

## Conversion therapy and the Cooper report

### Briefing for MPs from Sex Matters, February 2024

The [Conversion Therapy Prohibition \(Sexual Orientation and Gender Identity\) Bill \[HL\]](#) is scheduled to have its second reading in the House of Lords on 9th February 2024.

One set of arguments used to support the proposed ban is that it is required by international human-rights law. These arguments were developed in [The Cooper Report: how to legislate against conversion therapy](#), published by the Ozanne Foundation in 2021.

This report argued that:

conversion practices **must be broadly defined** to “effectively capture all forms these practices can take”

But also that:

**“conversion practices amount at least to degrading treatment, and under certain circumstances may constitute inhuman treatment or even torture – all of which are absolutely prohibited by Article 3.”**

This is a “bait and switch” argument. If a conversion-therapy ban seeks to outlaw conduct that amounts to torture or degrading treatment, this would need a narrow definition. On the other hand the report proposes an offence that is broadly defined – this would outlaw practices that are nowhere near torture, and that may not be harmful at all, or are within the bounds of personal autonomy. This engages personal freedoms under Article 8. Not only is a ban not required by international law, it is likely to be unlawful.

The Cooper report tries two versions of the human rights argument:

#### 1. **“Degrading or inhuman treatment or torture must be prohibited by law.”**

The report argues that: “It is an established principle of international human rights law that conduct that amounts to degrading or inhuman treatment or torture must be prohibited by law.” However, broadly defined “conversion practices” include practices that are nowhere near meeting this description.

It is true that practices that amount to torture – such as rape, sexual assault, physical assault, verbal harassment and kidnap – must be prohibited by law. In fact, they are already prohibited by law. Proponents of a ban have not been able to identify evidence of any practices in the UK that are currently legal and that amount to torture or degrading treatment.

#### 2. **“It is proportionate to ban conversion practices.”**

The Cooper report also argues that:

“A ban on conversion practices will not impose unjustified or unlawful restrictions on the right to manifest religion and belief, or freedom of expression.”

The report argues “protection of health” as the justification for constraining people’s freedom to undertake prayer, therapy or other practices, or to express “gender critical” or traditionally religious ideas. It also suggests even broader justifications such as that “the existence of conversion practices contributes to sentiments which may then lead to other violent attacks on LGBT+ individuals” or that they are “an affront to the human dignity of LGBT+ persons because they fail to recognise that all persons are of equal moral value irrespective of their sexual orientation or gender identity”.

**Protection of health** is a clinical question. A broad ban on “conversion practices” would have a chilling effect on clinicians and therapists, preventing them from exploring with children and young people whether a strongly held conviction that they were “born in the wrong body” is actually a manifestation of some other psychological trauma or condition, or indeed confusion about sexual orientation or internalised homophobia.

Baroness Burt’s proposed bill defines conversion therapy broadly as:

“any practice aimed at a person or group of people which demonstrates an assumption that any sexual orientation or gender identity is inherently preferable to another, and which has the intended purpose of attempting to – (a) change a person’s sexual orientation or gender identity, or (b) suppress a person’s expression of sexual orientation or gender identity.”

But this would capture:

- acts that cause no injury or distress
- acts to which the person in question consents
- acts that are intended to protect the health and wellbeing of gender-questioning children and their classmates, such as recognising their sex, which is necessary for safeguarding and meeting statutory obligations on schools, as recognised in recent DfE guidance.

## Conclusions

1. There is no requirement under human rights law for the UK to ban “conversion practices”.
2. Practices that amount to torture are already unlawful in the UK.
3. A broad ban is an unjustified incursion on personal freedoms, would just as likely cause harm to individuals as protect them, and would probably be challenged on human-rights grounds.