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Conversion Therapy: The Futile ‘Cure’ for Homosexuality

DHWANI SHRIVASTAVA¹ AND DEVANSHI DHARIA²

ABSTRACT

The stigma and the prejudice that is prevalent in our society towards homosexuality, encourages nothing else but homophobic bullying against the lesbian, gay, bisexual, and transgender people. Before the 20th century, anybody would hardly talk about homosexuality, let alone standing up against it. Being a member of the LGBTQ community was considered a taboo because these people are expected to walk on the lines of being ‘normal’, a normal which is created by none other than the petty society judging merely on the basis of who you are attracted to. The problem starts when a child is born and is ‘assigned’ a gender only on the basis of physical characteristics completely ignoring the intersex anatomy. What the misconception is, is that heterosexuality is the only normal and ‘natural’ orientation that a person should have and it creates a rigid way of being that is considered ‘normal’. Anyone who feels and falls out of this structure is considered deviant. Many people believe that as a part of the society, it is their responsibility to ‘cure’ the illness of homosexuality, also considered as a mental disorder by many. In order to fulfill their moral obligation, they force the gay and lesbian people to undergo medical attempts of changing their sexual orientation through something called CONVERSION THERAPY which includes talkative therapies as well as brutal means. This research paper throws light on various topics including what conversion therapy is, what are the different methods, and the status of conversion therapy in different countries. It also includes latest controversies and judgments relating to conversion therapy in countries like U.K. and India. Further, there are statutes listed and briefly explained that protects the right of the victims who are forced into conversion therapy. Lastly, it talks about measures and techniques that are already prevalent, and that can be taken into consideration to build a non-homophobic society where a person feels free to be their actual self and does not have to undergo any pressure of invisibility or judgment.

Keywords: Law, Conversion Therapy, LGBTQ, Homosexuality.

¹ Author is a student at VIPS, GGSIPU, India.

² Author is a student at VIPS, GGSIPU, India.

I. INTRODUCTION

Lately, there has been a lot of support and encouragement towards the empowerment of the LGBTQ community that is, the Lesbian, Gay, Bisexual, Transgender, Queer community from all around the globe. People have finally started recognizing, accepting, and acknowledging the LGBTQ community and their rights. While most of us were busy accepting and advocating this community and their rights, there are still people who believe in and are trying to apparently ‘help’ people change their sexuality. Most of the public does not know about something called **Conversion Therapy** that is still prevalent in some parts of the world. Conversion therapy is a practice of changing a lesbian, gay, or bisexual being’s sexual orientation and changing them into a heterosexual by the means of behavioral, physical, and psychological methods such as electro-shock therapy. Conversion therapy, also known as reparative therapy still exists in countries like South Africa, England, U.S., and India.

The practitioners who apparently call themselves therapists try to make it sound so reasonable without even thinking once as to why all the real medical organizations in the country have rejected any means of changing a person’s sexual orientation. The people who still run the conversion camps and therapies have a mindset that homosexuality or bisexuality is an illness or a mental condition that can be and should be ‘cured’.

II. TIMELINE OF CONVERSION THERAPY

The term conversion therapy seems to be a concept of the past. does it still persist? And what about the past of conversion therapy – its roots and origin. The history of the practice can be divided broadly into three periods – an early Freudian project, a period approving conversion therapy followed by the post stonewall period.

(A) Freudian Theories

Freud raised the issue of bisexuality in connection with the origins of homosexuality. Freud had a different approach and opinions about sexual orientation than most psychoanalysts who were in favor of it. He did not support the idea of sexual reorientation, however, his understanding of homosexuality suggested that he did not completely deny the possibility of conversion therapy. It was because of such reasons that he did not rule out the complete desirability of conversion therapy for some individuals even if he did not quite believe that psychoanalysis alone could redirect sexual orientation. So, for a long time, conversion therapy was a scientific curiosity for him. His views also ascribed biological and psychological factors to explain the principles of homosexuality which helped to set standards and carry on detailed experiments for the understanding of human sexuality.

(B) Approval to Conversion Therapy

It was during the post period of Freudian theories that many extremists, psychoanalysts, and religious leaders determined to carry out a cleansing of the homosexuals from the world since they perceived them as immoral. In the 19th century, homosexuality was perceived as a pathological and psychological condition and therefore it was suggested that various methods be adopted to treat homosexuals. The mass media, psychoanalysts, and anti-gay organizations not only believed that homosexuality can be changed but should be a process normalized and practiced to cure the distressed. Much before the sexual intercourse between queer people was decriminalized, lots of treatments to change homosexuals into heterosexuals peaked in various forms:- physical and psychological practices. This was because people were not aware of such concepts of sexual orientation and considered them as deviant, sinful, and even criminal for centuries.

Today we may not have detailed information about the professionals who administered such treatments and the people who underwent such experiments and harsh treatments. However, the techniques give us an insight into the understanding of the various perceptions that existed back then. While conversion therapy is an umbrella term, it covers various processes ranging from *exorcisms* to *aversion* to *talking therapy*. Analysts believed that through a series of *hypnotic sessions*, a man's sexual impulses could be manipulated, diverting them from his interests in men to a lasting desire for women. Various theories and related therapies were administered based on the different opinions.

According to an endocrinologist- Eugen Steinach, homosexuality was rooted in a man's testicles and this led to *testicle transplantation* experiments during which gay men were castrated and given 'heterosexual' testicles to lead them to adapt heterosexual behaviors.

Aversion therapy along with *behavior therapy* was used to help remove the fear of the opposite sex. The patients were made to attend erotic sessions and watch their self-chosen images of pornographic nature of the same sex. While watching these images, they were given electric shocks to create a negative association of their arousal to the pain. Some of them were given *electroconvulsive therapy* where their hands and genitals were given electric shocks to reinforce heterosexual behaviors through conditioning. The shocks were, in many cases, administered through electrodes that were implanted directly into the brain.

Another brutal treatment for all sorts of mental disorders – *lobotomy*, used by Dr. Walter Freeman was also used to treat these patients who they considered "sick". This method was used to go behind the eye of the person through the eye socket to wiggle it disconnect the

frontal lobe from the rest of the brain. Quite typically, this removed any personal drive and left the patient disabled.

These various brutal and extreme methods were a part of the larger effort to suppress the LGBTQ community. However, these had a devastating effect on the people and proved to be more harmful than effective.

1. Consequences of Coercive Conversion Therapy

- ✓ Depression
- ✓ Anxiety
- ✓ Profound feelings of shame
- ✓ Guilt
- ✓ Self-disgust
- ✓ Worthlessness
- ✓ A damaged self-concept.

(C) Stonewall Period

In the 1960's, police raids in Manhattan's gay bars followed a set template- cops would storm in, threaten and beat up staff and visitors. They would make them line up on the streets and arrest them. There was no resistance. But in June 1969, this changed. On 28th June 1969, cops raided Stonewall Inn, a haven for New York's queer community. For the first time, the patrons resisted. The LGBTQ community fought back against the police action, leading to rioting. Stonewall was torn apart in clashes. However, more supporters poured in amid reverberating slogans. They beat the crowd and used tear gas to disperse them. This rebellion launched a new era of resistance and revolution. It stood for the community's fight against oppressive laws and stifling societal values

It was later in the 1970s, 80s, and 90s, that gay therapy started being discredited. In April 1965, a Philadelphia-based gay rights organization emerged with various attacks against the psychiatric establishment, questioning the legitimacy, and benevolence of clinical interventions. Together, the progressive professionals and gay counselors would spearhead alternative models of psychotherapy, affirming same-sex desire. The gay activists also claimed a major victory in December 1973, when the American Psychiatric Association voted to remove "homosexuality" from the second edition of the Diagnostic and Statistical Manual of Mental Disorders [DSM-II] which meant that homosexuality was officially no longer considered a disorder itself. Although the diagnosis was removed from DSM in 1987, it still remains as the "ego-dystonic sexual orientation" in the tenth and the current edition of the

world health organization's international classification of diseases. Since then, the therapy has been reborn through "ex-gay" Christian ministries including the umbrella groups such as exodus international [shut down in 2013] and global alliance[continues to operate].³

There has been a lot of awareness regarding the inefficiency and harmful effects of reparative therapies. and even though many of the mainstream organizations have been discouraged to continue such practices, various underdog conversion therapy camps are still persistent all over the world.

III. CURRENT STAND OF CONVERSION THERAPY IN THE INTERNATIONAL ARENA

Recently, a report on conversion therapy authored by '*Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity*' was published in May 2020 and presented in June 2020 in front of The Office of the High Commissioner for Human Rights (OHCHR) during its 44th session.

According to the report, the Independent Expert calls for a global ban on conversion therapy. This process would need to include:

- Clearly defining the prohibited practices
- Ensuring public funds are not used to support them
- Banning advertisements
- Prohibiting such interventions in health-care, religious, education, community, commercial, or any other setting—public or private
- Establishing punishments for non-compliance, and investigate respective claims
- Creating mechanisms to provide access to all forms of reparations to victims⁴

Many countries including Mexico, Canada, Malta, Germany, and parts of Australia have either fully or partially banned the practice of conversion therapy. While in Germany, children below the age of 18 years are not allowed to take the therapy whereas it is banned for adults too if it is forced on them. Around 20 U.S. States have banned the same.

Every year, June is celebrated as the pride month for this reason. And the visibility, acceptance, and legal protections for LGBTQ+ people are at the core of pride month celebrations. Various countries including the US, Canada, Brazil, Ireland, Australia, India and New Zealand, mark

³ Stephen Vider and David S. Byers, *A half century of conflict over attempts to 'cure' gay people*, TIME, (February 12, 2015) Curing Homosexuality vs Psychiatry: A History of Conversion Therapy | Time

⁴ <https://undocs.org/A/HRC/44/53>

June as the pride month.

(A) The UK Conversion Therapy Controversy

A national LGBTQ survey that was conducted in the year 2018 by the government showed that about 5% of the 108,000 people who responded to the survey had been offered some form of conversion therapy, while 2% had undergone it. The figure is higher among transgender respondents. Almost one in 10 trans men said they had been offered conversion therapy, and one in 25 said they had undergone it.⁵

There is a petition calling for the ban of conversion therapy for the LGBTQ being circulated all over the internet which has been believed to cross 100,000 signatures. This petition was launched by Mr. Ross Nicholas, calling for a change in the law. After the former leader Theresa May vowed to eradicate this practice in 2018, there has been an increase in pressure on the present Prime Minister Boris Johnson's government. In the Queen's speech on May 11, 2021, the government stated that they plan to ban such 'abhorrent practices' which can cause mental and physical harm, following a public consultation.

IV. INDIA'S STANDING ON CONVERSION THERAPY

The LGBTQ rights in India have evolved drastically over the course of time. On 6th September 2018, the Hon'ble Supreme Court of India, in the landmark judgment *Navtej Singh Johar v. Union of India*,⁶ decriminalized homosexual intercourse mentioning Section 377 of the Indian Penal Code, 1860. This decision of the Supreme Court gave a ray of hope towards the acceptance and acknowledgment of LGBTQ citizens in India. Though there have been many political movements and public awareness movements, still there remains a significant amount of homophobia present among the Indian population about the LGBTQ community.

(A) The Kerala Suicide Incident

Lately, on 12th May 2020, a suicide incident of a 21-year-old student from Kerala, named Anjana Hareesh shook the collective conscience of the country. There is a suspicion that there is some link between her suicide and the fact that she was forced into conversion therapy by her family for months after coming out as bisexual. Months before the suicide, she posted a video on Facebook in which she vented out and revealed that she was being coercively sent to the de-addiction and mental health centers because she recently came out about her sexual

⁵ 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>

⁶ *Navtej Singh Johar v. Union of India*, AIR 2018, SC 4321

orientation.⁷

On 12th October, a petition to ban conversion therapy was filed in the Hon'ble Kerala High Court by Queerala, which is a community organization that advocates for the rights of the LGBTQ. "Anjana Harish's suicide prompted conversation around the practice. The amended Mental Health Act and solidarity statements from psychologists and psychiatrists were the first prompters towards the petition," said Rajashree, board member of Queerala.⁸

Anjana Hareesh is a victim of biphobia. Families are supposed to support their children and to make them feel safe, but what if your own family turns antagonistic and violent against you? And violent to an extent that you have to take your own life? The older generations still believe, or maybe they are misinformed that bisexuality is a mental disease or a mental condition that needs to be, and that can be cured. Many recognized medical institutions and even doctors have made it clear that bisexuality is not a mental disease. Instead, trying to 'cure' or 'fix' it forms the basis for medical depression and anxiety in many individuals. Generally, when teenagers come out to their families about their sexual orientation, the parents panic and send them to get treated, and because of the power disparity, teenagers are unable to fight back and end up in the dehumanizing process.

(B) The Madras High Court Judgment

Lately, the efforts of Justice N Anand Venkatesh of the Hon'ble Madras High Court, to overcome his prejudices against the LGBTQ are being appreciated throughout the country. In a landmark judgment on 7th June 2021, the Hon'ble Madras High Court banned any medical attempts to cure the sexual orientation of a person and issued various guidelines to ensure that the LGBTQ community gets a safe space and proper recognition in the society. The case was related to two petitioners who were a lesbian couple from Madurai who had eloped and moved to Chennai, pleading to The Court to instruct their respective parents, not to interfere in their lives and consequentially asking for police protection.

"There are many branches on the tree of life. There is no one way to be, and there is room for everyone to be who they are." The way Justice N Anand Venkatesh stated these lines in the judgment, shows how much thought has been put, and with how much sensitivity this case has been handled by the court. To understand the intensity, and to deliver an informed judgment, Justice Venkatesh himself sought education in the month of April with a

⁷ *Unscientific and illegal yet conversion therapy rampant*, THE NEW INDIAN EXPRESS (May 30, 2020, 11:08 pm) <https://www.newindianexpress.com/cities/kochi/2020/oct/16/unscientific-and-illegal-yet-conversion-therapy-rampant-2210730.html>

⁸Ibid

psychologist named Ms. Vidya Dinakaran, who had done M.Sc. Counseling Psychology, and members of the LGBTQ community so that he could be able to understand their issues better. The Judge confesses that during the process he tried to break his own preconceived notions about this issue and underwent the process of evolving and sincerely attempted to understand the feelings of the petitioners.

In the guidelines, he mentioned that there should be an increase in mental health camps and awareness programs so that there is a better level of acceptance in society. He further added that any medical attempts to cure the sexual orientation of a person will be prohibited and any professional involving himself/herself in the practice or any other form of conversion therapy will be punished starting with the withdrawal of his/her license to practice. The guidelines also included that there should be an effective change in the school curriculum that will help the students open their minds to the LGBTQ community. Along with the change in the curriculum, Parents-Teachers Association (PTA) meetings will be arranged to accustom them to this concept which is somewhat alien to them.

With the Hon'ble Madras High Court banning the practice of coercive change of the sexual orientation, and standing up for the long lost rights and the respect and recognition that the LGBTQ community were deprived of, there's a ray of light and hope which can be sensed that our country is moving forward in a direction of a society where people won't be judged merely on the basis of the gender towards which they feel attracted.

V. STATUTES PROTECTING AN INDIVIDUAL FROM 'FORCED CONVERSION THERAPY'

(A) Article 21 of the Constitution of India: Protection of Life and Personal Liberty

According to Article 21 of the Indian Constitution, no person shall be deprived of his/her life or personal liberty except according to the procedure established by law. A person should have the liberty to choose his/her sexual orientation and his/her wants. Article 21 is a very expansive and wide statute covering a variety of rights. The expression 'life' has been broadly interpreted by the Supreme Court, which has given it an expansive scope.

Under this Article also comes the **Right to Live with Human Dignity**. According to it, every person has an inalienable right to live with dignity without any discrimination. *Maneka Gandhi vs Union of India, 1980*⁹ was a landmark case that strengthened our fundamental rights. The Hon'ble Supreme Court of India, in this case, held that the right to life in article 21 is not only

⁹ MANEKA GANDHI VS UNION OF INDIA, 1978 AIR 597, 1978 SCR (2) 621

a physical right but it also includes within its ambit, the right to live with human dignity.

Hence the LGBTQ community have full rights to live with dignity and act according to their personal liberty and thus cannot be forced to change their sexuality.

(B) Section 2(i) of the Mental Healthcare Act, 2017

The Hon'ble Court cleared the misconception of homosexuality being a mental disorder that can be cured in the Navtej Singh Johar vs Union of India case (supra) relying on Section 2(s) of the Mental Healthcare Act, 2017¹⁰ which defines the term 'mental illness'. Also, Section 3(3)¹¹ of the same Act also states that mental illness cannot be defined on the basis of social status or social or cultural beliefs that prevail in a particular society. Mental disorder being determined on the basis of sexual orientation just because it is not seen well by the community or society is absolutely absurd and holds no grounds.

Apart from the two Sections mentioned above, there is another important Section that protects the victims of forced conversion therapy. Section 2(i)¹² of the same Act states that the consent given for any medical treatment should be free, without any *force, fraud, undue influence, misrepresentation or mistake, and threat*. Generally, there are cases where the person is admitted only on the basis of his/her parents' requests and therefore there is a lack of free will and consent of the individual ~~himself~~ who is subjected to the therapy.

Thus, The Mental Healthcare Act, 2017 provides that homosexuality or bisexuality is not a mental disease and need not be forcefully tried to be cured.

(C) Principle 18 of the Yogyakarta Principles

Yogyakarta Principles are a set of principles on the application of international human rights law concerning sexual orientation and gender identity. The Principles affirm binding international legal standards with which all States must comply. This set of principles is a result of an international meeting of the Human Rights groups in Yogyakarta, Indonesia, in November 2006.

According to Principle 18 of the Yogyakarta Principles, no person may be forced to undergo any form of medical or psychological treatment, procedure, testing, or be confined to a medical facility, based on sexual orientation or gender identity. Notwithstanding any classifications to the contrary, a person's sexual orientation and gender identity are not, in and of themselves,

¹⁰ The Mental Healthcare Act, 2017, S. 2(s), 2017 (India)

¹¹ The Mental Healthcare Act, 2017, S. 3(3), 2017 (India)

¹² The Mental Healthcare Act, 2017, S. 2(i), 2017 (India)

medical conditions and are not to be treated, cured, or suppressed.¹³

In *NALSA v Union of India*¹⁴, the court stated that Yogyakarta Principles on the application of International Human Rights Law in relation to Sexual Orientation and Gender Identity must be recognized and followed as a tool for the State to respect and protect the human rights of the members of the LGBTQ+ community.

VI. THE NEED OF THE HOUR

There has been a need for a global ban on the practices of “conversion therapy” since forever, a process that must include various practices under and like conversion therapy. A large-scale awareness should clearly define all such practices, information about the various conversion therapy camps. And also about the funding of these practices. It should be ensured that no money from the state or institutions should support such activities. There should be stringent laws establishing punishments for non-compliance to the same. Any advertisements supporting conversion therapy should be banned.

It has been after such long struggles that the stigma related to sexual orientation has reduced and the brutal truths about conversion therapies have been spilled. But there is still a long way to go. The measures should not be taken to only righten the wrong but also to prevent it from the very beginning. Here’s what can be done for the same.

(A) Setting up Counselling Centers and Workshops

Children and youngsters should be protected from the practices of conversion therapy. Setting up counseling centers and workshops to educate them about sexual identities and to clear any related misconceptions. The school must introduce compulsory sex education workshops and inculcate related activities in the curriculum.

(B) Campaigning

Campaigns to raise awareness among the parents, families, and communities about the ineffectiveness and the life scarring damages of conversion therapy. Also, various events such as pride parades should take place to celebrate and recognize the lesbian, gay, transgender, bisexual, nonbinary, queer community’s social and self-acceptance, their legal rights, victories, and pride.

(C) Education

¹³ *About the Yogyakarta Principles*, <https://yogyakartaprinciples.org/principles-en/about-the-yogyakarta-principles/> (last visited June 10, 2021)

¹⁴ National Legal Services Authority v. Union of India, (2014) 5 SCC 438, ¶60.

People should educate themselves on the topic. Such an issue calls for the help of the government. The state should adopt and facilitate health-care and other services related to the exploration, free development, and /or affirmation of sexual orientation and/ or gender identity. A large-scale awareness should clearly define all such practices, information about the various conversion therapy camps. And also about the funding of these practices. It should be ensured that no money from the state or institutions should support such activities.

(D) Role of the State and Institutions

There should be stringent laws establishing punishments for non-compliance to the same. Any advertisements supporting conversion therapy should be banned. Not just the states at an individual level, but the entire international community must come forward to foster a dialogue with the key stakeholders. Various medical and health professional organizations, faith-based organizations and educational institutions, and community-based organizations, raise awareness related to the practices of conversion therapy. Implementation of non-discriminatory and anti-bullying policies in schools, colleges, and workplaces. Appointment of counselors and conducting proper training of staff to address issue faced by the members of the community.

(E) Technology at Use

Expanding the use of telecommunications to reach out to LGBTQ+ youths at risk and to deliver mental health services. Advocating community's acceptance through social media and film industry, considering its wide outreach.

VII. CONCLUSION

There are no homosexual rights just like there are no heterosexual rights- there are human rights and that is what we need to understand. The divide between homosexuals and heterosexuals is vague, we all are humans and that is what matters the most. Since time immemorial, many people have encouraged and justified the notions of conversion therapy. However, it is time for such brutal practice to end. People should no longer be obligated to label their identities and preferences in the name of 'normality'. No one should be restricted by the pre-set 'norms' of the society that makes them question their own identity. Someone's genitals do not determine whom they will be attracted to. Queer individuals incur losses that a hetero-normative individual never has to endure. Because of the stigmatized notions, any exposure to what lies beyond hetero-normativity is limited.

"Cut The Ending, Revise the Script

The Man of Her Dreams Is A Girl".