



Tasmania Law Reform Institute

**Community Consultation
Conversion Practices: Law Reform Options for Tasmania
Submission**

Thank you for this community consultation on the law reform options for SOGI conversion practices in Tasmania. I am an ordained minister of the Uniting Church in Australia with academic qualifications in theology and politics and significant policy and advocacy experience in issues relevant to the consultation. I offer the brief comments below out of my doctoral research on religious freedom in Australia (PhD to be conferred in February 2021). They relate specifically to paragraphs 1.2.9-1.2.18 of the Issues Paper and seek to provide an answer to the question of whether a ban on SOGI conversion practices might constitute an infringement on the right to freedom of religion.

The Issues Paper rightly points to the difficulties of dealing with ideologies and religious beliefs in the law. Religion is a slippery concept and notoriously difficult to define, especially in law. It is a concept born of western European patriarchal and colonialist politics and thought, developed as the flipside to the concept of 'secular'. What we commonly understand to be 'religions' and religious traditions, rituals, texts and worldviews, cannot, therefore, be properly understood in isolation from the broader historical, social, cultural, economic and political contexts in which they are formed, grounded and continue to change. This means that religion has been, is, and will continue to be, influenced by and wielded for political purposes.

As has become clearer to many more people in the context of the horrors and scandal of the sexual abuse of children, religion is an instrument of great power and has, not only in this, but through its historical influence in legitimising violent ideologies such as colonialism, racism and homophobia, perpetrated enormous damage to people, communities and cultures. It is, of course, also a source of great hope, inspiring people across generations to act to end violence, injustice and oppression, including within their own religious traditions by challenging bad theologies.

Like religion, 'religious freedom' never means just one thing. It is a malleable rhetoric. When we speak of religious freedom, then, we always need to be asking not only what we mean by 'religion' but also whose version of religion? to protect who or what? for what purpose? and what or who is it being freed?

My research¹ has identified that in Australian public and policy discourse, religious freedom has at various times been used to support social inclusion (particularly in the context of the growing religious diversity in Australian society) and, at other times, to undermine it – most recently in debates about the freedom of religious institutions, organisations, groups and individuals to discriminate against LGBTQA+ people. Over the course of these recent debates, ‘religion’ has become synonymous with ‘belief’, despite religion being a much more complex and interesting category. Because belief is commonly understood as ‘going to the heart’ of an individual’s or community’s identity—even while it remains a concept that is hard to grasp and represents something open and subject to change—it becomes a powerful way to define religion in human rights debates, making it difficult to ‘unpack’ and even more difficult to challenge. This construction of ‘religious freedom’ as ‘freedom of belief’ has had a number of significant consequences including entrenching the acceptance of ongoing discrimination of LGBTQA+ people in society and in the law, on religious grounds, and by association, on moral grounds. Freedom of belief gains even more discursive power when it is intertwined with freedom of speech and freedom of conscience.

Alongside the ‘religious diversity’ and ‘freedom of belief’ discourses, the other common discourse of religious freedom in Australia is that of ‘balancing rights’. This discourse, grounded in UN human rights principles and often used by LGBTQA+ advocates seeking to uphold religious freedom while prosecuting the case for better protecting LGBTQA+ people from discrimination, has unfortunately served to entrench the idea that the right to religious freedom (and the associated rights to freedom of speech and conscience) is threatened by the granting of rights to LGBTQA+ people. It pits one right against another, forcing a competition of rights where there will be winners and losers.²

Religiously framed beliefs and practices that cast LGBTQA+ people as sick, sinful and/or broken and therefore in need of conversion, are increasingly acknowledged by religious leaders and theologians across religious traditions as unacceptable distortions of religious traditions, doctrines and practices. In news out of the UK on 16 December, over 370 religious leaders from around the world—Christian, Muslim, Jewish, Hindu, Buddhist, Sikh—signed a declaration calling for an end to the criminalisation of LGBTQA+ people and to conversion practices. As reported by *The Guardian*, the declaration

‘acknowledges that “certain religious teachings have often, throughout the ages, caused and continue to cause deep pain and offence’ to LGBT+ people, and have “created and continue to create, oppressive systems that fuel intolerance, perpetuate injustice and result in violence”.³

The international human rights system which identifies the right to freedom of thought, conscience and religion is a tool to support governments and societies to uphold human dignity, build just and inclusive societies and better protect people, especially those vulnerable to prejudice, discrimination and violence. Restricting or banning practices which are known to cause serious harm to people does not undermine human rights, it promotes human rights.

¹ Protecting Freedom/Protecting Privilege: Church responses to anti-discrimination law reform in Australia, *Australian Journal of Human Rights* (2018), 24 (1); Constructing the Problem of Religious Freedom: An analysis of Australian government inquiries into religious freedom (2019), *Religions* 10 (583); The Power of Belief: Religious freedom in Australian parliamentary debates on same-sex marriage (2020), *Australian Journal of Political Science*, 55 (1); *The Politics of Belief: The Rise of Religious Freedom in Australia* (2020), PhD Thesis, Macquarie University (forthcoming).

² Poulos, E. (2019) ‘Winners and losers in the politics of religious freedom’, *Pearls and Irritations*, <https://johnmenadue.com/elenie-poulos-winners-and-losers-in-the-politics-of-religious-freedom/>, accessed 17 December 2020.

³ <https://www.theguardian.com/world/2020/dec/16/senior-faith-leaders-call-for-global-decriminalisation-of-lgbt-people>, accessed 16 December 2020.

Religiously framed SOGI conversion practices, whether they are expressed through prayer or practices of discipleship or spiritual counselling, are expressions of beliefs which have been scientifically discredited and proven to be harmful to people. They are a form of spiritual abuse. In Christianity, they are antithetical to the fundamental theological affirmations that all people are made in the image of God and that Jesus calls us to love each other without distinction. Banning such practices will challenge some whose religious beliefs include an understanding of LGBTQA+ people as sinful or broken but it will not harm them. It will, however, serve to protect LGBTQA+ people from harm.

I am happy to talk further about any of these issues and wish you all the best with the consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to read "E. Poulos". The signature is written in a cursive, flowing style.

(Rev.) Elenie Poulos

17 December 2020