

Ten Good Reasons not to restrict therapy for unwanted same-sex attraction

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First Published by Christian Concern: July 3rd, 2018

There is an international movement aimed at banning and criminalising therapy and counselling for unwanted same-sex attraction and gender identities. The government of the United Kingdom has announced¹ that they are proposing such a ban. Carys Moseley explains ten reasons why this would violate human rights.

Restrictions would violate the European Convention on Human Rights

There are excellent moral and legal reasons not to restrict these therapies. Fundamental rights and freedoms enshrined in the **European Convention on Human Rights**², which was drawn up by British lawyers in 1951, would be violated.

Ten good reasons not to restrict therapy

1. Restriction is an attack on sex-based rights and dignity

Article 14 of the ECHR prohibits discrimination on grounds of sex

Sex is biological; we are all either male or female. There is a clash between the concept of gender identity and the protected characteristic of sex. Usually for someone to go down the path of an alternative gender identity means moving away from living and being known as a member of their sex.

2. Restriction discriminates against ex-LGBT people

Article 14 of the ECHR prohibits discrimination on grounds of 'other status'

Thanks to our legal casework 'ex-gay' is a protected characteristic under the Equality Act 2010. In one of our cases on this issue the then Minister for Women and Equalities intervened in favour of non-discrimination.

Just as with being straight without ever having experienced same-sex attraction or acted upon it, ex-gay can be a sexual orientation or also a sexual identity, meaning that it is a social descriptor used by the individual concerning him- or herself.

3. Restriction is an attack on freedom of speech

Article 9 protects freedom of thought, conscience and religion, and is used to protect freedom of speech

Therapeutic conversations are a private and confidential matter, though may occur either in the public sector or the private sector. Restricting therapy would violate freedom of speech of both clients and therapists, as well as third parties such as supervisors of therapists. A situation would arise whereby a state had prohibited free speech on human sexuality, behaviour and feelings in private and confidential conversations as well as public settings, essentially because LGBT activists consider the words that might be said to be offensive.

Many counsellors and psychotherapists work from their own homes and maybe self-employed. Other therapies may work over the internet or the telephone, or use email. Restricting therapy would also effectively entail restrictions on therapists' use of the internet, phone and all other means of electronic and remote communication.

4. Restriction is an attack on freedom of expression

Article 10 protects freedom of expression

Restrictions on therapy would count as attacks on freedom of expression of the individual client, the counsellor or therapist, his or her supervisor, any course lecturers, tutors or facilitators, as well as the freedom of expression of family members of the client.

Freedom of expression includes freedom to share one's life-story, hopes, goals and feelings with others. It includes freedom to create and produce artistic material as well as sharing online content of all kinds.

5. Restriction is an attack on freedom to receive and impart information

Article 10 protects freedom of expression

This include the freedom to 'receive and impart information and ideas without interference by public authority and regardless of frontiers.' Topics related to the therapies in question could not be discussed in public in a way that is comprehensive and takes different viewpoints seriously. Publications and material on this topic, especially those favourable to such therapies, could not be accessed online or offline.

Restricting therapy would effectively entail no independent academic research conducted by those not agreeing with the views accepted by government could be conducted on the subject or related fields. Course material based on such research could not be published or taught. Thus the freedom to access education would be violated. People today in the United Kingdom are having to hide their desire to work in this field of therapy in order not to be thrown off training courses.

6. Restriction is an attack on freedom of assembly and association

Article 11 protects freedom of assembly and association

Restriction of therapy is an attack on the freedom of assembly including organisation of conferences, training events, group therapy, educational events, press conferences, showings of films and plays.

In February 2018 Core Issues Trust's freedom of assembly was violated when the British LGBT news site Pink News managed to cancel the world premier of the Trust's feature-length documentary, 'Voices of the Silenced', featuring numerous therapists and clients. The film actually illustrates the restrictions already put in place by the UK government in the Memorandum of Understanding in that most clients and therapists interviewed are not British citizens or residents.

7. Restriction is an attack on freedom of conscience

Article 9 protects freedom of conscience

Many people choose to seek therapy to move away from LGBT identification for reasons of conscience. Many professionals in this field are also following their conscience in providing such services.

It is important to state that not all of these clients or professionals would be religious. In

recent years the misleading impression has arisen in the media that conscientious objection to same-sex sexual behaviour and transgender identification is only held by religious people, whereas in fact survey evidence suggests objections are more widely held.

To restrict access to therapies and the right to practice professionally to those affiliated with a religion would be to violate the rights of people of no religion, possibly a very large number of current and prospective clients.

8. Restriction is an attack on the right to respect for private and family life

Article 8 protects the individual's right to respect for private and family life

Private life includes a person's sexuality. This links to the fact that 'ex-gay' is now a protected characteristic under the Equality Act 2010.

The original intent of the right to respect for private and family life was to protect the individual from unwarranted state surveillance. Any restriction on therapy would violate this right. Already the Memorandum of Understanding has effectively imposed a system of quasi-surveillance in that it threatens professionals in this area with exclusion from the workforce if detected. This could easily lead to detection of clients.

9. Restriction is an attack on the right to marry

Article 12 protects the right to marry

Some people want therapy in order to feel they are ready to pursue their personal life-goal of marriage. Therapy for issues around sexual identity, feelings and behaviour is a normal part of life in the western world today. Any restriction on therapies for unwanted same-sex attraction and gender identities would constitute a violation of the client's right to marry.

Restriction might also have an allied negative effect on the prospective spouses and relatives of the individual in question. It could also affect the production, publication and dissemination of material for marriage preparation courses.

10. Restriction is an attack on the freedom of religion

Article 9 protects freedom of thought, conscience and religion

Some clients seeking out therapies of this kind are affiliated to or belong to a religion. Their religious beliefs and commitments may be of help to them in moving out of LGBT identities and they may seek out professionals who are willing to respect their religious commitment in the therapeutic relationship.

Most of the world's religions operating in the United Kingdom only recognise marriage

between one man and one woman. The law allows religious groups not to solemnise same-sex marriages.

Conclusion

Banning therapy for unwanted same-sex attraction would violate human rights in all these ways. It amounts to a "must stay gay" law. Therapy is not clearly defined which makes for bad law. People should be allowed to help those who want to be helped in this way.

¹ <https://www.gov.uk/government/news/new-government-action-plan-pledges-to-improve-the-lives-of-lgbt-people--2>

² <http://www.legislation.gov.uk/ukpga/1998/42/schedule/1>