

# CHANGING CANADA'S CONVERSION THERAPY LAW

Canada's ban on conversion therapy, passed in 2021, bans any practice, treatment, or service that aims to change someone's sexual orientation, sexual behaviour, sexual attraction, gender identity, or gender expression. This ban is far too broad and ideologically biased. It infringes on religious freedom and self-determination, and it bans helpful forms of body-affirming counselling. ARPA Canada recommends that the government fix these issues by fixing the legal definition of what qualifies as conversion therapy.

Should counsellors and pastors be forbidden to help people love the body they are born with?

Right now, that's what Canadian law says. Canada's blanket conversion therapy law prohibits counselling and psychiatric care that helps people love their natural bodies and alleviates gender dysphoria – without pharmaceuticals or surgeries. It also bans counselling to help someone manage unwanted sexual desires or urges. While there are forms of conversion therapy that should rightly be outlawed, the current law goes way too far.

This policy report recommends changing Canada's law to outlaw harmful forms of conversion therapy while respecting people's freedom to seek counselling for struggles related to identity, sexuality, and gender.

## What is Conversion Therapy?

Conversion therapy falls within what the academic literature calls sexual orientation

change efforts (SOCE), gender identity change efforts (GICE), or sexual orientation and gender identity and expression change efforts (SOGIECE). While SOGIECE is broad and would capture, for example, a parent discouraging their child from adopting a transgender identity, conversion therapy tends to connote more formal, structured, and sustained practices.<sup>1</sup>

Merriam-Webster defines *therapy* as the “medical treatment of impairment, injury, disease, or disorder.”<sup>2</sup> For much of the twentieth century, homosexuality was seen as a medical pathology that could be remedied by such therapy. Medication, electric shock therapy, and even lobotomies were used to try to “cure” same-sex attraction.<sup>3</sup> In some cases, patients were coerced to undergo such treatment. In the 1970s, critics of such practices started using the label “conversion therapy” to describe these treatments in place of clinical-sounding terms such as “aversion therapy” or “reorientation therapy.”

It is no wonder we associate “conversion therapy” with pseudoscience, medical malpractice, and victimization.<sup>4</sup> Such practices have rightly been discredited, rejected, and abandoned.<sup>5</sup> But the weighty term “conversion therapy” is now used to condemn people for sharing beliefs about sexual morality and gender identity that conflict with progressive orthodoxy. Some academics now include “encouraging cisnormative and heterosexual lifestyles,” fasting, prayer, and simply withholding “gender-affirming care” as forms of conversion therapy.<sup>6</sup>

## Legislative History

This expansion of the definition of conversion therapy is evident in the short history of conversion therapy bans in Canada.

Ontario was the first to ban conversion therapy, defined as attempts to change someone’s sexual orientation or gender identity, in 2015. Ontario’s ban applies only to health care services provided to minors.<sup>7</sup> Later that year, the Manitoba government (without passing legislation) instructed regulatory colleges to end the practice.<sup>8</sup> In 2018, Nova Scotia passed the first conversion therapy law that applied outside of a medical context to additionally ban any person in a position of trust and authority from providing conversion therapy.<sup>9</sup> Prince Edward Island, in 2020, explicitly included the profession of psychology in its ban.<sup>10</sup> Yukon banned any form of conversion therapy for minors or adults who are under legal guardianship in 2020.<sup>11</sup> Later that year, Quebec passed the broadest provincial law, banning conversion therapy for persons of any age in any contractual setting and banning – for the first time – attempts to change someone’s gender expression.<sup>12</sup> Quebec’s law states that conversion therapy infringes the “right to integrity and dignity of the person.”

From then on, Canada’s federal Parliament considered several bills to ban conversion therapy, with each iteration expanding the scope of the proposed ban. Bill C-8 (2020) would have banned conversion therapy for minors and non-voluntary conversion therapy for adults. It included a ban on efforts

not only to change sexual orientation or gender identity, but also to reduce non-heterosexual sexual attraction and sexual behaviour. Bill C-8 died when Parliament was prorogued. Bill C-6 (2021) added attempts to change, repress, or reduce non-cisgender gender expression to practices that would be banned. Bill C-6 died on the order paper with the 2021 federal election. But in late 2021, Parliament passed Bill C-4, which went even further.<sup>13</sup>

## Canada’s Current National Conversion Therapy Ban

Bill C-4 passed unanimously, skipping much-needed debate, opposition scrutiny, and committee review in both the House and Senate. It created the following *Criminal Code* offences:

- causing another person to undergo conversion therapy;
- doing anything for the purpose of removing a child from Canada with the intention that the child undergo conversion therapy outside Canada;
- promoting or advertising conversion therapy; and
- receiving a financial or other material benefit from the provision of conversion therapy.<sup>14</sup>

The law defines “conversion therapy” as any practice, treatment, or service designed to:

- change a person’s sexual orientation to heterosexual;
- change a person’s gender identity to cisgender;
- change a person’s gender expression so that it conforms to the sex assigned to the person at birth;
- repress or reduce non-heterosexual attraction or sexual behaviour;
- repress a person’s non-cisgender gender identity; or
- repress or reduce a person’s gender expression that does not conform to the sex assigned to the person at birth.

The law also explicitly excludes from the definition of conversion therapy any “*practice, treatment or service that relates to the exploration or development of an integrated*

*personal identity — such as a practice, treatment or service that relates to a person’s gender transition — and that is not based on an assumption that a particular sexual orientation, gender identity or gender expression is to be preferred over another.*” This qualifier excludes what is euphemistically called “gender-affirming care” – puberty blockers, cross-sex hormones, and surgeries – from the definition of conversion therapy, keeping all those options on the table.

Bill C-4’s definition of conversion therapy is broader than any provincial legislation or earlier federal bills because it bans any practice, treatment, or service provided *by anyone* (not just regulated medical professionals) *to anyone* (minor or adult) *in any manner* (including consensually). It also goes beyond banning efforts to change a person’s orientation or identity to banning efforts to repress or reduce same-sex *sexual attraction and sexual behaviour* or non-cisgender *gender expression*.

## Theories of Change

Two empirical questions underlie the debate about conversion therapy. First, can people’s sexual orientation or gender identity change? Second, even if sexual orientation or gender identity changes naturally, can people direct or control such change?

## Sexual Orientation or Gender Identity Can Change

Despite strong cultural messaging that people who identify as gay or transgender are “born that way,”<sup>15</sup> there is a strong scientific consensus that sexual orientation and gender identity can vary naturally during one’s life.

In the realm of sexual orientation, Lisa Diamond and Clifford Rosky, researchers of psychology and law at the University of Utah, document that sexual attraction often spontaneously changes over time, especially for young people, women, and people who experience same-sex attraction.<sup>16</sup> In another study, over 80% of teens who initially reported same-sex attraction and sexual activity reported exclusively heterosexual attraction and sexual activity within 6



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years.<sup>17</sup> In yet another study, young women who identified as lesbian averaged three orientation changes over 8 years.<sup>18</sup> Of course, for many people, sexual attraction remains relatively constant over time, even as teens and young adults. This is especially true for people who experience predominantly or exclusively opposite-sex attraction.

As for gender, many studies demonstrate that 80-90% of children suffering from gender dysphoria "desist" and identify with their biological sex by adulthood.<sup>19</sup> Both the American Psychiatric Association and the American Psychological Association recognize that gender identity can naturally fluctuate, and most gender dysphoric minors will eventually accept their biological sex.<sup>20</sup>

So, there is ample evidence that sexual attraction and gender identity can and often do change naturally over time. They are not entirely innate or immutable. The Canadian Psychological Association also recognizes this.<sup>21</sup>

### People Can Control or Direct Such Change

While people disagree sharply over whether a person can intentionally change their sexual orientation or gender identity, either by their own effort or with the help of others, such changes are possible. There is scientific evidence that *non-medical* practices, such as counselling, can influence sexual orientation or gender identity. Many studies and testimonials indicate that conversion therapy, generally in the form of psychotherapy, has changed sexual attraction in many instances.<sup>22</sup> Douglas Haldeman, a skeptic of

such therapies, admits that they changed a person's sexual orientation or gender identity in approximately 30% of cases.<sup>23</sup>

The Canadian Psychological Association claims that "scientific research does not support the efficacy of conversion or reparative therapy."<sup>24</sup> But in context, all the Association is effectively saying is that neither homosexuality nor transgenderism is a medical pathology, so neither be medically "cured." (The Diagnostic and Statistical Manual of Mental Disorders (DSM V) and the International Classification of Diseases (ICD 11) do, however, list gender dysphoria and gender incongruence as diagnosable conditions.)<sup>25</sup>

There are also methodological flaws in virtually all recent research on conversion therapy. Newer studies tend to only recruit and study people *who currently identify as* LGBTQ. Of course, if these individuals still identify as LGBTQ, then any conversion therapy they experienced was unsuccessful. This methodology is analogous to researchers asking only obese people if weight loss programs worked for them.

Another reason for the disagreement over whether conversion therapy can change a person's sexual orientation or gender identity is the ambiguity about whether the therapy is aimed at changing a person's *behaviour, feelings, or identity*. Some proponents of conversion therapy, such as Joseph Nicolosi, focused on trying to change a person's feelings, particularly sexual attraction.<sup>26</sup> It certainly may be difficult for a third party to change someone's sexual attraction or feelings

around gender, which may be partly rooted in biology, but it is often possible. Even if their undesired same-sex attraction did not change, many who experienced conversion therapy reported that it helped them live a chaste life afterward, which is the goal of many people seeking counselling.<sup>27</sup>

Still, some argue that changing a person's feelings or identity is impossible and any attempt to do so is damaging. But Canada's conversion therapy law even bans attempts to change *behaviour*, particularly "sexual behaviour" and "gender expression." Every competent person has the power to choose and to change their behaviour and so banning attempts to help people achieve this voluntary choice make little sense. It should not be illegal for someone to help another person do what is legal.

### Canada's Conversion Therapy Ban is Bad Public Policy

Many activists and researchers called for conversion therapy to be banned in Canada because they claim that conversion therapy is not only ineffective but also harmful, leading to poorer mental health, lower self-esteem, and more significant suicidal ideation.<sup>28</sup> However, these studies have the same methodological problems mentioned earlier, and the purported harms of conversion therapy vary depending on the type of practice. Certain forms should indeed be banned, though these forms were likely close to non-existent when Bill C-4 passed.



Canada's conversion therapy ban has several major flaws. First, it is unclear and overly broad, threatening to capture legitimate, helpful services or treatments. Second, it endorses a contentious view of sexual morality and gender and labels other views as "myths" and "stereotypes."<sup>29</sup> Third, it violates Canadians' freedom to express their conscientious and religious beliefs and forbids citizens to manage unwanted same-sex attraction or gender dysphoria in the manner of their choosing. Finally, the law fails to prevent the most harmful conversion efforts – the practice of medical transitioning.

### The Definition of Conversion Therapy is Unclear and Overly Broad

The current wording of the federal conversion therapy ban is unclear and broad. An ARPA staff member, meeting with an MP before a vote on one of the proposed federal conversion therapy bans, raised this hypothetical scenario: "Imagine my teenage son came to me one day and said he is starting to think that he is a girl because he doesn't like to play sports and prefers the company of girls. I tell him that's perfectly fine to like what he likes and that it doesn't make him a girl. I say God gave us a son, and we love you as our son. Now, would saying that run afoul of the conversion therapy law?"

The MP replied, "I don't know, but that sounds like child abuse to me."

Aside from how troubling it is that the MP considered this potential child abuse, it is no surprise that the MP did not know if this would be illegal. The law uses "practice, treatment, or service" without defining these terms. The government's Charter Statement on Bill C-4, which is not binding on courts, says these terms imply "an established or formalized intervention."<sup>30</sup> But the Statement goes on to say that expressing an opinion on matters of sexuality or gender is not criminal "unless that conversation forms part of an intervention designed to make a person heterosexual or cisgender." However, Bill C-4 bans efforts to change not only identity, but also behaviour. And who knows whether telling your son he is not a girl is "designed to make him cisgender"?

Parents, religious leaders, mentors, and counsellors should not have to wonder whether their moral, religious, personal, or professional perspectives or beliefs are illegal to share.

### Conversion Therapy Bans Are Ideologically Biased

Canadian discourse on conversion therapy is dominated by ideological language that presents one view of sexuality and gender as true and righteous and the other as false and evil. Underlying conversion therapy bans are deeper questions about what it means to be human. Canada's law presupposes that our internal sense of gender is more important than the objective reality of our sexed bodies, that a person's "true" identity as male or female (or both or neither) depends on their self-concept, not their body. For example, the preamble to Bill C-4 declares that it is a "myth that heterosexuality, cisgender gender identity, and gender expression that conforms to the sex assigned to a person at birth are to be preferred over other sexual orientations, gender identities and gender expressions."<sup>31</sup>

Canada's law declares that every sexual orientation, sexual behaviour, gender identity, and gender expression should be celebrated and says that those who promote a contrary view should be punished. But if we want Canada to remain a liberal democracy, where people are free to pursue their understanding of the good life, then this law has no place here. It is illiberal. Canada's Supreme Court has said that liberty protects "the right to make fundamental personal choices free from state interference."<sup>32</sup> Elsewhere, the Court has affirmed, with John Stuart Mill, "Each is the proper guardian of his own health, whether bodily or mental and spiritual."<sup>33</sup>

The one-directionality in all six categories of conversion therapy in Canada's conversion therapy law further attests to the ideological bias of the law. Trying to change a person's sexual orientation to heterosexual or gender identity to cisgender is prohibited. But any attempt to change a person's sexual orientation or gender identity to anything else is acceptable. The law also prohibits efforts to reduce a person's *homosexual* sexual desires or conduct but allows efforts to

reduce heterosexual sexual desires or sexual conduct. This is a clear indication that the legislation is not trying to be even-handed or neutral but instead is designed to promote the diversity of "sexual and gender minorities" and attack "cis-heteronormativity".


### Conversion Therapy Bans Infringe on Religious Belief and Expression

Much of the conversation around conversion therapy revolves around the practice in medicine or psychology, but the reality is that these sectors will be largely untouched by the ban. With 67%-83% of reported efforts over the last several decades to change a person's sexuality or gender identity taking place in religious settings,<sup>34</sup> religious and moral beliefs will be impacted the most by the conversion therapy ban.

Many Christians and Christian organizations (including ARPA) believe that humans were created male and female<sup>35</sup> and that rare disorders of sexual development do not change that fundamental reality.<sup>36</sup> Sexual intimacy is a gift from God, designed to be expressed exclusively in marriage between a man and a woman. While gender dysphoria requires a compassionate response, it is healthy and good to accept one's biological sex – and corresponding identity as male or female – as a gift from God. We believe this is not only morally right but also that it promotes human flourishing.

As such, ARPA and many Christians believe homosexuality and transgenderism are disordered. As a Reformed Christian catechism explains, "All the desires of the human heart, even though they may be unchosen, have become distorted and fallen in the sin of our first parents. These desires cannot be trusted, since we have a natural tendency to be led away by various passions. [...] To introduce gender as a new category of personhood, separate from the biological category of sex, in pursuit of a different sexual identity, is unnatural to the creation order, and harmful to the purpose for which God made us."<sup>37</sup>

Christians – and anyone else with a different perspective on sexuality and gender – should be free to share this belief with their children,



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neighbours, and patients. Conversion therapy laws violate this fundamental freedom. When people struggle with their identity as male or female, the answer is not to ban a body-affirming solution that views biological sex rather than internal gender identity as the basis for reality. Instead, the government should respect people's freedom to seek help to accept and be comfortable with their bodies. This approach minimizes harm and respects the body as integral to the human person.

In practice, conversion therapy bans mainly target religious counselling. Banning religious counselling violates two fundamental *Charter* freedoms: (a) freedom of conscience and religion, and (b) freedom of thought, belief, opinion and expression. It violates the liberty of a religious leader to provide such counselling and a person's liberty to receive such religious counselling.

### **Conversion Therapy Bans Deny People the Freedom to Feel, Identify, and Behave as They Choose**

In 2005, same-sex marriage was a hotly debated issue in the House of Commons. Eventually, Parliament voted to legalize it. The arguments used to support same-sex marriage back then clash with arguments used to justify Canada's conversion therapy ban today. Consider the words of Liberal MP Bernard Patry, arguing for same-sex marriage in 2005:

*Pluralism is enhanced through this bill with the formal recognition of each individual's right to live according to their personal beliefs [and] enjoy respect for their identity and dignity as human beings. If we lack the courage to commit to fully recognizing this, we can talk about our attachment to pluralism and rights until the cows come home, but our words will not ring true because they will fly in the face of our actions.*

*If, in Canada, we enjoy a level of freedom envied the world over, it is because we have been able to reach a social consensus around the idea that the guarantee of individual freedoms is based on respect for those of others.*<sup>38</sup>



## Medical transitioning is premised on the notion that there is something wrong with our bodies that needs to be fixed.

Canada's conversion therapy bill abandons these principles. Someone who struggles with unwanted same-sex attraction or sexual behaviour, for example, should be free to seek help to live their beliefs and identity, but this law forbids it.

### Body-Affirming Counselling Can Help Resolve Gender Dysphoria or Manage Undesired Sexual Behaviour

Canada's ban on conversion therapy rightly bans body-degrading practices that try to medically transform a person's body to cure same-sex attraction or gender dysphoria. However, the law is self-contradicting in that it also bans body-affirming counselling. Body-affirming counselling is based on the premise that our biological sex, rather than our perceived gender identity, best reflects reality. It uses behavioural, psychological, or religious counselling to help people accept and love the body they have been given. It is voluntarily sought and received. It may be provided by clinical psychologists, psychiatrists, licensed counsellors, or (in a different form) religious leaders.<sup>39</sup> Body-affirming counselling is distinct from medical forms of conversion therapy, but recent bans on conversion therapy wrongly lump the two practices together.

Body-affirming counselling involves the counsellor and client collaboratively exploring the issue and defining the problem, the desired outcomes, and the path to achieve those outcomes. Some people seek to change their feelings (e.g. gender dysphoria or same-sex attraction), while others seek to manage only their behaviour (e.g. overcoming a perceived need for "sex-change" treatment or gay porn consumption). A person may stop participating if they disagree with their

counsellor's assessment, methods, or outcome(s).

Some condemn such body-affirming counselling for not being "trans-positive" and for failing to accept and affirm a person's self-reported identity. But such counselling respects a person's biological reality. This is in a person's best interest – physically, emotionally, and mentally. Instead of banning helpful alternatives to medical transition, public policy in this area should *promote* these alternatives over irreversible medical interventions.

### Medical Gender Transition is Conversion Therapy

Rather than banning conversations and counselling that seek to address gender dysphoria or unwanted same-sex attraction, governments should ban what is truly harmful: medical gender transitions. Currently, federal and provincial conversion therapy laws explicitly exempt medical gender transitions instead of targeting these egregious attempts to change someone's sex.

Unlike body-affirming counselling, medical transitioning is physically invasive and worryingly reminiscent of the pharmaceutical and surgical forms of conversion therapy practiced in the mid-1900s. Like those practices, medical transitioning is premised on the notion that there is something wrong with our bodies that needs to be fixed. Rather than pathologizing gender identity (as a medical form of conversion therapy does), it pathologizes our biological sex. Medical transitioning does irreparable physical and psychological harm, leading to the loss of healthy sex organs and of normal sexual function and fertility. A major longitudinal study found that health outcomes deteriorate

just one year after surgery. By the fifth year, post-operative transsexuals had poorer outcomes in 7 of 8 categories: mental health, vitality, bodily pain, social function, emotional functioning, physical functioning, and general health.<sup>40</sup>

Medical interventions have predictably poor outcomes because they are based on a misdiagnosis. At root, gender dysphoria is a psychological condition. Sexual orientation and gender identity are psychological categories and may naturally change over time, but sex is a biological, immutable reality. Undesired discrepancies between someone's subjective identity and their biological sex should be resolved in favour of their biological sex.<sup>41</sup>

Recent conversion therapy bans deprive those who struggle with gender dysphoria or unwanted sexual feelings from getting the help they want and need. Instead, they steer young people down the path of invasive, harmful, and often irreversible medical interventions. These bans explicitly *permit* (and provincial governments even pay for) altering someone's secondary sex characteristics through puberty blockers, ongoing injection of synthetic opposite-sex hormones, and surgical removal of healthy sex organs – and all the accompanying harms.<sup>42</sup>

### Recommendations

Counselling that encourages children, teenagers, and adults to accept the biological basis for gender and sexuality – to love their body<sup>43</sup> – should be permitted and encouraged for medical practitioners, professional counsellors, or persons in other positions of trust and authority. Conducted appropriately, such counselling respects patients' and care providers' fundamental freedoms, limits

potential harms, and respects the reality and integrity of biological sex.

Therefore, Canada's conversion therapy law should be substantially amended in two ways.

1. Parliament should fix the definition of conversion therapy in our criminal law by:
  - a. correcting the one-directional nature of the prohibitions,
  - b. prohibiting *only* the following practices, where the purpose is to change a person's sexual orientation, gender identity, or gender identity:
    - i. prescribing or administering pharmaceuticals or other drugs
    - ii. medical or psychiatric treatment
- c. clarifying that the prohibition on conversion therapy does not include:
  - i. investigating and treating past trauma, including but not limited to physical, sexual, emotional or verbal abuse, or neglect;
  - ii. counselling that addresses unlawful or unsafe sexual activities; or
  - iii. good faith teaching or discussion of

given without informed consent; and

beliefs or opinions, be they moral, religious, scientific, or otherwise, or attempts to establish such beliefs or opinions by argument.

2. Parliament should ban any chemical, hormonal, or surgical interventions that try to change someone's sex, sexual orientation, or gender identity, including both medical forms of conversion therapy and medical "gender transition" drugs and surgeries.

Respectfully submitted,

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## Endnotes

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  31. "Government Bill (House of Commons) C-4 (44-1) - Royal Assent - An Act to Amend the Criminal Code (Conversion Therapy) - Parliament of Canada."
  32. *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44, at para 54.
  33. John Stuart Mill, *On Liberty*, quoted in R v. Jones, 1986 CanLII 32 (SCC), at para 76.
  34. Salway et al., "Experiences with Sexual Orientation and Gender Identity Conversion Therapy Practices among Sexual Minority Men in Canada, 2019–2020"; Kinitz et al., "Conversion Therapy' Experiences in Their Social Contexts."
  35. See Genesis 1:26–31 for an account of what it means to be human.
  36. Intersex Society, "How Common Is Intersex?"
  37. Christopher J. Gordon, *The New Reformation Catechism on Human Sexuality* (Gospel Refor- mation Network, 2022). Q&A 6 and 17.
  38. Parliament of Canada, "Debates (Hansard) No. 74 - March 24, 2005," March 24, 2005, <https://www.ourcommons.ca/DocumentViewer/en/38-1/house/sitting-74/hansard>.
  39. George, "Expressive Ends"; Victor, "Regulating Sexual Orientation Change Efforts"; Canadian Psychological Association, "CPA Policy Statement on Conversion Therapy".
  40. Ebba K. Lindqvist et al., "Quality of Life Improves Early after Gender Reassignment Surgery in Transgender Women," *European Journal of Plastic Surgery* 40, no. 3 (June 1, 2017): 223–26.
  41. For a much more in depth discussion of the harms and propriety of medical gender transi- tions, particularly for minors, see ARPA's policy report on [Medical Transitioning](#).
  42. To change someone's biological sex is impos- sible. Chemical and surgical advances have made it possible to make a biological male ap- pear very much like a female and vice versa, but a true sex change remains an impossibility. The chromosomal data in each of the approximately 73,000,000,000,000 cells in an adult body will continue to identify the body as either male or female, an immutable characteristic.
  43. For a thorough and compassionate critique of our cultural moment's deeply religious com- mitment to gender transitions and identity questions, see Nancy Pearcey, *Love Thy Body: Answering Hard Questions about Life and Sexuality* (Grand Rapids, MI: Baker Books, 2018).

We hope you enjoyed reading this policy report.

We know that championing our policy recommendations will take courage, dedication, and hard work. We at ARPA Canada strongly believe that doing so would be consistent with God's calling for you in a position of civil authority (Romans 13), and for promoting the well-being of our neighbours, in line with Canada's constitution and legal history. We are grateful for your service and we remember you in our prayers.

**RESPECTFULLY SUBMITTED**

Association for Reformed Political Action (ARPA) Canada