

December 2, 2020

BY E-MAIL: JUST@parl.gc.ca

Standing Committee on Justice and Human Rights
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6
Canada

To the Honourable Members of the Standing Committee on Justice and Human Rights:

Re: Bill C-6: An Act to Amend the Criminal Code (Conversion Therapy)

Thank you for your commitment to drafting and legislating laws that are intended to protect the rights and freedoms of all Canadians. I write to express my concerns concerning Bill C-6: An Act to Amend the Criminal Code (Conversion Therapy).

To give you an idea as to my background, I am a practicing lawyer in British Columbia. I am also an ordained pastor for a diverse, multi-ethnic church of approximately 300 to 400 people. Like most Canadians, my dream is that Canada would be a society where people of all backgrounds are treated with respect, compassion and dignity. For this reason I often tell the people in my church congregation that we have a mandate based on the Bible to love people no matter what their background, to learn from them, and to treat them with dignity and respect. Also, without breaching concerns of privacy and confidentiality, I can say that in those few occasions when individuals in my congregation have ever disclosed their current or past experience with same-sex attraction, it does not change the way we as a church love them or consider them to be a part of our church community.

As a Christian minister, I acknowledge that, on one hand, the Bible contains strong language regarding homosexual activity and, on the other hand, urges Christians to treat every person regardless of their background with love, compassion and respect. At my church we are not in the habit of speaking publicly about homosexuality and we do not offer “conversion therapy” services. I do not believe that Christians can or should force any person who identifies as homosexual or transgender to change their sexual orientation or gender identity. To me that would be a foolish, useless and hurtful exercise.

I am concerned, however, that the way in which Bill C-6 is currently worded gives rise to a number of serious problems. Three of those problems are summarized below.

Problem 1: Due to vague and unqualified wording, Bill C-6 will have the effect of unfairly, unreasonably and unnecessarily imposing criminal liability on Canadians in situations that should not be deemed to be criminal.

First, specifically to the question of what constitutes “conversion therapy” and who can be criminally charged for:

- knowingly causing a person to undergo conversion therapy against a person's will (whether pursuant to proposed section 320.102 or pursuant to proposed section 320.103(1) if the person is under 18 years of age); or
- advertising conversion therapy services (pursuant to proposed section 320.104)

the current wording of Bill C-6 gives rise to the real risk of unfair and unnecessary criminal prosecution for certain individuals in Canada.

For example, consider the following scenarios:

- a Christian parent tries to teach their child at home about what the Bible says about homosexuality;
- a pastor preaches a message, teaches a class, gives a presentation, or answers a question concerning what the Bible says about homosexuality;
- a pastor ends such message, class, presentation, or answer to a question by extending an open invitation to the people listening, saying something to the effect of “If for you same sex attraction is a struggle that you would like help with and you would like someone to talk with you or pray for you, please let us know and we can, in a safe, confidential setting, talk with you and pray for you”;
- a person publicly reads passages from the Bible concerning homosexuality in a church service or another public venue;
- a person writes an article promoting a Christian perspective on homosexuality and gender identity;
- a parent arranges for their child who is confused about their sexual orientation or gender to talk with a Christian counsellor about it;
- a professional Christian counselor, a volunteer leader at a camp, or a Sunday School teacher counsels or prays for someone who has revealed that they struggle with occasionally feeling same sex attraction;
- a Christian has a private conversation with another individual who has revealed that they struggle with same sex attraction and are not sure what to do about it, and that Christian offers to pray for that person, share with them what the Bible says about homosexuality and/or refer that person to a church, counsellor or other Christian ministry.

In each of the above scenarios I would submit that the individuals described above are not doing anything that should be deemed as criminal. Yet the wording of Bill C-6 is so vague, general and unqualified that it gives rise to the real risk that the individuals in these above described situations may be deemed to be practicing “conversion therapy”

or “advertising conversion therapy services” within the language of Bill C-6 and thus threatened or charged with criminal prosecution.

Is it the intention of the current government of Canada or of the Standing Committee on Justice and Human Rights to criminally prosecute Canadians who find themselves in these above situations or similar situations? I would respectfully submit that to do so would be a gross injustice and a violation of the fundamental freedoms, religious rights and equality rights of Canadians under the Canadian Charter of Rights and Freedoms.

If the intention of the current government of Canada or of the Standing Committee on Justice and Human Rights is *not* for Canadians who find themselves in situations such as those described above to be accused or charged with having committed the offences described by Bill C-6, then I strongly urge members of Parliament and in particular the Standing Committee on Justice and Human Rights to take a serious look at revising the language of Bill C-6, which as it stands remains dangerously vague. The language of Bill C-6, especially as it relates to the definition of “conversion therapy”, needs to be specific, qualified and clear so as to eliminate any reasonable possibility that individuals in situations such as those described above would be implicated or charged.

Problem 2: Bill C-6 as currently worded places an unfair burden on Canadians who are accused to prove that “conversion therapy” is not against the will of the person receiving it.

Second, the way that Bill C-6 is currently worded, the government is placing the onus on the individual being accused of committing the offences created by Bill C-6 to prove that the provision of “conversion therapy” is not against the will of the person receiving it. Yet how can one practically prove that the provision of “conversion therapy” is not against the will of the person receiving it in the case of specific individual counselees without breaching confidentiality and the counselees’ privacy rights? Are we expecting the counselee to publicly come to the defense of the person now being accused for providing “conversion therapy” and say, “Yes, I really do want this”? How realistic is that expectation especially when the counselees’ sexuality is the most private and personal matter of their lives and is the very reason why they sought confidential counseling in the first place?

Also, I would request that the Standing Committee on Justice and Human Rights include language in Bill C-6 that eliminates any possibility that a person who speaks publicly to a large group of people by giving a sermon in a church service, a lecture in a class setting, an answer to a question or a written article can be accused of committing any of the offences under Bill C-6. Otherwise, if it is possible for a person who speaks or writes publicly in such settings to be accused of committing any of the offences under Bill C-6, how is that person practically to prove that such person’s audience, or any segment of such audience, is willing or not willing to undergo “conversion therapy”?

Given considerations such as the above, I would submit that Bill C-6 effectively places a burden that is unfair, unreasonable and practically impossible to discharge upon the person being accused to prove that those receiving “conversion therapy” are doing so willingly.

Again, I write this not because I am in the habit of practicing conversion therapy but because I am gravely concerned that somehow the normal activities I do as a pastor, public speaker, counsellor and writer will be inadvertently caught within the definition of “conversion therapy” due to dangerously vague and unqualified statutory language.

Problem 3: Through the vague, unqualified wording of Bill C-6’s amendments to section 164 of the Criminal Code, the government of Canada is degrading the charitable work of Christian pastors, counsellors and charitable organizations in Canada to the same level as peddlers of child pornography.

Third, there are serious issues with Bill C-6’s proposed amendments to section 164 of the Criminal Code. Bill C-6 proposes to amend subsection 164(8) of the Criminal Code by including a definition for “advertisement for conversion therapy”. Consider the following scenarios:

- A person publicly reads a passage from the Bible concerning homosexuality. Is that an “advertisement for conversion therapy”?
- A pastor delivers a sermon, class lecture, presentation, an answer to a question, or a written article about homosexuality and the Bible. Is that an “advertisement for conversion therapy”?
- A pastor ends such sermon, class lecture, presentation or answer to a question by extending an open invitation to the people listening, saying something to the effect of: “If for you same sex attraction is a struggle that you would like help with and you would like someone to talk with you or pray for you, please let us know”. Is that an “advertisement for conversion therapy”?
- A Christian organization publishes a video online, a printed flyer or a public announcement promoting a course where one of the topics to be discussed is homosexuality. Is that an “advertisement for conversion therapy”?

I would submit that none of these above situations is wrong or should be deemed criminal. Yet Bill C-6’s vague and unqualified amendment to section 164 of the Criminal Code opens up the possibility that such situations will fall within the definition of an “advertisement for conversion therapy” and thus be deemed criminal. Not only would Bill C-6 criminalize activities which should not be deemed criminal, even more the criminalization of such activities would constitute a gross violation of the fundamental

freedoms, religious rights and equality rights of Canadians under the Canadian Charter of Rights and Freedoms.

Even more, by amending section 164 of the Criminal Code, Bill C-6 attempts to place the possession of an “advertisement for conversion therapy” on the same level as the possession of child pornography. If situations like the ones I have listed above can be deemed to be an “advertisement for conversion therapy”, the implication is that the government is equating the charitable work of pastors, Christian counsellors, Christian organizations and Christians generally to the work of peddlers of child pornography. As a pastor, as a Christian and as a Canadian, I find this implication disturbing and degrading. I would request that the government thoroughly revisit how it is trying to define “advertisement of conversion therapy services” in section 164 of the Criminal Code.

Final Thoughts

For reasons such as the above, I would submit that Bill C-6 is fraught with serious problems. If Bill C-6 is passed as it is currently worded, I believe the risks are real that innocent Canadians will be unfairly threatened, villified and criminally prosecuted, and that the Charter-protected fundamental freedoms, religious rights and equality rights of Canadians will be violated.

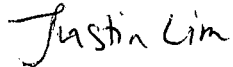
I believe Canadians who identify as homosexual or transgender should be protected from forced conversion therapy. However, I do not believe that such protections need to come at the cost of criminalizing the religious views and activities of other Canadians. I believe that Canada is at its best when people from different backgrounds holding differing points of view can safely, respectfully and peacefully dialogue with one another about their unique and differing perspectives on all issues, including sexuality. Bill C-6 does not move us forward in promoting such a society. Rather, Bill C-6 moves us in the opposite direction toward an intolerant, unequal society where not all Canadians are free to express their personal and religious views unless they conform to the views of those in power, and where failing to conform means to live in fear of criminal prosecution. In this way, I fear that Bill C-6 is its own form of “conversion therapy”, except in this case it is directed at another minority group in Canada, namely, Christians who trust the Bible as an authoritative guide for living and people with similar religious convictions.

With all due respect, I would submit that the honorable members of Parliament and the Senate must seriously rethink their approach to legislating on conversion therapy. At the very least, I would urge the Standing Committee on Justice and Human Rights to amend the language of Bill C-6 so as to make sure that Christian pastors, ministers, priests, teachers, counsellors and Christians generally across Canada do not become the subject of threats and criminal prosecution simply for sharing their religious views, whether in a public or private setting.

Since I am writing from the perspective of a Christian pastor, I cannot presume to speak on behalf of leaders from other faith communities, such as leaders in the Jewish, Muslim, Buddhist and other faith communities of Canada. However, I would expect that at least some of the leaders in those faith communities would have similar concerns as the ones I have expressed here.

Thank you for your consideration of this letter as you seek to enact laws which are just, fair and beneficial for all Canadians.

Sincerely,

A handwritten signature in cursive script that reads "Justin Lim".

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