Federal BILL C-8

An Act to Amend the Criminal Code (Conversion Therapy)

A Detailed Response

SUMMARY

The long-promised Canadian federal Bill concerning "conversion therapy" has now appeared (March 2020), and it should alarm all Canadians who, while they are certainly against coercive, non-consensual attempts "to change a person's sexual orientation … or gender identity" (Bill C-8, "Definition of Conversion Therapy" 320.101), also believe that their government should base proposed legislation on the full range of facts pertaining to a particular subject, and should take full account in drafting it of the plural nature of Canadian society in terms of belief and practice. Bill C-8, unfortunately, fails to take account of all the facts, consequently introducing in an unhelpfully simplistic way the subject of "identity," and what "changes" to identity involve. The Bill then proceeds to instruct Canadians on what *must* be done on the basis of its skewed presentation of "the facts." In doing so it entirely ignores alternative views concerning what the facts are, and how they should be interpreted. It also displays a notable lack of respect for associated beliefs and practices shared by many Canadians, but not by those who drafted the legislation. The result is a Bill that sets out to protect the rights and freedoms of some Canadians, but that ends up by seriously and unjustifiably infringing the rights and freedoms of others.

MAIN TEXT

The long-promised Canadian federal Bill concerning "conversion therapy" has now appeared (March 2020).[1] It should alarm all Canadians who, while they are certainly against coercive, non-consensual attempts "to change a person's sexual orientation … or gender identity" (Bill C-8, "Definition of Conversion Therapy" 320.101), also believe that their government should base proposed legislation on the full range of facts pertaining to a particular subject, and should take full account in drafting it of the plural nature of Canadian society in terms of belief and practice.

1. Questions of Identity

The "Preamble" to Bill C-8 already makes clear a loose grasp of the facts on the part of the drafters, when it asserts that "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." The later "Definition" section of the Bill (320.101) allows that there may be in each person's life a period of "exploration" or "development" of his or her identity – but once its nature has been established, it cannot and ought not to be changed. Conversion therapy, the Bill proposes, seeks to do just that; it is "a practice, treatment or service designed to change a person's sexual orientation to heterosexual or gender identity to cisgender, or to repress or reduce nonheterosexual attraction or sexual behaviour" (Bill C-8, "Definition"). Any attempt to change, repress, or reduce along such lines, the "Preamble" tells us – whether or not coercion is involved, and whether or not consent has been given – causes "harm to the persons, and in particular the children, who are subjected to it." Because of this, "it is important to discourage and denounce the provision of conversion therapy in order to protect the human dignity and equality of all Canadians" (Bill C-8, "Preamble").

It is not in fact the case, however, that "identity" is fundamentally an internal, stable, entity within the body that individuals are capable of discovering and naming by empirical means, and that once discovered cannot be changed. To begin at the most general level, "to the degree that identity is not biological (and much, but not all of it is), then it's a drama enacted in the world of other people."[2] It is a social product

> in at least three ways. First, people do not create themselves from air; rather, what is possible, what is important, what needs to be explained all come from social context … Second, being a self requires others who endorse and reinforce one's selfhood, who scaffold a sense that one's self matters and that one's efforts can produce results … Third, the aspects of one's self and identity that matter in the moment are determined by what is relevant in the moment.[3]

Although identity is not determined by environment, it *is* substantially shaped by it, since all human thinking "is influenced by the context in which it occurs, including physical and social features of the external context."[4] It is as much "I am (in community), therefore I think," as it is "I think, therefore I am." Identity is "a set of complex compromises between the individual and society as to how the former and the latter might mutually support one another in a sustainable, long-term manner."[5] It is a *goal* as much anything else, involving "efforts [that] can produce results" (as our earlier quote puts it). For while identity can be focused "on the past—what used to be true of one, [and] the present—what is true of one now," it can also be focused on "the future—the person one expects or wishes to become, the person one feels obligated to try to become, or the person one fears one may become."[6] Identity shapes behaviour, but behaviour in turn also shapes identity, whether in establishing the status quo or opening up the possibility of a different future. Identity is not, therefore, an individually-determined, fixed entity, but a "plastic" reality that is socially-constructed in very significant ways. This is especially true in the case of the young, and it is directly related to the great plasticity of young

brains themselves, which get wired and rewired through experience, including group experience, as they develop: "brains change over time depending what they do, and what they are made to do."[7] Yet it also remains possible for adults to make choices about behavior that impact their identity. Therapists depend on this very reality, for example, in dealing with people who identify as addicts, whether we are speaking of alcohol, drug, or sex addiction. It may be true for such a person that "I am an addict," but it is possible through good counselling and daily choices, in the midst of strong community support, to progress to "I am a clean addict," and sometimes to a situation in which the power of the addiction over one's life is significantly reduced.

All of this is widely known among professionals in the relevant fields of study, and it has seeped out in various ways into the world at large. This is why we so routinely find comments on the Internet that simply presuppose the truth of it. One clinical psychologist affirms that "we have to realize that identity is the furthest thing from being fixed."[8] Another blogger complains that in current debates about immigration "we end up making identity seem like something that is set in stone."[9] Still another refers disparagingly to the high profile given to "individual identity … in western psychology," much of which "is about the individualised self with a supposedly fixed identity."[10]

Sexual Orientation

It is hardly surprising, then, that sexual orientation, as one aspect of a person's perceived and confessed identity, is not necessarily any more stable over time than any other aspect. A 2002 study already suggests, for example, that "women's sexuality and sexual orientation are potentially fluid, changeable over time, and variable across social contexts."[11] A 2011 article confirms this finding, and adds that "there is evidence that male sexual attractions and behaviors can also be fluid."[12] A 2016 study categorically states that "arguments based on the immutability of sexual orientation are

unscientific, given what we now know from longitudinal, population-based studies of naturally occurring changes in the same-sex attractions of some individuals over time."[13] A 2019 blog reporting on a still more recent academic study concerning both men and women summarized it, similarly, by saying that "far from being a fixed preference, the findings suggest that *sexual identity and attraction undergo extensive and often subtle changes throughout a person's life* [our emphasis], continuing long past adolescence and into adulthood."[14] Clearly "sexual orientation" does not refer necessarily to a stable, unchangeable feature of a person's life; a particular instance of it may in fact well be a passing phase in one's life, whether it is experienced by a younger or an older person. Many people looking back on such a phase specifically with respect to same-sex attraction, have come to the conclusion that in their cases it was the result of factors like "emotional and/or sexual abuse; unmet emotional needs; depression, OCD or other unfulfilled needs. In short these issues were childhood wounds to their psychosexual and/or psychosocial development."[15] Sexual orientation is not necessarily "fixed and immutable."

Nor are attempts by consenting individuals proactively to change it by way of activities like counselling, before it changes itself, necessarily damaging to those individuals. Even the 2009 American Psychological Association (APA) report on appropriate therapeutic responses to sexual orientation, which was produced by a highly unrepresentative group of psychologists (and one psychiatrist),[16] and was no advocate of "psychological interventions to change sexual orientation," was only prepared to say in opposition to these interventions that "there is insufficient evidence to support [their] use."[17] At the same time it conceded that certainly "some individuals [consenting to the interventions] modified their sexual orientation identity (i.e., group membership and affiliation), behavior, and values … in a variety of ways and with varied and unpredictable outcomes, some of which were temporary."[18] Nor did that APA report support the widespread, current idea that these interventions are generally harmful:

> Early and recent research studies provide no clear indication of the prevalence of harmful outcomes among people who have undergone efforts to change their sexual orientation or the frequency of occurrence of harm … we cannot conclude how likely it is that harm will occur from SOCE. However, studies from both periods indicate that attempts to change sexual orientation may cause or exacerbate distress and poor mental health in *some individuals* [our emphasis], including depression and suicidal thoughts.[19]

The report stated directly, indeed, that "[r]ecent research reports indicate that there are individuals who perceive they have been harmed and others who perceive they have benefited from nonaversive SOCE."[20] As to *this* kind of intervention, the report tells us, there is testimony to both positive and negative outcomes. It is unfortunate that it is only the testimony of the harmed individuals that appears to be influencing the contemporary discussion in Canada, and with powerful effect. The positive testimony of many others concerning the benefit they have derived from such interventions *at least to some extent*, if it is known at all, is simply not taken seriously.[21] Even the public statements of distinguished medical professionals are ignored, like that of psychologist Nicholas Cummings, former president of the APA, who wrote in 2013 as follows:

> Gays and lesbians have the right to be affirmed in their homosexuality. That's why, as a member of the APA Council of Representatives in 1975, I sponsored the resolution by which the APA stated that homosexuality is not a mental disorder and, in 1976, the resolution, which passed the council unanimously, that gays and lesbians should not be discriminated against in the workplace. But contending that all same-sex attraction is immutable is a distortion of reality. Attempting to characterize all sexual reorientation therapy as "unethical" violates patient choice and gives an outside party

> a veto over patients' goals for their own treatment. A political agenda shouldn't prevent gays and lesbians who desire to change from making their own decisions.[22]

He further reports that in addition to the thousands of gay and lesbian patients whom he and his staff treated over twenty-five years and who attained as a result "a happier and more stable homosexual lifestyle," he also oversaw many who were seeking to change their sexual orientation, and of these, "hundreds were successful."[23] It is not that all or even most people with same-sex attraction can be "converted" (which is in fact an entirely inappropriate word for what we are discussing). It is simply that, *evidently*, some change is possible at least for some people. Moreover, it is *evidently* the case (as the academic studies on this topic reveal) that exploring this possibility by way of activities like counselling, whatever the outcome may be, is not necessarily, or even normally harmful.

Gender Identity

The case with gender identity is similar, as one would also expect in the light of what we know about identity in general. It is particularly clear—and this is important when we are discussing legislation that concerns minors, among other persons—in the case of pre-pubescent children with "gender dysphoria." This manifests itself as "significant distress and/or problems functioning associated with [a] conflict between the way [people] feel and think of … their physical or assigned gender."[24] It is a complex condition. One aspect of the complexity is that "underlying conditions can be mistaken for gender dysphoria, including autism and borderline personality disorder."[25] Another is precisely that, since no child is an island, environmental factors play an important role in the ways that children perceive their gender identity as they are shaped in community—for example, in a family.[26]

Such complexity needs to be taken seriously, with different actions being carefully weighed in response to each (perhaps quite different) case. For a considerable length of time now, the larger context informing the actions of health professionals as they have taken these actions has been the knowledge that, with appropriate support and counselling, "only a small number of children with gender dysphoria will continue to have symptoms in later adolescence or adulthood."[27] These "wait and see" counselling and support efforts have been far from "damaging" to the children concerned. Indeed, the medical profession has generally regarded them as vastly preferable to an "affirming" approach to young children, with its likely outcomes in (a) the later consumption of puberty-blockers whose full risks are unknown,[28] but which will almost certainly guarantee (it seems) (b) that the child will progress later to cross-sex hormones,[29] which possess significant health risks,[30] and then (c) to irreversible surgeries that will by no means guarantee the disappearance of the gender dysphoria first diagnosed, nor improve the person's happiness in general.[31] As Debra Soh already noted in 2017, "it simply doesn't make sense for a child to undergo the challenges of a social or physical transition [to his or her affirmed identity] if they are likely to grow comfortable in the body they already have, on their own."[32]

It is only in very recent times in Canada that this perspective has come to be widely challenged by those who believe that, even in the case of very young children, the only appropriate response to their stated perceptions of their gender identity is affirmation, and the beginning of their "transition" from male to female or female to male. Any opposition to this view is then characterized (actually caricatured) as a "change effort." Dr. Stephen Levine, a US specialist in this area, draws attention to this same phenomenon, whereby what used to be widely considered as an aspect of ordinary, ethical medical care with respect to gender dysphoria—specifically, that pediatricians and mental health professionals may intervene to help both the parents and the child discuss the matter well before puberty—is regarded by "some activists … [as] 'reparative therapy.'" He notes that this view, typically

held by "strangers to the families," is tantamount to the view that "parents have no right to seek help for their concerns about their gender-nonconforming children."[33] Debra Soh characterizes the new situation as a case of "ideology … taking precedence over science," criticizing "the current popular dogma of affirming young children who say they want to transition to the opposite sex," and suggesting that many of those promoting this dogma are more intent on "winning, at any cost, the ideological war" rather than considering "the best interest of these children." She also claims that (already in 2017) there is extreme pressure on clinicians "to endorse the early transitioning model for their young patients, even when it may not be the best way forward for them."

This is borne out by numerous accounts from around the world, including cases where pressure to adopt to the "correct line" in this matter has led to people leaving their employment (voluntarily or not). One such person is Kirsty Entwistle, formerly a clinical psychologist at the Gender Identity Development Services (GIDS) in Leeds, UK. On July 18, 2019, she sent a very full, open letter to her former employer expressing concern that "GIDS clinicians are making decisions that will have a major impact on children and young people's bodies and on their lives, potentially the rest of their lives, without a robust evidence base."[34] The whole letter is worth reading, but particularly striking is Entwistle's claim that she "went to work at GIDS expecting to do complex assessments and differential diagnosis," but discovered in reality that if she did not arrive at the "correct" diagnosis after assessment, she ran "the risk of being called transphobic."[35]

The fact of the matter is that "gender identity" in young minors is not necessarily, and indeed not normally, "fixed." It can, and it typically does, change over time.

Environment and Identity

To sum up: it is *very far from being* an obvious "fact" that a person's sexual orientation or gender identity, once it has been "established" by that person, cannot change, or that any freely-entered-into exploration as to whether "change" is possible causes "harm to the persons, and in particular the children, who are subjected to it" (Bill C-8, "Preamble"). This entire way of thinking about identity is *in fact* problematic. "Identity" in minors is something that it is in the process of begin *shaped* by the environments in which they live, and it develops over time; it is not something that is already simply "there," to be "changed" or left alone by third parties. These shaping environments include traditional institutions like families and churches, as well as schools. It is in the midst of such *communities* that identity is formed, as adults teach children what they believe to be true and false, right and wrong, and so on, interpret the world for them, and model for them a way of life. Nowadays the environment in which minors live their lives is (for better or worse) also global in nature, by way of the Internet – which brings us to a spectacular, relevant, contemporary example of the power of environment in shaping identity. For the Internet creates previously unparalleled opportunities for "social contagion" to develop: "the spread of affect or behaviour from one crowd participant to another; one person serves as the stimulus for the imitative actions of another."[36] This is a well-recognized phenomenon among psychologists, and many historical examples can be cited—for example, the "wave of suicides" that swept across Europe in the late eighteenth century in the wake of Goethe's novel *Young Werther*, "as if the very act of suicide was somehow infectious."[37]

Only such "contagion" can possibly explain the dramatic, recent increase worldwide in cases of what used to be the relatively rare condition of gender dysphoria, such that (for example) "the Gender Identity Development Service in the United Kingdom alone has seen a 2,000 percent increase in referrals since 2009."[38] The "social contagion" explanation is particularly plausible with respect to

the relatively new phenomenon of "rapid onset gender dysphoria," where teenagers (usually girls) with no previous history of the condition suddenly announce their desire to transition to the opposite sex. In a 2018 American study by Lisa Littman, the author notes that eighty-seven per cent of her subjects were reported by their parents as identifying as transgender only after spending more time online than was customary, and after friends of theirs had already "come out."[39] This is not particularly surprising in a contemporary context in which (a) enormous societal pressure is routinely placed on girls to have a certain kind of body type and personality, which often leads on to self-hatred and self-harm; (b) they have been told from a young age (not entirely consistently with [a]) that they can be whoever they want to be; and (c) they are aware of countless famous and not-so-famous adults and teenagers who have had surgery precisely so that *they* can be who they want to be.

Environment shapes ongoing identity formation, including one's internal sense of one's sexual orientation and gender identity. Identity is not simply "there." In insisting that it *is* "there," it is those who have drafted this Bill who are engaging in myth-making, and not those who take a view contrary to their own.

2. The Dogmatic State

Associated with this indefensible dogma masquerading as indisputable fact are various sections of Bill C-8 that appear to be designed to curtail the freedom of Canadians to act in ways that embody dissent from state-sponsored doctrine. It is a small mercy in the circumstances that, despite its drafters' clearly stated beliefs concerning the harm caused by "conversion therapy" to "the persons … who are subjected to it," the Bill does not straightforwardly forbid the provision of such therapy to adults who willingly engage in it. It is only "everyone who knowingly causes a person to undergo conversion therapy against the person's will" upon whom Bill C-8 brings down the wrath of the law in the shape

of a prison term of up to five years (320.102). At the same time, the drafters' conviction that they know what is best for adult Canadians is underscored when we encounter their bans on the advertising of conversion therapy and of the receiving of "financial or other material benefit … obtained or derived directly or indirectly from the provision of conversion therapy," and when we read about the prison terms specified for infringing those bans (320.105). It may not be illegal to offer "conversion therapy" to adults who wish to engage in such therapy in the hope that it might help them – but where exactly those adults will find therapy being provided, under such a regime, is certainly a question. And why, exactly, no one should be able to advertise and live off "the avails" of providing a non-criminal service is entirely unclear.

Repression and Reduction

This is not the most disturbing aspect of Bill C-8, however, for those who believe that Canada should continue to strive to be a plural society in which differing beliefs and practices are accommodated. Earlier we reflected on the "shaping environments" that impact our sense of identity, include traditional institutions like families and churches. It is in the midst of such *communities*, we affirmed, that identity is formed, as adults teach children and indeed other adults what they believe to be true and false, right and wrong, and so on, interpret the world for them, and model for them a way of life. This includes teaching on sexual matters. Many Canadians of various religious faiths and of none have believed and continue to believe (for example) that it is good and right for a person to resist certain sexual attractions, entirely or for a specified time, and not to act upon them. It has been one important aspect of a parent's role, in particular, to teach his or her own children how to negotiate well this relationship between feelings and actions. In Christian faith, for example, it is recognized that all kinds of persons may find themselves experiencing all kinds of sexual impulses at all sorts of times, but it is the longstanding teaching of the Church that they need not and should not act upon

these impulses outside of certain prescribed parameters. Parents and church leaders have joined together in teaching and seeking to live out this particular vision of life, one of whose premises is that our intuitions and desires, including our sexual desires, are not necessarily reliable indicators as to how we should live or act. Justice Minister and Attorney General David Lametti may believe that "there is no right or wrong when it comes to who you are or who you love,"[40] but Christian faith takes the contrary view that all human beings possess both right and wrong desires, and that it is entirely possible to be wrong when it comes to whom you love – and also wrong in the actions that follow.

Astonishingly, Bill C-8 now announces that any "practice, treatment or service designed to … repress or reduce nonheterosexual attraction or sexual behaviour" constitutes conversion therapy, and that it may lead to prosecution and imprisonment by the Canadian state (320.101). Much depends, of course, on what is included under the rubric of "practice, treatment or service," but the Bill itself is unfortunately (to put it mildly) not specific in this regard. This leaves open the possibility that parents going about their ordinary business of raising (say) Christian children could fall foul of Canadian law, or that pastors could get into serious trouble for preaching the historic Christian message concerning the terms of Christian discipleship. Does "practice, treatment or service" include a sermon series, for example, or a youth bible study, or other programs on sexual ethics offered to those wishing to order their sexual lives in accordance with their religious conscience, precisely with a view to impacting (among other things) "nonheterosexual attraction or sexual behaviour"? But this is true not only of Christians; it is true of all Canadians who intend to continue to raise their children in accordance with what are nowadays often called "traditional values." Apparently those Canadians may now teach their children to our hearts' content whatever they like concerning the "repression" or "reduction" of *heterosexual* attraction or sexual behaviour, but they are forbidden on pain of imprisonment from doing so with respect to *nonheterosexual* varieties.

The Question of Consent

It is important to emphasize at this point the lack of any "consent" clause in Bill C-8 with respect to Canadians under 18 years of age. One is only guilty of an offence with respect to *adults* if one "knowingly causes a person to undergo conversion therapy [as defined in the Bill] against the person's will" (320.102). However, in the case of persons *under 18 years of age*, one is guilty of a crime whether or not there has been consent on the part of the minor (320.103). This represents a marked change in approach relative to the provincial legislation concerning conversion therapy especially in Ontario (2015) and even to a lesser extent in Nova Scotia (2018).[41] The Ontario Act, in forbidding people providing health care services in that province from offering "any treatment that seeks to change the sexual orientation or gender identity of a person under 18 years of age," specified as an exemption the case in which the minor "is capable with respect to the treatment and consents to the provision of the treatment." That is, (a) it did not seek to forbid people other than health professionals (e.g., parents) from trying to influence the course of the lives of minors in such matters, and (b) it focused its attention only on non-consensual medical treatment. The Nova Scotia Act was more expansive, but even here the prohibition concerning "any … service or tactic used with the objective of changing a person's sexual orientation or gender identity" did not extend to persons "over the age of sixteen years, capable of [and actually] consenting to the services." Bill C-8, however, entirely forbids the provision of "conversion therapy" to minors under any circumstances.

That is to say: Bill C-8 effectively prohibits Canadian minors from making certain kinds of choice. Canadian minors have the right to begin to work at 12 years of age, with parental consent, and that is also the age of criminal responsibility. At 15 years of age, a minor can work without parental consent. The general age of sexual consent is 16, but at 12 and 13 a minor can consent to sexual activity with a person no more than two years older, and at 14 and 15 with another person less than five years older. Bill C-8 proposes, however, that even if minors feel confused about their sexual

attractions, or if these attractions are positively unwanted, and they would like to explore with a counsellor (say) the roots of the perceived problem and all the options available for dealing with it—well, they are apparently not old enough to consent to *this*. Are minors who are considered competent in these other matters not competent also to consent to counselling in respect of their sexual attractions? Why is that? Even more to the point, the Bill explicitly excludes from its definition of conversion therapy "a practice, treatment or service that relates to a person's gender transition" (320.101). So the people who drafted Bill C-8 clearly believe that quite young teenagers are old enough to consent to the consumption of puberty-blockers whose full risks are unknown (see above), cross-sex hormones possessing significant health risks (see also above), and irreversible "gender-confirming" surgeries that will by no means guarantee the disappearance of the gender dysphoria first diagnosed, nor improve the person's happiness in general – but that they are *not* old enough to consent to counselling with respect to unwanted sexual attractions. Why is that? How is this justifiable?

It is of course *not* justifiable. It is a very obvious example, in fact, of the government over-reach that marks this entire Bill.

A Chilling Effect

One particularly important consequence of this Bill passing into law will be its effect on health professionals in Canada in their interactions with minors suffering from gender dysphoria, as they seek to avoid at all costs "the Zucker mistake," with all of its consequences. In 2015, just after the Ontario *Affirming Sexual Orientation and Gender Identity Act* became law, the distinguished psychologist Dr. Ken Zucker was fired by the Centre for Addiction and Mental Health (CAMH) in Toronto. Rainbow Health Ontario, an organization committed to promoting the health of Ontario's LGBTQ communities, argued in the light of the new law that what Zucker was doing in his Child, Youth, and

Family Gender Identity Clinic was illegal, and they succeeded in getting him fired and the clinic closed. What was his crime? It was nothing other than the well-established, professional "wait and see" approach to children with gender dysphoria described above. This was characterized successfully by his opponents, however, *precisely* as "conversion therapy."

Any law based on Bill C-8 as currently drafted would put at risk health professionals pursuing long-established practice of the same kind, not only of the loss of their professional licenses by way of regulatory college malpractice/unprofessional conduct proceedings, but of criminal prosecution. It would require health professionals, in fact, to accept at face value a particular claim made about gender identity made by even quite young individuals – as an objective, fixed reality like skin or eye color – or risk serious consequences. It would have a chilling effect, in other words, on responsible, time-worn medical practice, as a "mistake-avoidance" ethos arises that would in turn be disastrous for children and their parents who are dealing with gender dysphoria, and who need the best, impartial advice from doctors that they can get – *especially* in a situation marked by "social contagion." *Especially* in such circumstances, healthcare professionals should not be working in a professional and legal environment conditioned by a particular kind of identity politics, such that they are obliged simply to "affirm" a child's self-diagnosis of their condition and act accordingly.

3. The Meaning of Freedom

But *all* of us should be free from this kind of government intrusion into our lives on the basis of ideology disguised as facts. Therefore, all of us should be concerned about, and asking questions about, Bill C-8 in its present shape. This is not a Bill that is only about outlawing blatantly coercive practices akin to torture among those who currently think of themselves as members of minority communities. If it were, this Bill would be warmly welcomed by the great majority of Canadians. On

the contrary (and most unfortunately) this is a Bill premised on a particular set of disputable beliefs about the right way of interpreting and properly "handling" matters of sexual orientation and gender identity, and that is designed to establish those beliefs, and the actions that follow on from them, as the only right *and legal* way of interpreting and properly handling such matters. It is a Bill that simply aims to forbid Canadians – whether healthcare professionals, parents, or others – from believing otherwise, and from living their professional and other lives accordingly. And it is a Bill that aims to prevent dissenters from its "self-evident truth" from teaching or counselling in ways that run counter to its ideological commitments. In short, it is draconian.

4. A Proposal Concerning the Bill

The current problems with the Bill can easily be resolved by rewording in a few places. In the absence of such rewording and clarification, however, we believe that the Bill should not pass into law, whereupon (for the reasons stated above) it can only cause great mischief. The most fundamental revision required is in the first sentence of the "Definition" section, which should be revised as follows: "***conversion therapy*** means a coercive, non-consensual practice, treatment or service designed to change a person's sexual orientation to heterosexual or gender identity to cisgender, or to repress or reduce nonheterosexual attraction or sexual behaviour." The second paragraph of the "Preamble" should also be deleted, since it is premised on a particular set of beliefs about sexual orientation and gender identity that are disputable on the basis of published scientific research, and that are in any case not shared by many Canadians. In particular, this paragraph does not take account of

i) the substantial evidence pertaining to the nature and significance of self-reports by minors concerning sexual orientation and gender identity.

ii) the substantial adult personal testimony pertaining both to changes and non-changes in sexual orientation and gender identity over time, as well as all the testimony to both benefit and harm arising from counselling in this regard.

Consequently, the plural "harms" in the third paragraph of the "Preamble" should be changed to the singular "harm."

Failing all of this, the Bill should be amended explicitly to protect "teachers, school counsellors, pastoral counsellors, faith leaders, doctors, mental health professionals, friends or family members" to whom the Department of Justice claims the "new offences" specified in the Bill would not apply as they "provide support to persons questioning their sexual orientation, sexual feelings or gender identity."[42] The Bill should explicitly protect

i) the right of healthcare professionals, without threat to their reputation, licensing, employment, or freedom from imprisonment, to offer what they believe is their best counsel to, and treatment of, minors experiencing distress concerning their current sexual attractions or sense of gender identity.

ii) the right of parents to discuss with their children in a non-coercive manner the nature and significance of their current experience of sexual attraction or gender identity, in the context of the parents' understanding of all the facts and the family's moral and/or religious worldview.

iii) The right of other adults in a position of trust or authority in relation to minors to discuss with them in a non-coercive manner the nature and significance of their current experience of sexual attraction or gender identity, in line with their understanding of all the facts and their moral and/or religious worldview,

and without threat to their reputation, employment, or freedom from imprisonment,

The willingness or otherwise of the Parliament of Canada to amend Bill C-8, or to include such explicit exceptions in the Bill, will go a long way toward demonstrating whether it governs on behalf of all Canadians, or is in fact intent on imposing a very particular ideology on a large number of citizens who would like to raise their children as they wish, and in the course of this child-rearing to be able to access both education and healthcare that is not overly characterized by ideological concerns.

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[1] The Bill can be viewed at the Parliament of Canada website, accessed March 17, 2020, https://www.parl.ca/DocumentViewer/en/43-1/bill/C-8/first-reading.

[2] Jordan Peterson, "Gender Politics has No Place in the Classroom," *National Post*, accessed July 19, 2019, https://nationalpost.com/opinion/jordan-peterson-gender-politics-has-no-place-in-the-classroom.

[3] Daphna Oyserman, Kristen Elmore, and George Smith, "Self, Self-Concept, and Identity," in *Handbook of Self and Identity*, ed. Mark R. Leary and June Price Tangney, 2nd ed. (New York and London: Guilford, 2012), 69-104 (76).

[4] Oyserman et al., "Self," 88.

[5] Peterson, "Gender Politics."

[6] Oyserman et al., "Self," 69.

[7] Joseph Brean, "Shattering the Scientific World's History of Gendered Brain Assumptions," *National Post*, July 15, 2019, accessed July 17, 2019, https://nationalpost.com/news/shattering-the-scientific-worlds-history-of-gendered-brain-assumptions. Brean is offering a summary of the view of neuroscientist, Gina Rippon, *The Gendered Brain: The New Neuroscience That Shatters the Myth of the Female Brain* (London: Bodley Head, 2019). For a briefer introduction to the topic of brain plasticity in general, see Kendra Cherry, "How Experience Changes Brain Plasticity," Very Well Mind, updated June 26, 2019, accessed July 11, 2019, https://www.verywellmind.com/what-is-brain-plasticity-2794886.

[8] Lisa Firestone, "Changing Your Sense of Identity: Five Powerful Actions We Can Take to Challenge our Negative Self-Perception," Psychology Today, accessed July 17, 2019, https://www.psychologytoday.com/us/blog/compassion-matters/201712/changing-your-sense-identity.

[9] Jonathan Morgan, "Is Identity Fixed?," Change Writer, accessed July 17, 2019, http://changewriter.net/is-identity-fixed/.

[10] Suman Fernando, "*Connections*," *Openmind*, accessed July 17, 2019, http://www.sumanfernando.com/Connections.pdf.

[11] Letitia Anne Peplau and Linda D. Garnets, "A New Paradigm for Understanding Women's Sexuality and Sexual Orientation," *Journal for Social Issues* 56 (2002): 330-50 (abstract), accessed July 22, 2019, https://spssi.onlinelibrary.wiley.com/doi/abs/10.1111/0022-4537.00169.

[12] Michael C. LaSala, "Sexual Orientation: Is It Unchangeable?," Psychology Today, accessed July 22, 2019, https://www.psychologytoday.com/ca/blog/gay-and-lesbian-well-being/201105/sexual-orientation-is-it-unchangeable.

[13] Lisa M. Diamond and Clifford J. Rosky, "Scrutinizing Immutability: Research on Sexual Orientation and U.S. Legal Advocacy for Sexual Minorities," *Journal of Sex Research* 53 (4-5) (2016), 363-91 (363).

[14] Carly Cassella, "Here's More Evidence Sexual Orientation is Fluid right into our Adult Years," Sciencealert, May 5, 2019, accessed July 22, 2019, https://www.sciencealert.com/sexual-orientation-continues-to-change-right-through-our-teens-and-into-adulthood.

[15] Voices of Change, accessed July 22, 2019, www.voicesofchange.net.

[16] Joseph Nicolosi, "APA Task Force Report—A Mockery of Science," Joseph Nicolosi, accessed July 19, 2019, https://www.josephnicolosi.com/apa-task-force/.

[17] American Psychological Association, *Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation* (Washington DC: APA, 2009), 120, accessed July 19, 2019, https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf.

[18] APA, *Sexual Orientation*, 120.

[19] APA, *Sexual Orientation*, 42.

[20] APA, *Sexual Orientation*, 43.

[21] Such testimonies, along with those of others who have left a gay lifestyle without necessarily engaging in "change efforts", are everywhere in evidence, not least in personal form on the Internet; as a starting point, see (e.g.) the Voices of Change website (www.voicesofchange.net). For some academic studies on "change efforts" specifically, see (e.g.) the following, all of them accessed on July 20, 2019. In 2000 a large study found that after receiving therapy and making other

efforts to change, only 35.1% of the participants who had previously viewed themselves as "more homosexual than heterosexual," "almost exclusively homosexual," or "exclusively homosexual" in their orientation "continued to view their orientation in this manner." Joseph Nicolosi, A. Dean Byrd, and Richard W. Potts, "Retrospective Self-Reports of Changes in Homosexual Orientation: A Consumer Survey of Conversion Therapy Clients," *Psychological Reports* 86 (2000): 1071-1088, http://journals.sagepub.com/doi/abs/10.2466/pr0.2000.86.3c.1071. A 2010 study reported among men "dissatisfied with their same-sex attraction" increases in heterosexual self-identity and in reported heterosexual feelings and behavior, along with a decrease in reported homosexual feelings and behavior, after participating in "change efforts", with "the two most helpful techniques [being] understanding better the causes [of] one's homosexuality and one's emotional needs and issues and developing nonsexual relationships with same-sex peers, mentors, family members, and friends." Elan Y. Karten and Jay C. Wade, "Sexual Orientation Change Efforts in Men: A Client Perspective," *The Journal of Men's Studies* 18 (2010): 84-102, http://journals.sagepub.com/doi/abs/10.3149/jms.1801.84. A 2011 longitudinal study concluded that "change of homosexual orientation appears possible for some and that psychological distress did not increase on average as a result of the involvement in the change process." Stanton L. Jones and Mark A. Yarhouse, "A Longitudinal Study of Attempted Religiously Mediated Sexual Orientation Change," *Journal of Sex and Marital Therapy* 37:5 (2011), https://www.tandfonline.com/doi/abs/10.1080/0092623X.2011.607052 . Finally, a 2018 study surveyed one hundred and twenty-five men who had undergone "change efforts", 68% of whom reported some to much reduction in their same-sex attraction and behavior (ranging to "some" to "much"), as well as an increase in attraction to women. About 14% claimed that their orientation had changed from exclusively homosexual to exclusively heterosexual. On the whole, the participants found their therapy helpful; only one reported extreme negative effects. Paul L. Santero, Neil E. Whitehead, and Dolores Ballesteros, "Effects of Therapy on Religious Men Who Have Unwanted Same-Sex Attraction," *Linacre Quarterly*, July 23, 2018, 2018, http://journals.sagepub.com/doi/abs/10.1177/0024363918788559. This last paper has now been retracted by the journal dues the lack of a prior statistical review of the paper, which does not affect its usefulness for those addressing the question of whether "change efforts," as such, are perceived by some people as beneficial.

[22] Nicholas A. Cummings, "Sexual Reorientation Therapy not Unethical," *USA Today*, July 30, 2013, accessed July 20 2019, https://www.usatoday.com/story/opinion/2013/07/30/sexual-reorientation-therapy-not-unethicalcolumn/2601159/.

[23] Cummings, "Sexual Reorientation."

[24] "What is Gender Dysphoria," American Psychiatric Association, https://www.psychiatry.org/patients-families/gender-dysphoria/what-is-gender-dysphoria,

[25] Debra W. Soh, "CBC's Decision against Airing Transgender Kids Doc Should Leave Everyone Unsettled," CBC News, December 18, 2017, accessed July 10, 2019, https://www.cbc.ca/news/opinion/transgender-kids-documentary-1.4453667. She is writing here about CBC's decision not to air the 2017 BBC documentary, *Transgender Kids: Who Knows Best?*, which lays bare the ideological conflict that currently marks debate about gender identity, and remains viewable at present at https://vimeo.com/217950594, https://www.dailymotion.com/video/x58s24i, and https://www.thetalentmanager.com/talent/25458/alex-gower-jackson.

[26] Walt Heyer reports, e.g., that as a four-year-old boy his grandmother repeatedly, over several years, dressed him in a full-length purple dress and told him how pretty he was as a girl. This led on to later sexual abuse by another family member. Walt Heyer, "Hormones, Surgery, Regret," *USA Today*, February 11, 2019, accessed July 8, https://www.usatoday.com/story/opinion/voices/2019/02/11/transgender-debate-transitioning-sex-gender-column/1894076002/. In May 2019 the High Court in the UK affirmed the right of a four-year-old boy to live as a girl after it transpired that his foster parents were sending him to school in a girl's uniform. Two other children assigned to the couple also had gender identity issues. Michael Cook, "4-Year-Old Can Begin Transgender Transition, says UK Court," BioEdge, May 19, 2019, accessed July 11, 2019. https://www.bioedge.org/bioethics/4-year-old-can-begin-transgender-transition-says-uk-court/13063.

[27] "Gender Dysphoria," https://www.psychologytoday.com/ca/conditions/gender-dysphoria, accessed July 8, 2019; also, "the majority of children with suspected gender dysphoria don't have the condition once they reach puberty," https://www.nhs.uk/conditions/gender-dysphoria/treatment/, accessed July, 8, 2019. See further T. D. Steensma et al., "Factors Associated with Desistence and Persistence of Childhood Gender Dysphoria: A Quantitative Follow-Up Study," *Journal of the American Academy of Child and Adolescent Psychiatry* 52 (2013): 582–590; James Cantor, "Do Trans-Kids Stay Trans- When They Grow up?" Sexology Today, January 11, 2016, accessed August 12. 2019, http://www.sexologytoday.org/2016/01/do-trans-kids-stay-trans-when-they-grow_99.html; Kenneth J. Zucker, "The Myth of Persistence," *International Journal of Transgenderism* 19 (2018): 231–245, published online May 29, 2018, https://www.tandfonline.com/doi/abs/10.1080/15532739.2018.1468293.

[28] Paul W. Hruz, Lawrence S. Mayer, and Paul R. McHugh, "Growing Pains: Problems with Puberty Suppression in Treating Gender Dysphoria," accessed July 11, 2019, https://www.thenewatlantis.com/publications/growing-pains.

[29] Annelou L.C. de Vries et al., "Puberty Suppression in Adolescents with Gender Identity Disorder: A Prospective Follow-Up Study," accessed July 18, 2019,

http://www.pinktherapy.com/portals/0/CourseResources/de_Vries_Puberty_Suppression_in_Adolescents_with_GD.pdf. This study found that of seventy young adolescents treated with puberty suppression drugs ("gonadotropin-releasing hormone analogues [GnRHa]"), allegedly "to provide time to make a balanced decision regarding actual gender reassignment," none "withdrew from puberty suppression, and all started cross-sex hormone treatment, the first step of actual gender reassignment."

[30] Eva Moore, Amy Wisniewski, and Adrian Dobs, "Endocrine Treatment of Transsexual People: A Review of Treatment Regimens, Outcomes, and Adverse Effects," *Journal of Clinical Endocrinology and Metabolism* 88 (2003): 3467-3473, accessed July 11, 2019, https://doi.org/10.1210/jc.2002-021967.

[31] It is sometimes suggested that "transitioning" is a cure for suicidal tendencies in people with gender dysphoria, but there is little reason to think that this is the case. One 2011 study from Sweden actually found that "[p]ersons with transsexualism, after sex reassignment, have considerably higher risks for mortality, suicidal behaviour, and psychiatric morbidity than the general population," concluding that "sex reassignment, although alleviating gender dysphoria, may not suffice as treatment for transsexualism, and should inspire improved psychiatric and somatic care after sex reassignment for this patient group." Cecilia Dhejne et al., "Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden," PLoS ONE 6 (2): e16885. https://doi.org/10.1371/journal.pone.0016885. In other words, the community as a whole has an ongoing need, after the hormonal and surgical adjustments, for mental and other health care. This in turn begs the question as to how far the condition would better have been dealt with *from the beginning* as a mental health issue. Generally, "over 90 percent of people who commit suicide have a diagnosed mental disorder." Michelle Cretella, "I'm a Pediatrician. How Transgender Ideology has Infiltrated my Field and Produced Large-Scale Child Abuse," Intellectual Takeout, July 5, 2017, accessed July 11, 2019, https://www.intellectualtakeout.org/article/im-pediatrician-how-transgender-ideology-has-infiltrated-my-field-and-produced-large-scale.

[32] Soh, "CBC's Decision."

[33] Stephen B. Levine, "Informed Consent for Transgendered Patients," *Journal of Sex and Marital Therapy* 45 (2019): 218-229 (224), accessed July 18, 2019, https://www.tandfonline.com/doi/full/10.1080/0092623X.2018.1518885. 224.

[34] Kirsty Entwistle, "An Open Letter to Dr Polly Carmichael from a Former GIDS Clinician," accessed July 29, 2019, https://medium.com/@kirstyentwistle/an-open-letter-to-dr-polly-carmichael-from-a-former-gids-clinician-53c541276b8d.

[35] Entwistle, "An Open Letter." Consider further the interview recorded in the aftermath of the recent firing of the psychiatrist Allan Josephson by the University of Louisville in the USA for sharing at a conference "his professional opinion on the medicalization of gender-confused youth." Madeleine Kearns, "Gender Dissenter Gets Fired," National Review, accessed July 17, 2019, https://www.nationalreview.com/2019/07/allen-josephson-gender-dissenter-gets-fired/.

[36] Paul Marsden, "Memetics and Social Contagion: Two Sides of the Same Coin?," *Journal of Memetics: Evolutionary Models of Information Transmission* 2 (1998): 171-85, accessed July 17, 2019, http://cfpm.org/jom-emit/1998/vol2/marsden_p.html. The definition is quoted from *The Handbook of Social Psychology*.

[37] Marsden, "Social Contagion."

[38] See Cretella, "Pediatrician."

[39] Lisa Littman, "Rapid Onset Gender Dysphoria in Adolescents and Young Adults: A Study of Parental Reports," PLoS ONE 13(8): e0202330, accessed on June 13, 2019, https://doi.org/10.1371/journal.pone.0202330. The original study was published on August 16, 2018, and a corrected version, with the conclusions unchanged, was issued on March 19, 2019 after an outcry from some activists working in transgender clinics led to an investigation of the original. See also the comments by Susan Bradley in Douglas Todd, "If your Child Talks About being a Different Gender, Take it Slowly," Vancouver Sun, updated May 7, 2018, accessed July 11, 2019, https://vancouversun.com/opinion/columnists/douglas-todd-if-your-child-talks-about-being-a-different-gender-take-it-slowly.

[40] "Conversion therapy is premised on a lie," CBC, accessed March 17, 2020, https://www.cbc.ca/player/play/1708821059547.

[41] Government of Ontario, *Affirming Sexual Orientation and Gender Identity Act*, accessed July 10, 2019, https://www.ontario.ca/laws/statute/S15018; Nova Scotia Legislature, *Sexual Orientation and Gender Identity Protection Act*, accessed July 19, 2019, https://nslegislature.ca/legc/bills/63rd_2nd/3rd_read/b016.htm.

[42] Government of Canada, "Federal Government introduces legislation to criminalize conversion therapy-related conduct in Canada," accessed March 17, 2020, https://www.canada.ca/en/department-justice/news/2020/03/federal-government-introduces-legislation-to-criminalize-conversion-therapy-related-conduct-in-canada.html.