



Ensuring Equity, Inclusion, Human and Children's Rights in Law in Aotearoa Joint Submission by a community collective on the *Legislation (Definitions of Woman and Man) Amendment Bill*

1. Introduction

We, [Children's Rights Alliance Aotearoa New Zealand](#), [Foundation for Equity and Research New Zealand](#), [Pillars Ka Pou Whakahou](#), [WAVES Trust](#), [Te Rito Rodney Family Violence Prevention Project](#), [Family for Every Child](#), and [Elaine Dyer, Co-creator of Jade Speaks Up Educational Trust](#), welcome the opportunity to provide this joint feedback on the *Legislation (Definitions of Woman and Man) Amendment Bill*.

The Bill proposes to insert rigid biological definitions of "woman," "man," "female," and "male" into the Legislation Act 2019, applying these definitions across all current and future legislation. This relies on the false premise that "biological sex" is a simple, fixed, binary status that can be neatly codified. "Biological" could refer to anatomical characteristics, chromosomal patterns, reproductive capacity, hormonal profile, or another criterion at a certain point or points in time. This ambiguity is particularly significant given natural variations in sex characteristics, including those of intersex people, whose chromosomal and anatomical traits do not fit rigid binary categories. The proposed Bill is not based on credible science, will cause harm, and it is not possible to understand how any proposed definitions could operate in law or be consistently applied across the statute book.

We strongly oppose the Legislation (Definitions of Woman and Man) Amendment Bill in its entirety on multiple grounds and recommend the Bill be immediately rejected.

The proposed Bill:

1. Fails to reflect the biological reality of nature
2. Is a violation of Tiriti o Waitangi
3. Would actively harm some of the most vulnerable children and young people in Aotearoa
4. Would create serious unintended legal, health and social consequences
5. Is unworkable in practice, due to its inconsistency with New Zealand's international human rights and children's rights obligations and existing NZ legislation.

1 Failure of the Bill to reflect the biological reality of nature

The Bill proposes defining a woman as an "adult human biological female" and a man as an "adult human biological male". This relies on the false premise that "biological sex" is a simple, binary status that can be neatly codified at a certain point in time.

Chromosomal and genetic diversity: Biological sex is determined by a complex interplay of chromosomes, hormones, and anatomical structures, none of which fit a strict either/or switch. In nature, genetic variations like XXY (Klinefelter syndrome), XO (Turner syndrome), XYY, and mosaicism occur naturally. A strict binary definition effectively erases these natural variations from the law.

Erasure of intersex individuals: By forcing all individuals into two rigid boxes, this legislation completely ignores and excludes intersex people who are born with natural sex characteristics that do not align with typical male or female categories. Approximately 1.7% of the population is born with one of the 40 known intersex variations (chromosomal, hormonal, or anatomical variations that do not cleanly align with male or female boxes). The community group [Intersex Aotearoa](#) references medical and academic frameworks suggesting up to 2.3% of the population could have one of the 40 known intersex variations. This would mean more than 117,000 intersex people live in New Zealand. [1, 2]

Lack of a credible, practical medical test: The Bill fails to specify what "biological test" would be used to determine sex. Chromosomes, gonads, and external anatomy do not always align cleanly, making the Bill scientifically unworkable and legally ambiguous.

2. The Bill would create severe unintended social, health and legal consequences

Examples of unintended health and social consequences:

Evidence¹ shows that:

- legal recognition of gender identity improves mental health and wellbeing outcomes.
- exclusionary definitions increase marginalisation, mental distress, depression, anxiety, suicidal ideation, and death from suicide.
- discrimination in law leads to discrimination in practice and in every aspect of people's day-to-day lives.

Beyond causing statutory chaos, the proposed Bill will also actively damage healthcare, education, legal and social services infrastructure and inflict profound social and psychological harm on marginalised groups.

- **Barriers to lifesaving health screening access:** The Bill is not practical and will prevent people from accessing the care they are entitled to with potentially life-shortening consequences. Forcing a strict, arbitrary biological binary means a transgender man who retains a cervix will no longer be classified as a "woman" under public health delivery regulations. This creates immediate administrative and systemic

¹ Human Rights Commission (2008; 2020), the Ministry of Health (2018), community-led initiatives such as Veale et al's *Counting ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand*. <https://countingourselves.nz>; international research and clinical evidence (American Academy of Paediatrics, 2018; Fraser et al., 2020; The Lancet, 2021) and international human rights law (United Nations Committee on the Rights of the Child, 2016; *Committee on Economic, Social and Cultural Rights*, 2009). Also see <https://prideinhealth.org.nz/resources>.

hurdles, blocking access to cervical cancer screenings and increasing preventable mortality rates.

- **Institutionalised bias and discrimination:** The Bill would breach freedom of expression and non-discrimination rights and establish a state-sanctioned mechanism to invalidate the identities of takatāpui, transgender, intersex, and non-binary people. Denying legal recognition across all legislation directly reduces their ability to safely navigate education and training, employment, housing, social services, and Corrections (placement decisions under the *Corrections Act 2004*) fostering an environment where systemic discrimination can occur without accountability.
- **Amplifying pre-existing inequities:** The Bill would embed discriminatory, non-valid binary definitions into law, directly harming Māori communities. This would exacerbate pre-existing inequities for Māori transgender and takatāpui youth all of whom already navigate disproportionate societal burdens (Kerekere, 2015, 2017), including:
 - Significantly elevated rates of daily discrimination and marginalisation.
 - Pervasive structural barriers when attempting to access essential health and social welfare programs.
 - Disproportionately severe mental health impacts and highly elevated suicide risks.

The Bill will cause direct psychological and safeguarding harm to children:

- **Institutional alienation and discrimination:** Forcing youth into rigid legal classifications that deny their lived reality creates hostile environments within the education (counter to inclusive education provisions under the *Education and Training Act 2020*), social welfare, and healthcare sectors.
- **Exacerbation of youth vulnerability:** For young trans and gender-diverse New Zealanders, this state-enforced erasure damages self-worth and strips away basic social safety nets. This legal invalidation compounds the risks of peer victimisation, school drop-out rates, severe mental distress during critical developmental years and increased risk of suicide in gender diverse youth (Christensen et al., 2025).

Examples of unintended legal consequences:

- **Total legal vacuum for non-binary and intersex citizens:** As confirmed by the Attorney-General's Section 7 report, the current draft fundamentally breaches the right to be free from discrimination under the New Zealand *Bill of Rights Act 1990* (NZBORA). Legally erasing lived identity places transgender, non-binary, and intersex citizens into a legal vacuum. Courts are handed irreconcilable, conflicting directives: uphold protection against gender-identity discrimination under the *Human Rights Act 1993*, while being legally mandated to pretend those very identities do not exist.
- **Abortion access disruption:** The Bill specifies that a woman is an "adult". Because the Bill does not define what an "adult" is, the legal default reverts to the Age of Majority Act 1970, which sets adulthood at 20 years old. This creates problems. For example, *The Contraception, Sterilisation, and Abortion Act 1977* outlines healthcare rights for "women" seeking abortions. By introducing this strict definition, the Bill creates an alarming legal risk that pregnant people aged 16 to 19 could be barred from accessing legal abortion services, statutory protections, and clinical networks.
- **Paid parental leave disruptions:** Under current law, an eligible partner can claim parental leave payments if they provide a certificate certifying that a "woman" is

pregnant. Redefining a woman as a person aged 20 or older means the partners of pregnant 18- and 19-year-olds face sudden, arbitrary disqualification from financial leave support.

- **Paternity claims blocked for young mothers:** Family law heavily protects the rights of mothers to establish legal paternity for child support. The Attorney-General's report notes that under New Zealand law, a "woman" can apply to the court for a formal declaration of paternity. Under this Bill, mothers aged 16 to 19 would be legally classified as girls, not "women". This creates a legal gap where a teenage mother may lack the standing to apply to the court for a paternity order.

3. Violation of Te Tiriti o Waitangi

This Bill is inconsistent with the *United Nations Declaration on the Rights of Indigenous Peoples* (2007) and *Te Tiriti o Waitangi* (Te Puni Kōkiri, 2001; WAI 2575, Ministry of Health, 2019, 2020).

Te Tiriti o Waitangi requires the Crown to uphold tino rangatiratanga, protect Māori wellbeing, and ensure equitable outcomes for Māori, including takatāpui and Māori transgender, intersex, and non-binary people (Te Puni Kōkiri, 2001; Ministry of Health, 2019, 2020). This includes obligations to protect Māori children's identity, whakapapa, and cultural belonging (Office of the Children's Commissioner, 2020).

Te Tiriti o Waitangi affirms the right of Māori to exercise tino rangatiratanga over their own lives, identities, bodies, and cultural practices (Te Puni Kōkiri, 2001; Ministry of Health, 2019, 2020). Imposing rigid, biologically reductionist definitions of "woman" and "man" across all legislation:

- disregards Māori understandings of gender, identity, and whakapapa
- undermines the authority of Māori communities, whānau, hapū, and iwi to define and affirm gender diversity within their own tikanga.
- contradicts the Crown's duty to act in partnership and to consult meaningfully with Māori on matters affecting Māori communities.

The Crown has a duty to actively protect Māori health, wellbeing, identity, and cultural practices (Te Puni Kōkiri, 2001; Ministry of Health, 2019, 2020). This includes protecting:

- takatāpui identities
- Māori children and young people who are transgender, intersex, or non-binary
- Māori whānau who experience harm from discrimination and exclusion.

The Bill would increase harm to Māori communities by embedding discriminatory definitions into law, contrary to the protective obligations affirmed in Te Tiriti o Waitangi (Te Puni Kōkiri, 2001), the Waitangi Tribunal's Hauora Report (WAI 2575), and the Crown's own public-sector Te Tiriti o Waitangi commitments.

Te Tiriti o Waitangi requires the Crown to achieve equitable outcomes for Māori (Te Puni Kōkiri, 2001; Ministry of Health, 2019, 2020). Evidence shows that Māori transgender and takatāpui youth experience:

- higher rates of discrimination
- greater barriers to accessing health and social services.
- disproportionate mental health impacts (Kerekere, 2015, 2017).

Embedding exclusionary definitions in legislation would worsen inequities and contradict the Crown's duty to pursue equitable outcomes.

The Bill imposes a non-valid, binary, biological framework that is inconsistent with Māori cultural concepts and denies Māori the option to live according to their own tikanga and identity frameworks.

Finally, the Crown must ensure Māori participation in decisions that affect Māori (Te Puni Kōkiri, 2001). There is no evidence that Māori communities, takatāpui organisations, or Māori health and social-service providers were engaged in the development of this Bill.

This lack of engagement is inconsistent with the Crown's Te Tiriti o Waitangi obligations and with modern public-sector practice.

4. Human Rights Framework

4.1 Inconsistency with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993

The NZ Bill of Rights Act 1990 and the Human Rights Act 1993 protect people in Aotearoa New Zealand, including transgender, non-binary, and intersex people, against unlawful discrimination. 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 Bill conflicts with several rights protected under the *New Zealand Bill of Rights Act 1990* (NZBORA), including:

- Under (s 19) Freedom from Discrimination everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993 which prohibits discrimination on the grounds of sex, gender identity, and sexual orientation. By imposing a single biological definition of “woman” and “man” across all legislation, the Bill would institutionalise discrimination against transgender, intersex, and non-binary people.
- Under (s 27) Right to dignity and equality before the law everyone has the right to natural justice and judicial review when a public authority makes a determination about their legally recognised rights or interests. The Bill would create a class of people whose lived identity is legally erased, stripping them of the legal standing needed to access administrative justice, services, protections, and recognition on equal terms.

4.2 Inconsistency with international human rights obligations

New Zealand is a signatory to multiple international instruments that affirm the rights of transgender and intersex people, including:

- *Universal Declaration of Human Rights* (UDHR)
- *International Covenant on Civil and Political Rights* (ICCPR)
- *International Covenant on Economic, Social and Cultural Rights* (ICESCR)
- *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)
- *Yogyakarta Principles* (authoritative guidance on sexual orientation and gender identity rights)

These instruments emphasise non-discrimination, dignity, and the right to self-determination. The Bill is incompatible with these obligations.

5. Children's rights implications

5.1 UN Convention on the Rights of the Child obligations

New Zealand is bound by the *UN Convention on the Rights of the Child*, which requires:

- Non-discrimination (Article 2) Children must not be discriminated against on any grounds, including gender identity or sex characteristics.
- Best interests of the child (Article 3) All legislative decisions must prioritise children's wellbeing.
- Right to identity (Article 8) Children have the right to preserve their identity, including gender identity.
- Right to be heard (Article 12) Children's views must be taken seriously in matters affecting them.

In addition to the UN Convention on the Rights of the Child, this Bill would undermine *Oranga Tamariki Act 1989 & section 5* - principles to be applied in exercise of powers under the Act. S.5(1)(a): This looks to children being encouraged to express views (and participate in decisions affecting them and have their views taken into account. see S.5(1)(b) child's wellbeing must be at centre of decision-making - noting rights under UN Conventions etc; and especially 5(1)(b)(vi)(E) & (F) - requires holistic approach being taken to gender identity and sexual orientation.

The Bill fails to consider children entirely, despite its direct impact on:

- transgender children
- intersex children
- children with variations of sex characteristics
- children navigating identity development.
- children accessing health, education, and social services.

5.2 Impact on transgender and intersex children

Rigid biological definitions would:

- undermine children's ability to have their identity recognised in schools, health settings, and legal processes.
- increase stigma, bullying, and mental distress.
- create barriers to accessing gender affirming care.
- contradict best practice guidance from the Paediatric Society of New Zealand (2023), [Pride in Health](#), the Ministry of Health (2018), the Human Rights Commission (2020), Intersex Trust Aotearoa New Zealand (2020) and international child health bodies such as the American Academy of Paediatrics (2018) and the Lancet (2021).

This Bill would actively harm some of the most vulnerable children in Aotearoa. We wish to highlight the views from those with lived experience (please see these perspectives in more depth in the longer submission version published on our websites):

“Please do not support this Bill. It is unsupported by scientific research, relevance, validity, or practical reason, but most of all, at a human level; it is cruel, backwards, and inhumane”.

6. No Evidence of Need

The Bill does not identify:

- a legal problem that requires solving
- a gap in current legislation
- any evidence that existing definitions are causing harm.

7. Conclusion

The *Legislation (Definitions of Woman and Man) Amendment Bill* is:

- Inconsistent with the biological reality of nature
- Harmful and will cause unintended legal, health, and social consequences.
- In violation of Tiriti o Waitangi
- Unworkable, due to its inconsistency with New Zealand's international human rights and children's rights obligations and existing New Zealand legislation
- Extremely harmful to transgender, intersex, and non-binary people and their friends and families
- Unnecessary and unsupported by evidence.

The proposed legislation would have profound human impacts by legally erasing the identities and lived realities of transgender, non-binary, and intersex people, stripping them of recognition across every area of life and exposing them to increased discrimination, social exclusion, and psychological harm.

The Bill “creates a class of people whose lived identity is legally erased,” removing their ability to access services, protections, and equal treatment under the law.

It would harm children and young people by denying their right to identity, increasing stigma, and bullying, and creating barriers to essential health and education services.

For Māori, the Bill undermines whakapapa, tino rangatiratanga, and takatāpui identities, compounding existing inequities.

In practice, the legislation would destabilise access to healthcare, parental rights, safety in schools and workplaces, access to fair, equity rights and justice, and basic dignity, inflicting real, immeasurable harm on individuals, families, and communities across Aotearoa.

For these reasons, we urge the Committee to **immediately reject the Bill in full**.

8. Recommendations

1. **Reject the Bill** as not credible, harmful, unworkable, and inconsistent with human rights and children's rights.
2. **Engage with affected communities**, including transgender and intersex children, their families, and relevant experts to understand how harmful this Bill is.
3. **Strengthen inclusive legislative drafting practices** that uphold dignity, equality, and the rights of all people in Aotearoa. For drafting any future Bills that directly or indirectly affect children and young people, engage with the communities affected and apply the Ministry of Social Development's Child Impact Assessment Tool to assess the impacts that any proposed Bill may have on children's rights and wellbeing.

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