



Human Rights Commission
Te Kāhui Tika Tangata

Submission on gender, sexual orientation, and gender identity for the Independent Expert's report to the 47th Human Rights Council

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UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity

Introduction

1. The Aotearoa New Zealand Human Rights Commission (the Commission) welcomes the opportunity to contribute material to inform the work of the United Nations Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity (IE SOGI). This information is supplied in response to a request from the IE SOGI to national human rights institutions for information relevant to his thematic report that will be presented to at the 47th session of the UN Human Rights Council, with a focus on gender, sexual orientation, and gender identity.
2. Te Tiriti o Waitangi (te Tiriti), signed in 1840 between the British and Māori, forms the foundation of the Crown-Māori relationship and is considered to be the founding document of Aotearoa New Zealand. Te Tiriti is New Zealand's own, unique statement of human rights.
3. This short submission addresses 12 key topics requested in a Call for Inputs by the IE SOGI dated 1 February 2021.

Has the State adopted, in public policy, legislation or jurisprudence, working definitions of gender and related concepts (for example gender theory, gender-based approaches, gender perspective, gender mainstreaming) aiming to address violence and discrimination based on sexual orientation and gender identity? If so, please give examples, with commentary as needed to explain context, scope and application.

- a) **if that is the case, has the State carried out evaluations, assessments or evidence-gathering about the impact of the implementation of such actions and, if so, what are the main trends identified?**
- b) **if that is not the case, please provide information as to the reasons.**

4. There are no definitions of sex, gender, or gender identity in New Zealand law.
5. The definition of 'sex' under the prohibited grounds of discrimination in the Human Rights Act 1993 (HRA) does not include any express reference to gender identity.¹ While a 2006 legal opinion by the Deputy Solicitor-General concluded that 'sex' discrimination under the HRA could be defined broadly enough to include gender identity,² a position affirmed in legal commentary,³ the New Zealand courts are yet to issue a finding on that particular matter. Sexual orientation in the HRA means 'a heterosexual, homosexual, lesbian, or bisexual orientation.'⁴ The government have confirmed that amending s 21 of the HRA to include gender identity, gender expression, and sex characteristics is on their workplan for the present three-year term.⁵

¹ Human Rights Act 1993, s 21(1)(a).

² Deputy Solicitor General Cheryl Gwyn, letter dated 2 August 2006 to Attorney-General, *re Human Rights (Gender Identity) Amendment Bill: RefATT395/9*, para [30] NOTE: The opinion was prepared for the purposes of providing advice on the Human Rights (Gender Identity) Amendment Bill, which sought to expressly include gender identity as a protected ground of discrimination under the HRA. The opinion concluded at [30] that "there is no reason to suppose that sex discrimination would be construed narrowly to deprive transgender people of rights under the HRA."

³ Brookers Human Rights Law, Vol.1, para HRA21.10(2)

⁴ Human Rights Act 1993, s 21(1)(m).

⁵ Rt Hon Jacinda Ardern "[Government accepts all Royal Commission recommendations](#)" (press release, 8 December 2020).

6. The Commission is aware of the following mentions of 'gender identity' in current New Zealand legislation, the first three of which expressly differentiate between sex and gender identity:
 - I. the Marriage Act 1955 (s 2 refers to marriage as "the union of two people, regardless of their sex, sexual orientation, or gender identity")
 - II. the Births, Deaths, Marriages, and Relationships Registration Act 1995 (in the heading of s 29, 'Declarations of Family Court as to appropriate gender identity for children')
 - III. the Electronic Identity Verification Act 2012 (in s 30(1)(c) which is related to an individual applying to amend an electronic identity credential because they have "assumed and intend to maintain the gender identity of a person of a different sex from the sex that is included in the individual's electronic identity credential")
 - IV. the Sentencing Act 2002 (s 9(1)(h) lists motivation by gender identity as an aggravating factor relevant to sentencing, along with sexual orientation, race, colour, nationality, religion, age, and disability, though has a puzzling omission of "sex")

7. The Ministry of Social Development convened a Family Violence Prevention Expert Advisory Group to provide evidence-based advice and thought leadership in violence prevention. This included work to develop Principles for Family Violence Prevention. The Principles are still under development; however, they had a focus on eight named communities (including Māori, former refugees and migrants, disabled people, and LGBTQI), noting that these groups have additional challenges that need to be considered. Within the family violence context, consideration of intersectionality is essential because of the multiple identities and forms of oppression impacting those affected.

8. The Ministry for Women's policy position "is to take an inclusive approach to recognising all people who identify as women and girls. This is in line with the United Nation's [sic] approach to women's human rights. This is reflected in the Minister for Women's speeches, publications, and ministerial requests, as well as in Ministry correspondence."⁶

9. In 2019, the Minister of Justice, in his speech to the United Nations Human Rights Council for the third Universal Periodic Review of New Zealand, stated that, "One in three women in New Zealand experience physical, emotional or sexual violence from a partner in their lifetime. Women are twice as likely to suffer partner abuse than men. Māori women, queer women, trans women, women living with a disability and young women experience more violence, and are more likely to be re-victimised by current systems."⁷

Has the State ratified, signed, or adhered regional or international human rights treaties, declarations, programs or policies or any other international instruments aiming to address violence and discrimination based on sexual orientation and gender identity that involve the implementation of a gender framework (for example gender theory, gender-based approaches, gender perspective, gender mainstreaming)?

- a) if that is the case, has the State carried out evaluations, assessments or evidence-gathering about the impact of the implementation of such actions and, if so, what are the main trends identified?
- b) if that is not the case, please provide information as to the reasons.

⁶ Ministry for Women [Official Information Act request](#) 10 August 2018 (Obtained under Official Information Act 1982 Request).

⁷ Andrew Little, Minister of Justice. "[Speech to United Nations Human Rights Council for the third Universal Periodic Review](#)" (Geneva, Switzerland, 21 January 2019).

10. New Zealand ratified CEDAW in 1985 and was most recently reviewed by the Committee in July 2018.⁸ The Committee's concluding observations on the eighth periodic review noted that there is a high level of gender-based violence in New Zealand.⁹ One in three women are subjected to physical or psychological violence by an intimate partner during the course of their lifetime, especially domestic and sexual violence, including rape, which disproportionately affects Māori and ethnic minority women, transgender women, and women with disabilities. These women are also more likely to be re-traumatised by the current system. The Committee recommended the New Zealand government strengthen its efforts to eliminate gender-based violence against women and its underlying causes.
11. In the previous term of government, a Parliamentary Under-Secretary to the Minister of Justice (Domestic and Sexual Violence) position was created.¹⁰ In the current term, the role has been given higher level status as Minister for Prevention of Family and Sexual Violence, though it remains outside of cabinet.¹¹ The Minister is responsible for leading the whole-of-government approach to substantially prevent, reduce, and address family and sexual violence, and for the joint venture on the prevention of family and sexual violence.¹²

What kinds of information and data are collected by States to identify forms of violence and discrimination faced by people based on sexual orientation and gender identity? Is the data designed to capture causes and patterns of violence and discrimination against lesbians, gay men, bisexual women, bisexual men, trans women, trans men, and gender diverse persons?

- a) **does this data collection take an intersectional approach (for example, connecting an individual's multiple social categories to enable more precise analysis (e.g. collecting data about LGBT persons by identities such as race, age, national status and ethnicity)?**
- b) **does the data include information on the relationship between victims and perpetrators?**

12. The Commission receives numerous requests for information about hate speech and hate crime, the lack of legislative protection in New Zealand, and the lack of justice sector-related data. These requests include incidents where sexual orientation and gender identity have been a factor. When a hate-motivated crime occurs, the perpetrator is charged under standard criminal law provisions relating to the offence. However, the motivation for the offence can be considered an aggravating factor for sentencing purposes if an individual is convicted.¹³ At least in part due to this legal situation, very limited data is collected during the sentencing process by New Zealand Police and the Ministry of Justice pertaining to crimes related to sexual orientation and gender identity, or how frequently hate-motivated factors are taken into account. The Commission's 2008 Transgender Inquiry found great limitations on enforcing the Sentencing Act's provisions;

⁸ Committee on the Elimination of Discrimination against Women [Concluding observations on the eighth periodic report of New Zealand](#) UN Doc CEDAW/C/NZL/CO/8 (25 July 2018).

⁹ Ibid at [25(a)]

¹⁰ Ministry of Justice "Family and Sexual Violence Work Programme Update" (February 2018) <www.justice.govt.nz/assets/Documents/Publications/FAMILY-AND-SEXUAL-VIOLENCE-WORK-PROGRAMME-UPDATE-February.pdf>.

¹¹ New Zealand Family Violence Clearinghouse "New Minister for Prevention of Family and Sexual Violence, other ministerial positions announced" (5 November 2020) <www.nzfvc.org.nz/news/new-minister-prevention-family-and-sexual-violence-other-ministerial-positions-announced>

¹² Department of the Prime Minister and Cabinet "Ministerial Portfolio: Prevention of Family and Sexual Violence" <<https://dpmc.govt.nz/cabinet/portfolios/prevention-family-and-sexual-violence>>

¹³ Sentencing Act 2002 s 9(1)(h). Section 9(1)(h) of the Act says the court must take into account the offender's hostility towards the victim's gender identity or sexual orientation as an aggravating factor in sentencing.

the aggravated motivation of a crime must be recorded at each stage of the justice process, from reporting through to sentencing. This requires a person's sexual orientation or gender identity to be accurately noted throughout.¹⁴

13. The Ministry of Justice collects information about New Zealanders' experience of crime through the New Zealand Crime and Victims Survey (NZCVS).¹⁵ Beginning in 2018, it is a nationwide, face-to-face, annual survey asking a random sample of 8,000 New Zealanders aged 15 years and over about incidents of crime they experienced over the last 12 months. This includes both incidents reported to the Police and unreported incidents. The demographic information collected in the survey include age, ethnicity, sex, disability, marital status, partnership status, gender identity, sexual identity, income, employment status, as well as further categories. Some of the raw data have been made publicly available to be analysed.¹⁶ The publication of reports, infographics, and data tables thus far have not taken a completely intersectional approach. This information could, in theory, be requested by an interested individual or group under the Official Information Act.
14. Survey respondents self-report their sexual identity as heterosexual, gay or lesbian, or bisexual; in the 2018 survey wave, 6% of all incidents were perceived to be driven by discrimination due to the offender's attitude towards the victim's sexuality.¹⁷ The survey asked about perceived drivers of crime incidents, and almost 13% of violent interpersonal offences were perceived to be driven by discrimination due to the offender's attitude towards the victim's sexuality.¹⁸
15. Data pooled from the 2018 and 2019 cycles of the NZCVS showed that lesbian or gay adults (41%) and bisexual adults (47%) are more likely to experience crime in a 12 month period than the average NZ adult (30%).¹⁹ LGB+ adults (5.1%) are more than twice as likely as the NZ average (2.1%) to experience offences by family members, and more than twice as likely to experience intimate partner violence and/or sexual violence during their lives.²⁰ Bisexual adults are less likely than the NZ average (14% compared to 25%) to report incidents to the Police.²¹
16. Information on the relationship between victims and perpetrators was collected by the survey. The report states that "family violence includes violence from a current partner (husband, wife, partner, boyfriend or girlfriend), ex-partner (previous husband, wife, partner, boyfriend or girlfriend), or other family member (parent or step-parent; parent's partner, boyfriend or girlfriend; son or daughter including in-laws; sibling or step-sibling; other family members including extended family)."²² Published data thus far do not include information on the relationship between victims and perpetrators.

¹⁴ New Zealand Human Rights Commission *To Be Who I Am: Report of the Inquiry into Discrimination Experienced by Transgender People* (Wellington, 2008) at [4.56], [4.57], and [4.73].

¹⁵ Ministry of Justice "Research & data: New Zealand Crime & Victims Survey (NZCVS)" <www.justice.govt.nz/justice-sector-policy/research-data/nzcvs>

¹⁶ Ministry of Justice "Research & data: NZCVS resources and results" <www.justice.govt.nz/justice-sector-policy/research-data/nzcvs/resources-and-results/>

¹⁷ Ministry of Justice *New Zealand Crime and Victims survey: Key findings 2018 cycle 1* (Wellington, May 2019).

¹⁸ Ibid.

¹⁹ Ministry of Justice "New Zealand Crime & Victims Survey: Experiences of crime by sexual orientation" <www.justice.govt.nz/assets/Documents/Publications/NZCVS-LGB-Final.pdf>

²⁰ Ibid.

²¹ Ibid.

²² Ministry of Justice *New Zealand Crime and Victims survey: Key findings cycle 1 (March – September 2018) Descriptive statistics* (Wellington, May 2019).

Is comprehensive sexuality education taught in schools?

- a) if yes, please provide information as to the respective programs. Please provide examples (e.g. copies of curricula, citations to policies).
- b) if not, are there efforts deployed by the State to establish and promote comprehensive sexual education, which incorporates diverse sexual orientation and gender identity perspectives? What have been the obstacles to adopt such policies or programs? Also, is the State adopting any alternative measures?

17. As part of the New Zealand Curriculum, schools are expected to provide a broad education that includes health and physical education (HPE). Sexuality education is one of the seven key areas of learning in HPE. The New Zealand Curriculum is broad and holistic and is not prescriptive. The Commission's 2020 report, *Prism: Human Rights issues relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) in Aotearoa New Zealand - A report with recommendations* devotes a chapter to the right to education.²³

18. Schools have an obligation to provide a safe environment where all students can participate and receive equal access to education.²⁴ The Ministry of Education's 2007 New Zealand Curriculum places emphasis on values, including diversity; requiring that students learn to respect themselves, others, and human rights.²⁵

19. Currently, it is at the discretion of each school how they teach health education, including sexuality and mental health education. Under the Education Act 1989, a school's Board of Trustees must consult with their community about what is taught in health education programmes, including sexuality education, every two years.²⁶ During this community consultation, parents may ask the principal to ensure their child is excluded from the sexuality education parts of the health education curriculum.²⁷ Most schools have their own values which can impact on the information taught and the way in which it is delivered to students. This results in a wide range of education being provided to youth in schools; from teaching no sexuality education to abstinence-based sexuality education, right up to comprehensive education regarding consent, safety, and pleasure.²⁸

20. In 2015, the Ministry of Education published the *Te Kete Ipurangi Guidelines*, providing examples of good practice age-appropriate content that should be taught at each level of the school curriculum, from Year 1 to Year 13.²⁹ The aim of the guidelines is to support the inclusion and wellbeing of students with diverse sexual orientations, gender identities and expressions, and sex characteristics.

21. A report by the Education Review Office in 2018 concluded that only 22% of the 116 primary and secondary schools visited by the Office offered good and comprehensive sexuality education.³⁰ Another 50% complied at a basic level with aspects of the curriculum but were not comprehensive. The schools in the compliant category had visible gaps in their curriculum. For example, only around 30% of primary schools taught about

²³ New Zealand Human Rights Commission (2020) *Prism: Human rights issues relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) in Aotearoa New Zealand - A report with recommendations*. Wellington: New Zealand.

²⁴ New Zealand Post Primary Teachers' Association [Affirming diversity of sexualities and gender identities in the school community: Guidelines for principals, boards of trustees and teachers](#) (Wellington, 2017).

²⁵ Ministry of Education [The New Zealand Curriculum](#) (Wellington, 2007) at 10.

²⁶ Education Act 1989, s 25AA

²⁷ Education Act 1989, ss 60B and 25AA.

²⁸ Education Review Office [Promoting wellbeing through sexuality education \(Wellington, 2018\)](#).

²⁹ Ministry of Education [Guide to LGBTIQ+ students](#) (Wellington, 2015).

³⁰ Ibid.

gender and sexuality diversity, rising to around 70% for secondary schools. The schools deemed as unsatisfactory had significant gaps in their curriculum regarding sexual education.

22. The New Zealand government received recommendations in 2018 from the UN Committee on the Elimination of Discrimination Against Women to “ensure the inclusion in school curricula of mandatory, culturally sensitive and age appropriate education on sexual and reproductive health and rights and responsible sexual behaviour, focusing on the prevention and the consequences of early pregnancy and sexually transmitted infections.”³¹
23. In 2020, the Ministry of Education released, 'Relationships and Sexuality Education.'³² This was a refreshed resource of the 2015 Sexuality Education Guide and was separated into two volumes: one for Years 1-8 (ages 5-13) and one for Years 9-13 (ages 13-18). It is designed to give clearer guidance to school boards to work with their communities on the design and delivery of relationships and sexuality programmes in schools. The press release noted, “The revision takes full account of the impact of social media, shifting societal norms relating to sexuality and gender diversity, and the increasing availability of confronting and explicit online content. Māori and Pacific views of sexuality and the importance of respecting cultural and family dynamics in relationships are strengthened, as is information about relationships and sexuality education for disabled learners.”³³
24. A healthy relationship programme for secondary school students (ages 13-18), *Mates & Dates*, was first trialled in 2014.³⁴ It is fully funded by the Accident Compensation Corporation and has since been extended nationally. Young people are taught how to have relationships based on respect, negotiation, and consent. The programme also supports students on how to get help if they are in an unhealthy relationship, and how and when to safely intervene if they see others in potentially unsafe situations. It is an innovative approach which is well-researched and has safe and positive impacts for young people. Students learn five core themes, repeated at each secondary school year: healthy relationships; consent; identity, gender and sexuality; when things go wrong; and keeping safe together.³⁵

Are there examples where the concept of gender has been used in religious narratives or narratives of tradition, traditional values or protection of the family to hinder the adoption of legislative or policy measures aimed at addressing or eradicating violence and discrimination based on sex, gender, sexual orientation and gender identity?

25. There are examples of such attempts, however they have not been successful to date. For example, a Parliamentary petition to “Stop transgender teaching in schools” was presented to the House in April 2019 with 40,668 signatures.³⁶ The petitioner’s oral

³¹ Committee on the Elimination of Discrimination against Women [Concluding observations on the eighth periodic report of New Zealand](#) UN Doc CEDAW/C/NZL/CO/8 (25 July 2018) at [32(b)].

³² Ministry of Education “Refreshed resource ‘Relationships and Sexuality Education’ released” (8 September 2020) <www.education.govt.nz/news/refreshed-resource-relationships-and-sexuality-education-released/>.

³³ Ibid

³⁴ ACC “Mates & Dates expanding nationwide” (21 May 2019) <www.acc.co.nz/newsroom/stories/mates-and-dates-expanding-nationwide/>.

³⁵ Mates & Dates <www.matesanddates.co.nz/>

³⁶ Education and Workforce Committee “[Petition of Helen Houghton: Stop transgender teaching in New Zealand schools](#)” (2 June 2020).

submission was heard by the Education and Workforce Committee in February 2020.³⁷ The Committee did not recommend progressing the petition any further.³⁸

26. Family First describe themselves as “a dominant voice for family values.” They are a conservative Christian lobby group who have been stripped of their charitable status twice³⁹ and oppose marriage equality, LGB adoption, banning conversion practices, and trans people’s right to self-determination.⁴⁰ In 2020, they published a resource, *Responding To The Transgender Issue – Parent Resource Guide* which was sent out widely to New Zealand schools.⁴¹

Are there examples where a concept of gender has been used in religious, traditional, or indigenous narratives or values in a manner which promotes the acceptance of persons with diverse sexual orientations or gender identity, or protects LGBT individuals from violence and discrimination as well as covering a wider range of persons?

27. Takatāpui is an ancient te reo Māori term meaning ‘intimate companion of the same sex.’⁴² As a result of colonisation, the word was lost from the language and oral tradition. In the early 1980s, it was rediscovered independently by takatāpui academics in manuscripts from the 1840s.⁴³ Since then, the term has been reclaimed to encompass not just diverse sexual orientations amongst Māori, but also diverse gender identities, expressions, and sex characteristics. Māori identity predicates takatāpui identity “with a spiritual connection to takatāpui tupuna (ancestors).”⁴⁴

28. In 2015 and 2017, Dr Elizabeth Kerekere, a takatāpui academic, published two resources on and for takatāpui people and their whānau (families): *Takatāpui: Part of the whānau*,⁴⁵ and *Growing Up Takatāpui: Whānau Journeys*⁴⁶ respectively.

Are there examples in which narratives or “gender ideology,” “genderism” or other gender-related concepts have been used to introduce regressive measures, in particular but not limited to LGBT persons or communities?

29. The Commission is not aware of examples where narratives of ‘gender ideology’ have been used to introduce regressive measures to date. However, this has been, and continues to be, attempted by proponents of such thinking. Efforts have included media,⁴⁷

³⁷ Education and Workforce Committee [Oral submission: Petition of Helen Houghton](#) (12 February 2020).

³⁸ Education and Workforce Committee *Petitions of Helen Houghton: Stop transgender teaching in New Zealand schools* (May 2020).

³⁹ Radio New Zealand “[Family First being deregistered as charity](#)” *Radio New Zealand* (6 May 2013); Stuff “[Charities Registration Board strips Family First of charitable status](#)” *Stuff* (22 August 2017).

⁴⁰ Family First New Zealand <www.familyfirst.org.nz/about-us/>

⁴¹ Family First New Zealand [Responding To The Transgender Issue – Parent Resource Guide](#) (Auckland, 2020).

⁴² Elizabeth Kerekere [Takatāpui: Part of the whānau](#) (Tīwhanawhana Trust and Mental Health Foundation, Auckland, 2015).

⁴³ Elizabeth Kerekere “Part of the Whānau: The Emergence of Takatāpui Identity – He Whāriki Takatāpui” (PhD Thesis, Victoria University of Wellington, 2017).

⁴⁴ Ibid

⁴⁵ Elizabeth Kerekere [Takatāpui: Part of the whānau](#) (Tīwhanawhana Trust and Mental Health Foundation, Auckland, 2015).

⁴⁶ Elizabeth Kerekere [Growing Up Takatāpui: Whānau Journeys](#) (Tīwhanawhana Trust and RainbowYOUTH, Auckland, 2017).

⁴⁷ Redline “Banned by the Green Party leadership: Jill Abigail on women’s rights and trans rights” (3 September 2019) <<https://rdln.wordpress.com/2019/09/03/21871/>>

events,⁴⁸ press releases,⁴⁹ letters,⁵⁰ and submissions, including to the Human Rights Commission.⁵¹

Are there initiatives taken by States in connection with the right to freedom of religion, belief or conscience (including the figure of conscientious objection) that have had the practical impact of limiting the enjoyment of human rights (including sexual and reproductive rights) of LGBT persons?

30. The Commission is not aware of such initiatives taken by the State.

31. Simon Bridges, the ex-National Party [opposition] leader and current spokesperson for Justice, recently responded to questions about his Party's stance on conversion therapy.⁵² He stated that forcing anyone to do something against their will is wrong, including conversion therapy, but had concerns relating to freedom of speech around making it illegal. He was strongly criticised for the comments by the Youth wing of his party and other members of Parliament.⁵³

Have there been public expressions or statements by political and/or religious leaders that have led to indefinite extension, modification or suppression of actions, activities, projects, public policies or application of gender frameworks?

32. In February 2019, Minister of Internal Affairs, Tracey Martin, deferred the Births, Deaths, Marriages, and Relationships Registration Bill which would have made it simpler and more accessible for trans people to amend the sex marker on their New Zealand birth certificate.⁵⁴ The Independent Expert, while in Wellington New Zealand attending the ILGA World conference, met with Minister Martin on 20 March 2019.

33. Prior to the deferral, a small but vocal group in opposition to the amendments had mounted a public campaign pressuring the Minister to do so.⁵⁵ They stated that there had been a lack of consultation on the bill. However, the draft legislation went through the regular public consultation and submission process during the Select Committee phase, with many of the group members themselves making submissions at that time.⁵⁶ The group claimed that the Select Committee undemocratically changed the bill after the public consultation period ended. We note that it is not uncommon for substantial changes to be implemented through the Select Committee submission process. The New Zealand Parliament website states that, "[a]s well as considering the question of the bill's passing,

⁴⁸ Against the Current "[Feminism 2020 heads for Parliament](#)" (New Zealand, 14 November 2019).

⁴⁹ Speak Up for Women *Press releases* <https://speakupforwomen.nz/sufw_press_release/>

⁵⁰ See Letters from [Speak Up for Women](#) to Hon Tracey Martin regarding the Births, Deaths, Marriages and Relationships Registration Bill (3 September 2018) and again from [Speak Up for Women](#) to Hon Tracey Martin regarding the Births, Deaths, Marriages and Relationships Registration Bill (30 September 2018).

⁵¹ Speak Up for Women "[Response to the Human Rights Commission's PRISM Report](#)" (New Zealand, 8 December 2020).

⁵² Mark Longley "[Simon Bridges says banning conversion therapy is an attack on free speech](#)" *Newshub* (New Zealand, 5 February 2021).

⁵³ Rachel Sadler "[Simon Bridges criticised for 'shameful' conversion therapy comments](#)" *Newshub* (New Zealand, 5 February 2021).

⁵⁴ Tracey Martin "[Births, Deaths, Marriages, and Relationships Registration Bill to be deferred](#)" (press release, 25 February 2019).

⁵⁵ Speak Up for Women "[Speak Up for Women campaign calls for a halt to sex self-ID](#)" (New Zealand, 14 January 2019).

⁵⁶ [Births, Deaths, Marriages, and Relationships Registration Bill](#) 2017 (296-2) .

a select committee may recommend amendments to the bill. While they must be relevant to the bill, they can be of fundamental importance and alter its shape substantially.”⁵⁷

34. Now in a new term of government and with a new Minister, the future of the bill is uncertain. However, it remains on the Order Paper and is due for its second reading in the House.⁵⁸

Who are main actors who argue that the defenders of human rights of LGBT individuals are furthering a so-called “gender ideology”? What are their main arguments? Have they been effective in regressing the human rights of LGBT individuals? Have their strategies directly or indirectly also impacted on the human rights of women and girls?

35. In New Zealand, individuals and groups claiming to defend the rights of [only cis] women are the main actors arguing about the furtherance of “gender ideology.”⁵⁹ Trans-exclusionary and anti-LGBT views are also held by some media personalities,⁶⁰ political parties,⁶¹ conservative Christian groups,⁶² and people of faith, including a self-proclaimed pastor.⁶³ These actors are primarily active on social media platforms including Twitter and Facebook.
36. One of the newer arguments being used is that gender identity is a ‘belief system;’ that trans people are free to believe that they have a gender identity, but others should not have this belief system imposed upon them.⁶⁴
37. Another angle taken relates to freedom of speech. An anti-trans event due to take place on a university campus in 2020 was later cancelled when the university received a petition with 6,000 signatures calling for the platform to be withdrawn.⁶⁵ After receiving legal advice, the university called the event off due to the risk to health and safety.⁶⁶ In response, an MP supported and platformed the ‘gender critical’ group to use the New Zealand Parliament as a venue for their *Feminism 2020* event.⁶⁷
38. In August 2020, an episode in an eight part ‘docu-comedy’ series entitled *Bad News* was released by a local comedian.⁶⁸ The series sought to tackle ‘some of the most contentious

⁵⁷ New Zealand Parliament “Chapter 26 The Legislative Process” <www.parliament.nz/en/visit-and-learn/how-parliament-works/parliamentary-practice-in-new-zealand/chapter-26-the-legislative-process/>

⁵⁸ New Zealand Parliament “Order Paper” <www.parliament.nz/en/pb/order-paper-questions/order-paper/>

⁵⁹ Groups include Speak Up for Women; Parents Against Gender Education; the Public Good blog; the current (not original) individuals running Broadsheet magazine; and the currently inactive Lesbian Rights Alliance Aotearoa.

⁶⁰ Katie Fitzgerald “[Laurel Hubbard shouldn't compete in women's category - Duncan Garner](#)” *Newshub* (New Zealand, 6 March 2019).

⁶¹ New Conservative “Gender Ideology Policy” <www.newconservative.org.nz/policy/community-policy/gender-ideology-policy/>

⁶² Audrey Young “[MPs recommend that gender changes to birth certificates be made easier for applicants](#)” *New Zealand Herald* (12 August 2018). See Bob McCroskie, National Director of Family First’s, comment, “A birth certificate is a historical record based on fact, not a political tool to further an ideology.”

⁶³ Newshub reporter “[Destiny Church Brian Tamaki says ‘cry baby gays’ will go to hell](#)” *Newshub* (New Zealand, 19 April 2018).

⁶⁴ Speak Up for Women “Schools must not teach belief systems as facts” <<https://speakupforwomen.nz/the-rights-of-children-in-education/>>

⁶⁵ ActionStation “To: Vice Chancellor Jan Thomas, Massey University: Cancel 'Feminism 2020' at Massey” <<https://our.actionstation.org.nz/petitions/cancel-feminism-2020-at-massey-1>>

⁶⁶ Massey University of New Zealand “[Response to ‘Feminism 2020’ event](#)” (press release, 16 October 2019).

⁶⁷ David Seymour (@dbseymour) “Pleased to host @SpeakUp4WomenNZ at Parliament tonight after Feminism 2020 was disgracefully deplatformed by @MasseyUni.” <<https://twitter.com/dbseymour/status/1195215071183458304>>.

⁶⁸ Radio New Zealand “Episode 2: TERFS - Alice Snedden's Bad News” (12 August 2020) <www.rnz.co.nz/programmes/bad-news/story/2018754063/episode-2-terfs-alice-snedden-s-bad-news>

political and social issues confronting Aotearoa in 2020,' with this particular episode on the subject of TERFs [trans-exclusionary radical feminists]. In this episode, the host attends the above-mentioned *Feminism 2020* event hosted by Speak Up for Women in Parliament's Banquet Hall. In response to supposed inaccurate coverage and misrepresentation of the group ("a biased political hit piece"), Speak Up for Women took a complaint to the New Zealand Media Council. The complainants took the view that the video breached Media Council Principles 1 (Accuracy, fairness and balance), 4 (Comment and fact), and 9 (Subterfuge). The complaint was not upheld.⁶⁹

Can you provide examples of coalitions working together on resisting attacks on gender ideology? Please share examples of feminist and LGBT and other groups working together and with what kinds of frameworks, arguments and results?

39. In 2018, a community coalition was formed to release a joint statement in favour of the proposed changes to the Births, Deaths, Marriages, and Relationships Registration Act, referred to above.⁷⁰
40. National transgender organisation Gender Minorities Aotearoa is particularly active in resisting attacks on so-called 'gender ideology.' They provide information and support to trans and non-binary people; run events; and provide training to community groups, organisations, businesses, and service providers about transgender issues.⁷¹
41. The National Council of Women of New Zealand, founded in 1896, takes a trans-affirming stance as a feminist organisation.⁷² In 2017 and 2019, they conducted research into the public's attitudes to gender and gender roles in their Gender Equal NZ survey.⁷³ This included asking questions about New Zealanders' understanding and beliefs about gender and sexual diversity.⁷⁴ In both survey waves, most respondents stated they knew what was meant by the terms 'gay men', 'lesbian women', 'bisexual', and 'transgender.' The meaning of 'cisgender' and 'non-binary gender' was significantly less known. Respondents were then asked what gender and sexual identity groups they would be comfortable with in specific situations, for example as part of their immediate family, as one of their friends, as a work colleague, as someone in their sports team, or as their doctor, teacher, or manager.

What policies, programs and/or practices has the State adopted to meet Sustainable Development Goals 5 (gender equality) and 10 (reduced inequalities)? Do these rely on gender frameworks inclusive to diverse sexual orientations and gender identities and/or aiming to address violence and discrimination based on sexual orientation and gender identity? Please identify relevant examples.

42. Drawing the government's attention to target 5.1 of the Sustainable Development Goals, in 2018 the CEDAW Committee recommended New Zealand "Amend section 21(1)(a) of the Human Rights Act with a view to including specific prohibition of discrimination on the

⁶⁹ New Zealand Media Council "Speak Up for Women against Radio New Zealand" (October 2020)

<www.mediacouncil.org.nz/rulings/speak-up-for-women-against-rnz>

⁷⁰ Gender Minorities Aotearoa "BDMRRA [sic] birth certificates – Rainbow community statement" (10 August 2018) <<https://genderminorities.com/2018/08/10/changing-the-bdmrra-so-it-is-fair-for-everyone-based-on-the-existing-passports-policy/>>

⁷¹ Gender Minorities Aotearoa <<https://genderminorities.com/>>

⁷² The National Council of Women of New Zealand "Feminism and trans rights must go hand-in-hand" (3 July 2018). <www.ncwnz.org.nz/feminism-and-trans-rights-must-go-hand-in-hand/>

⁷³ Gender Equal NZ "Gender Attitudes Survey" <<https://live-gender-equal.pantheonsite.io/ga-survey/>>

⁷⁴ Gender Equal NZ 2019 *Gender Attitudes Survey* (National Council of Women of New Zealand, June 2020) at 59.

grounds of gender identity, gender expression, and sex characteristics.”⁷⁵ As noted above, this legislative amendment is on the work plan for the current term of government.⁷⁶

43. We are unaware of any other policies, programs, or practices that the State has adopted to meet SDG 5 and 10 aiming to address violence and discrimination based on sexual orientation and gender identity.

⁷⁵ Committee on the Elimination of Discrimination against Women [Concluding observations on the eighth periodic report of New Zealand](#) UN Doc CEDAW/C/NZL/CO/8 (25 July 2018) at [12(a)].

⁷⁶ Rt Hon Jacinda Ardern [“Government accepts all Royal Commission recommendations”](#) (press release, 8 December 2020).