

# CEMVO Scotland's response to Ending Conversion Practices in Scotland

---

A Scottish Government Consultation

2nd April 2024

## **INTRODUCTION**

CEMVO Scotland is a national intermediary organisation and a strategic partner of the Scottish Government Equality Unit. Our aim is to build the capacity of the ethnic minority voluntary sector and its communities. We have an established network of ethnic minority public and third sector organisations throughout Scotland to which we deliver a wide range of capacity building support programmes. Some of our current programmes of work include:

- Providing social enterprise development support to ethnic minority groups and social entrepreneurs;
- Providing race equality and human rights mainstreaming support to public, statutory and third sector organisations;
- Increasing ethnic minority representation on public boards;
- Supporting the Scottish Minority Ethnic Women’s Network (SMEWN) for peer support and influencing social policy;
- Developing and supporting an Ethnic Minority Environmental Network to engage in climate change policy; and
- Providing employability support to EM young people.

Through all our areas of work we engage extensively with the ethnic minority sector and gather evidence of the needs and concerns affecting ethnic minority communities which help to inform our response to the development of national and local policies, and to public consultations.

This is a response to the public consultation ‘Ending Conversion Practices in Scotland’ which was published by the Scottish Government on 9<sup>th</sup> January 2024. We welcome the consultation and its proposals to ban conversion practices, which we believe have no place in Scottish society, and which includes a package of both criminal and civil measures to tackle the harm that conversion practices have.

Our response has been developed using our internal expertise of supporting and engaging with ethnic minority communities in Scotland for over 20 years. As such, our response has been devised through an anti-racist, human rights and intersectional lens, and seeks to contribute to the discussion from an ethnic minority perspective.

We recognise that ethnic minority communities are more at risk of conversion practices and that there are unique challenges and barriers that arise for LGBTQ+ ethnic minorities when reporting conversion practices. In addition to this consultation, we encourage continued comprehensive, meaningful engagement with ethnic minority communities in Scotland as not to exacerbate existing inequalities and cause further risk of harm.

## **EXECUTIVE SUMMARY**

CEMVO Scotland welcomes the proposals to introduce a **comprehensive ban** to conversion practices which includes **both sexual orientation and gender identity**. We agree with the approach that uses both **criminal and civil measures** to address the harm that arise from conversion practices, providing a reactionary and preventative approach, where conduct is only criminalised where there is **an intention to change or suppress** a person's sexual orientation and/or gender identity. **Affirmative care** is not a conversion practice and falls outwith the scope of this Bill.

We **agree with the criminal law proposals**, including the introduction of new offences for coercive behaviour and the provision of services, as well as statutory aggravation offences. We advocate that it **should be a crime to remove someone from Scotland** to receive conversion practices, as well as aiding and abetting someone to conduct **conversion practices online**. However, we call on the Scottish Government to **remove the criterion that a victim must have suffered harm** as conversion practices are harmful by their very nature. Furthermore, free and informed **consent can never be given** to conversion practices and we support the exclusion of consent as a defence. Where a defence of **reasonableness** is invoked, this should only be available in extremely limited circumstances and should not constitute a loophole to justice for victims.

It is our view that it is better to protect from harm in the first instance before a crime has been committed and **support the use of civil protection orders**. They will provide a necessary alternative for potential victims and those who have concerns about reporting conversion practices to the police or local authorities. This is particularly true for **ethnic minority communities** and we second the concerns raised by the Expert Advisory Group on Ending Conversion Practices including **fears of targeted or overcriminalisation of ethnic minority communities**. We argue it will be necessary for the Scottish Government to provide funding to **support third party reporting centres, police capacity building and to LGBTQ+ and ethnic minority organisations** more broadly to close the gap around conversion practices reporting and to provide capacity building.

CEMVO Scotland argues that conversion practices are contrary to dignity and **violate human rights**. There is a **growing consensus among international institutions** that conversion practices are harmful and should be banned. It is our view that the proposals in the Bill are **compatible with the European Convention on Human Rights** and are necessary to ensure the rights within are respected, protected and fulfilled. We agree with human rights experts that properly drafted legislative bans to conversion practices **do not violate the right to freedom of thought, conscience and religion** contained in Article 9 of the ECHR which is a qualified right. This **does not prohibit traditional religious teachings or anti-LGBTQ+ sentiments** overall which fall outside of the scope of this Bill. Thus, the proposals put forward in this Bill are a **necessary and proportionate response** to address the harm that results from conversion practices, whilst respecting the human rights of everyone in Scotland.

**1. Do you support our approach to defining conversion practices which focuses on behaviour motivated by the intention to change or suppress a person’s sexual orientation or gender identity?**

Yes.

**2. Please give the reason for your answer to Question 1.**

We welcome the Scottish Government’s comprehensive definition of conversion practices in the Bill which covers both sexual orientation and gender identity, (‘SOGI’). In order to afford as much protection as possible to society from conversion practices and target those most at risk, including ethnic minorities, we wish to reiterate that any definition of the ban should be inclusive of transgender identities given that trans people are more likely to experience conversion practices.<sup>1</sup> The ban should also extend to asexual identities. Furthermore, conversions practices can occur against a person who does not identify as LGBTQ+, i.e. a person who is straight and/or cisgender, and therefore the definition of a ban should also ensure that it is the perpetrator’s perception of the victim’s SOGI, as opposed to the victim’s actual SOGI, that is taken into account. It does not matter which source the conversion practices originates from, for example medical, faith-based, family-based or other community-based interventions, but rather that there is the intention of the perpetrator to change or suppress an individual’s SOGI. We also agree with the consultation’s use of the term conversion practices as opposed to conversion therapy. We believe the former is more encompassing of the varying forms of conversion practices that take place and the word ‘therapy’ eludes to the idea that non-heteronormative SOGI is a disorder or condition that can be helped or cured.

We support the Scottish Government’s main aim of the Bill which is to protect LGBTQ+ people and reduce the harm they face from conversion practices. Given that the focus is on harm reduction and not overcriminalisation, we support the inclusion of a definition which focuses on the behaviour motivated by the intention to change or suppress a person’s SOGI. In order to ensure an appropriate and proportionate response to those conducting conversion practices, we believe that the proposed flexible approach, which encompasses a package of both criminal and civil measures, will afford maximum protection to those most at risk. Whilst it is our view that the impact of conversion practices may not differ depending on the intent of the perpetrator, the inclusion of intent will be a defining factor in whether the response to those conducting conversion practices should be criminal or civil in nature.

In Scots criminal law, the definition of all criminal offences consists of a behavioural element (*actus reus*) and in most cases, a mental element (*mens rea*). For a person to be convicted in Scotland of the offence of conducting conversion practices, we believe that including behaviour motivated by the intention to change or suppress a person’s SOGI in the definition of conversion practices will fulfil the *mens rea* element of the proposed criminal offences. This can be specific intent to change or suppress a

---

<sup>1</sup> <https://assets.publishing.service.gov.uk/media/5b3cb6b6ed915d39fd5f14df/GEO-LGBT-Survey-Report.pdf>

person's SOGI, or also, depending on the unique circumstances and severity of the offence, something less deliberate but still culpable, such as negligence or recklessness. Where a perpetrator commits an act that mounts to a conversion practice but there is no intention to change or suppress a person's SOGI, then civil protection measures should be used due to the absence of *mens rea*.

**3. Do you think that legislation should cover acts or courses of behaviour intended to 'suppress' another person's sexual orientation or gender identity?**

It should be covered.

**4. Please give reasons for your answer to Question 3.**

It is CEMVO Scotland's firm belief that in order for a ban on conversion practices to be comprehensive and protect as many LGBTQ+ from harm as possible, the ban must include acts or behaviour that are intended to suppress another person's SOGI. This is applicable to all LGBTQ+ identities, and should be inclusive of as trans, bisexual and asexual identities. The harm suffered by victims from conversion practices is subjective and so making someone suppress their SOGI can be just as harmful as making them try to change it. We agree with the Expert Advisory Group on Ending Conversion Practices that:

"it is important to explicitly include suppression within the definition as perpetrators of conversion practices may claim that they know that they cannot change someone's... [SOGI]... but they believe they may suppress them. The practice of suppression is equally as harmful. In addition, the intention behind the practice might change over time. For example, someone may begin with trying to convert and/or change another individual and then move to suppression."<sup>2</sup>

Oftentimes, anti-LGBTQ+ rhetoric and microaggressions consist of phrases like, "it's just a phase", "you will grow out of it" and "how do you know if you haven't tried?". Phrases like these are not only detrimental to the mental wellbeing of LGBTQ+ individuals but they are also attempts to suppress a person's SOGI by dismissing it as inferior in an attempt to convince or persuade an LGBTQ+ person that the 'alternative', which is straight and/or cisgender (passing), is preferable. The idea that individuals should suppress their SOGI and who they are in order to conform to another's belief of what is socially acceptable violates the dignity, inherent worth of every individual and their human rights.

---

<sup>2</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/independent-report/2022/10/expert-advisory-group-ending-conversion-practices-report-recommendations/documents/expert-advisory-group-ending-conversion-practices-report-recommendations/expert-advisory-group-ending-conversion-practices-report-recommendations/govscot%3Adocument/expert-advisory-group-ending-conversion-practices-report-recommendations.pdf>, p16. (Hereafter, cited as 'EAG Report').

**5. Do you support or not support an approach which uses a package of both criminal and civil measures to address conversion practices in legislation?**

Support.

**6. Please give reasons for your answer to Question 5.**

CEMVO Scotland welcomes an approach which uses both criminal and civil measures to address conversion practices in Scotland. We believe this is in line with the overall aim of the Bill which is to reduce as much harm as possible to LGBTQ+ people and victims of conversion practices, and not simply the overcriminalisation of perpetrators. We agree that legislating to include both criminal and civil measures allows for a reactionary and preventative approach, and casts a wider net of protection to those most at risk.

As outlined in our response to question 2, where there is an intent to change or suppress an individual's SOGI, this satisfies the *mens rea* element of a criminal offence. However, in the absence of this and without an intention to change someone's SOGI, civil protection measures should be used to address and prevent the conversion practices. Conversion practices take place in a variety of forms, with varying degrees of severity and the harm suffered by victims is subjective, thus we believe that having a flexible approach that takes account of the unique experiences of potential victims and survivors, including LGBTQ+ ethnic minorities, is paramount.

Whilst it is our view that conversion practices should be criminalised due to their abhorrent and ineffective nature, criminal law should be a last resort. We agree with the Equality Network that, "it is better to protect from harm in the first place than to punish people after they have done the harm."<sup>3</sup> Solely focusing on a criminal response, as opposed to a package of both criminal and civil measures, will bring unique challenges and unintended consequences, particularly for ethnic minorities.

The Bill when enacted will not exist in a vacuum and therefore must be assessed in the context of our society where ethnic minorities experience other forms of oppression like systemic and institutional racism. As highlighted in the consultation at paragraph 28, 16% of conversion practices are carried out by a parent, guardian or other family member and 9% are carried out from a person within their community. Solely focusing on a criminal response may prevent someone from an ethnic minority background from reporting this to the police over fears of bringing dishonour to their family/community or criminalising a family/community member, particularly if they have had previous negative experiences when interacting with Police Scotland which recognises that it is an institutionally racist organisation.<sup>4</sup> This could in fact make the situation worse and

---

<sup>3</sup> <https://www.equality-network.org/our-work/policy-team/ending-conversion-practices/>

<sup>4</sup> [Police Scotland Chief Constable Sir Iain Livingstone addresses institutional discrimination. - Police Scotland](#)

allow conversion practices to continue for longer, or drive them further underground. Thus, in line with the Bill's primary aim of harm reduction as opposed to criminalisation in the first instance, the legislation must include the availability of civil measures and should take account of the unique circumstances of ethnic minorities by giving victims agency over the appropriate response from public authorities like Police Scotland. We are in full agreement with the Expert Advisory Group that there should be "full and significant engagement" with ethnic minority communities as to how the criminal law will be shaped.<sup>5</sup> For more information regarding disproportionate impacts on ethnic minorities, please see question 19.

Furthermore, whilst we support a package of both criminal and civil measures, we respectfully disagree with some of the language used in the consultation surrounding criminal offences and harm. The consultation states that only conversion practices which are "harmful" will be criminalised. However, we believe that all conversion practices are harmful, irrespective of their severity. For example, 'jokes' or microaggressions which contribute to an individual suppressing their SOGI but do not amount to criminal activity can still have negative consequences for that LGBTQ+ individual's mental health, sense of self and overall wellbeing. Instead, we believe that the language used in legislation and guidance around what constitutes a criminal offence or not should be directed to focusing on varying levels of severity and not only those which are "harmful".

**7. What are your views on the proposal that the offence will address the provision of a service?**

Support.

**8. Please give reasons for your answer to Question 7.**

CEMVO Scotland welcomes the inclusion of an offence which addresses the provision of conversion practice services. There is a resounding medical consensus that conversion practices do not work and so any service which purports to have knowledge of 'expertise' of this is dangerous and should be prohibited. We recognise that conversion practice services can occur in a variety of forms and agree that the Bill should include of a non-exhaustive list of what constitutes a service. This should include services under the guise of trips, retreats, pilgrimages and other charitable endeavours which have the purpose of changing or suppressing a person's SOGI. It is irrelevant whether there is a financial cost charged for the service, what matters is the context and intent to offer services that seek to change or suppress an individual's SOGI. The consultation states at paragraph 98 that a service will "need to reach a level

---

<sup>5</sup> EAG Report, p41.

of formality, professionalism or expertise for it to be considered a service”. Whilst we do agree with this in principle, this should be a low-threshold as not to exclude informal services and recommendations, for example, through “a friend of a friend” or someone in the victim’s community.

It is our view that affirmative care, i.e. that which supports a person to explore, recognise or affirm their SOGI, should not be considered a service which falls within the definition of conversion practices. These services can be vital to LGBTQ+ people to develop a sense of self, promote positive health and wellbeing and can even be lifesaving. For example, gender affirming healthcare such as the prescription of hormones or gender affirming surgeries. Gender transition processes do not seek to change a person’s gender identity but instead is a person-centred process that supports and enables a person to live in their gender identity, which does not amount to a conversion practice and should fall outside the scope of the ban. For the avoidance of doubt, any services that do seek to change or suppress a person’s SOGI should not constitute affirmative care and should be caught within the definition of conversion practices for the purposes of the Bill.

We would like to recognise the ever increasingly digital world in which we live, especially since the Covid-19 pandemic, and feel that any definition of the provision of conversion practice services should take account of those which are provided online. For more information on conversion practices online, please see our response to question 21.

We also believe that within the provision of services, it should also be illegal to train or coach other people to conduct conversion practices and this prohibition should be expressly included in the legislation. This includes disseminating training resources (in a variety of forms through a variety of mediums) in Scotland aimed at equipping perpetrators on how to conduct conversion practices. In this scenario, it would be irrelevant whether the trainer themselves was engaged in conducting conversion practices towards an individual as they will possess both the *actus reus* (the act of training/coaching or the dissemination of training resources) and the *mens rea* (either through direct intent to harm LGBTQ+ people via conversion practices or at very least recklessness to the infliction of harm via conversion practices) which should amount to a criminal offence. Whilst the consultation states in paragraph 142 that “it is not permitted to advertise or promote something that in itself is illegal”, we do not believe that this is a strong enough deterrent for those who wish to train others to conduct conversion practices and an express prohibition should be included in the legislation for the avoidance of doubt. For a more detailed stance on advertising conversion practices, please see our response to question 19.

**9. What are your views on the proposal that the offence will address a coercive course of behaviour?**

Support.



**10. Please give reasons for your answer to Question 9.**

CEMVO Scotland supports the inclusion of coercive behaviour as a criminal offence in the Bill. Without this, many forms of conversion practices would slip through the net of protection that the Bill aims to offer and thus it is vital this is included. Simply expressing a negative opinion about the LGBTQ+ community overall, for example preaching anti-LGBTQ+ rhetoric, would not be considered coercive behaviour towards an individual aimed at changing or suppressing their SOGI and would fall out with the scope of the definition of coercive control for the purposes of the Bill.

However, we believe that the threshold currently proposed in the Bill of what constitutes the offence of coercive behaviour is too high. For a perpetrator to be convicted of this offence, five criteria must be met: 1) intent; 2) relating to an individual; 3) harm suffered; 4) coercive behaviour; and 5) coercive behaviour on at least two occasions. We would argue that the inclusion of these five separate criteria is too onerous and may result in some perpetrators evading criminal liability despite conducting conversion practices and victims suffering harm. Given that we want the legislative ban on conversion practices to be full, comprehensive and without any loop holes, we propose two amendments to this offence.

Firstly, we propose the removal of the condition that coercive behaviour must have happened on at least two occasions. Severe, one-off acts of coercive behaviour would not be caught by the offence as currently proposed despite this potentially leading to the suppression of an individual's SOGI which constitutes a conversion practice. Here, the perpetrator could evade criminal liability on a technicality that the behaviour only happened on one occasion despite this causing the victim to have suffered harm, irrespective of whether this happened on a second occasion. Removing the condition of two or more instances of coercive behaviour will catch behaviour that happens as a singular occurrence and behaviour that falls outwith the scope of the statutory aggravation offence.

Secondly, we propose the removal of the condition that the victim must have suffered harm. We recognise that the Bill's main aim is to reduce harm. We also recognise that harm is subjective and will vary on the severity of the coercive behaviour that has taken place. Due to the subjective nature of harm, this could prove to be an exception to the legislative ban which the bill is seeking to achieve. The key here is that coercive behaviour which constitutes a conversion practice has taken place, not how harmful it has been to the victim. In the interests of removing any legislative loopholes, the harm criteria for this offence should be removed. For further discussion on the removal of the harm criterion, please see our response to answer 11.

CEMVO Scotland also respectfully disagrees with the Bill's proposal to only cover deliberate actions and not include omissions within the definition of coercive control. The Bill's primary aim is to reduce as much harm as possible for LGBTQ+ people and so

we see no reason why omissions should be excluded from the definition given that these can still have a negative impact on, and consequences for, a victim and may amount to a conversion practice. This is particularly important for ethnic minority individuals who may be part of a large family, community and/or religious network whereby the threat of exclusion can have the same negative impact as a deliberate action. For example, if an ethnic minority LGBTQ+ individual knows they will be left out, no longer invited or no longer welcome in family and/or community meetings whilst they continue to express their SOGI, this may result in them suppressing their SOGI in order to avoid ostracization. Here, it is the omission to include, invite or welcome at the meetings which we would argue constitutes coercive control as it essentially provides an ultimatum (without expressly saying so). Research conducted by the Expert Advisory Group on Ending Conversion Practices published by the Scottish Government has found that many LGBTQ+ ethnic minorities face unique challenges due to the intersection between their race, sexuality and gender, such as feeling othered, isolation and a dichotomy of being divided between traditional family life inside and outside the home.<sup>6</sup> Omissions, like that in our example above, directly contribute to those negative experiences and the duality of existence that many LGBTQ+ ethnic minority individuals face whereby they feel they have to choose one identity over the other which may amount to the suppression of their SOGI which constitutes a conversion practice. As such, we believe that omissions are just as powerful as deliberate acts and should be encapsulated within the definition of coercive control.

***11. What are your views on the requirement that the conduct of the perpetrator must have caused the victim to suffer physical or psychological harm (including fear, alarm or distress)?***

Do not agree.

***12. Please give reasons for your answer to Question 11.***

It is CEMVO Scotland's firm belief that the condition that a victim must have suffered harm as a result of conversion practices should be removed from the Bill. Whilst we agree with the Bill's primary focus on reducing the harm that results from conversion practices, this must be considered within the broader legislative objectives of the Bill. In particular, we would like to highlight the following objectives listed at paragraph 41 of the consultation:

---

<sup>6</sup> [Expert Advisory Group on Ending Conversion Practices Report - People of Colour and Minority Ethnic Faith Experiences of Conversion Practices \(www.gov.scot\)](http://www.gov.scot)

- Send a clear, unambiguous public message that conversion practices in relation to an individual’s sexual orientation and/or gender identity are unacceptable in Scotland; and
- Provide clarity about what actions are permissible and what are not.

In light of those objectives, it is our view that including a condition of harm fails to adequately meet those objectives. We believe the inclusion of harm would send the wrong message to perpetrators, victims and society more broadly, that being that conversion practices are permissible and not criminal so long as “there is no harm done”. It is useful to remind ourselves of what conversion practices actually are: they are insidious, heinous methods which at their core seek to change a person’s identity to conform to another, more socially acceptable heteronormative standard. This violates the dignity, inherent worth and human rights that every individual possesses. SOGI are immutable characteristics that LGBTQ+ are born with, and as such, cannot be changed. In that regard, it is our view that all conversion practices are harmful by their very nature. As such, we would argue that it is irrelevant whether an individual has suffered direct harm of acts, omissions or service provision, it is the very existence of conversion practices that are harmful.

Conversion practices are incredibly complex and vary in methods, severity and intensity. The harm that is suffered by conversion practices is subjective to every victim. The harm suffered may present itself immediately in a survivor’s life but as the Expert Advisory Group has advised, may present itself later in life through a variety of health conditions, for example through PTSD.<sup>7</sup> In particular, if a child falls victim to conversion practices, it may not be until adulthood that harm manifests and presents itself. At that point, the perpetrator may have conducted conversion practices on other victims, may no longer be resident in Scotland or may be deceased.

The consultation states at paragraph 101 that when developing the criminal offences, the Scottish Government has “carefully considered and learnt from the approach taken to domestic abuse, through the Domestic Abuse (Scotland) Act 2018”. Section 4(1) of the Domestic Abuse (Scotland) Act 2018 states that the commission of an offence under that act “does not depend on the course of behaviour actually causing [a victim] to suffer harm”. Thus, we would urge the Scottish Government to be consistent and follow the same approach in relation to removing harm for conversion practices in this Bill.

Including a criterion of harm may allow for perpetrators to evade criminal liability which may not result in justice for survivors. For example, a perpetrator undertakes the same coercive behaviour against victim A and against another victim B. A suffers harm, and B does not. Therefore, despite the coercive behaviour being the same, the perpetrator would only incur criminal liability towards victim A. Here, there is no justice for victim B on the account that they did not incur harm or meet the harm threshold. That should not

---

<sup>7</sup> EAG Report, p33.

be the case and is not in line with the approach that centres the needs and dignity of survivors and victims that the Bill wishes to take.

Notwithstanding our recommendation to remove the criterion of harm, we also believe that the victim should have full autonomy in the response to conversion practices. Where a criminal offence has taken place, this should not impact an individual's wish to pursue a civil measure instead. Similarly, if a practice is not intended to change to suppress a person's SOGI then it will fall outside the scope of criminal law.

**13. Do you agree with the inclusion of a defence of reasonableness?**

Don't know.

**14. Please give reasons for your answer to Question 13.**

CEMVO Scotland recognises that a criminal charge should have a defence. However, we are unsure about the inclusion of a defence of reasonableness as this raises concerns that conversion practices are permissible in "reasonable" circumstances, which should not be the case. The defence of reasonableness is vague and open to individual interpretation, thus we urge the Scottish Government to elaborate on this further in the Bill if this defence is taken forward. If this defence is taken forward, we only support it in very limited circumstances such as those listed in paragraph 124 of the consultation. There should be a high threshold required to meet the defence of reasonableness, given that conversion practices would very seldom, if at all, be reasonable, and agree with the inclusion that this must be proved beyond all reasonable doubt.

As fully informed consent can never be given to conversion practices, this should not form part of a defence of the perpetrator. For more information on our views regarding consent, please see our response to question 17.

We also fully agree with the Expert Advisory Group that it is irrelevant whether the perpetrator considers their actions to amount to a conversion practice:

“the requirement should be that the perpetrator intended the treatment, practice or effort that took place. It is not required that they consider their conduct to amount to conversion practices, and the assertion that they did not consider it conversion practices themselves, is not a defence.”<sup>8</sup>

---

<sup>8</sup> EAG Report, p24.

**15. Do you agree with the proposed penalties for the offence of engaging in conversion practices?**

Agree.

**16. Please give reasons for your answer to Question 15.**

CEMVO Scotland agrees with the proposed penalties for the offence of engaging in conversion practices. We would like to reiterate the unique nature of conversion practices which are subjective and vary in methods, intensity and severity. As such, each case should be judged on its own individual facts and circumstances, taking account of all aggravating or mitigating factors, and a sentence imposed which is appropriate and proportionate to the offence committed.

**17. Do you agree that there should be no defence of consent for conversion practices?**

Yes.

**18. Please give reasons for your answer to Question 17.**

CEMVO Scotland fully agrees that there should be no defence of consent for conversion practices. Conversion practices exist on the premise that LGBTQ+ identities are wrong and should be “fixed” to a more “socially acceptable”, heteronormative, cisgender standard. Conversion practices do not work: SOGI are immutable characteristics which cannot be changed and so it is not possible to ever give free and informed consent. Allowing for a defence of consent opens the ban up to exceptions which is contrary to the overall legislative objectives of the Bill stated at paragraph 41 of the consultation, in particular, sending “a clear, unambiguous public message that conversion practices... are unacceptable in Scotland and that they are harmful”.

As we will elaborate in our response to question 27, conversion practices are a violation of several human rights and in some cases may amount to torture, inhuman and degrading treatment. Thus, there should be no defence of consent included in the Bill.

**19. Do you have any other comments regarding the criminal offence as set out in Parts 8 and 9?**

CEMVO Scotland believes that the criminalisation of conversion practices is necessary to send a strong public message that conversion practices have no place in Scotland and

to protect LGBTQ+ people from harm. Without criminal offences, the ban would not be comprehensive and would allow for certain conversion practices to continue. That should not be the case. As such, we believe including criminal offences is both a proportionate and necessary response to ensure conversion practices are eradicated from Scottish society, alongside a package of civil measures to protect victims.

With that said, we believe that several additional issues arise around criminalisation which we will deal with in turn below.

*i) Police reporting and institutional racism*

Ethnic minorities are more at risk of conversion practices. The National LGBT survey found that ethnic minority respondents were up to twice as likely to be offered, or to have undergone, conversion practices than white respondents, and transgender ethnic minorities were at even greater risk.<sup>9</sup> We would also like to highlight research conducted by the Expert Advisory Group, that “people of colour and those within minority ethnic faith communities tend to experience conversion practices differently to the wider population”,<sup>10</sup> and that “there are feelings of apprehension around reporting of conversion practices in ethnic minority communities who have experienced historical prejudice and discrimination within the criminal justice system”.<sup>11</sup> Given that ethnic minorities are more at risk of conversion practices, the additional barriers they face when reporting criminal conversion practices to the police must be considered.

Firstly, fears that ethnic minorities will be wrongfully targeted by an institutionally racist police force. Former Chief Constable of Police Scotland, Sir Iain Livingstone QPM, recognised that institutional racism, sexism, misogyny and discrimination exist within the police force and that Police Scotland is “institutionally racist and discriminatory”.<sup>12</sup> Whilst we welcome this acknowledgement and believe that it is key to taking proactive, anti-racist action, if you are an LGBTQ+ ethnic minority victim of conversion practices and are highly vulnerable, how can you have faith in reporting this to the police when the institution is discriminatory at its core?

Secondly, the fear of putting one’s community at risk of criminalisation or overcriminalisation from the police. These fears of overcriminalisation are justified given that Scottish Government’s review of quantitative evidence relating to ethnicity in the justice system in Scotland found that in 2021-2022, it was estimated that the

---

<sup>9</sup> <https://assets.publishing.service.gov.uk/media/5b3cb6b6ed915d39fd5f14df/GEO-LGBT-Survey-Report.pdf>

<sup>10</sup> EAG Report, p39.

<sup>11</sup> EAG Report, p38.

<sup>12</sup> [Police Scotland Chief Constable Sir Iain Livingstone addresses institutional discrimination. - Police Scotland](#)

incarceration rate for people who identify as African, Caribbean or Black, or from other ethnic groups was significantly higher than for people who identify as white.<sup>13</sup>

To combat this, we believe the following is necessary. Firstly, we recognise the value of third party reporting centres and advocate that they should be available to report conversion practices to Police Scotland at the request of victims. A victim may have an existing connection with, or more trust in, a local organisation than Police Scotland as an institution. Where possible, we call on the Scottish Government to make additional funding available for these services where required. Secondly, we also suggest that further capacity building is conducted with Police Scotland and other criminal justice agencies in relation to conversion practices through an anti-racism lens to better understand the barriers applicable to, and needs of, different ethnic minority communities. Where possible, we call on the Scottish Government to make funding available for this. Lastly, we would like to highlight the Expert Advisory Group's comments that "ethnic minority communities tend to be underrepresented in responses to government consultations and design of policy and legislation".<sup>14</sup> As such, continued engagement with ethnic minority communities and ethnic minority third sector organisations is crucial to ensure that the legislation does reinforce or create systemic barriers.

ii) *Advertising*

CEMVO Scotland also believes that it should also be illegal to advertise or promote conversion practices. Whilst we recognise that some areas of advertisement may relate to reserved matters, including regulation by Ofcom and the Advertising Standards Authority, this should not stop the Scottish Government taking the necessary measures to ban and criminalise advertisement where possible within devolved competence. Whilst the consultation states in paragraph 142 that "it is not permitted to advertise or promote something that in itself is illegal", we do not believe that this is a strong enough deterrent and leaves the issue open to interpretation. Therefore, we agree with the Expert Advisory Group that:

"the criminalisation of conversion practices should not only include the carrying out of the practices themselves, but should also include offering, promoting, advertising or referring a person for the purpose of conversion practices. This will have the effect of capturing the range of conduct that accompanies the actual performance of conversion practices and of addressing the community and faith contexts that support and galvanise these practices."<sup>15</sup>

---

<sup>13</sup> [4. Patterns of offending and the justice system response - Ethnicity in the justice system: evidence review - gov.scot \(www.gov.scot\)](#)

<sup>14</sup> EAG Report, p41.

<sup>15</sup> EAG Report, p21.

iii) Reporting duty on Scottish Ministers

The consultation states at paragraph 101 that when developing the criminal offences, the Scottish Government has “carefully considered and learnt from the approach taken to domestic abuse, through the Domestic Abuse (Scotland) Act 2018”. Section 14(1) of that Act includes a reporting requirement that places a duty on the Scottish Ministers to report to the Scottish Parliament on, amongst others, the number of domestic abuse offences, cases and convictions.

CEMVO Scotland argues that a similar reporting duty be placed on the Scottish Ministers and included in this Bill to assess how effective this legislation is at reducing both conversion practices and meeting the predominant aim of the bill, which is protecting LGBTQ+ people from harm. We believe this should include, amongst others, the number of criminal offences (broken down into the provision of a service, coercive control and statutory aggravated offences), the number of civil protection orders issued, the number of cases reported and where cases have been reported, i.e. to Police Scotland, a local authority or a third-party reporting centre. This will compel the Scottish Government to gather and analyse data, assess the effectiveness of the legislation and take targeted action as required. For example, if the majority of cases are being reported via third-party reporting centres and not directly to Police Scotland, then this indicates that more support and/or funding should be made available to these services if required.

**20. What are your views on it being a criminal offence to take a person out of Scotland for the purpose of subjecting them to conversion practices?**

Support.

**21. Please give your reasons for your answer to Question 20.**

CEMVO Scotland supports the proposals to introduce a criminal offence to take a person out of Scotland for the purposes of subjecting them to conversion practices. We recognise that historically, colonialism and the British empire have resulted in the exportation of binary, heterosexual and patriarchal gender norms which became a way for societies to organise family and interpersonal relationships, the economy and politics at the expense of other genders and sexualities. In other words, indigenous communities that had previously held complementary gender relationships, or non-patriarchal family structures became assimilated, eliminated or discriminated. Whilst Scotland and the UK has advanced (although, not achieved) LGBTQ+ equality in the past few decades, several countries / former colonies of the British Empire have not, where conversion practices still remain legal and commonly used.



We understand the difficulty this poses for Scotland: the Scottish Parliament can only legislate within the confines of devolved competence and relating to Scottish territory. It cannot legislate to criminalise conversion practices in other countries. However, we agree that it can legislate to criminalise the removal of someone from Scotland to conduct conversion practices, particularly where conversion practices are legal, and that the inclusion of this is of paramount importance to close a gap that exists in protection. Where someone is taken outside of Scotland, we would argue that costs incurred to the perpetrator are irrelevant and the inclusion of “paying all or a substantial portion” included in the consultation at paragraph 150, clause 7(2)(b)(i) should be changed to “paying a portion or some of”.

Where someone enters Scotland to conduct criminal conversion practices, we believe they will be caught by the new offences (either coercive control or the provision of services) or the statutory aggravation offences. We also believe it will be necessary to work with the UK Government where necessary to ensure that any reserved areas are caught by the UK wide legislation on the banning of conversion practices as not to create any loopholes or gaps in protection offered in Scotland, and we urge the Scottish Government to continue to lobby the UK Government to introduce a ban on conversion practices elsewhere in the UK. We are aware that conversion practices remain legal elsewhere in the UK and are concerned that this leads to individuals easily traveling to England, Wales or Northern Ireland to receive conversion practices. Thus, the inclusion of this offence in the Bill will help to combat this.

Furthermore, CEMVO Scotland would like to highlight an additional consideration in relation to conversion practices conducted digitally or online. We live in an increasingly digital world, particularly post-Covid-19, where instantaneous global communication is possible and where some faith institutions stream services and sermons online now. The Global Project Against Hate and Extremism (GPAHE) conducted extensive research about conversion practices that take place online and that are advertised on various social media platforms, and found that despite countries introducing legislative bans, online ecosystems remain filled with problematic material on conversion practices and supposed social media bans are essentially “toothless”.<sup>16</sup> This is a concern for CEMVO Scotland as whilst we may ban conversion practices taking place in Scotland, this still leaves potential victims vulnerable to conversion practices online outside of Scotland, which are readily available.

As such, we argue that the criminal law provisions should also extend to those who aid and abet conversion practices online. For example, when person A does not remove person B from Scotland for the purposes of conversion practices conducted by person C, but makes arrangements for person B in Scotland to receive conversion practices online, particularly where the perpetrator person C is located in a country where conversion practices are legal, this conduct of person A should also fall within the scope of the criminal law provisions as the impact on person B may be the same regardless of whether

---

<sup>16</sup> [Conversion Therapy Online: The Ecosystem - Global Project Against Hate and Extremism \(globalextremism.org\)](https://globalextremism.org/)

they were taken out of Scotland or not. Here, person A has aided, abetted or facilitated the conversion practices conducted by person C. This could be via a formal partnership or business agreement between the perpetrator person C and the facilitator person A, such as an agreement to recruit victims or ‘clients’, or could simply be through a personal relationship or by word-of-mouth. The consultation lists at paragraph 95 that the provision of services online fall within this definition, however we believe this should extend to coercive control and statutory aggravation offences as well where the perpetrator is located in another country. By including this within the scope of the criminal law provisions, we believe this addresses that challenge whereby Scotland alone cannot criminalise conversion practices online, but it can criminalise those within its territory facilitating this.

**22. What are your views on the proposed penalties for taking a person outside of Scotland for the purposes of conversion practices?**

Support.

**23. Please explain your answer to Question 22.**

CEMVO Scotland agrees with the proposed penalties for taking a person outside of Scotland for the purposes of conversion practices. We would like to reiterate the unique nature of conversion practices which are subjective and vary in methods, intensity and severity. As such, each case should be judged on its own individual facts and circumstances, taking account of all aggravating or mitigating factors, and a sentence imposed which is appropriate and proportionate to the offence committed.

**24. What are your views on the proposal that conversion practices should be an aggravating factor for existing offences?**

Support.

**25. Please explain your answer to Question 24.**

CEMVO Scotland supports the proposal that conversion practices should be an aggravating factor for existing offences. This will ensure that there are no gaps in the criminal law where the perpetrator’s offence is motivated by the intention to change or suppress someone’s SOGI. We note the added benefit that this will bring of being able to collect increased data around conversion practices in Scotland. The publishing of this data should form part of the reporting duty on Scottish Ministers which we have proposed in our response to question 19. We also reiterate the recommendation of the Expert Advisory Group that: “The sentences for the criminalised acts need to be appropriate but

the precise determination of the sentence will have to be done on an individual basis, considering the relevant aggravating and mitigating factors.”<sup>17</sup>

**26. Do you have any views on the steps we have taken to ensure the proposals are compatible with rights protected by the European Convention of Human Rights?**

CEMVO Scotland believes that the proposals are fully compatible with the rights protected by the European Convention on Human Rights (ECHR). It is our firm belief that conversion practices are a violation of the dignity, inherent worth and human rights of individuals. At their core, they seek to change or suppress an individual’s SOGI which are immutable characteristics, and as such, are contrary to the spirit of international human rights law. Conversion practices have no place in Scotland and are incompatible with our human rights obligations. When discussing conversion practices as a violation of human rights, it would be a mistake to only consider this in relation to the ECHR and should be assessed within the wider international human rights context. The following non-exhaustive list of rights are at risk of being violated in Scotland as a result of conversion practices:

- The right to non-discrimination<sup>18</sup>;
- The right to health<sup>19</sup>;
- The right to the prohibition of torture, inhuman and degrading treatment<sup>20</sup>;
- The right to respect for private and family life<sup>21</sup>;
- The right to freedom of expression<sup>22</sup>;
- The rights of the child<sup>23</sup>;
- The positive rights to bodily autonomy<sup>24</sup>.

CEMVO Scotland agrees with the international human rights community that a ban on conversion practices is compatible with the right to freedom of thought, conscience and religion. The UN Special Rapporteur on Freedom of Religion or Belief, Dr Ahmed Shaheed, one of the most senior authorities on religious rights, stated in 2021 that banning conversion practices would not violate the freedom of religion or belief under

---

<sup>17</sup> EAG Report, p25.

<sup>18</sup> Human Rights Act 1998 s1, Article 14 ECHR.

<sup>19</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR) (Adopted 16 December 1966, entered into force 3 January 1976) Article 12.

<sup>20</sup> Human Rights Act 1998 s1, Article 3 ECHR; United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1(1) (Adopted 10 December 1984, entered into force 26 June 1987).

<sup>21</sup> Human Rights Act 1998 s1, Article 8 ECHR.

<sup>22</sup> Human Rights Act 1998 s1, Article 10 ECHR/

<sup>23</sup> United Nations Convention on the Rights of the Child (UNCRC) (Adopted 20 November 1989, entered into force 2 September 1990).

<sup>24</sup> Human Rights Council, “Practices of so-called ‘conversion therapy’: Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity”, 2020, p.14 onwards: <https://undocs.org/A/HRC/44/53>

international human rights law.<sup>25</sup> This is echoed by Dunja Mijatović, the Council of Europe Commissioner for Human Rights, who stated that when properly drafted, bans on conversion practices “should not interfere with the right to hold a belief or express an opinion on LGBTI issues”.<sup>26</sup> CEMVO Scotland agrees with this argument as the right to religion or belief contained in Article 9 ECHR is a qualified right. In that sense, States can interfere in that right as long as the interference is pursuant to a legitimate aim, grounded in domestic law, proportionate to the aim pursued and necessary in a democratic society. Given the very serious impact that conversion practices have on LGBTQ+ people, CEMVO Scotland agrees with the Expert Advisory Group that:

“the interests and rights affected by a ban on conversion practices leads to the conclusion that the criminalisation of the relevant practices is necessary in a democratic society. It is a proportionate way of protecting the interests of the victims and does not unlawfully interfere with the human rights of the providers of conversion practices.”<sup>27</sup>

To reiterate, only by assessing the full international human rights landscape can we then devise a complete picture of the impact which conversion practices have on human rights. Through our research at CEMVO Scotland, it is clear that the most senior international and regional human rights authorities reject conversion practices and advise that they are in contravention of human rights. We will consider the international, regional and domestic positions in turn below.

i) *The United Nations*

CEMVO Scotland welcomes the UN’s position on conversion practices highlighted through the comments by the UN Independent Expert on Sexual Orientation and Gender Identity who called for a “global ban”.<sup>28</sup> He also stated that conversion practices “are inherently degrading and discriminatory and rooted in the belief that LGBT persons are somehow inferior”,<sup>29</sup> and that conversion practices “constitute an egregious violation of rights to bodily autonomy, health, and free expression of one’s sexual orientation and gender identity. Ultimately, when conducted forcibly, they also represent a breach to the prohibition of torture and ill-treatment”.<sup>30</sup> The Office of the United Nations High Commissioner for Human Rights is a leading authority on human rights globally and so banning conversion practices in Scotland would not only be in line with our own domestic progressive human rights agenda, but also in line with the international human rights community.

---

<sup>25</sup> <https://www.itv.com/news/2021-04-15/exclusive-un-urges-government-to-ban-chilling-conversion-therapy>

<sup>26</sup> <https://www.coe.int/en/web/commissioner/-/nothing-to-cure-putting-an-end-to-so-called-conversion-therapies-for-lgbti-people>

<sup>27</sup> EAG Report, p27.

<sup>28</sup> <https://www.ohchr.org/en/press-releases/2020/07/un-expert-calls-global-ban-practices-so-called-conversion-therapy>

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

Furthermore, in the absence of an international human rights convention specifically for LGBTQ+ people, we would like to highlight Principle 10 of the Yogyakarta Principles relating to the right to freedom from torture, and cruel, inhuman or degrading treatment or punishment relating to sexual orientation or gender identity.<sup>31</sup> In particular, the additional principles adopted in 2017, ‘YP+10’,<sup>32</sup> which extends this principle with a specific prohibition on conversion practices. It states that States shall:

“Prohibit any practice, and repeal any laws and policies, allowing intrusive and irreversible treatments on the basis of sexual orientation, gender identity, gender expression or sex characteristics, including forced genital-normalising surgery, involuntary sterilisation, unethical experimentation, medical display, “reparative” or “conversion” therapies, when enforced or administered without the free, prior, and informed consent of the person concerned.”<sup>33</sup>

Whilst they do not form part of the body of international law derived from the UN and are not legally binding, the Yogyakarta Principles and the YP+10 reflect the position of international human rights law that conversion practices are incompatible with human rights and should be banned. CEMVO Scotland argues that banning conversion practices in Scotland would adhere to the Yogyakarta Principles and follow international best practice.

ii) *The Council of Europe and the European Convention on Human Rights*

The Council of Europe Parliamentary Assembly<sup>34</sup> and the Congress of Local and Regional Authorities,<sup>35</sup> have both been critical of conversion practices in Europe. We would also like to highlight the comments made by Dunja Mijatović, the Council of Europe Commissioner for Human Rights, that it is “vital to recognise that SOGIE conversion practices interfere with several human rights”, which are “irreconcilable with several guarantees” under the ECHR, and which “must end”.<sup>36</sup> The European Court of Human Rights (ECtHR) has also ruled that individuals have the right to pursue the development and fulfilment of individual personality,<sup>37</sup> including their sexual orientation<sup>38</sup> which is a ‘most intimate aspect of private life’.<sup>39</sup> Evidently, the Council of Europe’s position is one

---

<sup>31</sup> The Yogyakarta Principles are a non-binding set of principles relating to gender identity and sexual orientation, set out by a distinguished group of international human rights jurists and experts, which are intended to affirm binding international legal standards with which all States must comply. For more information, please see: <https://yogyakartaprinciples.org/>

<sup>32</sup> [https://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5\\_yogyakartaWEB-2.pdf](https://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf)

<sup>33</sup> [https://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5\\_yogyakartaWEB-2.pdf](https://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf), p19.

<sup>34</sup> <https://pace.coe.int/en/files/29494/html>

<sup>35</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a28860](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a28860)

<sup>36</sup> <https://www.coe.int/en/web/commissioner/-/nothing-to-cure-putting-an-end-to-so-called-conversion-therapies-for-lgbti-people>

<sup>37</sup> A.-M.V. v. Finland, no. 53251/13, 23 March 2017, § 76; Brüggemann and Scheuten v. Germany, no. 6959/75, Commission decision of 19 May 1976, DR 5; National Federation of Sportspersons’ Associations and Unions and Others v. France, nos. 48151/11 and 77769/13, 18 January 2018, § 153.

<sup>38</sup> Dudgeon v. the United Kingdom, 22 October 1981, Series A no. 45, § 41.

<sup>39</sup> Ibid, § 52.

that opposes conversion practices and by banning such practices, Scotland would be respecting, protecting and fulfilling the human rights of LGBTQ+ people.

Furthermore, according to the Council of Europe Commissioner for Human Rights:

“While SOGIE conversion practices are often carried out by private actors, this does not exempt member states from their positive obligations to secure the rights and freedoms of everyone in their jurisdiction. Among other things, states are obliged to ensure that there is an appropriate legal framework in place, that claims of breaches are effectively investigated and that remedies are effective and accessible.”<sup>40</sup>

Thus it is CEMVO Scotland’s view that in order to fully protect the rights and the freedoms within the ECHR, Scotland must not only discharge its negative obligations of not conducting or condoning conversion practices, but also its positive obligations of ensuring the prevention of conversion practices, protection of those most at risk and providing the necessary support for survivors.

### *iii) The European Union*

Whilst the UK is no longer a member state of the European Union, it is useful to note the EU’s position on conversion practices. The European Parliament has strongly condemned all forms of discrimination against LGBTQ+ people, including conversion practices, and in 2018 in a resolution on the situation of fundamental rights in the EU, welcomed initiatives prohibiting LGBTQ+ conversion practices, and urged Member States to do the same.<sup>41</sup> It is also useful to note the trends in relation to conversion practices in EU countries, with five Member States (Malta, Germany, France, Greece and Spain) banning conversion practices (or in parts of their territory), with several other Member States such as Belgium, The Netherlands, Poland and Portugal proposing legislative bans.<sup>42</sup> It is clear that banning conversion practices in Scotland is not an abstract proposal but rather one that aligns with our European neighbours who have adopted, or are adopting, similar legislative bans.

### *iv) The United Kingdom*

Whilst CEMVO Scotland recognises that Convention rights in the ECHR and membership of the Council of Europe are reserved matters, this should not prohibit Scotland from taking all measures possible within our devolved competence to ensure a comprehensive legislative ban to conversion practices, both in criminal and civil law. Where the Scottish Parliament cannot legislate in relation to reserved matters, for example in relation to some forms of advertising as stated at paragraph 140 of this consultation, the Scottish Government should work closely with the UK Government to

---

<sup>40</sup> <https://www.coe.int/en/web/commissioner/-/nothing-to-cure-putting-an-end-to-so-called-conversion-therapies-for-lgbti-people#:~:text=As%20clarified%20by%20several%20international,prohibited%20under%20Article%203%20ECHR.>

<sup>41</sup> [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733521/EPRS\\_BRI\(2022\)733521\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733521/EPRS_BRI(2022)733521_EN.pdf)

<sup>42</sup> Ibid.

ensure that there are no gaps in the law resulting in a fragmented level of protection. We call on the Scottish Government to lobby the UK Government to live up to its previous commitments and introduce a bill to the House of Commons to ban conversion practices based on both sexual orientation and gender identity. Only then will this offer maximum protection from the harm resulting from conversion practices and protect the human rights of everyone within the LGBTQ+ community.

v) Scotland

The proposals for a legislative ban on conversion practices in Scotland is necessary to be compatible with the new Human Rights (Scotland) Bill. In particular, the right to the highest attainable standard of physical and mental health contained in Article 12 of ICESCR and the equality clause which protects and promotes full and equal enjoyment of the rights of LGBTQ+ people.

**27. What are your views on the purposes of the proposed conversion practices protection order?**

Support.

**28. Please explain your answer to Question 28**

CEMVO Scotland would like to reiterate our position that we support a package of both criminal and civil measures in order to afford the most protection to those at risk of conversion practices. As such, we support the use of proposed conversion practices protection order. Civil protection orders will allow for a preventative approach, as well as a criminal, reactive approach to protection. Criminal law should be used as a last resort where there is the specific intent to change or suppress an individual's SOGI, and we agree with the Equality Network that, "it is better to protect from harm in the first place than to punish people after they have done the harm".<sup>43</sup> As such, we believe that civil protection orders are a proportionate and necessary way to do this.

There are also benefits of using civil protection orders, particularly in ethnic minority communities, as opposed to the criminal law. We previously advised in our response to question 19 of some of the barriers and concerns that exist for ethnic minorities around reporting of conversion practices, including institutional racism, fear of targeted, overcriminalisation and historical mistrust of the police. Civil protection orders are a way to provide protection from conversion practices without criminal prosecution or involving the police. Third-party reporting is essential, particularly when we know some ethnic minorities in Scotland do not access public services. For example, an ethnic minority LGBTQ+ individual may have more trust in a local organisation than the police and feel more comfortable divulging sensitive information to that organisation about the harm they have faced, or are likely to face, from conversion practices. Having civil protection

---

<sup>43</sup> <https://www.equality-network.org/our-work/policy-team/ending-conversion-practices/>

orders as a viable option is necessary to protect those most at risk of conversion practices and is in line with the overall aim of the Bill which is harm reduction.

CEMVO Scotland believes it is important to collect and analyse data around the new civil protection orders. This will allow the Scottish Government to assess where conversion practices are being reported, how many cases proceed to civil court, how many protection orders are issued and whether those protection orders have been effective in preventing conversion practices taking place. We believe this should form part of the reporting duty on the Scottish Ministers which we proposed in our response to question 19. This will allow the Scottish Government to take targeted action, for example increased capacity building or funding for third party reporting centres and LGBTQ+/ethnic minority third sector organisations.

**29. Do you agree or disagree with the proposals for who should be able to apply for a conversion practices civil order?**

Agree.

**30. Please explain your answer to Question 29.**

CEMVO Scotland agrees with the proposals of who should be able to apply for a civil protection order. This is particularly important for ethnic minorities and those who do not feel comfortable reporting conversion practices to the police or other public authorities as they can approach an organisation or group that they trust. The key focus here should not be who applies for the civil protection order, what matters is that the potential victim receives support and is protected from harm.

**31. Do you have any other comments regarding the civil order as set out in Parts 13 - 15?**

CEMVO Scotland agrees with the proposals with the use of civil protection orders in addition to the criminal law proposals. However, we would like to raise some issues for consideration.

Firstly, we recognise the value of third party reporting centres, particularly for ethnic minority communities who do not feel comfortable or able to report conversion practices to the police, for a variety of reasons as he have previously stated in question 19 and 28. However, increased capacity building and funding may be necessary to support this. This raises the questions: will culturally competent support be available at local authorities to be able to appropriately meet the needs of LGBTQ+ ethnic minorities? Will third sector organisations and charities have the capacity and appropriate resources to apply for civil protection orders? CEMVO Scotland argues that if we recognise the importance of third party reporting centres, particularly for ethnic minority communities, then those should



have the appropriate support, resources, capacity and funding to adequately deal process reports of conversion practices and apply for civil protection orders.

Secondly, whilst the prospect of the criminal justice system may be daunting for ethnic minorities, we also believe that applying to civil court could be just as daunting. We would like to draw attention to the Equality Networks proposal: “We strongly believe that consideration should be given to less adversarial approaches... including powers vested in a civil body to conduct investigations and conclude agreements.”<sup>44</sup> CEMVO Scotland argues that this could be a new body specifically tasked with investigating conversion practices in Scotland or the powers of the Scottish Human Rights Commission could be extended to explore individual cases.

**32. Do you have any views on the potential impacts of the proposals in this consultation on equality by:**

- a) **Age**
- b) **Disability**
- c) **Gender reassignment**
- d) **Civil partnership**
- e) **Pregnancy and maternity**
- f) **Race**
- g) **Religion and belief**
- h) **Sex**
- i) **Sexual orientation**

CEMVO Scotland believes that the Bill will have a positive impact on equality overall, particularly for gender reassignment and sexual orientation. The Bill not only protects individuals from harm but sends a broader message to society that conversion practices (which believe LGBTQ+ identities are inferior, wrong and should be fixed) do not work, are harmful and violate human rights.

Given that ethnic minorities are more at risk of receiving conversion practices, we believe that this will have a positive impact on race as the Bill seeks to protect those most at risk. Where this could negatively impact on race is if there is not culturally appropriate and necessary capacity building with the police and other criminal justice bodies around the unique barriers that exist for ethnic minorities around conversion practices which leads to the over or targeted criminalisation of ethnic minority communities.

CEMVO Scotland believes that the Bill will not have a negative impact on religion or belief. This is a qualified right which can be limited when pursuant to a legitimate aim, grounded in law, necessary in a democratic society and proportionate to the aim pursued. It is important to note that the Bill will not prohibit individuals or religious communities from expressing their religion or anti-LGBTQ+ sentiments overall, but instead focuses on

---

<sup>44</sup> <https://www.equality-network.org/our-work/policy-team/ending-conversion-practices/longer-consultation-guide/>

individual harm reduction resulting from conversion practices. As such, we believe the consultation is appropriately drafted and strikes a necessary and proportionate balance which respects all human rights involved.

**33. Do you have any views on the potential impacts of the proposals in this consultation on children and young people, as set out in the UN Convention on the Rights of the Child?**

CEMVO Scotland believes that this consultation will have a positive impact on children’s rights. We recognise that children and young people are especially vulnerable to receiving conversion practices,<sup>45</sup> and so believe that this Bill is proportionate and necessary to respect, protect and fulfil children’s rights. We note that Article 19 of the UNCRC states that States must ensure measures to “protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”. We also note the comments by the Committee on the Rights of the Child that conversion practices should be condemned and urges States to eliminate these practices.<sup>46</sup> Given that this consultation is focused on banning conversion practices and reducing the harm that LGBTQ+ people face from them, we believe that this Bill will contribute to respecting children’s rights and meeting our international obligations under UNCRC. Furthermore, we welcome the fact that the UNCRC (Incorporation) (Scotland) Act 2024 has now received royal assent and comes into force on the 16<sup>th</sup> July 2024. We believe this will have a positive impact on protecting children’s rights closest to home and will contribute to a holistic form of protection from conversion practices.

**34. Do you have any views on the potential impacts of the proposals in this consultation on socio-economic inequality?**

CEMVO Scotland believes that not introducing this Bill has the potential to further exacerbate socio-economic inequality. Given that young people are at further risk of conversion practices, this will have an impact on their life chances. For example, they are more likely to become estranged to their family if a family member is conducting the conversion practices. This can lead to financial difficulty, poverty and even homelessness for young people. If you are an ethnic minority young person, this inequality compounds and is exacerbated given that the “poverty is higher among ethnic minority groups than it is among the majority white population”.<sup>47</sup> Introducing this Bill which protects victims from conversion practices has the potential to improve the wellbeing of individuals where their human rights are respected, protected and fulfilled.

Furthermore, there has been research conducted in the US that highlights “there is a high economic burden and high societal costs associated”<sup>48</sup> with conversion practices which

---

<sup>45</sup> Committee on the Rights of the Child (CRC),” General Comment No. 20 on the implementation of the rights of the child during adolescence”, 2016, para. 50. <https://www.refworld.org/docid/589dad3d4.html>

<sup>46</sup> Committee on the Rights of the Child (CRC),” General Comment No. 20 on the implementation of the rights of the child during adolescence”, 2016, para. 34. <https://www.refworld.org/docid/589dad3d4.html>

<sup>47</sup> [61c31bdc4104f0f30fa1a295\\_TakingStockRaceEqualityInScotlandJuly2020.pdf \(website-files.com\)](https://www.refworld.org/docid/589dad3d4.html)

<sup>48</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8902682/>

cost the US \$9.23 billion each year.<sup>49</sup> Whilst we are not aware of any research to this extent in Scotland, it is our view that banning conversion practices will benefit the economy in Scotland.

**35. Do you have any views on potential impacts of the proposals in this consultation on communities on the Scottish islands?**

Through our work with island communities, we have heard first-hand, lived experience accounts of how island communities feel “forgotten” in policy design and development. However, even when island communities are consulted, this is oftentimes poorly planned and communication around consultations is poor with limited opportunities to receive any feedback. This has led to apathy within some members of island communities, preventing them from engaging in public consultations. To counter this, we advise the Scottish Government to continue to fully engage with island communities and where possible outsource to local organisations to conduct consultations, allowing the input of local knowledge and expertise, by providing necessary and adequate resources. We advise taking an anti-racist approach to this engagement to ensure the inclusion of ethnic minority voices who are even further underrepresented in island communities.

**36. Do you have any views on the potential impacts of the proposals in this consultation on privacy and data protection?**

N/a.

**37. Do you have any views on the potential impacts of the proposals in this consultation on businesses and the third sector?**

It is CEMVO Scotland’s view that this Bill will have an impact on the third sector in Scotland. The third sector provides vital expertise of the communities in which it serves and is oftentimes a first port of call for many marginalised communities. We believe that LGBTQ+ organisations and ethnic minority organisations are essential to close the gap of protection where victims do not, or do not wish, to access mainstream public services. For example, in situations where an LGBTQ+ ethnic minority victim of conversion practices has concerns of reporting this to the police over fears of institutional racism and overcriminalisation. Here, third sector organisations can play a vital role in supporting victims and potential victims of conversion practices, providing advice, guidance and support. However, in order to do that, they need to have the appropriate resources and funding backed by a long-term investment by the Scottish Government in local organisations.

---

<sup>49</sup> <https://www.bloomberg.com/news/articles/2022-03-07/lgbtq-conversion-therapy-costs-u-s-9-billion-annually?embedded-checkout=true>

We have previously stated that full and meaningful engagement with ethnic minority individuals, communities and organisations is essential to ensure that this Bill does not create any unintended consequences for, and addresses the unique concerns of, ethnic minority communities. Ethnic minority led organisations, like CEMVO Scotland as a national intermediary organisation, not only have expertise on issues that affect ethnic minorities in Scotland but they also have a relationship of trust with the communities they work with. Here they can leverage this relationship of trust and play a vital role in capacity building, education and community engagement with ethnic minority communities around this Bill. In order to do this, they must have the appropriate resources and we call on the Scottish Government to make additional funding available for this where possible.

Furthermore, we support the use of a free, confidential helpline which is managed by an LGBTQ+ organisation in Scotland. This could be the creation of a new helpline specifically dealing with reports of conversion practices or an extension of one which is currently offered, like the LGBT Helpline by LGBT Health and Wellbeing in Scotland. The helpline would exist as a vital first point of contact which can give confidential advice and signposting to relevant services, for example third party reporting centres or the ability to report cases to the police (with consent of the victim). Telephone respondents on the helpline would need to have adequate capacity building and training of conversion practices, particularly around different community needs, for example LGBTQ+ ethnic minorities. We would also like to highlight that interpreters or language assistants may be required for callers where English is not their first language. Additional funding and support should be made available where necessary to ensure the helpline is a comprehensive service with adequate resources that is open 24/7 to victims and potential victims.

***38. Do you have any views on the potential impacts of the proposals in this consultation on the environment?***

CEMVO Scotland believes that this Bill will have a positive impact on the environment. In recent years, there has been increased recognition that the climate emergency will have a disproportionate impact on minorities.<sup>50</sup> Equitable climate action is inextricably linked to social justice, one cannot happen without the other, yet there is still a lot to be done to ensure that everyone can contribute to fighting the climate crisis.

The Scottish Government must ensure that laws and policies protect everyone's dignity and that everyone can fully realise their human rights, including their environmental rights. CEMVO Scotland believes this Bill contributes to this by respecting, protecting and fulfilling human rights. We must recognise the negative impacts of discrimination based on SOGI and the heteronormative approaches to development work. Equal opportunity for LGBTQ+ people includes access to information, the opportunity to participate in policy and decision-making, and the ability to highlight their success in

---

<sup>50</sup> [Climate Change and LGBTQ Rights - Opinio Juris](#)

sustainable climate action. If you are a victim of conversion practices, it is less likely you will have the capacity engage fully in public life and environmentalism when your human rights are being violated. This equal treatment also must ensure that anyone impacted by the adverse effects of climate change has access to the support and services that they need, regardless of their SOGI, ensuring no one is left behind in the climate emergency.

**Christopher Clannachan (he/him)**  
**Environmental Race Equality Officer**  
[christopher.clannachan@cemvoscotland.org.uk](mailto:christopher.clannachan@cemvoscotland.org.uk)  
**CEMVO Scotland**

