

Submission on the Conversion Practices Prohibition Legislation Bill

To the Justice Committee

8 September 2021

This submission is from members of the Rainbow Support Collective:

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Rainbow Support Collective is an alliance of organisations which primarily work to support the human rights, health, and well being of rainbow populations in Aotearoa. The collective comprises both national and regional organisations. All together, this collaboration represents organisations with around 450 rainbow community workers and regular volunteers.

We support the intent of this Bill to work towards protecting our communities from harmful conversion practices. However, we believe that there are crucial changes required to ensure this legislation does that effectively.

These are recommendations which we agree are important from across our diverse perspectives.

Recommendations

1. Include “innate variations of sex characteristics” in section 5.

People who are intersex, or born with innate variations of sex characteristics, are often subject to medical and social practices that are intended to change or suppress their sexual orientation, gender identity, gender expression, or their variation of sex characteristics. The Bill does not currently provide protection against conversion practices directed towards an intersex person’s innate variation of sex characteristics. No rationale is provided for why intersex people are not protected by this proposed law.

We recommend that the Bill protect intersex people from conversion practices by:

- a. Including “sex characteristics” within the meaning of conversion practices outlined in section 5.
- b. Including an exemption in section 5(2) to allow for medical interventions that are performed for legitimate purposes, such as:
 - i. a health service performed with the intention of changing an individual’s innate variation of sex characteristics where:
 - (i) *the person requests it and provides free and informed consent or assent, or*
 - (ii) *it is strictly necessary and urgent to protect the life or physical health of the person, excluding from consideration social factors such as psychosocial development, atypical appearance, capacity for future penetrative sexual or procreative activity, or ability to urinate standing up; and the conditions referred to in (i) or (ii) were duly documented at the time of the intervention;*

2. Remove the broad medical practitioner exemption in 5 (2) (a)

We are concerned that the Bill provides a blanket exemption for healthcare providers in section 5(2)(a). This exemption does not provide protection against harmful practices that occur in medical settings (evidenced locally by the *Counting Ourselves* study, which showed that 17% of trans and non-binary people in Aotearoa had had a professional try to stop them from being trans or non-binary). It effectively excludes transgender and intersex people from protection in the setting where they are most likely to experience conversion practices.

We support subclauses (b) and (c) of this section, which clarify that conversion practices do not include health practitioners providing gender-affirming healthcare, or family and friends supporting social aspects of an individual’s expression of their gender or gender transition.

We recommend that subsection 5(2)(a) is removed.

3. Provide psychosocial support for survivors

The Bill’s policy statement recognises that conversion practices cause significant harm to people who experience them, contributing to negative mental health and social outcomes. As well as this, conversion practices can damage people’s family relationships, their connection with faith communities and trust in medical professionals. For these reasons, it is important that survivors of conversion practices have access to specialist psychosocial support to help make sense of their experiences, develop a positive sense of their own identity and repair relationships.

We recommend that as part of setting up the civil redress process, the Bill requires and resources specialist support services to be developed. Services should be co-designed with survivors of conversion practices, and available for free to anyone who has survived conversion practices, including before this Bill was introduced.

4. Educate parents, whānau, communities and medical professionals about conversion practices and rainbow identities

Conversion practices arise from prejudice and ignorance, and education is critical to changing attitudes and practices. When people believe that it is possible and beneficial to change or suppress someone's gender or sexual orientation, or appropriate to 'normalise' someone's innate variation of sex characteristics, these beliefs are rooted in misinformation and lack of understanding about rainbow identities and lives.

Our organisations, among others, currently provide education and resources to reduce ignorance around rainbow identities. This work is often unfunded, and we are aware of significant gaps in how it is provided. For example, most health professionals still receive no or very limited training on rainbow needs within their professional training programmes.

We recommend that as part of setting up the civil redress process, the Bill requires and resources a widespread programme of education for whānau, communities and medical professionals. This should include education about the nature and harms of conversion practices, as well as education about rainbow identities and the importance of inclusion.

5. Equip the Human Rights Commission with resourcing to manage the civil process

The Bill does not provide detail about the nature of the civil redress scheme to be administered by the Human Rights Commission, or how this will be resourced and designed to support justice and healing. The implication is that the civil redress process may rely on the Commission's existing systems and resources. This may not be suitable for survivors of conversion practices - for example, mediation between a survivor and practitioner has the potential to be retraumatising.

We recommend that as part of implementing this Bill, the Human Rights Commission is resourced to develop a specific pathway for conversion practices complaints, designed and developed in consultation with rainbow community organisations, survivors of conversion practices and relevant health practitioners.

6. Include a review of the bill within a specific timeframe

The Bill has been developed in a short space of time. While some of our organisations had limited input into the Ministry of Justice's drafting process, we are aware that the draft Bill has had limited input from people and communities who have experienced conversion practices.

We recommend that the Bill includes a provision requiring a review once the civil and criminal processes have been in place. A review should look at the extent to which the Bill's objectives have been met, including what more may be needed to prevent conversion practices from occurring, and to support justice and healing for survivors. It should not reconsider whether there is a need for conversion practices to be prohibited in Aotearoa.

7. Add the ability to remove charitable status of an organisation that engages in or refers people to conversion practices

The Bill focuses on the actions of individuals who undertake conversion practices. Some of these individuals are supported by organisations that may offer conversion practices as a service, or may organise, advertise or refer people to conversion practices. The law should recognise the responsibility of organisations that engage in or support conversion practices.

We recommend including a provision in this Bill to amend the Charities Act 2005 to include "providing or arranging for conversion practices" within the meaning of "serious wrongdoing". This would clarify that providing conversion practices would be grounds for deregistration of an organisation from the Charities Register.