Written evidence from Panel 2 following the oral evidence session on the 24th November on Conversion Therapy-Ilias Trispiotis, Jayne Ozanne and Helen Hall

Suppression

As I briefly mentioned after the session, I would like to draw the attention of the Committee to the reasons why it is problematic not to include **suppression** in the definition of 'conversion therapy' underlying the proposed legislation.

Suppression must be included in the definition of 'conversion therapy'. Suppression is included in the definition of 'conversion therapy' adopted by the 2017 MoU signed by the NHS and the leading professional medical and clinical bodies in the UK. Suppression is also included in the official definition of 'conversion therapy' adopted by the United Nations in 2020. So, the fact that the proposed legislation includes only efforts to change someone's sexuality or gender identity and not efforts to suppress their expression means that the proposed legislation is out of line with the official position of the country's clinical and medical experts, as reflected in the 2017 MoU signed by the NHS. It also means that the proposed legislation is out of line with the official international human rights law position, as reflected in the 2020 official UN report on 'conversion therapy'.

The Government's published research, as well as the 2020 UN Report on 'conversion therapy', include convincing and reliable evidence showing that suppressing someone's sexuality or gender identity is as damaging as attempting to change them. The fact that the proposed legislation includes only efforts to change someone's sexuality or gender identity and not efforts to suppress their expression creates an important loophole (as explained in Section III (3) of the Cooper Report) because anyone who is 'treated' to suppress the expression of their sexuality or gender identity would not be covered. That would put very significant numbers of people at real risk of grave harm. As a result, that would not allow the law to fulfil its stated aim to protect everyone in the UK from 'conversion therapy'. Bisexual people in particular experience 'conversion therapy' mainly as suppression of their identity so they are one clear example of a group that would be particularly exposed to that risk of harm.

Additional Points

1. **Defining "Private Prayer" -** the government has stated in Paragraph 34 of their proposal document that *"To be clear: talking conversion therapy could not be reasonably understood to include communication such as casual conversations, exchanges of views, private prayer or pure speech acts."*

This is deeply concerning as we know that any "prayer" that is (i) directed at an individual or group of individuals and (ii) has a predetermined purpose is known to cause harm, and is the primary form of conversion therapy in the UK (according to the government's own research). Much therefore depends on the government's definition of "private prayer" in this statement.

2. **Ensuring Explicit Reference to Harmful Religious Practices** - it is deeply worrying that the *only* mention of prayer in the document is that of "private prayer" (see above) and that no mention is made of the harm that religious practices can cause. Furthermore, in suggesting that conversion practices are categorised into "physical practices" and "talking therapies" there appears to be a desire to avoid the issue that the most common form of "conversion therapy" is that within a religious context. My Legal Forum colleagues and Ozanne Foundation trustees are clear that a far better way would be to look at existing criminal offences (which require sentencing uplifts) and a new criminal offence of practising "conversion therapy", which the government must then define.

3. **Open and free exploration** - I should, I think, have added to my answer to the question about the importance of "open and free exploration" that the goal of any "safe space" is obviously to help the client come to a point of peace and acceptance about who they are. Once this has been achieved, it is important that this decision is then respected and that no further pressure is put on the client to change their view or negate their decision, as this is just as damaging.

Abuse in a Religious or Spiritual Context
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The Problem

Religious or spiritual settings pose a heightened risk of abuse or exploitation, and unique challenges in addressing this.

The Background

For many people, religion and spirituality form an integral part of their lives. This aspect of human experience has immense significance both for our internal world, and the social networks within which we live and move.[1] It can be intimately connected to our identity, family relationships and place within a community. As well as shaping ethical and social values, it can determine choices about the everyday realities of grabbing a snack or getting dressed in the morning. It is a constant part of who we are and how we live our lives.

[1] Niclas Berggen and Christian Bjornskov, "Is the Importance of religion in daily life related to social trust? Cross-country and cross-state comparisons" *Journal of Economic Behaviour and Organisation* (2011) 459

Significantly too, it can provide comfort and security in times of adversity, illness or emotional turmoil.[2] Whilst most of those who embrace a faith or form of spiritual practice would assert that it is far more than refuge in periods of distress, it is undeniable that it can be of particular importance during these moments of darkness. It is the natural place to turn when confronting existential questions about death or suffering, and it a source of rituals and rhythm which can help a person to cope with their situation, and gradually find some comfort or healing.

All of these aspects of religion or spirituality are experienced in very positive ways by individuals from a myriad of cultural backgrounds and diverse characteristics. However, the central place which faith and belief occupy for many people, opens up the risk of abuse or exploitation. There are a number of reasons why an individual may be unable to effectively assert their rights, needs and interests effectively in this paradigm.[3] This has long been recognised by the legal system, as we shall discuss below. [4] However, it is worth first considering some of the reasons that people can be vulnerable in this context, even if they are an adult, heterosexual male with economic resources, social capital, the benefit of education and no additional challenges arising from disability or illness. Obviously, for individuals who are already disempowered to some disagree by wider social structures, the vulnerability is even greater.[5] So, what are the underlying issues?

The factors increasing the risk of abuse and exploitation

1) **Social ties-**Following a particular religious or spiritual pathway can be linked to membership of a community.[6] Walking away, or even just failing to comply with its norms and expectations can jeopardise relationships and even family ties. There may be immense emotional and social costs in failure to conform, and sometimes economic implications as well. A person may be financially dependent on parents or a spouse for example, or may have close business ties with other members of the community.
2) **Temporal status of leaders-**In many traditions religious leaders occupy a position which commands respect and confers a platform for communication.[7] Questioning the behaviour of those exercising power in the community may be interpreted as an attack on the community as a whole. Any actual or perceived criticism of someone seen as occupying a sacred role, performing essential tasks or otherwise enjoying high status may generate a negative backlash from other community members.

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[2] Joey Ager, Elena Fiddian Quasmiyeh and Alistair Ager, "Local faith communities and the promotion of resilience in context of humanitarian crisis" (2015) 28(2) 202
[3] Thomas Doyle, "Roman Catholic clericalism, religious duress and clergy sexual abuse" *Pastoral Psychology* 51(3), 189
[4] *Allcard v Skinner* (1887) 36 Ch D 145; *Maga v Trustees of the Birmingham Archdiocese of the Roman Catholic Church* EWCA Civ 256 CA.
[5] Gargi Roysircar "A response to social privilege, social justice and group counselling: An Inquiry: Social privilege, counsellors competence with socially determined inequalities" *The Journal for Specialists in Group Work* (2008) 33(4), 377
[66] Melissa Wilcox, *Coming out in Christianity: Religion, Identity and Community* (2003) *Indiana University Press*
[7]Mark Anshall and Mitchell Smith, "The role of religious leaders in promoting healthy habits in religious institutions" *Journal of Religion and Health* (2014) 53(4) 1046

3) **Spiritual status of leaders-**Leaders may be seen as having power to mediate with the Divine, and may undoubtedly have power to decide who may participate in rituals and enjoy certain privileges. Individuals may feel obliged to accept poor treatment or even abuse, because it is preferable to supernatural punishment or even losing their place in paradise. They may also interpret coercive or abusive behaviours as "correction" meant for their own wellbeing.[8]
4) **Internal protection of group autonomy-**Publicly raising problems of a sensitive nature may be discouraged, and unpopular with group members, as it may attract external intervention which is unwelcome. Reporting sexual or financial abuse to the police for example will result in an investigation, and there may be widespread feeling that attempting to deal with matters internally is preferable to scrutiny. This is especially likely if the group believes that outsiders lack essential knowledge or purity. The more closed the community, the higher the risk.[9]
5) **External deference to group autonomy-**Public authorities may believe that a non-interventionist approach is needed in order to protect the collective religious freedom of the group.[10] This tendency may be heightened if the membership of the group is liked to ethnic or cultural minorities. Ironically, this subjects vulnerable minorities within the group to a double disadvantage, rendering them less well protected than individuals with only one minority characteristic.
6) **Chaotic or dysfunctional mechanism for accountability-**Religious and spiritual groups are free from external regulation. They can set their own procedure for investigation and mechanisms for accountability, and these may be work against the interests of the vulnerable and protect those wielding power. There may be a lack of impartiality, or procedures which intentionally or unintentionally create a hostile environment for victims
7) e.g. if only male elders are permitted to investigate and adjudicate upon complaints, female community members who have experienced sexual abuse may find it difficult to make disclosures.
8) **Reliance on volunteers-**Many faith or spiritual communities are small and struggle to manage their day to day running. Complaints about people providing free and useful work may be met with anger and resistance. There can also be emotional blackmail, and suggestions that everyone should be grateful for services rendered, meaning that inappropriate comments or behaviour should be overlooked.

Response

In light of all of this, it is crucial that policies relating to the potentially harmful practices within a spiritual sphere are constructed to take account of the heightened vulnerability, and the general approach of the legal framework reflects this. Some examples of this

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[8] Johannes Beller, Christoph Kroger and Soren Kilem, "Slapping them into heaven? Individual and social religiosity, religious fundamentalism and belief in heaven and hell as predictors of support for corporal punishment" *Journal of Interpersonal Violence* (2021) 36, 15
[9] Roger Kasperson, Dominic Golding and Seth Tuler, "Social distrust as a factor in siting hazardous facilities and communicating risks" *Journal of social issues* (1992) 48(4), 161
[10] Herbert Laming, *The Victoria Climbie Inquiry: Summary Report of an Inquiry* (2003)

pattern are long-standing, for instance the contractual principles which apply in respect of gifts to spiritual advisors and undue influence, making it harder for cynical individuals to take advantage of spiritual authority to exploit those who trust them. There is an irrebuttable presumption of *influence,* in other words, the law takes as its starting point the unchallengeable assumption that there is an imbalance of power. Against this backdrop, the onus is on the spiritual advisor receiving any large and unexplained payment to demonstrate that it was not obtained through improper pressure. Some are more recent e.g. the greater willingness of courts to find that vicarious liability attaches to abuse when carried out in a spiritual context. This means that courts will hold religious communities accountable for the actions of those who enjoy spiritual status, because it is recognised that in conferring this status, the group has created a risk for the vulnerable, and must be made to provide compensation if such risk materialises.[11]

Neither the purpose nor effect of policies of this kind is to unduly curtail religious freedom. The very wording of Article 9 ECHR itself allows for appropriate limitations on manifestations of belief, where other rights and interests are at stake. Furthermore, the main beneficiaries of protection are members of faith groups. Atheists are by definition not likely to be the victims of religious abuse. It promotes rather than impairs religious freedom to proactively ensure that vulnerable members of spiritual communities are enabled to practice their beliefs in safety and with dignity.

[11] *JGE v Portsmouth Roman Catholic Diocese* [2012] EWCA Civ 938