Conversion Practices Prohibition Legislation Bill
Submission by Family First NZ

Justice Committee
Parliament Buildings
Wellington

1. We oppose the proposed legislation.

WHAT IS 'CONVERSION THERAPY'?

2. If it means practices which are coercive, abusive or involuntary, or includes things like electric shock therapy or 'anti-gay boot camps', then we all agree such things are inhumane and must be condemned. These types of 'therapy' should not be part of any community, let alone a faith-based one. Therapy or counselling should never be forced on anyone.

3. Sadly, in the past, many state institutions sanctioned inhumane treatments such as electroconvulsive therapy (ECT), being stripped naked and being locked in a small room, massive doses of medication, lobotomies and screaming patients chained to chairs. Fortunately, these are not part of current practice and certainly not part of any religious organisation.

4. However, banning 'conversion therapy' has now expanded to mean stopping someone who experiences *unwanted* same-sex attraction or gender dysphoria from getting counselling or support of any sort that they may themselves desire.

5. This bill therefore turns parents into criminals, religious leaders & counsellors into 'human rights abusers', and will make it potentially a crime for faith-based schools to teach that a person is born male or female.

6. However, to reiterate, we do oppose the use of such practices as shock therapy or physical or mental coercion directed towards a person, and performed with the intention of changing or suppressing their sexual orientation, gender identity or gender expression, without their express request and consent. This would also apply to state institutions and any organisation.

7. There is no evidence that harmful, coercive, abusive or involuntary practices are still occurring in New Zealand – even the advice to the Government admits that.

CRIMINALISING PARENTS

8. Under the proposed law, parents could be criminalised and liable to up to five years imprisonment simply for affirming that their sons are boys and their daughters are girls. A ban could criminalise parents who wish to rightly protect their child from the physical, emotional and psychological harm caused by gender dysphoria.

9. Complaints can also be made to the Human Rights Commission and the Human Rights Review Tribunal – which will also have a chilling effect.

10. The Ministry of Justice's own analysis of the proposed law admits this. It says

> *".interactions within a family would also be captured if they meet the definition of conversion practices. It would be a criminal offence for parents, or other members of a family, to attempt to change or suppress the sexual orientation, gender identity or expression of children within the family."*

11. Crown Law advice to the government also refers to this chilling effect on expressions of opinion within families & whānau.

12. Minister of Justice Kris Faafoi was unwilling to answer the simple question: Is it ok or a parent to say no to hormone blockers for a 12 year old who wants to change their gender under the proposed law? The Prime Minister has also admitted that it will criminalise parents.

13. This means that a mother who encourages and helps her 12-year-old daughter to accept the body she was born with, rather than being placed on dangerous puberty blockers and wearing chest binders, could be committing a criminal offence. That's how dangerous this bill is. Can Dad even gently discourage his nine- year-old son from wearing a dress and using the girls' public toilets?

14. If a boy learns about 'gender fluidity' at school and says they're no longer a boy, a parent would have to affirm that. They would be in danger if they tried to "suppress" their child's demands. Encouraging a "wait and see" approach could be criminal.

15. A parent who promotes biological sex could be criminalised, but an activist who indoctrinates young children with the concept of 'gender fluidity' and 'third gender' will be celebrated. Affirming biological sex will become illegal; affirming 'gender identity' will remain legal.

16. This is not loving or compassionate towards children. Numerous reviews show the majority of children who are confused about their gender also suffer from diagnosed mental disorders, such as depression and anxiety. As Australian paediatrician Dr John Whitehall asks:

> *"Isn't the current 'transitioning' of a child to an alternate gender just another form of 'conversion therapy', using the old and abhorrent means of psychological pressure, hormones and surgery?"*

CRIMINALISING COUNSELLORS, CARERS & TEACHERS

17. Under the proposed ban, it could be illegal for a counsellor, spiritual leader, pastor, youth worker, teacher or other professional to counsel a child or adult with gender dysphoria in a way that affirms biology. They could be liable to up to five years imprisonment.

18. If a young person, for example, wanted to align their sexuality with the teachings and values of their particular faith – be it Muslim or Christian, Jewish or Sikh, etc – and sought help to do so from a minister or faith leader, the proposed law change would make it virtually impossible to access the support they wanted. Furthermore, if they were able to find someone prepared to provide counselling of that kind, they could well cause that person to become implicated in a criminal offence. Even an ethical discussion of this risk with a counsellor, faith leader or youth worker could be interpreted by the patient, and the law, as 'trying to stop you ("suppressing" as termed in the proposed law) being trans or gay'.

19. One-on-one counselling to help a teen struggling with body image due to anorexia would be permitted, but the very same counselling would be prohibited if the goal is to help a teen struggling with body image due to gender dysphoria.

20. Prayer, as part of counselling or within the setting of a religious meeting, could fall inside the concept of 'conversion therapy'. According to the Ministry of Justice:

> *"Conversion practices that take the form of prayer and counselling that are directed towards an individual would be captured."* (our emphasis added)

21. Thus, if a church minister, imam or youth leader were to pray for a teenager to be freed from *unwanted* sexual thoughts, this could be interpreted as constituting a criminal offence. It may therefore become dangerous for a child or adult to express confusion over their sexuality or gender. No-one would be able to legally protect them from the gender- transitioning protocols that are backed by the State.

CRIMINALISING FAITH-BASED SCHOOLS & PLACES OF WORSHIP

22. Islamic and Christian schools could be breaking the law for teaching their students and encouraging their students to believe that Allah/God made us male and female. Church leaders, youth workers and imams could become criminals for reading and explaining the Quran or the Bible – that is, for doing their job – if the student believes their identity is being 'changed or suppressed'.

23. If someone says to a spiritual leader, "*I'm struggling with my sexuality and gender identity, please pray for me*," the leader may be being asked to commit a crime.

24. All New Zealanders have a right to freedom of religion. This teaching and explaining is a legitimate activity for places of worship, faith-based schools and for other religious groups.

SELECT COMMITTEE & MINISTRY OF HEALTH SAID NO

25. In 2019, the Justice Select Committee, consisting of MPs from Labour and National, considered two petitions wanting to ban 'conversion therapy'. In their report, they declined to support such a ban, stating:

    "The Bill of Rights Act affirms, protects, and promotes human rights and fundamental freedoms in New Zealand. It allows all New Zealanders to live free from discrimination, including in relation to their sexual orientation. New Zealanders also have the right to freedom of religion. This protects those who offer and seek out conversion therapy because of their religious views." (our emphasis added)

26. In 2018, Official Information Act requests show that then-Associate Minister of Health and Green MP Julie Anne Genter was advised by the Ministry of Health:

    "Due to the current protections that are in place, and the need to balance the rights of people with preventing harm, it is not recommended that a legislative ban of conversion therapy would be the most effective way to reduce the harm it causes…" (our emphasis added)

27. The ministerial advice also notes that people have the freedom to willingly engage in the practice, that protections already exist in the health sector, and that a ban *"could be inconsistent"* with the NZ Bill of Rights Act 1990 *"which provides for rights of assembly, free speech and rights to freedom of religion".*

NO EVIDENCE

28. The Human Rights Commission in response to an Official Information Act request from Family First NZ has admitted that there has only been one informal complaint and no formal complaints in the past 10 years in relation to 'conversion therapy'.

29. The Office of the Health and Disability Commissioner, in response to a similar inquiry, was also unable to provide any specific numbers. An informal search of 1400 decisions dating back to 1997 suggests that there have been no complaints around 'conversion therapy'.

30. Some of the politicians who support the proposed ban have admitted they're also not aware of any cases of involuntary 'conversion therapy' in their communities.

CRIMINALISING 'CONSENT'

31. Incredibly, the bill says that *"consent"* is irrelevant. Apparently, the mantra *"my body my choice"* doesn't apply here. The right of self-determination is a founding principle of the mental health profession, and for children, the wider whanau/ family is part of this important value and support base.

32. To restrict the ability to give or receive counselling, teaching, prayer, group discussion and guidance on important personal issues like sexual orientation, gender identity and gender

expression would constitute a serious interference with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (BORA).

33. Those who dare to seek inner freedom and healing from *unwanted* behavioural or thought patterns will have nowhere to turn as a result of this proposed ban. The law would oppress and violate the right to seek whatever lifestyle you desire.

RESTRICTING PERSONAL AUTONOMY

34. A legal opinion on the bill says that the bill will have a 'chilling effect' on freedom of expression concerning gender issues, and will fail in its stated purpose of promoting respectful and open discussions regarding sexuality and gender.

35. The opinion by Grant Illingworth QC also warns that parental guidance and counselling could potentially be caught if expressed in words or conduct, that conversion "practice" could readily include teaching, counselling and praying for someone, and that there is a risk of serious disruption within religious communities including Muslim and Christian faiths which will be significant and substantial.

36. The opinion says that if enacted, *"the Bill would undoubtedly restrict personal autonomy",* and that *"At the root of many of the rights and freedoms affirmed by the Bill of Rights Act is the ability of individuals to decide their own destiny without interference from the state, except as provided by law".* It rightly questions whether the proposed restriction is *"demonstrably justified in a free and democratic society".*

37. With regards to a parent who tells their child that they cannot go on puberty blockers, wear chest binders or identify as the opposite sex, the opinion says that *"the definition of 'conversion practice' is a debatable issue. But if providing parental guidance is a "practice" then the conduct outlined above would fall within the proposed restrictions and would amount to a criminal offence in relation to a person under 18 years of age, if the Bill is enacted into law."*

38. The Opinion also says:

- The effect of the bill *"could represent a significant interference with 'the right to manifest a person's religion or belief in worship, observance, practice or teaching either individually or in community with others, and either in public or in private' affirmed by section 15 of the New Zealand Bill of Rights Act 1990".*

- *"If prayer and counselling were to be classified as a 'practice' then the conduct of the religious leader or counsellor could fall within the scope of sections 8 or 9."*

- In a warning to religious leaders, *"[I]t would be very easy for a preacher or teacher to overstep the mark, inadvertently, in relation to subject-matter of this kind…" (*for example *"Exhorting others to "repent of their sins") …It would also be very easy for a person hearing such preaching or teaching to take the issue personally and to complain that the message was targeted at them. The risk of serious disruption within religious communities is therefore significant and substantial."*

- If a person wanted to align their sexuality or gender with the teachings and values of their faith, and sought help to do so from a teacher, counsellor or church pastor, *"the person would be inviting the teacher, counsellor or church pastor to engage in a conversion practice which would be unlawful and could be criminal in some circumstances."*

- The opinion notes that *"[I]t is worth recalling that one of the stated purposes of the proposed legislation is 'to promote respectful and open discussions regarding sexuality and gender.' If enacted into law, and even if a narrow interpretation of 'conversion practices' were to be accepted by the courts, the proposed legislation would almost certainly have a profound 'chilling effect' on freedom of expression concerning gender issues. Some people would be afraid to talk about the subject, or to advance strong opinions, for fear of being prosecuted or being subjected to a claim for damages under the Human Rights Act 1993. The idea that the proposed legislation would promote respectful and open discussions regarding sexuality is therefore difficult to accept, despite the limited exemptions in clause 5(2)."*

39. The legal opinion is consistent with legal advice that the Government has already received.

40. The full legal opinion of Grant Illingworth QC can be read at ***Appendix A***

THE CONTRADICTIONS

41. When introducing the bill, Minister of Justice, Kris Faafoi, said:

> *"[Conversion practices] are based on the false belief that any person's sexual orientation, gender identity, or gender expression is broken and in need of fixing."*

42. Yet, when it comes to gender dysphoria, the conversion practices of the LGBT movement are based on the notion that there is something fundamentally wrong with these individuals: that they were 'born in the wrong body'. The contradiction is obvious.

43. Another contradiction: Convincing people that they are a different gender to their biological sex is not considered 'conversion therapy'. Nor is it considered 'conversion therapy' to encourage a person to explore and develop same-sex attraction. But if a same-sex attracted individual wishes to explore and strengthen a heterosexual attraction or lifestyle, or a person wishes to align with their biological sex, it would be illegal – subject to a fine or imprisonment – to encourage them to do so under the proposed bill.

SCARING THERAPISTS AWAY FROM TROUBLED ADOLESCENTS

44. An Australian family law and child protection expert says that the bill will scare away therapists. Patrick Parkinson AM is an expert on family law and child protection with 35 years' experience in these fields, and has chaired Australia's Family Law Council, led a major review of its child support system, and been President of the International Society of Family Law. He is now Professor of Law at the University of Queensland.

45. He says that "*[T]his is no time for the NZ Parliament to pass legislation that will be understood as seeking to scare therapists away from providing therapy to very troubled adolescents who identify as 'trans' or 'gender diverse'*."

46. Other key statements in his legal analysis include:

> *This Bill is based upon two assumptions that need to be challenged. The first is that there is now a need to ban practices that seek to change or suppress sexual orientation, decades after, it seems, such practices ceased. The second is that therapies endeavouring to address issues of gender identity are as harmful as those that years ago sought to change sexual orientation.*
>
> *There is little evidence to support the claim that gender identity is innate and immutable, making any efforts to 'change' or 'suppress' that gender identity both futile and damaging. Even progressive therapists argue that gender is fluid and that gender identity can change in an individual over time. There are now a lot of 'detransitioners' all over the western world, many of whom deeply regret their decision to take cross-sex hormones and to seek irreversible surgeries. The detransitioners alone are sufficient evidence that gender identity is not innate and immutable.*
>
> *There is no evidence to support the claim that therapists who seek to assist children and young people to become more comfortable with their natal sex cause harm by so doing. Rather, the evidence is that with expert, cautious therapeutic support, some 75-85% of children with gender identity issues can be assisted to become comfortable with their natal sex. The majority of them grow up to be gay or lesbian as adults.*
>
> *The Bill creates a draconian offence, punishable by three years' imprisonment, for engaging in a conversion practice in relation to a child under 18. Even though the definition of a conversion practice allows for more diversity in therapeutic approach than in the Australian versions, the law is likely to have a chilling effect. This will mean that some mental health professionals refuse to see young patients with sexual orientation or gender identity issues who have other serious mental health concerns. This could lead to an increase in the mental health burden on already very troubled young people, and may lead to increased suicide attempts.*
>
> *Parents who act upon expert medical advice in helping their children with gender identity issues risk prosecution and jail sentences under the law as currently drafted. This is likely to lead to huge distress for parents who are already experiencing very difficult circumstances. It could lead to very grave harms.*
>
> *In summary, the Bill is very likely to cause harm to the NZ community. The tragedy which is now unfolding, not only in NZ but across the western world, will in time lead to investigative journalism exposés, Commissions of Inquiry and class action lawsuits. In NZ, this Bill, being enacted in late 2021 when the issues are already becoming widely known and top medical experts are warning of the consequences, is, in my view, reckless.*

47. His full submission can be read at ***Appendix B***

REGULATORY IMPACT STATEMENT – MINISTRY OF JUSTICE

48. The Ministry of Justice's *Regulatory Impact Statement* makes the following admissions:

49. Prayer and counselling will be caught under the law. They admit that the ban wouldn't be "*effective*" if it didn't include prayer.

50. Family discussions, parenting advice & values will be caught under the law.

51. The advice admits that the evidence of conversion therapy happening is very reliant on media reports only. There is no credible data that it's happening in any substantive way (this is admitted a number of times in the RIS – for example, '' *we have no data on current practices or how widespread they are.*")

52. There is *no* acknowledgement that for some people, their sexuality and their gender dysphoria (which is still a "mental disorder" according to DSM-V) does need healing, and that people personally and willingly desire and choose this.

53. The advice also rejects or fail to acknowledge *any* evidence of people who *have* experienced positive change from counselling in these areas, such as Leah and James and all these people.

54. Those who personally and willingly seek counselling are disparagingly labelled as "*not likely to be fully informed*". Are the Ministry of Justice officials now psychiatrists?

55. The RIS acknowledges the connection between this bill and the proposed 'hate speech' legislation. *"Both proposals are likely to generate public debate about freedom of expression."* This is because both pieces of legislation are forms of 'hate speech' legislation, and are attacking freedom of belief and religious freedom. Both pieces are targeted primarily at the Christian community because of their biblical teachings on sexuality. However, other faith communities are rightly concerned – including the Muslim community.

56. Many within the LGBT movement are also concerned because they do not believe that children should be locked into transgenderism and believe that they should be able to receive counselling for gender dysphoria (given that the overwhelming majority of adolescents grow out of their dysphoria as they travel through puberty.)

57. Like us, they oppose puberty blockers, chest binders and surgery as a loving solution to gender dysphoria.

CROWN LAW ADVICE

58. Crown Law advice to the Attorney-General makes a number of significant and revealing statements:

> "*There is no doubt that as expressed the prohibition will extend to activities and communications that occur within families and within religious groupings.*"
>
> "*the broad definition of those practices creates the risk that it could extend further, to the exchange of thoughts or opinions about sexuality and gender that occur within the family/whānau or religious groups that do warrant protection and where the limitation could not easily be justified.*"
>
> *"The Bill of Rights Act protects both the right to have religious or conscientious beliefs (s 13) and the manifestation of those beliefs (s 15)… It is possible that the conversion practice itself is properly to be seen as a manifestation of the religious belief just described."*
>
> *"there is a potential chilling effect on legitimate expressions of opinion within families/whānau about sexuality and gender*"

59. Despite these significant concerns, the advice then tries to argue that the "*significant limitation on freedom of speech*" and "*lesser limitation on manifestation of religion*" are somehow justified - because the bill only targets "*change or suppress*" and not "*confront or reject*", that the bill wants to promote "*respectful and open discussions*", and the Attorney-General has to okay any prosecution.

60. This offers no assurance to parents, faith communities, counsellors and carers. In fact, suggesting that to "*reject*" someone as being appropriate is bizarre. It also is dubious to claim that the bill wants to promote "*respectful and open discussions*".

61. As Grant Illingworth QC rightly points out: *"If enacted into law, and even if a narrow interpretation of 'conversion practices' were to be accepted by the courts, the proposed legislation would almost certainly have a profound 'chilling effect' on freedom of expression concerning gender issues. Some people would be afraid to talk about the subject, or to advance strong opinions, for fear of being prosecuted or being subjected to a claim for damages under the Human Rights Act 1993. The idea that the proposed legislation would promote respectful and open discussions regarding sexuality is therefore difficult to accept, despite the limited exemptions in clause 5(2)."*

'CONVERSION THERAPY' IN SCHOOLS?

62. If we are truly concerned about coercion and pressure regarding issues of gender, then many New Zealanders are also concerned about what is happening in schools. Students as young as kindergarten are being taught that changing sex is as easy as changing clothes, teen girls are discovering that biological boys have free access to their changing rooms, and parents are kept in the dark when their child has decided to identify as transgender during the school day.

63. Our state education system is pushing gender ideology and assuming that a six-year-old has the cognitive ability and maturity to somehow know that their biological sex is separate to their gender identity.

64. Parents are increasingly being told by the Ministry of Health that children who express discomfort with their biological sex are likely to be transgender and should be assisted in making a social and medical transition to appear as the opposite sex to prevent self-harm or suicide.

65. Though this perspective runs counter to the many studies that demonstrate children, if left untreated, become comfortable in their biological sex after puberty, it has nonetheless led to a

method of treatment known as the “gender-affirmative” model – it could also be termed a form of “conversion therapy”. It can lock children into transgenderism.

66. This harmful protocol recommends a “social transition” in early childhood, followed by puberty blockers in early adolescence, and cross-sex hormones (testosterone for girls and oestrogen for boys) around age 16.

67. Schools are receiving a strong message on multiple fronts that they must adopt “gender-inclusion” policies that replace all references to biological sex with the subjective concept of fluid “gender identity”. Once adopted, these policies mandate that schools treat boys who feel they are girls as if they really are girls, and vice versa, even if this means violating privacy, abandoning fair play in sports, or disregarding basic safety precautions.

68. In reality, affirming these ideas in policy only encourages more children to unnecessarily question whether they are a boy or a girl. This is harmful to young and impressionable children who trust the adults in their lives to teach them the truth about the world around them.

69. To be clear: Students who identify as transgender deserve the same educational opportunities and resources as their peers and should be treated with respect and compassion. A compassionate response, however, should not mean institutionalising harmful and potentially coercive (“conversion” style) policies in schools

70. The Ministry of Education has recommended that schools “*normalise transgender identities*”, “*consider ways to increase the use of gender-diverse language*” in the classroom, question gender stereotypes and norms for children as young as five years old, affirm “*diversity*”, and says that “*using gendered language such as “girls and boys”, “ladies and gentlemen” can be alienating for gender non-conforming and gender diverse students*.”

71. Shockingly, teachers are even encouraged by the Ministry to keep a child’s mental health issues secret from their parents by allowing the child to adopt a new persona whilst at school – including the use of preferred “pronouns”, without necessarily having to inform the parents that there are identity issues.

72. Interestingly, this is not deemed to be a ‘conversion therapy’ under the proposed bill.

73. Activists are using schools to normalise the transgender trend (conversion), which places children in harm’s way.

74. Mates & Dates has a huge emphasis on gender theory:

    • resources such as the “genderbread person”, though not officially sanctioned by ACC, are being used by external facilitators who are not affiliated with the school
    • the programme is littered with gender ideology including statements such as: - “*It’s important that you clearly promote gender as a continuum*” - “*Often people talk about gender as if it is binary… One’s innermost concept of self as male or female or both or neither*”
    • an activity for Year 9 students emphasises to students that sex and gender are distinct and we choose how to express our gender

75. InsideOut is a RainbowYOUTH programme funded by the Ministry of Social Development, which is being pushed under the banner of ‘anti-bullying’, and aimed at children as young as Year 7. Our children are indoctrinated with the message “*Gender identity is a person’s own sense of*

identification as male, female, neither, both, or somewhere in between. Sometimes people get confused about the difference between gender and sex. Gender refers to the gender that someone identifies with, while sex is usually refers to the sex someone is assigned at birth."

76. Family Planning Programmes include "Sexuality Road", "Navigating the journey Te takahi i te ara" and "Affirming Diversity". FPA believe that, "*Effective sexuality education programmes support and acknowledge diverse genders, identities... Stereotypes and assumptions are challenged with an emphasis on inclusiveness and the right to self-expression. Discrimination against those who identify as gender and identity diverse can be explored through contexts such as toilet facilities, school balls and uniforms.*"

77. These resources targeted at children as young as five fail to take into account the emotional and physical development of each child and the values of the family.

78. Gender-inclusion policies also institutionalise the idea that it is possible to have been born in the wrong body and typically recommend measures that facilitate social transition in children. Social transition often encourages persistence in gender dysphoria.

79. Gender-inclusion policies require students, administration, and staff to affirm the ideology of transgenderism in every aspect of student life: via the use of preferred pronouns, by mandating mixed-sex changing rooms, through allowing students to transition without the knowledge or consent of their parents, and by filling classrooms with books and lessons that explicitly confuse students about themselves. These measures conflict with a school's educational mission and undermine parents' and students' rights.

80. Gender-inclusion policies disregard parents as irrelevant, not informing them when their child decides to identify as transgender during the school day.

81. Schools should not foster identity confusion by applying pressure to socially transition. This could be viewed as a form of 'conversion therapy'.

PARENTS ARE CONCERNED ABOUT GENDER "CONVERSION THERAPY"

82. A poll released at the beginning of this year found increasing opposition to gender ideology being taught to children in schools.

83. In the poll of 1,000 New Zealanders surveyed by Curia Market Research, respondents were asked a number of questions around gender ideology and the new Relationship and Sexuality curriculum released by the Ministry of Education last year.

84. Only 16% think primary age children should be taught they can choose their gender and that it can be changed through hormone treatment and surgery if they want it to be, while a significant three out of four (74%) say they shouldn't.

85. Transgender activists are pushing an agenda that insists the body should be remade to conform with feelings. As such, the transgender trend spreads a confusing message to all kids, including those who struggle to accept their sex. Regrettably, this trend is taking root in the school curriculum where these radical ideas are being indoctrinated into young people, often without the express permission or even knowledge of parents.

86. It seems evident that the majority of New Zealanders are becoming increasingly uncomfortable with this curriculum and agenda in schools.

87. If this bill was to be passed, would it also place restrictions on these programmes and ideology in schools? It is argued that so-called "conversion therapy" can go a number of ways.

PARENTS & EXPERTS REJECT PUBERTY BLOCKERS

88. As mentioned previous (*paras 8-16*), under this bill, parents (and carers / counsellors) could be criminalised and liable to up to five years imprisonment simply for affirming that their sons are boys and their daughters are girls, and attempting to rightly protect their child from the physical, emotional and psychological harm caused by gender dysphoria.

89. The poll referenced in the previous section also found majority support for a ban on the use of puberty blockers for young people.

90. 51% support a ban on puberty blockers for under 16s - just 28% disagree. Last December, the British High Court banned the use of puberty blockers, which begin the gender transition process, for children under 16 as it deemed they were too young to consent.

91. Medical professionals and groups are sounding growing international concern around the use of puberty blockers to treat young people with gender dysphoria because of the low certainty of benefits, but the significant potential for medical harm.

92. Sweden's leading gender clinic – Stockholm's Astrid Lindgren children's hospital – has become the world's first to end routine treatment of minors under the age of 18 with puberty blockers and cross-sex hormones, and may only be provided in a research setting approved by Sweden's ethics review board. The Society for Evidence Based Gender Medicine called it a watershed moment, with one of world's most renowned hospitals calling the "Dutch Protocol" experimental and discontinuing its routine use outside of research settings.

93. Earlier this year, the British High Court banned the use of puberty blockers, which begin the gender transition process, for children under 16 as it deemed they were too young to consent. Britain's NHS recently withdrew a claim that the effects of puberty blockers are "fully reversible" – a claim recently made on TVNZ's *Sunday* programme, but challenged by experts spoken to by Newshub.

94. Professor Christopher Gillberg, an expert in child and adolescent psychiatry, and who gave expert evidence in the British High Court, believes prescribing drugs to delay puberty is a scandal and tantamount to conducting 'a live experiment' on vulnerable children. He said "*In my years as a physician, I cannot remember an issue of greater significance for the practice of medicine. We have left established evidence-based clinical practice and are using powerful life-altering medication for a vulnerable group of adolescents and children based upon a belief.*"

95. Prof Gillberg and other leading medical experts revealed:
    - Puberty-halting drugs can harm a patient's brain and bone development;
    - Medics are failing to warn about the infertility risks posed by puberty blockers;
    - Children who regret treatment find themselves 'locked' into new bodies;
    - Internet sites persuade autistic children they are transgender when they simply have 'identity issues'.

96. In Australia, *The Australian* reports on a new paper involving gender clinic staff from The Children's Hospital at Westmead in Sydney, which says that "*gender clinicians are under increasing pressure to enable 'conveyor belt' medicalisation of children who arrive already convinced that hormonal drugs are the only solution to their distress. In the Westmead study, there were high rates of anxiety, depression, suicidal ideas, behavioural disorders, autism and "adverse childhood experiences" such as family conflict, exposure to domestic violence, parents with mental illness, loss of important figures through separation, and bullying.*"

97. The authors say; *"(Yet) families tended to medicalise the child's distress, attributing it solely to gender dysphoria as an isolated phenomenon, with the consequence that the family identified the medical pathway as providing the only potential way forward.*"

98. A leading expert clinical psychologist Thomas Steensma from the Dutch clinic which pioneered puberty blocker drugs for children distressed by unwanted sexual development has also sounded the alarm about gender clinics around the world "*blindly adopting*" the use of puberty blockers without further research.

99. Finland revised its treatment guidelines in June 2020, prioritising psychological interventions and support over medical interventions, particularly for youth with post-pubertal onset of gender dysphoria.

100. Family First is calling on the New Zealand government to pause the use of puberty blockers for teenagers while further research is undertaken.

101. This bill will potentially criminalise parents and carers who seek alternative treatment to chemicals and cutting of the body for gender dysphoria, and who wish to affirm the biological sex of their children.

HELP FOR MANY

102. FREE TO CHANGE has collected the real-life stories of 78 ex-LGBT people who were able to live comfortably with their birth gender and/or have changed from the gay lifestyle.

    a. Findings include:

        • These people say that they are very happy they made that change and were very grateful that they had therapy and counselling. Some had secular counselling and some had religious counselling but all were glad that this therapy helped them make these changes.

        • All are content with the changes that have occurred, with many in stable heterosexual relationships and others having de-transitioned back to their gender at birth.

        • These stories show that that these therapies resulted in marked improvements in their mental health and marked reductions in suicide risk.

        • This strongly suggests that any laws that prohibit such therapy may actually increase suicide risk for some.

103. La Trobe University's report Preventing Harm, Promoting Justice - which is referred to by advocates for 'conversion therapy' bans - relies on the testimony of just 15 individuals who found

‘conversion therapy’ harmful and damaging. They have explained that “*as survivors, we want Australians to know it is not just the practice of conversion therapy that is harmful, but that much of the damage is done by the ideology that underpins the pseudo-therapies*.” They object particularly to the representation any form of sexuality or gender identity as a form of “*brokenness*” that should be fixed. Their assertions that banning conversion therapy is not only right but necessary demands us first to accept that:

1. minority sexual orientations or gender identities are never fluid; or

2. that, since one is not better than another, denying individuals assistance in seeking change will have no negative impact on their lives; and

3. that change does not sometimes occur organically in the course of exploring previous life trauma or abuse.

104. The authors of La Trobe’s study claim to have set up a comprehensive study of all LGBT therapy experiences. The evidence presented here demonstrates a glaring gap in their research. Their report, arguably by design, examines only one side of the question and looks only at negative experiences.

105. All that is necessary to counter-act their claims that ‘conversion therapy’ is universally damaging and harmful to the extent that it demands criminal legal penalties, is evidence that just one person who experienced unwanted same-sex attraction or just one person who experienced gender dysphoria, has found lasting change and/or relief through counselling. This report presents the collated experiences of almost 80 such people.

106. Links: RESEARCH SUMMARY DOWNLOAD THE FULL REPORT

107. There are also many more testimonies of change on the FreeToLive website. Link https://freetolive.nz/stories/. These include the testimonies of many New Zealanders.

POLLING

108. A nationwide poll at the end of last year found that there is widespread opposition to the legal effects of a ‘conversion therapy’ ban.

109. In the poll of 1,000 New Zealanders surveyed in December by Curia Market Research, respondents were asked *“If a person is unsure about their sexual orientation or gender identity, should they be able to seek counselling support to determine their own direction in how they identify?”*

110. 81% of respondents said they believed a person should be able to seek counselling support to determine their own direction. Only 12% were opposed.

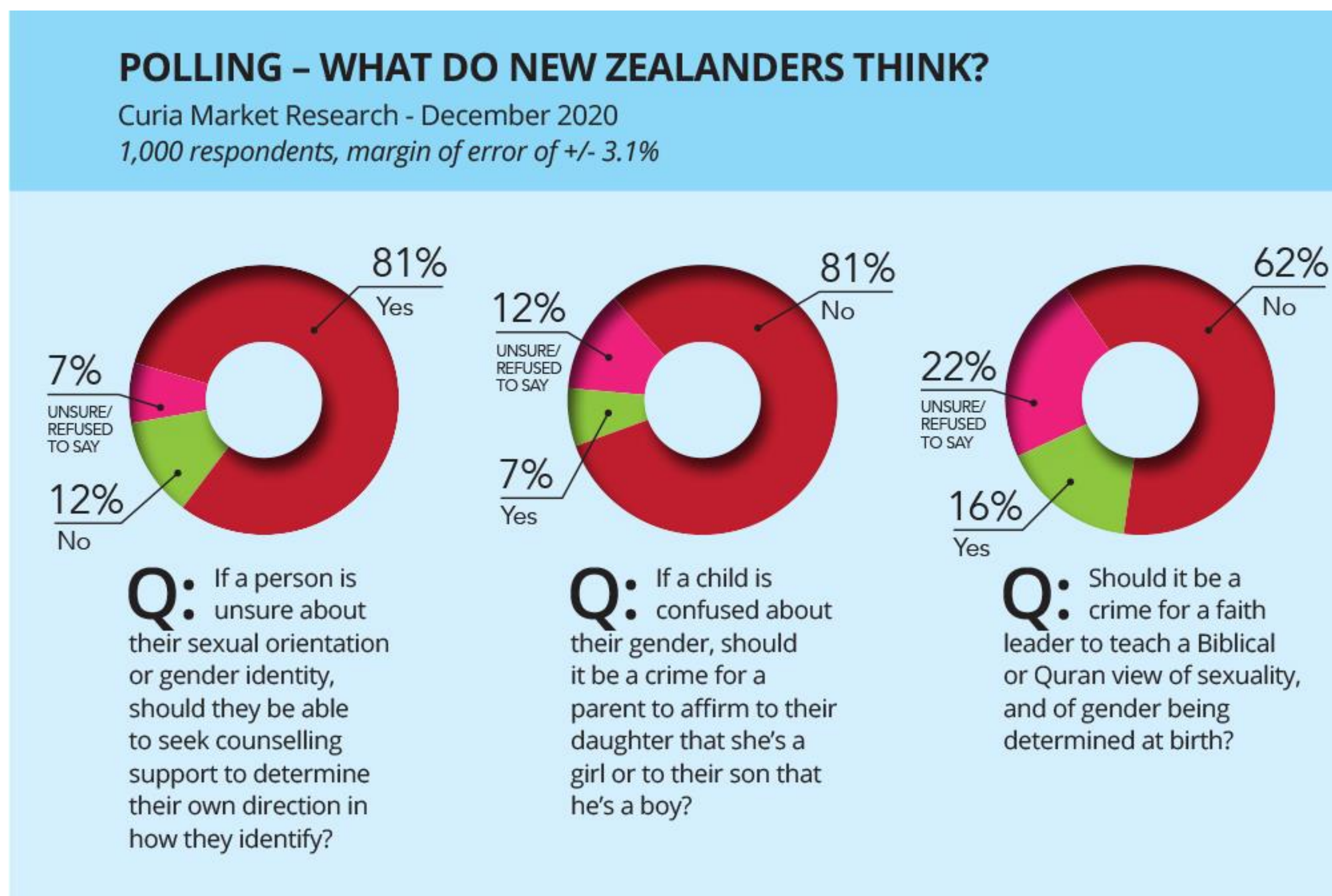
111. When asked “*If a child is confused about their gender, should it be a crime for a parent to affirm to their daughter that she’s a girl or to their son that he’s a boy?”*

112. Only 7% of respondents think it should be treated as a crime, and 81% are opposed.

113. Respondents were also asked "*Should it be a crime for a faith leader to teach a Biblical or Quran view of sexuality, and of gender being determined at birth?"*

114. Just 16% think it should be a crime, and 62% said it shouldn't be a crime. 22% were either unsure or refused to say.

115. In all three questions, there was no significance difference in responses based on gender, age, area, socio-economic factors or political party support.



See the full polling results at ***APPENDIX C***

SUMMARY

116. All New Zealanders should be protected from coercive, abusive or involuntary psychological or spiritual practices. However, participation in psychological assessments, counselling sessions, prayer meetings and other therapeutic practices is almost always an expression of voluntary behaviour and personal freedom.

117. Under this proposed ban, people could be prevented from getting help to live the lifestyle they choose – if that lifestyle is heterosexual and/or based on their biological sex. And children could not be encouraged to embrace their biological sex.

118. While gender and sexuality is supposedly 'fluid', activists want the law to stipulate that it can only go in the direction they approve.

119. To penalise people on the basis of their beliefs or personal lifestyle choices lacks fairness and is a dangerous discrimination.

120. To criminalise parents who genuinely care for their children should certainly not be a crime warranting up to five years in jail.

121. We oppose this bill.

Bob McCoskrie JP, MCom (Hons), Dip.Tchg, CA (Ret'd)
NATIONAL DIRECTOR

APPENDIX A

Grant Illingworth QC

26 August 2021

Richard McLeod
McLeod & Associates
By Email

Dear Richard,

Conversion Practices Prohibition Legislation Bill

You have instructed me to provide an opinion for your client, Family First New Zealand, concerning aspects of the Conversion Practices Prohibition Legislation Bill. The essential issue is whether the proposed legislation interferes unduly with human rights.

The purpose of the Bill is set out in the explanatory note as follows:

> Conversion practices encompass a broad range of practices that seek to change or suppress a person's sexual orientation, gender identity, or gender expression. Research emphasises that conversion practices do not work and can contribute to issues such as low self-esteem, depression, anxiety, and suicidal thoughts and attempts.
>
> The Government's objectives in prohibiting conversion practices are to—
>
> - affirm the dignity of all people and that no sexual orientation or gender identity is broken and in need of fixing:
> - prevent the harm conversion practices cause in New Zealand and provide an avenue for redress:
> - uphold the human rights of all New Zealanders, including of rainbow New Zealanders, to live free from discrimination and harm.

This explanation makes it clear that the intended purpose of the proposed legislation is to prohibit "a broad range of practices" that necessarily involve the communication of ideas between individuals in the community. This immediately indicates that the proposed legislation is likely to interfere with various rights and freedoms that are currently protected under our existing law. I return to this issue below.

Clause 3 of the Bill says that its purpose is to prevent harm caused by conversion practices and to promote respectful and open discussions regarding sexuality and gender. As is evident from the explanatory note, and from clause 3, the definition of "conversion practice" is the key to meaning and purpose of the legislation as a whole.

The definition of "conversion practice" is found in clause 5(1). It means "any practice" that:

(a) is directed towards an individual because of the individual's sexual orientation, gender identity, or gender expression; and

(b) is performed with the intention of changing or suppressing the individual's sexual orientation, gender identity, or gender expression.

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At least when read literally, this is a very broad definition. It is narrowed down to some extent, however, by clause 5(2) which provides that “conversion practice” does not include:

(a) a health service provided by a health practitioner in accordance with the practitioner’s scope of practice; or

(b) assisting an individual who is undergoing, or considering undergoing, a gender transition; or

(c) assisting an individual to express their gender identity; or

(d) providing acceptance, support, or understanding of an individual; or

(e) facilitating an individual’s coping skills, development, or identity exploration, or facilitating social support for the individual; or

(f) the expression only of a religious principle or belief made to an individual that is not intended to change or suppress the individual’s sexual orientation, gender identity, or gender expression.

It follows that to understand the meaning of “conversion practice” it is first necessary to understand the meaning of clause 5(1) and then to exclude the types of conduct that are exempted under clause 5(2). I will refer to what is left, after the exemptions have been excluded, as the “residual definition.”

Despite the exemptions contained in clause 5(2), the residual definition still potentially encompasses a wide range of human behaviour. The scope of the residual definition is primarily governed by the words “any practice” in section 5(1). Those words could be interpreted broadly so as to include important aspects of private behaviour. It is therefore crucial to understand what is meant by them. When applying the residual definition, “any practice” could include persuasion, whether in words or in writing. “Any practice” could also include conduct other than persuasion, such as prayer for the person to be set free from thoughts considered to be morally inappropriate. Parental or pastoral counselling could potentially fall within the residual definition as well, if expressed in words or conduct.

For the reasons explained below, it is possible that the words “any practice” could be interpreted quite restrictively by the courts. But irrespective of what meaning is attributed to those words, to fulfil the definition of “conversion practice” it would have to be established that the “practice” in question was directed towards an individual because of the individual’s sexual orientation, gender identity, or gender expression, and was intended to bring about a change in, or the suppression of the individual’s behaviour, in respect of at least one of those personal attributes. It would also need to be established that the exemptions in clause 5(2) did not apply.

Under clause 8, the proposed legislation would make it an offence, punishable by up to 3 years imprisonment, for a person to perform a conversion practice on an individual where the person performing the conversion practice knew or was reckless as to whether the individual was under the age of 18 years, or where the individual lacked, wholly or partly, the capacity to understand the nature, and foresee the consequences, of decisions in respect of matters relating to their health or welfare.

Under clause 9, the proposed legislation would make it an offence, punishable by up to 5 years imprisonment, for a person to perform a conversion practice on an individual where that practice caused serious harm to the individual and where the person performing the conversion practice:

(a) knew that doing so would cause serious harm to the individual; or

(b) was reckless as to the whether the performance of the conversion practice would cause serious harm to the individual.

Under clause 10, consent would be no defence to a charge under section 8 or 9. But, under section 11, a person on whom a conversion practice was performed could not be charged as a party to an offence under section 8 or 9. And, under section 12, no prosecution could be brought without the Attorney General’s consent. Apart from the criminal offence provisions outlined above, a person who performed a conversion

practice could incur civil liability: substantial damages could be sought by way of a complaint under the provisions of the Human Rights Act 1993.

Many activities that could potentially fall within the residual definition of "conversion practices" are presently lawful. Thus, for example, it is presently lawful for a parent to express strong moral views to a child with the intention of persuading the child to refrain from engaging in sexual behaviour which is considered immoral. Similarly, it is presently lawful for a minister of religion to pray for a person who wants to be released from sexual thoughts about persons of the same gender. If enacted into law, and if taken at face value, the proposed legislation would seemingly prohibit such behaviour, and could make it criminal in certain circumstances.

Under the law as it stands at present, activities of that kind would be protected by human rights legislation, including as follows:

- The right to freedom of thought, conscience and religion, including the freedom to seek, receive, and impart information and opinions of any kind in any form;
- The right to manifest a person's religion or belief in worship, observance, practice or teaching either individually or in community with others, and either in public or in private;
- The right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form;
- The principle that a child's care, development, and upbringing should be primarily the responsibility of his or her parents and guardians.

The first three of the provisions listed above are affirmed in sections 13 to 15 the New Zealand Bill of Rights Act 1990. The fourth provision is included in section 5 of the Care of Children Act 2004. They are each regarded as basic rights in our society. If the Bill is enacted into law, and at least if it is read as broadly as seems to be intended, its requirements would interfere substantially with those basic rights.

It is an elementary aspect of New Zealand constitutional law, that Parliament has the authority to enact legislation which limits fundamental rights. Some rights can also be attenuated by other legal decisions (eg court rulings), but only where the limitations are prescribed by law and are demonstrably justified in a free and democratic society.[1] The courts generally accept that fundamental rights can be overridden by Parliament, so long as the legislative intention is made sufficiently clear.[2] In cases where the meaning is uncertain, or where something seems to have gone wrong in the drafting process, the courts may "read down" statutory words that appear to be inconsistent with fundamental rights, so as to effect harmonisation within the rules of the legal system. The courts are expressly required to adopt this approach by section 6 of the New Zealand Bill of Rights Act which provides:

> Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning.

In fulfilling this requirement, the courts may apply a concept of "minimal impairment" under which consideration is given to whether an enactment is excessively broad in its apparent reach and goes beyond what is genuinely necessary to achieve the intended purpose of the legislation.[3]

Laws that appear excessively broad can therefore be narrowed by judicial interpretation.
This kind of interpretational narrowing could well be applied in relation to the words "any practice" in the definition of "conversion practice." For example, the word "practice" could be read as applying only to

[1] See section 5 of the New Zealand Bill of Rights Act 1990. The case law suggests that some rights are absolute and cannot be attenuated in this way (eg freedom of conscience).

[2] See *R v Hansen* [2007] NZSC 7; [2007] 3 NZLR 1 (SC); *Ghaidan v Godin-Mendoza* [2004] 2 AC 557 at [44].

[3] For example, see *R v Hansen* [2007] NZSC 7; [2007] 3 NZLR 1 (SC) at [126] per Tipping J.

conduct of a formal, semi-formal, systematic or repetitive nature.[4] This would in turn narrow the meaning of the term "conversion practice" and would consequentially limit the scope of the criminal and civil sanctions outlined above.

Whether a narrow interpretation of that kind would be adopted by the courts in relation to the proposed provisions is difficult to predict with certainty, however. And, even if a restricted interpretation were to be adopted, the definition of "conversion practice" would still cover a broad range of human conduct. An important question, therefore, is whether there is sufficient justification for the rights and freedoms of people in New Zealand to be restricted in the way that is proposed in the Bill. This is a vital issue: democratic rights and freedoms should not be whittled away, even by Parliament, unless the proposed limitations can be "demonstrably justified in a free and democratic society."[5]

At this point it is worth recalling that one of the stated purposes of the proposed legislation is "to promote respectful and open discussions regarding sexuality and gender." If enacted into law, and even if a narrow interpretation of "conversion practices" were to be accepted by the courts, the proposed legislation would almost certainly have a profound "chilling effect" on freedom of expression concerning gender issues. Some people would be afraid to talk about the subject, or to advance strong opinions, for fear of being prosecuted or being subjected to a claim for damages under the Human Rights Act 1993. The idea that the proposed legislation would promote respectful and open discussions regarding sexuality is therefore difficult to accept, despite the limited exemptions in clause 5(2).

As earlier mentioned, the explanatory note relies on "research" which is said to emphasise that "conversion practices do not work and can contribute to issues such as low self-esteem, depression, anxiety, and suicidal thoughts and attempts." It is not clear what research is being referred to in this part of the explanatory note. Parliament will presumably be provided with that information and may subject it to appropriate scrutiny. It is beyond the scope of my own knowledge and expertise to make any comment on this aspect of the matter, except to observe that, before serious sanctions are imposed for conduct that is currently protected by fundamental rights, it would normally be expected that an empirical investigation would be carried out to assess the extent and seriousness of the perceived problem in the community.[5]

I am not presently aware of any such investigation having been carried out in New Zealand, nor am I aware of any official report on the subject which might justify both criminal sanctions and civil liability in the way that is currently proposed. I understand that the Bill has been referred to a select committee. The question whether an adequate investigation has been carried out, and whether there is sufficient justification for the proposed measures, should obviously be the subject of rigorous scrutiny at this important stage of the legislative process.

In addition to the general outline of the Bill provided above, I have been asked to respond to the specific questions set out below.

1. **Q:** Is the definition of "conversion practice" and "any practice" clearly defined and understandable so that parents, religious groups, counsellors and health professionals will know exactly when they are breaking the law? Does it give certainty to parents and counsellors and health professionals?

   A: As explained above, the definition of "conversion practice" means "any practice" that meets the specified criteria. The term "practice" potentially covers a very wide range of possible conduct. Almost anything a human being does could be called a "practice." It could readily include teaching, counselling and praying for someone. Any attempt to change or suppress a person's sexual orientation, gender identity, or gender expression would potentially be covered by the definition of "conversion practice" unless one of the exemptions in clause 5(2) applied. As earlier noted, whether the term "practice" should be read broadly or narrowly is a question that cannot easily be answered at present. There is, therefore, a significant element of uncertainty in the definition which seems undesirable. This could potentially create difficulty for parents, teachers, religious groups and counsellors. As regards health professions, though, it is important to recall that clause 5(2) excludes "a

[4] Numerous dictionary definitions could be cited in support of this interpretation. [5] As confirmed in section 5 of the New Zealand Bill of Rights Act 1990.

[5] The Law Commission regularly provides detailed reports on law reform issues, for example.

health service provided by a health practitioner in accordance with the practitioner's scope of practice." This provides a measure of protection not enjoyed by other professionals and parents.

2. **Q:** Is the definition of "serious harm" clearly defined and understandable?

A: In relation to an individual, section 4 defines serious harm to mean "any physical, psychological, or emotional harm that seriously and detrimentally affects the health, safety, or welfare of the individual." In relation to an allegation that a conversion practice had caused serious harm, a court could approach the issue by first asking whether it had been proved that the conduct in question had caused any harm at all. If no physical, psychological, or emotional harm had been caused, the allegation would be unproven. If some harm had been caused, the court could go on to consider whether it was proved that the harm done had seriously and detrimentally affected the health, safety, or welfare of the individual. This would involve a factual inquiry based on an assessment of the evidence. An inquiry of this kind would not be unusual in legal proceedings. It would be similar, for example, to the kind of inquiry that the courts used to undertake in personal injury cases and which may still be undertaken in cases where damages are in issue.

3. **Q:** Does the bill adequately deal with causation – that is, identifying whether the "conversion therapy" actually caused the "serious harm"?

A: As noted above, in relation to the offence proposed under clause 9, it would be essential for the prosecution to prove that the conversion practice had caused "serious harm" within the prescribed meaning of that term. Causation is a concept which has been traversed in numerous legal cases and which is often regarded as a question of fact in each case in which it arises. It is, however, a complex issue and, as the UK Supreme Court has recently pointed out,[6] its requirements in any given situation will be influenced by the particular legal context in which it arises. For present purposes, though, the short point is that Parliament usually leaves questions of causation to the courts, because there is no easy way to be specific about what is needed to establish causation when, as here, the proposed legislation would cover factual circumstances of many different kinds. In my opinion, there is therefore no basis for suggesting that the Bill is defective by reason of a failure to define precisely what is required in relation to causation.

4. **Q:** Will a parent be committing a crime if they tell their child that they cannot go on puberty blockers or wear chest binders (female to male transitioning) or tell their child that they cannot identify as the opposite sex or that the parent/s will not refer to their child as the opposite sex pronoun or "they / their" (i.e. who encourages their child to maintain their biological gender or who discourages them from changing their biological gender?)

A: For the reasons outlined above, whether providing parental guidance is a "practice" which would fall within the definition of "conversion practice" is a debateable issue. But if providing parental guidance is a "practice" then the conduct outlined above would fall within the proposed restrictions and would amount to a criminal offence in relation to a person under 18 years of age, if the Bill is enacted into law.

5. **Q:** Will a faith-based school or a church be committing a crime if they teach / preach that Allah/God made us male and female and that we cannot "choose our own gender", and/or that the Quran or the Bible teaches an understanding of sexuality, and that homosexuality (and other acts such as adultery & pornography & sex before marriage) is sin?

A: Conduct of this kind would not fall within the definition of "conversion practice" so long as it was not "directed towards an individual because of the individual's sexual orientation, gender identity, or gender expression" and was not "performed with the intention of changing or suppressing the individual's sexual orientation, gender identity, or gender expression." Such conduct would also fall within the exemption under section 5(2)(f) if it was "the expression only of a religious principle or belief made to an individual that is not intended to change or suppress the individual's sexual orientation, gender identity, or gender expression." Either way, it would not constitute criminal conduct. The problem, however, is that it would be very easy for a preacher or teacher to overstep

[6] *FCA v Arch and others* [2021] UKSC 1 at para 190.

the mark, inadvertently, in relation to subject-matter of this kind.[7] It would also be very easy for a person hearing such preaching or teaching to take the issue personally and to complain that the message was targeted at them. The risk of serious disruption within religious communities is therefore significant and substantial. In my opinion, a stronger and clearer measure is needed to protect the right to impart information and opinions and the right to manifest a person's religion or beliefs.

6. **Q:** If a person asks a religious leader or counsellor for prayer to deal with unwanted sexual thoughts towards the same sex, or for healing for gender confusion and acceptance of their biological sex, will it be a crime for the religious leader to pray or counsel in that manner?

   A: If prayer and counselling were to be classified as a "practice" then the conduct of the religious leader or counsellor could fall within the scope of sections 8 or 9. But this would depend on whether the other requirements of those sections were met. Those other requirements are outlined above.

7. **Q:** If a person wanted to align their sexuality or gender with the teachings and values of their faith, and sought help to do so from a health professional, would they effectively criminalise the health professional who tried to help them, and would they be able to access the support that they wanted?

   A: The health professional would be protected by the exemption in clause 5(2)(a) so long as the health service was being "provided by a health practitioner in accordance with the practitioner's scope of practice." The question suggests that the requested assistance might not be within the normal scope of practice of a general practitioner; but it might possibly be within the normal scope of practice of a psychiatrist or a psychologist. Expert advice is needed on this point.

8. **Q:** Would the Bill, as written, criminalise a doctor who tells the parents to adopt a "wait and see" approach on gender dysphoria (as recommended by the UK High Court recently) rather than adhering to the explicit request of either the parents and/or the child to be prescribe puberty blockers? Would this be deemed a form of "suppressing"?

   A: The health professional would again be protected by the exemption in clause 5(2)(a) so long as the health service was being "provided by a health practitioner in accordance with the practitioner's scope of practice." For the reasons outlined above, it is also questionable whether giving advice to "wait and see" would fall within the definition of "conversion practice." I doubt that it would, and I do not think advice to wait and see would be deemed to be a form of suppression.

9. **Q:** If a person wanted to align their sexuality or gender with the teachings and values of their faith, and sought help to do so from a teacher, counsellor or church pastor, would they effectively criminalise anyone who tried to help them, and would they be able to access that support that they wanted?

   A: In effect, the person would be inviting the teacher, counsellor or church pastor to engage in a conversion practice which would be unlawful and could be criminal in some circumstances.

10. **Q:** Is it correct that a proposed ban "could be inconsistent" with the New Zealand Bill of Rights Act 1990, as was expressed by the Ministry of Health to the Associate Minister of Health in 2018.

    A: Yes, for the reasons outlined above.

11. **Q:** Was the Justice Select Committee correct in 2019 when it said "The Bill of Rights Act affirms, protects, and promotes human rights and fundamental freedoms in New Zealand. It allows all New Zealanders to live free from discrimination, including in relation to their sexual orientation. New Zealanders also have the right to freedom of religion. This protects those who offer and seek out conversion therapy because of their religious views."

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[7] Exhorting others to "repent of their sins" or to "turn from their wicked ways" could become a hazardous activity under the proposed legislation, as currently drafted. This could represent a significant interference with "the right to to manifest a person's religion or belief in worship, observance, practice or teaching either individually or in community with others, and either in public or in private" affirmed by section 15 of the New Zealand Bill of Rights Act 1990.

A: Under the current law, those points are all correct. But if Parliament changes the law, and if the new provisions are sufficiently clear, the rights and freedoms affirmed by the New Zealand Bill of Rights Act could be overridden, or limited, as explained above.

In respect of two of the above questions, I was also asked whether the provisions proposed in the Bill would impair "the right to self-determination." The New Zealand Bill of Rights Act does not refer to a right to self-determination. This phrase is normally used in relation to the ability of a country or an ethnic group to control its own destiny. But the Bill of Rights Act obviously does protect the freedom of the individual to make personal decisions and does so in a variety of ways. At the root of many of the rights and freedoms affirmed by the Bill of Rights Act is the ability of individuals to decide their own destiny without interference from the state, except as provided by law. This equates to a concept of personal autonomy. At common law, this is often referred to as "the liberty of the subject." If enacted, the Bill would undoubtedly restrict personal autonomy, and the liberty of the subject, in at least some of the ways explained above. The key issue for the select committee, and Parliament, is whether restricting personal autonomy and the liberty of the subject, in the way that is proposed in the Bill, is demonstrably justified in a free and democratic society.

Yours faithfully,

G M Illingworth QC

APPENDIX B

Conversion Practices Prohibition Legislation Bill Submission

Patrick Parkinson AM

Professor of Law, University of Queensland

Introduction

I am an expert on family law and child protection with 35 years' experience in these fields. Inter alia, I have chaired Australia's Family Law Council (2004-07), led a major review of its child support system (2004-05), and been President of the International Society of Family Law (2011-2014).

I have written several articles now in the medical and legal literature on legal issues concerning gender dysphoria. My particular focus is on children and young people. I have been in the forefront of debates in Australia on similar legislation, and work closely with paediatricians, psychiatrists, psychologists and others on these issues.

I would ordinarily not get involved on a matter of NZ law and policy unless invited to do so by the Law Commission or other body considering changes to the law. However, given the considerable controversy about this Bill in NZ, and my expertise in the Australian context, it may be helpful to the Committee to have this submission.

Executive summary

1. This Bill is based upon two assumptions that need to be challenged. The first is that there is now a need to ban practices that seek to change or suppress sexual orientation, decades after, it seems, such practices ceased. The second is that therapies endeavouring to address issues of gender identity are as harmful as those that years ago sought to change sexual orientation.
2. There is little evidence to support the claim that gender identity is innate and immutable, making any efforts to 'change' or 'suppress' that gender identity both futile and damaging. Even progressive therapists argue that gender is fluid and that gender identity can change in an individual over time. There are now a lot of 'detransitioners' all over the western world, many of whom deeply regret their decision to take cross-sex hormones and to seek irreversible surgeries. The detransitioners alone are sufficient evidence that gender identity is not innate and immutable.
3. There is no evidence to support the claim that therapists who seek to assist children and young people to become more comfortable with their natal sex cause harm by so doing. Rather, the evidence is that with expert, cautious therapeutic support, some 75-85% of children with gender identity issues can be assisted to become comfortable with their natal sex. The majority of them grow up to be gay or lesbian as adults.
4. The Bill creates a draconian offence, punishable by three years' imprisonment, for engaging in a conversion practice in relation to a child under 18. Even though the definition of a conversion practice allows for more diversity in therapeutic approach than in the Australian versions, the law is likely to have a chilling effect. This will mean that some mental health professionals refuse to see young patients with sexual orientation or gender identity issues who have other serious

mental health concerns. This could lead to an increase in the mental health burden on already very troubled young people, and may lead to increased suicide attempts.

5. Parents who act upon expert medical advice in helping their children with gender identity issues risk prosecution and jail sentences under the law as currently drafted. This is likely to lead to huge distress for parents who are already experiencing very difficult circumstances. It could lead to very grave harms.
6. In summary, the Bill is very likely to cause harm to the NZ community. The tragedy which is now unfolding, not only in NZ but across the western world, will in time lead to investigative journalism exposés, Commissions of Inquiry and class action lawsuits. In NZ, this Bill, being enacted in late 2021 when the issues are already becoming widely known and top medical experts are warning of the consequences, is, in my view, reckless.
7. At the end of the submission I propose certain amendments to the Bill which will address the problems.

The Bill's flawed assumptions

This Bill is based upon an assumption that there is a need to ban practices that seek to change or suppress sexual orientation, decades after such practices seem to have ceased.

Section 5 makes it clear that it is copycat legislation. A note invites readers to compare the definition in this section with that in Queensland, the ACT and Victoria, all of which have passed such legislation in the last year or so. Without any clear indication that there is a present problem that needs to be addressed by the blunt instrument of the criminal law, advocacy groups have in the last three years or so been pressing for far-reaching legislation that is justified either because other jurisdictions have introduced it, or because some people report harmful experiences from a very long time ago.

It requires strong evidence of a serious problem before new criminal laws are enacted. Why this legislation and why now? As far as I am aware, the NZ Parliament is not seeking to ban smoking or violent porn, yet the present harms from these are widely known and almost universally accepted.

The second assumption is that there is a similar harm from practices that seek to assist children or adults with issues of gender identity as with past practices that sought, usually without success, to alter a fixed same-sex orientation. The claim that there is some connection between long-discontinued and unethical practices such as aversion therapy that attempt to change sexual orientation, and treatment programs responding to those with gender identity concerns, is an erroneous one.

The connection between the two is based on an assumption that because LGBTQIA + advocacy groups bring together in a common cause the very different experiences and histories of those who are, or who identify as, gay, lesbian, bisexual, transgender, intersex, non-binary, asexual or queer, so any research on gay and lesbian population groups is automatically applicable to all those others who are in the same socio-political movement. There is no evidence to justify such a claim.

Gender identity is not immutable

There is little evidence to support the claim that gender identity is innate and immutable, making any efforts to 'change' or 'suppress' that gender identity both futile and damaging. Indeed, it is a widely held 'progressive' belief that gender is fluid. For example, Hidalgo and colleagues, who are clinicians at four

specialist gender identity clinics in the United States, express the view that "gender may be fluid, and is not binary, both at a particular time and if and when it *changes within an individual* across time."[8]

The evidence that gender identity may be fluid and changeable is clear also from clinical studies. There is strong evidence of the value and importance of therapeutic counselling for adolescents who come to gender clinics identifying as transgender. For example, Anna Churcher Clarke and Anastassis Spiliadis, of the Tavistock Gender Identity Development Service in London, reported recently on twelve gender dysphoric adolescents who initially sought medical transition but who decided against hormone treatment after counselling.[9]

The idea that gender identity is innate and immutable comes from a belief that people can be born into the wrong body and that sex is 'assigned' at birth rather than observed at birth (or these days, by ultrasound at about 20 weeks gestation). I do not doubt the very real suffering of some people, mostly natal males, whose gender confusion was evident from early childhood and who have found a greater degree of peace in going through sex assignment surgery, but we still know little about the reasons for this condition.

The consensus in the medical and scientific literature is that there is little evidence to support the belief that people can be born in the wrong body.[10] Even clinicians who cite tentative indications from some studies to support a biological component to gender diversity, nonetheless acknowledge the need for "multiple-level explanations where the social and the biological intersect."[11]

No member of the NZ Parliament, surely, can be unaware of the number of young women, in particular, who have 'detransitioned', and bitterly regret life-changing and irreversible medical decisions they took in their teenage years. Academic studies are now beginning to emerge on detransitioners.[12] Yes, there are also many accounts of happy transitioners. Indeed, some 'trans' celebrities on YouTube present it as a great thing to do and play down or deny the complexities and risks. The problem is that because there is no neuro-biological marker, and no other objective diagnostic test (since we cannot even be remotely confident there is a genetic or hormonal cause), we cannot know at any point in time who will be glad they went on this medical journey and those who will regret it deeply.

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[8] M. Hidalgo and others, 'The Gender Affirmative Model: What we Know and What We Aim to Learn' (2013) 56 *Human Development* 285.

[9] Anna Churcher Clarke & Anastassis Spiliadis ''Taking the Lid Off the Box': The Value of Extended Clinical Assessment for Adolescents Presenting with Gender Identity Difficulties' (2019) 24(2) Clinical Child Psychology and Psychiatry 338.

[10] The research evidence is reviewed in Sven Mueller, Griet De Cuypere and Guy T'Sjoen, 'Transgender Research in the 21st Century: A Selective Critical Review from a Neurocognitive Perspective' (2017) 174(12) *American Journal of Psychiatry* 1155. The authors observe (at 1158): "Despite intensive searching, no clear neurobiological marker or "cause" of being transgender has been identified". See also Jack Turban and Diane Ehrensaft, 'Research Review: Gender Identity in Youth: Treatment Paradigms and Controversies' (2018) 59 *Journal of Child*

[11] Gary Butler, Bernadette Wren and Polly Carmichael, 'Puberty Blocking in Gender Dysphoria – Suitable for All?' (2019) 104(6) *Archives of Disease in Childhood* 509.

[12] Pablo Expósito-Campos, 'A Typology of Gender Detransition and Its Implications for Healthcare Providers', (2021) 47(3) *Journal of Sex and Marital Therapy* 270; Elie Vandenbussche, 'Detransition-related Needs and Support: A Cross-Sectional Online Survey' (2021) *Journal of Homosexuality* advance. For a different view, see Jack Turban et al, 'Factors Leading to ''Detransition'' Among Transgender and Gender Diverse People in the United States: A Mixed-Methods Analysis', (2021) *LGBT Health* advance. *Psychology and Psychiatry* 1228. Three authors express greater confidence that there is a physiological explanation: Aruna Saraswat, Jamie Weinand and Joshua Safer, 'Evidence Supporting the Biologic Nature of Gender Identity' (2015) 21(2) *Endocrine Practice* 199. However, the authors were unable to assign specific biological mechanisms for gender identity and noted the need for caution due to small sample sizes in the studies.

While a couple of earlier studies suggested that rates of regret are very low,[13] and these are constantly quoted by activists to deny that there are many detransitioners, three factors now raise questions about the applicability of those findings to the current context. First, modes of treatment of children and adolescents have changed greatly over time. The Dutch Protocol is relatively new, only gradually spreading beyond the Amsterdam clinic which developed it, particularly over the last ten years. Secondly, gender clinics are dealing with a somewhat different population of adolescents seeking treatment than many years ago, only some of whom had recognised gender dysphoria earlier in childhood. Thirdly, a proportion of children and young people who have received the services of child and adolescent gender clinics are lost to follow up as they move to adult services, receive ongoing prescriptions for cross-sex hormones through general practitioners, or are otherwise lost through general mobility factors. Rates of desistence in that group are unknown. It is reasonable to assume that some detransitioners at least will not be responsive to follow up attempts by a gender clinic.[14] There is very little longitudinal research in this area tracking those adolescents who have received cross-sex hormone treatment in the last ten years.

Therapeutic support assists most children to become comfortable in their natal sex

Criminalising the provision of therapy to children who are experiencing gender identity issues is particularly ill-advised, because the clear evidence is that the great majority of children who attend gender clinics because they experience serious discordance between natal sex and gender identity tend to resolve these issues when they go through puberty - as long as a cautious therapeutic approach is adopted.[15] Most grow up to become gay or lesbian adults.

These consistent clinical findings have been contested on theoretical grounds.[16] However, no clinical studies have been conducted that contradict these findings. If the findings of all previous scientific studies are accepted, there is absolutely no justification in passing this prohibition on therapeutic work with children who experience gender identity issues. Indeed, it is extraordinarily irresponsible.

The Bill's draconian offence

People acting in good faith and with the consent of the young person involved, are subject to prosecution if they engage in what the police consider to be a 'conversion practice', with a threat of jail for up to three years. The only safeguard is that a prosecution requires the consent of the Attorney-General.

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[13] Cecilia Dhejne et al, 'An Analysis of All Applications for Sex Reassignment Surgery in Sweden, 1960–2010: Prevalence, Incidence, and Regrets' (2014) 43(8) *Archives of Sexual Behavior* 1535; Wiepjes et al (n 101); Valeria Bustos et al, 'Regret After Gender-affirmation Surgery: A Systematic Review and Meta-analysis of Prevalence', (2021) 9(3) *Plastic and Reconstructive Surgery* e3477: 1-12.

[14] The evidence presented to the Court in *Re Kelvin* indicated that 96% of patients treated at the Royal Children's Hospital in Melbourne do not desist (at [56]). However, there is no indication of how many patients were lost to follow-up and the case stated (ibid) indicated that no longitudinal study is available.

[15] M. Wallien, & P. Cohen-Kettenis, 'Psychosexual Outcome of Gender-dysphoric Children' (2008) 47 *Journal of the American Academy of Child and Adolescent Psychiatry* 1413; J. Ristori and T. Steensma, 'Gender Dysphoria in Childhood' (2016) 28 *International Review of Psychiatry* 17; Entwistle K. 'Debate: Reality check – Detransitioner's Testimonies require us to Rethink Gender Dysphoria'. *Child & Adolescent Mental Health*, 2020. doi:10.1111/camh.12380.

[16] Julia Temple Newhook and others, 'A Critical Commentary on Follow-Up Studies and "Desistance" Theories About Transgender and Gender-Nonconforming Children' (2018) 19 *International Journal of Transgenderism* 212; see also the responses from Kenneth Zucker, Thomas Steensma & Peggy Cohen-Kettenis in the same issue.

Medical practitioners and other professionals who are accused of 'conversion therapy' could also be subject to harassment through civil remedy channels as well.

The definition of 'conversion practice' is complex. On the one hand, it prohibits in broad terms practices intended to change or suppress a person's gender identity or gender expression. On the other hand, it creates exceptions which are also broadly drafted, and are not limited, as Victoria's legislation is, to practices that affirm someone's gender identity. On a natural reading, then, a mental health professional who engages in a practice which does lead a young person to abandon their belief that they are 'trans', will not be convicted or subject to civil remedies because he or she provided a health service 'in accordance with the practitioner's scope of practice'.

However, since the whole point of the legislation is to scare health professionals away from providing therapy that does not simply affirm a young person's belief that he or she is 'trans', it may not really matter how carefully s.5(2) is drafted. The risk of criminal or civil action is likely to be a deterrent to responsible professionals seeking to assist children and young people with gender identity issues.

This has already been the experience in Australia. The final version of Queensland's legislation provides mental health professionals with a similar exception, but evidence is emerging that mental health professionals are turning away patients who present with gender identity issues, and referring them to practitioners who live in NSW, where no such laws exist.

The situation in Victoria, which passed perhaps the most extreme legislation in the world, is even more dire. I have learned of psychologists directly refusing referral of a patient for psychotherapy whose presentation was a deteriorating mental state in the context of their gender dysphoria. I have heard of psychiatrists also refusing to see patients presenting with gender identity issues of any kind. There have also been cases where young people who identify as same-sex attracted have been refused mental health support as a direct result of the legislation.

This is tragic because all the evidence is that many young people coming to gender clinics have a great range of psychiatric comorbidities or other mental health issues. The stories of happy and well-adjusted trans teenagers are atypical. A leading study of 204 children or adolescents seen at the Gender Identity Clinic in Amsterdam published in 2010 indicated that the rate of autism diagnoses among those with gender dysphoria were about ten times as high as the general population.[17] A study in Finland published in 2015 found that 26% of the 47 young people seen in the gender clinic had been diagnosed as being on the autism spectrum.[18] This strong association between autism and gender dysphoria has been found in other studies.[19]

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[17] Annelou de Vries et al, 'Autism Spectrum Disorders in Gender Dysphoric Children and Adolescents' (2010) 40(8) *Journal of Autism and Developmental Disorders* 930.

[18] Riittakerttu Kaltiala-Heino et al, 'Two Years of Gender Identity Service for Minors: Overrepresentation of Natal Girls with Severe Problems in Adolescent Development' (2015) 9 Child and Adolescent Psychiatry and Mental Health 9.

[19] Anna Van Der Miesen, Hannah Hurley & Annelou de Vries, 'Gender Dysphoria and Autism Spectrum Disorder: A Narrative Review' (2016) 28(1) International Review of Psychiatry 70; Vicky Holt, Elin Skagerberg and Michael Dunsford, 'Young People with Features of Gender Dysphoria: Demographics and Associated Difficulties' (2016) 164 Clinical Child Psychology and Psychiatry 108.

These children have other psychiatric comorbidities[20] that cannot all be explained by bullying, discrimination, parental disapproval or other sources of minority stress.[21] Examples are attention deficit disorder, anorexia and body dysmorphia.[22] New Australian research shows that many of these children have disordered attachments, or have suffered from trauma, including child abuse. Others have a history of family dysfunction.[23]

The serious risk is that as a result of ill-considered laws based upon unscientific beliefs, many very troubled young people will be deprived of the help and care they need from mental health professionals, and will embark upon irreversible medical transitions that they later deeply regret. This risk arises because such laws have a chilling effect, driving professionals away from offering services that *might* be prohibited, however carefully drafted the laws may be. These are the unintended consequences of unnecessary legislation which is directed at scaring therapists away from providing therapy.

This is what lawyers call the 'chilling effect' of legislation. It has effects far beyond the actual prohibitions contained in the detail of the Act. People don't necessarily act upon the law as written. They act upon the law as they believe it to be, or from fear of what the law might be or how it might be misused. It is true that prosecution requires the Attorney-General's consent. In normal times, this ought to provide some reassurance. Unfortunately, there is a perception, at least in Australia, that certain left of centre parties have been captured by, or are influenced by, extremist ideologies. Such has been the fervour with which people like Germaine Greer and JK Rowling have been denounced, that the consent to prosecution of a 'progressive' Attorney-General can no longer provide much assurance.

The risk to parents of relying upon medical advice

Parents have good reason to be worried. Even if a health professional can rely on section 5(2)(a), that provides no such comfort to parents who rely upon their advice. Consider a 13 year old girl who decides, after exposure to teaching on gender identity at her school, and engaging with trans groups over the internet, that she is 'trans' and wants puberty blockers and testosterone. Her GP, knowing of the child's history of mental health problems, urges caution and taking it slowly. He refers the parent and child to a child psychiatrist, who gives similar advice. The psychiatrist advises the parents to adopt a watchful waiting approach, allowing the girl to wear male clothing but not allowing her to change her name or identity at school. This is in accordance with the advice of the Royal College of Psychiatrists in the UK

[20] Madeleine Wallien, Hanna Swaab and Peggy Cohen-Kettenis, 'Psychiatric Comorbidity Among Children with Gender Identity Disorder' (2007) 46(10) *Journal of the American Academy of Child and Adolescent Psychiatry* 1307; Norman Spack et al, 'Children and Adolescents with Gender Identity Disorder Referred to a Pediatric Medical Center' (2012) 129(3) *Pediatrics* 418.

[21] This is often presented as the reason for depression and self-harming among gender dysphoric adolescents: M Hidalgo et al, 'The Gender Affirmative Model: What we Know and What We Aim to Learn' (2013) 56 Human Development 285. In Australia, see e.g. Michelle Telfer et al, 'Transgender Adolescents and Legal Reform: How Improved Access to Healthcare was Achieved Through Medical, Legal and Community Collaboration' (2018) 54(10) Journal of Paediatrics and Child Health 1096.

[22] Riittakerttu Kaltiala-Heino et al, 'Gender Dysphoria in Adolescence: Current Perspectives' (2018) 9 Adolescent Health, Medicine and Therapeutics, 31; Gemma Witcomb et al, 'Body Image Dissatisfaction and Eating-Related Psychopathology in Trans Individuals: A Matched Control Study', (2015) 23(4) European Eating Disorders Review 287.

[23] Kasia Kozlowska et al, 'Attachment Patterns in Children and Adolescents with Gender Dysphoria', (2021) 11 Frontiers in Psychology 582688: 1-21; Kasia Kozlowska et al, 'Australian Children and Adolescents with Gender Dysphoria: Clinical Presentations and Challenges Experienced by a Multidisciplinary Team and Gender Service' (2021) Human Systems: Therapy, Culture and Attachments, advance.

for pre-pubertal children presenting with gender dysphoria,[24] and other expert bodies. In the meantime, the psychiatrist undertakes therapy with the child to explore the reasons why she thinks she is 'really male'. Specifically, both the GP and psychiatrist advise strongly against taking the child to the nearest gender clinic because neither trusts it.

The psychiatrist may be protected under section 5(2)(a); but the child's parents have no such protection for acting upon the psychiatrist's advice in 'suppressing' the child's gender identity. I have known one mother of a girl who suddenly identified as a 'trans', who was driven to contemplate suicide, so awful was the situation. Consider now what NZ mothers will feel if told they could be sent to jail for three years for not affirming their daughter's new-found gender identity. The advice may not be accurate, but parents get a lot of inaccurate information and advice in these situations.

The unfolding tragedy

I recommend every MP to look for detransitioners on YouTube or to find the detransitioners' subreddit, and spend a few hours seeking to understand the experience of these deeply damaged young people, mostly natal females. They have irreversibly deep voices, may have had a double mastectomy, and may be unable to have children. Natal males will also be among the profoundly damaged.

Within the next decade, there will be journalistic exposés, class actions and commissions of inquiry. Given all that is now known about the issues, and given the multiple red flashing lights warning of danger, the senior judge or retired judge who chairs the Commission of Inquiry will wonder aloud how it was that so many activists, almost all of them identifying with the left of politics, treated a complex set of medical and psychological issues as matters of political allegiance which required unquestioning belief in unscientific ideas.

Medical professionals will also come under scrutiny. There will be serious questions about why an experimental medical practice, with very limited evidence to support its benefits and efficacy over the long-term, was not properly regulated by the government or by hospital ethics committees. The inquiry will explore why so few stood up to the intimidation and silencing, when they knew the damage being caused to young people. The Prime Minister of the day will eventually offer an abject apology from the floor of Parliament. This Bill, if enacted in its present form, will be part of the scandal.

Recommendations

To avoid these harms, I recommend the following amendments:

Section 5 should be amended as follows:

Meaning of conversion practice

(1) In this Act, **conversion practice** means any therapeutic practice that—
(a) is directed towards an individual because of the individual's sexual orientation and (b) is performed with the intention of changing the individual's sexual orientation.

Examples:

- Inducing nausea, vomiting or paralysis while showing the person same-sex images.
- Using shame or coercion to give the person an aversion to same-sex attraction.

[24] Supporting transgender and gender-diverse people: PS02/18. Royal College of Psychiatrists 2018. https://www.rcpsych.ac.uk/pdf/PS02_18.pdf

However, **conversion practice** does not include—
(a) a health service provided by a health practitioner in accordance with the practitioner's scope of practice; or
(b) providing acceptance, support, or understanding of an individual; or
(c) the expression of a religious principle or belief made to an individual concerning same-sex sexual activity.

Conclusion

Eventually, the medical profession will take a more balanced and evidence-based view on these issues. Already, the Karolinska Hospital in Stockholm, a leader in the field in Sweden, has ceased to prescribe puberty blockers and cross-sex hormones for minors under age 16, with effect from April 2021, applying the precautionary principle. Treatment of 16 and 17 year olds is subject to very strict conditions and must occur in the context of a clinical trial.[25] Finland has also revised its practices, with psycho-social support to be the primary course of treatment for minors.[26] England, of course, has stopped puberty blockers and cross-sex hormones without court approval following the Keira Bell case.[27] Western Australia is reviewing its practices now.

Given the debates and uncertainty in the medical profession, this is no time for the NZ Parliament to pass legislation that will be understood as seeking to scare therapists away from providing therapy to very troubled adolescents who identify as 'trans' or 'gender diverse'. There is no need for the rest of the Bill either; but at least these amendments will reduce the harm.

Prof. Patrick Parkinson AM, MA, LLM, LLD University of Queensland

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[25] The policy statement is available at: https://segm.org/sites/default/files/Karolinska%20_Policy_Statement_English.pdf.

[26] See <https://palveluvalikoima.fi/documents/1237350/22895008/Summary_minors_en.pdf/aaf9a6e7-b9709de9-165c-abedfae46f2e/Summary_minors_en.pdf>.

[27] *Bell v Tavistock and Portman NHS Foundation Trust* [2020] EWHC 3274 (Admin) ('*Tavistock*').

APPENDIX C

'CONVERSION THERAPY' BAN POLL
December 2020

CLIENT: Family First New Zealand

POLL DATES: Mon 14 to Thu 17 December 2020. The median response was collected on Wed 16 December 2020.

TARGET POPULATION: Eligible New Zealand voters.

SAMPLE POPULATION: Eligible New Zealand voters who are contactable on a landline or mobile phone.

SAMPLE SIZE: 1,000 respondents agreed to participate.

SAMPLE SELECTION: A random selection of 24,000 nationwide phone numbers.

WEIGHTING: The results are weighted to reflect the overall voting adult population in terms of gender, age, area and deprivation.

SAMPLE ERROR: Based on this sample of 1,000 respondents, the maximum sampling error (for a result of 50%) is +/- 3.1%, at the 95% confidence level.

CODE COMPLIANCE: This poll was conducted in accordance with the Research Association New Zealand Code of Practice and the International Chamber of Commerce/European Society for Opinion and Market Research Code on Market and Social Research.

If a child is confused about their gender, should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy?

Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy?

		Count	Col %
Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy?	Yes	66	7%
	No	818	81%
	Unsure	121	12%
	Total	1005	100%

Only 7% of respondents think it should be a crime for parents to affirm to their children their biological sex.

Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy? BY Gender

		Gender	
		Female	Male
		Col %	Col %
Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy?	Yes	11%	3%
	No	77%	85%
	Unsure	12%	12%
	Total	100%	100%

Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy? BY Age

		Age		
		18 - 40	41 - 60	61+
		Col %	Col %	Col %
Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy?	Yes	5%	8%	6%
	No	88%	78%	76%
	Unsure	6%	14%	17%
	Total	100%	100%	100%

Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy? BY Area

		Area		
		Metro	Provincial	Rural
		Col %	Col %	Col %
Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy?	Yes	4%	8%	11%
	No	82%	86%	75%
	Unsure	15%	6%	14%
	Total	100%	100%	100%

Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy? BY Deprivation

		Deprivation		
		Deciles 1 - 3	Deciles 4 - 7	Deciles 8 - 10
		Col %	Col %	Col %
Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy?	Yes	6%	6%	7%
	No	82%	79%	84%
	Unsure	12%	14%	9%
	Total	100%	100%	100%

Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy? BY Party Vote 2020

		Party Vote 2020					
		National	Labour	ACT	Greens	Others	Not Vote/Unsure
		Col %	Col %	Col %	Col %	Col %	Col %
Should it be a crime for a parent to affirm to their daughter that she's a girl or to their son that he's a boy?	Yes	6%	9%	5%	9%	6%	4%
	No	83%	79%	75%	87%	88%	80%
	Unsure	11%	12%	20%	5%	6%	16%
	Total	100%	100%	100%	100%	100%	100%

If a person is unsure about their sexual orientation or gender identity, should they be able to seek counselling support to determine their own direction in how they identify?

Should a person unsure about their sexual orientation or gender identity be able to seek counselling support

		Count	Col %
Should a person unsure about their sexual orientation or gender identity be able to seek counselling support	Yes	813	81%
	No	124	12%
	Unsure	66	7%
	Total	1004	100%

81% of respondents think a person unsure of their sexual orientation or gender identity should be able to seek counselling support to determine their own direction.

Should a person unsure about their sexual orientation or gender identity be able to seek counselling support BY Gender

		Gender	
		Female	Male
		Col %	Col %
Should a person unsure about their sexual orientation or gender identity be able to seek counselling support	Yes	84%	78%
	No	9%	15%
	Unsure	7%	6%
	Total	100%	100%

Should a person unsure about their sexual orientation or gender identity be able to seek counselling support BY Age

		Age		
		18 - 40	41 - 60	61+
		Col %	Col %	Col %
Should a person unsure about their sexual orientation or gender identity be able to seek counselling support	Yes	73%	86%	85%
	No	19%	10%	7%
	Unsure	8%	4%	8%
	Total	100%	100%	100%

Should a person unsure about their sexual orientation or gender identity be able to seek counselling support BY Area

		Area		
		Metro	Provincial	Rural
		Col %	Col %	Col %
Should a person unsure about their sexual orientation or gender identity be able to seek counselling support	Yes	78%	82%	85%
	No	12%	14%	10%
	Unsure	9%	3%	5%
	Total	100%	100%	100%

Should a person unsure about their sexual orientation or gender identity be able to seek counselling support BY Deprivation

		Deprivation		
		Deciles 1 - 3	Deciles 4 - 7	Deciles 8 - 10
		Col %	Col %	Col %
Should a person unsure about their sexual orientation or gender identity be able to seek counselling support	Yes	80%	82%	81%
	No	13%	11%	13%
	Unsure	7%	7%	5%
	Total	100%	100%	100%

Should a person unsure about their sexual orientation or gender identity be able to seek counselling support BY Party Vote 2020

		Party Vote 2020					
		National	Labour	ACT	Greens	Others	Not Vote/Unsure
		Col %	Col %	Col %	Col %	Col %	Col %
Should a person unsure about their sexual orientation or gender identity be able to seek counselling support	Yes	89%	90%	63%	72%	89%	67%
	No	9%	7%	29%	26%	4%	16%
	Unsure	2%	3%	8%	3%	7%	17%
	Total	100%	100%	100%	100%	100%	100%

Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality, and of gender being determined at birth?

Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender

		Count	Col %
Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender	Yes	160	16%
	No	624	62%
	Unsure	220	22%
	Total	1004	100%

Only 16% think it should be a crime for a faith leader to teach a religious view of sexuality and gender.

Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender BY Gender

		Gender	
		Female	Male
		Col %	Col %
Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender	Yes	18%	14%
	No	58%	66%
	Unsure	25%	20%
	Total	100%	100%

Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender BY Age

		Age		
		18 - 40	41 - 60	61+
		Col %	Col %	Col %
Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender	Yes	14%	16%	19%
	No	66%	58%	63%
	Unsure	20%	26%	19%
	Total	100%	100%	100%

Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender BY Area

		Area		
		Metro	Provincial	Rural
		Col %	Col %	Col %
Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender	Yes	17%	13%	17%
	No	59%	66%	65%
	Unsure	24%	21%	17%
	Total	100%	100%	100%

Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender BY Deprivation

		Deprivation		
		Deciles 1 - 3	Deciles 4 - 7	Deciles 8 - 10
		Col %	Col %	Col %
Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender	Yes	17%	15%	16%
	No	62%	60%	66%
	Unsure	21%	25%	18%
	Total	100%	100%	100%

Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender BY Party Vote 2020

		Party Vote 2020					
		National	Labour	ACT	Greens	Others	Not Vote/Unsure
		Col %	Col %	Col %	Col %	Col %	Col %
Should it be a crime for a faith leader to teach a Biblical or Koran view of sexuality and gender	Yes	17%	21%	14%	9%	17%	11%
	No	67%	54%	58%	80%	68%	59%
	Unsure	17%	25%	28%	11%	15%	30%
	Total	100%	100%	100%	100%	100%	100%

MARGINS OF ERROR

The following maximum sampling margin of errors apply for each demographic group:

- All 3.1%
- Women 4.2%
- Men 4.5%
- Under 40s 9.4%
- 41 to 60 5.2%
- Over 60s 4.2%
- Metro 4.9%
- Provincial 6.7%
- Rural 5.0%
- Deciles 1 to 3 5.3%
- Deciles 4 to 7 4.9%
- Deciles 8 to 10 6.0%
- National voters 5.8%
- Labour voters 5.1%
- ACT voters 13.6%
- Green voters 13.7%
- Unsure voters 7.4%

David Farrar
Director
Curia Market Research

24 December 2020