



TEU

TERTIARY EDUCATION UNION
TE HAUTŪ KAHURANGI

Submission of
Te Hautū Kahurangi | Tertiary Education Union
to the
Social Services and Community Committee
on the
**Legislation (Definitions of Woman and Man)
Amendment Bill**

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1. INTRODUCTION

- 1.1. Te Hautū Kahurangi | Tertiary Education Union (TEU) is the largest union and professional association representing 12,000 academic and general/allied staff in the tertiary education sector (in polytechnics, universities, wānanga, private training establishments, and rural education activities programmes).
- 1.2. We welcome the opportunity to respond to the Legislation (Definitions of Woman and Man) Amendment Bill.

2. TEU POSITION AND RECOMMENDATION

- 2.1. For the reasons outlined in our submission, TEU strongly opposes the Legislation (Definitions of Woman and Man) Amendment Bill (the Bill) and recommend that it is withdrawn.

3. PREAMBLE

- 3.1. If passed, the Bill will cause direct harm to New Zealanders, particularly transgender, intersex, and non-binary people and communities, including tertiary education staff and the students they support. These communities form an integral part of the tertiary education sector, and their wellbeing, ability to work, teach, research, and learn depends on a legal and cultural environment that fully and equally recognises who they are – they should not have to justify their existence.
- 3.2. Our opposition to the Bill is centred on the following points, each of which is elaborated on throughout our submission. The Bill:
 - 3.2.1. Is legally unnecessary and has not been developed in relation to a demonstrable problem;
 - 3.2.2. Is inherently reductionistic in its reflection of “biological reality”;
 - 3.2.3. Conflicts with te ao Māori and Te Tiriti o Waitangi;
 - 3.2.4. Conflicts with Pasifika cultural understandings of gender and sex;
 - 3.2.5. Will cause direct harm to transgender, intersex, and non-binary communities;
 - 3.2.6. Is inconsistent with the New Zealand Bill of Rights Act 1990; and,

3.2.7. Will give rise to serious unintended consequences, including for abortion access.

4. THE BILL IS UNNECESSARY

4.1. The first question any law reform proposal must answer is: what problem does this solve? Yet, despite passing its first reading in Parliament, no analysis has been provided which identifies gaps in existing law, failures in how courts or regulators currently interpret the terms “woman” and “man,” or groups of New Zealanders whose legal rights would be strengthened if the Bill were to pass. Until that analysis is provided, the case for the Bill rests entirely on political assertion.

4.2. This is not a minor procedural concern. As our submission indicates, the Bill would impose significant changes across Aotearoa New Zealand legislation, with significant and wide-ranging consequences. Changes of this magnitude demand a compelling case, yet the Bill’s sponsors have failed to provide one.

4.3. As the Equal Employment Opportunities Commissioner, Professor Gail Pacheco, has stated: there is “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.”¹

4.4. In our view, the absence of any identified legal problem is itself sufficient reason for the Committee to decline to advance the Bill.

5. THE BILL’S SCIENTIFIC GROUNDING IS REDUCTIONISTIC

5.1. The Bill’s supporters have presented it as simply reflecting “biological reality.” However, this framing overstates the scientific certainty behind the Bill’s definitions.

5.2. Biological sex is not a single characteristic but is typically understood across multiple axes, including chromosomes, hormones, gonads, and internal and external anatomy. In most people these align consistently, but this is not universally the case. Innate variations of sex characteristics – where these biological markers diverge – are not rare: the 2023 Census found that 0.4% of New Zealanders aged 15 and over – that’s 15,039 people – reported knowing they

¹ <https://tikatangata.org.nz/news/definitions-of-woman-and-man-legislation-not-necessary-risks-further-harm-to-rainbow-people>

were born with such a variation, a figure that is likely an undercount given that many variations are not detected at birth or at all.²

5.3. The Bill's failure to define what "biological" means in practice is not a minor drafting oversight; it is a fundamental problem. Without specifying which biological characteristic is legally determinative, the Bill cannot deliver the certainty it promises, and leaves people with innate variations of sex characteristics in a legal void.

5.4. We also note that the relationship between biological sex, gender identity, and legal personhood is an area of active inquiry across multiple academic disciplines, including biology, medicine, law, and gender studies. The Bill effectively asks Parliament to resolve questions that researchers are still working through.

5.5. The Bill does not reflect settled science. Rather, it reflects one interpretation of biology that is inherently reductionistic and partial. Such partiality does not comprise a sufficient underpinning for legislation.

6. THE BILL CONFLICTS WITH TE AO MĀORI AND TE TIRITI O WAITANGI

6.1. The Bill's claim to reflect "biological reality" does not hold up when considered in relation to te ao Māori.

6.2. Te ao Māori has not historically determined personhood and identity through the rigid biological binary which the Bill seeks to enshrine in law. The concept of takatāpui – a te reo Māori term encompassing sexual and gender diversity – reflects a longstanding recognition of human diversity within Māori culture that predates European colonisation.³

6.3. By writing a strict biological binary into the foundations of Aotearoa New Zealand law, the Bill would entrench a colonial understanding of biological sex and personhood that conflicts with te ao Māori. This only serves to repeat a pattern of colonial law in Aotearoa New Zealand involving the imposition of rigid, reductionistic categories onto Māori social systems, customs, and beliefs.

6.4. Additionally, Te Tiriti o Waitangi establishes a relationship of partnership between the Crown and Māori, requiring the Crown to act in good faith when taking actions that affect Māori rights and interests. Given the Bill would impose statutory

² <https://www.stats.govt.nz/news/2023-census-shows-1-in-20-adults-belong-to-aotearoa-new-zealands-lgbtqi-population/>

³ <https://teara.govt.nz/en/gender-diversity/page-4>

definitions of biological sex across all Aotearoa New Zealand legislation – affecting wānanga, Māori health providers, and Māori communities more broadly – upholding such obligations is paramount. Yet, it appears no meaningful engagement with tangata whenua has been undertaken in the development of this Bill. For a Bill of this nature and reach, this is not a minor omission and is clearly inconsistent with the principles of Te Tiriti o Waitangi.

7. THE BILL CONFLICTS WITH PASIFIKA CULTURE

7.1. The Bill's claim to reflect universal biological reality is also undermined when considered in relation to Pasifika understandings of identity and personhood. Many Pacific cultures have longstanding traditions that recognise forms of identity which cannot be reduced to a strict biological male/female binary. In Samoa, *fa'afafine* and *fa'afatama* – identities that move between and beyond the biological categories of male and female – are recognised as part of Samoan cultural tradition. These traditions are not unique to Samoa – similar ways of being exist across the Pacific, including Pasifika communities within Aotearoa New Zealand.⁴

7.2. By enshrining a strict biological binary in law, the Bill marginalises these traditions and the Pasifika communities that hold them. Pasifika understandings of identity and personhood are longstanding and legitimate frameworks for understanding human diversity that deserve recognition, not erasure.

7.3. We oppose legislation which signals to Pasifika communities that their cultural understandings of identity and personhood have no place in Aotearoa New Zealand law.

8. HARM TO TRANSGENDER, INTERSEX, AND NON-BINARY COMMUNITIES

8.1. It is our view that the Bill would cause direct and considerable harm to transgender, intersex, and non-binary New Zealanders, and that this harm is not contingent on the Bill passing into law. The act of parliamentary debate itself, in which real people are asked to justify their existence in law, causes harm. It signals to those communities that their place in Aotearoa New Zealand law is contested and conditional. As the Human Rights Commission states: the Bill “risks

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https://journals.sagepub.com/doi/abs/10.1177/1440783320964538?_cf_chl_f_tk=vWps8nYAPP3PCRDiTgqw7a8w7djqiKuBBc6js2rj4xl-1782764980-1.0.1.1-_Z2lhFZODLj4SonvXRUkDvrSStM14ENLZAQDuK5djp0

harm to communities who continue to experience discrimination on the basis of their gender identity.”⁵

8.2. Additionally, the harm extends beyond those who identify as transgender or non-binary: by entrenching a rigid biological binary in law, the Bill also sends a signal to anyone whose gender expression does not conform to that binary that their way of moving through the world is at odds with the foundations of Aotearoa New Zealand law.

8.3. Furthermore, this harm is compounded by the circumstances of the Bill’s introduction. NZ First’s Chief of Staff has publicly acknowledged that the party’s practice of introducing and replacing members’ bills is aimed at generating public attention,⁶ and a senior coalition minister has described the Bill as a “distraction.”⁷ It is our view that using vulnerable communities as the subject of political point-scoring is itself a harm and wholly unacceptable.

9. CONSTITUTIONAL CONCERNS

9.1. The Attorney-General issued a formal report under section 7 of the New Zealand Bill of Rights Act 1990, concluding that the Bill is inconsistent with the right to freedom from discrimination on the basis of age.⁸

9.2. By defining “woman” as an “adult” biological female – and given that the Age of Majority Act 1970 defines “adult” as a person aged 20 or older in the absence of any other definition⁹ – the Bill would have the effect of excluding people under 20 from any legislation that uses the word “woman.”

9.3. The Attorney-General identified a range of consequences this would produce, including:

9.3.1. Women under the age of 20 no longer being eligible to apply to the court for a declaration of paternity;

⁵ <https://tikatangata.org.nz/news/definitions-of-woman-and-man-legislation-not-necessary-risks-further-harm-to-rainbow-people>

⁶ <https://newsroom.co.nz/2026/05/20/nz-firsts-risk-free-way-to-stoke-the-cultural-coals/>

⁷ <https://www.1news.co.nz/2025/04/24/nz-first-gender-bill-a-distraction-national-minister/>

⁸ <https://www.justice.govt.nz/assets/Documents/Publications/20260521-Legislation-Definitions-of-Woman-and-Man-Amendment-Bill.pdf>

⁹ <https://www.legislation.govt.nz/act/public/1970/137/en/latest/#DLM396495>

- 9.3.2. Women under the age of 20 no longer being able to access the defence of infanticide in the Crimes Act 1961;
 - 9.3.3. No penalty being available under the Crimes Act 1961 for giving in marriage or transferring a woman under the age of 20 years to another person without their consent;
 - 9.3.4. 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;
 - 9.3.5. The death of a woman under the age of 20 while giving birth not having to be reported to Police.¹⁰
- 9.4. The Attorney-General concluded that these outcomes, if they eventuated, would constitute unjustified age discrimination.
- 9.5. We note that a section 7 report represents a formal finding by the government's own chief law officer that a bill violates the rights of New Zealanders in a way that cannot be justified. The fact that this report was issued by a minister from within the governing coalition makes it particularly telling. The Committee should treat this as a serious constitutional objection to the Bill.

10. UNINTENDED CONSEQUENCES

- 10.1. No publicly available analysis has been presented which identifies what legislation would be affected and how. It is our view that introducing sweeping definitional changes of this breadth, without that analysis, is highly irresponsible.
- 10.2. One of the most troubling potential flow-on effects concerns abortion access. As noted above, the Bill's definition of "woman" would not apply to people under 20. Legislation that currently covers "woman" – such as the Contraception, Sterilisation, and Abortion Act¹¹ – may therefore cease to clearly cover those under the age of 20. This creates a real risk that young people's access to abortion could be called into question. It is deeply troubling that a Bill promoted as protecting women's rights could, in practice, remove specific rights from young women.

¹⁰ <https://www.justice.govt.nz/assets/Documents/Publications/20260521-Legislation-Definitions-of-Woman-and-Man-Amendment-Bill.pdf>

¹¹ <https://www.legislation.govt.nz/act/public/1977/112/en/latest/#DLM17680>

10.3. Although courts would likely resist such an interpretation on the basis that it is contrary to the evident purpose of the legislation, courts are not the only actors who apply the law. Government agencies, healthcare providers, administrators, and service providers may be less willing or equipped to depart from the plain text of a statutory definition. The Attorney-General's report acknowledges this directly, noting that "actors other than the courts may be less willing to depart from the definition's ordinary meaning."¹² It is precisely in such everyday contexts that vulnerable people are most at risk of being turned away.

10.4. We also note that the Bill creates uncertainty about how healthcare services currently provided on the basis of sex would be administered. For example, it is not clear whether a transgender man with a cervix would be able to access cervical screening without facing discrimination under a regime that defines biological sex in statutory terms.

10.5. The Bill gives rise to risks that will harm those already among the most vulnerable in our communities: young people, transgender, non-binary, and intersex people, and those navigating complex healthcare needs.

11. CONCLUSION

11.1. A Bill that is legally unnecessary, scientifically reductionistic, conflicts with te ao Māori and Pasifika culture, harmful to vulnerable communities, inconsistent with the Bill of Rights Act, and likely to give rise to serious unintended consequences, has no place in Aotearoa New Zealand legislation.

11.2. TEU strongly opposes the Bill and recommends that it is withdrawn.

¹² <https://www.justice.govt.nz/assets/Documents/Publications/20260521-Legislation-Definitions-of-Woman-and-Man-Amendment-Bill.pdf>

12. ABOUT TEU

12.1. The TEU actively acknowledges Te Tiriti o Waitangi as the foundation for the relationship between Māori and the Crown. We recognise the significance of specific reference to Te Tiriti in the Education Act and the emergent discourse resulting from this. We also accept the responsibilities and actions that result from our nation's signing of the UN Declaration on the Rights of Indigenous Peoples.

12.2. The TEU expresses its commitment to Te Tiriti by working to apply the four whāinga (values) from our *Te Koeke Tiriti* framework as a means to advance our TEU Te Tiriti relationship in all our work and decision-making – with members and when engaging on broader issues within the tertiary sector and beyond – such as our response to the Legislation (Definitions of Woman and Man) Amendment Bill:

Tū kotahi, tū kaha – We are strong and unified; we are committed to actions which will leave no-one behind; we create spaces where all people can fully participate, are fairly represented, and that foster good relationships between people.

Ngā piki, ngā heke – We endure through good times and bad; we work to minimise our impact on the environment; we foster ahikā – the interrelationship of people and the land, including supporting tūrangawaewae – a place where each has the right to stand and belong.

Awhi atu, awhi mai – We take actions that seek to improve the lives of the most vulnerable; we give and receive, acknowledging that reciprocity is fundamental to strong and equitable relationships; and we work to advance approaches that ensure quality public tertiary education for all.

Tātou, tātou e – We reach our goals through our collective strength and shared sense of purpose, which are supported through participatory democratic decision-making processes and structures.

12.3. Our response to the Legislation (Definitions of Woman and Man) Amendment Bill stems from our commitment to the whāinga expressed above and our wish to see these enacted in the tertiary education sector and in our society and communities.