

# Some problems with the Conversion Practices Prohibition Legislation Bill, and a suggested (and highly necessary) additional clause

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The “Conversion Practices Prohibition Legislation Bill” was recently introduced to Parliament. For the text of the Bill, see [here](#).

Is this Bill a good thing? Or is it potentially “harmful”?

Many Christians might agree in principle with *some* aspects of the Bill, such as its declared intent to

- “promote respectful and open discussions regarding sexuality and gender”
- “affirm the dignity of all people”
- “uphold the human rights of all New Zealanders, including rainbow New Zealanders, to live free from discrimination and harm”
- ban “therapies”, “treatments”, and “conversion practices” for LGBT people which are “harmful” and which “can contribute to issues such as low self-esteem, depression, anxiety, and suicidal thoughts”.

Certainly Christian churches should disavow any pastoral or counselling practices with regard to gay or transgender people that are unloving, uninvited, coercive, harsh, or disrespecting of people’s freedoms. Most Christians would agree that pastoral counselling and interaction should always be compassionate, gentle, and respectful of everyone’s personal worth, dignity, and freewill.

There, are, however, many aspects of the Bill which are problematical. Here’s some of them...

## 1. **The State should not be legislating (or criminalising anyone) on the basis of a disputable opinion:**

The Bill criminalises any “practice” which is “intended to change or suppress a person’s sexual orientation, gender identity, or gender expression”. But this assumes that no one can *ever* change their sexual preferences or behaviour, or their gender identity. But the reality is, when it comes to sexual and gender identities, there is some traffic in *all* directions. Criminal law should not be based on a questionable assumption that nobody ever changes, when it is clear that some people actually do change, in various directions: heterosexual to homosexual or bi-sexual and vice versa, and male identity to female identity and vice versa.

...INSTEAD, WE SUGGEST: if the key problem which the Bill is intended to prevent is coercive, abusive, and harmful conversion therapy, the law should be more narrowly focused on defining and eliminating that, not on enshrining in law debateable opinions.

## 2. **The law should not deny people freedom to seek and receive whatever support they desire.**

To criminalise any words or actions which could be construed as “intended to change or suppress a person’s sexual orientation, gender identity, or gender expression” cuts across the freedom of people of any sexuality or gender identity to both *seek* and *receive* (see Bill of Rights 14) any assistance and support they may want, so as to explore any different identity or way of living. Most people remain settled in their identity and lifestyle, but some *want* to explore making major life changes, and naturally seek assistance from those around them. The current wording of this Bill would make many parents, family members, counsellors, religious leaders, and friends very wary of saying or doing *anything*, even when they are asked by someone to give advice, guidance, or support. As the Crown Law Office has advised (see whole document [here](#)), the Bill would bring “a significant limitation on freedom of expression”, and could have “a potential chilling effect on legitimate expressions of opinion within families/whānau about sexuality and gender”. The current wording of the Bill in effect undermines the second stated purpose of the Bill: to “promote respectful and open discussions regarding sexuality and gender” (Section 3 b), and would undoubtedly achieve the opposite outcome.

...INSTEAD, WE SUGGEST: the Bill should (a) clarify what “conversion practices” are illegal (e.g. anything unsolicited, condemning, harsh, or coercive), and (b) clarify what sorts of casual advice, family guidance, counselling or pastoral assistance is fully lawful.

## 3. **The law should be consistent and even-handed:**

- The Bill criminalises those who attempt to “change or suppress a person’s sexual orientation, gender identity, or gender expression”. But will that apply to those who encourage and advise young people to change their sex or identity away from their biological sex, or will it only apply to those (such as parents) who advise *against* such changes?
- The Bill rightly shows concern for protecting from harm anyone either under the age 18 or who “lacks, wholly or partly, the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to their health or welfare”. But will that apply to those who encourage and advise children to make major life-changing decisions about gender identity, at an age when, wholly or partly, such minors are unable to understand the consequences of their decisions?

...WE SUGGEST: The Bill’s inconsistencies in these matters indicate weaknesses in its logical underpinnings, and inappropriate biases.

#### 4. The Bill as worded compromises religious freedom:

- The New Zealand Bill of Rights guarantees “Freedom of thought, conscience, and religion: Everyone has the right to freedom of thought, conscience, religion, and belief, including the right to adopt and to hold opinions without interference” (Clause 13), “Freedom of expression: Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form,” (Clause 14), and “Manifestation of religion and belief: Every person has the right to manifest that 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” (Clause 15).
- On the other hand, the Conversion Practices Prohibition Legislation Bill allows only for “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”. This is too narrow a freedom that is being permitted by this Bill. Religious groups do not state their doctrinal beliefs in isolation from life and practice, but legitimately commend them as a basis for life. Doctrine divorced from life is deeply inconsistent with Christian “observance” and “practice” as guaranteed in the Bill of Rights, and the State should be extremely careful about any interference in such matters.
- The heart of the Christian message is not its sexual ethics (i.e. the belief on biblical grounds by most Christians that God’s intended context for human sexual relationships is marriage between a man and a woman). The heart of the Christian message is about God’s love and grace: reconciliation with God through Christ, God’s forgiveness, and new spiritual life in Christ. In response to God’s grace, all Christians are called to make some changes, in many parts of their lives. None of that is easy, and none of that can ever be orchestrated or coerced. It is simply a work of God’s grace, through the Spirit of God, and a very private matter.
- The church should certainly repudiate or avoid any pastoral practice which is coercive, disrespectful, or harmful, and we must emphasise that our point here is not to make space in any way for such harmful practices. Our concern is simply about the likely cramping effect of this Bill on legitimate and un-harmful pastoral practices. The vagueness and broadness of the Bill’s prohibition against anything “intended to change or suppress a person’s sexual orientation, gender identity, or gender expression” would likely have an unhelpfully constricting effect on the time-honoured exercise of appropriate pastoral counselling and pastoral prayer in church contexts (and also in families).
- Caution about those effects was expressed by the Crown Law Office, which noted that “the broad definition of those [conversion] 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”, and

that “There is no doubt that as expressed the prohibition will extend to activities and communications that occur within families and within religious groupings”.

- We are especially disturbed and affronted that the State would take any interest in the content of appropriate and time-honoured religious practices of pastoral discussions and prayer. We would consider that an unacceptable breach of the Bill of Rights clause 15, which asserts “Manifestation of religion and belief: Every person has the right to manifest that 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.”

### **A suggested (and highly necessary) additional clause:**

To give effect to the second purpose of the Act as stated in 3(b), and to mitigate most of the inappropriate likely consequences of this Bill, we very strongly recommend a further clause be inserted into Section 5 (2), that...

[“in this Act, conversion practice does not include— ]

(g) respectful and open discussions regarding sexuality and gender, and advice, guidance, prayer, or support given to anyone by anyone else including parents, family members, friends, counsellors, religious leaders, or health professionals, when such advice or support is requested, and is respectful and non-coercive”.