

John N. Craig Q.C.
Oral Statement to City of Calgary Subcommittee
Considering Conversion Therapy Ban
(May 13, 2020)

My name is John Craig. I am a husband, father, grandfather, lawyer, Queen's Counsel, mediator/arbitrator, and member of a faith group. I thank you for the opportunity to speak tonight.

I believe we all need to live together respectfully, despite deep differences, because I believe that what ultimately unites us is more important than what divides us. While I speak tonight only as an individual, I am confident that thoughtful people in the rest of my faith community would agree that we do not ask to harm anyone or impose our beliefs on anyone, only to express and live our beliefs according to the dictates of our own conscience. We, too, seek the recognition and protection of our rights in the same way the proposed bylaw seeks to recognize and protect the rights of another segment of society. Matters of sexuality, gender, and religion elicit powerful responses and sometimes disagreements. Yet there must be room in a pluralistic society for diverse viewpoints and rights and the balancing of rights. Otherwise, some communities and identities will be unfairly privileged at the expense of others.

I, my family, and the church I belong to, The Church of Jesus Christ of Latter-day Saints ("the Church"), have strong and sincerely held beliefs around gender identity, family, marriage, and any form of sexual relations outside of marriage. Recognizing that, I and my church condemn abusive conversion therapy practices or any form of force that would violate free agency and choice.

The Church recently supported a law that bars professionals from engaging in such practices. That law was carefully crafted to focus on efforts to change sexual orientation and established gender identity. It was also carefully drafted to avoid overreaching. The law limited its reach to licensed professionals rather than seeking to invade private relationships between parents, family members, friends, or faith leaders. Practices that did not seek to alter sexual orientation or gender identity were not banned. For example, counselling teenagers to wait until adulthood or marriage to engage in sexual conduct was not prohibited. Nor was a therapist's exploration of a client's religious and ethical beliefs as part of addressing a client's self-determined goals and needs.

My general concerns with the proposed language of the bylaw are as follows:

First, the Proposed Law Is Overbroad, Creates Unreasonable Inequalities, and Violates Fundamental Charter Rights. In my view, as a lawyer and father, the proposed language, as drafted, is overbroad and threatens the rights of parents, faith leaders, and others guaranteed under our Charter of Rights and Freedoms. It covers not only abusive efforts to change sexual orientation and gender identity but also any effort to encourage someone to alter homosexual behaviour, regardless of the person's age or maturity, regardless of the person's self-determined values, and regardless of whether such conduct is destructive to the individual or others. That is too broad. It also creates an unreasonable inequality. A professional counsellor or member of the clergy could urge a heterosexual client or parishioner to alter destructive or abusive heterosexual behavior but could not provide that same advice to a gay client or parishioner with respect to destructive or abusive homosexual behavior. With respect to minors who may engage in unsafe, unhealthy, or unethical sexual practices, that is a dangerous precedent.

The same applies for practices to help reduce consumption of pornography where a gay client or parishioner believes it is contrary to his or her own self-selected life goals. Why would the law impose serious penalties for providing a gay person such assistance while allowing a heterosexual person this opportunity?

The definition of “business” is also so broad that potentially even parents may not be able to counsel their own gay children to avoid sexual behaviors that are unsafe, unhealthy, or unethical.

The definition of “business” appears to also cover faith leaders. It appears that under the proposed law, faith leaders would be prohibited from teaching and urging members of their church to live according to traditional religious doctrines regarding marriage, family, gender, and sexuality. Likewise, it appears that the proposed law bars faith leaders from giving personal counsel to members of their church to comply with such religious teachings. Thus, the proposed law constitutes a direct suppression of religious belief and expression in violation of charter rights.

In short, as a lawyer, I am of the view that the proposed law, as drafted, is overly broad, unfair, dangerous, and unnecessary. It would fail even a preliminary challenge under Sections 2, 7 and 15 of the charter, and it would not be justified under Section 1.

Second, the Proposed Law Will Have Unintended Harmful Effects. The proposed law will also be harmful to many LGBT persons. Often LGBT youth and adults are vulnerable and need the support of parents, clergy, and their faith community. Some may choose to remain in their traditional faith community, while others may choose to part ways. But if parents and clergy cannot freely counsel them, out of fear of violating this overbroad and draconian law, then LGBT persons will be left to themselves, often in their times of greatest need. Often LGBT youth are looking for direction in accordance with their own self-determined values and beliefs. Without this support, they are at much greater risk of engaging in unsafe sexual behaviors or falling victim to those who prey on LGBT youth. A more tightly defined, more carefully crafted law can address real instances of abuse without undermining charter rights or the vital role of those with the deepest connections to LGBT persons.

Finally, I Call for Changes in the Language to Address These Concerns. There is a desire among fair-minded people to work together with City staff to improve the law to more precisely address real harms, while avoiding unintended consequences and the violation of charter rights of any party. We need solutions that are balanced and fair to all involved.

Areas where I see that the proposed language needs some clarification and further discussion include:

- The proposed bylaw, a creature of the City, should not go beyond licensing of actual businesses and professionals. It should address services that are properly subject to municipal government regulation rather than private relationships with parents, family, friends, and clergy. Otherwise, the City bylaw risks abridging not only charter rights but also provincial laws, under which the City is created, operated under and constrained by.
- The proposed bylaw should clarify that it does not apply to parents.
- The proposed bylaw should clarify that it does not apply to sincerely held expressions of religious beliefs.
- At a minimum, the proposed bylaw should clarify that its intent and focus is on barring practices and treatments that seek to change sexual orientation and gender identity rather than focusing on those who address behaviours. Behaviors associated with any human trait or identity —

including sexual orientation and gender identity — may or may not be safe, healthy, productive, ethical, or consistent with a person's best interest, and parties who love and care for one another should be free to assist in this regard.

Summary. The proposed bylaw raises issues that are important but complex, and people of good will can and do have a range of views. I ask only that my beliefs and right to express those beliefs, in all my roles, be accorded the same respect and protection that others demand for themselves — no more, and certainly no less. The proposed bylaw seeks to accomplish important objectives, many of which I support, but it does not yet strike the right balance. We need a balanced approach that respects the legitimate interests and rights of all. There must be fairness for all. I look forward to an opportunity for collaboration together in good faith and in goodwill to accomplish this.

Thank you.