

Submission to the Social Services and Community Select Committee

The following is an extract from Sexual Wellbeing Aotearoa's submission on the Social Services and Community Select Committee consultation on the Legislation (Definitions of Woman and Man) Amendment Bill. It was submitted on 18 June 2026.

Comments

INFRINGEMENT OF HUMAN RIGHTS

The Definitions of Woman and Man Amendment Bill has been framed as a mechanism to protect women and girls' rights, freedoms, and safety. The bill contains no evidence or information for how its implementation would achieve this goal. This attempt to legally define “woman” and “man” would, in fact, significantly restrict the rights of transgender people, non-binary, intersex, and takatāpui whānau – as well as women and girls. The effort to codify a false binary of man and woman into law excludes and problematises those who do not fall into these categories. This bill would erase the rights of transgender people, non-binary, intersex, and takatāpui within the legislative landscape and beyond, making their lives more difficult amid the discrimination that they already face. This bill has wider implications as well; this gender essentialist bifurcation is often used to justify strict gender roles and stereotyping which lays the groundwork for discrimination on the basis of sex and gender. In this way, the bill creates a dangerous mechanism which could easily infringe on the rights, freedoms, and safety of women and girls.

The NZ Bill of Rights Act 1990 and the Human Rights Act 1993 protect people in Aotearoa New Zealand, including those who are transgender, non-binary, intersex and takatāpui, against unlawful discrimination. This bill contradicts this existing legislation. The Human Rights Commission has long interpreted the prohibited ground of sex discrimination as being inclusive of gender identity, accepting complaints of discrimination from transgender people on this basis. The proposed bill also raises significant concerns related to the Bill of Rights. Attorney General Chris Bishop noted that the proposed biological definitions could breach the right to be free from discrimination as they conflict with broader legal protections currently provided to transgender and non-binary people under the Human Rights Act. This bill also ignores the [2021 Births, Deaths, Marriages and Relationships Act](#) which allows transgender people to change their sex on their birth certificates, giving individuals the freedom and right to define themselves as they wish.

Expert organisations have identified how the bill represents a significant departure from the Government's human rights obligations. Te Kāhui Tangata Human Rights Commission has articulated the ways in which the bill creates risk and danger for those who experience discrimination on the basis of their gender identity including intersex, non-binary, transgender, and takatāpui whānau. The [2025 la Tangata report](#) published by the Human Rights Commission presented a primary recommendation that the "Human Rights Act should be amended to clarify that the Act covers discrimination that is due to a person being transgender or non-binary or having an innate variation of sex characteristics," (p.6). The report findings and central recommendation make evident the need for more legal protection of these vulnerable groups, not less.

The bill provides implicit permission to deny people the right to legal protection from discrimination, bullying and harassment on the basis of their gender identity. There are important embodied, real-world everyday implications from this bill for people who are transgender, non-binary, and intersex. This legislation will very likely impede their access to schools, changing rooms, public bathrooms, and essential life-saving services such as women's shelters. It will also subject them to interpersonal interactions in which those who are mistreating them feel that they have a legal basis for doing so. This creates a dangerous, intolerant social context for those living in New Zealand.

The true purpose of this bill needs to be clearly stated: it is the initial step in a much greater attempt to dismantle legal frameworks which protect the rights, freedom and safety of intersex, non-binary, transgender, and takatāpui, as well as women and girls. There are several international examples which show how seemingly innocuous legal changes operate to gradually erode rights for these groups, restricting their access to services and choice. It is essential to ask: what is this bill really trying to fix? This effort to identify individuals as either woman or man has no scientific basis and the risks that accompany this bill are far-reaching. Its implementation would translate into significant threats to the very groups it purports to protect. Women and girls in New Zealand are not asking for, nor do they need, the government to create this false categorisation. Their perceived fragility is being used to justify a harmful bill with threatens their own freedoms.

HEALTHCARE CONSIDERATIONS: RESTRICTIONS and NEGATIVE CONSEQUENCES

Given our expertise in sexual and reproductive health and rights, we are particularly concerned with the ways in which this bill could lead to restricted access to health care. The presentation of the bill has already contributed to harmful perceptions of how transgender, non-binary, takatāpui, and intersex people are viewed in the eyes of the law, potentially restricting rights including access to healthcare and services.

The bill proposes defining “woman” as “an adult human biological female”, and “man” as “an adult human biological male” but does not provide more information about the terms within these definitions. It does not specify whether chromosomes, hormones, internal, or external anatomy would be used to determine one’s gender. Even if it did specify these metrics, which are in of themselves not always deterministic, there are significant implications for the ways in which gender may be subsequently policed by institutions. This lack of clarity raises concerns around the right to bodily autonomy and privacy. The ambiguity around these definitions would also translate to restricted access to healthcare for those who fall outside of the false gender binary.

In addition, the term “adult” is not defined in the bill which presents several concerns for access to sexual and reproductive health care. According to the Age of Majority Act 1970, if “adult” isn’t defined, it refers to someone who’s aged 20 or older. This would mean 16- to 19-year-olds may face discrimination in healthcare and other settings, including access to reproductive healthcare for women under 20. Consequently, those under the age of 20 could be excluded from any legislation that mentions “women” or “men” without mentioning age. One particularly worrying example of this is abortion. The [Contraception, Sterilisation and Abortion Act](#) outlines how women can access abortion services. If the proposed bill passes, this could mean that women under 20, transgender, and intersex people may not be able to have an abortion. Not only could this inhibit people’s ability to access a service to which they’re entitled, it could also provide an opening for anti-abortion groups to put abortion back up for debate.

Cervical screening is another example of a critical health services that would be affected. Every year there are approximately 171-175 cases of cervical cancer, leading to 50-81 deaths per year. If this bill were to become legislation, it is unclear whether a trans man with a cervix would be able to access cervical screening, denying their ability to access a life-saving health screening.

PROBLEMATIC IMPLICATIONS FOR EXISTING LEGISLATION

Creating the proposed distinctions would generate legal confusion and problematic challenges across government. It is important to note that gendered language is not often used in legislation. Equal Employment Opportunities Commissioner and Women’s Rights spokesperson Professor Gail Pachecho says, *“There’s no need to define ‘man’ and ‘woman’ in the law because the law already works well using the usual meaning of those words. Adding strict definitions can create confusion, leave people out, and cause problems without actually changing how the law works.”* Dr. Pachecho’s comments highlight how the bill

presents a new set of problems creating confusion within existing legislation, all of which could lead to increased exclusion.

Other legal experts agree that there is a lack of legal need for the bill and that it risks causing significant harm to several vulnerable communities. The Attorney General's report on the bill suggests other possible restrictions including women under 20 no longer being eligible to apply to the court for a declaration of paternity, and a partner or spouse of a woman under the age of 20 being unable to take parental leave because law requires a certificate certifying that a woman is pregnant.

CONCLUSION

People currently possess the right to identify themselves as they wish according to New Zealand law. It is essential to protect hard-earned rights, including how an individual understands and experiences their gender on their own terms. This is an area in which government should not be involved. The proposed legislation is an example of imported American Conservative influence and a divisive culture war which is not reflective of the inclusive, multicultural identity and spirit of New Zealanders. This international influence suggests that we may anticipate additional legislation that reduces rights for all people. We have seen examples of this around the world, particularly pertaining to reproductive rights. It is essential that we remain aware of these insidious influences and recognise this bill for what it is: a red herring. Despite the stated intentions of this bill, it would immediately and negatively affect a small, but highly vulnerable group (intersex, transgender, non-binary, and takatāpui) and ultimately lay the foundation to erode the rights of rights for women and girls.

This reveals the true intention of the bill: to restrict the rights and freedoms of people who do not conform to a strict gender binary and potentially lay the groundwork to inhibit the rights of much larger groups, specifically women and girls. It attempts to police the diversity of humanity, and in so doing denies several groups just that: their humanity and their freedoms. It is unnecessary and deeply problematic with far-reaching consequences for citizens more broadly.

We make the following recommendations:

We strongly recommend abandoning this bill. We recommend pivoting focus to the Women's Health Strategy which provides a plan for meaningful change to protect the health and wellbeing, rights and safety of women and girls. There are numerous ways to

substantively protect the freedom, rights and safety of women and girls in New Zealand.

Some examples include:

- **Sexual and Reproductive Health:** prioritise equitable provision of a range of modern contraceptive options, sexual health services, menstrual and menopause care.
- **Condition-specific care:** provide more funding and services to address condition-specific care for issues such as PMOS and endometriosis.
- **Free Contraception:** make contraceptive visits universally free.
- **Screening:** provide fully funded cervical screening
- **Abortion Services:** expand funded abortion provision into primary care settings
- **Address gender bias:** implement training to eliminate gender-based bias that results in women being dismissed when they raise health concerns
- **Address structural racism:** adhere to the commitment of Te Tiriti o Waitangi and create cultural competency and training which addresses systemic racism that contributes to persistent health inequities
- **Improve maternity care:** fund and train more midwives and provide more choices for whānau-centred and culturally competent care