

COMMENT

From judgement to practice: Section 377 and the medical sector

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So the law against homosexual sex has been read down. The Delhi High Court in a landmark judgement has struck down Section 377 of the Indian Penal Code (IPC) for adult consensual sex. Homosexual sex no longer comes under the purview of the law, except in cases of abuse or rape. Has this in any way affected the medical sector?

Do mental health professionals understand the impact of this radical change in the law on their own work vis-à-vis conversion therapies and "ego-dystonicity"? ("Ego-dystonic homosexuality" refers to the condition where patients who identify as having homosexual desires are not happy with their desires and wish to change. In such cases, the International Classification of Diseases, published by the World Health Organization, suggests that "treatment" is warranted.)

Can we expect a more sensitive approach from doctors and nurses everywhere when dealing with concerns of people identified as lesbian or gay or hijra or intersex or others?

These questions bother both medical professionals as well as lesbian, gay, bisexual, transgender (henceforth LGBT) activists who've been involved with fighting discrimination based on sexual orientation and gender identity for quite a while. Considering that Indian medical professionals subscribe either to the DSM (Diagnostic and Statistic Manual, providing diagnostic criteria for mental disorder, published by the American Psychiatric Association), or the ICD (International Classification of Diseases, published by WHO) or both, it is necessary to understand how this change in the law could alter medical practice itself.

In this context, I would like to focus on how mental health professionals have addressed issues of homosexuality in their clientele till now and the changes in awareness and practice that many of these professionals have gone through.

Mental health and homosexuality

The most obvious evidence of ill-treatment of homosexuals has, unfortunately, come from the mental health sector. Beginning with the practice of "conversion" therapy to "convert" homosexuals into heterosexuals, to the practice of providing anti-psychotics and anti-depressants to "cure" homosexuality, many misinformed mental health professionals have crossed the line from assisting patients to violating their fundamental rights.

Until the DSM re-examined views about homosexuality as a mental illness and finally struck it down in 1973 as a medical category that requires treatment, a majority of mental health professionals across the world continued to believe that homosexuality was an illness. The struggle moved from there into the area of challenging the framework of "ego-dystonicity" in the DSM (struck down in 1987), although "ego-dystonicity" is still represented in the ICD.

In India, however, attitudes to homosexuals and homosexuality did not go through a sea-change in the last century. Many practitioners advertised the potential for "curing" or "converting" homosexuals, despite the ban on such therapies across the world. One study conducted recently among medical professionals (1), especially counsellors, psychiatrists, psychologists and sexologists providing mental health therapies to numerous clients, brought to light the different kinds of personal prejudice that existed in the sector. Many of the doctors believed that there was a specific "cause" for homosexuality and if that "cause" could be found, then a "cure" could be administered.

Many of the professionals in the study did not even pretend to challenge the frameworks about homosexuality as an illness. One doctor said that he believed he couldn't provide any supportive responses to homosexual clients because he knew that homosexuality was against the law, as written in Section 377 of the IPC. Others continued to hold on to the frameworks of "ego-dystonicity" which was presented as being a necessary category for those homosexuals who were afraid or who were not happy being homosexual. The doctors didn't seem to think it necessary to ask the homosexual what it was they were afraid of or why they were not happy. The fact that social and religious prejudice was seen as an arbiter for medical practice provided a disappointing reflection on standards of care in the mental health sector. The offering of therapy, prayers or punishment as the three options for homosexuals in society was not self affirming for a client on any level.

To quote the judges from the Delhi High Court, much water has flown under the bridge since then. This year began with a vocal support for the repeal of Section 377 from the President of the Indian Psychiatric Society (IPS) along with colleagues from America and Britain, in a small article (2), where they were forced to state the obvious: that homosexuality was not a disorder.

Speaking as representatives of the mental health profession, we assert that there is no evidence that homosexuality is a mental illness, now supported by a large body of research... A group of citizens are being unjustifiably denied essential freedoms, and are often physically abused and blackmailed by the police and other malicious individuals.

Dr E Mohandas, President-Elect, Indian Psychiatric Society, Dr Nada Stotland, President, American Psychiatric Association, Prof Dinesh Bhugra, President, Royal College of Psychiatrists

This positive turnaround by the IPS, which has thus far not gone public on the issue, was a step in the right direction. Already, the Karnataka Association of Clinical Psychologists (KACP) made a similar statement in a forthcoming publication.

Members of the KACP are of the opinion that when they come across clients with LGBT issues, the main focus should be on alleviating psychological distress, both at the individual and family levels if there is a felt need for the same. With regard to "treatment" of homosexual behaviour ... the members opined that it was no longer ethical or relevant to use aversion therapy to treat them ... On the other hand networking with gay groups who are dealing with these issues in a professional manner would be an option that they would like to give clients (3).

The LGBT "Pride" events that took place across India in Delhi, Bengaluru, Chennai, Bhubaneswar and Kolkata brought the LGBT concern into the news, considering it was the first time that so many cities were hosting the event almost simultaneously. And the final gift of the Delhi High Court to the LGBT community, in July, brought smiles and tears to many faces.

Conclusion

Ultimately, changes in law correspondingly reflect such changes in social attitudes, and social attitudes to homosexuality have changed radically in the last two decades. The kind of pressure and agonising over the "normality" of sexual orientation and identity are no longer chief concerns for the medical sector, while the repercussions of prejudice, stigma or discrimination continue to impact psychological well-being. I feel that mental professionals can take this change in the law as an opportunity to re-examine their own views of homosexuality.

The changing of the law—since it is unchallenged so far, both in the Supreme Court and in other State High Courts—applies to all India and forces us to take a stance in our private practice, not just as personal change agents but as change agents for society at large. Counselling practices will have to focus on providing support to homosexual clients to become comfortable with who they are and get on with their lives, rather than motivating them for change. Medical practice will have to deal with helping families, workplaces and educational institutes understand sexuality completely in order to facilitate the creation and sustaining of a society free from discrimination.

References

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