



24 September 2021

S21.22 oral

Oral submission to the Justice Select Committee on the Conversion Practices Prohibition Bill

Presenters:

Raewyn Stone and Bernice Williams

Justice Select Committee

Willow-Jean Prime, Labour (Chair); Louisa Wall, Labour; Dr Elizabeth Kerekere, Green Party; Hon Simon Bridges, National; Glen Bennett, Labour.

Introduction

1. Ata mārie. Good morning. I am Raewyn Stone and I convene the Health Committee of the National Council of Women of New Zealand (NCWNZ). With me is Bernice Williams of the Parliamentary Watch Committee.
2. The National Council of Women represents over 200 organisations and individual members, affiliated at either national or branch level. Collectively, we represent over 450,000 members.
3. Thank you for the opportunity to speak to our written submission on this Bill which is an important milestone in the country's progress towards achieving gender equality.
4. Our written submission is based on NCWNZ policy that supports equality and equal rights for people of all genders, for non-binary and intersex people, and for people of the LGBTQI community. It draws on recent feedback from our members who were unanimous in their strong support of the Bill.
5. NCWNZ is pleased to note that the Bill will contribute towards meeting Aotearoa New Zealand's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child.
6. We make 10 recommendations on how the Bill could be strengthened and, just as important, draw attention to other measures that Government, the Human Rights Commission, and others need to take to make the legislation effective and to protect the rights and wellbeing of our LGBTQI community.

Specific clauses

Clauses 8 and 9

7. Our members had considerable difficulty interpreting Clauses 8 and and assessing their impact.
8. **They queried why an offence under** Clause 8 should be subject to a lesser penalty than that defined under Clause 9, and we ask the Committee to reconsider this.
9. Members raised concerns at the apparent lack of protection for people aged 18- 25 years, a period when many people are both psychologically vulnerable and exploring their gender and sexual identities. While not necessarily suggesting that the age limit in Clause 8 be changed to 25 years, but we urge the Committee to consider how “lacking decision-making capacity” in Clause 8 and the provisions in Clause 9 are likely to be interpreted, and whether these provide sufficient protection for this age group.
10. We recommend the Committee consider another subsection be added to Clause 8 or have included in some way, that it is an offence of negligence, where a person having a responsibility to the second person, breaches that duty of care by subjecting them to conversion therapy and thereby causes the person harm.
11. The definition of “reckless” must be made clearer. Clause 9 seems to be referring to serious harm being caused whether the person engaging in conversion practices intended it to cause harm or not. This should be stated more clearly, minimising the possibility of misinterpretation or manipulation.
12. Clause 12 should be removed. There should be no need for the Attorney General’s consent for prosecution. This is another layer of bureaucracy and potential for political interference in the lives of LGBTQI people. Conversion practices should be treated like other crimes and not require such a high threshold for prosecution or decisions made by the justice system.
13. Our other recommendations refer to critical associated actions. We urge the Government to undertake consultation and policy development, and to seek to enact legislation regarding genital surgery on intersex infants and children to ensure the protection of intersex children and infants under the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990.
14. This was a recommendation of CEDAW In their Concluding Observations on the 2018 New Zealand report.

Clause 5(2) Medical practitioners and the health sector

15. Many NCWNZ respondents wished to remove the blanket exemption for health practitioners under this clause.
16. We acknowledge that most key professional bodies condemn conversion therapy and have a code of ethics. Codes are not legally binding, however, and research has shown that that one in six transgender or non-binary people have been subjected to conversion therapy by a medical professional.

17. **NCWNZ considers further work needs to be done by the health sector to improve gender-affirming care and to prevent conversion practices from being performed on their patients. We urge the Select Committee to recommend this.**
18. **As a first step we ask the Committee to consider including in the Bill a ban on advertising conversion therapy treatment.**

Clause 5(2)f – religious principles

19. **This is a sensitive area, and we believe the Committee should consider the relationship of this Bill to pending legislation seeking to strengthen protections against the incitement of hatred or hostility. It should further make any necessary adjustments to the Bill to ensure it includes provision for adequate protection of the LGBTQI community.**
20. **The current law needs to be made clearer to ensure it provides protection against discrimination based on gender identity or gender expression, or people’s sex characteristics or intersex status**

Proposed support to survivors

21. **We strongly advocate for sufficient resourcing to be provided to the Human Rights Commission, supporting organisations and networks, to make this a reality.**
22. **Survivors of conversion therapy should not have to navigate a bureaucratic maze to get help. Many will not have the capacity to navigate the complicated processes of the Human Rights Commission, Human Rights Review Tribunal, or the criminal justice system.**
23. **As a first step, the Government should extend the scope of the Accident Compensation Commission to cover mental injury as a result of conversion practices. This would provide a more certain, simple, and familiar process for those seeking remedy.**
24. **Finally, and essentially, NCWNZ urges the Government and Human Rights Commission to provide education and publicity about the legislation that is understandable for everyone. The fundamental message to impart should focus on the Bill’s aim to secure the human rights and wellbeing of Aotearoa New Zealand’s LGBTQI community.**

Questions

Q: Dr Elizabeth Kerekere. Not a question but a comment to thank NCWNZ for the survey of their members. Dr Kerekere acknowledged the additional work undertaken to engage with membership on top of writing and presenting a written and oral submission. Dr Kerekere was thankful that a survey of members was undertaken as it means that when NCWNZ speaks it does so from a strong representative place.