

Justice for All: Ending Conversion Therapy Practices in Canada

*A Brief on Bill C-6 Submitted to
House of Commons Standing Committee on Justice and Human Rights*

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Justice for All: Ending Conversion Therapy Practices in Canada

Governments around the world, including at various municipal and provincial/territorial levels in Canada, have taken action to prohibit the fraudulent, deceptive, and dangerous practice of so-called “conversion therapy.” The introduction of *Bill C-6: An Act to Amend the Criminal Code (conversion therapy)* is to be commended as an important step in helping to end conversion therapy practices in Canada by proposing amendments to the *Criminal Code of Canada*.

Many civil society organizations, academics, and most importantly conversion therapy survivors have been leading calls for legislative action at all levels of government against individuals, organizations, and faith and cultural communities who continue to attempt to “fix”, “cure”, “repair”, or “change” an individual’s sexual orientation, gender identity, and gender expression¹. All of these change attempts are rooted within an anti-LGBTQ2 ideology, which believes sexual and gender minorities, or those with same-sex attractions or desires, are fundamentally broken, pathological, disordered, or demonically possessed – and need to be changed to live a happy, healthy, and fulfilled life.

Rather than focusing on attempts to “change” people who are not “broken”, efforts would be better placed on repairing the broken social context, which continues to perpetuate discrimination, prejudice, and hetero- and gender-normativity. LGBTQ2 people do not need to be changed; rather it is the outdated attitudes and behaviours that continue to perpetuate silence, invisibility, exclusion, and hate that need to be eradicated from Canadian society.

To assist legislators in taking explicit and direct action to prohibit conversion therapy efforts in their communities, several new resources have been developed, which are presented to the attention of the House of Commons Committee on Justice and Human Rights as part of the formal study on Bill-C6. These resources include:

Conversion Therapy in Canada: A Guide for Legislative Action

This Canadian-based report provides detailed background information, updated research, Charter analysis, recommendations for legislative action, and the voices and experiences of Canadian survivors to help legislators and policymakers better understand how they can most effectively prohibit conversion therapy practices from occurring within their communities. The guide also features 15 national endorsements, including statements from the Canadian Psychological Association, Canadian Association of Social Workers, Canadian Teachers’ Federation, Canadian Labour Congress, United Church of Canada, Egale Canada, and several other prominent public sector and LGBTQ2 organizations.

See: <https://bit.ly/ConversionTherapyReport>

Conversion Therapy Interactive Map

This online interactive map highlights the status of conversion therapy prohibition laws in Canada at municipal, provincial/territorial, and federal levels. The map provides brief summaries

¹ Wells, K. (2020). *Conversion therapy in Canada: A guide for legislative action*. MacEwan University.

of legislation, policies, and bylaws that have been enacted or are in progress to prohibit conversion therapy practices, including definitions, penalties, restrictions on advertising, and the use of government funding or facilities.

The interactive map can be viewed at <https://www.noconversioncanada.com/legislation-map>.

Canadian Academic Consensus Statement

This open letter presented to the 43rd Parliament of Canada, which is available in French and English, expresses support for the academic research consensus against conversion therapy and the established expert opinion there is no credible or valid scientific evidence that indicates a person's sexual orientation or gender identity can be effectively changed. Rather, what research does strongly indicate is how these so-called conversion therapy practices can have devastating impacts on its victims, including increased anxiety, depression, self-hatred, compromised mental health, post-traumatic stress disorder, self-harm, suicide or suicidal thoughts, and many other lifelong psychological and social issues.

This open letter in support of conversion therapy prohibition legislation has been signed by 120 Canadian academics and public policy experts, including 16 distinguished research chairs, of which 12 are Canada Research Chairs.

The letter and signatories can be viewed in the appendices and at:

<https://www.noconversioncanada.com/legislation-support>

Further testimonials, infographics, videos, and resources can be found at

<https://www.noconversioncanada.com> and https://www.cbrc.net/conversion_therapy_sogiece

Bill C-6 – Suggested Amendments

The following amendments are presented for consideration to ensure Bill C-6 is fully comprehensive and does not permit any exemptions or loopholes, which would allow conversion therapy practices to continue to occur in Canada. There can be no justification to allow this discredited and abusive practice to be supported in any form. Canada has an opportunity to produce the most comprehensive legislation in the world, and continue its global leadership on LGBTQ2 human rights, by setting a strong, clear, and comprehensive example for other countries to follow and adapt to their unique national contexts. The Canadian Government also has a critical opportunity to send an important message to Canadians that no one should be required to change who they are or who they love to gain support or acceptance within their family, faith, culture, or community. LGBTQ2 people are not broken and do not need to be changed.

There are seven key areas that should be improved in Bill C-6, which include:

1. Amend the legislative preamble
2. Clarify the definition to ensure it is inclusive and comprehensive
3. Include protections for all adults and vulnerable populations

4. Restrict advertising and referral
5. Revocation of registered charitable status for offenders
6. Provide educational awareness and support for survivors
7. Other recommendations

1. Amend the legislative preamble

For consistency and clarity, suggestions are made below (in red font) to amend the legislation's preamble, which is designed to help provide relevant background information, rationale, and context to interpret and apply the legislation, which will be important in the case of any prosecutions or legal challenges.

PREAMBLE

Whereas conversion therapy causes harm to the persons, and in particular the children **and adults**, who are subjected to it;

Whereas conversion therapy causes harm to society because, among other things, it is based on and propagates **harmful** myths and stereotypes about sexual orientation, gender identity, **and gender expression** including the **unscientific belief** that a person's sexual orientation, gender identity, **and gender expression** can and ought to be changed;

And whereas, in light of those harms, it is important to **prohibit**, discourage and denounce the provision of conversion therapy to protect the human dignity and equality of all Canadians;

2. Clarify the definition to ensure it is inclusive and comprehensive

The following amendments are designed to help clarify the proposed legislative definition of conversion therapy to ensure it is inclusive and comprehensive.

The current definition of conversion therapy

320.101 In sections 320.102 to 320.106, conversion therapy means a practice, treatment, or service designed to change a person's sexual orientation to heterosexual or gender identity to cisgender or to repress or reduce nonheterosexual attraction or sexual behaviour. For greater certainty, this definition does not include a practice, treatment, or service that relates

- (a) to a person's gender transition; or
- (b) to a person's exploration of their identity or to its development.

The proposed definition of conversion therapy (Changes highlighted in red font)

320.101 In sections 320.102 to 320.106, conversion therapy means a practice, treatment or service designed to change, **repress or discourage** a person's **sexual orientation, gender identity or gender expression**, or reduce nonheterosexual attraction or sexual behaviour.

For greater certainty, this definition does not include a practice, treatment or service that relates

(a) to a person's **social, legal, or medical** gender transition; or

(b) to a person's **non-judgmental** exploration **and acceptance** of their identity or to its development.

This proposed definition is more inclusive, comprehensive, and understandable to the public. For example, terms like “cisgender” are still not in wide use beyond academic communities and are not commonly understood or falsely perceived by some as political or ideological constructions/terms. The definition may also present the false perception of a binary or oppositional perspective when cisgender identities are directly contrasted with transgender identities, which are best understood as a diverse range of gender identities and expressions.

The proposed definition uses simplified language and includes clearly understood grounds against discrimination, which are protected in all provincial and territorial human rights acts in Canada (e.g., sexual orientation, gender identity, gender expression). This proposed definition is also used by many municipalities in Canada in their conversion therapy prohibition bylaws and policies.

The proposed amended definition also more clearly prohibits all forms of conversion therapy – regardless of the practice or direction (e.g., LGB to straight, straight to LGB; cisgender to transgender; transgender to cisgender (e.g., de-transition); and is inclusive of non-binary or gender non-conforming identities (by explicitly including gender expression). The explicit inclusion of gender expression is also in alignment with changes to the *Canadian Human Rights Act*, which were made with the passage of Bill C-16 in 2017.

The newly proposed definition also clarifies that objective and neutral practices are not subject to this legislation, which addresses frequently asked questions about what kind of counselling efforts, guidance, or conversations are permitted. All conversations, counselling programs, or treatments (therapeutic or otherwise) that are open and nonjudgmental to an outcome, and are focused on empowering the person to be supported in discovering their own identity, are not only permitted, but strongly encouraged as a best practice.

Legitimate counselling and support programs should not focus on change efforts, identity discouragement, or attraction suppression, rather they ought to focus on helping an individual deal with stigmatization, internalized shame and self-hatred, minority stress, identity integration, and positive coping mechanisms that are culturally relevant.

3. Include protections for all adults and vulnerable populations

Bill C-6 should apply to all individuals, not only minors and adults who are subjected to forced conversion therapy. Conversion therapy is a dangerous, unscientific, and inherently coercive practice. Because of clear evidence of harm, and a clear lack of research evidence of efficacy, informed consent is not a possible justification for conversion therapy and its associated practices.

Given the well-documented and known harms of conversion therapy, it is a reasonable limitation to restrict so-called “consenting adults” from engaging in conversion therapy practices, services, or treatments. The government has an obligation to protect all individuals from known or reasonably foreseeable harms and dangers, which is why there are strict consumer protection laws and numerous medical and health regulations in Canada. Restrictions and regulations are common and in place to protect the best interests of Canadians from recognized dangers, harms, and fraudulent and abusive practices. As notable examples, Quebec’s *Bill 70: An Act to protect individuals from conversion therapy given to change their sexual orientation, gender identity or gender expression*, and municipal bylaws passed in Edmonton, Calgary, Beaumont, St. Albert, and other cities in Canada, apply to all ages, individuals, and groups². There are no exemptions or circumstances where conversion therapy practices are deemed permissible, regardless of who they target.

It is illogical and inconsistent that Federal legislation would be weaker than legislation passed by other levels of government. Additionally, delineating by age is problematic, since it implies that conversion therapy may be dangerous/harmful to some (minors), but not necessarily to others (adults). This dichotomy creates the false perception that in some cases conversion therapy might be a permissible or legitimate practice, which it is not.

In its current form, Bill C-6 provides no protections for young adults (18-30) who are extremely vulnerable and are often targeted by conversion therapy practices. In many cases, these young adults may feel they have no choice but to engage in conversion therapy efforts because of pressure from non-accepting families, faith, or cultural communities.

Government legislation should apply to all ages without exception. The notion that only “forced conversion therapy” is prohibited and, by contrast, there can be such a thing as “consenting adults” is misguided. How can any individual actively consent to conversion therapy practices when they are known to be inherently deceptive, coercive, and fraudulent? The delineation and exceptions provided by Bill C-6 are very concerning and problematic.

Include a vulnerable person’s standard:

Legal protections afforded by Bill C-6 must also explicitly include protections for all vulnerable persons. It is recommended to include an explicit vulnerable person’s standard by adding a statement such as:

No person in a position of trust or authority can consent to a person to undergo, or be referred to, conversion therapy services, treatments or practices.

This includes anyone who holds a fiduciary role and is legally required to act in accordance with a duty of care and in the best interests of a person. Examples of fiduciary roles are common within the law and include doctor/patient, teacher/student, parent/child, clergy/parishioner.

² For more information on conversion therapy prohibition laws in Canada, including definitions, visit: <https://www.noconversioncanada.com/legislation-map>

4. Restrict advertising and referral

The vast majority of conversion therapy practices occur predominantly outside of the formal health care system and are often covert or underground practices, which seldom are explicit in their intent, purpose, or methods. As such, they become harder to detect and often flourish through a deceptive network of referrals. For example, conversion therapy services frequently refer to persons with “unwanted same-sex attractions” or masquerade as peer-support or fellowship programs where so-called “consenting adults” seek to voluntarily suppress same-sex attractions or actively deny an LGBTQ2 identity. These programs are seldom formally advertised and are instead actively promoted through an organized network of hidden referrals.

To address this covert practice, an amendment could be made to include prohibitions on advertising and referral. See the proposed addition in **red font**.

(4) Subsection 164(8) of the Act is amended by adding the following in alphabetical order: advertisement for conversion therapy means any material — including a photographic, film, video, audio or other recording, made by any means, a visual representation or any written material — that is used to advertise an offer, **or make a referral**, to provide conversion therapy contrary to section 320.104;

5. Revocation of registered charitable registration status for offenders

To obtain registered charitable status in Canada, an organization must provide a clear social benefit and be registered and approved as a legitimate charity under the Income Tax Act. Having a charitable designation is a privilege and not a right. All actions of a registered charity, including any actions carried out by an intermediary (an individual or non-qualified donee that the charity works with to carry out its own activities), must not violate the Criminal Code of Canada.

For transparency and clarity to the public, it is recommended to amend Bill C-6 to explicitly include the revocation of charitable status as a likely outcome for any organization or donee that has been found guilty of advertising, promoting, or practicing conversion therapy in contravention of the Criminal Code of Canada.

The following amendment is suggested to help provide this important clarification:

Any charity, or qualified donee, that refers, promotes, practices, or advertises conversion therapy will be subject to revocation of charitable registration status.

Explicit inclusion of this penalty will serve as a strong deterrent for any registered charitable organization, individual or qualified donee, who supports or engages in conversion therapy practices.

6. Provide educational awareness and support for survivors

Legislation is only as effective as the education that accompanies its goals and objectives. Most Canadians are surprised that conversion therapy still exists and are outraged to find out that it is still occurring within some segments of society. Opinion polls indicate strong support for government action to prohibit all forms of conversion therapy in Canada³.

It is imperative for the government to establish an education and compensation fund for conversion therapy survivors to access counselling supports and supportive legal services which may be necessary to file a complaint and any ensuing legal proceedings. Conversion therapy targets an extremely vulnerable segment of our society. It may take years for the damage done to surface (e.g., Posttraumatic stress, ability to leave an abusive situation). Filing criminal charges may not be the best remedy or support that a survivor needs to be able to heal from the trauma they have experienced.

The federal government should develop a robust education campaign to help bring awareness about why conversion therapy is wrong and how to report abuse. Any legislation is only as good as the mechanisms of enforcement and the tools provided to educate. The federal government should consult closely with survivors and LGBTQ civil society groups to do this work. They know their communities the best.

7. Other considerations

Many racialized, vulnerable, and marginalized communities have a fraught and tenuous relationship with police services and the justice system in Canada. The Prime Minister's historic LGBTQ2 national apology recognized state-sponsored laws, discriminatory treatment, and violence that systematically targeted and ruined the lives of many LGBTQ2 people. Police oppression, brutality, and systemic homophobia, and transphobia have caused many within the LGBTQ2 community to distrust the police and justice systems and may see prosecuting conversion therapy as a criminal offense as a significant barrier to filing a complaint and/or to their healing process. Some members of the LGBTQ2 community believe that criminalization is the wrong approach in addressing conversion therapy as it will only create further barriers and the possibility of re-victimization⁴.

An important question to ask is how will Bill C-6 be enforced, especially for vulnerable young people who risk being "outed" to file a complaint with the police, or who may not have the support of a parent or guardian to do so? Will a third-party complaint be allowed? What supports and training will be made available for investigation and/or prosecution? Significant training and education will be needed to ensure police and prosecutors clearly understand how to investigate and prosecute crimes related to conversion therapy and how to most effectively support victims.

³ This survey was conducted from July 15 to 17, 2019 by Research co. To view the full data set, see: <https://researchco.ca/2019/07/26/wrapped-in-sorrow-words-are-token/>

⁴ Ashley, F. (2019). *Model law – Prohibiting conversion practices*. <https://ssrn.com/abstract=3398402>

To conclude, I share with you the words of Stéphane, who is a racialized Francophone member of the LGBTQ2 community and a conversion therapy survivor:

“Who will restore those stolen lives to us? Who will pay the price? The consequence of conversion therapy is death: Either you commit suicide or let yourself die, or you die inside (which is not better). I survived it, what about the others? What is being done to protect them?”⁵

Author Note: Dr. Kristopher Wells is an Associate Professor and Canada Research Chair (Tier II) for the Public Understanding of Sexual and Gender Minority Youth, MacEwan University, Edmonton, Alberta. Dr. Wells serves as the Co-Editor of the international *Journal of LGBT Youth*, which is published by Taylor & Francis.

⁵ See Wells, 2020, p. 28.

Appendices

In support of Conversion Therapy Prohibition Legislation in Canada

23 June 2020

Dear members of the 43rd Parliament of Canada, provincial, and municipal elected representatives and leaders,

We are concerned university researchers, academics, and public policy experts in Canada who encourage all levels of government and professional regulatory bodies to take action by passing legislation and/or policies to prohibit the practice of “conversion therapy”, to protect LGBTQ2+ people from harms, and to provide equitable access to safe and affirming health and social services.

Conversion therapy can be defined as any practice, treatment, or service designed to change, repress, or discourage a person’s sexual orientation, gender identity, or gender expression, or to reduce non-heterosexual attraction or sexual behaviour and reduce transgender or gender non-conforming identities or expressions.

The recent 2019 Report of the Standing Committee on Health’s Report on the Health of LGBTQ2IAS Communities in Canada included in its 21st recommendation, “That the Government of Canada work with the provinces and territories to eliminate the practice of conversion therapy in Canada and consider making further modifications to the Criminal Code.”

Conversion therapy is known by many different names including “reparative therapy,” “reintegrative therapy,” “reorientation therapy,” “ex-gay therapy,” “gay cure,” and generally refers to any sexual orientation, gender identity and expression change efforts. In the past, conversion therapy efforts have been supported and performed by a wide range of health and medical professionals, including psychiatrists, psychologists, sexologists, medical doctors, and licenced therapists. Today, despite the consensus of medical and health professional organizations such as the Canadian Psychological Association, American Psychological Association, and others, conversion therapy is still endorsed and utilized by some licenced practitioners, faith leaders, spiritual healers, cultural and religious communities under different guises and in various direct and indirect forms.

Conversion therapy efforts have been known to include practices such as electroshock treatment or electroconvulsive therapy, lobotomies, chemical castration, aversion therapy, behavioural conditioning, gender coaching, regressive role play, hypnosis, extreme fasting, sleep deprivation, “corrective” rape, spiritual prayer, exorcism, and the use of various isolation tactics in a deliberate attempt to change, alter, deny, or suppress a person’s sexual orientation, gender identity, or gender expression.

It has been well-established that there is no credible or valid scientific research that indicates you can effectively change a person’s sexual orientation or gender identity, rather what research does tell us is how these so-called “change efforts” can have devastating impacts on its victims,

including increased anxiety, depression, self-hatred, compromised mental health, post-traumatic stress disorder, suicide or suicidal thoughts, and many other lifelong psychological and social issues.

We the undersigned support the overwhelming scientific, professional, and academic consensus that “conversion therapy”, is not a recognized nor appropriate form of medical, health, counselling, religious, or spiritual intervention or care. Any attempts to change, repair, deny, or suppress a person’s sexual orientation, gender identity, or gender expression are not only inappropriate and ineffective, they are widely known to be unethical, dangerous, and harmful. Legitimate therapies or interventions should focus on assisting individuals to deal with minority stress and the societal impacts of hetero and gendernormativity, discrimination, and prejudice.

We fully support comprehensive conversion therapy prohibition bylaws, policies, and related legislation at all levels of government. Conversion therapy is a widely discredited, unscientific, fraudulent, and harmful practice that has no place within Canadian society. Under no circumstances should it be allowed, endorsed, or practiced.

We commend those regulatory bodies, municipalities, provinces, and territories that have taken legislative action to prohibit conversion therapy. We encourage others, including the Canadian federal government, to pass comprehensive legislation to protect all Canadians from the dangers and abuses of conversion therapy.

We also call on governments to develop resources and support programs, and to provide funding, to support the survivors of conversion therapy who have been harmed by these egregious and unethical practices.

As experts in health, research, and public policy we believe that prohibiting conversion therapy is a matter of public health, safety, and national importance. We believe that all Canadians should be free from discrimination based on their sexual orientation, gender identity, and gender expression and have the safety and freedom to be themselves fully and completely.

No one needs to be “changed” because of who they are or who they love.

Signatories

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