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CONVERSION THERAPIES IN INDIA

-Rashi Verma, student, Vivekananda Institute of Professional Studies.

Introduction:

After homosexuality was decriminalised, India's treatment of the LGBTQ community was not particularly progressive. The brutality of the treatment, as well as its sheer existence, reveal antiquated ideals of normalcy. In the name of 'religion' and 'medical practise,' these ideas brutalise the LGBTQIA+ community, strangling one's choice of gender and sexuality by labelling it an aberration.

Conversion therapies might be carried out by faith organisations or healthcare experts. The goal of these treatments is to alter a person's sexual orientation so that they fit into the heteronormative society which is often known as being 'normal'. The treatment varies from counselling, medication, hormonal injections, aversion therapy to institutionalising the person to perform hormonal castration or electrocution. These techniques, when paired with parental violence and coercion, can cause serious physical and psychological trauma.

History:

Curing homosexuality has a long history, dating back to the beginnings of psychiatry. Contemporaries of Sigmund Freud engaged in techniques for "gay cures" in the early twentieth century. The American Psychiatric Association removed homosexuality as a mental condition from the Diagnostic and Statistical Manual of Mental Disorders 1973 edition in response to LGBTQIA+ activism and the Stonewall riots of 1969. Several mental health facilities likewise rejected conversion therapy after a few years.

Due to the widespread use of conversion therapy to 'cure' homosexuality by changing a person's sexual orientation, India continues to experience resentment from the LGBTQIA+ community.

The Indian Psychiatry Association admitted only a few years ago, in 2014, that homosexuality is not a mental condition and that there is no evidence that sexual orientation can be changed. Conversion therapy is still used by some mental health practitioners and institutions.

Meaning:

Today, more Indian youths are accepting of homosexuality and queer identities than ever before, but acceptance of their sexuality and the freedom to openly express their gender choices remain a constant struggle for LGBTQIA+ people within the confines of their families, homes, and schools.

In urban India, where social media and corporate initiatives have raised awareness of LGBTQIA+ rights, the situation for homosexual males appears to be more positive than for transgender persons or lesbian women. While urban LGBTQIA+ voices heard on a variety of online and real-world venues are a vital element of LGBTQIA+ advocacy, they only reveal a small portion of the community's multifaceted concerns.

Conversion therapy is practiced to change the sexual orientation of an individual, in order to ensure that they fit into the heteronormative script of the society. Despite a mountain of scientific evidence to the contrary, India continues to conduct this inhumane practise. It's a harmful procedure that aims to change the sexual or gender identities of LGBTQIA+ youth.

Conversion therapy is also known as "reparative therapy". These are a variety of risky and deflated methods that erroneously claim to change a person's sexual orientation, gender identity, or expression. Despite the fact that conversion therapy has been rejected by every medical and mental health organisation for decades, some practitioners continue to practise it due to ongoing discrimination and cultural hostility towards LGBTQIA+ individuals. Conversion therapy has the potential to force minors into depression, anxiety, drug misuse, homelessness, and suicide. Minors are a more vulnerable and gullible target since they are more susceptible to these methods.

Legality of the Practice of Conversion Therapy:

Under medical negligence, the use of such therapy by doctors might result in civil liability - a type of legal liability in which compensation is paid in the form of money for damages caused – as doctors have a duty to decide whether or not to take up the case.

Conversion therapy cases should not be taken up by Indian doctors. If they fail to do so, they may be held liable for legal damages as a result of medical negligence. Civil culpability, on the other hand, only recognises monetary compensation. As a result, assigning civil culpability to doctors who blatantly disregard medical research is insufficient to totally stop this behaviour. As a result, there is a requirement to assign criminal liability.

In India, there are two options for establishing criminal liability for conversion treatment.

1. To begin with, **Section 319 of the Indian Penal Code (IPC)** defines the crime of “Hurt” as inflicting infirmity. Furthermore, it was decided in *Jashanmal Jhamatmal v. Brahmanand Sarupananda*¹ that mental disability falls under the category of “Hurt.” As a result, due to substantial evidence of mental illnesses such as depression, anxiety, and trauma produced by conversion treatment, it may be inferred that it falls under the category of “Hurt.”
2. Second, **Section 304-A of the IPC** establishes criminal culpability for medical malpractice. The bar for establishing the same, however, is quite high. As stated in the Jacob Mathew case, in order to demonstrate criminal carelessness or recklessness, the act must be of such a high degree that it is considered “gross.” As a result of the ambiguity and broad scope of the terms “high degree” and “gross,” medical practitioners can get away with it without facing any consequences.

However, legal precedents do not support the application of the aforementioned prohibitions to conversion therapy, necessitating the creation of a separate criminal provision/statute.

¹ [AIR 1944 Sind 19]

Decriminalization:

In the **Navtej Singh Johar case**², the Supreme Court of India decriminalised homosexuality in 2018. It used worldwide norms and acknowledged medical standards to exclude homosexuality from the definition of mental disorder under **Section 2(s) of the Mental Health Act, 2017**, and relied on international norms and accepted medical standards to do so. The Court ordered the government to publicise the decision widely in order to eliminate the societal stigma associated with homosexuality. It also required the government and police to be made aware of the crimes committed against the LGBTQIA+ people.

In India, formal employment still does not recognise non-heterosexual and trans identities, depriving the LGBTQIA+ population of a safe working environment, since they are subjected to bullying, harassment, and misgendering, and their jobs are discriminatorily terminated. Family members commit violence (including honour killings) against LGBTQIA+ people at home, forcing them to run away from their homes. They are assaulted physically and verbally in public places, preventing them from leading a respectable existence.

These negative emotions to the LGBTQIA+ community are not only psychological, but also have socio-cultural components such as a mix of prejudice and the heteronormative framework of society, which makes homosexuality perceived unnatural.

This leads to stigmatisation, which persists in all areas of Indian society, leading to the classification of homosexuality as a treatable mental illness. Furthermore, when backed by doctors who practice this therapy, this mental process takes the form of a definite mind-set. This clearly defies the goal of decriminalisation, which is to allow homosexuality to be accepted.

Recent Cases:

1. When a 21-year-old from Kerala committed suicide last May, conversion treatment was once again in the news in India. Anjana Harish, a bisexual woman, claimed that her family forced her to undergo conversion therapy, which began with her being attacked and sedated, followed by isolation and a regimen of heavy medication. She died just two months after sharing her story on social media.

² (2018) 10 SCC 1

Anjana had been in contact with Sahayatrika (human rights organization) for the past two months. “When she was forcibly brought to a de-addiction centre, we interfered. We were considering launching a habeas corpus petition. The cops, it must be admitted, were not very helpful. However, this happens majority of the time. Despite recent media attention to sexual and gender diversity, the attitude of the police towards the LGBTQIA+ community is frequently hostile”. After this incident, the whole country came together and was grieving for Anjana. Anjana’s death brought about an outrage in the youth of this country.

2. Pavithra, a 23-year-old Tamil Nadu homosexual girl, in June 2021 shared her ordeal on how her family attempted to push her to undergo conversion therapy. This included trips to a primary practitioner and an appointment with a psychiatrist, who recommended Pavithra watch porn videos showing heterosexual intercourse. Pavithra’s family also took her to a quack, who “prescribed” rum and an unknown tablet as treatment. She eventually ran away from home and is now living with her partner Mary.

Conclusion:

Despite various public awareness initiatives about same-sex relations and the LGBTQIA+ community, a significant portion of the Indian population remains misinformed and unaccepting of the same.

In India, the social, familial and emotional consequences of “coming out” offer force same-sex couples into keeping their relationship under wraps, until it leads to a catastrophic situation. Things have surely changed. Without fear of discrimination or harassment, LGBTQIA+ persons are now more confident in expressing themselves, growing personally, and owning their relationships. This transformation, however, has mostly benefited the urban, wealthy elite. Furthermore, the lives of transgender people have not improved significantly. Unfortunately, society’s perspective has not evolved, which is why community members who choose to stay with their partners or move away risk a great deal of violence, hatred, and harassment.

References:

1. Mental Health Act, 2017
2. Indian Penal Code, 1860
3. *Jashanmal Jhamatmal v. Brahmanand Sarupananda*; AIR 1944 Sind 19
4. *Navtej Singh Johar v. Union of India*; AIR 2018 SC 4321
5. Rianna Price, LGBTQ+ conversion therapy in India: how it began and why it persists today, *The Conversation*, <https://theconversation.com/lgbtq-conversion-therapy-in-india-how-it-began-and-why-it-persists-today-140316>
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