

**Submission to the House of Commons Standing Committee on Justice and Human Rights on  
Bill C-6: *An Act to Amend the Criminal Code (Conversion Therapy)***

December 5, 2020

**Introduction**

The Evangelical Fellowship of Canada (EFC) appreciates the opportunity to participate in the Committee's review of Bill C-6, *An Act to Amend the Criminal Code (Conversion Therapy)*.

The EFC is the national association of evangelical Christians in Canada. Established in 1964, the EFC provides a national forum for Canada's four million Evangelicals and a constructive voice for biblical principles in life and society.

There is support within the evangelical community for the objective of Bill C-6, which is to protect Canadians from the damaging effects of practices that have been widely discredited. We agree that there is no place in our communities or our country for coercive, involuntary, or abusive practices.

At the same time, we have serious concerns with the very broad definition of conversion therapy in Bill C-6. The proposed definition goes beyond prohibiting involuntary, abusive or coercive change efforts and lacks critical clarity about what kinds of activities might fall within the bounds of the proposed legislation.

We strongly urge amendments to the bill in order to clarify its provisions and ensure it is consistent with fundamental *Charter* freedoms.

If unamended, this legislation would have a significant chilling effect on expression on matters of human sexuality and gender. Interpreted broadly, it could criminalize the expression of deeply held beliefs.

**Religious life and practice**

We live in a society of deep religious pluralism. Religious beliefs are foundational for many Canadians as they form an understanding of themselves and their relation to others. Religious identity, its formation and expression, is a central and significant element in the lives of millions of Canadians.

Most religious traditions have teaching on how to order one's sexual life according to one's beliefs and faith identity. This religious instruction is based on sacred texts, with understandings

that have been passed down by adherents through history. It is a key element of religious life and practice to learn and to share the teachings of scriptures as they relate to all areas of life, including sexual behaviour. The freedom to hold, practice and express those beliefs is protected by the *Charter*. The role of the state in a liberal democracy is to be fair and accommodating of the diversity of its population.

The proposed legislation, with its broad preamble and definition, moves beyond the criminalization of coercive, involuntary and abusive practices, and risks capturing belief, opinion, and expression on matters of sexual practice, including those rooted in religious belief.

Rather than respecting and accommodating the diversity of Canadians, this bill, as currently worded, could impose criminal sanction on the expression of values or beliefs on matters of legitimate difference among Canadians, or have a significant chilling effect on their expression.

We are very concerned that this bill creates a criminal offence with a penalty of imprisonment which could apply to the sharing of religious instruction.

#### **Disparaging language in Preamble**

In the second statement of the preamble, Bill C-6 refers to “myths and stereotypes” about sexual orientation and gender identity. It identifies these beliefs as the underlying basis for conversion therapy and describes the propagation of these beliefs as harmful to society.

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

Given the very broad definition of conversion therapy, discussed below, as including practices designed to reduce sexual behaviour, this statement seems in part directed at those who hold views about sexual behaviour and marriage that dissent from the mainstream, or who may believe that gender is not purely a social construct.

We recognize that such beliefs may not be held by the majority of Canadians, but it is nonetheless concerning that Bill C-6 uses disparaging language that implies the holding, sharing or teaching of religious beliefs regarding sexuality and gender are themselves harmful to society. This is a very disturbing implication; one that fails to respect fundamental *Charter* freedoms of conscience, religion, thought, belief, opinion and expression. A critical purpose of the *Charter* is to protect views and expression that dissent from majority values and beliefs.

We recommend that, in conjunction with an amended definition of conversion therapy, as discussed below, these problematic phrases be deleted so that the wording of the second statement of the Preamble simply says:

*Whereas conversion therapy causes harm to society;*

We recommend further that an affirmation of freedom of religion and expression, such as the statement in the *Civil Marriage Act*, be added to the preamble.

We support the preambular statement proposed by Christian Legal Fellowship:

*Whereas nothing in this Act affects the guarantee of freedom of conscience and religion and, in particular, the freedom of religious groups to hold and declare their religious beliefs;*

*Whereas it is not against the public interest to hold and publicly express diverse views on marriage, sexuality and gender;*

### **An overly broad definition of ‘conversion therapy’**

In her opening statement to this committee, the Minister of Diversity, Inclusion and Youth described this bill as targeting “coercive and systematic efforts to change a person’s sexual orientation, gender identity or gender expression” and “forced and coordinated efforts to change someone.” These qualifiers of “coercive”, “forced” and “systematic” add the needed clarity and certainty about what the legislation is intended to capture.

If the definition of conversion therapy in the bill were, as the Minister described, “coercive and systematic efforts to change a person’s sexual orientation, gender identity or gender expression,” it would resolve our concerns.

However, these qualifiers are not found in the definition of ‘conversion therapy’ in the legislation. Instead, the bill’s definition lacks this kind of necessary specificity and clarity, which raises significant concern about its overreach. With the element of coercion missing from the definition, its wording seems broad enough to capture legitimate and protected conversations.

Our primary concern is that the definition of ‘conversion therapy’ in Bill C-6 goes beyond prohibiting efforts designed to change a person’s sexual orientation or gender identity to include, without specificity or clarity, “a practice, treatment or service designed to... repress or reduce non-heterosexual attraction or sexual behaviour.” This is very troubling.

Including sexual behaviour in the definition of conversion therapy could have unintended consequences, violating freedom of religion and freedom of expression. For example, Christianity teaches that the biblical norm is abstinence until the marriage of one man and one woman. Abstinence is a behaviour, and there is legitimate concern that teaching abstinence could be captured by this legislation as it seeks to reduce sexual behaviour. Would teaching young people to abstain from sexual activity outside of heterosexual marriage be considered teaching to repress or reduce sexual behaviour under this broad definition? What about counseling youth to abstain from harmful or risky sexual behaviour?

The ambiguity of the proposed definition raises concerns that sharing biblical teaching on heterosexual marriage or abstinence in a conversation, in a Bible study setting, or through a

sermon could be considered “a practice ... designed to ... reduce non-heterosexual attraction or sexual behaviour.”

The Minister of Justice has given assurances that the legislation is not intended to capture such conversations, but that clarity is not present in the legislation itself. Furthermore, public comments by the Minister have caused confusion and highlight the ambiguity of the scope of the legislation.

At a press conference on the identical Bill C-8 introduced in March 2020, Justice Minister Lametti was asked by media if it would be legal for religious leaders to speak about homosexuality. He replied that if it’s an open-ended and exploratory conversation, it is not prohibited for religious leaders, parents or others. He went on to say: “What is covered by this legislation are practices that attempt to change one’s orientation towards a predefined goal.”

The implication is that 1) a conversation, whether public or private, is captured by the legislation and that 2) if the conversation advocates a predefined goal it will be criminalized.

As written, the legislation may capture both private conversations and public expression, such as teaching from the pulpit in the context of a church service.

We recommend removing the word “behaviour” from the definition. If it is not removed, we recommend the definition be amended to specify that only those practices, treatments or services to repress or reduce non-heterosexual attraction or sexual behaviour **as part of** an effort designed to change sexual orientation or gender identity are captured by the definition.

#### *Family integrity could be affected*

There is also concern this definition could impact the ability of parents to offer guidance or share beliefs on matters of gender or sexuality. The family has primary responsibility for the growth and well-being of children, and parents are the protectors and advocates for the best interests of their children. As the EFC stated in a document co-produced with Christian Legal Fellowship and the Canadian Centre for Christian Charities, it is essential that the definition of conversion therapy in this legislation “respect the fundamental right to family integrity, including the autonomy of families to live according to their own religious and moral beliefs and to freely share them between generations without state interference.”<sup>1</sup>

In recent statements in the House of Commons and to the media, as well as in extra-legislative documents, there have been assurances that the legislation is not intended to capture conversations within a family setting. However, this clarity is not present in the legislation itself, and as currently worded, it seems that this legislation could capture parents’ guidance on sexual activity offered to their minor child, as a practice designed to reduce sexual behaviour.

---

<sup>1</sup> *Church Guidance: Conversion Therapy*, Canadian Council of Christian Charities, Christian Legal Fellowship and The Evangelical Fellowship of Canada, March 6, 2020, <https://www.evangelicalfellowship.ca/Resources/Documents/Church-Guidance-Conversion-Therapy>

*Additional concerns with definition wording*

The definition includes the term “*treatment*,” which implies a medical or therapeutic context, however “*practice*” or “*service*” could include almost any activity.

The language of practice or service is used commonly in religious communities. Many of our religious disciplines and observances could be considered practices. As such, the inclusion of these words in the definition of conversion therapy creates ambiguity and raises concern.

We recommend qualifying the definition to specify that the intended context is any formal therapeutic effort to change a person’s sexual orientation or gender identity.

**Exceptions to the definition**

The definition in Bill C-6 clarifies two areas that are not to be considered conversion therapy.

*Exception for practices related to a person’s gender transition*

The first exception is for a practice, treatment or service that relates to “a person’s gender transition.”

At a press conference on March 9, 2020, the Justice Minister said Bill C-8, the previous iteration of the current bill, would not affect medical professionals’ conversations with and diagnoses of patients, in response to a media question referencing a “wait-and-see” approach to gender dysphoria. This is essential. Medical professionals must be able to fully assess and treat each individual patient before them in a manner that is appropriate to their individual circumstances, presentation and needs.

However, the legislation, as written, does not clearly exempt these kinds of medical or therapeutic conversations. It simply provides an exception for a practice, treatment or service related to gender transition, and as such, there is concern that it could limit the ability of medical professionals to respond appropriately to the needs and circumstances of individual patients.

Is this exception intended to allow medical professionals to treat each unique patient before them, or would it allow only treatment toward a particular outcome, in this case, assisting a patient in transitioning? Does the exception mean any service related to gender transition is exempted, regardless of whether it results in the patient’s transition?

Bill C-6 must be clarified to indicate that it allows medical professionals to appropriately assess and treat the patient before them, and that treatment is not limited to one particular outcome. It is important for medical professionals to have clarity that this exception permits, for example, a wait-and-see approach to transition, in particular with young people; as well as providing assistance to individuals who may wish to detransition.

*Exception related to the exploration of identity*

The second exception references a practice, treatment or service that relates to “a person’s exploration of their identity or to its development.”

The Department of Justice website on the proposed changes states:

These new offences would not criminalise private conversations in which personal views on sexual orientation, sexual feelings or gender identity are expressed such as where teachers, school counsellors, pastoral counsellors, faith leaders, doctors, mental health professionals, friends or family members provide affirming support to persons struggling with their sexual orientation, sexual feelings, or gender identity.<sup>2</sup>

However, the legislation as written doesn’t include any such exceptions for private conversations or the expressions of personal views, let alone the public expression of views.

The legislation will be enforced according to the provisions that are set out within it. The current wording is not clear in what this exception is meant to protect.

If this exception included “the exploration of a person’s *sexual, gender or religious identity* and its development,” it would recognize that these elements shape a person’s decisions and practices, and that these elements interact with one another. Canadians must remain free to order their sexual lives according to their beliefs, faith identity and personal convictions.

It seems likely that the two exceptions to the definition, as currently worded, may apply to some medical or therapeutic situations, but not all. For example, if a 12-year-old patient with rapid onset gender dysphoria requests puberty-blocking medication and surgery, they are not coming to a medical professional for identity exploration. Does the medical professional have the ability to take time to assess the patient and offer their best professional advice for the patient? The exception in the legislation is only for a practice, treatment or service that relates to gender transition. Would this exception cover a medical professional’s opinion that the patient should not transition at this time? The exception needs clarification as to which practice, treatment and service may result in criminal charges, and which will not.

Bill C-6 should be amended to clarify that the following will not be considered conversion therapy:

- parental guidance on matters of gender or sexuality
- religious instruction on matters of gender or sexuality, whether private or public
- the private or public expression of sincerely held beliefs or views
- therapeutic or medical care offered to individuals voluntarily seeking support

---

<sup>2</sup> *Proposed changes to Canada’s Criminal Code relating to conversion therapy*, Department of Justice, <https://www.justice.gc.ca/eng/csj-sjc/pl/ct-tc/index.html>

## **Proposed new offences**

Our concerns with the proposed offences relate primarily to how the ambiguity and breadth of the definition may be interpreted or understood.

### *Causing a person to undergo conversion therapy against the person's will*

Few, if any, Canadians would support compelled, involuntary or coerced change efforts. We agree that coercive, involuntary or abusive efforts to change an individual's sexual orientation or gender identity have no place in our communities, and no place in Canada.

### *Causing a minor to undergo conversion therapy*

Again, the concern with this offence centers solely around the lack of clarity in the definition, and therefore about what might or might not be captured. For example, could religious instruction in the form of pastoral guidance or instruction to young people to abstain from sexual behaviour – whether on an individual basis or in a group setting - be captured? What about written resources, such as courses of study or books on Biblical sexuality, or Bible studies for youth on sexuality?

### *Advertising an offer to provide conversion therapy*

We note that the advertising offence is not limited to a ban on advertising conversion therapy for minors. It prohibits advertising for conversion therapy, period, and, if the definition is not narrowed and clarified, could extend to advertising for what is otherwise a legal activity.

Could it apply to advertising support groups that a person may voluntarily attend for support and community they want or need in ordering their sexual life according to their faith identity or personal convictions? Or advertising for books or Bible studies of biblical teaching on sexual activity?

Could invitations to join a faith community that holds traditional beliefs about marriage and sexuality, and where these beliefs will be shared as the guidance of sacred texts and an element of religious identity, be considered advertising for the provision of conversion therapy?

At the hearings of a Calgary City Council committee reviewing a bylaw to enact a conversion therapy ban, the city councillor chairing the meeting indicated that a pastor's invitation to meet to talk about questions of gender identity or sexual orientation could be considered advertising for conversion therapy, under the bylaw. City staff seemed in agreement with his understanding.<sup>3</sup>

It is essential that the definition of conversion therapy be clarified in such a way that these new offences do not overreach.

---

<sup>3</sup> Calgary City Council Committee on Community and Protective Services, May 14, 2020, video recording of committee proceedings from May 13-14, 2020 at the 26:05:58 mark and following, <https://pub-calgary.escribemeetings.com/Meeting.aspx?Id=25e7a1a5-22d3-4c18-97d5-1d019a336937&Agenda=Merged&lang=English>

*Receiving a financial or other material benefit from the provision of conversion therapy*  
There are two main phrases of concern in this offence.

The phrase “*financial or other material benefit*” echoes the prostitution offences introduced in Bill C-36, currently s. 286.2 of the *Criminal Code*. The prostitution provisions include exceptions to narrow the scope, which are disallowed if there are exploitive circumstances or threats of violence, etc. The material benefit provision in the prostitution law is intended to cover a wide scope of activity in order to catch incidents of human trafficking, which may otherwise be difficult to establish given the vulnerability of victims in extremely exploitive circumstances. Bill C-6, however, uses the same language for the offence, but without the exceptions that narrow its’ scope.

The phrase “*derived directly or indirectly*” is also modeled after the prostitution provisions, including the word ‘indirectly’ to intentionally capture other forms of material benefit than financial. For example, in the context of prostitution, material benefit could include shelter, food, alcohol or drugs – all of which can be used to exercise and maintain control in an exploitive situation.

In the context of conversion therapy though, what would an indirectly derived benefit look like? If a pastor speaks about biblical teaching on sexuality would their salary from the church be a financial benefit that is derived indirectly? Bill C-6 must be amended so that it is clearly focused on the activities it intends to ban or it may have significant unintended consequences.

### **Conclusion**

The EFC supports the overall objective of Bill C-6, which is to protect Canadians from the damaging effects of coercive, involuntary, or abusive practices. We do not seek to defend conversion therapy. But the definition of conversion therapy in the bill goes far beyond what is generally understood to be conversion therapy.

The definition of conversion therapy in Bill C-6 must be clear and unambiguous. The consequences for carrying out conversion therapy as defined in this bill would not be simply professional discipline or sanctions, such as loss of license or accreditation. These changes carry the potential of criminal sanction and imprisonment.

The lack of clarity in the definition threatens appropriate parental, pastoral or professional counselling. It risks infringing on *Charter* protected freedoms of conscience, religion, thought, belief, opinion and expression.

It is absolutely essential that the definition of conversion therapy in the bill be clarified so that Canadians understand clearly what activities will attract criminal sanction and what constitutes criminal behaviour.

## Recommendations

- In conjunction with an amended definition of conversion therapy, we recommend amending the second statement of the Preamble so that it simply states:  
*Whereas conversion therapy causes harm to society;*
- We recommend further that an affirmation of freedom of religion and expression, such as the statement in the *Civil Marriage Act*, be added to the preamble. We support the preambular statement proposed by Christian Legal Fellowship:  
*Whereas nothing in this Act affects the guarantee of freedom of conscience and religion and, in particular, the freedom of religious groups to hold and declare their religious beliefs;*  
*Whereas it is not against the public interest to hold and publicly express diverse views on marriage, sexuality and gender;*
- We strongly recommend amending the definition to add needed clarity and certainty. This could be done in one or more of the following ways:
  - Add the qualifiers of “coercive and systematic” to “practice, treatment or service” in the definition, to be consistent with the language used by the Minister of Diversity, Inclusion and Youth in her statement to this Committee on December 1, 2020.
  - Delete the word “behaviour” from the definition.
  - If the word “behaviour” remains in the definition, specify that only those practices, treatments or services to repress or reduce non-heterosexual attraction or sexual behaviour **as part of** an effort designed to change sexual orientation or gender identity are captured by the definition.

Consistent with extra-legislative assurances, it should be clarified in Bill C-6 that the following will not be considered conversion therapy:

- parental guidance on matters of gender or sexuality
  - religious instruction on matters of gender or sexuality, whether private or public
  - the private or public expression of sincerely held beliefs or views
  - therapeutic or medical care offered to individuals voluntarily seeking support
- We recommend to the committee the following amendments to the definition of conversion therapy in Bill C-6 proposed in collaboration with our partners in the Coalition for Conscience and Expression:

**320.101** In sections 320.102 to 320.106, conversion therapy means a purported therapy practice, treatment or service designed to change a person’s sexual orientation to heterosexual, or gender identity to cisgender, or to repress or reduce non-heterosexual attraction or sexual behaviour as part of an effort designed to change sexual orientation

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

- (a) relates to a person's gender transition; or
- (b) relates to a person's exploration of their identity or to its development;
- (c) constitutes the promulgation or expression of religious doctrine, teachings, or beliefs by a religious organization or a faith leader, or the expression of views on sexual orientation, sexual feelings or gender identity, including the provision of support to a person questioning their sexual orientation, sexual feelings or gender identity by teachers, school counsellors, faith leaders, doctors, mental health professionals, friends or family members.

---

**EFC NATIONAL OFFICE**  
9821 Leslie St., Suite 103  
Richmond Hill, ON L4B 3Y4  
Local 905-479-5885

Toll free 1-866-302-3362  
[EFC@theEFC.ca](mailto:EFC@theEFC.ca)  
[Twitter.com/theEFC](https://twitter.com/theEFC)  
[Facebook.com/theEFC](https://facebook.com/theEFC)

**EFC OTTAWA OFFICE**  
130 Albert St., Suite 1810  
Ottawa, ON K1P 5G4  
Local 613-233-9868