban covers both secular and religious practitioners) under the Criminal Code and The Protection of Children and Youths Welfare and Rights Act.¹¹³

Conversion therapy that aims to alter a person's sexual orientation but not their gender identity would be prohibited by the UK government. The proposed law will protect under-18s. However, it won't apply to people over 18 if they've consented and haven't been coerced. As per

¹⁰⁹Which countries have already banned conversion therapy? *available at:* <https://www.stonewall.org.uk/about-us/news/which-countries-have-already-banned-conversion-therapy> (Last visited on August 12, 2023)

¹¹⁰Conversion Therapy Laws, Movement Advancement Project, *available at:* https://www.lgbtmap.org/equality-maps/conversion_therapy. (Last visited on June 10, 2022) The Williams Institute, UCLA School of Law. (2018). Conversion Therapy and LGBT Youth. Los Angeles, CA: The Williams Institute.

¹¹¹Stats 1937, ch_399 (California).

¹¹²Beijing LGBT Center, Chinese LGBT mental health survey report. Beijing: Beijing LGBT Center and Institute of Psychology, Chinese Academy of Sciences, (2014).

¹¹³OutRight email correspondence with, Chih-Yun Hsu, M.D., Chairperson of Taiwan Tongzhi (LGBTQ+) Hotline Association, Psychiatrist/Child and Adolescent Psychiatrist, March 30, 2019,*available at:* https://outrightinternational.org/sites/default/files/2022-09/ConversionFINAL_Web_0.pdf (Last visited on June 10, 2023)

government, transgender conversion therapy is too complicated to be included for now and separate work will be carried out into the "complexity of issues".¹¹⁴In Northern Ireland, politicians have passed a non-binding motion calling for a ban on conversion therapy "in all its forms". In Scotland, the government has committed to introducing legislation by 2023.¹¹⁵

Among European countries Malta was the first to ban conversion therapy in 2016, followed by Germany and the cities of Madrid and Valencia. Malta's nationwide prohibition is the most comprehensive in the world. The "Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act, 2015" recognizes that no form of sexual orientation or gender expression is an illness or disease.

It makes it unlawful:

"for any person to perform conversion therapy on a vulnerable person; performs involuntary and/or forced conversion therapy¹¹⁶ on a person; or advertise conversion therapy." It also makes it illegal for "a professional to offer conversion therapy on any person irrespective of whether monetary compensation is received in exchange or to refer any person to other professionals and, or to any other person to perform conversion therapy."¹¹⁷

In Malta, the law protects vulnerable minors (up to the age of 16), as well as vulnerable adults. In Germany and Greece laws only protect minors and adults who not have legal capacity. Ireland proposed and specifically aimed at protecting minors, by giving them the possibility to withdraw the consent given on their behalf. In other Member States, such as France, on a minor the use of conversion 'therapy' constitutes an aggravated offence.¹¹⁸ Nevertheless, the majority of these laws also denote that where consent is lacking or has been given under duress, no

¹¹⁴*Supra* note8.

¹¹⁵*Id*

¹¹⁶ Conversion practices are 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."

¹¹⁷ Government of Malta, The affirmation of sexual orientation and gender identity and gender expression act. (Passed December 2016), *available at*: <http://www.independent.com.mt/file.aspx?f=119116> (Last visited on August 12, 2022)

¹¹⁸ De Groot, David, "Bans on Conversion 'Therapies' - The Situation in Selected EU Member States". European Parliamentary Research Service, PE 733.521 (2022), *available at*: <https://ssrn.com/abstract=4187934> (last visited on April 1, 2023)

'treatment' may be applied. On the other hand, where the ban applies to minors and adults, such consent is irrelevant.¹¹⁹

Australia does not have a nationwide ban on conversion therapy. In 2020, Queensland and the Australian Capital Territory (ACT) became first 2 who enacted bans on conversion therapy, criminalizing conversion therapy (or, in ACT, “conversion practices”),¹²⁰ with Victoria taking similar steps at the end of 2020.¹²¹ New Zealand became the latest country to ban conversion therapy, introducing two new criminal offences for “attempts to change the sexual orientation, gender identity or gender expression of anyone under 18”.¹²² In Conservative society like Singapore disapproved of homosexual relations and same-sex marriage like a majority of Muslims countries.¹²³

India:

LGBTQI people have been trying for visibility and acceptance in society after to progressive judgments by the Supreme Court on transgender people's rights¹²⁴ and the decriminalization of adult homosexual sex.¹²⁵ In compare to homosexual relation still heterosexual marriage is unambiguously projected life goal for people in society.¹²⁶

On the other side for the third gender a law namely, Transgender Persons (Protection of Rights) Act that was enacted in 2019 by the Indian Parliament. The act apparently not banning the conversion therapy but section like 3 (d) which provide “prohibition against discrimination on the basis of the denial or discontinuation of, or unfair treatment in, healthcare

¹¹⁹ *Id.*

¹²⁰ Health Legislation Amendment Act 2020 (Qld); Sexuality and Gender Identity Conversion Practices Act 2020 (ACT).

¹²¹ Change or Suppression (Conversion) Practices Prohibition Bill 2020.

¹²² Which countries have already banned conversion therapy? *available at:* <https://www.stonewall.org.uk/about-us/news/which-countries-have-already-banned-conversion-therapy> (last visited on April 1, 2023)

¹²³ Mathew Mathews, *et.al*, “Religion, Morality and Conservatism in Singapore” 61–72 (IPS Working Papers No_34, May 2019).

¹²⁴ *National Legal Services Authority v. Union of India*, WP (Civil) No 400 of 2012, decided on April 15, 2014, *available at:* <https://translaw.clpr.org.in/wp-content/uploads/2018/09/Nalsa.pdf>. (last visited on April 1, 2023)

¹²⁵ *Navtej Singh Johar & Ors. v. Union of India*, AIR 2018 Supreme Court 4321 *available at:* https://main.sci.gov.in/supremecourt/2016/14961/14961_2016_Judgement_06-Sep-2018.pdf. (last visited on April 1, 2023)

¹²⁶ Indira Sharma, Balram Pandit, Abhishek Pathak, and R. Sharma, “Hinduism, marriage and mental illness,” *Indian Journal of Psychiatry* 55, no. 6 (2013): 243-9, *available at:* <https://www.indianjpsychiatry.org/text.asp?2013/55/6/243/105544>. (last visited on April 1, 2023)

services.”Section 4 of the act provides “recognition of identity of transgender person” and section 15 provisioned for “providing health care facilities if individual wilfully wants to undergo any kind of surgery or therapy related to transition between sex and gender.”¹²⁷ Under section 18 (d) it is provisioned, “if anyone harms or injures or endangers the life, safety, health or well-being, whether mental or physical, of a transgender person or tends to do acts including causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine”.

The Mental Healthcare Act 2017¹²⁸, is a progressive law and offers support against discrimination on the basis of sex, gender, and sexual orientation. But the social stigma attached to sex or gender minorities, forces a few healthcare practitioners to continue unethical practice conversion therapy. Furthermore there is a lack of support that affirms LGBTQI identities.

Under old criminal law *i.e.* Indian penal code (IPC), two possible sections can be explored like; section 319 provides that “causing infirmity will constitute the offence of ‘hurt’”. Infirmity of mind may come under the ambit of hurt and conversion therapy may fall under the ambit of it, if sufficient evidence of mental infirmities likes depression, anxiety, trauma, etc. are there to prove caused by it. Secondly, Section 304 A of the IPC which provision about criminal liability for medical negligence. It is a settled position in criminal law that for establishing criminal negligence or recklessness, the act must be of such a high degree as to be “gross,” as

¹²⁷“Transgender Persons (Protection of Rights) Act 2019 s 15 –Health care facilities.—The appropriate Government shall take the following measures in relation to transgender persons, namely:—(a) to set up separate human immune deficiency virus Sero-surveillance Centres to conduct sero-surveillance for such persons in accordance with the guidelines issued by the National AIDS Control Organisation in this behalf; (b) to provide for medical care facility including sex reassignment surgery and hormonal therapy; (c) before and after sex reassignment surgery and hormonal therapy counselling; (d) bring out a Health Manual related to sex reassignment surgery in accordance with the World Profession Association for Transgender Health guidelines; (e) review of medical curriculum and research for doctors to address their specific health issues; (f) to facilitate access to transgender persons in hospitals and other health care institutions and centres; (g) provision for coverage of medical expenses by a comprehensive insurance scheme for Sex Reassignment Surgery, hormonal therapy, laser therapy or any other health issues of transgender persons.”

¹²⁸“Section 18: Right to access mental healthcare, (2) The right to access mental health care and treatment shall mean mental health services of affordable cost, of good quality, available in sufficient quantity, accessible geographically, without discrimination on the basis of gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class, disability or any other basis and provided in a manner that is acceptable to persons with mental illness and their families and care-givers.” The Mental Health care Act, 2017, No.10 of 2017, *available at*: <https://www.prsindia.org/sites/default/files/The%20Mental%20Healthcare%20Act%2C%202017.pdf>. (last visited on April 1, 2023)

decided in the *Jacob Mathew case*.¹²⁹ Under the new criminal law the provisions related to hurt can be relevant. Under the new criminal law, Bhartiya Nyaya Sanhita 2023, Section 114, and 106(1) are comparable with old Law in this regard.

In 2022, Ms. Aparupa Poddar, Member of Parliament tabled a bill namely, 'The Conversion Therapy (Prohibition) Bill, 2022'. The bill was aimed to prohibit conversion therapy but same was not become law.¹³⁰

Judicial process in recognizing the rights of LGBTQI+ people has been significant so far. The Madras High Court in the case of *Sushma vs. Commissioner of Police*¹³¹, Greater Chennai and others, which upholds the rights of LGBTQ persons.¹³² The Madras HC had issued numerous directions for the upliftment of the LGBTQ community, including asking the National Medical Council to label 'conversion therapy' as professional misconduct.

The Madras High Court directed to:

“Prohibit any attempts to medically “cure” or change the sexual orientation of LGBTQI people to heterosexual or the gender identity of transgender people to cisgender. To take action against the concerned professional involving themselves in any form or method of conversion “therapy”, including withdrawal of license to practice.”¹³³

In that ruling, Justice N. Anand Venkatesh even underwent counselling and meeting with LGBTQ leaders to overcome his own bias against LGBTQ people. Justice Venkatesh confessed

¹²⁹ *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1.

¹³⁰ The Conversion Therapy (Prohibition) Bill, 2022 (Bill No. 47 of 2022), available at: <https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/47%20of%202022%20as%20introduced.pdf?source=legislation#:~:text=Any%20person%20or%20a%20professional,extend%20upto%20ten%20lakh%20rupees>. (last visited on August 1, 2023)

¹³¹ W.P.No.7284 of 2021, In The High Court Of Judicature At Madras, 07.06.2021

¹³² Vijay Hiremath, why this judge underwent counselling before hearing an LGBTQ case, Jun 12, 2021, available at: <https://timesofindia.indiatimes.com/india/why-this-judge-underwent-counselling-before-hearing-an-lgbtq-case/articleshow/83402609.cms?from=mdr>, (Last visit on August 12, 2022). See more Priya Menon, the LGBTQIA community on horrors of conversion, Jun 21, 2021, available at: <https://timesofindia.indiatimes.com/india/the-LGBTQIA-community-on-horrors-of-conversion-therapy/articleshow/83712218.cms?from=mdr> (Last visited on August 12, 2022)

¹³³ *Sushma v. Commissioner of Police*, W.P.No.7284 of 2021, In The High Court Of Judicature At Madras, 07.06.2021

and said, “I have no hesitation in accepting that I, too, belong to the majority of commoners who are yet to comprehend homosexuality completely,”¹³⁴

According to a letter sent to State Medical Councils on August 25, 2022, the Madras High Court ordered the National Medical Commission to register conversion therapy as a professional misconduct and make the required official notification. The National Medical Commission has determined that conversion treatment will be considered professional misconduct under the Indian Medical Council (Professional Conduct Etiquettes and Ethics) Regulations, 2002, in accordance with an order issued by the Ethics and Medical Registration Board on July 8, 2022.¹³⁵

Queerala, a community-based LGBTQ organization filed a writ in October 2020 at the High Court of Kerala wherein cited a forced incident of conversion therapy with 20 years old Meenakshi Sajeesha. She shared her experience with doctor, along with a recording of their conversation, as of the evidence. The petition sought an outright ban on the practice of “conversion therapy.” Kerala’s high court ordered the state government in December 2021; to form new guidelines related to such practice.¹³⁶ If the ratio of the *‘Laxman Balkrishna Joshi vs Trimbak Babu Godbole’*¹³⁷ to be applied then the use of such therapy by doctors can attract civil liability.

The many Psychiatric Societies¹³⁸ have made statements and condemn use of conversion therapy. Punitive measures have been recommended in the Mental Healthcare Act, 2017.

¹³⁴ AsthaRajvanshi/Kochi, Doctors in India Tried to ‘Cure’ Her with Conversion Therapy. Now She’s Fighting to Ban It, India, October 6, 2022, *available at*:

<https://time.com/6215994/conversion-therapy-india-lgbtq-rights/> (Last visited on August 12, 2022)

¹³⁵ Bindu Shajan Perappadan, ‘Conversion therapy’ is misconduct, declares National Medical Commission, September 02, 2022, *available at*:

<https://www.thehindu.com/news/national/nmc-declares-conversion-therapy-to-be-professional-misconduct/article65842557.ece> (Last visited on August 12, 2022).

¹³⁶ AsthaRajvanshi, “Doctors in India Tried to ‘Cure’ Her With Conversion Therapy. Now She’s Fighting to Ban It”, October 6, 2022, *available at*: <https://time.com/6215994/conversion-therapy-india-lgbtq-rights/> (last visited on December 1, 2023), *Queerala v. State of Kerala*, In The High Court of Kerala at Ernakulam, WP(C) No.21202/2020

¹³⁷ 1969 AIR 128, 1969 SCR (1) 206. A form of legal liability wherein compensation is to be paid in terms of money for damages done, under medical negligence, as doctors have a duty to decide whether they should or should not take up the case.

¹³⁸ Indian Psychiatric Society (IPS), the Indian Association for Clinical Psychologists (IACP), and the Association of Psychiatric Social Work Professionals (APSWP). “The Indian Psychiatric Society (IPS) followed the Madras HC verdict with an official statement that said any form of treatment or therapy to reverse sexual orientation was based on an “erroneous” and “unscientific” premise that such orientations are diseases”. Indian Psychiatric Society, “IPS:

Unfortunately still not all but many healthcare service providers, religious leaders, faith based practitioner etc. are continued to offer treatments to sexual and gender diverse people in an attempt to “cure” them.

VIII Human Rights

“So long as people face criminalization, bias and violence based on their sexual orientation, gender identity or sex characteristics, we must redouble our efforts to end these violations.” -United Nations Secretary-General António Guterres¹³⁹

The character of international human rights law is founded in principles of universality, equality and non-discrimination.¹⁴⁰ United Nations experts have showed concern on so-called “conversion therapies” anticipated to change same-sex attraction or transgender identity.¹⁴¹ Such therapies have been established to be unethical, unscientific and ineffective and, in some events, equivalent to torture – leading to thriving legal challenges and bans in several countries.¹⁴² Several United Nations treaty bodies, including the Human Rights Committee,¹⁴³ the Committee on the Elimination of Discrimination against Women¹⁴⁴ and the United Nations anti-

Position Statement Regarding LGBTQ,” June 11, 2020, *available at*:<https://indianpsychiatricsociety.org/ips-position-statement-regarding-lgbtq/> (last visited on April 1, 2023)

¹³⁹ Address to the General Assembly, 25 September 2018, *available at*:
<https://press.un.org/en/2018/sgsm19237.doc.htm>, (last visited on August 1, 2023)

¹⁴⁰ Universal Declaration of Human Rights, art 1.

¹⁴¹ Report of the United Nations High Commissioner for Human Rights on discrimination and violence based on sexual orientation and gender identity (A/HRC/29/23), 2015, paras. 14, 38, 52; Pan- American Health Organization, “Cures for an illness that does not exist”, *available at*:<https://www.paho.org/en/file/32021/download?token=znwYOEE4>. (last visited on August 1, 2023) and <https://www.paho.org/en/documents/cures-illness-does-not-exist> (last visited on August 1, 2023)

¹⁴² *Id.*

¹⁴³ CCPR/C/KOR/CO/4, paras 14–15, *available at*:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhshdNp32UdW56DA%2FSBtN4MHY9iuSMtUiNSvrbV9%2BJuD7JMLvy0Ju%2FXKLNHICvzsdHK1rJtIsosm9tfQBiol2kvBjBLPqlPPXyNleZvxLJSIH6> (last visited on August 1, 2023)

¹⁴⁴ Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/MYS/Q/3-5, para. 21. *available at*:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsgOTxO5cLIZOCwAvhyns%2ByKD3VaNhktyvF8RYXeTzuziURGmMgaqLiX3ZO5d8qs4lMgJhMIwBHCT2neMssrOpsAfgZ%2F1utzf hKdHoZeNCUct> (last visited on August 1, 2023)

torture machinery have articulated concern about practices of “conversion therapy”,¹⁴⁵ and concluded that such practices can amount to torture, cruel, inhuman or degrading treatment.¹⁴⁶

Sexual Orientation and Gender Identity (SOGI) is also ground of non-discrimination, and thus conversion therapy is an infringement of the right to equality and non-discrimination.¹⁴⁷ Sexual Orientation and Gender Identity remains a contested category of non-discrimination under the right to equality¹⁴⁸ and “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”¹⁴⁹

In 2006, International Human Rights experts adopted the Yogyakarta Principles.¹⁵⁰ The Yogyakarta Principles is a set of legal standards and human rights relating to sexual orientation and gender identity. It was outcome of expert meeting held in Indonesia. Though, the Yogyakarta Principles are not legally binding, clearly confirmed by numerous calls for official bans on conversion 'therapies'.¹⁵¹

¹⁴⁵ CRC/C/RUS/CO/4-5, para. 55; CCPR/C/ECU/CO/6, para. 12; CEDAW/C/ECU/CO/8-9; and Committee on Economic, Social and Cultural Rights, general comment No. 22.

¹⁴⁶ CAT/C/CHN/CO/5, para. 55; CAT/C/ECU/CO/7, para 49; CAT/C/57/4, para. 69; CCPR/C/UKR/CO/7, para. 10; CCPR/C/NAM/CO/2, para. 9; A/74/148, para. 50; A/56/156, para. 24; A/HRC/43/49, para. 37; and A/HRC/22/53, paras. 76 and 88. See also A/HRC/19/41 and A/HRC/29/23. United Nations Office of the High Commissioner for Human Rights. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. *available at:* <http://www.unhchr.ch/html/menu2/6/cat/treaties/opcat.htm>. Committee on Economic, Social and Cultural Rights, General Comment No. 22 (E/C.12/GC/22), 2016, para. 58; Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (A/73/152), para. 28; Report of the United Nations High Commissioner for Human Rights on discrimination and violence based on sexual orientation and gender identity (A/HRC/29/23), 2015, para. 70; Human Rights Committee, Concluding Observations on Ukraine (CCPR/C/UKR/CO/7), para. 10; Report of the Special Rapporteur on torture (A/HRC/22/53), 2013, para. 88; and the joint statement by OHCHR, UN-Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, “Eliminating forced, coercive and otherwise involuntary sterilization”, 2014.

¹⁴⁷ Madrigal-Borloz, Independent Expert Report at paras 59–74; OutRight Action International, “Harmful Treatment: The Global Reach of So-called Conversion therapy” (2019) *available at:* https://outrightinternational.org/sites/default/files/2022-09/ConversionFINAL_Web_0.pdf (Last visited on 12/8/22)

¹⁴⁸ Art 26 of the International Covenant on Civil and Political Rights, 999 UNTS 171 (16 December 1966; entry into force 23 March 1976).

¹⁴⁹ Art 7 of the ICCPR, Human Rights Committee, General Comment No. 20 9 (I) *UN Doc HRI/GEN/1/Rev. (10 March 1992)*.

¹⁵⁰ Yogyakarta principles, *available at:* <https://yogyakartaprinciples.org/principles-en/> (Last visited on August 12, 2022)

¹⁵¹ “Principle 10 set out the right of freedom from torture and from cruel, inhuman or degrading treatment. The additional principles adopted in 2017 extended this principle with a specific prohibition of conversion therapies: ‘Everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity.’” “States shall: ... [p]rohibit any practice, and repeal any laws and policies, allowing intrusive and irreversible treatments on the basis of sexual orientation, gender identity, gender expression or sex characteristics, including forced genital-normalising surgery, involuntary

The Concerns have been raised by the Special Rapporteur on torture and the Committee against Torture¹⁵² regarding coerced treatment to alter sexual orientation or gender identity, including electroshocks, involuntary confinement in mental and other facilities, and other forms of "aversion therapy," which may cause psychological and physical harm.¹⁵³

The UN Independent Expert on Sexual Orientation and Gender Identity in May 2018, observed that the Reports of violence against individuals based on their gender identity or sexual orientation, whether real or perceived, also include so-called "conversion therapy." And further advocated that looking to the pain, suffering and the implied discrimination to these minorities, such acts may amount to torture or other cruel, inhuman or degrading treatment.¹⁵⁴

Subsequently, the UN Special rapporteur on Torture in July 2019 affirmed that:

“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.”¹⁵⁵

sterilisation, unethical experimentation, medical display, 'reparative' or 'conversion' therapies, when enforced or administered without the free, prior and informed consent of the person concerned.”

¹⁵² UN Committee Against Torture, Concluding observations on the fifth periodic report of China. 3 February 2016. CAT/C/CHN/CO/5. See also Report of the Special Rapporteur on torture (A/HRC/22/53), 2013, paras. 36-38, 76-79, 88. the UN Committee against Torture recommended that a state take “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’

¹⁵³ Committee against Torture, Concluding Observations on China (CAT/C/CHN/CO/5), 2016, para. 55; Human Rights Committee, Concluding Observations on Ukraine (CCPR/C/UKR/CO/7), 2013, para. 10; Report of the Special Rapporteur on torture (A/56/156), 2001 at para. 24.

¹⁵⁴ UN Human Rights Council, Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. 11 May 2018. A/HRC/38/43.

¹⁵⁵ UN General Assembly. Interim Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, relevance of the prohibition of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to the Context of Domestic Violence. 12 July 2019. A/74/148.

Unfortunately, Many States of Africa, Asia,¹⁵⁶ and the Organization of Islamic Cooperation (which has 57 Member States) have time and again rejected attempts to include SOGI as a non-discriminatory ground under human rights law.¹⁵⁷

Rights of child

The Children¹⁵⁸ are most suffered section of sex and gender variations and even more sufferer when any kind of medical interventions, surgery, use of drug and hormone, performed on them due to either their intersex condition or if they show homosexual orientation or different gender identity. Many such children are subjected to unnecessary without their informed consent, Such procedures are typically permanent and can reason of severe, long-term physical and psychological suffering, adversely affecting children's rights to physical integrity, to health, privacy and autonomy and may constitute torture or ill-treatment.¹⁵⁹ The Child Right Convention defines "identity" but Sexual Orientation and Gender Identity is not clearly recognised as part of a child's identity.¹⁶⁰

¹⁵⁶ M Joel Voss, "Contesting Sexual Orientation and Gender Identity at the UN Human Rights Council" 1*Human Rights Review* 19 (2018).

¹⁵⁷ Organization of Islamic Cooperation, Resolution 3/1-F on "Welcoming Resolution 4/43-C of the Conference of Foreign Ministers on Rejection of the Human Rights Council Resolution on Sexual Orientation" OIC/-FamilyMC/2017/RES./FINAL (9 February 2017); Organization of Islamic Cooperation, Independent Permanent Human Rights Commission, "Study on Sexual Orientation and Gender Identity in the light of Islamic Interpretations and International Human Rights Framework" (May 2017).

¹⁵⁸ The Convention on the Rights of the Child, 1989 art 1.A "child" is defined under the CRC as a human being below the age of 18 years, unless majority is attained earlier under the law applicable to the child.

¹⁵⁹ See for example, Committee on Economic, Social and Cultural Rights, General Comment No. 22 (E/C.12/GC/22), 2016, para. 59; Committee on the Rights of the Child, Concluding Observations on Nepal (CRC/C/NPL/CO/3-5), 2016, paras. 41, 42; on South Africa (CRC/C/ZAF/CO/2), 2016, paras. 37, 38; on New Zealand (CRC/C/NZL/CO/5), 2016, para. 25; Committee on the Rights of Persons with Disabilities, Concluding Observations on Chile (CRPD/C/CHL/CO/1), 2016, para. 42; on Germany (CRPD/C/DEU/CO/1), 2015, paras. 37, 38; Committee against Torture, Concluding Observations on France (CAT/C/FRA/CO/7), 2016, para. 34, 35; on Hong Kong, China (CAT/C/CHN-HKG/CO/5), 2016, paras. 28, 29; Report of the High Commissioner for Human Rights on discrimination and violence based on sexual orientation and gender identity (A/HRC/29/23), 2015, para. 53; Reports of the Special Rapporteur on torture (A/HRC/22/53), 2013, paras. 77, 88, (A/HRC/31/57), 2016, paras. 50, 72; Reports of the Special Rapporteur on health, (A/HRC/32/32), 2016, paras. 85, 94; (A/70/213), 2015, paras. 84-86, (A/64/272), 2009, para. 49. See also, joint statement of international and regional human rights experts, "End violence and harmful medical practices on intersex children and adults", 2016, *available at*: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E, (Last visited on 12/8/22) and Committee on Bioethics of the Council of Europe, "The Rights of Children in Biomedicine: Challenges Posed by Scientific Advances and Uncertainties," Council of Europe, January 16, 2017, *available at*: www.coe.int/en/web/children/-/study-on-the-rights-of-children-in-biomedicine. (Last visited on August 12, 2022)

¹⁶⁰ Convention on the Rights of the Child Art_8(1). Contrast General Comment No_14, where the Committee defined a child's identity as including "sex, sexual orientation, national origin, religion and beliefs, cultural identity,

United Nations and regional human rights experts have indicated that States must urgently prohibit medically unnecessary surgery and procedures on intersex children.¹⁶¹ United Nations human rights experts have called on States to: “uphold the autonomy of intersex adults and children and their rights to health, to physical and mental integrity, to live free from violence and harmful practices and to be free from torture and ill-treatment.”¹⁶² Medical and psychological professionals should be made aware by state about bodily diversity and intersex traits, as well as about the effect of unnecessary surgical and other medical interventions on intersex children and adults.¹⁶³

The Committee on the Rights of the Child has urged States to eliminate “conversion therapy” practices.¹⁶⁴ Research has shown that parents have a tendency to be encouraged by religious and/or popular beliefs that different sexual and gender identity to be “immoral” and incompatible with their religious tenets.¹⁶⁵

IX Ethical concerns

Conversion therapy or any forced attempt to change individual sexual orientation or gender identity left with several ethical concerns and are be pointed out as:

1. Uninformed consent¹⁶⁶

personality”, but omitting the explicit references to “nationality, name and family relations” under Art_8(1) (CRC, General Comment No_14 at p_7).

¹⁶¹The Committee on the Rights of the Child, the Committee against Torture, the Subcommittee on Prevention of Torture and the Special Rapporteur on torture. See joint statement of international and regional human rights experts, “End violence and harmful medical practices on intersex children and adults”, 2016, *available at*:<http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E>. (Last visited on August 12, 2022)

¹⁶²*Id.* See also OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, “Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement”, 2014.

¹⁶³Committee on the Rights of the Child, Concluding Observations on New Zealand (CRC/C/NZL/CO/5), 2016, para. 25; and on Ireland (CRC/C/IRL/CO/3-4), 2016, para. 40. See also, Human Rights Committee, Concluding Observations on Korea (CCPR/C/KOR/CO/4), 2015.

¹⁶⁴ Committee on the Rights of the Child, general comment No. 20, para. 34.

¹⁶⁵*Id.* See Conversion therapy global research, *available at*: ilga.org/Conversion-therapy-global-research-ILGA-World. (Last visited on August 12, 2022)

¹⁶⁶“The change efforts are often prescribed without full descriptions of risks and disclosure of lack of efficacy or evidence, when it is conducted forcibly on individuals or without their consent.” World Medical Association. Declaration of Tokyo - guidelines for physicians concerning torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment, World Medical Assembly; 1975, Rev. 2006, United Nations, Body of principles for the protection of all persons under any form of detention or imprisonment, United Nations; Dec. 1988. A/RES/43/173.

2. Treating Normal¹⁶⁷
3. Against Medical Ethics.¹⁶⁸
4. Advertising and offering conversion therapy by any constitutes a form of deception, false advertising, and fraud.¹⁶⁹
5. Societal Pressure and self-hatred Driven: Even when an individual agreed for the therapy, he may be motivated by societal and family pressure or self-hatred or a conflict between their actual sexual orientation or gender identity.¹⁷⁰
6. Breaches of confidentiality
7. Diagnosis and treatment by unprofessional: If treatment failed which has to be failed as it is against the nature then also the failure of treatment blamed on the patient.

Thus a holistic changes effort require which should not limited to ethical and/or legal changes but also mind set of society needs to be change.

X Changes Required

The discussion above on various heads clearly reflects that simple ban on conversion therapy will not serve the purpose thus a holistic change in law, awareness in society, education institutions, judiciary, police, hospitals and other stake holders should be requiring to be adopted.

The suggested changes may be as follows:

1. Under the Protection of Children from Sexual Offences Act 2012, a Specific provision may be added as: *“Any act or an attempt to change a child’s sexual orientation or to change them from being transgender, with or without consent of such child shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”*

¹⁶⁷Any intervention to treat something that is not a disease or disorder is wholly unethical. World Psychiatric Association. WPA position statement on gender identity and same-sex orientation, attraction, and behaviours 15(3) *World Psychiatry*.299–300 (2016).

¹⁶⁸Since this therapy is ineffective and harmful, Medical professionals must abide by their core ethical principles to act in the best interests of patients and to “do no harm”, World Medical Association. Declaration of Geneva, *World Medical Assembly*; 1948. Rev. 2017.

¹⁶⁹ World Medical Association. International Code of Medical Ethics, *World Medical Assembly*; 1949. Rev. 2006.

¹⁷⁰ British Psychological Society. Guidelines and literature review for psychologists working therapeutically with sexual and gender minority clients. February, 2012: 71-73.

2. In section 320 of Indian Penal Code or now in new criminal law¹⁷¹ a new sub clause should be added in clause pertaining to grievous hurt as *“Ninth. - change a person’s sexual orientation or to change them from being transgender without his consent or consent taken by unlawful manner”*
3. Under sec. 89 of the Consumer Protection Act, 2019, if any one advertised of claiming treatment or cure of homosexual or transgender condition should be punished.¹⁷²
4. Criminal liability should be fixed for forced conversion of sexual orientation and gender identity for medical negligence.
5. Faith leaders and religious leaders and institutions should also call for ban on the use of conversion therapy.
6. License of medical practitioners’ should be revoked if professionals offer or advertise conversion therapy.
7. Victims of conversion therapy should come forward to raise awareness about the issue.
8. Ban all forms of conversion therapy practices.
9. Government should make public awareness campaigns across the country.
10. National Education Policy (2020) should include lesson related to sex and gender diverse children.
11. India's educational institutions ought to help create safe spaces for gender-diverse kids and young people in schools and universities.
12. All necessary measures should be taken to eliminate the social stigma associated with sex and gender diversity, and adopt appropriate anti-discrimination measures.

¹⁷¹“Grievous hurt. —The following kinds of hurt only are designated as “grievous”: —First. —Emasculation. Secondly. —Permanent privation of the sight of either eye. Thirdly. —Permanent privation of the hearing of either ear. Fourthly. —Privation of any member or joint. Fifthly. —Destruction or permanent impairing of the powers of any member or joint. Sixthly. —Permanent disfiguration of the head or face. Seventhly. —Fracture or dislocation of a bone or tooth. Eighthly—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.”

¹⁷²“The Consumer Protection Act, 2019, s 89- Any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees”.

13. Conduct in-depth study on conversion treatment procedures to shed light on the practice wherever it occurs.
14. Educate people widely about human rights principles, gender identity, and sexual orientation at all levels.
15. The AYUSH Ministry and all other health offices should release guidelines regarding queer-affirmative practices.

XI. Conclusion

The issues related to conversion of Sexual Orientation (being homosexual) and Gender Identity (being transgender) are not entirely psychological or psychiatric or genetic matters but associate with wider ethical, moral, legal and societal considerations. The practice of conversion therapy is actually a clash between stereotype thinking with scientific reality. Division on basis of sex and gender, and their settled roles in social institutions is directly related to families, religious communities and the State thus there is profound disagreement among individuals and groups within society on being homosexual or transgender.

Conversion therapy practices specifically try to interfere with a group's autonomy and personal integrity by targeting them based only on their sexual orientation and gender identity, which are intertwined with sex and gender.

The existing literatures are clearly suggesting that conversion therapy cannot alter individual sexual orientation or transgender identity. On the other side there are strong relations between adverse health effects, such as anxiety, depression, and suicide, of conversion therapy. Therefore, public health institutions, law makers, NGOs, religious leaders and even homosexuals and transgender should be more aware and progressive in protecting this vulnerable population against potentially harmful practices.

In order to progressive realization of rights related to LGBTQI, it is necessary to allow them to live with bodily autonomy and integrity. Undouble right of self-determination available to LGBTQI person and absence of a specified provisions related to banning and prohibiting forced conversion of self-identified sexual orientation or gender identity is opposite to progressive realization of rights. The desired change in social mind-set always require lot of

efforts and time, thus a collective effort of awareness from all stakeholders can make this process speedy to save LGBTQI community.