



Ilias Trispiotis and Craig Purshouse (eds): Banning ‘Conversion Therapy’: Legal and Policy Perspectives

Oxford, Hart, 2023, 254 pp, ISBN: 978-1-50996-115-3

Gary Wilson¹

© The Author(s) 2024

Proposals for a ban on so-called ‘conversion therapy’ are both topical and contentious. A number of states have moved to enact bans on actions deemed to amount to conversion therapy, while in others similar proposals have at least been placed firmly on the political agenda. Calls for such bans are far from being universally and unconditionally supported, with concerns typically being focused upon the range of measures being criminalised or sanctioned under the umbrella of ‘conversion therapy’, in turn giving rise to possible inadvertent consequences for health care practitioners counselling invariably young people questioning their biological sex, and a fear that a ban on conversion therapy against trans-identifying people could indirectly result in the “conversion” of same-sex attracted people. The contemporary significance of such debates creates a space for legal academics to make a useful contribution, and this edited collection represents one of the first such major undertakings in this regard.

While most of the contributing authors to the book are lawyers, there are also essays written from other perspectives, principally those of activists and psychologists. Each of the chapters proceeds from the same basis: the case for a comprehensive ban on conversion therapy is unarguable. While this lends a uniform line to the collection, it also makes for a bland offering which fails to take account of competing viewpoints. A number of other initial critical observations can be made of the general scope and coverage of the collection. Significantly, there is very little effort to distinguish between conversion therapy as applied to those who are same-sex attracted (LGB) and those who identify as transgender. Although it is fashionable to bring a seemingly ever expanding range of “identities” under the umbrella term LGBT+ or one of its variants, it must surely be acknowledged that there is considerable difference between an identity characterised by sexual attraction and one founded on perception of gender. The editors do note in their introduction that

✉ Gary Wilson
G.Wilson@ljmu.ac.uk

¹ Liverpool John Moores University, Liverpool, England, UK

the introduction of a ban on LGB conversion therapy is more straightforward than applying such a ban to transgender conversion practices, making reference especially to the difficulties of treating children affected by issues of gender identity, for whom the inability of health care service providers to facilitate discussion around these issues might result in charges that LGB children are being subjected to conversion therapy under the guise of being “affirmed” as trans. This represents a very important line of enquiry, but unfortunately receives virtually no further attention in the book. More generally, there is very little exploration of what might represent legitimate grounds upon which individuals seeking help in understanding or clarifying their perceived gender identity can be supported in so doing through techniques which of necessity involve forms of questioning. Passing references are made in a couple of chapters to the need to ensure that such practices are not outlawed by a ban, but again there is no meaningful discussion of how this would be achieved.

The book is separated into three parts, although there does not appear to be a clear distinction in terms of their coverage. The overlap is particularly apparent in respect of parts one and two, which in turn purport to consider the reasons for a ban on conversion therapy and the scope of such a ban. To some extent this is arguably unavoidable, given that the merits of a ban cannot be appraised without having regard to what specifically is to be banned. The four chapters comprising the first part of the book draw on a number of considerations in making the case for a ban on conversion therapy. Arguably the key difficulty in making a case for a ban on conversion therapy rests not on the merits per se of any ban, but rather determining the scope of what will be regarded as amounting to conversion therapy. To the extent that they touch on this question, these chapters envisage a comprehensive approach which would extend to “talking” therapies while paying little regard to exemptions for the legitimate explorations which the book’s introduction suggested must be accommodated. This is seen in the first chapter, where Trispiotis suggests that there is a legal duty to ban conversion therapy under international human rights law. This rests on its characterisation as a form of torture, inhuman or degrading treatment. Although it is unarguable that some forms of conversion therapy will undoubtedly reach this threshold, the broad approach taken towards what constitutes conversion therapy means that it is not apparent what forms of healthcare provision would be deemed permissible, given that consent on the part of the patient or subject is deemed irrelevant. This is likely to be particularly pertinent in the case of gender-questioning children and young people, is not apparent. Herring likens conversion practices to coercive control under the criminal law, although the context—and thereby justification—for such a comparison will surely vary with the circumstances of each case. Emphasis is placed on the lack of genuine autonomy of the recipient, but again no clarity is offered as to when support or counselling afforded to those struggling with their perceived identity will be deemed legitimate. The third chapter in the collection, by Drescher, is something of an outlier in several respects. It focuses on conversion therapy as practiced against those with a same-sex attraction (LGB), while drawing on the author’s own experiences as a psychologist during a period spanning a quarter century. This is perhaps the most insightful and illustrative contribution to the collection, its observations being grounded as they are in a substantive body of empirical evidence. Part One is concluded with Raj’s reading

of the “emotional grammar” of banning conversion therapy in which a case is made for “reparative” reform. The most interesting part of the discussion centres on a parliamentary debate on the subject, in which allusions are made to speeches invoking the language of pain and harm, while noting also expressions of the need for caution against overbroad and unclear legal changes, including those which may result in young people being inadvertently subjected to “irreversible care pathways” under the guise of a form of gender affirmation promoted by a poorly constructed conversion therapy ban.

Part Two’s consideration of the scope of a ban begins with two contributions focused on children. Peleg draws on provisions of the UN Convention on the Rights of the Child to make the case for including children within the ambit of a ban on conversion therapy. However, in suggesting that it is a child’s perspective of prospective harm that should frame the law’s approach to determining what is or is not permissible, there is insufficient recognition of the various ways in which the law regards minors as a vulnerable class lacking in full autonomy. Would, on this approach, parents discouraging medicalised procedures for their (potentially very young) children become legally culpable? Certainly, the case advanced may have been more convincing if there had been some meaningful acknowledgment of parameters within which talking therapies might be used to support gender questioning children. Hirst attempts to develop the argument that conversion practices impact upon a child’s right to develop. Although Hirst makes reference to the Tavistock/GIDS scandal and the ensuring Cass report, statistical data is drawn upon—including from the increasingly controversial Stonewall lobbying group—to paint a picture of harmful effects on a child’s psychological and mental health development resulting from conversion practices. Even if such data is accepted, this arguably needs to be countered with the harmful effects of the premature medical transitioning of gender-questioning children exposed by the Cass report, making it imperative that any reform to the law also enshrines protections against such outcomes. The chapter by Asquith is focused on conversion therapy directed against the transgender community. Unlike most contributions to the collection, it affords a clear acknowledgment of the need for exemptions to a conversion therapy ban in order to facilitate individuals’ ability to explore their identities. Part Two is concluded with a study of exorcism and spiritual modes of conversion therapy, by Garcia Oliva and Hall. Certainly, such measures have a long history of utilisation in respect of “treatments” offered to or enforced upon same-sex attracted (LGB) people.

The final part of the book consists of three chapters with differing themes, albeit which tread similar ground to the earlier contributions. Following on from the previous chapter’s treatment of exorcism, Ozanne gives attention to the prevalence of “spiritual abuse” more generally, arguing for the need for this to be recognised by legal frameworks. Chapters ten and eleven are more general. Sullivan and Schiavo’s chapter serves to provide accounts of lived experiences of those to have been subjected to conversion therapy, while the concluding chapter from Mavronicola and Davies considers the role which transformative reparations can play in addressing the effects of conversion therapy.

A substantive academic legal treatment of the issue of conversion therapy is certainly warranted in light of contemporary debates in this area. However,

notwithstanding some of the interesting insights offered, the tendency towards a singular viewpoint linking the contributions arguably limits the attraction of the book. While avid supporters of a wide-ranging ban on conversion therapy are likely to find support in the various chapters comprising the work, those with reservations as to the scope and overriding purposes of such a ban are unlikely to be convinced by their contents. As noted above, some of the contentious issues alluded to within the introduction are not really explored further within the substantive chapters. If they had been, a more balanced and authoritative collection may have emerged.

Open Access This article is licensed under a Creative Commons Attribution 4.0 International License, which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons licence, and indicate if changes were made. The images or other third party material in this article are included in the article's Creative Commons licence, unless indicated otherwise in a credit line to the material. If material is not included in the article's Creative Commons licence and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>.

Publisher's Note Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.