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Being Gay is not an Illness. How do we End the Farce that is Conversion Therapy?

Dong Yifu and Long Darui (Darius Longarino): Although homosexuality has been depathologized and research shows that conversion therapy causes psychological harm, conversion therapy is still very common.

When Benjy Unger, a boy growing up in Brooklyn, New York, found himself unable to eliminate his same-sex desire, he and his family went to the JONAH clinic in New Jersey, a gay “conversion therapy” organization with a conservative religious background.

The person who “treated” Unger was Alan Downing, a so-called “life coach.” Downing had neither a formal psychological education background nor professional qualifications as a psychologist. In Downing’s view, Unger’s same-sex attraction was caused by close contact with his mother when he was young. Therefore, during a “treatment” session, Downing ordered Unger to repeatedly hit a pillow with a tennis racket and imagine that the pillow was his mother. Every time he hit the pillow, Unger was asked to shout out, “Mom!” He didn’t stop until his hand that was tightly gripping the racket began to bleed. The relationship between Unger and his mother, which was originally close, nearly collapsed due to this course of “treatment”.

After 18-year-old Chaim Levin came to JONAH, Downing believed that the “cause” of Levin’s homosexuality was his lack of “masculinity.” During the “treatment”, the “life coach” instructed Levin to repeatedly say something negative about himself. Every time Levin said aloud one of his shortcomings, he was asked to take off an item of clothing until he stood naked in front of a long mirror in the clinic. However, instead of feeling so-called “masculine”, Levin just felt more ashamed of his sexual orientation.

JONAH believed that Unger and Levin’s same-sex desire was a kind of illness. However, the international scientific community has already reached a broad consensus on the depathologization of homosexuality. In 1973, the American Psychological Association officially depathologized homosexuality. On May 17, 1990, the World Health Organization made the same decision, deleting homosexuality from the International Classification of Diseases (10th Edition) (May 17th became “International Day Against Homophobia, Transphobia, and Biphobia”). In China, the third edition of the Chinese Classification for Mental Disorders in 2001 also officially depathologized homosexuality. In recent years, psychological associations in the United States, Brazil, South Africa, Israel and Hong Kong have also made statements condemning conversion therapy for its lack of scientific basis. Authoritative psychological research also shows that conversion therapy causes psychological harm to clients and increases their risk of depression, anxiety, and suicide.

Despite this, conversion therapy has not disappeared, and is still very common throughout the world. Recently, reporters at The Paper did an undercover investigation at several hospitals and

clinics in China that claim to be able to “treat” homosexuality. They experienced these treatments first-hand. Although most doctors interviewed by the undercover reporters admitted that homosexuality is not a disease, many doctors and medical institutions answered affirmatively when asked “can homosexuality be treated?” They charged the undercover reporters examination and treatment fees. In a clinic that offered hypnosis, the “doctor” said homosexuality was caused by “the sin of past lives.” He claimed that the “patients” who had received “treatment” for homosexuality underwent several hypnosis sessions for 500 yuan an hour, and that “all of them that were willing to fix it, fixed it.”

However, anyone who understands the common knowledge of modern medicine and psychology sees the absurdity of conversion therapy. Why then is conversion therapy still rampant after homosexuality has been depathologized for such a long time?

The most direct reason lies in the public's lack of basic understanding of lesbian, gay, bisexual, transgender people as well as of other sexual and gender minorities (commonly known as “LGBTQ” in English). Of the nearly 1,000 Chinese psychologists surveyed by the Beijing LGBT Center in 2015, 35.3% still mistakenly believed homosexuality was an illness. If professionals have such a high rate of misunderstanding of the basic knowledge about homosexuality, one can imagine how much misunderstanding there is about sexual and gender minorities among the general public.

In many cultures, gay and lesbian people have been discriminated against and marginalized for a long time, leading many gay and lesbians to think that their sexual orientation is abnormal. This has pressured them to seek “help” to change themselves. It is precisely because this demand has not disappeared after the depathologization of homosexuality that conversion therapy remains profitable.

The regulatory departments of the psychological counseling industry have an inescapable responsibility to deal with the fact that conversion therapy has developed into a profitable business. In the United States, many institutions, like JONAH, provide conversion therapy in the name of a religious organization, thus evading the supervision of formal psychological counseling institutions. In China, besides conversion therapy, there are many pseudoscience-based psychotherapy methods, such as using psychological counseling to cure cancer and “family constellations therapy.” This chaotic situation is the result of the lack of supervision in the psychological counseling industry.

Although gay conversion therapy may seem to be the subject of an ongoing scientific debate, in fact, conversion therapy “patients” do not succeed and instead suffer psychological harm. What effective measures do we have against conversion therapy treatments, which are harmful and ineffective?

In 2012, public interest lawyers at the Southern Poverty Law Center were entrusted by Levin, Unger, and four other plaintiffs to sue the JONAH clinic in New Jersey court on the grounds of consumer fraud. In the face of accusations of consumer fraud, JONAH had to prove the objective effectiveness of its conversion therapy methods. To discuss this point, both parties invited expert witnesses, making scientific evidence the focus of the JONAH case dispute.

In order to prove the academic consensus, the plaintiff invited as an expert witness Carol Bernstein, former president of the American Psychiatric Association and director of the Psychiatric Residency Training Program of New York University's School of Medicine. Bernstein said that JONAH's "treatment" methods not only lacked scientific basis, but also seriously violated the professional ethics of the psychiatric profession. She said that if a doctor in the program she is in charge of performed conversion therapy on a client, that person would definitely be punished or even expelled.

However, the defendant was not to be outdone and brought out seven "successful" cases of conversion therapy, inviting the clients in these cases to testify. The witnesses all claimed that they no longer identified themselves as gay, and one of them was married to someone of the opposite sex. However, when giving depositions under oath, the former clients admitted that their sexual fantasies were still about people of the same sex rather than of the opposite sex. Among these witnesses, some still rely on installing internet control programs on their devices to filter out gay content and help restrain their same sex desire. Some were only able to reduce the frequency of contact with the same sex, and some continue to have same-sex sex. For these "flaws", JONAH shifted all the responsibility to the "patients", saying they did not "work hard enough." This kind of rebuttal was hardly convincing to the judge.

In addition, the defense also invited expert witnesses. These experts all believe that being gay is not a normal human sexual orientation, but instead a mental illness or developmental defect. The premise of the testimony of these experts was quite different from the mainstream consensus in the medical and psychological fields. The defense claimed that the testimony of these experts presented a new theory that had not yet been accepted by the mainstream. This idea was rejected by the judge. The judge's ruling read: "the theory that homosexuality is a disorder is not novel but—like the notion that the earth is flat and the sun revolves around it—instead is outdated and refuted."

In the end, because the evidence in support of JONAH was not accepted, the jury decided that JONAH lost the lawsuit. JONAH not only had to compensate the plaintiff tens of thousands of dollars for "treatment" and legal fees, but also had to close and liquidate all his property within 180 days.

In China, there have also been successful lawsuits against gay conversion therapists. In 2014, a gay man named Xiao Zhen received conversion therapy in a psychological counseling center in Chongqing. Because of the hypnosis and electroshock therapy, Xiao Zhen's suffered injury, and the "treatment" did not change his sexual orientation. Xiao Zhen took the psychological consulting company to court. In the judgment, the court held that "because homosexuality is not a mental illness", the defendant's psychological counseling center "promise to treat it is a kind of false advertising". Although the court did not satisfy all of Xiao Zhen's claims, his main claim was supported by the court. The defendant was ordered to make a public apology and compensate the plaintiff 3,500 RMB. Unfortunately, the psychological counseling center in this case was not ordered to suspend business because of the lawsuit. Instead it stayed in business and raised the price of its conversion therapy services.

Although Xiao Zhen did not win as much as the plaintiffs in the JONAH case, the case still offers hope for how to deal with conversion therapy through civil litigation in China. As long as the court can adopt the Chinese and international scientific community's recognition that homosexuality is not an illness, it can determine that "promising to treat" homosexuality in such lawsuits is a kind of consumer fraud.

Apart from the law, the role of professionals in the psychological counseling industry is equally important. The psychological counseling industry should establish standards and professional ethics to make all psychological counselors recognize the basic scientific fact that being gay is not an illness and that conversion therapy is pseudoscientific. Psychological professionals should also have the courage to speak out and do their part to remove the social stigma against gay and lesbian people. After all, eliminating conversion therapy is to eliminate unnecessary pain. Only when society acts can conversion therapy completely lose its foothold.

(Note: Dong Yifu is a research associate at Yale Law School's Paul Tsai China Center. Darius Longarino (Long Darui) is a Senior Fellow at Yale Law School's Paul Tsai China Center and a member of the Renmin-Yale Law School LGBTI Equal Employment Cooperative Project. Twitter: @dariuslongarino. This article only represents the personal views of the authors. bo.liu@ftchinese.com)