



TO	Justice Committee
FROM	UniQ Victoria, UniQ Waikato, SPACE Lincoln, QCanterbury, and UniQ Otago
DATE	7th September 2021
SUBJECT	Conversion Practices Prohibition Legislation Bill

Thank you for the opportunity to make a written submission on the *Conversion Practices Prohibition Legislation Bill*. We also wish to make an oral submission to the Committee.

1. Introduction

This submission is made on behalf of various student groups that represent the interests of LGBTQIA+ students in tertiary education institutions. Together, our organisations represent LGBTQIA+ students from across seven different tertiary education institutions in Aotearoa New Zealand. These include Victoria University of Wellington, Massey University - Wellington, University of Waikato, Lincoln University, University of Auckland, University of Canterbury, and University of Otago.

UniQ Victoria

UniQ Victoria is the Queer Students' Association of Te Herenga Waka—Victoria University of Wellington. We are a studentled group, controlled by queer and queer-allied students, working in the interests of all queer students. We provide students with social support and services that promote their health and wellbeing, and advocate of behalf of queer students to ensure Te Herenga Waka—Victoria University of Wellington is a safe and inclusive environment.

UniQ Waikato

UniQ Waikato is the social/support group for all gender, sex, sexuality diverse, questioning and/or ally Students at the University of Waikato.

SPACE Lincoln

SPACE is the student-led LGBTQIA+ social and support club on campus at Lincoln University. We are run by rainbow and rainbow-ally students, and we organise social events and advocate for rainbow taurira across the Lincoln University campus.

QCanterbury

QCanterbury is the Queer Students' Association of the University of Canterbury. We are a student-led group, controlled by queer and queer-allied students, working in the interests of all queer students, advocating for and representing their views. We aim to provide a safe space for LGBTQIA+ students at University and run queer-led social events throughout the year. QCanterbury is recognised by University of Canterbury Students' Association (UCSA) as the Representative Group for all LGBTQIA+ students.

UniQ Otago

UniQ Otago is a student-led Otago University Students Association (OUSA) club that provides social support for Dunedin-based queer and questioning students. UniQ Otago provides safe, queer-friendly spaces and regular social events. We have a presence both on campus and in the wider community, working in collaboration with other groups such as Dunedin Pride and OUSA Queer Support. Due to our position in the community, we are often the first point of contact for individuals seeking support. We provide advice and recommendations for students and members of the community who are seeking queer-friendly resources, social spaces, or mental health and wellbeing services. We also welcome students from Otago Polytechnic to join us and utilise our services.

2. Overview

We are generally in support of the Conversion Practices Prohibition Legislation Bill (herein referred to as “the Bill”). As LGBTQIA+ student representative associations, we appreciate the significance of this Bill in ceasing further harm caused to our community by conversion practices. The LGBTQIA+ community is especially vulnerable, often subject to discrimination, hatred, and violence. This is often not remedied due to the systematic lack of the explicit and practical protections that the community needs.

Conversion practises are an enormous infringement on an individual’s sense of autonomy, and cause untold damage to their sense of self and personal identity. We support the Bill’s overall objectives, as we strongly agree that Aotearoa New Zealand has an incredible need for legislation like this to be in place in order for our rainbow whānau—and especially our rainbow rangatahi—to feel safe and protected.

While we wholeheartedly support the Bill, we feel that the Bill is not explicit enough in some of its clauses in terms of protecting all members of our community. The inclusion of all LGBTQAI+ individuals is absolutely paramount in order for this Bill to have the extensive and robust protections needed by the wider rainbow community.

3. Explicit protections for intersex individuals

Intersex Trust Aotearoa New Zealand defines 'intersex' as an umbrella term used to describe variations of sex characteristics that may affect internal or external anatomy, chromosomes, or hormones¹. Our intersex whānau are especially vulnerable members of the rainbow community, facing discrimination, exclusion, and acts of harm such as "normalising" medical interventions. These medical interventions seek to modify an individual's body in order to align their characteristics with the binary standard of gender expression and are seldom necessary for the preservation of life. These interventions are often performed on babies, and therefore without the consent of the individual receiving the intervention.

Intersex variations are natural biological variations. Unnecessary medical interventions foster the archaic notion that gender and sex are purely binary and teach intersex individuals that they should be ashamed of their bodies. In the interests of protecting individual bodily autonomy and allowing all individuals to live authentically and without shame, we believe that these medical interventions should be included in the definition of conversion practices.

Recommendation 1

We recommend the inclusion of the term "sex characteristics" in clause 3(b), section 5(1), and clause 5(2)(f) *in addition* to "sexual orientation, gender identity, or gender expression".

Recommendation 2

We recommend that a definition of 'sex characteristics' be included in section 4. This definition should include internal and external anatomy, chromosomes, hormones, and any innate biological variations.

4. Conversion practises in healthcare settings

The 2019 '*Counting Ourselves*' report on the health and wellbeing of trans, non-binary, intersex, and gender diverse people found that 17% of participants experienced "reparative therapy" when accessing healthcare². 'Reparative therapy' is a term given to practices in which

¹ "What is intersex?", Intersex Trust Aotearoa New Zealand (ITANZ), <http://www.ianz.org.nz/what-is-intersex/>

² *Counting Ourselves*, 2019, <https://countingourselves.nz/index.php/community-report/>

healthcare professionals try to “stop” an individual from being trans or non-binary. These harmful contacts with healthcare professionals have been shown to have ongoing detrimental effects. According to the ‘*PRISM*’ report by the New Zealand Human Rights Commission, hostile healthcare environments often cause ongoing distrust towards healthcare professionals, resulting in trans, intersex, and gender diverse individuals avoiding pursuing necessary healthcare³. This is a particular concern for our disabled whānau in the community, who may require more access to medical care and therefore face an increased risk of encountering these harmful practices.

A significant concern for the LGBTQIA+ community, in regards to medical practices, is the use of ‘normalising’ procedures on intersex people, as mentioned previously in this submission. These procedures, while only occasionally are necessary for the preservation of life, are primarily recommended by medical professionals out of social concern. The Astraea Lesbian Foundation for Justice stated in their ‘*We Are Real*’ report that parents are often encouraged to give consent for these procedures on behalf of their child without adequate “information, time and psychosocial support needed to make well-informed decisions”⁴. Under the Bill, as it currently stands, these damaging treatments of the intersex community could be excluded from being defined as conversion practice, as it could theoretically fall within the scope of practice for many practitioners across a range of medical fields.

Health practitioners are already bound by professional standards, such as the New Zealand Medical Association Code of Ethics or the Declaration of Geneva, which should prevent practices such as reparative therapy or unnecessary interventions from occurring. It is evident from statistics in reports like *Counting Ourselves* that these standards are not in any way successfully protecting individuals from experiencing harm when receiving healthcare. Therefore, allowing healthcare professionals an exemption from committing offences within this Bill appears highly unnecessary.

These practices are blatant and incredibly harmful attempts at changing or suppressing an individual’s identity and causes individuals to feel fear and mistrust when seeking future medical care. We strongly believe that healthcare should be delivered in such a way that enhances the mana of individuals and honours their authority over their own lives, identities, and bodies. Such practices should be included in the definition of conversion practices in order to safeguard the whole LGBTQIA+ community from mistreatment by trusted professionals.

³ *PRISM: Human Rights issues relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) in Aotearoa New Zealand - A report with recommendations (2020)*, New Zealand Human Rights Commission, https://www.hrc.co.nz/files/9215/9253/7296/HRC_PRISM_SOGIESC_Report_June_2020_FINAL.pdf

⁴ ‘*We Are Real: The Growing Movement Advancing the Rights of Intersex People*’, Astraea Lesbian Foundation for Justice, <http://astraeafoundation.org/wearereal/>

Recommendation 3

We recommend that clause 5(2)(a) be amended to remove legal exemptions for healthcare professionals that engage in conversion practices.

5. Religious organisations

Religious organisations that partake in conversion practices often do so in a way that is covert or subtle. This is for the purpose of being able to characterise practices to onlookers as merely the provision of counsel or prayer to individuals. This means that there is an enormous ability for the interpretation of the practice's intent to be skewed.

UniQ Victoria has had firsthand experience this year with members of religious organisations using flexible identification of intention to cause harm to our cohort. These groups were approaching rainbow students and collecting contact information under the guise of a friendly chat, only to then speak harmful messages about sexual orientations and gender identities to these students once isolated, including via private messages. These messages included trying to convince students to 'repent for their sins,' and calling homosexuality 'detestable' by making inappropriate and despicable comparisons.

Actions like these are carried out in such a way that any reasonable person can see that the intention is to betray the trust of students. However, this is incredibly hard to prove to university leadership so that students may be protected from these actions in future. By appealing to leadership by evidence of impact, we were able to secure the necessary actions required to protect students from these groups.

In section 5(2)(f) of the Bill, harmful practices that have the ability to be interpreted as lacking the intent to change or suppress an individual's identity are excluded from the definition of conversion practices. This lenience in exclusion of practices by relying on the highly subjective interpretation of potential intent does not provide the robust protection that the rainbow community seriously needs.

We believe that determining whether a religious practice can be included within the definition of a conversion practice should be done on the basis of impact, instead of by measure of intent. The measure of impact on an individual's welfare and sense of safety when expressing their identity provides a significantly more robust and evidence-based assessment of whether a practice should fit the definition of a conversion practice. This method of assessment also allows victims and survivors of conversion practices the opportunity for empowerment in the criminal process by providing a statement or testimony that will carry weight in the pursuit of justice.

Recommendation 4

We recommend that clause 5(2)(f) be amended to assess whether a religious practice should be exempt from consideration as a conversion practice by measure of *impact*, rather than intent.

Recommendation 5

We recommend that no clause be inserted to give blanket exemption to any religious organisations.

6. Support for section 10

We are extremely supportive of both clauses within section 10, outlining how a claim of consent cannot be given as a defence to charges under section 8 or 9. Many individuals who experience conversion practices are often coerced into engaging in the practice, either by being offered something such as better quality of life or by the use of scare tactics such as the threat of rejection or punishment. By including this section in the Bill, it ensures that the LGBTQAI+ community is free from the responsibility of their trauma.

7. No exemption for parents or family members

We understand there are those who are advocating for an exemption for parents, or family members in general, to be included in the Bill. We want to be unequivocally clear that we do not wish for any such exemption to be included. To include any exemption for parents or family members would significantly dilute the effectiveness of the Bill in ceasing further harm caused to our community by conversion practices.

For our rangatahi and other young people, parents and family members can play a critical role in conversion practices. They can often be involved in soliciting conversion practices to be performed or engaged in the process of performing conversion practices. Additionally, opposition to the Bill on the grounds of the perceived criminalisation of parents is unfounded and considered unlikely to happen based on the definition of conversion practices in the Bill⁵.

⁵ 'Why New Zealand's proposed law banning conversion practices is so unlikely to criminalise parents,' Eddie Clark, <https://theconversation.com/why-new-zealands-proposed-law-banning-conversion-practices-is-so-unlikely-to-criminalise-parents-165740>

Recommendation 6

We recommend that no clause be inserted to provide an exemption for parents or family members.

8. Summary of recommendations

#	Recommendation
1	We recommend the inclusion of the term “sex characteristics” in clause 3(b), section 5(1), and clause 5(2)(f) in addition to “sexual orientation, gender identity, or gender expression”.
2	We recommend that a definition of ‘sex characteristics’ be included in section 4. This definition should include internal and external anatomy, chromosomes, hormones, and any innate biological variations.
3	We recommend that clause 5(2)(a) be amended to remove legal exemptions for healthcare professionals that engage in conversion practices.
4	We recommend that clause 5(2)(f) be amended to assess whether a religious practice should be exempt from consideration as a conversion practice by measure of <i>impact</i> , rather than intent.
5	We recommend that no clause be inserted to give blanket exemption to any religious organisations.
6	We recommend that no clause be inserted to provide an exemption for parents or family members.

9. Conclusion

This Bill has been awaited and anticipated by our community for a very long time. Conversion therapies are often talked about in rainbow spaces as one of the biggest threats to LGBTQIA+ youth when considering whether or not to come out. We are wholeheartedly supportive of the Bill’s purpose and intent, however we would moreso welcome its passing with more robust support and protection for our entire community.

For clarification of any of the points raised in this submission, you can get in touch through our point of contact, whose details are below.

Rosie van Beusekom (They/She)
President, UniQ Victoria
uniqvictoria@gmail.com

10. Signatories

Ngā mihi



Rosie van Beusekom
President
of UniQ Victoria



Jazmynn Hodder-Swain
Secretary of SPACE Lincoln



Rawiri Rangihouhiri Terrence Nicholls
President of UniQ Waikato



Sahara Pohatu-Trow
President of UniQ Otago



Maeve Burns
President of QCanterbury