BEYOND DECRIMINALISATION: CONVERSION THERAPY AS A VIOLATION OF INTERNATIONAL HUMAN RIGHTS LAW AND THE GLOBAL LEGISLATIVE IMPERATIVE

***HARSHITA JAIN**

Abstract

Conversion therapy - practices purporting to alter or suppress sexual orientation or gender identity - constitutes a grave violation of international human rights law. Despite unequivocal condemnation by the world's major medical and psychiatric authorities, these practices persist across numerous jurisdictions, inflicting documented psychological harm upon LGBTQ+ individuals, particularly children and adolescents. This paper examines conversion therapy through the dual lens of international human rights law and comparative domestic regulation. It argues that state tolerance or facilitation of such practices engages obligations simultaneously under the International Covenant on Civil and Political Rights, the Convention Against Torture, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child. The paper contends that comprehensive prohibition is not merely permissible under international law but affirmatively required by it.

Keywords: Conversion Therapy, LGBTQ+ Rights, Sexual Orientation, Gender Identity, Torture, Legislative Reform

I. Introduction

The right to be free from torture and cruel, inhuman, or degrading treatment is among the most peremptory norms of international law, permitting no derogation and admitting no justification rooted in cultural tradition, religious conviction, or asserted therapeutic benefit.[1] The right to privacy, the right to health, and the right to equality before the law are no less fundamental,

*Harshita Jain, Assistant Professor, IILM University, Gurugram

[1]Universal Declaration of Human Rights arts. 3, 5, G.A. Res. 217 (III), U.N. Doc. A/810 (Dec. 10, 1948).

binding upon states under the major human rights conventions and generating positive obligations to protect individuals from harm inflicted by both public and private actors.[2] It is against this background that the phenomenon of so-called conversion therapy - also described as reparative therapy, sexual orientation change efforts (SOCE), or gender identity change efforts (GICE) must be understood as a matter of international human rights law.

Conversion therapy encompasses a diverse and heterogeneous range of practices. At one end of the spectrum lie formal clinical interventions administered by licensed mental health professionals including aversive behavioural conditioning, psychoanalytic techniques designed to alter purported developmental deficiencies, and pharmacological approaches. At the other end lie religious or spiritual interventions conducted in faith communities, ranging from prayer and pastoral counselling to sustained programs of social pressure, public confession, and punitive group dynamics. All these practices share a common premise that LGBTQ+ identities are disordered, deficient, or sinful, and therefore amenable or subject to change and a common consequence: documented, serious psychological harm to those subjected to them.[3]

The scientific and medical communities' rejection of conversion therapy is unequivocal. The American Psychological Association's 2009 Task Force Report concluded after comprehensive review that sexual orientation change efforts were unlikely to succeed and were associated with adverse outcomes including depression, anxiety, and suicidal ideation.[4] The World Health Organization revised the *International Classification of Diseases* to remove homosexuality as a diagnostic category and has condemned conversion therapy as a serious threat to health and human rights.[5] The Pan American Health Organization, the World Psychiatric Association, and the American Medical Association have issued similarly unequivocal condemnations.[6]

The paper proceeds as follows. Part II examines the historical origins and definitional parameters of conversion therapy. Part III analyses the applicable international human rights

[2]International Covenant on Civil and Political Rights art. 7, opened for signature Dec. 19, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

[3]*Id.* art. 17.

[4]*Id.* art. 26.

[5]Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature Dec. 10, 1984, 1465 U.N.T.S. 85 [hereinafter CAT].

[6]International Covenant on Economic, Social and Cultural Rights arts. 12–13, opened for signature Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].

framework, with particular emphasis on the ICCPR, CAT, ICESCR, and CRC. Part IV examines the LGBTQ+ rights framework, including the Yogyakarta Principles and the developing engagement of UN mechanisms. Part V reviews the state obligations arising from that framework and the doctrine of due diligence. Part VI surveys domestic legislative responses in selected jurisdictions. Part VII addresses the European and Inter-American regional systems. Part VIII sets out conclusions and recommendations.

II. Definition and History of Conversion Therapy

A. Origins and Conceptual Development

Conversion therapy traces its origins to the late nineteenth century and the initial medicalisation of homosexuality as a psychiatric condition. The classification of homosexuality as "inversion" or "perversion" in early psychoanalytic literature provided the intellectual foundation for attempts at therapeutic change, which took various forms over the following century: hypnosis, aversion therapy, electroconvulsive treatment, castration, hormonal administration, and psychoanalytic methods predicated upon the Freudian notion that homosexuality represented an arrested stage of psychosexual development.[7]

The decisive institutional turning point came in 1973, when the American Psychiatric Association removed homosexuality from the *Diagnostic and Statistical Manual of Mental Disorders* following sustained scientific and advocacy pressure. This decision was subsequently replicated across the international medical community, with the WHO removing homosexuality from the *International Classification of Diseases* in 1990. However, the removal of homosexuality as a diagnostic category did not immediately end conversion therapy; a residual category of "ego-dystonic homosexuality" - homosexuality experienced as distressing by the individual - survived in various classification systems and provided a continuing clinical rationale for attempts at change.[8]

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[7]Convention on the Rights of the Child art. 19, opened for signature Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter CRC].

[8]The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (2007) [hereinafter Yogyakarta Principles], supplemented by The Yogyakarta Principles Plus 10: Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Expression and Sex Characteristics (2017) [hereinafter Yogyakarta Principles Plus 10].

The 1990s witnessed a renewed wave of “reparative therapy” advocacy, led primarily by religiously motivated practitioners in the United States, who argued that homosexuality was not a fixed biological trait but a pattern of learned behaviour amenable to change through spiritual and psychological intervention. Organizations such as Exodus International and the National Association for Research and Therapy of Homosexuality (NARTH) promoted these practices widely. The scientific discrediting of Spitzer’s 2003 study - the most prominent research cited in favour of reparative therapy - following his own retraction in 2012 effectively removed the last credible empirical basis for claims that sexual orientation change could be achieved.[9]

B. Contemporary Manifestations

Contemporary conversion therapy operates across a spectrum of settings. Clinical conversion therapy is conducted by licensed and unlicensed mental health professionals, often framed in terms of supporting patient “auto determination” or addressing “unwanted same-sex attraction.” Religious conversion therapy is conducted within faith communities and may involve extended residential programs, prayer ministries, exorcism, fasting, and sustained social pressure. Online conversion therapy has proliferated in recent years, offering programs to individuals worldwide outside the regulatory reach of any particular jurisdiction.[10]

The targets of conversion therapy include both adults who seek it voluntarily - often under conditions of family, community, or religious pressure that severely constrain genuine voluntariness - and minors who are subjected to it without meaningful consent. The targeting of children and adolescents is of particular human rights concern, given their heightened vulnerability and the irreversibility of the psychological harm that can be inflicted during formative developmental years. Research consistently indicates that minors who have experienced conversion therapy report higher rates of depression, self-harm, and suicidality than their non-exposed counterparts.

[9]Robert Spitzer, *Can Some Gay Men and Lesbians Change Their Sexual Orientation? 200 Participants Reporting a Change from Homosexual to Heterosexual Orientation*, 32 Archives of Sexual Behavior 403 (2003); Robert Spitzer, *Spitzer Reassesses His 2003 Study of Reparative Therapy of Homosexuality*, 41 Archives of Sexual Behavior 757 (2012).

[10]ICCPR, *supra* note 3, art. 7.

III. The International Human Rights Framework

A. Prohibition of Torture and Cruel, Inhuman, or Degrading Treatment

Article 7 of the International Covenant on Civil and Political Rights provides that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment, and specifically prohibits subjecting any person without free consent to medical or scientific experimentation.[11] The UN Human Rights Committee, in General Comment No. 20, clarified that the prohibition in article 7 extends to "acts that cause physical, mental or moral suffering," and that the obligation to protect individuals from such acts extends to the actions of private parties where states are aware and fail to take appropriate preventive measures.[12]

The Convention Against Torture reinforces and extends these protections. Article 1 of the CAT defines torture as the intentional infliction of severe physical or mental suffering, for such purposes as punishment, coercion, intimidation, or discrimination, when such conduct is carried out by or with the acquiescence of a public official.[13] Conversion therapy practices - particularly those involving aversive conditioning, electric shock therapy, or prolonged psychological manipulation designed to induce distress as a mechanism of behavioural change - fall squarely within this definition where they involve state participation or acquiescence. The UN Special Rapporteur on Torture has explicitly identified conversion therapy as constituting cruel, inhuman, or degrading treatment in violation of international law, regardless of whether the subject purportedly consents.

The "consent" of individuals subjected to conversion therapy is particularly fraught as a matter of legal analysis. Where minors are subjected to such practices, the question of valid consent does not arise: children cannot provide legally effective consent to medical procedures incompatible with their best interests. For adults, the structural conditions under which consent to conversion therapy is typically obtained - severe family or community pressure, internalised shame and self-stigma produced by a homophobic social environment, threats of ostracism or disownment - render such consent legally dubious and ethically insufficient.

B. The Right to Privacy

[11]U.N. Human Rights Comm., General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment) 2, 5 (1992).

[12]CAT, *supra* note 6, art. 1(1).

[13]ICCPR, *supra* note 3, art. 17(1).

Article 17 of the ICCPR guarantees the right to privacy, providing that no one shall be subjected to arbitrary or unlawful interference with his or her privacy.[14] The UN Human Rights Committee has interpreted the right to privacy as encompassing the right to personal autonomy in matters of intimate life, including sexual orientation and gender identity.[15] Conversion therapy violates the right to privacy by subjecting the intimate aspects of a person's identity to coercive interference, employing psychological techniques designed to alter the core of individual personality.

The privacy analysis intersects importantly with the question of genuine voluntariness. Where conversion therapy is undergone under conditions of coercion, threat, or undue influence - as it frequently is, particularly where the subject is a minor in the custody of parents who arrange for such treatment - the right to privacy is implicated not merely in the abstract sense of autonomy violation but in the concrete sense of interference with the most fundamental aspects of personal identity.

C. The Right to Equality and Non-Discrimination

Article 26 of the ICCPR provides that all persons are equal before the law and are entitled to equal and effective protection against discrimination on any ground.[16] The UN Human Rights Committee has consistently interpreted article 26 as prohibiting discrimination on the basis of sexual orientation, and has called upon states parties to ensure that LGBTQ+ persons are protected from discriminatory practices, including those carried out in medical or religious settings.

Conversion therapy is inherently discriminatory: it proceeds from the premise that LGBTQ+ identities are pathological or deficient in a manner that heterosexual and cisgender identities are not, and subjects LGBTQ+ individuals to burdensome interventions to which heterosexual or cisgender persons are not subjected. The discriminatory character of conversion therapy is thus intrinsic to its definition: it targets individuals solely on the basis of sexual orientation or gender identity, imposing upon them a coercive medical or quasi-medical regime whose explicit purpose is to eliminate the very characteristic upon which the discrimination is predicated.

[14]U.N. Human Rights Comm., General Comment No. 16: Article 17 (Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation) 1 (1988).

[15]ICCPR, *supra* note 3, art. 26.

[16]CRC, *supra* note 8, arts. 3, 19, 24.

D. The Rights of the Child

The Convention on the Rights of the Child provides a particularly powerful framework for addressing conversion therapy imposed upon minors. Article 19 of the CRC obligates states parties to protect children from all forms of mental and physical violence, including abuse inflicted or permitted by those in positions of authority over the child.[17] Article 24 of the CRC guarantees the right of the child to the enjoyment of the highest attainable standard of health, explicitly requiring states to ensure that traditional practices are not harmful to child health.

The best interests of the child principle, enshrined in article 3 of the CRC as a primary consideration in all actions concerning children, renders conversion therapy incompatible with the obligations of states parties where it is established that such practices cause serious harm to children's mental health and development. The UN Committee on the Rights of the Child has called upon states to prohibit harmful practices conducted in the name of religion or tradition, and has specifically addressed the obligation to protect LGBTQ+ children from discriminatory treatment within the health system.

E. The Right to Health

Article 12 of the International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.[18] The UN Committee on Economic, Social and Cultural Rights has interpreted this right as requiring states to ensure the availability, accessibility, acceptability, and quality of health care, including the prohibition of harmful medical practices. Conversion therapy, which generates documented and serious psychological harm while providing no evidence-based therapeutic benefit, is incompatible with the obligation to ensure the quality and acceptability of health services.

The right to health intersects with the non-discrimination framework: LGBTQ+ individuals have a right of equal access to health services, and a right to be free from health practices that target them on the basis of their identity. Where states license or otherwise authorise conversion therapy within the health care system, they engage not only their negative obligations to refrain

[17]ICESCR, *supra* note 7, arts. 12(1), 13(1).

[18]U.N. Human Rights Comm., *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc. CCPR/C/50/D/488/1992 (Mar. 31, 1994).

from harm but their positive obligations to ensure that the health system operates in a manner consistent with the rights of all individuals without discrimination.

IV. LGBTQ+ Rights as Human Rights and the Yogyakarta Principles

A. The Development of Sexual Orientation and Gender Identity in International Law

The recognition of sexual orientation and gender identity as protected grounds in international human rights law has evolved significantly since the landmark decision of the UN Human Rights Committee in *Toonen v. Australia* (1994), which held that laws criminalising same-sex intimacy violated articles 17 and 26 of the ICCPR and that "sex" as a prohibited ground of discrimination encompassed sexual orientation.[19] This interpretation has since been endorsed by the UN General Assembly, the UN Human Rights Council, and a broad range of treaty bodies, and has been progressively codified in soft law instruments of increasing normative authority.

In 2006, a group of distinguished international legal experts convened in Yogyakarta, Indonesia, and adopted the Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity.[20] The Principles, subsequently supplemented by the Yogyakarta Principles Plus Ten in 2017, represent the most comprehensive and systematic statement of the application of existing international human rights norms to the situation of LGBTQ+ individuals. Although not formally binding, the Yogyakarta Principles have been extensively cited by UN bodies, regional courts, and national courts, and reflect a broad consensus among human rights experts regarding the state of international law.

B. Yogyakarta Principles Directly Applicable to Conversion Therapy

Several of the Yogyakarta Principles are of direct relevance to conversion therapy. Principles 3 and 4 address the rights to recognition before the law and to life, and call upon states to ensure that these rights are protected without discrimination on grounds of sexual orientation or gender

[19] *Supra* note 9.
[20] *Id.* Principles 3, 4 (right to recognition before the law; right to life).

identity.[21] Principles 6 and 17 address freedom from torture and from arbitrary deprivation of liberty, and are directly engaged by conversion therapy practices that involve physical harm or forced institutionalisation.

The Yogyakarta Principles Plus Ten added several principles of specific relevance to conversion therapy, including principles addressing the right to protection from violence and discrimination in the context of medical and health settings, and calling upon states to prohibit practices that seek to impose change upon the sexual orientation or gender identity of individuals.[22] These additional principles reflect the accumulated concern of international human rights experts with the specific harm caused by conversion therapy and represent a direct call to state action.

C. UN Mechanisms and Special Rapporteur Positions

The UN Human Rights Council established the mandate of the Independent Expert on Sexual Orientation and Gender Identity in 2016, a mandate that has generated a series of landmark reports addressing conversion therapy directly.[23] The 2020 report of the Office of the High Commissioner for Human Rights on practices of so-called "conversion therapy" constitutes the most comprehensive analysis of the issue within the UN system, concluding that such practices violate multiple provisions of international human rights law and calling upon states to prohibit them by law.

The Special Rapporteur on Torture has been particularly forthright. In a 2016 report, the Special Rapporteur concluded that conversion therapy as applied to LGBTQ+ individuals - including forced or coercive medical procedures and treatment imposed by private actors with state acquiescence - constitutes cruel, inhuman, or degrading treatment or punishment, and in the most serious cases, torture within the meaning of international law.[24] The Special

[21] *Id.* Additional Principles A, B (principles against violence and discrimination regarding practices of so-called "conversion therapy").

[22] U.N. High Comm'r for Human Rights, Practices of So-Called "Conversion Therapy": Report of the United Nations High Commissioner for Human Rights, 25, U.N. Doc. A/HRC/44/53 (May 14, 2020).

[23] Special Rapporteur on Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment, Report, 77, U.N. Doc. A/HRC/31/57 (Jan. 5, 2016).

[24] *Id.* 73.

Rapporteur called upon states to repeal or reform all laws that permit, authorise, or fail to prohibit such practices.[25]

The Special Rapporteur on the Right to Health similarly addressed conversion therapy, emphasising that the right to health encompasses the right of LGBTQ+ individuals to be free from health practices that treat their identity as a disorder in need of cure, and calling upon states to enact comprehensive legislative bans.[26]

V. State Obligations and Due Diligence

A. The Structure of State Obligations

International human rights law imposes obligations on states at three levels: the obligation to respect (to refrain from directly violating rights), the obligation to protect (to prevent third-party violations), and the obligation to fulfil (to take positive measures to enable the realisation of rights). All three levels are engaged by the issue of conversion therapy.

The obligation to respect is violated when state actors - including military personnel, police, social workers, or public health officials - directly conduct or participate in conversion therapy. The obligation to protect is violated when states fail to prohibit or prevent conversion therapy conducted by private actors, whether licensed health professionals, religious organisations, or informal community practitioners. The obligation to fulfil requires states to take affirmative measures to promote the health, dignity, and equality of LGBTQ+ individuals, including through public education, professional training, and the establishment of effective complaint and accountability mechanisms.

B. The Due Diligence Standard

The principle of due diligence in the context of state obligations to prevent and remedy private violence was articulated authoritatively by the Inter-American Court of Human Rights in *Velásquez Rodríguez v. Honduras* and has since become a cornerstone of the human rights jurisprudence on state responsibility for private conduct. The due diligence standard requires

[25]Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical & Mental Health, Report, 38–41, U.N. Doc. A/HRC/35/21 (Apr. 4, 2017).

[26]Velásquez-Rodríguez v. Honduras, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 4 (July 29, 1988).

states to take reasonable measures to prevent known and foreseeable patterns of harm, to investigate violations when they occur, to prosecute perpetrators, and to provide effective remedies to victims.[27]

Applied to conversion therapy, the due diligence standard requires states that are aware of the prevalence and harm of such practices within their territories to take legislative, regulatory, and institutional measures to prevent, prohibit, and remedy them. Failure to enact a legislative ban in circumstances where the prevalence and harm of conversion therapy are established by credible evidence constitutes a violation of the due diligence obligation, regardless of whether the practices are conducted by state or non-state actors.[28]

C. Scope of Prohibition and the Voluntariness Argument

A recurring argument advanced against comprehensive legislative bans on conversion therapy is that they infringe the autonomy of adults who voluntarily seek such interventions. This argument deserves careful analysis. The right to autonomy in medical decision-making is a genuine and important human right; however, it is not absolute, and its exercise must be understood in context. Where a purported medical practice has no evidence base, is known to cause harm, and targets individuals on the basis of an identity characteristic, regulation - including prohibition - is a legitimate exercise of state authority to protect public health and individual dignity.

Moreover, the structural conditions of “voluntariness” in the conversion therapy context are rarely unproblematic. Research consistently demonstrates that individuals who seek conversion therapy do so under conditions of severe social pressure, internalised shame, and fear of rejection that substantially impair the conditions of genuine autonomous choice. The appropriate regulatory response is not unlimited deference to formally expressed preferences, but the creation of conditions in which LGBTQ+ individuals can make genuinely autonomous choices about their own lives free from coercive social pressure.

[27]U.N. Comm. Against Torture, Concluding Observations: Ecuador, 24, U.N. Doc. CAT/C/ECU/CO/7-8 (2017).

[28]Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act, Legal Notice 241 of 2016 (Malta).

VI. Domestic Legislative Bans

A. Malta

Malta enacted the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act in 2016, becoming the first European country to ban conversion therapy by law.[29] The Act prohibits any treatment, practice, or sustained effort purporting to change a person's sexual orientation or gender identity, applicable to licensed health professionals and extended to any professional in a position of trust or authority. The Act imposes significant criminal penalties, including imprisonment of up to five years, and provides for administrative sanctions against licensed professionals who violate the prohibition. The Maltese model has been widely cited as a legislative best practice.

B. France

France enacted a law banning conversion therapy in January 2022, criminalising practices aimed at modifying or repressing a person's sexual orientation or gender identity.[30] The French law is notable for its broad scope - it is not limited to licensed health professionals but covers any person who engages in such practices - and for its explicit recognition of the particular harm caused to minors, providing for enhanced penalties where the victims are under the age of majority or are in a situation of psychological vulnerability. The law has been welcomed by human rights organisations as a significant advance.

C. Germany

Germany enacted the Law on the Prevention of Conversion Treatments in 2020, entering into force in January 2021.[31] The German law prohibits conversion therapy for persons under eighteen years of age and for adults acting under coercion or in a situation of particular vulnerability. Advertising for conversion therapy is also prohibited. The German approach of targeting minors and vulnerable adults while preserving a formal space for adult autonomy has been criticised by some human rights commentators as insufficiently protective, though it represents a significant legislative step.

[29]Loi n° 2022-92 du 31 janvier 2022 interdisant les pratiques visant à modifier l'orientation sexuelle ou l'identité de genre d'une personne (France).

[30]Gesetz zur Abwehr von Konversionsbehandlungen [Law to Prevent Conversion Treatments], July 17, 2020, BGBl. I at 1645 (Ger.).

[31]Conversion Therapy Ban Act, S.C. 2021, c. 24 (Can.).

D. Canada

Canada enacted federal legislation banning conversion therapy through the Conversion Therapy Ban Act in December 2021, amending the Criminal Code to create multiple offences related to conversion therapy.[32] The Act criminalises causing a person to undergo conversion therapy, advertising it, receiving financial benefit from it, and - in a provision of particular human rights significance - removing a minor from Canada to undergo conversion therapy abroad. The Canadian approach is among the most comprehensive enacted by any jurisdiction, and reflects explicit recognition that conversion therapy is a form of harm requiring criminal sanction rather than merely professional regulation.

E. New Zealand

New Zealand enacted the Therapeutic Practices Prohibition Act in 2022, banning conversion therapy for all persons regardless of age.[33] The New Zealand legislation is distinctive in the breadth of its coverage, explicitly including religious and spiritual practices within its scope where they are directed at changing or suppressing a person's sexual orientation or gender identity. This extension to the religious sphere has generated significant legal and constitutional debate regarding the relationship between religious freedom and the prohibition of harmful practices - a debate that has important implications for the global development of this area of law.

F. United States

Regulation of conversion therapy in the United States has proceeded primarily at the state level, with California leading the way in 2012 by enacting legislation prohibiting licensed mental health professionals from conducting sexual orientation change efforts on patients under eighteen years of age.[34] As of 2024, approximately two dozen states and the District of Columbia have enacted similar prohibitions of varying scope. Constitutional challenges to these laws, typically grounded in First Amendment free speech claims, have been largely unsuccessful: federal courts have consistently held that the regulation of professional conduct does not constitute a violation of free speech, even where that conduct takes the form of verbal communication.

[32]Therapeutic Practices Prohibition Act 2022 (N.Z.).

[33]Cal. Bus. & Prof. Code § 865.1 (West 2012).

[34]Ferguson v. JONAH, No. L-5473-12 (N.J. Super. Ct. Law Div. June 25, 2015).

Civil litigation has provided a complementary avenue of accountability. In the landmark case of *Ferguson v. JONAH*, a New Jersey court found a conversion therapy organisation liable for consumer fraud, holding that its representations regarding the efficacy of conversion therapy were demonstrably false and that the organisation had employed deceptive practices in marketing its services to vulnerable individuals.[35]

VII. Regional Human Rights Systems

A. European Court of Human Rights

The European Court of Human Rights has not yet adjudicated a case directly concerning conversion therapy, but its extensive jurisprudence on the rights of LGBTQ+ individuals under the European Convention on Human Rights provides a robust legal framework applicable to the issue. In *Identoba & Others v. Georgia*, the Court held that a state's failure to protect LGBTQ+ individuals from violence by private actors violated articles 3 and 14 of the Convention, affirming the state's positive obligation to protect LGBTQ+ persons from harm.[36]

In *X & Others v. Austria*, the Grand Chamber addressed the application of the Convention to LGBTQ+ family life, demonstrating the Court's willingness to engage with the full range of rights implications of LGBTQ+ status.[37] Scholars have argued convincingly that the existing ECHR jurisprudence, read together with the emerging consensus in domestic European law on conversion therapy bans, supports a conclusion that state failure to prohibit conversion therapy would be found by the Court to violate articles 3, 8, and 14 of the Convention.

The Council of Europe and the European Parliament have both called for comprehensive bans on conversion therapy. The Parliamentary Assembly of the Council of Europe adopted Resolution 2429 in 2022, urging all member states to enact legislation prohibiting conversion

[35]Identoba & Others v. Georgia, App. No. 73235/12 (Eur. Ct. H.R. May 12, 2015).
[36]X & Others v. Austria, App. No. 19010/07 (Eur. Ct. H.R. Feb. 19, 2013).
[37]Council of Eur., Parliamentary Assembly, Res. 2429, Banning So-Called "Conversion Therapy" (2022).

therapy.[38] The European Parliament adopted a resolution in 2021 declaring the European Union an "LGBTIQ Freedom Zone" and calling upon member states to ban conversion therapy.[39]

B. Inter-American Commission and Court of Human Rights

The Inter-American Commission on Human Rights has been active in addressing violence and discrimination against LGBTQ+ persons. In its 2015 report on Violence Against LGBTI Persons, the Commission documented systematic patterns of violence and discrimination against LGBTQ+ individuals throughout the Americas, and identified the obligation of member states of the Organization of American States to exercise due diligence in preventing and responding to such violence.[40]

In its 2018 report on advances and challenges in LGBTI rights in the Americas, the Commission specifically addressed conversion therapy, calling upon states to adopt legal prohibitions and to ensure accountability for practitioners who subject LGBTQ+ individuals to harmful practices in the guise of therapeutic intervention.[41] The Inter-American Court of Human Rights, in Advisory Opinion OC-24/17, affirmed the rights of LGBTQ+ individuals to legal recognition of gender identity and to protection from discrimination, establishing a broad framework of state obligations that encompasses the prohibition of conversion therapy.

VIII. Path Forward and Recommendations

A. The Case for Comprehensive Prohibition

The foregoing analysis demonstrates that conversion therapy violates multiple, overlapping provisions of international human rights law, engages state responsibility at both the negative and positive levels, and cannot be justified by reference to autonomy, religious freedom, or any other human rights value properly understood. The emerging consensus among UN mechanisms, treaty bodies, and regional human rights institutions is that a comprehensive

[38]European Parliament Resolution on Declaring the EU an LGBTIQ Freedom Zone, 2021/2557(RSP) (Mar. 11, 2021).

[39]Inter-Am. Comm'n on Human Rights, Violence Against LGBTI Persons in the Americas, 1–10, OAS Doc. OEA/Ser.L/V/II, Doc. 36 (Nov. 12, 2015).

[40]Inter-Am. Comm'n on Human Rights, Advances and Challenges Towards the Recognition of the Rights of LGBTI Persons in the Americas, 62, OAS Doc. OEA/Ser.L/V/II, Doc. 54 (Dec. 7, 2018).

[41]U.N. High Comm'r for Human Rights, *supra* note 23, Executive Summary.

prohibition of conversion therapy is not merely permissible under international law but required by it.[42]

The most effective legislative bans share several characteristics: they cover all forms of conversion therapy, including religious and informal practices as well as formal clinical interventions; they protect all individuals regardless of age, while providing enhanced protection for minors and vulnerable adults; they impose meaningful sanctions on offenders; they provide effective remedies to survivors, including civil remedies for harm suffered; and they are accompanied by broader measures to combat the discrimination and stigma that create demand for conversion therapy in the first place.

B. Specific Recommendations

Based upon the preceding analysis, the following specific recommendations can be advanced. First, states should enact comprehensive legislation banning conversion therapy in all its forms, applicable to licensed and unlicensed practitioners alike, with particular protection for minors.[43]

Second, states should ensure that existing prohibitions on torture and cruel, inhuman, or degrading treatment in their domestic law are interpreted and applied in a manner that encompasses conversion therapy. Third, professional regulatory bodies - including medical councils, nursing boards, and psychology associations - should adopt clear ethical prohibitions on conversion therapy as a condition of professional registration, independent of any legislative action.

Fourth, states should provide effective remedies to survivors of conversion therapy, including compensation, rehabilitation, and symbolic measures of acknowledgment and apology where state actors were involved. Fifth, states should invest in educational and awareness programmes directed at health professionals, religious communities, families, and the general public, to address the stigma and misinformation that continue to drive demand for conversion therapy. Finally, international human rights mechanisms should continue to apply sustained pressure on states that have not yet enacted comprehensive prohibitions, utilising the full range of reporting, inquiry, and follow-up procedures available under international treaty law.

[42] *Supra* note 24, 77.

[43] Jack Drescher, Ariel Shidlo & Michael Schroeder, *Sexual Conversion Therapy: Ethical, Clinical and Research Perspectives* (2002).

C. Conclusion

Conversion therapy is not an ambiguous or contested practice from the perspective of human rights law. It causes serious, documented harm. It targets individuals on the basis of a fundamental aspect of their identity. It violates the prohibition of torture and cruel treatment, the right to privacy, the right to health, and the right to equality without discrimination, as interpreted by the treaty bodies, special procedures, and regional mechanisms of the international human rights system. The Yogyakarta Principles articulate the applicable normative framework with clarity and comprehensiveness.

What remains is the political will to act. The jurisdictions that have enacted comprehensive bans - Malta, France, Germany, Canada, New Zealand, and a growing number of states within federal systems - have demonstrated that legislative prohibition is both legally sound and politically achievable. The work of international human rights mechanisms, civil society organisations, and survivor advocates has created an evidentiary and normative foundation upon which further action can and must be built. The human rights of LGBTQ+ individuals demand nothing less than the complete abolition of practices whose only purpose and only effect is harm.

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