



# **Petition of Max Tweedie for Young Labour and the Young Greens: Ban Gay Conversion Therapy**

## **Petition of Amanda Ashley: Ban Conversion Therapy in New Zealand**

Report of the Justice Committee

October 2019

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Hon Meka Whaitiri  
Chairperson

## **Petition of Max Tweedie for Young Labour and the Young Greens: Ban Gay Conversion Therapy**

## **Petition of Amanda Ashley: Ban Conversion Therapy in New Zealand**

### **Recommendation**

The Justice Committee has considered the petition of Max Tweedie for Young Labour and the Young Greens—Ban Gay Conversion Therapy—and the petition of Amanda Ashley—Ban Conversion Therapy in New Zealand—and recommends that the House take note of its report.

### **Request to ban conversion therapy**

In August and September 2018, two petitions to ban conversion therapy were presented to the House. The petition of Max Tweedie for Young Labour and the Young Greens was presented on 14 September 2018. It asks:

That the House of Representatives ban gay conversion therapy, being any form of treatment or psychotherapy which aims to change, eliminate, or suppress same-sex attraction, or to cure a lack of opposite-sex attraction.

The petition of Amanda Ashley, presented on 8 August 2018, requests:

That the House of Representatives pass legislation banning conversion therapy intended to change a person's sexual orientation or gender identity, and note that 5,157 people have signed an online petition in support of such a ban.

We note with sadness that in November 2018 Amanda Ashley passed away. Ms Ashley was a strong advocate for LGBTQ rights, particularly in the Rodney community.

We acknowledge Max Tweedie's statement that the original intent of his petition was to ban all types of conversion therapy, rather than focusing solely on gay conversion therapy. Our report refers to conversion therapy generally, to reflect this intent and capture the issues raised by both petitions.

### **What is conversion therapy?**

Conversion therapy is any practice or treatment that seeks to change, suppress, or eliminate a person's sexual orientation, gender identity, or gender expression. It may include traditional counselling, therapy, teaching, or group discussion. We heard that it can be damaging to the mental and physical health of those subjected to it.

Conversion therapy is usually based on a belief that people with diverse sexual orientations or gender identities are abnormal and should be changed so they fit within heteronormative standards.

Such therapy can be harmful because it perpetuates the idea that sexuality and gender identity are an individual's choice rather than something they are born with. We note that this idea is inconsistent with mainstream scientific consensus, the New Zealand Bill of Rights Act 1990, and internationally recognised human rights.<sup>1</sup>

## **Conversion therapy in New Zealand**

In New Zealand, it is considered unethical behaviour for registered counsellors to provide conversion therapy. The Aotearoa Association of Social Workers and the New Zealand Association of Counsellors both support a ban on conversion therapy. However, we understand that unregistered individuals or religious groups may offer it in accordance with their beliefs.

We heard anecdotal evidence that gay conversion therapy is relatively common in New Zealand, particularly for minors whose parents have consented to it on their behalf. Consenting adults may also seek out or be referred to conversion therapy. We did not receive any evidence about the prevalence of other types of conversion therapy.

We heard from the rainbow community that they believe they are at much higher risk of mental health problems than others living in New Zealand.<sup>2</sup> Given this, we are concerned that conversion therapy may cause further harm to an already vulnerable section of New Zealand.

## **International perspectives on conversion therapy**

We heard that many prominent international associations oppose conversion therapy, including the following:

- American Psychological Association
- Royal College of Psychiatrists London
- Canadian Psychological Association
- Australian Medical Association.

Jurisdictions that prohibit conversion therapy, or that are considering prohibition, include the UK, the Australian state of Victoria, and 15 states in the US. Some bans apply only to minors. This avoids limiting the rights and freedoms of consenting adults, including their right to religious freedom.

## **Bill to prohibit conversion therapy**

We acknowledge the inherent difficulty in designing rules to outlaw conversion therapy.

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<sup>1</sup> See the United Nations statement on international human rights law and sexual orientation and gender identity: <https://www.unfe.org/wp-content/uploads/2017/05/International-Human-Rights-Law.pdf>.

<sup>2</sup> “Rainbow community” is an umbrella term used to describe those with a diverse sexual orientation, gender identity, or sex characteristics.

We note that a Member's bill is proposed in the name of Marja Lubeck MP: the Prohibition of Conversion Therapy Bill.<sup>3</sup> The bill would make it an offence for any person to perform, offer, or advertise conversion therapy on another person, or to remove another person from New Zealand for the purposes of conversion therapy.

Should this bill get selected in the Member bills ballot, it would be an important opportunity to consider the issues more fully. One consideration could include whether a ban should extend to adults who voluntarily seek conversion therapy in accordance with their beliefs. It would also be a challenge to determine which practices should be defined as conversion therapy and which should be legitimate activities for religious and other groups.

## **Balancing harm reduction and human rights**

The Bill of Rights Act affirms, protects, and promotes human rights and fundamental freedoms in New Zealand. It allows all New Zealanders to live free from discrimination, including in relation to their sexual orientation. New Zealanders also have the right to freedom of religion. This protects those who offer and seek out conversion therapy because of their religious views.

The petitioners' view is that conversion therapy is a harmful practice and our laws should protect against harm. However, we grappled with the conflict inherent in this proposition. The desire to reduce harm by banning conversion therapy must be balanced against the desire to protect freedom of beliefs and religion for those offering the therapy.

If legislation to ban conversion therapy was introduced, it would be scrutinised to determine whether it met Bill of Rights Act requirements.<sup>4</sup> This would be helpful in ensuring that the competing rights and freedoms are appropriately considered.

National members note that the Bill of Rights Act affirms various democratic and civil rights that are relevant to these petitions, including the right to freedom of thought, conscience, and religion (at section 13), freedom of expression (at section 14), and freedom of association (section 17). We note that these rights are relevant insofar as they protect those who seek out, and also those who offer, conversion therapy because of their personal beliefs.

## **Distinguishing between conversion therapy and counselling**

It is important that anyone with questions about their sexuality or gender identity feels comfortable seeking advice. This may be from a professional counsellor, family and friends, or within their religious community.

A ban on conversion therapy should not prevent anyone from seeking or providing such advice. This could be managed by clearly defining "conversion therapy" and "counselling".

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<sup>3</sup> For further information and to read the bill, see: [https://www.parliament.nz/en/pb/bills-and-laws/proposed-members-bills/document/52HOH\\_MEMBILL124\\_1/prohibition-of-conversion-therapy-bill](https://www.parliament.nz/en/pb/bills-and-laws/proposed-members-bills/document/52HOH_MEMBILL124_1/prohibition-of-conversion-therapy-bill).

<sup>4</sup> The Ministry of Justice scrutinises proposed legislation and advises the Attorney-General whether it is inconsistent with the Bill of Rights Act. If the Attorney-General agrees, they must notify the House of Representatives through a report under section 7 of the Bill of Rights Act. For more information, see: <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/>.

This issue was raised in correspondence we received from Speak Up for Women, dated 29 June 2019. The organisation expressed concern about including therapy for gender dysphoria within any ban on conversion therapy, particularly for children.<sup>5</sup>

## **Conclusion**

We thank the petitioners for raising this important issue. We agree with the argument that conversion therapy is harmful. However, we believe more work needs to be done before any decision is taken to ban it. In particular, thought must be given to how to define conversion therapy, who the ban would apply to, and how to ensure that rights relating to freedom of expression and religion were maintained.

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<sup>5</sup> Gender dysphoria is the anxiety or distress a person may feel because their gender identity does not match their body, or the gender that others see them as. For more information, see: <https://www.mentalhealth.org.nz/get-help/a-z/resource/53/gender-dysphoria>.

## **Appendix**

### **Committee procedure**

The petition of Amanda Ashley was referred to us on 8 August 2018. The petition of Max Tweedie for Young Labour and the Young Greens was referred to us on 14 September 2018. We met between 3 October 2018 and 17 October 2019 to consider them. We received written evidence from both petitioners and the Ministry of Justice. These are available on our website at [www.parliament.govt.nz](http://www.parliament.govt.nz).

We heard oral evidence from Max Tweedie and Teri O'Neill on 13 June 2019.

### **Committee members**

Hon Meka Whaitiri (Chairperson)

Ginny Andersen

Hon Clare Curran

Hon Tim Macindoe

Mark Mitchell

Greg O'Connor

Chris Penk

Hon Dr Nick Smith