

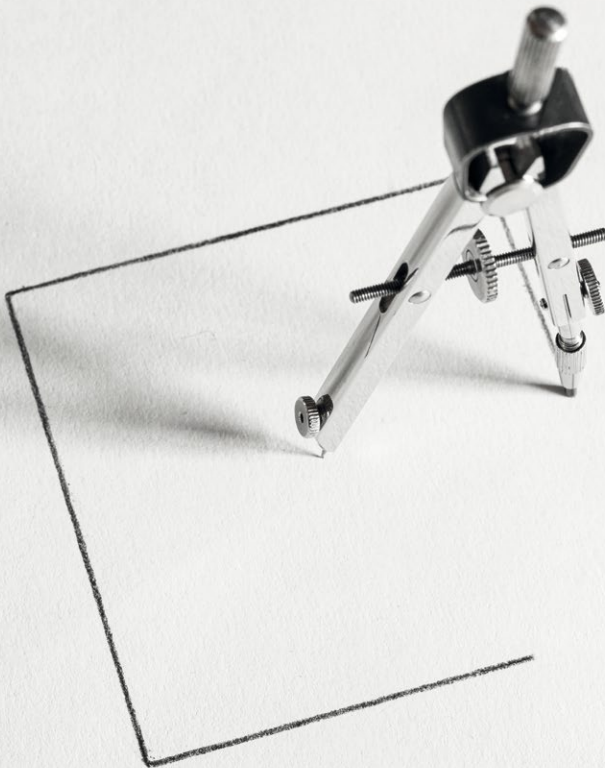


THE CHRISTIAN
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“Proving tricky”

Stories of jurisdictions that have tried and failed to introduce legislation against so-called conversion therapy

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Introduction

Across western nations there have been calls for new laws on 'conversion therapy'. But if what is meant by conversion therapy is verbal or physical abuse, then thankfully strong legal protections already exist. There is no need for a new 'ban'. It is a solution in search of a problem.

Politicians who take up this cause often say religious freedom will be protected. They try hard to allay very serious concerns. But promises are usually also made to LGBT activists who demand that a law covers casual conversations and private prayer.

These activists routinely conflate already-illegal abuse with perfectly reasonable behaviour. Rape and electroshock experiments are described in the same breath as pastoral care and parental conversations. Confusion abounds. Squaring this circle – safeguarding fundamental rights while satisfying activists' demands – is an impossible task.

Many countries have arrived at this problem. The Irish Government has admitted that drafting a law is "proving tricky in terms of getting those clear legal definitions".¹ Western Australia has said that it was proving "very difficult to define" what it wanted to allow.² Government lawyers in Sweden have pointed to serious problems with drafting a new law.

Now is the time to learn from other countries. Going around in circles trying to create an unnecessary and unworkable law helps no one. The Government should use existing law to protect people from abuse, and move away from vague notions that could criminalise innocent people.



Ireland

“PROVING TRICKY”

In April 2018, a Private Member's Bill to outlaw 'conversion therapy' was introduced to the Oireachtas. The Government wanted to support the legislation but cited legal advice suggesting the Bill was “not clear enough in its language”.³

After the Bill fell in 2020, the then Equalities Minister Roderic O'Gorman announced his intention to pass a Government Bill by the end of 2023.⁴

But in July 2024, Mr O'Gorman indicated that it was unlikely that a law would be enacted before the next election. Whilst promising to continue to engage with the Attorney General on the matter, he acknowledged that aspects of the new law had proven to be “extremely complex”,⁵ adding:

“ I wanted to make sure it covered quasi-religious practices and quasi-therapeutic practices, and to ensure those very necessary conversations that take place when someone is exploring their gender identity or sexual orientation wouldn't be impacted.

Balancing those elements is proving tricky in terms of getting those clear legal definitions. We want legislation that is effective and robust and safe from legal challenge. ”⁶

An Exploration of Conversion Therapy Practices in Ireland



Trinity College Dublin
Coláiste na Tríonóide, Baile Átha Cliath
The University of Dublin



An Roinn Leanaí, Comhionannais,
Micchumais, Lánphairíochta agus Oige
Department of Children, Equality,
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O’Gorman was not alone in identifying problems. In 2023, the clinical lead at the National Gender Service, Dr Karl Neff, highlighted the dangers of a vague definition for medical practitioners talking to gender-confused children.

Responding to a Government-commissioned report into ‘conversion therapy’, Dr Neff said:

If ‘conversion therapy’ is:

“ ...not well defined as a specific clinical intervention aimed at changing someone’s sexuality or gender, then it could have unintended consequences ”⁷

A new Programme for Government was agreed in January 2025, following the election. It falls short of pledging to “enact legislation to ban conversion practices”⁸ (as contained in the manifesto of the largest party, Fianna Fáil) and instead merely promises to “advance legislation”.⁹

The Government’s “National LGBTIQ+ Inclusion Strategy II” promises to ensure a ‘conversion practices’ ban is operational before the end of 2026.¹⁰ However, no draft has been published.



👤 Roderic O’Gorman, Equalities Minister (2021-2024)



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Scotland

FEAR OF JUDICIAL REVIEW

Work on a 'conversion therapy' law in Scotland began in 2020. Five years later, the Scottish Government has handed responsibility to Westminster.

Initially, a Bill seemed inevitable. MSPs on the Equalities Committee called for a ban. Plans to introduce "comprehensive" conversion therapy legislation were included in the Bute House Agreement (the SNP and Scottish Greens' agreed shared policy programme) in August 2021.¹¹ The following month's 'Programme for Government' promised to bring "forward legislation that is as comprehensive as possible within devolved powers by the end of 2023".¹²

Controversy over the Government's Gender Recognition Reform Bill and growing public concern around the conversion therapy plans themselves contributed to significant delay. A public consultation on a draft 'conversion practices' Bill was only published in January 2024.¹³

Its publication was met with immediate backlash in the press. Major newspapers ran banner frontpage headlines like: "Scottish parents face jail if they stop children changing gender".¹⁴ Over half of consultation respondents opposed the plan.¹⁵ Even from within the governing SNP there was pushback, with nearly a quarter of SNP MSPs said to be prepared to oppose their own party.¹⁶

The Christian Institute threatened judicial review and significant legal figures criticised the plans. Some said the proposals were “beyond the legislative competence of the Scottish Parliament” (see below). But more fundamental points were also raised:

“ *New laws, particularly criminal legislation, must be shown to be necessary and a fair and reasonable means of addressing a clearly identified problem. Such laws must be clear and meticulously drafted to ensure that innocent conduct is not criminalised... This proposed legislation currently does not meet these fundamental requirements.*”¹⁷

John Mulholland, Law Society of Scotland

“ *...no coherent definition of CT has been proposed...*”¹⁸

Roddy Dunlop KC, Dean of the Faculty of Advocates

“ *In sum, these proposals from the Scottish Government for legislation are ill-thought out, confused and confusing, and fundamentally illiberal in intent and effect. I conclude therefore that there are very strong arguments indeed that these legislative proposals of the Scottish Government are beyond the legislative competence of the Scottish Parliament, primarily because of their over-breadth, their disproportionate intrusion into private and family life and freedom of religion and freedom of expression, but also because of their internal incoherence.*”¹⁹

Aidan O'Neill KC



The Cass Review

Independent review
of gender identity
services for children
and young people



The publication of the Cass Review into NHS gender services in England in April 2024 also shaped the debate. The report highlighted concerns from clinicians that they may be open to “potential accusations of conversion practice when following an approach that would be considered normal clinical practice when working with other groups of children and young people”.²⁰

First Minister John Swinney acknowledged the Scottish Government would need “to listen to clinical opinion very carefully”.²¹

When the Scottish Programme for Government for 2024-25 was published in September, conversion therapy was absent from the Bills the Government pledged to introduce. Instead, the Programme for Government hands responsibility for a Bill to Westminster, with the proviso that it will “prepare legislation for introduction to the Scottish Parliament should a UK-wide approach not be achievable”.²² This promise was reiterated in the manifesto of Scotland's governing party, the SNP, ahead of the 2026 election.²³

The Scottish Government indicated to LGBT group Out for Independence that the reason for the U-turn is to ensure they “don't end up facing judicial review”.²⁴

Sweden

AGAINST LEGAL ADVICE

In 2022, the then Social Democrat Government asked for the terms of a special investigation into 'virginity checks' to be extended to include 'conversion therapy'.²⁵ The investigation was headed by Court of Appeal judge Maria Hölcke and supported by legal experts.²⁶

The resulting 372-page 'Swedish Government Official Report' was published in July 2023. It concluded that the Government should not introduce a new criminal law on 'conversion therapy'. It warned against introducing 'conversion therapy' as an aggravating factor for sentencing purposes, and that a law should not be introduced merely to 'send a signal'.²⁷



The report explains that, in relation to any actual abuse:

“ *Current regulations provide good opportunities to intervene under criminal law...* ”²⁸

In particular, it identifies a number of existing laws that could be used to prosecute harmful activities that supporters of a ‘conversion therapy’ law are concerned about, including:

“ *unlawful coercion, assault, unlawful deprivation of liberty, unlawful threats, forced marriage or molestation... acts that constitute slander, insult or incitement against a group of people... [and even] repeated unwelcome attempts to verbally influence someone...* ”²⁹

It concludes:

“ *The acts that fall outside the punishable area are not serious enough to justify criminalisation.* ”³⁰

Since its publication, the Government has said:

“ *The process [towards a new law] has been delayed...* ”³¹

It has turned to non-legislative action, such as setting up a review to consider additional support for young people who report to have experienced ‘conversion therapy’.³²



Western Australia

“DIFFICULT TO DEFINE”

The Labor administration in Western Australia pledged a conversion therapy law in 2022. This followed a report into a disgraced Christian rehabilitation centre accused of horrific acts including sexual and psychological assault, illegal restraint and the withholding of medication, alongside the charge of ‘conversion therapy’.³³



However, in its response to the report, the Government chose to define 'conversion therapy' in much broader terms, including:

“teachings, counselling, spiritual care activities, or other psychological or medical interventions based on the ideology that there is something wrong or broken about people with diverse sexualities or gender identities.”³⁴

This broader definition has created difficulties. In a press conference in February 2024, Labor Premier Roger Cook admitted the troubles the Government were having in legislating. He said:

“We continue to look at how we can legislate to make sure gay conversion therapies are outlawed, but it is very difficult to define in a statutory sense because you have to define what a therapeutic activity is.”³⁵

He still pledged to legislate in this parliamentary term. But in September 2024, the then Attorney General John Quigley conceded “there will not be enough time”³⁶ before the state elections in March 2025.

It is understood that a significant reason for the delay has been in trying to draw up a civil response scheme to address incidents where harm does not meet the criminal threshold, or where the individual does not want to go through criminal proceedings.

Despite pledges that a Bill would still be brought forward, and a public consultation in 2025, at the time of publication no legislative wording has emerged.



▲ Premier Roger Cook

Austria

NO KNOWN CASES

A resolution unanimously passed by the National Council, the lower chamber of the Austrian Parliament, in July 2019, called on the Federal Government to immediately submit a Bill which prohibits 'conversion therapy' on children. Introductory remarks to the motion referenced sexual orientation, but not gender identity.³⁷

Six years on, no Bill has been brought forward. And the scope of the law caused political difficulties within the previous OVP-Green coalition.³⁸

Initially, only medical settings were in view (as per the law in Germany).





The Ministry of Health's Advisory Council for Mental Health unanimously stated that 'conversion practices' are already classified by medical bodies as 'unethical' and a 'human rights' violation. They clarified that in over 25 years there has been no known case of 'conversion therapy'.³⁹ In response, the Government issued a circular making the case that such practices are already illegal (see, for example, the Psychotherapy Act 1990).⁴⁰

However in 2021, a new resolution called for the inclusion of non-consenting adults⁴¹ and made clear it should cover other (non-medical) settings, including what it rather disparagingly referred to as 'an arch-Catholic environment'.⁴²

Further progress stalled as the Greens also wanted any Bill to cover trans identities – something their coalition partners could not accept.⁴³

The OVP's Nico Marchetti – a supporter of a ban and one of the proposers of the 2021 motion – also cited complexity as a reason for delay, particularly around the term 'conversion therapy' and whether a violation would mean an administrative penalty or a criminal sanction.⁴⁴



Finland

A GOOD USE OF TIME AND MONEY?

The first attempt to introduce a 'conversion therapy' law came through a 'citizens' initiative' in 2021. This lapsed in 2023. A second attempt was referred to the Legal Affairs Committee later that year.⁴⁵

The National Coalition Party is the largest party in the governing coalition and has expressed support for a 'conversion therapy' law.⁴⁶ But in June 2024, the National Coalition Party's lead representative on the Committee, Mari Kaunistola, said legal experts told the Committee that a Bill should not be rushed.⁴⁷

She suggested the first step would be for Government-commissioned research to establish the scope of the problem and the extent to which practices can already be addressed via the existing Criminal Code⁴⁸ – as happened in Norway and Sweden.

However, other coalition parties questioned why in a period of austerity, "time and money will be taken for [an] investigation, which is not even in accordance with the Government program".⁴⁹

With an investigation off the table, in March 2025 the Committee and Parliament both voted to request the Government "begin drafting legislation".⁵⁰ However, following the vote, National Coalition Prime Minister Petteri Orpo indicated that, due to disagreement within the coalition, the Government would take no steps towards a new law.⁵¹

A Bill in line with the 'citizens' initiative' could be pursued in Parliament, independent of Government action. But this is far from straightforward.⁵²



👤 Prime Minister Petteri Orpo

Conclusion

Around the world, legislators have been finding that creating a ‘conversion therapy’ law is not as easy as people think. At the heart of the struggle has been the question of definition. Activists demand that any law covers prayer, pastoral conversations and parenting. But it is impossible to reconcile those demands with human rights commitments. The supposed ‘gap’ in the law remains elusive.

The fact that a handful of jurisdictions have pushed through activist-style bans does not take away the fundamental problems. Numerous legal opinions by senior lawyers say these laws are incompatible with human rights. And to take the approach of Norway, which pushed ahead despite significant warnings from its Director of Public Prosecutions,⁵³ risks an embarrassing legal challenge in the future.

The difficulties with vague ‘conversion therapy’ laws in those jurisdictions are becoming increasingly apparent. In France, there have been cases of people being wrongly accused of ‘conversion therapy’ because the law is unclear and can be weaponised.⁵⁴ Official guidance in the Australian state of Victoria threatened parents with prosecution for not allowing their children to be prescribed puberty blockers.⁵⁵

Those yet to legislate now face a choice: continue with projects that even many ‘progressive’ governments are beginning to see is a dead end; or consider seriously how individuals reporting genuine abuse can be better protected under existing law.



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