
CONVERSION THERAPY: RELEVANCE AND CURTAILMENTS

Fathima Azra, SDM Law College, Mangalore. Affiliated to Karnataka State Law University

ABSTRACT

Conversion therapy is a breed of psychoanalysis that intends to convert or alter an individual's sexual preference or individuality from homosexuality to heterosexuality. The execution of these practices has been overruled by the leading psychiatric organizations. Alternatively, Conversion Therapy is still carried out despite being aware of the reality that it is unproductive and plausible to seed grievous physical agony and mental torture and to endure prolonged detrimental repercussions. Various practices are unrestrained in India including potentially replacing the sexuality of an individual associated with the LGBTQIA+ community. The logic behind Conversion Therapy is the faith that homosexuality is eccentric. The psychotherapeutic and religious conversion therapies are explored. In spite of being aware of such discriminatory practices are implemented throughout the country, no legislation has been enacted to ban such unfair practices. Nevertheless, research on such practices has invalidated their effectiveness and certified their damaging consequences. The construct of the LGBTQIA+ conversion in India is examined as well as what accounts for its change. The purpose of this assessment is to pinpoint the reason why 'Conversion Therapy' is unethical and to criticize its widespread practice in India. The research aims to collect information to bridge the existing knowledge gaps and to provide an overview of what conversion therapy practices are being committed, where and by whom and how states are responsible for it.

Keywords: Conversion Therapy, LGBTQIA+ Community, Gender Identity, Sexual Orientation, Religious refusals, Legislation, India, Effects, Critical Analysis.

Introduction

Conversion therapy is a breed of psychoanalysis that intends to convert or alter an individual's sexual preference or individuality from homosexual to heterosexual. It is also known as Sexual Orientation Change Efforts (SOCE), reparative therapy, integrative therapy reorientation therapy, ex-gay therapy, and gay cure.¹ It is assumed that an individual's sexual orientation can be altered and such alteration is regarded as beneficial for the individual, family or, community.² Homosexuality is thought to be an illness from time immemorial, and sexual adaptation Conversion Therapy is considered to be the curative solution. In this practice, an individual is taught that being homosexual is wrong. Conversely, homosexuality is not publicized as a mental illness still attempts to sexually reorient lesbians and gay men continue.³

Despite this growing trend, little information is readily available on the global breadth and reach of conversion therapy, which often occurs in the private sphere and represents a set of diverse acts. These range from the use of psychological techniques to alter sexual orientation or gender identity, to religious rituals that are intended to change a person's sexual orientation or gender identity, to behavioural therapies that are intended to change a person's sexual orientation or gender identity. In all cases, these therapies assume that homosexuality is a problem to be cured and that being LGBT is a mental disorder that can be changed. Conversion therapy has been criticized for its use of pseudoscience and its significant health risks, including depression, anxiety, and self-harm.

In this context, the article aims, first to link the grounds as to why Conversion Therapy is practiced throughout the country though it is a prejudiced convention. The whole situation fails to address the inequality and degradation faced by such communities. Answering this question will have both practical and theoretical significance because in India such disparity was earlier correlated to women (evil practices such as sati system, devadasi system, etc.).

Secondly, it aims at investigating distinct ways by which it is practiced throughout the country. Does this peculiar amalgamation of wrongs constitute the ingredients to fulfil the violations of human rights law? Conversion Therapy does not differ from torture or abuse in numerous ways.

¹ Djordje Alempijevic, *Statement on Conversion Therapy*, 72 JFLM 101930, 101931-101933 (2020).

² Ibid

³ Haldeman, D. C, *The practice and ethics of sexual orientation conversion therapy*, 62 JCCP 221, 221 (1994).

Assessing the topics such as torture, abuse, and degrading treatment, we can easily acknowledge the fact that Conversion Therapy is similar to such undignified practices.

Thirdly, an extensive study is made to analyse the impacts of Conversion Therapy on the victims. The mental traumas and agony they face are explored and narrated in detail, to expose how Conversion Therapy causes extreme, and often unimaginable, human suffering.

Finally, it examines the opinions about the regulation of Conversion Therapy. Whether Conversion Therapy is actionable or not, is discussed in detail. How such practices affect such communities and the procedures to be adopted to ban this evil practice are also studied briefly.

LGBTQIA+ Conversion in India

The acronym LGBTQIA+ is used to refer to Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and Asexual people. It is an accepted and common way to refer to the community. It is used on signs and in literature and is taught in schools as a way to educate people on the various identities.⁴ The LGBTQIA+ community is one of the most visible and talked-about groups in society.⁵ It is often portrayed as a monolithic group, but of course, this is far from the truth. Just as people from all different backgrounds come together to form the fabric of society, people from all different backgrounds identify as part of the LGBTQIA+ community. The most visible sign of the LGBTQIA+ movement is the fight for social equality.⁶

Homophobia, biphobia, transphobia, and other forms of discrimination and violence against LGBTQIA+ people are pervasive in all Indian societies and cultures.⁷ The ability to live openly as an LGBTQIA+ person in a society greatly influences one's ability to survive, find work, and build a life. This is especially true in Indian societies that are highly religious and conservative, where homosexual activity is considered a sin and homosexuality are considered an "unnatural" behaviour that must be suppressed. It is difficult to live as an LGBTQIA+ person in such societies, where LGBTQIA+ people are often degraded and harassed.⁸

⁴ Wandrekar JR & Nigudkar A.S, *What Do We Know About LGBTQIA+ Mental Health in India? A Review of Research from 2009 to 2019*, 2(1) JPH 26, 26-27 (2020).

⁵ Ilias Trispiotis & Craig Purshouse, 'Conversion Therapy' As Degrading Treatment, OJLS, Aug 2021, at 2-3.

⁶ Simran Sonkar & Dev Vrat Arya, *Why India Must Criminalize Gay Conversion Therapy*, THE LEAFLET: CONSTITUTION FIRST (Sep.8, 2021), <https://www.theleaflet.in/why-india-must-criminalize-gay-conversion-therapy/>.

⁷ Ibid.

⁸ Sireesha Jaddidi & Gunjan Sharma, *Position of Transgender in Contemporary India: An Analytical Study*, 4(2) IJLMH 2754, 2754-2756 (2021).

In the past, being LGBTQ meant hiding who you were to avoid discrimination and oppression. But today, the community is demanding to be treated equally no matter what.⁹ The movement calls for the same rights, protections, and freedoms for all members of the community, regardless of their sexual orientation or gender identity. Many people still face discrimination because of their sexual orientation and gender identity or expression. India's colonial-era sodomy laws continue to criminalize sex between men, and the transgender community faces discrimination in areas as basic as employment.¹⁰

Despite the Indian Psychiatric Society and other reputable medical institutions declaring that homosexuality is a normal variation of human sexuality, the practice of “gay conversion” remains widespread in India. In some cases, parents have forced their children into quack clinics to “correct” their sexuality, while others have turned to traditional healers or religious leaders to “cure” their gay or lesbian children.¹¹ Some victims of gay conversion have even been subjected to electric shocks or other forms of torture to “reprogram” their sexuality.¹² However, the biggest obstacle to ending gay conversion in India is the lack of clear laws against it.

A recent instance of such practice can be observed in India, where Anjana Harish’s death was the latest in a series of online protests against social prejudice against the bisexual community.¹³ Bisexual people, who want to be in a heterosexual relationship but also have sexual relationships with people of the same gender, are a marginalized minority in India. They face discrimination from heterosexuals and homosexuals and are often denied equal rights.¹⁴ In the past year, social media has been flooded with videos and posts calling for an end to the prejudice and discrimination against bisexuals and demanding equal rights for the community.¹⁵

⁹Winy Daigavane & Anubhav Das, *An Analysis of Conversion Therapy in India: The Need to Outlaw and the Allied Socio-Cultural Concerns*, THE LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE (Jun.15, 2020), <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/>.

¹⁰ Supra Note 4.

¹¹ INDIAN PSYCHIATRIC SOCIETY, <https://indianpsychiatricsociety.org/ips-position-statementregarding-lgbtq/> (Jun.11, 2020).

¹² Supra Note 1.

¹³ Deena Theresa, *Unscientific and illegal, yet conversion therapy rampant*, N.Y. TIMES, May.21, 2020, at A1.

¹⁴ Harry Farley & Eleanor Lawrie, *‘What is Conversion Therapy? and When will it be Banned’*, BBC NEWS (May.11, 2021), <https://www.bbc.com/news/explainers-56496423>.

¹⁵ Ibid.

The major reason why it is easy to link the grounds according to which Conversion therapy is still prevailing in India is that the traditional norms and beliefs are still prevalent in the society. People in India are still under the influence of prevailing religious beliefs and practices. They follow the norms and traditions as they are passed on from one generation to another. The prevailing social norms and values inculcate in the people the belief that homosexuality is a sin, which needs to be changed. Parents and society often force homosexuals to change their gender identity because of which they are afraid to reveal their gender. This results in internalized homophobia, which prevents them from coming out. This is especially common among adolescents who are still exploring their sexuality, and who are afraid of being shamed for their sexual orientation. The result is that they live double lives, which takes a toll on their mental and emotional health.

Distinct ways to Practice Conversion Therapy

A variety of extensive practices are utilized to alter sexual orientation or gender identity.¹⁶ Some of these practices include 'corrective' rape and sexual assault, imprisonment and kidnapping, physical abuse, electroconvulsive shock treatments, hormone treatments, and aversion therapy. These methods are called physical Conversion Therapy.¹⁷ Torture and other forms of cruel, inhuman, or degrading treatment or punishment are also applied.¹⁸ Conversion therapy is performed universally by various professionals and institutions. It is guided by doctors, psychiatrists, psychologists, therapists, and sexologists. Other techniques are also carried out by spiritual leaders, religious practitioners, traditional healers, and community or family members.¹⁹ It is a very unconvincing element that conversion therapy is accepted in the context of state control as well as hospitals, schools, juvenile detention facilities, homes, religious institutions, youth camps, and retreats.²⁰

The range of medications that can be used to alter the sexuality of an individual is wide and varied. Some of these medications are used to treat the underlying cause of homosexuality,

¹⁶ See Joseph Raz, *'Conversion Therapy' Breaches Autonomy-Based Duties, State Intervention is Legitimate*, OUP, June 1986, 416–17.

¹⁷ Supra Note 1.

¹⁸ THE INTERNATIONAL REHABILITATION COUNCIL FOR TORTURE VICTIMS, https://irct.org/uploads/media/Its_torture_not_therapy_a_global_overview_of_conversion_therapy.pdf (Apr.23, 2020).

¹⁹ Supra Note 17.

²⁰ IFHHRO.IN, <https://www.ifhhro.org/news/conversion-therapy-is-unscientific-and-violates-the-global-ban-on-torture-and-ill-treatment/>, (May.14, 2020).

while others are used to treat the symptoms of homosexuality.²¹ Medication has been shown to be effective at altering the sexuality of a person and can be used in conjunction with other techniques to increase their effectiveness. However, like other techniques, medication has the potential to cause side effects, and may also have other risks associated with its use. The most common form of medication used to alter the sexuality of an individual is through the use of hormones. These are often referred to as gender-affirming hormones and are usually prescribed to those who identify as transgender.²² Hormones such as testosterone and oestrogen have a range of effects on the body, including altering the way that the body builds muscle, causing the voice to deepen, and causing the sex organs to develop or reduce in size.²³

The use of anti-depressants as a treatment for homosexuality is a controversial topic. Anti-depressants are often used to treat depression, but they are also used to treat the symptoms of homosexuality.²⁴ In some cases, anti-depressants are used to treat both homosexuality and depression. In other cases, anti-depressants are used to treat the symptoms of homosexuality without treating the underlying causes of the condition.²⁵

I found a wide-ranging set of practices that are used separately or together in conversion therapies that bear similarity to acts that are internationally acknowledged to constitute torture or ill-treatment. I also found a number of practices that could be classified as torture or ill-treatment under international human rights law. In some cases, I found that practitioners and organizations were aware that their conduct might amount to torture or ill-treatment, but continued to do so. This points to the need for safeguards to be in place to prevent conversion therapies that cause harm, and for those who undertake them to be held accountable when they act in a way that amounts to torture or ill-treatment.

It is a very shocking fact to know that conversion therapy is practiced widely in distinct ways. It is an inalienable human right to be free from all forms of discrimination, including discrimination on the basis of sexual orientation. When a person is born with or changes their sexual orientation, they have the right to respect, live without discrimination, and be protected against hate speech and crimes. This is a human right, not a privilege for which to ask for

²¹ Sarah Clarke, *Structured Cruelty: The Anti-Trans movement's Support of Gender Identity Conversion Efforts*, TRANS SAFETY.NETWORK (Mar.21, 2021), <https://transsafety.network/posts/structured-cruelty/>.

²² Paul J Conelly et al., *Gender Affirming Hormone Therapy, Vascular Health and Cardio-Vascular Health in Transgender Adults*, 76 AHA 1266, 1272-1273 (2019).

²³ Heino F.L & Meyer-Bahlburg, *Hormones and Homosexuality*, 3 PCNA 349, 349-350 (1980).

²⁴ *Ibid.*

²⁵ *Ibid.*

special benefits. The state has an obligation to protect the human rights of all individuals, regardless of their sexual orientation. The practices of conversion therapy violate the fundamental human rights of individuals, including the rights to liberty, privacy, and free expression, and the use of conversion therapy is contrary to fundamental ethical standards of the medical and mental health professions.

Impact of Conversion Therapy on Victims

Whenever we hear the phrase “conversion therapy,” most of us think of the quack “treatment” inflicted upon gay people by misguided psychiatrists and religious zealots in an attempt to “cure” them of their homosexuality. But the term also refers to any attempt to change a person’s sexual orientation or gender identity through means that don’t involve honest, straightforward conversation and empathy.²⁶ The goal of such “therapy” is to make someone feel ashamed of their innate sexuality and gender identity and to cause them to question their sense of self and worth.²⁷ This causes a great deal of psychological harm to victims, and can even lead to suicide in some cases. Conversion Therapy is a vicious practice that has been condemned by every major medical and mental health organization in the country.²⁸ As such, its victims are often in a state of constant mental and physical agony.²⁹ The therapy has been widely discredited as unethical and harmful, but still, it persists in India.

How such people are at risk for mental distress is complex and depends on a variety of factors. Social stress related to experiences of discrimination, rejection, and other experiences that are a result of being LGBTQIA+ can cause mental distress.³⁰ It is not easy to survive in a society where LGBTQIA+ are often degraded and attacked. LGBTQIA+ people are forced to live in the margins, forced to be invisible. They are denied jobs, housing, and basic human rights. They are often the targets of violence.³¹

²⁶ Meyer I. H, *Prejudice, social stress, and mental health in lesbian, gay, and bisexual populations: conceptual issues and research evidence*, 129(5) PMC 674, 677-678 (2003).

²⁷ Ibid.

²⁸ THE INTERNATIONAL REHABILITATION COUNCIL FOR TORTURE VICTIMS, <https://irct.org/media-and-resources/latest-news/article/1027> (Apr.23, 2020).

²⁹ Ibid.

³⁰ Supra Note 8.

³¹ Ajay Amitabh Suman, *Transphobia: Acceptance of Third Gender in Indian Society*, THE TIMES OF INDIA(Mar.30,2021),<https://timesofindia.indiatimes.com/readersblog/ajayamitabhsumanspeaks/transphobia-acceptance-of-third-gender-in-indian-society-30696/>.

Over the past few decades, mental health professionals have become increasingly aware of the dangers of so-called “conversion therapy,” which is a pseudoscientific practice.³² According to the American Psychiatric Association, the truth is that there is clear evidence that conversion therapy does not work and some significant evidence that it is not supported by science and is also harmful to LGBTQ people.³³

The experiences of Conversion Therapy are often not only shaped by the experiences of stigma and discrimination, but also by the experiences of living in a society that is largely heteronormative and cis-normative. This social environment can cause stress and other forms of mental distress for the victims. It is important to understand this risk for mental distress and disorders in order to better respond to the needs of the victims to help ameliorate the social stress that contributes to mental health problems.

Is Conversion Therapy Actionable?

BACKGROUND: There are considerably a large number of trans-people in India but they are not considered as human beings and face exclusion from society.³⁴ The lack of appropriate legislation is largely responsible for perpetuating conversion therapy by conducting, supporting, promoting, and acquiescing in it. Despite the clear harm it causes, the states in which we live continue to promote and acquiesce in the discrimination and abuse of LGBTQIA+ people through the practice of conversion therapy. When we consider the tangible, human harm caused by the practice of conversion therapy, it’s clear that the states in which we live have a responsibility to not only cease promoting and acquiescing in the practice but also to take affirmative steps to end the practice entirely.³⁵

The legislation has generally failed to prevent conversion therapy or punish practitioners when it occurs in the private health and education sectors, even though their responsibility to oversee those services involves a duty to ensure that residents are not subjected to harmful practices³⁶. This has left much of the responsibility for preventing and responding to conversion therapy in the hands of individuals, who often lack the power and resources to respond effectively. This

³² Mark Potok, ‘*Conversion Therapists, the Anti-LGBT Right, and the Demonization of Homosexuality*, 8-9 (2016).

³³ THE HUMAN RIGHTS CAMPAIGN, <https://www.hrc.org/resources/the-lies-and-dangers-of-reparative-therapy> (Nov.16, 2018).

³⁴ THE 2011 CENSUS OF INDIA, <https://www.census2011.co.in/transgender.php> (Apr.1. 2010).

³⁵ Supra Note 9.

³⁶ Josina Bothe, *Its torture not Therapy (A Global Overview of Conversion Therapy: practices, perpetrator and the role of States*, 15-16 (2020).

has allowed practitioners to continue offering conversion therapy in the private sector without significant consequences.³⁷

India is often regarded as a bastion of traditional values, which has led to a climate of homophobia in the country. The LGBTQIA+ community in India has often been the target of harassment and violence.³⁸ Homosexuality was still considered a felony until 2013 when the Delhi High Court ruled that it was unconstitutional to discriminate against people based on their sexual orientation.³⁹ However, the progress that has been made on the legal front has not been accompanied by more progressive attitudes towards the LGBTQIA+ community on the part of society.⁴⁰ Though homosexuality was decriminalized by the Indian Courts, the practice of Conversion Therapy still prevails even after being specifically condemned by several international bodies. Therefore, it can be concluded that Conversion Therapy is still not actionable in the major parts of the country until a landmark judgment was passed by the High Court of Madras.

RECENT CHANGES IN LAW: India's Madras High Court has prohibited 'conversion therapy, making Tamil Nadu the first Indian state to institute a ban on such an unethical practice. The ruling came in response to a petition filed by the Chennai-based NGO Praja Legal Centre, which had argued that "conversion therapy" – which is based on the false premise that homosexuality is a disorder that can be cured – violates the rights to equality and non-discrimination under the Constitution.⁴¹ The court ruled that "unlawful discrimination based on sexual orientation" is a "barrier to the right to equality" and is unconstitutional under Article 14 of the Constitution,⁴² which protects the rights of citizens to equality citizens' right to equality.⁴³

Non-recognition of the Third Gender in the Indian legal framework has resulted in the systematic denial of equal protection of the law and widespread socio-economic discrimination in society at large as well as in Indian workplaces. In the wake of the Nalsa Judgment,⁴⁴ the

³⁷ Ibid.

³⁸ YOUTH KI AWAZ, <https://www.youthkiawaaz.com/2017/12/t-for-transgender-a-life-of-struggle-for-identityequalitydignityacceptance-and-love-2/> (Dec.12, 2017).

³⁹ Naz Foundation v Govt. of NCT of Delhi, 160 DLT 277, 2009(Del).

⁴⁰ Alok Tewari, *Transgender Rights, The Third Gender and Transforming the Workplace in India*, LEXOLOGY (MAR.12, 2020), <https://www.lexology.com/library/detail.aspx?g=b49d9488-c484-4d00-882c-2c386a041a07>.

⁴¹ Bhavyata Kapoor, *India's High Court Bans Conversion Therapy a MUCH needed Law*, JURIST (Jun.22, 2021), <https://www.jurist.org/commentary/2021/06/bhavyata-kapoor-india-high-court-bans-conversion-therapy/>.

⁴² INDIA CONST. art.14.

⁴³ S.Sushamma v Commissioner of Police, (2021) Mad.

⁴⁴ NALSA v Union of India, AIR (2014) 5 SCC 438.

Indian parliament recently enacted the Transgender Persons (Protection of Rights) Act, 2019 (the 'Act').⁴⁵

In recent times, India has experienced a slow transformation and progression of its society. This verdict, which overturned the controversial Conversion Therapy, is only the most recent example of this change. It shows the direction that India is heading and the direction that it needs to go to ensure that all of its citizens are equal under the law. It indicates that Indian society is finally evolving to a place where all of its members are treated equally and have equal rights, regardless of their sexual orientation. This ignites a new hope that India will transform itself into a better place to live for all individuals irrespective of their gender.

Critical Analysis

Every individual has a right to live freely according to their wills and fancies subject to laws. It is a clear violation of a person's private space if they are made to go through a heinous practice like Conversion Therapy. The practice of gay conversion therapy has been talked about a lot in recent years, with many calling for it to be banned. It has been the subject of protests and campaigns, and many people have come out to say they were forced to go through this "therapy" when they were young. It seems like such a distant thing in the past, with modern medicine agreeing that being gay isn't something that can be "fixed." But it isn't as if this practice was a one-off incident, as many from the LGBTQIA+ community claim to have faced this at some point in their lives, highlighting the interplay of religion and medicine in the past.⁴⁶

The issue of gay conversion has been a contentious one, a large number of medical students have been taught how to perform the gay conversion, even though it is unethical and illegal.⁴⁷ This highlights the importance of education in healthcare, with many doctors and cosmic healers providing misinformation to patients. The claims of "curing" homosexuality or transgenderism have been categorically dismissed by the medical community, yet the practice continues to this day on a larger scale than ever before.⁴⁸ The use of conversion therapy on minors is particularly alarming, as the practice is not only ineffective but also potentially dangerous. It is oftentimes conducted by religious or spiritual leaders and is based on the false

⁴⁵ The Transgender Persons (Protection of Rights) Act, 2019.

⁴⁶ Supra Note 28.

⁴⁷ AIDADATAHUB.ORG, <https://www.aidsdatahub.org/sites/default/files/resource/conversion-therapy-2020-india-country-snapshot.pdf> (May.7, 2020).

⁴⁸ Ibid.

premise that homosexuality is a mental illness or can be “cured.” It is important to note that conversion therapy has been proven to have no basis in science and is potentially dangerous to the mental and physical health of those who undergo it.

The past few years have seen an increasing number of stories in the media about the violence and discrimination faced by gender minorities, particularly transgender people. It has been heartening to see the efforts of governments and other entities to highlight the protections afforded to gender minorities under the law and in government policies, as well as the support of health care associations and compassionate judgments from the judicial system. However, much more needs to be done to ensure that all members of gender minority communities are adequately protected under the law.

Conclusion

The objective of the research was to compile a piece of detailed information on Conversion Therapy, the way it is practiced, its impact on victims, how legislation is responsible for it, etc. It helped to focus attention on the horrific conversion therapy practices that trans and gender diverse people experience due to patriarchal, cis-heteronormative expectations of families and social institutions in India. It also highlights some of the attempts at the protection of rights of gender minority communities through government policies, support from healthcare associations, and empathetic judgments from the judiciary. But the findings also point to larger issues that require systemic changes—family expectations and social perceptions that still need to be challenged; the lack of explicit community-inclusive reforms in policy-making; the continued absence of safe spaces in educational institutions; the often insensitive and phobic stereotypes in media; and the persistent bias against gender diversity in healthcare practices.

The study demonstrates that there is a need for change with immediate effects in the country. The sufferings and agony of gender minorities should be addressed and we should help them to make the country a safe place to survive. Citizens should be made aware of the third gender and the difficulties faced by them. What is more important is to ban evil practices like Conversion Therapy and the distinct ways by which it is practiced throughout the country.