

PREVENTING HARM, PROMOTING JUSTICE

Responding to LGBT conversion therapy in Australia

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Many thanks to the survivors of conversion therapy who agreed to speak with us and share some of their experiences. Telling your stories often came at a personal cost and we hope that this report respects the complexities and richness of your experiences and contributes to greater understanding and improved practice in the area of pastoral care of LGBT people within and outside religious communities.

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1 INTRODUCTION

This report addresses the vexed problem of the religious LGBT conversion therapy movement. Conversion therapy emerged in Australian conservative Christian communities in the early 1970s, and has been practised in these and other communities ever since.

It is grounded in the belief that all people are born with the potential to develop into heterosexual people whose gender identity accords with that assigned to them at birth.¹ It views lesbian, gay, bisexual and transgender people as suffering from ‘sexual brokenness’, which can be cured. Full membership of faith communities can depend on same-sex attracted and gender diverse people committing to live celibate lives and seeking ‘healing’ for their sexual brokenness.

1.1 BACKGROUND

Psychological research has produced overwhelming clinical evidence that practices aimed at the reorientation of LGBT people do not work and are both harmful and unethical. All Australian health authorities, including the Christian Counsellors Association of Australia, now 'strongly oppose any form of mental health practice that treats homosexuality as a disorder, or seeks to change a person's sexual orientation'.² In 2014, nine ex-leaders of the 'Gay Conversion Therapy Movement' offered a public apology for the damage their movement had caused. 'We now stand united in our conviction,' they said, 'that conversion therapy is not "therapy" but is instead ineffectual and harmful'.³

Nonetheless, our research suggests that up to 10% of LGBT Australians are still vulnerable to harmful conversion therapy practices. At least ten organisations in Australia and New Zealand currently advertise the provision of conversion therapies.⁴ Rather than receding, our research suggests that conversion practices and ideologies are being mainstreamed within particular Christian churches. Ex-gay and ex-trans ideology, counselling and pastoral activities are still being promoted in the messages and teachings of many churches, mosques and synagogues, through print and digital media and through some Christian radio programmes.

In Australia, growing professional and government interest in minimising the harms of conversion therapy has not yet been matched by evidence and data. This report provides the first academic research on the nature and extent of LGBT conversion movements in Australia and the first detailed accounts of the impact of conversion therapy on the lives of LGBT Australians of faith. Such data is vital in determining what types of legal and community interventions are appropriate and most likely to be effective in addressing the harms associated with conversion therapy. The report makes recommendations for legal, policy and programmatic reform to respond to conversion practices in Australia.

1.2 AIMS

This report highlights the nature, extent and impact of LGBT conversion therapies in Australia. The report is designed to help government, support services and faith communities to better respond to those experiencing conflict between their gender identity or sexual orientation and their beliefs.

The study aimed to:

- illuminate the unique experiences and needs of LGBT people of faith who have undergone some form of religion-based conversion therapy;
- outline the history, prevalence and changing nature of services provided to LGBT people of faith in Australia that pathologise same-sex attraction and gender diverse identities;
- provide assistance to religious organisations and communities that promote and practise conversion therapy to provide more appropriate support to their LGBT members as they reconcile their religious, gender and sexual identities;
- canvas international legal models and conduct a human rights based analysis of the issue and the competing rights and interests at play to inform the proposed legislative response; and
- survey the existing legal landscape in Australia (with a particular focus on Victoria as an illustrative example) and consider legislative and regulatory options to restrict the promotion and provision of conversion therapies and similar practices, including by faith communities and organisations and both registered and unregistered health practitioners.

1.3 SUMMARY

Understanding and responding to this complex problem requires an interdisciplinary approach. In this report we have combined historical, social and legal research and analysis to enhance our understanding of conversion therapy practices in Australia and to make recommendations for reforms to prevent harm and promote justice in this area. Our methodology is stepped out in Chapter Two.

The short but dynamic history of the Australian religious LGBT conversion therapy movement is presented in Chapter Three. The historical review shows that attempts to reorient LGBT people are recent. In clinical medicine they were only ever experimental and were never successful.

Prior to the 1970s, the predominant religious approach to LGBT people was pastoral. When mainstream medicine ceased to experiment with the reorientation of LGBT people, faith-based conversion therapies and organisations emerged. These developed independently in Australia before becoming affiliated with like-minded international organisations in the 1980s.

In recent times, the conversion therapy movement has presented itself in more ethically acceptable postures, disguising its anti-LGBT ideology and reorientation efforts in the language of spiritual healing, mental health and religious liberty.

At the heart of this report, in Chapters Four and Five, are the voices and lived experiences of 15 LGBT people with experiences of conversion therapy, documented through social research. The participants engaged with various conversion therapy practices between 1986 and 2016 as part of their struggle to reconcile their sexuality or transgender identity with the beliefs and practices of their religious communities. For the majority of them, this has taken an extraordinary toll and they have ultimately been forced to choose between one part of themselves at the expense of another.

Those who have sacrificed their religious beliefs to be true to their sexuality or gender diverse identity have had to deal with the deep grief that comes with a loss of faith and being separated from their faith-based community, family and friends. Those who have remained faithful to the beliefs of their religious communities have often done so by denying their sexual feelings or gender diverse identity in order to pass as heterosexual and cisgender. Some live in a constant struggle to maintain their diverse gender, sexual identity and faith in the face of varying degrees of rejection from both LGBT and religious communities.

International human rights experts and legislators in other countries have responded to the issue of conversion therapy and associated practices. Chapter Six reviews the available international human rights law, jurisprudence and commentary on conversion practices and provides an analysis of the competing interests and issues at play to determine the obligations upon States to intervene and prevent the harm occasioned to LGBT people by conversion therapies and related practices. While the focus of UN commentary and analysis has been on more extreme coercive or involuntary practices, international human rights law provides a useful analytical framework to explore the appropriate level of State intervention. A review is also provided of the legal responses to conversion practices that have been developed in countries around the world to inform the model that should be adopted in Australia.

The existing law and regulatory landscape in Australia relevant to conversion practices is examined in Chapter Seven. Health law and regulations including complaints mechanisms, professional codes for health practitioners, child abuse reportable conduct schemes, consumer law, anti-discrimination law and other civil law avenues are surveyed.

Gaps in Australian law and recommendations for action to facilitate the end of conversion practices in this country are presented in Chapter Eight. The most important finding of our research is that responding to conversion practices in Australia requires a multi-faceted strategy. We propose a number of legislative and regulatory reforms, with a particular focus on young people given their vulnerability. However, these reforms will not touch many conversion practices that occur in faith-based settings between freely consenting adults. The most effective way to address the harms perpetuated in these environments is through targeted, evidence based interventions, made in partnership with affected communities. It is our hope that this research will raise awareness of the severity of the harms occasioned through conversion therapy, and support the development of more appropriate pastoral care for LGBT people of faith.

Preventing Harm, Promoting Justice looks to a future where no person of faith is pressured to choose one valued and sacred part of themselves at the expense of another. It looks to a time where all faith communities recognise and value their LGBT members, where LGBT young people of faith are nurtured and protected and where LGBT people of faith can live and love openly without fear of abuse, ridicule or religious exclusion.



2 METHODOLOGY

2.1 PROJECT DESIGN

The project combined historical, social and legal research to assess the scope, nature and impacts of the conversion therapy movement in Australia and to develop a set of practical and effective actions aimed towards preventing harm and promoting justice in this area. This included:

- an historical review and analysis of academic literature on the international ex-gay movement, and published print and electronic primary sources on the ex-gay movement in Australia;
- interviews with LGBT people who, while members of faith-based communities in Australia, were subject to conversion therapies or related practices;
- identification of relevant international human rights law standards and their application to conversion practices;
- identification and analysis of international legislative and regulatory measures governing the practice of conversion therapies; and
- analysis of the Australian legal, regulatory, and policy landscape to assess and develop options for reform.

The authors were supported by a steering committee consisting of a diverse range of stakeholders including representatives from government and faith-based organisations; representatives from organisations that provide informal support to survivors of conversion therapy; psychologists and counsellors; LGBTI people of faith; LGBTI and mental health organisations and individuals who had themselves been subject to such practices in the past. The committee provided advice on the aims and scope of the project, stakeholder engagement and participant recruitment, and reviewed the draft report and recommendations. Ethics approval for the project was granted through La Trobe University Human Ethics Committee.⁵

2.2 HISTORICAL REVIEW

Chapter Three presents original historical research and analysis of religious conversion therapy in Australia. To date, there has been no scholarly research on religious conversion therapy in Australia. Scholarly research on conversion therapy in international contexts is largely confined to psychological studies on the effectiveness of various treatments, but there is a small body of social and cultural research into the ex-gay movement.

The conversion therapy movement has also produced a significant body of its own literature. Chapter Three provides an overview of the current state of scholarly knowledge of religious conversion therapy, an analysis of its philosophy, as promoted in its own publications and an historical and demographic analysis of its place in Australian society.

Scholarly research on conversion therapy in international contexts was identified through catalogue and database searches. Interview subjects provided some published and unpublished texts produced by religious conversion therapy organisations. Catalogue and database searches produced further literature produced by international and local conversion therapy organisations. This included commercially and scholarly published literature and 'grey' literature, that is, self-published and unpublished material used in conversion therapy. A systematic review of Australian religious conversion therapy provider websites was conducted to show the mix of international and local resources currently in use.

2.3 SOCIAL RESEARCH

Chapters Four and Five present the data and qualitative analysis from 15 interviews with people who had experienced religious conversion therapy in Australia between 1986 and 2016.

2.3.1 RECRUITMENT

Participants were recruited through social media, LGBTI media reportage of the project, and through various LGBTI, queer and ex-gay survivor networks. Participants were selected, using theoretical sampling, to be broadly representative of religious and LGBT demographics in Australia, and were screened for their psychological capacity to undertake an in-depth life interview about potentially traumatic personal histories.

Nearly fifty people who had undergone some sort of ex-gay or ex-trans conversion activity responded to the call for research participants. However, only 15 of these people were interviewed. Twenty five of the initial respondents were disqualified because they did not meet the minimum set of criteria for participation set out in the project's guidelines. These included respondents who were deemed to be at high risk of experiencing mental distress and trauma as a consequence of revisiting their experiences of conversion therapy. A smaller number of respondents who had agreed to be interviewed either withdrew or failed to turn up at the agreed time.

2.3.2 PARTICIPANTS

Participants in the study were a diverse group. At time of interview they ranged in age from 18 to 59 years. They came from six states and one territory with experiences of conversion therapy dating from the 1980s to the present. Nine participants identified as male and gay, two as female and lesbian, two as transgender, one as female and bisexual and one as non-binary. Thirteen participants were from Christian backgrounds, one from a Jewish background and one from a Buddhist background.

The Christian background of the majority of participants is consistent with data from the Australian Bureau of Statistics which shows that the majority of Australians who are religious identify as Christian.⁶ The scale of this pilot study meant that participants from other faith backgrounds are overrepresented relative to Australian religious demographics. However, participants from multicultural and multifaith backgrounds were intentionally included to provide some indication of the presence, nature and differences of conversion therapy practices in Australian communities of diverse religious affiliation.

2.3.3 INTERVIEW DATA

Semi-structured interviews were conducted and involved questions relating to:

- participants' understanding of conversion therapy, how they came to be involved in such practices, and where and by whom these practices were provided;
- what sort of conversion therapy activities they had experienced or been involved in and for how long;
- the effects on their lives of being subject to the conversion therapy movement from the time that they first experienced it to the present; and
- how they currently understand their sexuality or gender diverse identity and their current religious beliefs and connection to a community of faith.

Interviews ran from one to four hours and were digitally recorded and transcribed. Participants' names, the names of their religious groups and other identifying features have been altered to maintain their anonymity.

The interviews were analysed according to key themes consistent with the project's aims including the importance of faith to individual participants, their experiences of the conversion therapy movement and the impact of those experiences on their lives. The analysis looked for commonalities across participants' stories. However, it also focused on differences among respondents' experiences according to variations in sex, gender identity and sexuality, religious belief and affiliation, and the location, timing and types of practices.

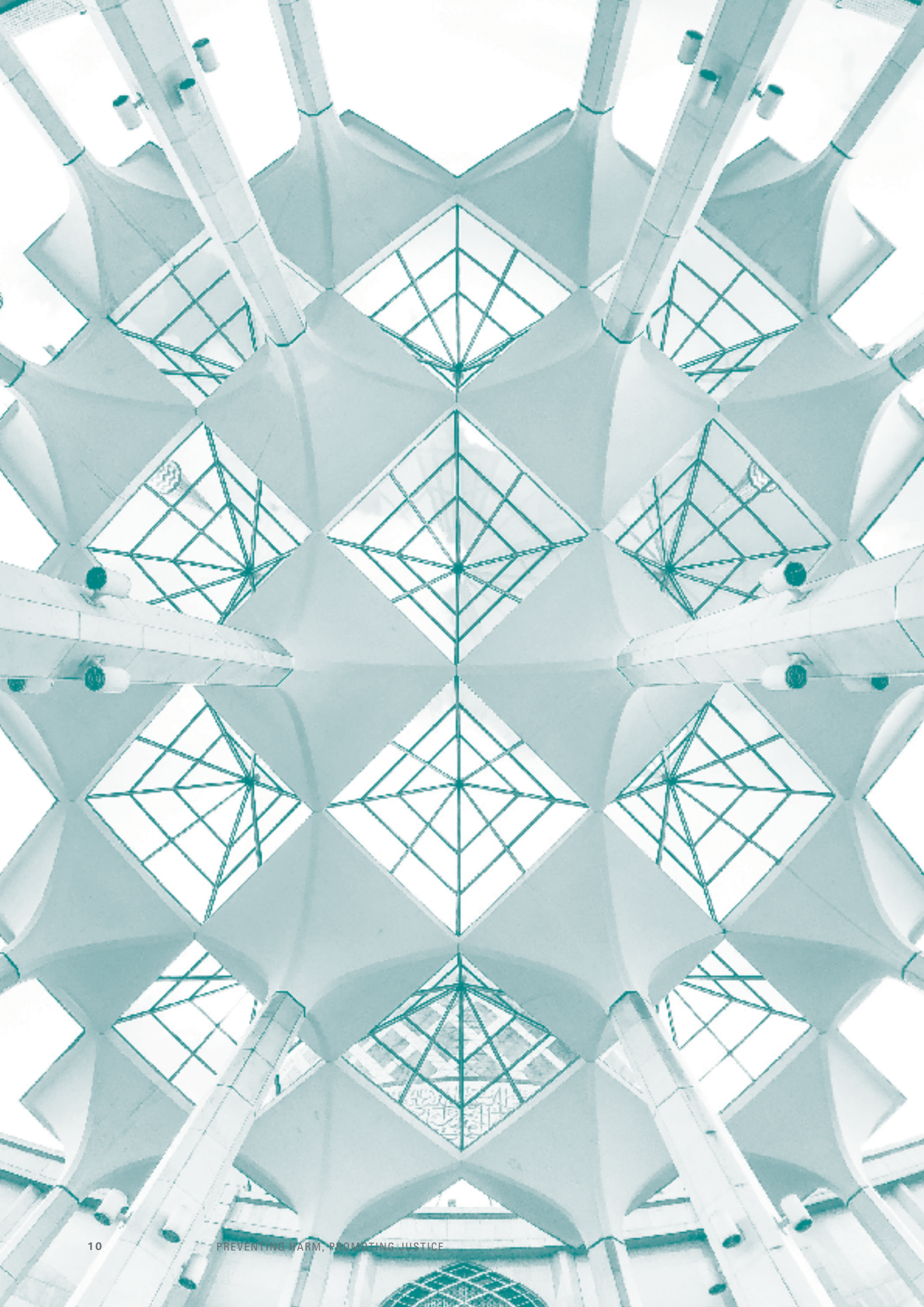
2.4 HUMAN RIGHTS & LEGAL ANALYSIS

Chapters Six and Seven present the results of legal research and analysis into conversion therapy. A review was undertaken of the:

- legal, regulatory and policy landscape in Australia, including laws relevant to but not directly aimed at targeting conversion therapies and related practices;
- measures introduced in comparative jurisdictions aimed at limiting the provision of gay conversion therapies and related practices; and
- relevant international human rights law.

Research was conducted into relevant areas of Australian law and comparative jurisdictions, including decisions of courts and tribunals. A review was also conducted of relevant international human rights law including key texts, the jurisprudence and views of United Nations treaty bodies and commentary by other United Nations human rights mechanisms.

The final recommendations were developed following consultation with the Victorian Gender and Sexuality Commissioner, Victorian Health Complaints Commissioner and Victorian Mental Health Commissioner. The authors also consulted with members of the Justice Working Group and Health and Human Services Working Group of the Victorian Government's LGBTI Taskforce.



3 RELIGIOUS CONVERSION THERAPY

Conversion therapy is an umbrella term used to describe attempts to ‘convert’ people from diverse sexual and gender identities to an exclusively heterosexual and cisgender identity. Contrary to popular belief, conversion therapy is not a foreign import; conversion therapies emerged in Australia at the same time as elsewhere in the Western world.

As with similar groups around the world, Australian proponents of religious conversion therapy started out with great optimism that lesbian, gay, bisexual and trans people could, with faith and effort, become straight and cisgendered.

In recent years, this optimism has been tempered in some groups with an acknowledgement that, for most people, gender identity and sexual attraction are fixed. Nonetheless, groups with the conviction that gender and sexual diversity are incompatible with their religious beliefs have continued to teach that these human characteristics are disordered, sinful, and broken, and that heterosexual and cisgendered behaviour (if not attraction) can be learned. Our research suggests that conversion therapy teaching and practice remain pervasive in Australia’s mainstream, conservative Protestant Christian communities, as well as in conservative Muslim, Jewish, Hindu and Buddhist communities.

To date, there has been no scholarly research on religious conversion therapy in Australia. However, there is a substantial body of scholarly research on conversion therapy internationally and the conversion therapy movement has produced a significant body of its own literature. Drawing on these literatures, this section provides an historical analysis of the religious conversion therapy movement, its philosophy and its place in contemporary Australian society.

3.1 PASTORAL APPROACHES TO HOMOSEXUALITY (1950–1970)

Conversion therapy was not commonly practised with LGBT people before the 1970s. It is clear that, prior to the 1970s, most religions condemned LGBT behaviours as disordered and immoral, but they did not view gender and sexuality as being variable constituents of human identity.

By the 1950s, in the West, sexual orientation and, to a lesser extent, gender identity had come to be seen as naturally occurring variables in human populations.⁷ While understood as naturally occurring, LGBT variations were also most commonly viewed as pathological conditions.⁸

From the 1950s, as they began to understand LGBT identities as pathological conditions rather than as wilful, sinful acts, many religious institutions significantly adjusted their policies regarding LGBT people. Rather than simply condemning LGBT behaviours, many Christian denominations developed a pastoral approach to people who were now understood to have unchosen inclinations toward same-sex attraction and diverse gender identities.

Based on these understandings, some supported gay law reform,⁹ although support for reform did not equate to affirmation of homosexuality.¹⁰ The recognition of homosexuality as a condition, however, led most to the position that pastoral and therapeutic responses were more appropriate than criminal justice responses.

Mainline Christian denominations regularly surveyed the state of clinical knowledge regarding homosexuality to guide their pastoral policies.¹¹ The therapeutic approaches to homosexuality promoted by religious groups from the 1950s to the early 1970s rarely involved attempts at sexual reorientation.

Mainstream medical opinion was that such reorientation was always unlikely. Despite repeated experiments in surgical, hormonal, pharmacological, behavioural and psychoanalytic therapies, no clinical treatments have ever succeeded in reorienting the sexual desires of human subjects.¹²

Rather than ‘conversion’ to heterosexuality, the goals of most clinical therapies for homosexuality were increased control of sexual behaviour and improved social adjustment.

Mainline churches, therefore, encouraged homosexuals to ‘seek the reinforcement and counsel of priests, psychologists, sociologists, and other professionals who could encourage them to move away from “wrong” uses of sex, and to make better and alternative uses of their sexual energies’.¹³

In line with medical opinion, the goal of this counsel was not reorientation, but support to assist LGBT people to live chaste and moral lives: the successful sublimation of their sexual energies to socially acceptable and productive activity.

Following the repeated failure of clinical experiments to produce changes in sexual orientation, and sustained ethical criticism of these experiments, from 1972, health authorities in Australia and around the world started to declassify homosexuality as a mental illness.¹⁴ Mainstream medicine ceased to regard LGBT people as being intrinsically sick or disordered, needing a cure. Clinical attempts to change a person’s sexual orientation began to be regarded as unethical. However, just as secular health authorities were ending attempts to convert LGBT people, a new religious conversion therapy movement emerged.



3.2 THE EMERGENCE OF RELIGIOUS CONVERSION THERAPY (1970–1990)

Religious conversion therapy, commonly referred to as the ‘ex-gay movement’, emerged in the early 1970s, independently of mainstream medical, psychiatric and psychological practice. The ex-gay movement was a departure from the dominant, pastoral approach of mid-century churches.

Responding to the bold claims of the gay liberation movement that ‘gay is good’ and ‘lesbians are lovely’, the new ex-gay ministries reasserted that homosexuality and ‘the homosexual lifestyle’ were harmful, sinful and always ultimately tragic. But, they claimed, ‘freedom from homosexuality’ was possible with faith and effort.¹⁵

Religious conversion therapies were offered in Australia from at least the early 1970s, as part of broader spiritual healing movements.¹⁶ In 1978, Peter Lane founded Liberty Ministry, perhaps the first dedicated Australian ‘ex-gay’ ministry. In 1985, a coalition of ex-gay organisations in Australia and New Zealand formed Restoration Ministries. In 1987, Restoration Ministries affiliated with global ex-gay umbrella group, Exodus International, and became Exodus South Pacific.

In Australia, as around the Western world, ex-gay ministries mostly emerged in conservative Protestant Christian communities. Roman Catholic approaches to human sexuality, valorising celibacy, have meant that Catholic groups who do not celebrate or accept sexual and gender diversity rarely promote conversion therapy, although they do not oppose it.¹⁷ Rather, they have generally affirmed chastity and celibacy for all of those not in heterosexual marriages.¹⁸ Surprisingly, despite their very different spiritual and religious structures, many conservative Jewish, Hindu, Muslim and Buddhist groups have similar attitudes towards human sexuality and offer conversion therapies of the same kinds as those offered by conservative Protestants.¹⁹

The conversion therapies developed in the ex-gay movement were grounded in a blend of popular self-help practices, behavioural and psychoanalytic practices derived from clinical psychotherapy and spiritual activities. These involved twelve-step, Alcoholics Anonymous-style accountability groups (for example, ‘Homosexuals Anonymous’), individual, group and online counselling, residential camps and exercises aimed at cultivating ‘normative’ gender behaviour.²⁰ They often included various psychoanalytically-informed activities aimed at ‘repairing’ the trauma that led to a deviation from normative gender and sexual development. Characteristically, these counselling and support group activities were augmented with spiritual interventions aimed at addressing what were understood as the spiritual causes of LGBT identification. These typically included prayer, scripture reading, fasting, spiritual healing and spiritual deliverance. Exorcism, as popularly understood in the West, has not been characteristic of religious conversion therapy as practised in Christian communities.

Spiritual deliverance is a practice that is related to, but distinct from, exorcism. Exorcism is a ritual ministry used in many faiths to liberate people who are ‘possessed’ by a demon or evil spirit.²¹ By contrast, spiritual deliverance is a form of ministry for those who are merely ‘oppressed’ by evil, suffering under its influence, but retaining agency and control.²² Spiritual deliverance and spiritual warfare are common and mundane parts of religious life in Pentecostal and Charismatic church communities. Spiritual deliverance has been a key element of healing ministries in these faith communities since the 1970s.

Some ex-gay ministries also referred clients to trusted registered medical and psychological clinicians who were known to provide psychotherapy, pharmacological and aversion therapies aimed at sexual orientation or gender identity change (inconsistent with emerging professional ethical standards).²³ Others, however, rejected ‘secular’ psychotherapeutic approaches to conversion as untrustworthy or incompatible with religious conversion therapy.



3.3 THE GLOBALISATION OF THE EX-GAY MOVEMENT (1990–2012)

Early in the 1990s, religious conversion therapy shifted to a more ethically sophisticated self-presentation, and a more comprehensive view of health and healing in the field of sexuality and gender. In the following two decades, the religious ex-gay movement — as represented by organisations devoted to the reorientation of LGBT people — grew significantly, became more closely aligned with New Christian Right political groups, and became more globally homogenous.

Exodus International, the global umbrella group for local ex-gay movements, had hundreds of affiliated ministries worldwide. In Australia and New Zealand, there were over 30 ex-gay ministries operating by 2002.²⁴ In the following decade, the number of groups publically advertising ex-gay and ex-trans services declined. It is not possible to determine, however, the extent of correlation between the decline in advertising and any decline in practice.

As secular health authorities consolidated their ethical position opposing LGBT conversion therapies, the ex-gay movement moderated the language it used about its activities and goals. Rather than promoting ‘freedom from homosexuality’ through conversion therapy, they began to offer assistance with ‘unwanted same-sex attraction’ through Sexual Orientation Change Efforts (SOCE).

By emphasising that they only worked with people experiencing ‘unwanted’ same-sex attraction or gender dysphoria, the ex-gay and ex-trans movements emphasised the agency of clients in seeking to change themselves. Describing their activities as Sexual Orientation Change Efforts similarly emphasised client agency, and softened explicit (not implicit) claims regarding the possibility of change. While the language adopted by religious conversion therapy proponents in the 1990s became more ethically nuanced, they still promoted the view that it was impossible to be LGBT and a person of faith. The conversion interventions practised and the expectations regarding the possibility of change remained the same. One characteristic of this ethical repositioning was that a generalised language of sexual and relational healing came to dominate.²⁵

In this period, the religious conversion therapy model was extended to include activities directed at transgender people in particular, but also to any people of faith struggling with many issues related to gender and sexuality.²⁶ Ex-trans ministries usually operated within established ex-gay ministries, used the same therapeutic techniques and assumed that transgender identification had the same developmental origins as lesbian, gay and bisexual sexualities.²⁷ At the same time, the paradigm developed to foster orientation change among LGBT people was extended to include others who were identified as ‘sexually broken’, including people struggling with sexual addiction, childhood sexual abuse or relationship problems.

As ex-gay leader Andy Comiskey explained, what began as a gay conversion ministry ‘became increasingly relevant to those who were simply in need of healing for their personal identities, and the relational distortions that issued out of personal brokenness’.²⁸ In many respects, the ex-gay movement was transforming into a distinctive, spiritually based mental health practice.

Whereas in the 1970s and 1980s, religious conversion therapy groups were emerging independently all over the world in similar ways, from the 1990s, these groups became increasingly homogenous: affiliated internationally and heavily influenced by the same key texts.

Most ex-gay organisations became affiliated with United States-based Exodus International (this international coalition of ex-gay agencies was rebranded as Exodus Global Alliance in 2004).

The most popular ex-gay resources from this time also came out of the United States, including the Living Waters program developed by Andy Comiskey in Los Angeles, the spiritual psychology of Leanne Payne in Wheaton Illinois²⁹ Sy Rogers’ audio visual material³⁰ and the ostensibly secular literature coming out of NARTH based in Encino, California.³¹

While dominated by United States sources, organisations connected to the international network of ex-gay movements continued to develop in their own contexts, with regional variations.

In Australia, mainstream Protestant churches and individuals from these church cultures ran ex-gay counselling and support groups and produced and distributed Australian ex-gay literature.³² It has been reported that a Sydney Muslim clinic also offered gay conversion therapy, but there is scant information on religious conversion therapy in Australia other than in Protestant contexts.³³

Protestant groups were diverse and included formal franchises of United States ex-gay organisations (such as Living Waters Australia and Homosexuals Anonymous), local ministries affiliated to Exodus International (for example, Liberty Inc), unaffiliated local ministries (such as Living Hope Ministries) and individual churches and counselling practices offering conversion therapy, support and counselling.³⁴

In the 1990s and early 2000s, the Australian ex-gay movement had formal and informal ministries in all States and Territories and had a missionary attitude. In 1999, Exodus South Pacific changed its name to Exodus Asia Pacific, expanding to include ex-gay ministries in Singapore, the Philippines, Taiwan, Hong Kong, Malaysia, Indonesia, India and Sri Lanka.

Most of these were started or led by Australian ex-gay leaders. However, formal ex-gay ministries in Australia appear to have begun to decline in this period. From over 30 ministries advertising in 2000, only 16 were still advertising in 2012. In 2005, a national support group for Australians who had left conversion therapy and embraced LGBT identities was founded, Freedom2b.³⁵



3.4 RELIGIOUS CONVERSION THERAPY IN AUSTRALIA TODAY (2012 – PRESENT)

Since 2012, there have been some shifts in the ex-gay movement away from claims that conversion to heterosexual attraction and identity is possible. Some ex-gay proponents now recognise that same-sex attraction is not converted to opposite-sex attraction through SOCE. Instead, they are beginning to promote activities designed to help same-sex attracted people live chaste and celibate lives, in accordance with the sexual ethics of their religious traditions.

However, all sections of the ex-gay movement and the conservative religious communities that support them maintain that identities and behaviours that deviate from their heterosexual or cisgender norms are disordered, pathological and sinful. They also retain the belief that supernatural intervention can result in sexual orientation or gender identity change. There are indications that there has been some strengthening of these positions in Australia since the passage of marriage equality into law in December 2017.

In 2012, the ex-gay movement was rocked when Exodus International (US) admitted that sexual reorientation through religious conversion therapy is not possible.

In response to California's new law outlawing reparative therapy for minors, Exodus released a statement saying, 'we do not subscribe to therapies that make changing sexual orientation a main focus or goal'.³⁶ Exodus' president, Alan Chambers, reiterated this position at the 2012 Exodus annual conference. Identifying as an ex-gay man himself, Chambers admitted that he still had same-sex desires. He argued that Exodus' primary mission should be to help Christians manage their homosexual desires. They should no longer encourage clients to expect their homosexual desires to disappear, or to experience heterosexual desires.

In June 2013, Exodus issued an apology to the gay community for 'years of undue suffering and judgement' and announced that it would shut down.³⁷ While the United States organisation, Exodus International, repudiated its ministry and closed down, the international umbrella organisation Exodus Global Alliance and most of its affiliated organisations continued to operate, including within Australia.

We are not aware of Exodus International's closure inducing any Australian ex-gay organisations to repudiate their ministries or convictions and similarly close. Several Australian organisations have closed, or at least ceased to publically advertise their services. But, as Anthony Venn-Brown reports, the apparent closures were not because of a change of heart, but because of the retirement of leaders or a lack of demand for their services.³⁸

3.4.1 DEMOGRAPHIC ESTIMATES

There are no studies of the prevalence of conversion therapy in contemporary Australia, but estimates can be drawn from international comparisons and analysis of Australian religious demographics.

In the United Kingdom's 2018 National LGBT Survey, 2% of respondents reported having undergone conversion therapy, with a further 5% reporting that they had been offered it.³⁹ Significantly, lesbian, gay and bisexual people from multicultural and multifaith backgrounds (13–19%) were up to three times as likely as respondents with no religion or from white backgrounds (6–7%) to have been offered conversion therapy.⁴⁰ Transgender respondents (13%) were twice as likely as cisgender respondents (7%) to have been offered conversion therapy.⁴¹

Australia's religious demographics are comparable to those of the United Kingdom.⁴² It is therefore reasonable to suggest that a similar proportion of LGBT Australians may have experienced or are vulnerable to religious conversion therapy.

This estimate of the proportion of LGBT Australians at risk of conversion therapy closely corresponds with the proportion of Australians who are actively involved in religious groups known to promote and practice conversion therapy.

A 2017 report on faith and belief in Australia revealed that 20% of Australians across all beliefs are extremely or very active in practising their religion or worshipping as part of a group.⁴³ Approximately half of Australians who are religious are Catholic, and therefore less likely to be exposed to conversion therapy and its related teachings.

These data suggest that up to 10% of Australians are actively involved in a religion that may potentially promote or practise conversion therapy (Protestant Christianity, Hinduism, Islam, Buddhism, Judaism). While not all congregations of these faiths would be likely to support or promote conversion therapy, conservative congregations statistically have vastly higher rates of active participation than more liberal congregations.⁴⁴

3.4.2 CURRENT CONVERSION THERAPY PRACTICES

There are currently at least ten organisations publicly advertising the provision of ex-gay and ex-trans therapies in Australia and New Zealand. These are connected through two umbrella networks: Renew Ministries, based in Melbourne, and Exodus Asia Pacific, which continues to operate despite the closure of Exodus International in 2013.⁴⁵ Both networks link ex-gay organisations and act as referral services to individual counsellors offering conversion therapy.

While the number of formal ex-gay organisations advertising their services in Australia has declined over the past ten years, our interview data suggest that conversion therapy ideology and practice have been mainstreamed

in conservative Protestant churches. Many churches have muted their anti-LGBT rhetoric, promoting a 'welcoming but not affirming' policy towards LGBT people.

Nonetheless, these communities are saturated with an exclusively heterosexual sexual ideology, and offer prayer and counselling to anybody who does not conform to it.

A number of ministries do continue to publicly state that sexual orientation change is possible. Peter Lane's Australian-based, international ex-gay ministry, On Eagle's Wings to Asia, upholds:

*... redemption for the sexually broken person as the process whereby sin's power is broken, and the individual is freed to know and experience their true identity as discovered in Christ and His Church. That process entails the freedom to grow into heterosexuality.*⁴⁶

Exodus Asia Pacific continues to help people 'affected by unwanted homosexual feelings and other sexual issues'.⁴⁷ They proclaim a 'message of liberation from sexual and relational problems' including 'same-sex attraction, incest, pornography, sexual addiction, sexual abuse'.⁴⁸ In response to negative reports about their activity in the media, they stated that 'Exodus in Australia does not have any programmes for minors and does not provide or practice reparative therapies'.⁴⁹ They also 'do not support aversion therapy, nor any attempt to force people to change'.⁵⁰ Given their continued promotion of sexual and gender reorientation therapy, these statements must be read as diversionary. Exodus is a network that does not directly provide any programs, whether to adults or minors, and aversion therapy has never typically been included in the suite of approaches combined within religious conversion therapy.

Some religious conversion therapy organisations are now agnostic in their public statements about the possibility of sexual orientation change, or do not mention conversion therapy in their public materials at all.

Sanctuary International is a ministry established in 2000 'to help provide support and encouragement for women who struggle with same sex attractions and/or emotional dependency on the Sunshine Coast'. Its current website makes no claims about sexual reorientation, and recommends resources claiming change is possible, alongside resources advocating the chaste acceptance of lesbian subjectivity.⁵¹

Liberty Inc in Brisbane, until recently one of the most outspoken proponents of sexual orientation change, modified its website between 2016 and 2018, removing any explicit references to the reorientation of sexuality or gender in its services. Instead, it offers 'assistance in the areas of: sexual addiction; pornography; unwanted same-sex attraction, gender identity and confusion; relationships'.⁵²

It advertises commercial one-on-one counselling and group courses for people 'struggling with unwanted same sex attraction'. Emphasising confidentiality and discretion, Liberty's website prominently notes that all of its counsellors are professionally qualified and members of an accredited Australian professional or counselling association. All of the resources listed on the site, however, are to Australian and United States religious conversion therapy texts.

Another ministry listed on Exodus Asia Pacific's regional contacts page for Victoria, Setting Captives Free, has no explicit information about conversion therapy on its own website at all. It merely states that 'Setting Captives Free exists to help men and women to freedom through the gospel of Jesus Christ'.⁵³ Its website advertises various courses in purity, sexual impurity in marriage, weight loss, media addiction, deliverance from depression, and spiritual mentorship. If it remains affiliated to Exodus Global Alliance and offers conversion therapy, this information is no longer made explicit in its public materials.

3.4.3 SEXUAL IDENTITY THERAPY

A number of conservative religious groups, following some of the more scholarly authorities in the ex-gay movement, now say that conversion to heterosexual or cisgender identity is unlikely for LGBT people and should not be pursued as a goal. Instead, they promote versions of Sexual Identity Therapy, a therapeutic framework that has as its goal the resolution of sexual identity and value conflicts.

Sexual Identity Therapy was pioneered by Mark Yarhouse and Warren Throckmorton as an alternative to both sexual reorientation therapy and gay affirmative therapeutic approaches.⁵⁴ The core of this approach involves decentering sexuality and making religious subjectivity central to personal identity.

Sexual Identity Therapy allows people to acknowledge same-sex attraction or gender diversity within their subjectivity, while prioritising religious values in their sense of self and identity formation. While this therapy does not promote reorientation of sexuality or gender, it facilitates the subordination of a person's LGBT characteristics to their anti-LGBT religious ideology. It supports LGBT people to hold the view that the LGBT aspects of themselves are disordered and sinful, ultimately retaining and maintaining an incommensurability between faith and LGBT identity.

Significantly, while sexual reorientation is presented as unlikely, it is never entirely rejected as a possible outcome of therapy, pastoral counselling, or supernatural intervention. Sexual Identity Therapy informs, explicitly and implicitly, much recent Australian ex-gay literature and conservative protestant church policy.⁵⁵ Yarhouse has authored numerous popular, non-scholarly texts which are promoted in Australian churches and by religious conversion therapy groups.⁵⁶ He was the keynote presenter at a 2016 Identity Conference, hosted by Liberty Christian Ministries in Sydney.⁵⁷

3.4.4 WELCOMING BUT NOT AFFIRMING

A similarly insidious development in conservative religious communities is the 'welcoming but not affirming' pastoral posture. Churches holding this stance maintain that LGBT status and behaviour is disordered and sinful, but keep this position muted in the hope of converting LGBT people to their version of Christianity.⁵⁸

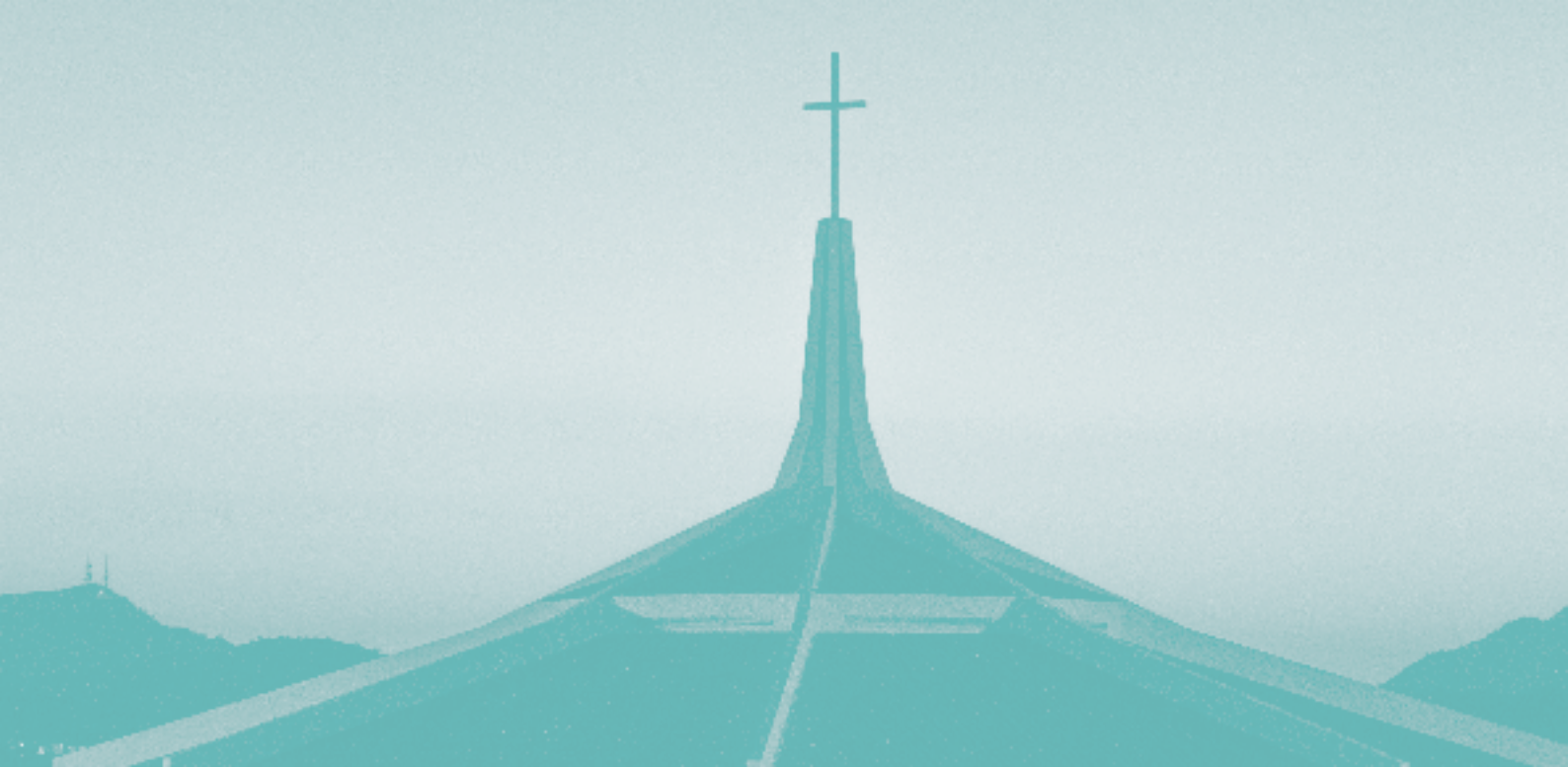
This 'welcoming but not affirming' posture equates to a more sophisticated version of the old evangelical adage, 'love the sinner, hate the sin'. LGBT conversion therapy is not prominently promoted. However, LGBT people worshipping in communities that present cisgendered heterosexual marriage as the only valid form of gender and sexual expression are positioned to repress and reject their LGBT characteristics and to seek reorientation.

In a religious landscape where there are many prominent religious voices hostile to LGBT people, churches holding a 'welcoming but not affirming' stance may appear attractive. They avoid overtly homophobic and transphobic rhetoric and welcome LGBT people. Community membership, however, is conditional on remaining closeted or a commitment to living chaste and celibate lives.

Strict limits are frequently placed on LGBT people's participation in ministry.⁵⁹ As Mark Jennings has shown, this 'welcoming but not affirming' policy is not sustainable for most same-sex attracted and transgender people.⁶⁰ Despite its more open posture, it involves a subordination and repudiation of LGBT attributes within the self. For many, 'welcoming but not affirming' equates to 'welcoming and rejecting'. As one gay man who tried to fit into a welcoming but not affirming context, Chris Adams, concluded,

... it isn't possible to believe, as a gay Christian, that there's something wrong about expressing my sexuality without also believing there is something inherently wrong (sinful) with me. I couldn't believe gay sex was a sin, and not believe homosexuality as a state was also a sin.⁶¹

Or as one Pentecostal pastor said, 'It's almost like with one hand you're shaking [LGBT people] by the hand, and with the other hand you're slapping them in the face'.⁶² While the 'welcoming but not affirming' posture appears less hostile than overt opposition to LGBT rights, when its 'not affirming' aspects are withheld or disguised, as our interview data show, it can be deeply harmful.



3.4.5 CONVERSION THERAPY IN THE CULTURE WARS

In the wake of the successful passage of marriage equality legislation in 2017, religious conversion therapy has emerged as a key point of contention in public debates about religious liberty. There have been seismic changes in public attitudes towards sexuality in Australia during the period in which marriage equality was publically debated (2003–2017).

The ramifications of these changes for public attitudes towards sexual discrimination and the appropriate expression of religious belief are yet to be fully worked out. Some conservative religious leaders, including ex-gay leaders, are responding in a cautious and reflective way to recent shifts in understandings of sexuality.⁶³ Public discussions of religion and sexuality, however, are most commonly couched in a culture war framework.

Conservative religious groups in Australia, alarmed at the rate and character of shifts in sexual politics, have begun publically promoting gay and trans conversion therapy. In 2016, Senator Eric Abetz called for LGBT people who converted to cisgendered heterosexual identities to be celebrated.⁶⁴ In September 2017, then managing director of the Australian Christian Lobby, Lyle Shelton defended conversion therapy, even for minors, saying ‘it was up to parents as to whether their children should be counselled about same-sex attraction’.⁶⁵

Conservative rabbi Shimon Cowen promoted conversion therapy in his arguments against marriage equality.⁶⁶ He also cited conversion therapy in his arguments against the 2016 extension of the Victorian Health Complaints Commissioner’s powers.⁶⁷

Conservative commentator Bill Muehlenberg similarly presented the revision of the powers of the Health Complaints Commissioner as an attack on religious freedom by LGBT rights activists.⁶⁸

In the context of the marriage equality debates, there has been a significant rise in discussions of transgender conversion therapy. This was evident in motions brought to the 2018 Liberal Party Victorian State Conference and in an Australian Christian Lobby petition to the 2018 Australian Labor Party National Conference. The Australian Christian Lobby petition supported the use of conversion therapy with minors, explicitly supporting conversion therapy for transgender children.⁶⁹

The increased focus on anti-transgender interventions appears explicable by the fact that the postal survey on marriage equality demonstrated a clear majority of support for lesbian and gay relationships, and by extension, the human rights of lesbian and gay people.

While ex-trans ideology has risen to prominence in public discourse, there is no data on the extent of transgender people’s participation in conversion therapy in Australia.

Gender issues have always been central to the ex-gay movement and distinct forms of religious conversion therapy directed toward transgender people have been reported since the 1990s.⁷⁰ There is at least one dedicated ex-trans organisation in Australia: Expose Ministries.⁷¹ The more nuanced schools of conversion therapy, including those championed by Mark Yarhouse, have also focused on transgender issues recently.⁷² However, it is known that there is a greater diversity of conservative religious attitudes towards transgender issues than towards homosexuality. Without further research it remains unclear where and to what extent trans conversion therapy is actually promoted and practised in Australia.

3.5 CONCLUSION

This historical review of conversion therapy practices in Australia and internationally gives three important insights into the religious conversion therapy phenomenon. It highlights the fact that attempts to reorient LGBT people are recent. In secular, clinical medicine they were never widely practised, they were only ever experimental and they were never successful. Religious attempts at sexual and gender reorientation date back only fifty years.

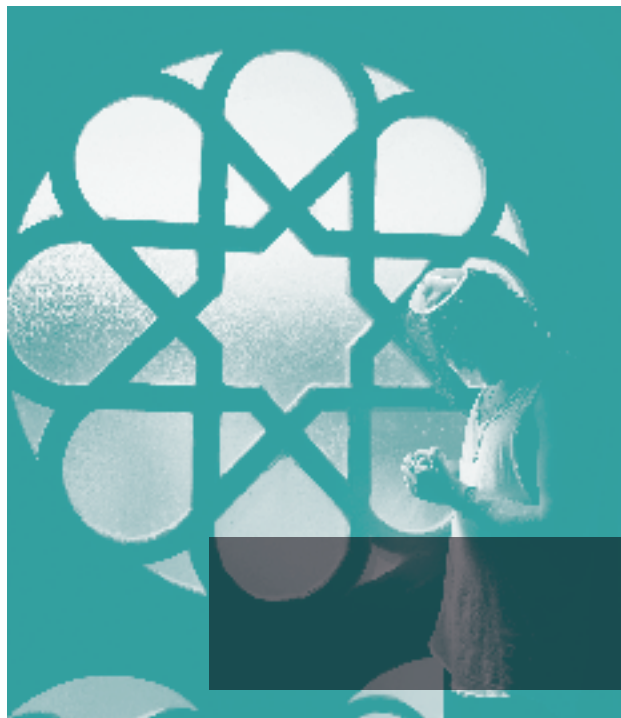
Secondly, it shows that religious conversion therapy cannot be dismissed as a United States phenomenon. Ex-gay therapies and organisations developed independently in Australia and around the world simultaneously in the 1970s. These groups became affiliated and homogenised from the 1980s.

Thirdly, they have been responsive to developments in social attitudes towards sexuality. From the 1990s, and increasingly in the marriage equality era, religious conversion therapy presents itself in more ethically acceptable postures, frequently cloaking its anti-LGBT ideology and reorientation goals in the language of spiritual healing, mental health, and religious liberty.

Nonetheless, the ideology of the conversion therapy movement has become mainstreamed in many conservative Christian communities. Comparative and religious demographic analysis suggests that up to 10% of Australians may be vulnerable to conversion therapy ideology and practice. Further research is required to understand the scope and nature of conversion therapy in multicultural and multifaith communities, and with transgender people.

All iterations of religious conversion therapy are based on the assumption that people who are not heterosexual and cisgendered are in some ways especially broken, disordered and sinful — more so than other humans. They hold that expressions of same-sex attraction or gender diversity are incompatible with a life of faith and with full membership in religious community.

On this basis, conversion therapy agencies and religious communities holding these views teach that LGBT people should seek healing for their sexual brokenness and, until such time as they are 'healed', live chaste and celibate lives. Data from social research presented in the following chapters show the immediate and long-term effects of these views on the health and wellbeing, including spiritual wellbeing, of same-sex attracted and gender diverse people.



*'It ultimately led to
my losing my faith...
I felt very betrayed.'*

— DAVID

*'The church...was
my whole life, really.'*

— TREVOR

4 FOR THE LOVE OF GOD

This chapter tells the story of how our participants navigated the fault line between their sexual and gender identities and their faith. It highlights the complex and contradictory forces that led to many of our participants engaging in conversion therapies, some for long periods.

It documents the grief, pain, self-doubt and profound injustice experienced by all our respondents as they made their way through, and in many cases left, the difficult place where faith and minority sexualities and gender identities cross.

The 15 participants represent a diverse cross-section of both the LGBT and mainstream Australian communities. They include bisexual and same-sex attracted people and people who identify as trans or gender diverse (neither or both male and female).

They also include people who have lived a large part of their lives as heterosexual and cisgendered in order to remain within their faith community, some of whom had married and had children.

Participants came from around Australia, both from urban as well as rural and regional areas. One participant was a survivor of sexual abuse; two had studied for PhDs; one had left home at 13 and lived on the streets; another had considered becoming a monk.⁷⁰ Thirteen respondents were or had been part of evangelical Protestant Christian faith communities, one respondent was from a Jewish background and another respondent was from a Buddhist background.

DESPITE THIS DIVERSITY, ALL OF OUR PARTICIPANTS SHARED AT LEAST FOUR EXPERIENCES OR CHARACTERISTICS:

1. Each person knew, from an early age, that they were same-sex attracted or transgender;
2. Faith and service to their respective faith communities was at the centre of their lives during the period they were subject to gay conversion and related therapies;
3. Each person carries deep grief, and, in some cases anger, over being told they were 'broken' and needed fixing; and
4. All have experienced a profound sense of loss at the lives they had taken away from them.

4.1 SPLITTING THE DIFFERENCE

Nearly all of our respondents had become aware of their same-sex attraction or transgender identity before the age of 14 years.

Deb and Louisa reported that they 'had always known' while Sara was one of a few respondents who came to this realisation later, at the age of 18 years.

All but one of our interviewees reported that their conversion therapy experiences occurred in the years between their earliest awareness of being different and 'coming out'.⁷¹ For Frank, his ex-gay struggles began in 2011, 18 years after he first came out, when he became involved in an evangelical church and 'started having a look at ex-gay programs'.

Despite the majority of our respondents being aware that they were different as children and adolescents, nearly all felt they had to hide their same-sex attraction or gender diverse identity in order to remain within their faith communities.

Five of our interviewees married while a number chose to deny or sublimate their same-sex attraction and attempt to lead celibate lives. Of the five who married all but one, whose partner died, are now divorced.



Mark, who was married for 30 years and had six children, reported that he'd been aware of his same-sex attraction 'as early as I was aware of myself as a sexual being'. Mark met his future wife in a 'very conservative evangelical Christian group' while at university. He disclosed to her that he thought he might be gay before they became engaged:

*... she said, 'oh, yeah, I pretty much guessed...'
We both thought it would be all right. We both thought you could pray away the gay and ... that love would conquer all; that God would heal me and that somehow we'd survive.*

Mark recalled that 'fixing it' was the only option offered by his church and that he and his wife spent years trying to 'pray the gay away'. From his early 20s to mid-40s Mark tried to conform to his church's teaching but eventually he realised 'oh, crap, this is not going to go [away]'.



Gary, who had been sexually abused by a male relative as a child, disclosed that he had suffered years of anxiety and depression as a young man struggling with both the sexual abuse and his same-sex attraction. He said that he felt ‘really great’ when he met a woman through his church who wanted to get married. ‘I was fulfilling all my societal roles’, he said:

I was like, ‘I’m great, you know. I’m doing all the manly things ... I’m engaged’, I ... was married for five years, and I think that it was really during the marriage that things kind of completely unravelled.

Gary had received Christian ‘counselling’ after disclosing his abuse, and the counsellor identified his same-sex attraction as a trauma reaction to the abuse he had suffered. If Gary could face and deal with the trauma, the logic ran, he would become his ‘real’ heterosexual self.⁷² On his honeymoon, however, he discovered that he had ‘no sexual attraction whatsoever to my wife ... I had no idea what to do and I had no desire to do any of it’.

Nonetheless, he persisted in the marriage and in the church:

I was continuing to use the framework that I was given to understand what had happened to me. So I was like, ‘I’m not gay so it must be that there’s still trauma that needs to be worked on, and that, I [will] work on that and then I’ll be sexually attracted to my wife, and the marriage will be great’.

After five years of struggle and involvement in ex-gay activities, Gary and his wife amicably divorced. This prompted their minister, Gary recalls, to ‘get up’ and tell the ‘church that Karen and I were separating, and that I was a sexual deviant. I think that was the word that was used.’

Louisa, who identified as bisexual and was 35 at the time of interview, was one of our interviewees who had not married but had hidden her sexual attractions and desires in other ways:

My whole 20s basically I was sort of this non-sexual being who is clearly not doing okay, depressed. And much of that has got to be somehow related to the fact that ... that whole side of sexuality is repressed.

Similarly, Bethany — who underwent gender reassignment surgery in 2011 and identified as a lesbian during interview — had previously worked hard to suppress her sense of living in the wrong body. Despite knowing her gender identity from the age of about 12, Bethany lived as a man, married, had three children and cross-dressed in private or when inter-State.⁷³ She said ‘I was so good at hiding myself [laughs] that my parents didn’t know, my brothers didn’t know and some very close friends didn’t know’. She added:

Well, when you’ve got to survive ... you find the best pathway. So ... I suppressed myself. I learned lots of ways to live comfortably, ignoring myself. And none of that was a lie to all the people that saw me. They just didn’t see the part of me that I was hiding.

Some participants also spoke of other individuals who were heavily involved in the ex-gay movement — as group or ex-gay course leaders — who later came out as gay. ‘I saw photographs of the church elder’, Gary said:

that I had the conversion therapy with, who, actually, I found out years later [laughs], left his wife and children to shack up with a man ... I was actually very angry about that. Because of the guilt and the unnecessary searching that, you know, was going nowhere in the end; making me ponder all these things that I didn’t have to.

4.2 THE IMPORTANCE OF FAITH AND RELIGIOUS COMMUNITY

What came through strongly in all the interviews was the importance of faith and religious community in our participants' lives. This was regardless of whether the person had been born into a family that was religious or had followed their own path to faith and community.

Among the participants who identified as belonging or having once belonged to an evangelical Christian group, individuals reported various ways in which they were active in the life of their faith community. Some had been 'born again', proselytised locally and in some cases internationally, happily gave their time to run youth groups or attended church-based meetings during the week. A number had also lived in faith-based community houses.

Ben, who identified as gay and was 31 when interviewed, recalled 'giving my life to Christ' when he was 'quite young, quite early on in Boys' Brigade'. Trevor, who was 45 at the time of interview and identified as gay, spent his late teens travelling around Victoria preaching at community churches. In his 20s he was a Christian student leader, worked on a Christian community radio station and lived in a Christian community house; it was, he said, 'my whole life'.



Gary, now 45 and identifying as queer, was born into a non-religious family, dominated by 'a lot of family violence, alcoholism'. He left home at 13 and lived on the streets for some time, where he met a Christian youth worker:

I was living on the streets ... and he saw some sort of light or worthiness in me, and started a very lengthy process of encouraging me to go back to school and to live with a family who would provide much more stability than my own family did.

Gary described his new family as 'devout' and said that 'part of the deal was that while I lived there I was to attend school and also to attend church'. Despite a degree of coercion — you have to go to church if you want to maintain a home with us — Gary described himself (then and now) as having 'a really strong faith'. He added: 'all my friends were Christian; all my networks were Christian; my part-time job was as a youth minister in a church'.

Max, who also identified as gay and was 35 when interviewed, recalled:

... everything that I did was about God, everything was about church ... so much of my 20s was just about, you know, going to church groups all the time, going to prayer meetings, going to Christian group.

At this time Max lived in a Christian share house and led a Christian youth group. He was studying theology at university and had joined an overseas mission trip. Unlike Trevor, whose parents 'wanted to be missionaries' and brought their children up within their strict conservative faith, Max was at university before he had what he called 'a bit of a God moment'. It came at a time in his life when he was feeling 'completely lost'. He admitted: 'that was probably one of the only times in my life where I genuinely really pondered jumping in front of something'. Then Max made friends with a young woman who attended a Pentecostal church:

I went to her church, and I had — I have no explanation for it, but I kind of had a spiritual experience, I guess, at this church...a strong faith was ignited, and it [felt] like a faith that I had [had] all my life.

4.3 THE STRUGGLE FOR UNDERSTANDING AND ACCEPTANCE

Our participants' journeys though faith involved not only a deep belief in God and investment in religious community but also a striving for understanding and acceptance as non-heterosexual or transgender.

This understanding and acceptance was sought at a community *and* personal level; all our participants had internalised the belief that same-sex attraction or transgender identities were sinful. Many believed that actively denying their same-sex feelings or gender diverse identity was integral to being 'saved' and was the only way to maintain a relationship with God. 'My Christian faith was always really important to me', Mark said:

... and all the narratives were around, um, [homosexuality] is wrong, the Bible says this, you know, basically you're broken. All the narratives were around: you can be changed; you can be healed; you can be different ... It was, you know, I saw [homosexuality] as my besetting sin.

Gary said:

I was deeply religious at the time. So my understanding was that — that being gay in terms of [a] religious framework was sinful and wasn't how people were.

Matt, now 33, described himself as coming from 'a very conservative Christian' family. '[F]rom my earliest memories' he said:

... the concept of anything in the realm of gay was always disgraceful and terrible, and a little bit exciting, but that was just my opinion. I recall, mum would always pray — not joking — for rain and disunity amongst the organisers every Mardi Gras; she was incredibly specific.

At the age of 16, Jamie (who was 48 at the time of interview) met another young woman through a church youth group. 'I became aware', remembered Jamie, that 'I ... cared about her deeply ... more than any other [person] I could think of at that time'. She continued:

At one point, I—I don't remember saying that I was in love with her, but I clearly expressed myself in a way that was not all right. And I can distinctly remember this look of horror on my mother's face ... she walked me to the bathroom, and she washed my mouth with green Palmolive soap. She made me froth up the foam in my mouth. Then she read to me passages from Leviticus about unclean thoughts ... the very clear message was that caring that much about Charlotte was not OK.

... The reaction was so unexpected and so alarmingly violent. I mean, my mother didn't hit me but when my father got home I was given a really thorough belting, and then was locked in the woodshed overnight.

Deb, who was 25 at the time of interview and identifies as pansexual, had internalised her faith community's belief that same-sex attraction was sinful, like Mark and Gary. 'Sin separates you from God' she recalled:

... and I didn't want to be separated from God ... I didn't want these feelings if it wasn't how I was meant to be, in the sense of how God had created me. So, I kind of accepted this idea that this was just this broken bit of me and it was something that could be overcome.

For those interviewees from evangelical families, these messages had been present from an early age. Jamie's parents and extended family were missionaries and ministers with the exception of two cousins who she was told had died but later discovered were gay and had been exiled from the family. Her childhood was strict. 'We didn't play secular music at home', she remembered, and 'I didn't know that the Beatles had broken up, or that Elvis had died, until I left home'.

Sara recounted the point at which she realised that, as a bisexual woman, she would only ever receive limited acceptance within the church. Sara was planning to devote her life to the church and was a youth leader and member of the church's leadership team. At one leadership meeting, a senior pastor laid out 'where the church stood on homosexuality'. Sara, who knew that she, and two other young people at the meeting, were non-heterosexual, said:

I remember [the leader said] first [seek] change through ... guidance and counselling, and wise leaders, and prayer ... Basically, once all things have been exhausted, then we will accept you. But then with that came conditions. Like, we think you need to be celibate. Not pursue a relationship. Even there, there are strings attached.

Hearing this message caused Sara 'an immense amount of pain'. David, too, spoke of the moment he became aware that he would never truly belong. Like Sara, this involved a realisation that despite having been willing to remain celibate and meet all restrictions placed on him by both his church and the Christian mission house in which he lived, he would never be fully accepted by his faith community because of his same-sex attraction.

David had moved into the house and joined the mission group because he wanted to help 'homeless people or street kids'. He told one of the leaders that he was gay, and asked if that would be a problem. 'As long as you're celibate, there's no problem', was the response. David committed to celibacy but became close friends with another group member who was also gay. This friendship posed a new problem for the mission leaders. 'My friend and I were called into a meeting', David recalled:

And this leader basically said ... 'I'm putting you on two weeks' probation.' And he wrote all the requirements. I can't remember what they all were but they were very strict requirements, like ... 'You can't be in the same room together without a third person', and whatever. We did all that ... [then] this other leader called us in, and he said, 'I've been on the phone to [the first leader], and I've told him that you've fulfilled every single one of the things that you'd promised to do. And he doesn't know what to do' ... Basically, the guy had been expecting us to fail obviously. And this second leader said, 'Well, basically, he's said that he doesn't want you here, and he's asked you to leave ... you're going to have to go.' ... It ultimately led to my losing my faith ... I felt very betrayed.

4.4 SPREADING THE WORD

All of the churches that our participants attended considered homosexuality a sin; in some churches it was ranked ahead of 'marrying a heathen' or having sex before marriage.

This stance was unquestioned and often actively reinforced within the broader faith community. It was voiced and repeated by family, friends, peers, and mentors all of whom, no doubt, thought that they were acting out of love and concern for someone else's spiritual wellbeing.

As Deb described it, 'I didn't have a formal "we're going to send you to a fixing programme"; it was just kind of embedded in the culture'.

According to Ben:

... offhand comments made by the pastor during sermons and so on around, you know, the decline of the country with gay marriage and stuff like that. It left me feeling like it wasn't a safe place to be either; [not safe] to share that I was struggling with that ... what I was being told by all the people who were encouraging me and praying [for me] with this stuff. It really sucks you in.

Sara, who was 22 at time of interview, became aware of her attraction to both men and women at the age of 17. Having grown up in an evangelical church, she was well aware of what she called the 'black and white thinking' present within her family and the church regarding same-sex attraction. 'I really isolated myself', Sara said:

... kept myself hidden ... I didn't want to talk to anyone about anything. I was going through so much anxiety and restlessness and just desperation.

Sara came out to a member of her extended family who was less involved in the church and had spoken to Sara about having a gay friend. As Sara put it: 'So much weight was lifted off when I was able to have her know'. But Sara continued to feel surrounded by a lack of understanding and support as she tried to reconcile her faith and her sexuality:

The thing was, the whole time I was journeying and unpacking all this, I never felt condemned or judged by God. I always felt this huge condemnation and judgment from people. Placing immense shame and making me feel guilty.

4.4.1 LITERATURE AND OTHER MEDIA

Ex-gay literature, DVDs and other media were either sought out by participants or given to them by others during their ex-gay years. Several of the participants had read or watched the same materials.⁷⁴ Trevor described the literature that he was given, and sought out, as:

... the kind of literature that articulates a certain understanding about what it means to be a person, and a certain understanding of human sexuality and how that relates to Christian theology; and relationships and what to do if you do find yourself sexually attracted to someone of the same sex and gender, and all that kind of thing.

4.4.2 'PERPETUATING THE MYTH'

Three of our interviewees said that they had perpetuated the anti-gay culture in their churches and had promoted the conversion therapy message to others. The knowledge of having done this and the impact it had, at the time, on other same-sex attracted and gender diverse people of faith, was something that all three now struggled with. 'There was a guy I knew in high school', recalled Sara:

... he was my friend ... he'd gone through so much bullying because he was gay ... I loved him to bits. But when I thought about the fact that he was gay, in my mind: 'Well, I think that's wrong' ... I gave him a song, 'Jesus loves you'. Then I wrote him a letter that said, you know, 'Jesus loves you. He can change you. He doesn't think you're gay'.

'It's so hard looking back ...' she said, 'I feel so ashamed. It's hard for me to think that this was me'.


Mark remembered:

... talking to other people, and providing advice to other people about things I'd done, or techniques that I'd tried, or ways that I'd coped, or prayers that I'd prayed, and all those kinds of things ... perpetuating the myth.

Louisa, like Sara, expressed deep embarrassment and shame at having promoted ex-gay ideology in the past and the effects this had on others who were already vulnerable and suffering under the weight of these beliefs and practices.

I talked to [a university friend] because I had found out about this ex-gay stuff, and if you do this, do this, you'll change. And I remember talking to him with this fervour ... I had this information and I spread harmful information to someone else. I think about that regularly. I have dreams in which I apologise to him, whenever I come across him ... I'm really ashamed ... [He] was so vulnerable, and here I am telling him, 'Yeah, maybe you shouldn't just be gay and you should change.' That's horrible, horrible. Yes, I believed it, I guess. And I'm kind of embarrassed about it but I didn't know much better. That's the kindness you have to show yourself, 'I didn't know any better'.





'It was, like, my mid-twenties were surgically removed. Just, having a lot of ex-gay therapy, a lot of counselling. It was horrific ... It was, like, destruction. Don't know how I'm alive, to be honest, when I look back at that time. It was horrendous.'

— MAX

5 THE COSTS OF RELIGIOUS INTOLERANCE

The majority of critiques of ex-gay activities have focused on professional practices and aggressive physical interventions such as aversion therapy. However, for many of our participants it was not just the trauma associated with particular therapies or the cumulative effects of being subject to such therapies over many years that caused lasting harm.

It was also the ways in which conversion therapy messaging was embedded in all aspects of the culture and day-to-day practices of their faith communities.

The varied ex-gay activities practiced in faith communities, from commercial therapy by registered mental health practitioners to informal, religious ‘counselling and advice’, were reinforced and legitimised by religious literature, media and education that pathologised same-sex attraction and gender diverse identities.

LGBT people who wanted to remain part of their religious communities found themselves in an impossible position: unable to change their sexual orientation or gender, and unsupported in their efforts to live openly as LGBT people of faith.

All our participants carry the scars of this opposition, a continuous questioning and undermining of their beliefs, sense of individual value and worth. All continued to feel the impact of that opposition on their health and wellbeing today.

‘I felt I had to behave as society, as my parents, would expect and as the Jewish community would expect ... So, during university my gender dysphoria just went like unbelievable. You know, riding my bicycle ... often times I would hope that I would have an accident and fall under a bus ... I didn’t have the strength to do it, but my mind was being ripped apart.’

— BETHANY

5.1 THE SLOW-BURNING TRAUMA OF BEING IN COMMUNITY

Media headlines have focused on the most immediate and shocking of conversion therapy practices including ‘exorcism’ and electro-shock aversion therapy. However, for most of our respondents it was the insidious and unrelenting ex-gay messaging that ate away at their wellbeing and self-worth.

As Max commented:

It's a subtle, twisted, painful, long-term thing. It's not this exciting 'locked away in a room or camp' ... Most of it is this slow-burning trauma of being in a church community that you went into, and feeling like you can't leave; feeling like there's something wrong with you. That stuff maybe doesn't sell a newspaper but that's what is happening.

... part of the cruelty of ex-gay ... is that so much of the ex-gay stuff ... was built in as part of the culture. It was a reinforcing, guilt-tripping, shaming part of the culture. And people ask us, 'What happened?' It's, like, that's part of the awfulness of ex-gay, that you can't even nail it down.

While one of our participants had been subject to aversion therapy in the late 1980s, the majority recounted being subject to less physically invasive conversion practices starting in the 1980s and continuing into the present. Frank, who was 44 years at the time of interview, reported that his most recent ex-gay experience had been as part of a Melbourne church group in 2016. The group met every two weeks and would watch DVD testimonies from ex-gay church leaders such as Sy Rogers.⁷⁵ Members would pray together, read different ex-gay testimonies, and discuss Bible passages that evangelical Christians used as evidence that homosexuality is a sin.



The length of time during which participants struggled to reconcile their same-sex attraction or transgender identity with the beliefs and practices of their faith communities was striking; in several instances, it amounted to half of their lives or longer. Many participants attributed this to a fear of losing their faith and faith community if they did not renounce their same-sex attraction or transgender identity and live cisgendered, heterosexual and chaste lives.

There was no consideration that religious beliefs and practices could accommodate or even value people who were other than heterosexual and living as the sex they were assigned at birth. In fact, as Matt described it, this possibility was seen as a challenge to the logic or primal thread that tied together the pieces that made up religious faith and community:

It was like a game of Jenga; you've got all these highly slotted, fitting beliefs and outlooks that are all strung together, and form this thing — I don't know, a rectangular Christian faith [laughs]. And if you pull one of them out, you know; for me, they were all reliant on the other. I had to believe all of it or none of it. So, if I pulled out the one that said 'gay is evil and wrong' and threw that away, they'd all go up in the air and fall to the ground.

Mark, despite being aware of his same-sex attraction from a very early age, did not come out as gay until he was 53. In the intervening years he was immersed in family and church messages and teachings that depicted homosexuality as ‘brokenness’. He, like many of other respondents, spent a large part of his life actively trying to pray away the gay: over 14 years in Mark's case.

Ben fell for a boy at school when he was 16 years old and living with Christian foster parents. 'Both my parents have various handicaps', Ben reported, '... and frankly they struggled a lot with parenting me'. When his foster mother found a letter from his boyfriend in Ben's room, 'they sent me off to their church, to their pastor, for counselling'. Like Mark, Ben spent the next 15 years of his life trying to 'pray away the gay', until his foster mother gave him the space he needed to love and care for himself. It was, Ben recalled:

2014, December 31st ... a whole lot of things hit me at once ... how I didn't have anyone, and everyone else did. It hit me that I'd been fighting it for basically 15 years ... that I'd be turning 30 and that none of that stuff was ever going to change. It put me in the darkest place that I've ever been ... withdrawing completely, crying myself to sleep a lot at nights. My ... mum noticed [and] took me aside ... She said — it blew me away — she said that life had changed her, and that if that was who I was, I should try and accept that, and try and live a happy life. And that if I had a partner, they'd be welcome every week for the family dinner. And that one day she hoped to go to a gay wedding ... I choked up, I couldn't speak.

It didn't change my mind straight away. I was still convinced that ... it was just such a massive break in faith. But it gave me enough of a push to go online and start Googling things like 'gay Christian', and finding groups like Freedom2b.

5.2 RELIGIOUS CONVERSION THERAPY PRACTICES

5.2.1 COUNSELLING AND ADVICE

All our interviewees had, at some time or other, turned to a family member, church leader, elder or peer for help in dealing with what they saw as an irreconcilable conflict between their faith and their sexual feelings or transgender identity. In turn, all but two of our interviewees had been referred to Christian counsellors.⁷⁶ Many saw a series of Christian counsellors over a number of years.

Everyone who received Christian counselling spoke of being made to feel that they were the problem. As Mark put it:

It was all this, infantilisation — is that the word? ... pointing out that, because I was an undeveloped little child on the inside that [I] was wanting to be nurtured by a man, so that I [could] grow and be a straight man ... I felt like I was the most sick, abnormal, twisted nut person on the planet. In hindsight, I was a guy who had fallen in love with another guy.

According to Mark another counsellor he had seen during his 'ex-gay' journey:

... did a lot of anointing with oil and praying, talking about abuse factors in my life, bringing me to the place where he had me almost convinced that I had been sexually abused as a child, which I'm quite sure I wasn't.

Gary, who had been abused as a child by a male cousin, was sent to see a Christian counsellor by his mother:

You know, churches usually have like a little Christian directory so that you keep it all in-house. So [the counsellor's] details were in that ... When it came to the same-sex attraction it was completely framed as a symptom or a result of the sexual abuse. There was ... no acceptance that, you know, that being queer or being same-sex attracted was at all normal ... there was an expectation that my same-sex attractions would be, you know, kind of resolved in this therapy ... Resolved being that I would no longer be attracted to men and that I could live a "normal life" with a woman.



When Gary started going out with a woman, the Christian counsellor suggested that they should have pre-marital sex. This was despite premarital sex also being a sin according to this branch of evangelical Christianity. Clearly, homosexuality was the much greater of two evils, and a lesser sin could be legitimately used to overcome the effects and possible recurrence of more serious ones. Gary did get married. But five years later he and his wife divorced and he came out as queer.

Frank also spoke of seeing a Christian psychologist who 'sort of knew my struggles'. 'Every time [I saw her]' said Frank:

... she sort of asked, 'are you finding women attractive?' And [I was] thinking, deep down, no. And I probably told [her] ... 'Oh, yeah, met this girl' ... pleasing everybody but me there.

Louisa expressly entered counselling to talk about her bisexuality and yet this was the one thing her counsellor studiously avoided discussing. 'You know, I was probably a bit scared', Louisa said:

I didn't know what to do with it. I think I also heard that being attracted to people of the same sex was a result of trauma or problems in childhood. And that to heal that stuff you could change to being just attracted to the opposite sex ... the person who I did go to see ... I would say, 'I'm attracted to women, da, da, da,' and she would just deflect, she wouldn't engage.

According to Louisa, this counsellor 'structured a lot of the conversations around a workbook to do with co-dependency'. Max also reported having seen a Christian counsellor who used the same book.⁷⁷ The book, *Love is a Choice*, does not specifically address same-sex attraction, but describes 'sexuality' as a 'thing' that people draw in 'to fill the great emotional vacuum within themselves'.⁷⁸ Max described it as 'crazy ... it would make you think that you are in the most horrific, emotionally abusive family ever'.

When Bethany, our only Jewish participant, 'needed help to survive' as she struggled with her gender dysphoria, the university's Jewish liaison person referred her to a Christian psychologist. 'The amazing thing' about their one and only meeting, Bethany recalled, was 'that he actually brought [his faith] into the conversation'. She added: 'That Christianity was raised was not helpful at all'.

Outside of professional ‘counselling’, all participants were surrounded by people who were telling them that they were the problem but that they could change and, by doing so, remain in the love of God and those around them. These were people they trusted, looked up to and, in some instances, loved; people from within what Matt called ‘the Christian bubble’. These people also encouraged interviewees to ‘pray away the gay’, undoubtedly because they sincerely believed this was the only option available.

Ben remembered that his Christian flatmate, who was one of his oldest friends, would:

... get me books, and encourage me to try and find counselling and stuff like that. I'd known him since I was 14 or so through Boys' Brigade ... He met his wife through me ... together — both of them — they were my closest friends, and they really pushed and encouraged me in terms of standing strong and fighting it.

Deb, who had been ‘bullied a lot’ at school and experienced a ‘crappy home life’, became involved in an evangelical church at 14. It was the church that her cousins attended. She began to acknowledge an attraction to women when she was about 16:

I ended up confiding in a mentor at the time, someone who had been part of my life [in the church] for a while ... she was like an older sister to me ... So, yeah, I told her this stuff and ... she was loving about it, she didn't condemn me or anything like that, but her response was, 'You know, this is a temptation that you can overcome. Like, you aren't inherently sinful or anything like that. This is a temptation that you can overcome.' And, yes, from that point it kind of, for the next sort of ... five years I kind of, just went along with that.

Deb finally stopped ‘going along with that’. Late in 2011, she and a few other young people in her church ‘started to work through it and go “I don't agree that it's bad, I don't agree that it's sinful, it's just part of who I am”’.

Deb and the young people had met with the Church pastor to discuss their concerns and Deb believed he had genuinely been ‘trying to understand our experiences’. However, as Deb recalls, the next Sunday, he:

Gets up [and] preaches a sermon ... [that] I felt was very much directed to the few of us who were coming out at the time, and affirmation to those around us who were saying 'You're choosing the wrong way'. They were just encouraged to be, 'Yeah, [these young people] are being sinful, they are being wrong'.

In 2010, Bethany finally gave herself permission to pursue gender reassignment surgery, after 13 years of marriage and a lifetime of ‘push[ing] my true identity back and back’. She went to talk to the rebbe, or grand teacher, who was the leader of the synagogue she and her family had attended for years. ‘I went’, said Bethany:

... to say, 'Look, this is me. I'll be [Bethany] next year sometime. Will you please ensure that the community doesn't go negative against my ex and my children?' Just, you know, to look after them. It's called lashon hara, bad words.

The response was unequivocal; he said to Bethany: ‘Wouldn't it be best if you go live somewhere where nobody knows who you are?’ At the same meeting, Bethany raised the possibility of attending her son's bar mitzvah. ‘I was told’, said Bethany that ‘you could only attend if “you dress as a man”, cross-dress [laughs] and stay in the men's section’. She went on:

They weren't open. 'Oh, okay, [Bethany], you've come because you're a good person. You've come to look after your family. Let's find ways by which we can look after you'.

At no time did the rebbe or other religious officials consider Bethany's request or ways of looking after her. As Bethany put it: ‘They just wanted me to go away’.

5.2.2 ATTENDING CHURCH GROUPS, COURSES AND EXPLICITLY EX-GAY EVENTS

For many of the participants, counselling was supported by attendance at church groups, courses that promoted ex-gay messages and major church events where ex-gay people would speak and exhort others to follow their path. Max called this 'show-and-tell'.

In all these various settings, participants were encouraged to share their stories of struggling with same-sex attraction. They prayed, read the Bible, and were given explanations that tied same-sex attraction to relationship traumas earlier in life and therefore understood homosexuality to be 'curable'.

Six of the participants referred explicitly to the Living Waters program and the workbook.⁷⁹ Participants remembered that homosexuality was explicitly mentioned as one of the forms of 'sexual and relational brokenness' that needed to be 'healed'. Trevor remarked:

There's a section that's about sort of God's love for us as people. The last chapter of that ... is kind of about how ... you harness the energies of your Christianity to be a righteous person, which means not being gay [laughs]. Then there's a section about understanding your sexual brokenness ... it was all very familiar ... all this stuff that I'd been reading...about emotional brokenness ... and triggers of gender insecurity, boundaries; you know, being same-sex attracted being a consequence of different emotional boundaries having been invaded and so on.

Mark and his then-wife also undertook the Living Waters program, when they were 'trying to rescue our marriage'. The program's messages were the same as those they were getting from the church. Mark said:

The narrative would go, like, overbearing mother, absent father. You know, your desire for the other is — you admire their attributes ... There were even metaphors like, just like cannibals eat other people because they want to subsume those attributes ... you're looking at men because you want to subsume those attributes into yourself, because you see them missing in yourself ... you can be healed, you can be different.

Ben remembered spending 'a year or so' attending a group that was working through the Living Waters book, as well as attending 'their weekend retreats and things'. He recalled:

I was taught not to identify as gay during this time, with Living Waters. You know, 'you're a straight man trapped inside same-sex attraction' sort of deal ... [But] I never really noticed any change. You know, I had a lot of hope at the time. And there'd be short bursts where I'd be able to not check a guy out or something like that [laughter]. I'd go, 'I'm winning, I'm winning.' But, longer term — no, I was attracted to guys. And that wasn't changing. It just became sort of very depressing and defeating.

This was, said Ben, the point at which his faith 'took a dip':

Nothing was changing ... How hard [could] I pray? It made it much harder ... harder to be motivated to be involved with the church, for example ... I would never say I didn't believe at any point but it just became more and more distant.

All our participants were subject to messages depicting homosexuality as a form of brokenness or separation from God. These messages were part of church-based groups or courses, regardless of whether these groups and courses explicitly focused on homosexuality or not.

Ex-gay 'show-and-tell' events ranged from major church conferences with hundreds in attendance to intimate, home-based gatherings. Several participants remembered attending events where Sy Rogers was speaking. Deb recalled being included in a small group of people invited to the home of someone who had been same-sex attracted but gone on to get married. At the time, Deb was 'praying every night to be straight', but it 'wasn't working'. Deb said she was questioning 'what's wrong with me?' but 'God wasn't answering'. Looking back at that evening, Deb reflected that 'it was just overwhelmingly intimate' and added that she spent the evening feeling:

Sad, angry, in the sense of, 'OK, well, how come your prayers were answered? How did you manage to become straight and be happily married and blah, blah, blah?' And, at the same time, hopeful, because I was like, 'If someone else can be fixed then I can be fixed too.' But then also, I just felt uncomfortable, the whole time ... I just felt uncomfortable and almost like I didn't fit there.

5.2.3 EX-GAY CAMP

Matt and Trevor had attended what they described as ‘gay camp’, church-run retreats for men who were same-sex attracted. Activities at the camp were similar to those described in groups: prayer, Bible reading and talking about internal struggles. However, for both men, attending camp had an unexpectedly positive side.

Matt revealed that when he attended the camp at the age of 20, he was ‘so down, because of the conflict between God and gay. I was so incredibly distraught about how to manage these two areas of my life’. Going to camp and meeting between 50 and 100 other men, all going through the same struggles, was, he said, ‘probably a lifeline’:

I’m still close friends with many of the guys that I met there, all of whom have moved on, come out, married their partners; you know, all that sort of stuff [laughs]. We’ve all gone on this path together where we were teenagers hating ourselves and thinking that we had to pray away the gay ... and we’ve progressed to the point where, in our 30s now ... we’re all well and truly out and proud. It’s kind of a cool thing to have in common.

Trevor’s response to camp was similar:

There were aspects of this that I found incredibly attractive. I was able to be who I was ... It was actually a really affirming experience because I discovered that there were people like me, people like us, you know [laughs].



5.2.4 SPIRITUAL DELIVERANCE

The practice of praying over people in order to free them from the influence of evil spirits and demons is commonplace in many Pentecostal and Charismatic churches. Several interviewees described this practice occurring as part-and-parcel of ordinary church activities. In their cases, however, the demonic influence was supporting same-sex attraction. As Mark recalled:

[Homosexuality] was something that [a number of us] wanted to be healed of ... so [the minister] would pray over us. And it’s really interesting ... I can remember I had physical manifestations ... it’s ... quite confronting now to reflect on [this] ... I had these physical manifestations ... I felt like I was being exorcised of something. I felt ‘oh, oh, good, something is happening. Ah, thank goodness, something is coming out of me. I’ll be different. Yay, I’ll be different’.

Mark said that he had ‘subjected myself to [spiritual deliverance] numbers of times,’ because ‘I thought these people had something for me’.

Ben’s church had regular times when people could go up to the front of the church and ask for prayer:

I do remember going up and talking to someone, and saying that I was attracted to guys. A couple of people gathered around me, praying the demon out ... there was a husband and wife, and they had hands on my shoulders, and they were just praying for the dross to leave me — I remember her using that word over and over again — and for the spirit of homosexuality to leave me.

In David’s case it was a counsellor, who had explained homosexuality as ‘a form of demon possession’, who carried out this spiritual warfare:

... he prayed over me and exorcised me of the demon of homosexuality and probably a few other demons too. But I sort of thought afterwards, ‘sorry, I don’t feel any different’ [laughs] ... I think at that point he was expecting me to say, ‘Oh, I feel liberated.’ I said, ‘No, I don’t feel any different’.

Max’s counsellor suggested he try ‘Prayer ministry’, where a group of people would pray for Max’s ‘deliverance’:

The counselling was every two or three weeks. And every six months, [the counsellor] would say ‘go to this prayer ministry thing’ ... And there would be a team of four or five people in another room praying, waiting to hear from God to write down what God said about you on a sheet of paper, and they would slip it under the door afterwards.

5.2.5 AVERSION THERAPY

Jamie was shut away in a mental hospital at the age of 17, in the late 1980s, after telling her parents she had fallen in love with a Christian woman. She had thought they would be happy, given the other woman was a Christian. Instead, Jamie found herself woken in the night and driven to a psychiatric hospital. 'That's where I was subjected to all the "best", "fun bit" of the ex-gay therapy', she said.

Jamie spoke of being made to sit in a bath full of ice cubes while Bible verses were read over her, of being handcuffed to her bed at night and being deprived of sleep. She remembered being interrogated by 'a man wearing a dog collar' who bated her about her 'sinful' attraction to women and how this would separate her 'from the love of God forever'. 'Then I remember going in to another room', Jamie continued:

... with a surgical table, and being restrained ... having an electrode attached to my labia; and images projected onto the ceiling; [voice breaking] and a lot of pain from the electrodes; and being left there for quite a long time afterwards, exposed and alone.

After what Jamie thought was about two weeks of this treatment, her father came and collected her. 'The only thing he said as we were leaving was "I hope you've learnt your lesson, and that you never sin like this ever again"'. Sometime later, Jamie met a self-declared 'heathen' man and got married at the age of 21. 'Despite the fact that he was a heathen, my parents were not terribly distressed about it,' she said. It was Jamie's husband who encouraged her 'to consider the possibility that God might not be considering queer people to be mistakes'. She said (voice breaking):

It just totally did my head in. To imagine that I was still loved by God, and that I wasn't some kind of terrible mistake.

Like Jamie, the point of the interview when many of our participants became most emotional was when they related moments of feeling accepted by God and by their families as LGBT, often before they themselves could accept it.

Jamie's husband died of cancer after they had been married for five years and had two children together. One of his dying requests was that her next relationship should be with a woman. Jamie waited until her children had finished Catholic school before finally coming out as queer.





5.3 COMPOUNDING COMPLEXITY

The stories told in this report centre on the experiences of people born and raised in Australia. However there was one participant who was born overseas. We have chosen to tell his story separately both because this participant was threatened with religious conversion practices, but did not participate in these activities, and because the story raises issues with regards to the care and protection of international students who are gender diverse and who come from religious families.

Huong, who was 18 at the time of interview, had been sent to Australia at the age of 11 to attend private school. He lived with his aunt and grandmother. Assigned female at birth, Huong remembered having felt 'different' in terms of gender from around the age of three. Then from Year Nine for 'about two years', Huong:

... tried really hard to be like hyper masculine. Basically, doing everything to make people see me as not female.

He cut his hair short, which led to consternation among his broader family because it was assumed Huong was lesbian. When Huong came out to his mother about his gender dysphoria during one of her visits to Australia. Her response, he said, was:

... like basically trying to talk me into conversion therapy ... mom was like, 'if you love me and if you love yourself, then you should go [home] during mid-year break ... your uncle-in-law has been praying for you a lot, every night for a year or so. He has cured someone like you before. So, you should go because he could help you.'

Huong agreed at first, but then began researching conversion therapy in his country of origin and became 'really scared':

I looked up online and there were a lot of really shit stories. So, for example, things like parents could force [their queer children] to stay in a mental health hospital or asylum, even when they have no mental health condition that they need to be in there. They were parents who locked their children in ... until they agreed to not be queer anymore ... or ... beat them up ... And then there was one case that really struck me, where the father of a person ... [that] either told their family that she was a lesbian or their family found out somehow ... [the family] got them drunk ... and then when they were unconscious ... let a guy who liked this young person [in] to ... basically to rape them.

He was 17 at the time and living in Australia under the terms of an international student visa. Huong left his aunt's house just days before he was due to get on a flight home that his parents had booked. Luckily for him, a youth service found Huong a place to live in a hostel, but as an international student he wasn't eligible for any government income support. The strain of having left home — and of trying to negotiate his way through the various medical and legal complications of being trans — led to Huong dropping out of school, which led to his visa being cancelled. 'I was literally having breakdowns every day', he remembered.

Huong eventually managed to get a bridging visa, which allowed him to access limited government funding and to apply for public housing. At the time of interview, he was in his first year of a university course.

5.4 DAMNED IF YOU DO, DAMNED IF YOU DON'T

The list of harms that resulted from our participants' experiences of ex-gay practices is long and painful to read. All underwent differing types of abuse by faith communities convinced that same-sex attraction and gender diverse identities were deviations from God's law and, to differing degrees, barred LGBT people from religious communion.

The list does not, and cannot, capture the hurt, self-doubt and trauma experienced by our participants; nor can it exorcise the embodied memories of those experiences that all our participants carry with them today.

The list includes self-hatred, shame, loneliness, thoughts of suicide, problems with being touched or loved, sexual dysfunction, causing harm to those they love including partners and spouses, grief, loss of faith, loss of community, depression, ongoing mental health problems and economic disadvantage. 'Looking back on it now', said Ben:

I can see just how much it screwed up 15 years of my life ... coming out to family, coming out publicly, and going on a date for the [laughter] first time in over 10 years: every one of those steps has been like climbing a mountain, to overcome that internalised homophobia, really. And there's still a lot of work to do — I know that. But that's the baggage that's left.

5.4.1 SELF-HATRED AND SHAME

All of our respondents took on board, to varying degrees, their faith community's negative and corrosive attitudes toward same-sex attraction and gender diversity. It is not surprising that LGBT people of faith would internalise the homophobic and transphobic beliefs of the faith communities they belonged to and wanted to remain part of.

All our participants suffered because they went through a period in their lives where they believed they were broken and that only a deeper commitment to their faith could save them. 'From my late teens to my 20s', Matt recalled:

I didn't feel like I could talk to anyone. I was so ashamed ... I'm not a 'down' person; like, I'm just naturally very happy all the time — but I was so down, because of the conflict between God and gay. And I guess you could blame my involvement in the ex-gay movement for those horrible feelings, like I wasn't good enough.

'It's just scary to think back', said Sarah:

... and remember that I was in such a dark place and my soul was really wrestling. Really desperate for people to love me and show me this love.

Jamie's response is indicative of nearly all our participants when she makes a direct link between her feelings of worthlessness and the gay conversion practices she was subjected to. 'They were so thorough at convincing me that I was unloved and unlovable and worthless,' she recalled, 'undeserving of any kindness'. 'On an emotional and mental health level,' said Deb, '... a lot of self-hate and guilt and shame'.



5.4.2 GRIEF AND LOSS

It is impossible to be confronted by the harrowing stories of abuse documented in this report and not be struck by the overwhelming sense of grief and loss. All participants experienced a grief that came from being separated from their faith, family and faith community.

For some, their grief was at the loss of faith. For others, their grief was for the years of trying to belong, but still struggling find acceptance despite their evident faith and commitment. Most participants expressed significant grief at the years and opportunities they lost, the years or even decades spent fruitlessly attempting to reorient fundamental parts of themselves.

'I lost all my friends,' David recalled:

I lost my job what I had thought was my career path at that point ... it was an absolute wrenching of everything ... I remember thinking, I feel like I'm grieving. I'm grieving for all my lost beliefs, my lost friendships ... the end result ... I've been an atheist for about 20, 25 years.

'There was no exploration of me being just a sexually diverse person and that's a part of who I am and that's fine,' said Gary:

[If I'd] had the chance to maybe explore that ... I might have, you know, reconsidered getting married to a woman, and I think my trajectory would've ... could've been quite different.

For Louisa her ex-gay experiences:

... isolated me from ... relationships, in some sense ... And I find that really sad. I wonder, [If I'd been able to] confront the relationship fears, the sexuality fears ... maybe I wouldn't have had as much mental health problems [laughs]. Like, I just; I wonder along those lines.

Trevor grieved for all the possibilities that were closed to him as a young man because of the ex-gay beliefs and practices to which he was subjected:

I have been psychologically scarred by this whole process ... I mean, I just look back on myself as a young man, and think, that guy; I mean, he, he could have just been completely different [sobs].

5.4.3 COLLATERAL DAMAGE

A number of participants married: some in an attempt to produce and foster a heterosexual and cisgender identity; others to demonstrate to their faith community and to themselves that they were overcoming their same-sex attraction or gender diverse identity.

However, for nearly all our respondents, their marriages came unstuck over time as they first acknowledged and then publicly affirmed their same-sex attraction or gender diverse identity. All our respondents who had been married experienced guilt and shame for the pain their partners, children and extended family felt when they finally came out.

'I recognise that I had also become an emotional abuser [to my wife]', said Mark:

She hated every moment of it [being in the Church community], and I made her stay ... In 2008 ... we were having therapy and I just said ... I have no words to hide behind. I'm not even going to ask you to forgive me. I'm not even going to use the word sorry. What I've done ... is just; unspeakable.

Trevor said that:

The only reason I got married is because of the doctrinal structure of the ex-gay position ... I mean, poor [wife's name] ... she and her family have gone through a lot, and are quite happy to say that I contributed a lot to her family ... but at the same time it's been an immense cause of grief for them as well.



5.4.4 LOSS OF INTIMACY, CONNECTION AND PLEASURE

Many of our participants had difficulties in forming intimate and trusting relationships because of their ex-gay experiences. For some, these difficulties have stayed with them and continue to have a profound, negative impact on their intimate and personal lives. Frank took his own experiences to be representative of most LGBT people of faith. 'I think it's probably affected [my] relationships and trust,' he said, '... people who are gay and Christian, are sort of the most damaged people who are very vulnerable'.

For Trevor the:

... the ex-gay framework ... was kind of the governing framework, which I'd completely internalised ... [that] just fundamentally distorted the way that I relate to men, whether they're men I want to have sex with or they're men I just want to be friends with; any kind of men ... I wasn't allowed to be a gay man. It was off limits, and yet that is what I was. I feel that at a really fundamental level that twisted my capacity to relate to other people.

Jamie's conversion therapy experiences had alienated her not only from others but from her own body. She recounted how her experiences had made her suspicious of the pleasures she got from different types of intimate and loving bodily contact:

It took me a long time to learn how to enjoy being in my body. Like, I mistrusted it for a very long time ... I actively hated it. I found breastfeeding [my son] to be quite traumatic, because I'd find myself enjoying the experience and then this wave of negative blackness would come over me ... [I had to] learn that it was OK to feel pleasure.

5.4.5 MENTAL HEALTH PROBLEMS AND SELF-HARM

The conversion therapy practices documented in this report have had a major and lasting impact on the mental health and wellbeing of all our respondents. These include depression, thoughts of self-harm and suicide, and more acute forms or mental ill-health triggered by particular interventions. 'In 2013', recalled Mark:

I nearly had a breakdown trying to keep repressing [my sexuality]; went on antidepressants ... I was very, very mentally unwell for a significant [time] ... I had been spiritually abused.

'I was feeling suicidal', Sarah said:

... but I thought, 'I can't be suicidal! God doesn't want that.' But I was so desperate and depressed and low, it was more of ... suicidal thoughts and stuff. Really just focusing on speed when I was in my car, and really raging and really emotional, putting my foot on the accelerator, when it was raining, when it was extremely bad conditions; just really reckless, risky driving. It scared the crap out of me. It scared me crazy.

'I survived' said David:

... so I suppose that's a good thing. I wasn't sitting there thinking that I wanted to kill myself but I remember I got very depressed at one point; I wasn't suicidal but I felt like, 'What [is] the point of going on?'

Matt, like Sarah, harboured thoughts of suicide while driving his car. He recalled that for a period of time, his experiences of ex-gay activities, were 'very damaging':

I remember driving along once, thinking, ah, it was just, like; I would never do something so dramatic as driving off a cliff, but [if] there was just, like, a button — a little green button, 'live', and a red button, 'die', I thought I would just press [red] ... [Ex-gay involvement] affected my mental health and my sense of self-worth and hopelessness, and my attempts to try and reconcile to my sexuality.

'If it hadn't have been for, for my ability to access really good-quality professional counselling,' said Jamie, her voice breaking, 'I would have killed myself several times over by now.'

Both Deb and Louisa felt that their ex-gay experiences had triggered or exacerbated their mental health problems. 'Five years of going along with' ex-gay activities, said Deb:

had a massive impact on my ... mental health and my emotions and, you know, even my faith to an extent ... I do have depression and anxiety and ... it runs in my family ... but, yeah, during that time of, I guess, trying to be straight, there were times when definitely it flared up more significantly.

Louisa wondered:

... whether having gone through [ex-gay experiences] coincided with me having a psychotic episode ... it certainly made me think that things were a bit hopeless, or I was a bit hopeless. I was like, 'I'm the problem.' [The messages I received] kind of came through as, '[You are] the problem,' rather than, 'You can deal with things in different ways'.

Jamie's therapists were more certain that her traumatic experience of aversion therapy had triggered her mental health disorder:

At some point during the period that I was [undergoing aversion therapy] I think I moved from a ... state of distress to [a] manic episode. And, for the last 9 years, I have been successfully treated for bipolar-1 disorder ... Therapists from a mental health service think [that] the trauma of the electro shock probably triggered [the mania].





***'All human beings are
born free and equal in
dignity and rights.'***

**— UNIVERSAL DECLARATION
OF HUMAN RIGHTS**

6 INTERNATIONAL RESPONSES TO CONVERSION PRACTICES

6.1 INTRODUCTION

Conversion practices occur across the world and vary according to religious and cultural traditions and contexts. In recent years there has been increasing profile and attention given to the problem of conversion therapy worldwide.

This chapter examines how international human rights experts and other countries have responded to the issue of conversion therapy in order to suggest a way forward in the Australian context.

Developing policy responses to address this issue raises important questions regarding the role of the state and the appropriate level of intervention in religious practices. International human rights law provides both a useful conceptual framework and body of recognised authoritative legal principles with which to analyse the competing interests and issues at play and to determine the obligations upon States to intervene and prevent the harm occasioned to LGBT people by conversion therapies and related practices. Increasingly, UN human rights experts are calling on States to take action to ban conversion therapy.

This chapter also examines legislative models emerging in comparative jurisdictions. Countries have developed legal responses to conversion practices with varying degrees of success. While the first efforts to tackle conversion therapy through legislative action appeared in the United States around six years ago, legislative reform has now spread to provinces in Canada and parts of Europe and the United Kingdom.

On 1 March 2018, the European Parliament adopted its annual report on human rights in the European Union with an amendment welcoming initiatives prohibiting LGBT conversion therapies.⁸⁰ A 2015 joint statement issued by 12 United Nations agencies, including the World Health Organization (WHO), called on States to protect LGBT people from violence, torture and ill-treatment, including by ending 'unethical and harmful so-called "therapies" to change sexual orientation'.⁸¹

There are lessons to be learned from these international responses and experiences. Australia should adopt a legislative model that is consistent and complementary to the existing legal and regulatory landscape as well as appropriately tailored to the nature of these practices in Australia.

6.2 AUSTRALIA'S OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

International human rights law ascribes rights to all human beings and the responsibility to States to ensure that the human rights of its citizens are both protected in law and respected and fulfilled in practice. Australia has ratified a number of core international instruments, which means governments within Australia have obligations and duties to protect, respect and ensure the fulfilment of the rights enshrined in those treaties.⁸²

International human rights law establishes legal obligations to ensure that everyone, without distinction, can enjoy their human rights. The State has an obligation to prevent, investigate, prosecute and punish human rights abuses. Since the 1990s (after the *Velasquez* case),⁸³ it has been accepted that the act of a private person can lead to the international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or respond to it.⁸⁴ This means that if conversion practices are found to breach international human rights law, governments in Australia have a responsibility to act to address the harm they cause.

6.3 CONVERSION PRACTICES VIOLATE INTERNATIONAL HUMAN RIGHTS LAW

International human rights law obliges States to take positive steps to address conversion practices that induce physical and psychological harm. Conversion therapy and related practices violate a number of human rights. Our reasoning and the relevant sources of law are stepped out further below.⁸⁵

Recently, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (UN SOGI Expert) issued a report that highlighted the experiences of LGBT people around the world, and their experience of being subjected to torture and ill-treatment in health related and other settings. That report found:

*'Conversion therapies' are treatments supposedly able to change an individual's sexual orientation. Such practices are harmful to patients and may cause severe pain and suffering and lead to depression, anxiety and suicidal ideation.*⁸⁶

The UN SOGI Expert report noted that conversion therapy is not only practised by some health-care professionals but clergy members or spiritual advisors in the context of religious practice.⁸⁷ The report recommended that States ban conversion therapy, although there was no specific guidance given about the precise terms or scope of such a ban.

We focus on the key rights relevant to the nature of conversion practices in Australia below. Depending on the nature of conversion the therapy or practice, these activities engage and potentially violate the right to non-discrimination, the right to privacy, the right to health and the right to freedom from non-consensual medical treatment, and, in the case of minors, the rights of the child. Some extreme practices, such as Jamie's experiences, arguably amount to acts of torture, or inhuman or degrading treatment.

6.3.2 CONVERSION PRACTICES BREACH THE RIGHT TO HEALTH FOR LGBT PEOPLE

Conversion practices harm the health and wellbeing of LGBT people and represent a violation of the right to health enshrined in the International Covenant on Economic Social and Cultural Rights (ICESCR).⁸⁸ As noted by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, attempts to 'cure' LGBT people are not only inappropriate, but can cause significant psychological distress and increase stigmatisation of those vulnerable groups.⁸⁹

The right to health is the right to the enjoyment of the highest attainable standard of physical and mental health. It includes the right to control one's health and body, including sexual and reproductive freedom and the right to be free from interference including torture, non-consensual medical treatment and experimentation.

The Committee on Economic Social and Cultural Rights, in its General Comment No. 14, states that the right to the highest attainable standard of health requires that State Parties guarantee the acceptability and quality of the health care. Specifically, it states: 'All health facilities, goods and services must be respectful of medical ethics and culturally appropriate' and 'health facilities, goods and services must also be scientifically and medically appropriate and of good quality'.⁹⁰ This requirement would extend to health services that are inclusive and sensitive to LGBT people. The Committee has also issued a General Comment stating 'regulations requiring that LGBTI persons be treated as mental or psychiatric patients, or requiring that they be "cured" by so-called "treatment", are a clear violation of their right to sexual and reproductive health'.⁹¹

It is well understood that LGBT people generally suffer higher rates of depression, self-harm and suicide than the mainstream population, with young people at especially high risk. Conversion practices have the potential to produce or increase feelings of self-loathing within people struggling with their sexual orientation and gender identity. Given the growing body of medical and scientific evidence of the harm caused by conversion practices, and the clear benefit of supporting and accepting people to come to terms with their sexuality or gender identity, conversion practices are inconsistent with the right to the highest attainable standard of health.

6.3.3 CONVERSION PRACTICES CAN CONSTITUTE TORTURE OR CRUEL, INHUMAN AND DEGRADING TREATMENT

Conversion activities can constitute torture or cruel, inhuman and degrading treatment, particularly when they are administered through force or to children.

UN commentary and jurisprudence on this topic relates largely to extreme methods such as detention and forced treatments. For example, in 2001 the UN Special Rapporteur on Torture, Sir Nigel Rodley, raised concerns about conversion practices:

In a number of countries, members of sexual minorities are said to have been involuntarily confined to state medical institutions, where they were allegedly subjected to forced treatment on grounds of their sexual orientation or gender identity, including electric shock therapy and other 'aversion therapy', reportedly causing psychological and physical harm.⁹²

Torture refers to any act by which severe pain and suffering, whether physical or mental, is intentionally inflicted on a person for punishment to coerce or 'for any reason based on discrimination of any kind'.⁹³ As discussed above, the rationale for conversion practices is based on discrimination. However, the identity of the perpetrator is also an important feature of the definition of torture. While torture under the Convention Against Torture (CAT) generally refers to acts by public officials, arguably private medical practitioners and religious leaders could also fall within the scope of torture, particularly if the ICCPR is relied upon rather than the CAT.⁹⁴ Within the jurisprudence of the ICCPR, the terms 'torture' and 'cruel, inhuman and degrading treatment' are not defined and there is no differentiation between levels of prohibited conduct. The expert committee responsible for monitoring the implementation of the ICCPR and providing guidance on its application has held that the distinction between torture and cruel, inhuman and degrading treatment 'depends on the nature, purpose and severity of the treatment applied'.⁹⁵ An understanding of when the threshold is met having regard to these factors is gleaned from reviewing the outcomes in cases and commentary from United Nations human rights bodies.

Conversion practices that inflict physical pain such as electric shocks, beating or sexual abuse, or undertaken using force or without consent have passed the threshold of severity required for torture and cruel, inhuman and degrading treatment, according to reports from United Nations experts.⁹⁶ For example, the Committee Against Torture expressed concern in its periodic review of Ecuador at allegations of involuntary placement and ill-treatment of LGBT persons in private centres where 'sexual reorientation or dehomosexualization therapies' are practiced.⁹⁷ In its review of China, the Committee expressed similar concerns regarding reports that private and publicly-run clinics offer 'gay conversion therapy' and that such practices include the administration of electroshocks and, sometimes, involuntary confinement in psychiatric and other facilities, which could result in physical and psychological harm. The Committee called for the investigation and punishment of perpetrators responsible for forced, involuntary or otherwise coercive or abusive practices, describing the therapies as a violation of the physical integrity and autonomy of LGBT people.⁹⁸

Reports of the Special Rapporteur on Torture and the Office of the High Commissioner for Human Rights have also raised concerns about conversion practices. The Special Rapporteur on Torture reported in 2013 and 2016 on the concerning practices of 'normalisation therapies' including involuntary confinement to medical institutions and forced treatment, including electroshock therapy and other 'aversion therapy', stating that these therapies can amount to torture and ill-treatment and should be banned.

The experiences of Jamie, who was forcibly subjected to extreme forms of conversion therapy and detained in a psychiatric hospital, fall within this broad category of conduct and would likely meet the definition of torture and ill-treatment, particularly given her young age.

Techniques that do not inflict physical pain can also fall within the scope of torture and cruel, inhuman and degrading treatment. In General Comment No. 14 referred to above, the Committee clearly states that torture can include mental pain.⁹⁹ This has also been affirmed in a number of cases.¹⁰⁰ Cases where mental suffering has been found to constitute torture or ill treatment include the anguish experienced by a mother when she did not know the whereabouts of her disappeared daughter, the distress of a family who were not told of the date or time of the execution of their son or place of burial and the failure to properly investigate a death by the authorities.¹⁰¹ As seen above, the anguish experienced by those who undertake some form of conversion therapy is significant, but it is difficult to see how an adult who exercises their free will to seek out a practice that is harmful to them could be said to be subjected to torture or ill-treatment. This analysis changes when conversion practices are applied through force, coercion or under duress.

The situation of a child can be distinguished again. A child cannot consent to conversion therapy. Without consent and with the additional vulnerability that comes with youth, it is more likely that psychoanalysis, counselling and prayer-type therapies inflicted upon children could amount to ill-treatment. Ultimately, whether techniques that rely on psychoanalysis or prayer fall within the scope of torture or cruel, inhuman and degrading treatment when applied to children will depend on the intensity of the pain or suffering involved. This involves a case-by-case analysis.

Torture generally requires an intention to cause pain and suffering or at least a reckless indifference to such suffering, which would depend on the facts of each case. However, the widespread body of medical opinion on the harm caused by conversion therapy would provide a basis to hold accountable those who subject young people, and adults through coercion or force, to such practices.

6.3.4 THE RIGHT TO NON-DISCRIMINATION AND THE RIGHT TO PRIVACY

The right to equality and freedom from discrimination is protected by various provisions of the International Covenant on Civil and Political Rights (ICCPR).¹⁰² A person's sexual orientation and gender identity is a status, like race, sex, colour or religion. It is well established that international human rights law prohibits discrimination based on sexual orientation or gender identity.¹⁰³ Individuals are subjected to conversion practices specifically because of their sexual orientation and gender identity and, in this way, these practices are inherently discriminatory.

Equally, individuals are protected from discrimination based on their religious belief. The right to freedom of thought, conscience and religion is discussed further below.

The right to privacy is often engaged in cases involving discrimination on the basis of sexual orientation or gender identity. For example, in the recent Indian decision regarding criminalisation of homosexuality it was noted that 'privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation'.¹⁰⁴ Conversion practices have potential to diminish or impair the ability of an individual to pursue and realise their identity as a gay, lesbian, or trans person, and to form satisfying intimate relationships. However, Article 17 of the ICCPR specifically protects against *unlawful or arbitrary* interference with privacy. If conversion practices are engaged in lawfully and without force, coercion or duress they will be unlikely to violate this right.

6.3.5 CONVERSION PRACTICES AND THE BEST INTERESTS OF CHILDREN

International human rights law requires States to take positive steps to protect children from the harm caused by conversion practices.

The Committee on the Rights of the Child has referred to 'the rights of all adolescents to freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy,' and condemned the 'imposition of so-called treatments' to attempt to change sexual orientation.¹⁰⁵

The principle of the best interests of the child is a foundational principle of international human rights law and should underpin all policy making in relation to children. Article 3(1) of the Convention on the Rights of the Child (CRC) enshrines that the best interests of the child shall be a primary consideration 'in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies'.¹⁰⁶

Conversion practices are contrary to the best interests of the child for a number of reasons. Most importantly, conversion practices jeopardise the health of LGBT children. The CRC Committee has held that 'the child's right to health and his or her health condition are central in assessing the child's best interests'. LGBT children are already vulnerable and at much greater risk of depression, self-harm and suicide. This vulnerability means that conversion practices have the potential to exacerbate these mental health issues and produce or increase feelings of self-loathing among children and young people struggling with their sexual orientation and gender identity. Given the growing body of medical and scientific evidence of the harm caused by conversion practices, and the demonstrated benefit of supporting and accepting young people to come to terms with their sexuality or gender identity, the risk to health presented by conversion practices is overwhelmingly apparent.

In its General Comment No. 20 on the implementation of the rights of the child during adolescence, CRC referred to 'the rights of all adolescents to freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy' and condemned 'the imposition of so-called "treatments" to try to change sexual orientation'.

In addition, as argued by Nugraha, conversion practices could be said to be contrary to the right of the child to have their identity respected under Article 8 of the CRC. If a child identifies as same-sex attracted or gender questioning that identity should be respected.¹⁰⁷

The damage caused by conversion practices and the particular vulnerability of children requires States to prohibit conversion practices against minors. The balancing of the rights of children with the right to freedom of thought, conscience and religion is discussed below.

6.3.6 FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

One argument against restricting conversion activity, particularly within religious communities, is that to regulate or restrict the religious teachings and pastoral care provided to same-sex attracted or gender questioning members of a religious community is a restriction on the right to freely practise a particular religion.

Article 18 of the ICCPR states:

- 1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
- 2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
- 3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.
- 4) The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.¹⁰⁸

Any proposed intervention to protect children and adults from the harm caused by conversion therapy must consider the engagement of the right to freedom of thought, conscience and religion. This includes the freedom of religion exercised by faith communities as a whole, the adults and children subjected to conversion practices and the parents of children who are same-sex attracted or gender questioning.

6.4 BALANCING COMPETING RIGHTS

It is well accepted that competing rights and interests must be balanced to achieve legitimate governmental and public interest objectives. This is a fundamental notion embedded within the international and domestic instruments that protect human rights.

A limitation on rights will only be permissible where it:

- 1) has a **legitimate aim** (the limitation must reflect a concern that is pressing and substantial in a free and democratic society and must have a specific purpose, rather than being based on a general concern);
- 2) is **reasonable** (the limitation must not be arbitrary, irrational or ineffective); and
- 3) is **proportionate** (there must be a reasonable relationship of proportionality between the means employed and the aim sought to be realised).

The text of the ICCPR explicitly references where Article 18 may be limited. While the freedom to hold religious beliefs is absolute,¹⁰⁹ manifesting a religious belief in worship, observance, practice or teaching can only be limited where those limitations are 'prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.'¹¹⁰ First, any law proposing to prohibit conversion activity would be (by definition) prescribed by law and would be directed at reducing the risk to health and other human rights (including non-discrimination and freedom from torture and ill-treatment) posed by conversion therapy, as discussed above.

In considering such a prohibition, it is necessary to consider the extent of the limitation on religious freedom posed and whether conduct that is sought to be regulated should be a protected form of manifestation of religious belief.

International law provides further guidance that, in order to be protected, an act must be 'intimately linked' to the religious belief and there must exist 'a sufficiently close and direct nexus between the act and the underlying belief'.¹¹¹ Places of worship (e.g. temples, mosques and churches), goods connected to the observance of a particular religion (e.g. candles, incense, ritual ornaments, a chuppah) and religious ceremonies are examples of expressions of religious belief protected under this right.

6.4.1 THE RELATIONSHIPS BETWEEN RELIGIOUS BELIEF AND CONVERSION PRACTICES

There is disagreement about how central teachings on sexuality and gender are to religious belief. Interview subjects reported that the messages and teachings of faith communities about gender and sexuality inculcated feelings of shame and isolation, with profoundly damaging psychological impact over time. These messages and teachings communicated through religious leaders and scripture are intimately connected with the practice of most, if not all, religions. Views of the sinfulness or pathological nature of particular expressions of sexuality and gender, however, are not consistent within any religious tradition.

The degree to which conversion practices are 'intimately linked' with religious belief also varies. The pastoral care offered by ministers and other authority figures is closely connected with religious belief, as this type of work caters to people's spiritual or religious needs. Prayer, spiritual deliverance and spiritual healing individually or in group contexts are also driven by religious beliefs, and are often undertaken in church facilities and premises as part of the organised activities of the particular religious community. The engagement of a counsellor or psychologist by an individual or their parents separate to the organised church, mosque, or temple activities is further from religious belief, as the individual has entered a medicalised setting. Further away again is the experience of detention in a psychiatric hospital, a facility designed to deliver mental health services to the community at large, albeit with involvement from a minister or someone who, in Jamie's recollection, appeared to be a member of clergy.

As the activities move further away from the expression of religious belief, and move into medical spheres, there is a much stronger argument for regulation. As canvassed extensively above, conversion practices present a risk to the health and wellbeing of LGBT people and represent a violation of their right to health, freedom from discrimination and, in some cases, their right to be free from torture and cruel, inhuman and degrading treatment.

Laws that infringe on religious freedom are commonly justified on health grounds. For example, Australian and Victorian laws already explicitly prohibit certain religious practices which cause harm to a person's physical and mental health (for example, female genital mutilation, child marriage, withholding of medical care and forced marriage). These limitations are justified on the basis that the serious harms caused by these practices require government to intervene and prohibit them even though such laws limit the expression of religious beliefs by some.

6.4.2 THE IMPORTANCE OF AUTONOMY

However, this must be counterbalanced with respect for freedom of religion and the personal autonomy of adults who wish to seek out conversion practices. Governments have a somewhat inconsistent approach to regulating access to goods and services which carry known health risks, but to take a similar approach to the regulation of tobacco, alcohol and products high in processed sugar would suggest that adults should be freely able to choose to engage in conversion practices.

6.4.3 STRIKING AN APPROPRIATE BALANCE

An appropriate balance, in our view, would be for governments to regulate conversion practices delivered by health practitioners (or those purporting to be health practitioners by making health claims) or secular professional workers, where there is a legitimate reason for the state to exercise control over the accreditation and training of such practitioners. Law and regulation in health settings in Australia is commonplace and justifiable. There is an expectation within the community that governments will regulate and support the provision of health care, as well as education, child care and other essential public services.

Otherwise, individuals should remain free to exercise their own agency and autonomy and to seek out and engage in informal conversion practices within religious settings, despite the risk of harm.

There is no balancing required in cases where conversion practices constitute torture. The right to freedom from torture is absolute and cannot be limited. However, the types of coercive, forced and non-consensual activities that can be characterised as torture are already criminal offences in Australia.

6.4.4 PARENTAL RIGHTS AND THE RIGHTS OF CHILDREN

The plight of children demands a greater level of government intervention. While Article 18 of the ICCPR obliges States to respect the ability of parents to ensure the religious and moral education of their children, such an obligation needs to be balanced with the need to protect LGBT children from harm to their health and wellbeing. Minors cannot consent to harmful practices, even if their parents wish to subject them to conversion therapy or related practices. This is in line with the CRC, as discussed above. There are parallels with the prohibition of female genital mutilation, and the situation of children of Jehovah's witnesses who have been administered blood transfusions in emergency medical situations, despite the wishes of their parents.

Proposed legislative and other measures will be discussed in detail below following an analysis of international models and the domestic regulatory landscape.

6.5 LEARNINGS FROM FOREIGN JURISDICTIONS

There are many countries around the world where LGBT people are subjected to extreme forms of conversion therapy. From 'corrective rape' against lesbians in Nigeria, to nausea-inducing injections given while watching same-sex pornography in government-run hospitals in China, these practices take place within countries where same-sex sexual conduct is outlawed and LGBTI people face violence and abuse.

Growing numbers of the countries around the world are taking action to tackle the harm caused by conversion practices. Legislative activity has been most intense in the United States and Canada, with numerous American states and city councils and two Canadian provinces restricting conversion practices to varying degrees.¹¹² More recently, the United Kingdom and Ireland have introduced legislation to parliament or announced intentions to legislate against conversion therapy, following the successful passage of legislation in Malta in 2016.

It is critical that the legislative model adopted in Australia is appropriate and adapted to the Australian legal and social context. For the most part these foreign laws have been limited in their scope. They largely apply to minors rather than adults. Moreover, the laws and regulations usually only target registered health practitioners, rather than unregistered mental health practitioners, social workers and other workers likely to engage in conversion practices in the Australian context. However, in recent years, jurisdictions such as Malta and Ireland have taken steps that are much broader in scope with greater applicability to the Australian context.

6.5.1 UNITED STATES

In the United States, numerous state legislatures and city councils have legislated to restrict or prohibit conversion therapy, beginning with California in 2012. United States legislation banning conversion practices is generally restricted to banning conversion practices (paid and unpaid) provided to children by health care professionals, as variously defined.¹¹³

Legislation tends to narrowly target conversion practices relating to children and provided by health care professionals. Legislation in the various states appears to be generally modelled on the first legislation to pass California. More recently, Assembly Bill 2943 was introduced into the Californian legislature that would see the ban extended to sexual orientation change efforts for anyone, not just minors. It would also prohibit the advertising or sale of sexual orientation change efforts as a service, making advertising such services illegal under laws against fraudulent business practices.¹¹⁴ The bill seems to have been deferred indefinitely following objections from religious organisations.¹¹⁵

The second Californian bill is similar to a federal bill introduced in the United States Senate on 25 April 2017 that specifically targets 'conversion therapy' as a fraudulent business practice. The definition only applies to a person who provides a practice or treatment for monetary compensation. If enacted, the ban would apply to any person, whether or not a health professional, providing sexual orientation conversion services to anyone, including adults. While the Federal Trade Commission (FTC) already has the authority to prohibit this form of consumer fraud, the *Therapeutic Fraud Prevention Act*, if passed, would expressly direct the FTC act upon such conduct. At the time of writing, the bill had not progressed through the United States legislature since its introduction in 2017.

On 1 May 2017 the United States Supreme Court denied a petition to appeal the decision of *Welch v Brown* which affirmed the legality of Californian Law SB 1172 (SB 1172). The Circuit Court had upheld the decision of a District Judge that found SB 1172 did not violate the mental health provider's first amendment religious freedom rights. The Court found that the plaintiff counsellors were not subject to enforcement of the ban outside the confines of the counsellor-client relationship and that it did not apply to other areas of life such as religious practices.

The United States has also recognised the application of consumer rights to ex-gay conversion practices. In the New Jersey case of *Ferguson v JONAH*,¹¹⁶ the five plaintiffs filed a suit claiming that a an ex-gay conversion provider, Jews Offering New Alternatives for Healing (JONAH) violated the *New Jersey Consumer Fraud Act* by misrepresenting homosexuality as a mental illness or disorder and that JONAH's therapy was effective in changing clients' sexual orientation. JONAH had charged each of the plaintiffs for the treatment, which had involved forms of group therapy and individual counselling. Across two relevant stages in the proceeding, a jury held that JONAH's action amounted to consumer fraud, as it was an unconscionable consumer practice, fraud or misrepresentation,¹¹⁷ after the judge had stated that 'the generally accepted scientific theory is that homosexuality is not a mental disorder and is not abnormal'.¹¹⁸

Notably, in addition to finding that the assertions that sexual orientation could be altered were false, the jury found that ex-gay therapy qualified as 'unconscionable' business practice. This decision confirms that, at least under New Jersey law, conduct can be classified as consumer fraud if it is contrary to accepted scientific theory.

There are similar protections for consumers in Australia under the Australian Consumer Law but legal action can only be pursued in relation to representations made in 'trade or commerce'. As discussed further in Chapter Seven, while paid services would be captured, there could be difficulties bringing a claim for unpaid conversion services.¹¹⁹

6.5.2 CANADA

Canada has not legislated against conversion therapies at a federal level. However, three of Canada's ten provinces — Manitoba, Ontario and Nova Scotia together with the City of Vancouver — have introduced laws to restrict these practices, although the Nova Scotia legislation is yet to pass.¹²⁰

In May 2015, Manitoba announced that it would work in partnership with the provinces' regional health authorities and health regulatory colleges to ensure that conversion therapy is not practised in Manitoba's health-care system.¹²¹ In the announcement, the Health Minister also noted that the Manitoba Human Rights Code prohibited discrimination based on sexual orientation or gender identity.¹²² In June 2015, Ontario passed the *Affirming Sexual Orientation and Gender Identity Act*, which made it unlawful for a person, in the course of providing health care services, to provide any treatment that seeks to change the sexual orientation or gender identity of a person under 18 years of age.¹²³ The Ontario law also imposes a de facto restriction on the provision of sexual conversion services generally by excluding them from health insurance coverage. The City of Vancouver became the first Canadian city to ban conversion therapy, with the city council voting unanimously on 6 June 2017 for a prohibition by law that will prevent businesses from offering conversion therapy or pseudoscientific attempts to change the sexual orientation of a person from homosexual or bisexual to heterosexual.¹²⁴ A number of bills are being proposed in Nova Scotia but the Government is yet to proceed with its preferred legislation.¹²⁵

6.5.3 UNITED KINGDOM

The United Kingdom has recently announced its intention to introduce legislative and non-legislative options to prohibit promoting, offering or conducting conversion therapy. The announcement was made during Pride Week, where the UK Government committed to 'fully consider all legislative and non-legislative options to prohibit promoting, offering or conducting conversion therapy'. This commitment flags an intent to protect people from harm in medical, commercial or faith-based settings, without restricting people from seeking legitimate medical support or spiritual support from their faith leader in the exploration of their sexual orientation or gender identity.¹²⁶

In January 2015, the National Health Service of England (NHS) finalised a memorandum of understanding with 14 other organisations,¹²⁷ setting out the position that the NHS does not endorse or support conversion therapy.¹²⁸ This means those employed by the NHS are not permitted to provide conversion treatment or refer patients to conversion therapy providers.

6.5.4 CHINA

Like most jurisdictions, China has not directly regulated to restrict the provision of ex-gay conversion therapies. However, some progress has been made to protect the rights of LGBT individuals in this context. China decriminalised same-sex sexual conduct in 1997 and removed homosexuality from the list of recognised mental illnesses in 2001.¹²⁹

In 2014, the Beijing Haidian District Court found in favour of a young gay man who had undergone conversion therapy in a private clinic. The Court found that the clinic had engaged in false advertising and ordered the clinic to pay compensation for the treatment cost the man incurred and awarded him damages for physical and psychological suffering.¹³⁰ In July 2017, a court awarded a man from Henan province damages after he had been admitted to a psychiatric hospital by his wife and relatives and forced to take medications and receive injections in an effort to change his sexual orientation.¹³¹ Although the court did not speak directly to the validity or invalidity of ex-gay conversion practices, it did find that forcing the plaintiff into the hospital and into treatment when he did not pose a danger to himself or others was an infringement of his personal liberty.¹³²

6.5.5 BRAZIL

In 1999, the Brazilian Federal Council of Psychology issued a ban on offering ex-gay conversion treatments that claimed to be able to 'cure' LGBT individuals.¹³³ In September 2017, the ban was overruled by a federal judge in the capital Brasilia. The legal action was brought by an evangelical Christian psychologist whose licence was revoked in 2016 for offering ex-gay conversion therapy and referring to homosexuality as 'disease'.¹³⁴

6.5.6 SWITZERLAND

There is no explicit ban on conversion therapy in Switzerland. Rosemarie Quadranti, from the Swiss bourgeois-democratic party, submitted a recommendation to the National Council on 10 March 2016 to address the issue of therapy practices on minors that are intended to convert homosexuals to heterosexuals and to ban its use in Switzerland.¹³⁵

The Swiss Federal Council responded and acknowledged that these pseudo-therapies are not only ineffective, but are also a source of great suffering in children and adolescents who are subjected to them. However, the Swiss Federal Council did not see the possibility or need to take additional measures to specifically protect minors from anti-homosexual therapies. The Council's view was that any professional undertaking in such therapies was already liable to be sanctioned by the cantonal authorities. Therefore, whether such therapies also constitute a criminal offence is to be determined by the criminal courts on a case by case basis.¹³⁶

6.5.7 ISRAEL

In February 2016, the Knesset rejected a bill introduced by former Health Minister Yael German which would have banned conversion therapy for minors in Israel. The Bill was rejected by 45 votes to 37 votes.¹³⁷

6.5.8 TAIWAN

On 30 December 2016, the Ministry of Health and Welfare announced that it would draft an amendment to the *Physicians Act* to prohibit conversion therapy.¹³⁸ The Taiwanese Society of Psychiatry and human rights groups recommended that conversion therapy be banned.¹³⁹ The regulations were expected to be passed by Parliament in late January 2017 and take effect in March 2017. Instead of pushing ahead legal amendments or new regulations, the Ministry of Health and Welfare on 22 February 2018 issued a letter to all local health authorities which effectively banned conversion therapy. In the letter, the Ministry states that sexual orientation conversion is not regarded as a legitimate healthcare practice and that any individual performing the so-called therapy is liable to prosecution under the *Criminal Code* or the *Protection of Children and Youths Welfare and Rights Act*.¹⁴⁰

6.5.9 SPAIN

There are reports that the autonomous community of Madrid approved a conversion therapy ban in July 2016 to medical, psychiatric, psychological and religious groups. Valencia banned the use of conversion therapies in April 2017. Andalusia followed with a ban in December 2017. The enforcement date was 4 February 2018.¹⁴¹

6.5.10 CHILE

In February 2016, the Chilean Ministry of Health made a statement to the Movement for Homosexual Integration and Liberation expressing opposition to conversion therapy. There does not appear to have been any attempted legislative initiative to outlaw conversion therapy since this statement.¹⁴²

6.5.11 MALTA

In February 2016, the Maltese parliament passed the *Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act*. The Act recognises that no form of sexual orientation or gender expression is an illness or disease.¹⁴³ The Act prohibits a person from performing 'conversion practices' on a 'vulnerable person', being a person under 18, who suffers a mental disorder, or is legally incompetent, or where the practice is forced or involuntary.¹⁴⁴ Conversion practices are defined as 'any treatment, practice or sustained effort that aims to change, repress and/or eliminate a person's sexual orientation, gender identity and/or gender expression'.¹⁴⁵ The Act makes it unlawful for a 'professional' to offer or perform conversion practices on any person, whether or not compensation is received in exchange.¹⁴⁶

'Professional' refers to a person who is in possession of an official qualification or a warrant to practise as a counsellor, educator, family therapist, medical practitioner, nurse, pathologist, psychiatrist, psychologist, psychotherapist, social worker or youth worker.

The Act also prohibits conversion practices from being advertised.¹⁴⁷ Offenders are subject to fines and potential imprisonment. These penalties increase if the practice is carried out on a vulnerable person, including a child or someone suffering a mental illness.

6.5.12 IRELAND

In Ireland, the most far-reaching legislation proposed to date has been introduced into the Irish parliament. The bill proposes to criminalise conversion therapy, referring a person for conversion therapy and removing any person from Ireland for the purposes of conversion therapy.

The proposed legislation is very broad in scope and applies to *any person* performing or offering to perform conversion therapy on any person. The penalties include fines of up to 10,000 euros or imprisonment for up to 12 months. A layperson performing conversion therapy is subject to a less severe penalty (a fine of up to 5,000 euros or imprisonment of up to six months) than a "professional" (defined similarly to the Maltese legislation). Conversion therapy is defined broadly in the same manner as the Maltese law. Both the Maltese law and the Irish bill exclude from this definition 'any practice or treatment which provides assistance to a person undergoing gender transition; or provides acceptance, support and understanding of a person, or a facilitation of a person's coping, social support and identity exploration and development, including sexual orientation-neutral interventions'.


The bill is yet to pass the Irish parliament.

6.6 CONCLUSION

The United States models are narrow in application and are of limited utility in the Australian context. The more recent U.S. federal and Californian legislation targeting conversion practices as a form of fraudulent business practice fail to capture and respond to the deep psychological harm posed by conversion practices.

In our view, the Maltese reforms offer the most promise as a potential legislative model for Australia, targeting the breadth of practices that are prevalent in Australia but differentiating between the level of intervention appropriate for adults and children by holding only those professional qualifications (such as health practitioners) to account for conversion practices performed on legally competent adults.

Both Malta and Ireland propose to criminalise a broad range of practices against adults and children. As will be discussed below in Chapter Eight, in our view it is more appropriate to impose civil rather than criminal penalties.



'Counsellors shall show respect for their client's personal worldview and offer help without bias across the boundaries of gender, race, religion, disability, ethnicity, or socio-economic status...'

— CODE OF ETHICS, CHRISTIAN COUNSELLORS ASSOCIATION OF AUSTRALIA

7 LEGISLATIVE & REGULATORY LANDSCAPE IN AUSTRALIA

This chapter examines the existing law and regulatory landscape and identifies gaps that allow conversion practices to continue unchecked.

7.1 OVERVIEW OF EXISTING LEGAL AND REGULATORY FRAMEWORKS

Conversion practices are not explicitly prohibited under legislation in Australia. However, existing laws and regulations governing registered medical professionals and healthcare services provide important protections against conversion practices and the harm they cause. Importantly, medical associations have resoundingly condemned conversion practices as harmful, discriminatory, not evidence-based and in breach of professional codes.

However, many of the conversion practices conducted by religious or unregistered counsellors, or conducted within faith communities, can fall between the gaps of existing protective legal and regulatory frameworks. In addition, existing laws are primarily concerned with de-registering ‘dodgy’ practitioners, rather than prevention, support of LGBT people or addressing broader discriminatory attitudes that underpin conversion practices.

7.1.1 NATIONAL HEALTH PRACTITIONER REGULATION LAW

The National Health Practitioner Regulation Law (National Law) creates an accreditation and regulation system of registered health practitioners from 14 professions (including general practitioners, psychologists and psychiatrists) and establishes a national board for each profession.¹⁴⁸ It also introduces a mechanism for public complaints about the conduct of medical practitioners. In Victoria, the Australian Health Practitioner Regulation Authority (AHPRA) primarily deals with these complaints.¹⁴⁹ Each state and territory has implemented the National Law for regulation of registered medical practitioners.¹⁵⁰

While the National Law does not expressly prohibit conversion practices, such practices are effectively prohibited by the broader obligations under it to provide competent, professional, evidence-based and non-discriminatory health services. As discussed below, we suggest that the National Law or guidance materials could be amended to explicitly reference conversion practices to avoid any ambiguity about their status.

The complaints mechanism established by the National Law includes a disciplinary regime. If a relevant regulatory authority finds that a registered health practitioner has engaged in unprofessional conduct, is incompetent or is otherwise not a fit and proper person to continue providing a regulated health service, the practitioner may be deregistered, prohibited from practice or subject to further disciplinary actions.¹⁵¹ To the extent that these laws apply to conversion practices, there are options for survivors to make complaints and for enforcement action to be taken against registered health practitioners.

The National Law regulates health practitioners and provides important avenues that prohibit any individual health practitioner from continuing to engage in harmful conversion practices.

However, the National Law was not intended to (and does not) regulate the conduct of unregistered practitioners or others carrying out conversion practices. There is also no individual compensation or redress available for survivors through the complaints process under the National Law.

7.1.2 PROFESSIONAL CODES AND GUIDING POSITION STATEMENTS

OPERATION AND SCOPE OF PROFESSIONAL CODES

In addition to the National Law, there are a number of professional codes which regulate health professionals, as well as other professionals who may refer people to conversion practices, such as social workers and teachers.¹⁵²

Again, while none of these codes explicitly prohibit conversion practices, all professional codes include obligations aimed toward providing evidence based, non-discriminatory services that do not cause harm, which should effectively prohibit conversion practices. While there are differences in the regulation of different types of professionals, some overarching themes across the various regulations, in a health context, include:

- **Mandatory notification requirements:** requirements for registered health practitioners to notify AHPRA when they form a reasonable belief that another practitioner may be posing a serious risk to the public, including practising the profession in a way that is a significant departure from accepted professional standards.¹⁵³
- **Misleading or deceptive advertising:** advertising of health services cannot be misleading or deceptive, create unreasonable expectations of beneficial treatment or encourage the indiscriminate or unnecessary use of health services (for example, this would apply to the use of testimonials creating a misleading and unreasonable expectation that conversion practices are effective or advertisers taking advantage of a vulnerable cohort of health consumers in their search for a cure or remedy).¹⁵⁴
- **Doctors' code:** doctors have obligations to obtain informed consent, place the wellbeing of minors first and not advertise medical services guaranteeing false cures (thereby exploiting patients' vulnerability and/or raising unrealistic expectations).¹⁵⁵

Professional codes aimed at regulating health professionals contain a range of enforcement mechanisms including financial penalties, disciplinary action for unprofessional conduct and suspension of registration. However, as above, these schemes are aimed at regulating health professionals, rather than religious leaders or other unregistered practitioners, or providing redress for survivors.

STATEMENTS OPPOSING CONVERSION PRACTICES

Professional medical associations in Australia have publicly renounced, opposed and/or condemned conversion practices. For example:

- the Australian Medical Association 'opposes the use of "reparative" or "conversion" therapy that is based upon the assumption that homosexuality is a mental disorder and that the patient should change his or her sexual orientation';¹⁵⁶
- the Australian Psychological Society (APS) 'strongly opposes any form of mental health practice that treats homosexuality as a disorder, or seeks to change a person's sexual orientation';¹⁵⁷
- during the 2017 marriage equality postal survey, the Royal Australasian College of Physicians and the Royal Australian and New Zealand College of Psychiatrists (RANZCP) condemned comments made by the Australian Christian Lobby endorsing conversion practices as 'unethical, harmful and not supported by medical evidence'.¹⁵⁸ RANZCP confirms in its position statement that: 'The harm such therapies can cause to individuals, the contribution they make to the misrepresentation of homosexuality as a mental disorder, and the prejudice and discrimination that can flourish through the use of such therapies has led all major medical organisations to oppose the use of sexual orientation change efforts';¹⁵⁹ and
- the Psychotherapy and Counselling Federation of Australia has also confirmed that it 'does not condone or support therapeutic interventions, such as conversion and reparative therapies that proactively aim to change a person's sexual or gender identity'.¹⁶⁰

7.1.3 VICTORIAN HEALTH COMPLAINTS ACT

In 2016, Victoria introduced a law designed to fill the gaps in regulation left by the National Law. Other jurisdictions have introduced similar laws, commonly referred to as ‘negative licensing’.

The *Health Complaints Act 2016 (Vic) (Health Complaints Act)* targets unregistered health services, implementing a National Code of Conduct for health care workers (National Code). The National Code requires, among other things, that:

- health services be provided in a safe and ethical manner;¹⁶¹
- patients consent to their treatment;¹⁶²
- health service providers only recommend treatments that serve their client’s needs;¹⁶³
- health service providers do not make claims either directly or indirectly as to the efficacy of a treatment or service if those claims cannot be substantiated;¹⁶⁴
- health service providers act to minimise harm to patients;¹⁶⁵ and
- health service providers do not misinform or mislead patients.¹⁶⁶

The *Health Complaints Act* also establishes a comprehensive framework for public complaints against health service providers and creates the office of the Health Complaints Commissioner¹⁶⁷

The Health Complaints Act does not expressly refer to conversion practices, but it is clear that it was drafted with such practices in mind. For example, the Act’s explanatory memorandum and second reading speech refer directly to ‘gay conversion therapy’ as a practice targeted by the Act.¹⁶⁸ Furthermore, the Act was drafted to regulate practices that fall with the definition of a ‘general health service’, which is given a broad definition.¹⁶⁹

The definition of a ‘health service’ under the Health Complaints Act encompasses conversion and other related practices, such as reparative therapy, that are intended or claimed (expressly or otherwise) to:¹⁷⁰

- improve a patient’s mental or psychological health;
- prevent or treat an illness; or
- form part of therapeutic counselling or psychotherapeutic services.

Counselling and psychological therapy clearly fall within this definition, as do any practices which claim to ‘heal’ or ‘cure’ a person’s body or mind. However, there may be elements of pastoral care, or spiritual or religious interventions associated with conversion practices, such as prayer, exorcisms and fasting, which are not encompassed by this definition. Analysis of whether practices fall within the definition of a health service will require a close examination of the communications around the delivery of the practices in each individual case.

The Health Complaints Commissioner is given strong powers under the Act to investigate and respond to complaints, as well as to assist parties to resolve issues between them.¹⁷¹ The Health Complaints Commissioner is currently conducting an inquiry into conversion practices in Victoria under its powers to investigate and act on more systemic issues without requiring an individual complaint.¹⁷² The Commissioner can also make recommendations to health service providers about their conduct, publicly name providers that fail to meet the Commissioner’s recommendations,¹⁷³ and prohibit providers from providing any or all services temporarily or permanently.¹⁷⁴

The *Health Complaints Act* does not apply to the experiences of the study participants, as only health services provided after February 2016 are covered. In addition, it is understood that survivors of conversion practices will often take significant time (sometimes many years) to recover from their experiences to a point where they feel able to pursue a complaint.

7.1.4 CHILD ABUSE AND MINORS

In response to the 2013 report from the Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations (Betrayal of Trust Inquiry), the Victorian Government introduced minimum standards for ensuring child-safe environments under the *Child Wellbeing and Safety Act 2005* (Vic). The child safe standards set out compulsory minimum standards for organisations that provide services to children. The standards aim to reduce or remove risks of child abuse and establish processes for responding to and reporting suspected child abuse.

In 2017, the Victorian Government also introduced an independent oversight scheme, known as the 'reportable conduct scheme', requiring organisations providing services to children to respond to allegations of child-related misconduct made against their employees and volunteers. Organisations have a responsibility to report any allegations of child-related misconduct to Victoria's Commission for Children and Young People. The scheme expressly applies to religious bodies, camp providers and religious schools.¹⁷⁵ Reportable conduct includes 'any behaviour that causes significant emotional or psychological harm' to a child under 18 years of age.¹⁷⁶ Many conversion practices would fall within this definition and must therefore be investigated and reported.

Allegations of child abuse must be reported by heads of organisations about any workers and volunteers even if they do not have direct contact with children as part of their work and whether or not the conduct occurred within or outside the course of their employment. Heads of organisations have a responsibility to investigate these allegations. Failure to report or investigate allegations of child abuse can lead to disciplinary action from professional registration bodies and the Working with Children Check Unit.

Any child under 18 years of age who is pressured, forced or coerced to undergo conversion practices already has access to Victoria's reportable conduct scheme. However, legislation that specifically makes such conduct unlawful and that is accompanied by penalties may serve as a more effective deterrent to prevent children being subjected to conversion practices in the future.

7.1.5 AUSTRALIAN CONSUMER LAW

Outside healthcare regulation, other laws and regulations may offer limited indirect avenues for restricting and responding to certain types of conversion practices. By way of example, the Australian Consumer Law (ACL) provides a strong set of rights for consumers. Section 18 of the ACL states that a 'person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive'. Misleading or deceptive statements could include actions that suggest that same-sex attraction or identifying with a gender other than the gender assigned at birth is a disorder or sickness, which can be 'cured' through conversion therapy.

Section 18 of the ACL only regulates conduct 'in trade or commerce'. While this has been interpreted broadly, and would cover advertising for paid services, the practice must have a business or professional character.¹⁷⁷ For example, this would apply to services provided for a fee, advertising where a business intends to make a profit, or if the relevant organisation carries the hallmark traits of a business (such as being organised systematically or the practices of the organisation having a degree of regularity).¹⁷⁸

Where conversion practices constitute misleading or deceptive conduct in trade or commerce, the ACL would provide consumers with recourse to a broad range of potential remedies which in general terms include compensatory damages, significant pecuniary penalties, public warning notices, disqualification from managing a corporation, injunctive relief and such other orders as the court considers appropriate. However, these remedies are directed at stamping out unfair businesses practices rather than responding to and compensating for the deep psychological harm caused by conversion therapy.

Under the ACL, the Australian Competition and Consumer Commission also has the power to intervene and remove misleading or deceptive advertising, although historically the ACCC has rarely exercised these powers. Overall, in practice, the ACL is of limited applicability to conversion practices in Australia.

7.1.6 ANTI-DISCRIMINATION LAWS

Federal, state and territory anti-discrimination laws protect people from discrimination on the basis of sexual orientation in all jurisdictions and on the basis of gender identity in all states and territories except the Northern Territory.

Existing discrimination frameworks are not designed to address the specific harms caused by conversion practices and are not directly applicable. Discrimination laws target less favourable treatment in the provision of goods and services. It may be difficult to prove less favourable treatment, particularly in situations where the study participants sought out conversion practices. In situations where a person is told that they are sick and can be 'healed' or 'cured' through counselling or other conversion practices, and is convinced to engage in these relying on misleading claims about their effectiveness, discrimination laws may apply in theory but, in any event, would likely be barred by broad religious exemptions.

These exemptions allow religious schools and religious organisations to lawfully discriminate against people on the basis of their sexual orientation or gender identity in every jurisdiction except Tasmania.¹⁷⁹ The exemption generally applies to any act or practice that conforms to the doctrines, tenets or beliefs of that religion, or is necessary to avoid injury to the religious susceptibilities of adherents of that religion. While each case would be assessed on its particular factual circumstances, there is a strong argument that conversion practices carried out within religious settings would be captured by the religious exemptions. Nevertheless, it would be open for a survivor to argue that conversion practices were not in conformity with the doctrines, tenets and beliefs of the religion in question.

Overall, anti-discrimination laws and the relatively modest damages available are not well suited to addressing the extensive psychological harm caused by conversion practices and are not likely to assist a person to recover from experiences such as loss of community support and spiritual identity.

7.1.8 OTHER CIVIL CLAIMS

People who sustain a serious injury as a result of negligence may be able to apply for damages under the *Wrongs Act 1958* (Vic) and the common law of negligence. However, there are significant barriers to recovering civil damages, including proving that a duty of care is owed (particularly outside medical negligence), establishing causation, and satisfying the requisite serious injury threshold (particularly for mental harm).

In practice, this avenue is most suitable for people who are survivors of extreme practices and situations that could be described as medical negligence, which would represent only a very small number of cases. In addition, complainants may face difficulties if the limitations period expires before they are sufficiently recovered from their trauma to be in a position to consider bringing a claim.



7.2 REGULATING DIFFERENT TYPES OF CONVERSION PRACTICES

This report now considers the potential application of existing law to the conversion practices identified by study participants. The following activities and materials that make up conversion practices in Australia are examined:

- a) counselling, including individual, group and online counselling, self-help practices, and behavioural and psychoanalytic practices;
- b) 'pastoral care', which refers to faith-based support, including spiritual guidance, prayer and bible groups;
- c) views, materials and actions within faith communities;
- d) extreme practices such as aversion therapy; and
- e) forced travel overseas for conversion therapy.

7.2.1 CONVERSION 'THERAPY' OR COUNSELLING

The majority of attempts to regulate conversion practices have focused on the regulation of health professionals. However, our study participants confirm that it is highly unlikely that registered medical practitioners perform the majority of conversion practices conducted in Australia today. Instead, many practices take place in informal religious settings by unregistered counsellors who are not subject to the National Law nor its disciplinary regime.

Counselling provided to study participants was provided by:

- a) registered psychologists;
- b) counsellors who claim to provide therapeutic health services (including Christian counsellors) who may or may not be registered counsellors;
- c) unregistered religious counsellors who claim to carry out a combination of therapeutic health services and pastoral care who may or may not be registered counsellors; and
- d) religious ministers and other members of the church who claim to only provide pastoral care but who make representations about the effectiveness of these interventions in being able to 'cure', 'heal', or change a person's sexual orientation or gender identity on health grounds.

We use the term 'therapeutic health services' broadly and consistently with the definition in the *Health Complaints Act*, including individual, group and online counselling, self-help practices, and behavioural and psychoanalytic practices. In contrast, the term 'pastoral care' refers to faith-based support, including spiritual guidance, prayer and bible groups.

We will consider the existing regulatory landscape for each of these categories in turn.

REGISTERED PSYCHOLOGISTS

Some study participants were subjected to conversion practices from a psychologist.¹⁸⁰ The psychology profession is strictly regulated to ensure all psychologists comply with relevant codes, guidelines, policies and registration standards.

The APS's Code of Ethics applies to all registered psychologists, and contains provisions concerning 'justice' and 'respect' which safeguard against discrimination, conduct which fails to respect a person's legal and moral rights, or any conduct which demeans or harasses a patient.¹⁸¹ The Psychology Board of Australia and AHPRA can review behaviour which is unethical and determine appropriate consequences. Psychologists are also required to report other psychologists whom they reasonably suspect are acting inconsistently with the Code.¹⁸²

In addition, the APS's position statement clearly states that no professional health organisation supports conversion practices as:

- 1) There is no clinical evidence demonstrating that approaches that claim to change a person's sexual orientation are effective.
- 2) There is, however, a considerable body of evidence documenting the negative effects of stigma associated with homosexuality, including higher rates of depression.
- 3) There is also clinical evidence that reparative, conversion and ex-gay approaches can compound the challenges already faced by some lesbians and gay men. For example, the 'failure' of such approaches can further contribute to negative mental health outcomes.¹⁸³

Existing health regulation laws and professional codes can operate to ensure a psychologist faces disciplinary actions and prevent the psychologist continuing to engage in harmful conversion practices.

However, as outlined above, a person who has paid a registered psychologist would have limited scope for compensation or other reparations for the psychological harm they have experienced. For example, a consumer could apply for compensation for damages and loss for a breach of consumer guarantees under the ACL (for example, the guarantee that services must be provided with due care and skill or technical knowledge and taking all necessary steps to avoid loss and damage). Compensation generally relates to financial costs (that is, money paid to the psychologist) but can also relate to other costs such as lost time or productivity. Compensation under the ACL may be restricted to fees paid to the psychologist and is not likely to put the person in the position they would have been in had they been provided with counselling of due care, skill or technical knowledge which took all necessary steps to avoid loss or damage. This remedy, which has been largely designed for consumers who receive a faulty product or service, would not, for example, provide the long-term psychological care they require to repair the harms caused by conversion practices.

COUNSELLORS

Most study participants were subjected to conversion ‘therapy’ by counsellors. For example, Gary spoke of an ‘expectation that my same-sex attractions would be, you know, kind of resolved in this therapy. ... Resolved being that I would no longer be attracted to men and that I could live a “normal life” with a woman’. Study participants reported that counsellors or psychologists employed psychoanalytic therapy techniques which force a person to re-live and analyse traumatising childhood memories in an attempt to ‘fix’ or ‘cure’ their sexual orientation or gender identity resulting in significant long-term psychological harm.

The following table summarises the regulation of different types of counsellors and psychotherapists under various laws and codes.

REGISTRATION STATUS	TYPE OF SERVICE	PAID OR UNPAID	NATIONAL LAW	PROFESSIONAL CODES	HEALTH COMPLAINTS ACT (VIC)	AUSTRALIAN CONSUMER LAW
			PROFESSIONAL REGULATION (I.E. DISCIPLINARY ACTION OF PRACTITIONERS)			LIMITED COMPENSATION
REGISTERED	HEALTH SERVICES	PAID	APPLIES	APPLIES	APPLIES	LIKELY TO APPLY
		UNPAID	APPLIES	APPLIES	APPLIES	UNLIKELY TO APPLY
UNREGISTERED	HEALTH SERVICES	PAID	DOES NOT APPLY	DOES NOT APPLY	APPLIES	LIKELY TO APPLY
		UNPAID	DOES NOT APPLY	DOES NOT APPLY	APPLIES	UNLIKELY TO APPLY
	HEALTH SERVICES & PASTORAL CARE	PAID	DOES NOT APPLY	DOES NOT APPLY	APPLIES	LIKELY TO APPLY
		UNPAID	DOES NOT APPLY	DOES NOT APPLY	APPLIES	UNLIKELY TO APPLY
	PASTORAL CARE ONLY	UNPAID	DOES NOT APPLY	DOES NOT APPLY	DOES NOT APPLY	UNLIKELY TO APPLY

REGULATION SUMMARY: DIFFERENT TYPES OF COUNSELLORS AND PSYCHOTHERAPISTS

REGISTERED COUNSELLORS AND PSYCHOTHERAPISTS

Registered counsellors and psychotherapists are regulated by the Interim Code of Ethics of the Psychotherapy and Counselling Federation of Australia (PACFA), the national peak organisation which sets professional standards.¹⁸⁴ Registered counsellors and psychotherapists are members of member associations under PACFA, which have separate codes, such as the Australian Counselling Association Code of Ethics and Practice¹⁸⁵ and Australian Community Counselling Association Code of Conduct.¹⁸⁶

The PACFA Interim Code of Ethics provides that member associations must commit to avoiding harm to clients.¹⁸⁷ PACFA has publicly stated that it does not condone or support 'therapeutic interventions, such as conversion and reparative therapies that proactively aim to change a person's sexual or gender identity'.¹⁸⁸ The PACFA accepts complaints about registered members,¹⁸⁹ but complaints are generally dealt with by members' direct professional associations, such as the Australian Counselling Association (ACA), unless that body is unable to do so.¹⁹⁰ PACFA can investigate and disciplinary action,¹⁹¹ including suspension or expulsion from PACFA.¹⁹²

The ACA Code of Ethics and Australian Community Counselling Association (ACCA) Code of Conduct are very similar. Both Codes emphasise that counsellors:

- must not discriminate against their clients;
- have a responsibility to maintain clients' emotional safety;
- must not engage in practices that would undermine public confidence in the profession; and
- have a duty of care not to mislead clients.

The ACA accepts complaints about its registered members for breaches of the Code of Ethics,¹⁹³ which can lead to disciplinary action, including the exclusion of the member from the ACA¹⁹⁴ or probationary periods.¹⁹⁵

Study participants also spoke about 'Christian counsellors'. For example, Mark described attending church-based counselling which treated same-sex attraction as a pathology. The Christian Counsellors Association of Australia's Code of Ethics¹⁹⁶ explicitly states that 'counsellors shall not do therapeutic interventions aimed at modifying or changing the sexual orientation of clients, as distinct from treating recognised sexual disorders'.¹⁹⁷

Despite the presence of these professional bodies overseeing the counselling and psychotherapy industry, registration is not mandatory for practice in Australia. Moreover, as has been demonstrated, the power of bodies to discipline members who engage in improper conduct, such as conversion practices, is limited and directed at affecting their registration (which they do not need to continue providing health services).

UNREGISTERED COUNSELLORS AND PSYCHOTHERAPISTS

Participants indicated that unregistered counsellors also provided conversion therapy outside the scope of professional codes. In these situations, the *Health Complaints Act* applies, irrespective of a counsellor or psychotherapist's registration status. The definition of health care services is broad, and includes 'therapeutic counselling or psychotherapeutic services'. This provides scope for counsellors and psychotherapists who engage in conversion therapy to face disciplinary action from the Health Complaints Commissioner, even if they are not registered.

BLURRED LINES: COUNSELLORS OR PSYCHOTHERAPISTS PROVIDING INFORMAL COUNSELLING OR A COMBINATION OF HEALTH SERVICES AND PASTORAL CARE

There may be situations in which these categories may seem blurred. Study participants suggested that conversion therapy was conducted by counsellors in church groups or settings as 'informal counselling' or 'lay counselling' in faith communities outside their workplace roles, in their capacity as a private individual. Study participants also suggested some counsellors were involved in both therapeutic health services (such as individual counselling or group work) and pastoral care (for example, spiritual guidance).

Importantly, the *Health Complaints Act* still applies. As outlined above, any person purporting to provide a health service is covered by the Act, including:

- any activity intended or claimed to improve a person's physical, mental or psychological health or status;
- treating a person's same-sex attraction or gender diversity as an 'illness';
- therapeutic counselling or psychotherapeutic services; and
- support services or ancillary services to implement the above.

Where a counsellor is providing a health service, they are regulated by the *Health Complaints Act* regardless of whether they are being paid, are registered, or claim to be acting in a professional or private capacity and irrespective of whether they also engage in pastoral care.

PASTORAL CARE INVOLVING CONVERSION PRACTICES

In general, pastoral care plays an integral role in faith communities, based on a model of emotional and spiritual support. The ACA's Code of Ethics defines pastoral care as referring 'broadly to the overall ministries of healing, sustaining, guiding, and reconciling'. It can also involve ritual, prayer, reflection, support and comfort. As such, pastoral care generally does not meet the definition of a 'health service' under the *Health Complaints Act*. For example, many prayer groups provide a supportive environment for people to learn about their religion, worship together and engage in prayer.

However, pastoral care which includes (or claims to include) 'counselling', 'healing', claims about 'curing', 'changing' or 'repairing' a person's sexual orientation or gender identity, or claims about improving a person's mental or physical health, would likely still be classified as a health service, and the above regulations would apply.

PASTORAL CARE THAT INVOLVES CONVERSION BUT NOT HEALTH CLAIMS

Currently, there are no legal restrictions on pastoral care based on supporting a person in their spiritual or faith journey which may also be aimed at changing a person's sexual orientation or gender identity, even when these practices cause significant physical and mental harm.

Australian law already protects the right to freedom of thought, conscience, religion and belief. For example, section 116 of the Australian Constitution provides that the Australian Government 'shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth'.

For the most part, Australian laws allow people of faith to freely hold their religious beliefs, wear religious dress and symbols, worship freely, establish religious institutions, build and preserve places of worship, engage in religious practice and educate their children in accordance with their religious beliefs. However, as outlined in Chapter Six, the right to freedom of thought, conscience, religion and belief can be limited where necessary to protect the rights and freedoms of others.

Significantly, none of the providers of conversion practices identified by our study participants claimed to only provide pastoral care, rather, all claimed to provide a combination of therapeutic health services and pastoral care. This report demonstrates that so-called 'conversion therapy' which attempts to 'cure' a person's sexual orientation or gender expression or 'heal' a person's spirit are ineffective and harmful practices which cause significant, long-term psychological harm. The introduction of new laws to more effectively regulate conversion practices, which cause demonstrable harm to a person's physical and mental health, is consistent with human rights law principles. We discuss the need for effective legislation to prohibit conversion practices in Chapter Eight of this report.

7.2.2 VIEWS, MATERIALS AND ACTIONS WITHIN FAITH COMMUNITIES

NEGATIVE VIEWS OF LGBT PEOPLE

Study participants spoke about the harm caused by the repeated views expressed in sermons and by members of the congregation of same-sex attraction or non-conforming gender identity as 'sinful', unnatural or against religious beliefs. Study participants discussed the significant emotional toll of this social exclusion from faith communities and families.

People within faith communities are freely able to express views which may be viewed as offensive or discriminatory in other contexts. Private conversions in religious settings are completely unregulated. As discussed below in relation to public hate speech, there are no federal or Victorian laws restricting religious leaders or people of faith from expressing views about LGBT people, same-sex attraction or non-conforming gender identity, or from expressing views.

DISTRIBUTION OF LITERATURE ABOUT CONVERSION PRACTICES

Many of the study participants describe being shown literature, videos and other material that offered information or advice about conversion practices. Trevor, for example, says that he was given 'literature that articulate[d] a certain understanding about what it means to be a person, and a certain understanding of human sexuality and how that relates to Christian theology, and relationships and what to do if you find yourself sexually attracted to someone of the same sex and gender'.

The Australian Classification Board is empowered under the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* to make decisions classifying whether certain publications, whether locally made or from overseas, can be sold, distributed or advertised in Australia. These decisions must reflect contemporary standards and apply the criteria set out under the National Classification Code. The Code makes clear that adults should be able to read, hear and see what they want, but protections for minors is justified where material is likely to harm or disturb them.¹⁹⁸ For example, publications can be refused classification where they deal with 'matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified' or 'promote, incite or instruct in matters of crime or violence'.¹⁹⁹

While it could be argued that extreme or graphic material about conversion therapy should have restricted classification for persons under 18 years of age (on the basis that they are unsuitable for a minor to see or read), it is very difficult to regulate how these materials are downloaded, printed and distributed in practice.

As set out above, professional codes through AHPRA regulate false, misleading or deceptive conduct including advertising making therapeutic claims not supported by acceptable evidence, unqualified claims or comparative statements. However, there are limits to the reach of Australian law when materials produced by international organisations containing these false health claims are downloaded or purchased in Australia.

RADIO BROADCASTS AND PUBLIC SPEECH

This report has raised the damage caused by the dissemination and expression of views about LGBT people on publicly broadcast radio channels. Study participants also highlighted that international podcasts were being reproduced on Australian radio stations or downloaded online (for example, the 'Focus on the Family' podcast).

In terms of Australian-based public speech, religious leaders and people of faith are free to express their views about same-sex attraction and gender identity, including broadly negative views of LGBT people. While half of Australian states and territories²⁰⁰ provide protections from vilification or inciting hatred against LGBT people, there are currently no federal or Victorian laws that prohibit hate speech on the basis of sexual orientation or gender identity. Anti-vilification laws necessarily restrict some people's right to free speech to protect the rights of other people to be free from discrimination and to prevent threats to their physical safety and health and wellbeing.

However, religious teachings about sexual and gender diversity as pathological are unlikely to meet the high threshold of existing anti-vilification laws, particularly given that these laws contain specific carve-outs for religious instruction, or discussion or debate in the public interest.

There are criminal offences that also regulate public speech. For example, the *Summary Offences Act 1958 (Vic)* prohibits the use of profane, indecent or obscene language in public, or threatening, abusive or insulting words in public.²⁰¹ In addition, the *Crimes Act 1958 (Vic)* prohibits threats to kill, threats to inflict serious injury, and threats to assault another person with intent to commit an indictable offence.²⁰²

7.2.3 EXTREME CONVERSION PRACTICES

The extreme forms of conversion practices performed by medical professionals before the 1990s to ‘cure’ a person for a disorder relating to their sexual orientation or gender identity, such as aversion therapy, are clearly illegal today.

In 1973, the American Psychological Association replaced ‘homosexuality’ with ‘sexual orientation disturbance’ as a diagnosed mental disorder from the *Diagnostic and Statistical Manual of Mental Disorders* (DSM). In 1987, it was removed completely.

Gender dysphoria is a diagnosed mental disorder in the DSM, to describe the conflict between a person’s physical or assigned gender and the gender with which they identify. However, treatment options for gender dysphoria entail supportive practices, including counselling, hormones, puberty suppression and surgery which are aimed at alleviating symptoms of clinical distress. The DSM does not support previous medical practices which attempted to force a person to identify with the gender they were assigned at birth.

The sleep deprivation, use of restraints, electrodes and ice baths Jamie experienced in the late 1980s in a mental health institution are a clear breach of modern healthcare laws and regulations, and are out of step with current clinical understandings and practice. People who were subjected to these conversion practices in the past are generally statute-barred from applying for damages.

People who are subjected to these extreme conversion practices today would be able to lodge a complaint to the relevant medical registration authority if the practitioner is registered, or to the Health Complaints Commissioner if they are not. There may also be scope to bring a civil claim, depending on the severity of the injuries. Additional complaints mechanisms and legal causes of action are available if the conduct took place in a public health service.

In extreme cases, including any non-consensual or coerced practices or assault, the police may decide to prosecute and victims may have access to financial assistance and counselling through the Victims of Crime Assistance Tribunal.

7.2.4 FORCED TRAVEL OVERSEAS FOR CONVERSION THERAPY


Huong spoke about his family intending to send him overseas for conversion practices, where he was afraid of being locked up, beaten, subjected to medical practices in a mental health institution which are illegal in Australia, or being subjected to ‘corrective rape’.

Under the *Migration Act 1958* (Cth), people who are outside their home country and cannot return because they have a well-founded fear of persecution due to their membership of a particular social group (including LGBT people) can apply to the federal government for protection as a refugee. Australia is obliged under the *Refugees Convention* to provide protection to refugees and to ensure they are not returned to any place where they are likely to face persecution based on their sexual orientation or gender identity. Protection can also be provided to people who cannot be returned to their home country because they engage Australia’s complementary protection obligations.

As discussed above, child protective services can also intervene if they are concerned that a child is at risk of harm, but, in practice, we understand that they are unlikely to do so for a child who is over 15 years of age.

Criminal laws prohibit taking people overseas for other harmful procedures. For example, the *Crimes Act 1958* (Vic) makes it a criminal offence to take a person from Australia to another country to undergo female genital mutilation.²⁰³ However, there are currently no laws or regulations which explicitly prohibit a person being removed from Australia for conversion practices which are illegal here, including practices that could constitute torture or ill-treatment.

For international students or people who cannot access social security supports for visa reasons, Huong’s story reveals a concerning gap in the protection which can be provided for young people who remain in Australia to avoid being subjected to harmful conversion practices overseas.

An aerial photograph of a road with a prominent crack running through it. The road is dark, and the surrounding area is a mix of dark and light patches, possibly representing different types of terrain or vegetation. The overall tone is somber and contemplative.

'It's like cracks in the pavement; you suddenly discover underneath there are enormous reservoirs ... of grief or anger.'

— TREVOR

8 GAPS IN PROTECTION & RECOMMENDATIONS FOR FUTURE ACTION

This chapter discusses the gaps in knowledge about conversion therapy that remain after this study, gaps in the legal and regulatory framework revealed by the previous chapter and opportunities for legislative, policy and programmatic reform.

The most important learning from this report is that responding to conversion practices in Australia requires a multi-faceted strategy if we are to provide justice for victims and to reduce the harms caused to both the LGBT community and to communities of faith.

While we propose a number of legislative and regulatory measures, they will not impact on informal conversion practices in faith-based settings, undertaken by laypeople and experienced by consenting adults. These informal activities in religious and social environments account for a significant component of faith-based LGBT conversion therapy. In these environments, LGBT people are immersed in messaging and cultural ideas that teach them that they are ‘broken’. The most effective way to address the harms perpetuated in these environments is through targeted community based interventions: raising awareness of the severity of these harms and supporting the development of improved pastoral practice with LGBT people.

We call on all religious communities to reflect on the harms uncovered in this report, to critically and prayerfully engage with their beliefs about gender and sexuality and to work to improve their pastoral care of LGBT people.

We especially call on governments and policy makers to respond to the acute vulnerability of LGBT youth and to dedicate their attention to urgently addressing the risks they face in some religious contexts.

‘Since coming out and finding affirming Christian groups and an affirming church... it does feel like my faith is the strongest it’s ever been. It’s authentic now.’

— BEN

8.1 RECOMMENDATIONS FOR THE STATE GOVERNMENT

There are a range of reforms and initiatives required to address conversion practices. While these recommendations are primarily directed to the Victorian Government, they are intended to be potentially applicable in the context of other states and territories (with the caveat that the legislative landscape has not been comprehensively considered).

As outlined in Chapter Seven, Victoria's *Health Complaints Act*, *Child Safe Standards* and *Reportable Conduct Scheme* are important safeguards against many conversion practices. However, the law in Victoria (and other jurisdictions in Australia) could be strengthened to deter and prevent conversion practices from occurring and to fill gaps in protection, particularly for minors.

Experiences of past trauma serve as a significant barrier to moving forward to access even the limited remedies available. Avenues for individualised legal relief that place the burden solely on a survivor (typically struggling with their mental health) to pursue and prove their case are not an appropriate or effective response in isolation from other measures.

8.1.1 LEGISLATION TO PROHIBIT CONVERSION PRACTICES

While health laws and some other regulations do provide mechanisms to deal with conversion practices in limited ways, conversion practices are not explicitly unlawful in Victoria. Legislation that categorically outlaws conversion practices sends a clear message that this conduct is ineffective, not based in evidence, unethical and generally harmful. A specific provision that unequivocally prohibits conversion practices, whether or not an individual complaint is made, would be a powerful deterrent and act to prevent conversion practices from occurring.

As discussed above in Chapter Six, a human rights based approach and limitations analysis would direct a legislator to intervene to protect children from conversion practices, regardless of the setting or level of formality. On the other hand, adults who freely choose to seek out discussions within their faith communities should be permitted to exercise their own agency to engage in these informal faith-based activities (including pastoral care, prayer and group activities) if they wish. Legislation that prohibits such activities by adults would not only represent an impermissible limitation on freedom of religion, it may also serve to drive practices further underground and undermine efforts to tackle the harm caused to LGBT people. However, once a practitioner is providing services as a professional (or purporting to) in our view it is appropriate for the state to step in to regulate the provision of those services. In line with our analysis in Chapter Six, the law should prohibit any person (regardless of their role) from subjecting a minor to conversion practices or, in line with the Maltese legislation, any person who suffers from a mental illness or incapacity. Such a protection appropriately recognises the inherent vulnerability of children and those experiencing mental illness, and the difficulty in gaining informed consent before they are subjected to a practice that is known to be potentially harmful.

It is important that the state recognise the vulnerability of individuals subject to conversion therapy and the public interest in denouncing conversion practices by specifically outlawing efforts to suppress or reorient the sexuality or gender identity of individuals.



APPROPRIATE SANCTIONS AND PENALTIES

Unlike Malta and Ireland, we recommend that these provisions should be civil penalty provisions, rather than criminal offences. In our view this approach is more proportionate to prevent and respond to the harm. A criminal law would also require the elements (both the conduct and the mental element) of the offence to be defined with specificity and proven beyond a reasonable doubt. Such a burden of proof may be difficult to meet for these cases, particularly in circumstances where the only witnesses to the conduct are the victim and the perpetrator.

If a civil penalty approach is adopted, the burden for enforcement should not solely rest on survivors to pursue action in the Courts or through a complaints mechanisms. We suggest that a suitable office holder or statutory agency (whether the Health Complaints Commissioner or other body) be given the power to enforce the provisions against both individuals and corporations. We suggest the Government consult further with potential agencies about this approach and an appropriate range of sanctions and remedies.

Survivors of conversion therapy should also be able to recover damages from providers of such service to compensate for any pain and suffering or psychological harm, together with any other disadvantage directly attributable to the therapy or practices. The entitlement to such a remedy becomes critical if the government does not fund a support program for survivors.

We considered and dismissed the proposal to sanction referrals to conversion practices. Our current view is that such a proposal would unfairly target those under the influence of the messaging of the conversion therapy movement, including survivors themselves.

In response to the legal gaps illustrated by Huong's experiences, and following the examples in other jurisdictions, we suggest that a criminal offence be created to prevent parents or others from removing a person to an overseas location to undergo conversion therapy, similar to laws governing female genital mutilation. We recommend limiting this offence to extreme forms of conversion therapy that represent a greater risk to the liberty, personal autonomy and health of LGBT people.

RECOMMENDATION:

We recommend that the State Government introduce legislation to specifically prohibit conversion activities, which should:

- a) prohibit any conduct by 'professionals' (defined to include social workers, unregistered and registered health practitioners, teachers and more) aimed at 'changing', 'suppressing', 'curing', 'healing', or 'repairing' a person's sexual orientation or gender identity of any adult;
- b) prohibit such conduct engaged in by 'any person' where it targets minors or people who are particularly vulnerable to coercion (for example, people with a cognitive impairment, intellectual disability or experiencing mental health issues);
- c) carve out beneficial treatments or practices aimed at supporting LGBT people; and
- d) create an offence that criminalises any attempt to remove a person from Australia for the purposes of conversion therapy. For the purpose of this offence, we recommend that conversion therapy be defined in a more limited manner, and confined to forced or coerced therapies or situations where there is a risk of physical harm.

8.1.2 FUNDING FOR SURVIVOR SUPPORT PROGRAMS

Currently there is an acute gap when it comes to available support for survivors to recover from conversion practices. Study participants took many years to recover from their experiences and to be in a position where they could share their stories with us for this report. Even if conversion practices stopped tomorrow, the legacy of conversion practices continues to impact the lives of many.

With appropriate specialised support, survivors of conversion practices can start to rebuild their lives and heal from the pain they endured. We know from speaking to survivors that counselling psychologists require particular specialist skills to appropriately assist survivors in the journey to reconcile their faith with their sexuality or gender identity.

RECOMMENDATION:

We recommend that the State Government fund specific survivor support programs, recognising the significant trauma caused to individuals by past practices and the specialisation of services and cultural understanding required to meet their unique needs (such as counselling psychologists with expertise both in sexual and gender diversity and also faith and spirituality).

8.1.3 FUNDING FOR RESEARCH INTO CONVERSION THERAPY AND LGBT PASTORAL CARE

This study highlights one contested area at the intersection of changing community standards relevant to religious expression, sexual discrimination and pastoral care. The current relationship between these standards is fraught and not well understood.

While this report is an important first step in developing our understanding of conversion practices, it is unable to answer some fundamental questions for policy-makers and decision-makers to fully grapple with this practice today. The report has demonstrated that conversion therapy remains a significant problem in Protestant Christian communities in Australia. It provides evidence which suggests that it is also a problem in several multicultural and multifaith communities, presenting unique policy problems. It also shows that transgender conversion therapy may be a growing phenomenon of particular concern. However, the data from this pilot study is limited, and further research is needed:

- a) to understand the nature and extent of conversion therapy as it relates to multicultural and multifaith communities;
- b) to understand the nature and extent of conversion therapy targeted at transgender people; and
- c) to develop effective, evidence-based interventions appropriate for various faith settings to educate communities about the harms associated with conversion therapy and support the appropriate pastoral care of LGBT people.

In practice, conversion therapy will not stop until faith communities recognise the full extent of the psychological and spiritual harm it causes. Cultural change does not occur overnight, and to be effective, any engagement with LGBT people and their faith communities must be built on a mutual foundation of trust and respect.

RECOMMENDATION:

We recommend that the State Government fund:

- a) basic research into conversion therapy as it relates to multicultural and multifaith communities;
- b) basic research into conversion therapy as it relates to transgender and gender diverse people; and
- c) applied research into specific faith communities to develop culturally appropriate, evidence based interventions that will raise awareness about the harm caused by conversion practices and support the development of best practice spiritual care for LGBT people.

8.1.4 SUPPORTING CHILDREN IN SCHOOLS

This report has highlighted that there are particular risks to children who may be coerced or forced to undertake conversion practices, or who when seeking help are directed towards these potentially traumatic practices without a full understanding of their long-term impact. In particular, we are concerned that staff at schools, particularly religious schools, may refer children to conversion practices. In addition, when other students are taught that LGBT students are 'sinful', 'sick' or 'broken', this creates an atmosphere where they feel emboldened to bully LGBT students, with potentially devastating impacts.

The Victorian Government currently funds anti-bullying and inclusion programs that support sexual and gender diversity in school, which assist in educating teachers and school staff about the importance of LGBTI inclusion and non-discrimination. However, these programs do not address the potential risk of conversion practices being administered by school chaplains or the risk of a school chaplain referring a student to conversion therapy provider, as has been reported publicly.

RECOMMENDATION:

We recommend that the Victorian Government:

- a) insert specific clauses into funding agreements with schools and providers of school chaplaincy programs to prohibit conversion practices by school chaplains and/or any referrals or support to gain access to conversion practices; and
- b) requires training to be undertaken by school chaplains that addresses the potential harm caused by conversion therapy to same-sex attracted and gender questioning young people.

8.1.5 EDUCATION ABOUT CONVERSION PRACTICES AS CHILD ABUSE

The Child Safe Standards and Reportable Conduct Scheme are important protections for Victoria's children. However, there is an absence of clear guidance as to whether conversion practices would fall under reportable conduct and are in violation of the Child Safe Standards. In addition, for these to be effective, education and training must be rolled out within religious organisations and faith communities to ensure compliance. For example, religious ministers should be made fully aware of their responsibilities to report unlawful activity or reportable conduct to child protection services, the Commission for Children and Young People or Victoria Police, as appropriate.

RECOMMENDATION:

We recommend that the State Government agencies explicitly identify conversion practices as unlawful and falling within the definition of reportable conduct (including the removal of children to overseas countries to undergo conversion practices which are illegal in Australia) to inform responses by child protection services, justice agencies and family violence support services.



8.2 RECOMMENDATIONS FOR THE FEDERAL GOVERNMENT

The Federal Government should play a leadership role in coordinating the efforts to regulate conversion practices nationally. There are also specific regulatory and policy issues for the federal government to address.

8.2.1 REGULATION OF 'COUNSELLORS' AND GUIDANCE FOR HEALTH PRACTITIONERS

This study has highlighted the lack of regulation and training of 'counsellors' and those who engage in counselling practices. Christian counsellors appear to be the largest providers of conversion therapy and may not be registered or regulated. While many counsellors are registered and accredited, a person is currently able to describe themselves as a counsellor without any qualifications or training and without any supervision or oversight by a professional body. The counsellor sector requires wholesale reform, not only for the benefit of LGBT people but many other consumers who access counselling services without an understanding of the lack of regulation of these services.

While the *Health Complaints Act* provides an avenue for enforcement action after the event, proactive regulation of these practitioners would act to prevent conversion practices from occurring in the first place.

Consideration should also be given to explicitly naming conversion practices in the National Law and/or relevant guidance materials to ensure that practitioners understand that conversion practices are not consistent with their obligation to provide non-discriminatory health services.

RECOMMENDATION:

We recommend that the Federal Government consider including 'counsellor' as a protected title under the National Law, in consultation with APHRA and other relevant bodies. This would require counsellors to be registered and subject to training requirements and professional codes. These training requirements and professional codes should address the potential harm caused by conversion therapy.

We recommend that consideration be given to explicitly naming conversion practices in the national Law and/or relevant guidance materials to ensure that practitioners understand that these practices are not consistent with their professional obligations.

8.2.2 SUPPORTING CHILDREN IN SCHOOLS

As discussed above, there have been issues regarding the referral of LGBT young people to conversion therapy by chaplains in schools. The Federal Government should act to ensure that all children in Australian schools are safe from these potentially harmful practices.

RECOMMENDATION:

The Federal Government insert a specific clause in funding contracts with State Governments for the provision of the school chaplaincy program that:

- a) prohibits conversion practices by school chaplains and/or any referrals or support to gain access to conversion practices; and
- b) requires training to be undertaken by school chaplains that addresses the harm caused by conversion therapy to same-sex attracted and gender questioning young people.

Funding should be provided to secular counselling services and anti-bullying programs that can provide non-religious support and pastoral care to students and support sexual and gender diversity in schools.

8.2.3 DAMAGING MESSAGES BROADCAST ON RADIO AND PUBLISHED ONLINE

Despite the difficulties presented by changes in technology and the predominance of content from the United States accessed online by Australian consumers, the Federal Government has a role to play in relation to the appropriate classification of ex-gay and ex-trans related materials.

RECOMMENDATION:

The Federal Government should work with relevant federal agencies and the States to ensure that classifications and ratings for ex-gay and ex-trans publications (television, books, online content) reflect the negative impact on the psychological health of individuals which can be caused by this content.

8.3 RECOMMENDATIONS FOR HEALTH ASSOCIATIONS

8.3.1 JOINT STATEMENT/AGREEMENT BY ASSOCIATIONS OF HEALTH PROFESSIONALS

The NHS memorandum of understanding between various health professional bodies including Christian counsellors in the United Kingdom represents a strong, multi-faceted response to the issue of conversion therapy.

RECOMMENDATION:

Professional bodies representing health practitioners such as general practitioners, psychiatrists, counselling psychologists, social workers and Christian counsellors should enter into a memorandum of understanding committing to joint actions such as:

- a) informing the public of the risks;
- b) ensuring the profession is aware of the ethical issues;
- c) delivering appropriate training on the harms potentially caused by conversion therapy;
- d) continuing to monitor evidence of the prevalence and impacts of conversion therapy; and
- e) continuing collaboration between the professions to bring an end to conversion therapy.

8.3.2 ETHICAL CODES OF CONDUCT AND DISCIPLINARY ACTION

While many ethical codes of conduct contain principles or obligations that would apply to limit the practice of conversion therapy, it would be useful to strengthen these codes to specifically and explicitly prohibit conversion practices and ensure that enforcement action is available and actively pursued by the relevant professional body.

RECOMMENDATION:

Codes of conduct regulating relevant health professionals should be strengthened to ensure that the practice of conversion therapy is specifically prohibited and enforcement action is available.

8.3.3 TRAINING FOR PROFESSIONALS

It is important that health professionals receive training about the potential risks and harms presented by conversion practices. There are entry points at different stages of education and training that should be pursued by the relevant educational authorities, with support from government and health regulators.

RECOMMENDATION:

Mental health and other health professionals should be provided with training about the potential risks and harms of conversion therapy as part of their training curriculum and continuing professional development.



APPENDIX

PSYCHIATRY & CONVERSION THERAPY

The scale, nature and effectiveness of psychiatric attempts to reorient people's sexuality or gender identity – to 'cure' homosexual and transgender people – is not well understood and has been significantly exaggerated. For a variety of reasons, LGBT rights activists, religious conservatives, and historians of sexuality have all overemphasised the prevalence of psychiatric attempts to convert LGBT people to heterosexual and cisgender positions. In the West, LGBT variations were regarded as pathological from the early twentieth century until the 1970s. Most clinical attempts to 'treat' LGBT people during this period did not have sexual or gender reorientation as their aim, and those that did never succeeded in achieving such reorientation. There is an overwhelming consensus in scholarly reviews of both psychiatric and religious conversion therapies that such approaches are ineffective, harmful and unethical. No mental health authorities relevant to Australia any longer regard LGBT status as pathological, or requiring a 'cure'. They regard attempts at sexual and gender reorientation as harmful and unethical.

During the period in which LGBT variations were considered pathological, a range of clinical interventions were deployed to treat LGBT people. These included psychoanalytic, behavioural, hormonal, pharmacological and surgical interventions. LGBT people convicted of sexual offences were often segregated within the penal system and, sometimes, medical treatment was mandated.²⁰⁴ It is commonly, but erroneously, assumed that the goal of psychiatric treatments of LGBT conditions was conversion to heterosexual and cisgender identification. In fact, most treatments had the control or prevention of homosexual and transgender *behaviour*, rather than *identity*, as their goal. Some experiments claimed to achieve 'heterosexual adaptation'. This involved the adoption of cisgendered heterosexual behaviour, but not a reorientation of transgender or homosexual desire and identity. It was rarely permanent.

Psychoanalysis has a complex relationship with homosexuality. Freud famously wrote that homosexuality 'is nothing to be ashamed of, no vice, no degradation, it cannot be classified as an illness'.²⁰⁵ However, he also regarded it as 'a variation of the sexual function produced by a certain arrest of sexual development'.²⁰⁶ In the post-war era, psychoanalysts pursued a more settled definition of sexual 'normality' than Freud had pioneered, and naturalised a heterosexual view of gender difference.²⁰⁷ Analyst Irving Bieber and others promoted a view of homosexuality as a pathology, with its origins in the family backgrounds of patients.²⁰⁸ This became the dominant view in psychoanalysis, particularly in the US, until it was declassified as a mental illness. Psychoanalysts were the most prominent clinicians to continue to promote views of LGBT conditions as illnesses after mainstream medicine abandoned this view. Some analysts and analytic psychotherapists have claimed significant success rates in the reorientation of gay and lesbian subjects.²⁰⁹ In these cases, it is important to note that the measure of successful 'reorientation' is participation in heterosexual sex, and/or the absence of homosexual sex.²¹⁰ Adaptation to heterosexual behaviour, however, does not preclude the persistence of homosexual desire and sexual orientation.

Next to psychoanalysis, behavioural therapy has been the major psychiatric approach to treating homosexuality. Behavioural approaches were pioneered in Czechoslovakia in the 1950s,²¹¹ but did not become well-known until they were taken up by British practitioners in the 1960s.²¹² The aversion therapy model, deployed by behaviour therapists, involved repeatedly associating undesired behaviours with negative stimuli, in the hope of inducing an aversion to the undesired feeling or behaviour. Negative stimuli commonly used included electric shocks, nausea inducing emetics, strong smells, or a disapproving clinical gaze.²¹³ While aversion therapy was sometimes successful in establishing aversions to homosexual and transgender behaviours, psychiatrists concluded that a reorientation of sexual desire or gender identity was not possible with behavioural therapy.²¹⁴ The harms associated with aversion therapy could also be severe.²¹⁵

Other medical experiments with sexual reorientation, including surgical, pharmacological and hormonal treatments, though less prevalent than behavioural and psychoanalytic therapies, have a significant history. These have included attempting to induce sexual reorientation with: testicular transplants;²¹⁶ metrazol-induced shock seizures;²¹⁷ methyltestosterone treatments and various other castration methods including x-ray irradiation and administering estradiol benzoate;²¹⁸ CO₂ inhalation;²¹⁹ and brain surgery.²²⁰ None of these were successful, and none would any more be considered ethical.

Medical clinicians have also participated in religious conversion therapy. Prominent proponent of conversion therapy, Jeffrey Satinover, is a qualified psychoanalyst and psychiatrist, and claims that secular sexual reorientation methods work best in concert with religious based conversion therapy.²²¹ There have been no randomised control studies of religious conversion therapies, but systematic reviews of the evidence for conversion therapy all show that studies claiming it can be successful are seriously methodologically flawed. A review study conducted in 2017 by the What We Know Project at the Center for the Study of Inequality at Cornell University found that the overwhelming majority of peer-reviewed research concluded that conversion therapy is ineffective and/or harmful. Only one study, with serious methodological flaws, found that a minority of sexual orientation change efforts could be successful.²²² The most widely cited study supporting the possibility of sexual orientation change, by Robert Spitzer in 2003, was not peer reviewed, has been widely critiqued, and was disavowed by the author in 2012.²²³

Australian medical authorities were world leaders in no longer treating homosexuality as an illness. In May 1972 the Royal Australian and New Zealand College of Psychiatrists adopted a resolution condemning 'community attitudes and laws which discriminate against homosexual behaviour between consenting adults in private', and in 1973 released a position statement that homosexuality was not, in itself, pathological.²²⁴ Two months later, the American Psychiatric Association removed homosexuality from its Diagnostic and Statistics Manual (DSM) for mental illness in 1973. The World Health Organisation (WHO) followed in 1990, removing homosexuality from its International Classification of Diseases (ICD-10). In a book that became very influential in the ex-gay movement, Satinover erroneously claimed that the removal of homosexuality from the DSM was not based on clinical evidence and was solely the result of political lobbying by gay liberation groups.²²⁵

All major health authorities in the West now comprehensively reject conversion therapy as an appropriate response to people's gender and sexuality. Lesbian, gay, and bisexual sexualities, and transgender identities or expressions are not considered pathological. Conversion therapies are not regarded as scientifically credible or clinically useful; instead, evidence suggests that they are harmful. As the Royal College of Psychiatrists said in their apology for sexual reorientation therapies:

*Studies that once purported to have a 'cure' to homosexuality, or indeed to classify it as an illness in the first place, have now all been disproven and debunked. Studies which once showed conversion therapies to be successful have all been exposed as seriously methodologically flawed. In this day and age, there is no feasible scenario in which a fully trained mental health professional would administer such treatment.*²²⁶

These positions do not preclude professional psychological care in the areas of sexual orientation and gender identity, but reject previous institutional biases that premised such treatments on a predetermined outcome.²²⁷

ENDNOTES

- 1 The authors acknowledge that people with born intersex variations are subjected to medical interventions without free and informed consent that modify their sex characteristics to align with stereotypical ideas about male and female bodies. These practices fall outside the scope of this report, which focuses on conversion practices prevalent in particular religious communities in Australia.
- 2 Australian Psychological Society, 'APS Position Statement on Psychological Practices that Attempt to Change Sexual Orientation', 2015, <https://www.psychology.org.au/getmedia/ebd486a2-761c-403c-bdef-406fda87dc4b/Position-Statement-Sexual-Orientation.pdf>.
- 3 Maya Rhodan, '9 Ex-Leaders of the Gay Conversion Therapy Movement Apologise', *Time*, 21 July 2014, <http://time.com/3065495/9-ex-leaders-of-the-gay-conversion-therapy-movement-apologize/>.
- 4 Although the number of agencies advertising these therapies has declined over the past decade. See <http://www.exodusglobalalliance.org/regionalcontacts876.php>; <http://www.renewministries.com.au/>; compare <https://couragec.org/courage/about/>. In 2012, over 16 ex-gay ministries were advertised on the Exodus Global Alliance website. See also Farrah Tomazin, 'I am profoundly unsettled': Inside the Hidden World of Gay Conversion Therapy', *Sydney Morning Herald*, 9 March 2018 and Farrah Tomazin, 'Calls to Investigate the "Ex-Gay" Movement', *Age*, 16 January 2016, <https://www.theage.com.au/national/victoria/calls-to-investigate-exgay-movement-20160116-gm79ur.html>.
- 5 Application number HEC 16-003; approval granted on 14 April 2016.
- 6 See, for example, Australian Bureau of Statistics, 'Religion in Australia: 2016 Census Data Summary', <http://abs.gov.au/ausstats/abs@.nsf/Lookup/by+Subject/2071.0~2016~Main+Features~Religion+-Data+Summary~70>.
- 7 See, for example, the popularity of the 'Kinsey Scale' of sexual orientation following the publication of A. Kinsey, W. Pomeroy and C. Martin, *Sexual Behavior in the Human Male* (Philadelphia: W.B. Saunders, 1948).
- 8 The American Psychiatric Association, for example, listed it as a sociopathic personality disorder in its first Diagnostics and Statistics Manual (DSM-I, 1952).
- 9 Graham Willett, 'The Church of England and the Origins of Homosexual Law Reform', *Journal of Religious History*, 2009, 33(4): 418-434; Timothy W. Jones, 'The Stained Glass Closet: Celibacy and Homosexuality in the Church of England to 1955', *Journal of the History of Sexuality*, 2011, 20(1): 132-152.
- 10 Norman Pittenger, *Time for Consent: A Christian's Approach to Homosexuality* (London: SCM, 1967) was the first text to argue that same-sex acts need not be considered sinful.
- 11 Timothy W. Jones, 'Moral Welfare and Social Wellbeing: The Church of England and the Emergence of Modern Homosexuality,' in Sue Morgan and Lucy Delap (eds), *Men, Masculinities, and Religious Change in Twentieth Century Britain* (Houndmills: Palgrave Macmillan, 2013), 197-217.
- 12 See Appendix for further detail.
- 13 Laura Ramsay, 'The Church of England, Homosexual Law Reform, and the Shaping of the Permissive Society, 1957-1979', *Journal of British Studies*, 2018, 57(1): 108-137, 123.
- 14 In May 1972, the Royal Australian and New Zealand College of Psychiatrists (RANZCP) adopted a policy condemning 'community attitudes and laws which discriminate against homosexual behaviour between consenting adults in private'. In 1973, RANZCP released a position statement that homosexuality was not, in itself, pathological. See W.D. Rubenstein and H.L. Rubenstein, *Menders of the Mind: A History of the Royal Australian and New Zealand College of Psychiatrists, 1946-1996* (Oxford: OUP, 1996), 44. The American Psychiatric Association removed homosexuality from its Diagnostic and Statistics Manual (DSM) for mental illness in 1973, two months after the RANZCP. The World Health Organization (WHO) followed in 1990.
- 15 For an early history of the ex-gay movement in the United States, see Tanya Erzen, *Straight to Jesus: Sexual and Christian Conversions in the Ex-Gay Movement* (Berkeley: University of California Press, 2006). See also Michelle Wolkowicz, *Be Not Deceived: The Sacred and Sexual Struggles of Gay and Ex-Gay Christian Men* (Brunswick: Rutgers University Press, 2006).
- 16 See, for example, the typical experiences of early ex-gay therapy described by Anthony Venn-Brown in his autobiography: Anthony Venn-Brown, *A Life of Unlearning: A Journey to Finding the Truth* (Sydney: New Holland Australia, 2007).
- 17 Mark Pietrzyk, 'Pathology of the Ex-Gay Movement', *The Gay & Lesbian Review*, 2000, 7(3): 32.
- 18 Jeffrey Satinover reports that Catholic support group 'Courage' has provided conversion therapy in concert with Pentecostal and Protestant ex-gay ministries. See Jeffrey Satinover, *Homosexuality and the Politics of Truth* (Grand Rapids: Baker Books, 1996), 201.
- 19 Satinover, himself an orthodox Jew, outlines the support for conversion therapy within Judaism: *ibid*, 210-220. Rabbi Shimon Cowen in Melbourne is a prominent advocate of conversion therapy. See Shimon Cowen, *Homosexuality, Marriage and Society* (Redland Bay: Connor Court, 2016).
- 20 See the overview of ex-gay therapies in Jeffrey Satinover, *Homosexuality and the Politics of Truth* (Grand Rapids: Baker Books, 1996), 196-209.
- 21 In Christianity, exorcisms are rare. In the Roman Catholic, Orthodox, and Anglican churches, they are properly only practised by persons trained and authorized by their church. Stephen Hunt, 'Deliverance: The Evolution of a Doctrine', *Themelios*, 1995, 21(1): 10-13.
- 22 Stephen Hunt, 'Managing the Demonic: Some Aspects of the Neo-Pentecostal Deliverance Ministry', *Journal of Contemporary Religion*, 1998, 13(2): 216.
- 23 Jeffrey Satinover, *Homosexuality and the Politics of Truth* (Grand Rapids: Baker Books, 1996), 196-209.
- 24 Anthony Venn-Brown, 'Sexual Orientation Change Efforts within Religious Contexts: A Personal Account of the Battle to Heal Homosexuals', *Sensoria: A Journal of Mind, Brain & Culture*, 2015, 11(1): 81-91.
- 25 See, for example, the health service claims in standard ex-gay manuals: Andy Comiskey, *Living Waters: Pursuing Sexual and Relational Wholeness in Christ* (Desert Stream Ministries, 1996).
- 26 No evidence has yet been found of religious based conversion therapies directed at people with intersex conditions. In fact, some evidence has been found of churches displaying considerable understanding and sensitivity to people with intersex conditions. See Timothy W. Jones, *Sex and Gender in the Church of England, 1857-1957* (PhD, University of Melbourne, 2007), 181-83.
- 27 See, for example, Annabelle Robertson, 'Transgender: Hope for Those Who Desire Healing', *Crosswalk.com*, 19 October 2004, <https://www.crosswalk.com/1291492/>.
- 28 Andy Comiskey, *Living Waters: Pursuing Sexual and Relational Wholeness in Christ* (Desert Stream Ministries, 1996), 4.
- 29 Leanne Payne, *The Healing of the Homosexual* (Wheaton: Crossway Books, 1985); Leanne Payne, *Crisis in Masculinity* (Grand Rapids: Baker Books, 1985, 1995); Leanne Payne, *The Broken Image* (Grand Rapids: Baker Books, 1981, 1995); Leanne Payne, *The Healing Presence* (Grand Rapids: Baker Books, 1989, 1996).
- 30 Sy Rogers, *One of the Boys, The Sy Rogers Story* (DVD. Wilton Manors: Worthy Creations, 2011); Sy Rogers, *Smart Relating* (CD. Wilton Manors: Worthy Creations, 2010); Sy Rogers; *The God Files* (CD. Wilton Manors: Worthy Creations, 2010).

- 31 The National Association for Research and Treatment of Homosexuality (NARTH) was founded in 1992 by Joseph Nicolosi, Benjamin Kaufman and Charles Socarides to promote conversion therapy. Ostensibly secular, it is closely linked with conservative religious lobby groups. Since 2014, it has operated under the name Alliance for Therapeutic Choice and Scientific Integrity. See <https://www.therapeuticchoice.com/>.
- 32 Popular Australian religious conversion therapy literature include Shirley Baskett, *The Woman Who Outran the Devil* (Oxford: Monarch Books, 2005); Shirley Baskett, *'C' Change: Living Renewed in Christ* (Melbourne: Sayline Press, 2015); Jeanette Howard, *Out of Egypt: One Woman's Journey out of Lesbianism* (London: Monarch Books, 1991/2000); Jeanette Howard, *Into the Promised Land: Beyond the Lesbian Struggle* (Oxford: Monarch Books, 2005); Tony Payne and Philip Jenson, *Pure Sex* (Kingsford NSW: Matthias Media, 1998); Christopher Keane (ed), *What Some of You Were: Stories about Christians and Homosexuality* (Kingsford: Matthias Media, 2001); Christopher Keane, *Choices: One Person's Journey out of Homosexuality* (Brunswick East: Acorn Press, 2009).
- 33 Prominent Muslim psychologist, Hanan Dover, reported the existence of a clinic in Lakemba, NSW, providing ex-gay counselling to Muslims at a forum at UWS Bankstown on 28 June 2002. See 'Islam & Homosexuality: an Islamic, Scientific and Logical Approach', <http://www.josken.net/homoph4c.htm>. See also Shakira Hussein and Alia Imtoul, 'Confronting Homophobia within Muslim Communities', *ABC Religion and Ethics*, 23 June 2017, <http://www.abc.net.au/religion/articles/2016/06/23/4487848.htm>; Shakira Hussein and Alia Imtoul, 'A Fraught Search for Common Political Ground: Muslim Communities and Alliance Building in Post-9/11 Australia', *Borderlands*, 2009, 8(1): online, http://www.borderlands.net.au/vol8no1_2009/husseinImtoul_fraught.pdf.
- 34 In 2012, the Exodus Global Alliance website listed numerous churches and ostensibly secular counselling practices as places offering conversion therapy: <http://www.exodusglobalalliance.org/regionalcontacts876.php>. [accessed 9 November 2012].
- 35 It remained active until 2016. In Australia today, there are at least three support groups for LGBT people of faith, including survivors of conversion therapy: Brave Network (<https://thebravenetwork.org>), Marhaba (<https://www.marhaba.org.au>), and Aleph (<https://www.aleph.org.au>). See also the 2018 SOCE Survivor Statement: <https://www.socesurvivors.com.au>.
- 36 <http://exodusinternational.org/> [accessed 31 July 2012]. See Timothy W. Jones, 'Gay "Cure" Renounced by World's Largest "Ex-Gay" Group', *The Conversation*, 1 August 2012, <https://theconversation.com/gay-cure-renounced-by-worlds-largest-ex-gay-group-8456>.
- 37 <http://exodusinternational.org/2013/06/exodus-intl-president-to-the-gay-community-were-sorry/>.
- 38 Anthony Venn-Brown, 'Gay Conversion Therapy in Australia: The State of the Nation', 10 May 2018, <http://www.abbi.org.au/2018/05/gay-conversion-therapy-in-australia/>. Living Waters Australia, for example, closed in April 2014. It had operated out of the Christian Life Centre, later Hillsong, in the 1980s and 1990s before operating independently under the leadership of Ron Brookman. When Brookman announced his retirement in 2014, the number of Living Waters groups and participants nationally had declined to the extent that he was not replaced and the ministry closed. However, Brookman continues a 'healing ministry' focused on sexual brokenness at his Sydney church. As at 9 July 2018, the living waters website (livingwaters.org.au) redirected to Brookman's church, Restore Healing Ramsgate: <https://restorehealingc.wixsite.com/restore>.
- 39 *National LGBT Survey: Research Report* (Manchester: Government Equalities Office, 2018), 83-94.
- 40 Ibid, 84.
- 41 Ibid, 89-92.
- 42 The most recent comparable census data for the two jurisdictions is from 2011. The 2011 Australian census reported religious identification as: Christian (60%), no religion (22.3%), Buddhist (2.5%), Muslim (2.2%), and Hindu (1.3%). The 2011 England and Wales census reported religious identification as: Christian (59%), no religion (25%), Muslim (5%), Hindu (1.5%) and Sikh (0.8%).
- 43 Mark McCrindle, *Faith and Belief in Australia: A National Study on Religion, Spirituality and Worldview Trends* (Baulkham Hills: McCrindle Research Pty Ltd, 2017).
- 44 See R. Powell, S. Sterland, M. Pepper, and N. Hancock, *Comparing Australian Church Attenders by Church Background – Protestant* (Sydney: NCLS Research, 2017); Ruth Powell, 'The Demographics of a Nation: Australia and the Church', *Pointers: Bulletin of the Christian Research Association*, 2011, 21(1): 15-16. Interestingly, McCrindle found that the biggest blocker to Australians engaging with Christianity is the Church's stance and teaching on Christianity (31% of respondents said this completely blocked their interest): Mark McCrindle, *Faith and Belief in Australia: A National Study on Religion, Spirituality and Worldview Trends* (Baulkham Hills: McCrindle Research Pty Ltd, 2017), 10.
- 45 Exodus Asia Pacific and Renew Ministries have identical statements of purpose and many other similarities between their websites, raising questions about the nature of their relationship as two distinct entities.
- 46 Emphasis added. On Eagles Wings to Asia, *Policy Statement*, 2018, <https://www.oneagleswings2asia.org/policy/>.
- 47 Exodus Asia Pacific, *Statement of Belief*, 2018, <https://www.exodusglobalalliance.org/statement-of-belief-p1880.php>.
- 48 Emphasis added. Exodus Asia Pacific, *Who We Are and What We Do*, 2018, <https://www.exodusglobalalliance.org/policy896.php>.
- 49 Exodus Asia Pacific, *Statement in Response to Recent Newspaper Articles*, 2018, <https://www.exodusglobalalliance.org/statement-of-response-to-accusations-p1747.php>.
- 50 Exodus Asia Pacific, *Who We Are and What We Do*, 2018, <https://www.exodusglobalalliance.org/policy896.php>. Ministries touts the same word for word statement on their website: Renew Ministries, *About Renew*, 2018, <http://www.renewministries.com.au/about.html>.
- 51 Prominently recommended are Jeanette Howard's biographical works, which document her initial confidence regarding her reorientation, and then an acceptance of a chaste life with same-sex attraction. See Jeanette Howard, *Out of Egypt: One Woman's Journey out of Lesbianism* (London: Monarch Books, 1991/2000); Jeanette Howard, *Into the Promised Land: Beyond the Lesbian Struggle* (Oxford: Monarch Books, 2005); Jeanette Howard, *Dwelling in the Land: Bringing Same-Sex Attraction Under the Lordship of Christ* (Oxford: Monarch Books, 2016).
- 52 Liberty, *About*, 2018, <http://www.libertyinc.org.au/organisation/>.
- 53 Setting Captives Free, *About*, 2018, <https://settingcaptivesfree.com/about>.
- 54 See <https://sit-framework.com>; Mark Yarhouse, 'Narrative Sexual Identity Therapy', *American Journal of Family Therapy*, 2008, 36(1): 196-210.
- 55 See, for example, Shirley Baskett, *'C' Change: Living Renewed in Christ* (Melbourne: Sayline Press, 2015).
- 56 Mark Yarhouse, *Homosexuality and the Christian: A Guide for Parents, Pastors and Friends* (Bloomington: Bethany House Publishers, 2010); Mark Yarhouse, *Understanding Sexual Identity: A Resource for Youth Ministry* (Grand Rapids: Zondervan, 2013); Mark Yarhouse, *Understanding Gender Dysphoria: Navigating Transgender Issues in a Changing Culture* (Downers Grove: InterVarsity Press, 2015).
- 57 The talks are available at: <http://www.liberty.sydney/2016-identity-conference-talks/>.

- 58 See, for example, Stanley Grenz, *Welcoming but Not Affirming: An Evangelical Response to Homosexuality* (Louisville: Westminster John Knox Press, 1998).
- 59 Mark Jennings, 'A Silence Like Thunder: Pastoral and Theological Responses of Australian Pentecostal-Charismatic Churches to LGBTQ Individuals' in Michael Wilkinson and Peter Althouse (eds), *Annual Review of the Sociology of Religion Volume 8: Pentecostals and the Body* (Leiden: Brill, 2017), 215-238
- 60 Mark Jennings, 'Impossible Subjects: LGBTI Experiences in Australian Pentecostal-Charismatic Churches', *Religions* 2018, 9(53): 1-15.
- 61 Chris Adams, 'I Married a Woman, I Tried to Be a "Good Christian" — But Nothing Could Change my Sexuality', *PinkNews*, 2 February 2018, <https://www.pinknews.co.uk/2018/02/02/i-tried-to-be-a-good-christian-i-married-a-woman-but-nothing-could-change-my-sexuality/>.
- 62 Quoted in Mark Jennings, "'Welcoming, but Not Affirming": Being Gay and Christian', *The Conversation*, 30 August 2016, <https://the-conversation.com/welcoming-but-not-affirming-being-gay-and-christian-64110>.
- 63 See, for example, Wendy VanderWal-Gritter, *Generous Spaciousness: Responding to Gay Christians in the Church*, (Ada: Brazos Press, 2014).
- 64 James Norman, 'Eric Abetz's Unyielding Opposition to Gay Law Reform', *Sydney Morning Herald*, 13 October 2016, <https://www.smh.com.au/opinion/eric-abetz-unyielding-opposition-to-gay-law-reform-20161011-gs03ur.html>.
- 65 Lane Sainty, 'Parents Should Be Able to Send Their Kids to Gay Conversion Therapy, Says Leading "No" Campaigner', *Buzzfeed News*, 15 September 2017, https://www.buzzfeed.com/lanesainty/lyle-shelton-gay-conversion-therapy?utm_term=.acmX9zN1V#.wvD1wqER9.
- 66 Shimon Cowen, *Homosexuality, Marriage and Society* (Redland Bay: Connor Court, 2016).
- 67 Shimon Cowen, 'Victorian Parliament: Risk to Democracy, Rights in Health Complaints bill', *News Weekly*, 26 March 2016, <http://news-weekly.com.au/article.php?id=57248>.
- 68 Bill Muehlenberg, 'The Gaystapo Crackdown on Christianity', *Culture Watch*, 25 January 2016, <http://billmuehlenberg.com/2016/01/25/our-victorian-gaystapo/>.
- 69 'You Won't Believe Labor's Latest Attack on Parents' Rights', https://www.acl.org.au/parental_rights.
- 70 The desire to live a life of religious devotion and aspirations to religious leadership are common among ex-gay survivors.
- 71 We use this term in quotes because there is never one single point or event at which a person declares their sexual or gender identity to the world.
- 72 This will be dealt with in more depth in the section 'Counselling' and advice.
- 73 On one occasion, while married and living as a man, Bethany went to Sydney's Mardi Gras with her wife's agreement.
- 74 Book titles recalled by participants included (in alphabetical order): Pim Pronk, *Against Nature? Types of Moral Argumentation Regarding Homosexuality* (Grand Rapids, Michigan: Eerdmans Pub Co., 1994); Bob Davies and Lori Rentzel, *Coming out of Homosexuality: New Freedom for Men and Women* (Downers Grove: Inter-Varsity Press, 1994); William Consiglio, *Homosexual No More — Practical Strategies for Christians Overcoming Homosexuality* (Wheaton, Illinois: Victor Books, 1991); Mario Bergner, *Setting Love in Order: Hope and Healing for the Homosexual* (Grand Rapids, Michigan: Hamewith Books, 1995) and Jeffrey Satinover, *Homosexuality and the Politics of Truth* (Grand Rapids, Michigan: Hamewith Books, 1996). DVDs mentioned included *Smart Relating* and *The God Files*, both by Sy Rogers.
- 75 Sy Rogers is an American evangelical pastor who, in his earlier life, identified as gay, cross-dressed and considered gender reassignment surgery. He is regularly held up as a prime example of someone who is ex-gay and had published numbers of DVDs and books on Christianity, sexuality and relationships.
- 76 Bethany, a Jewish participant, reported having sought support from a Jewish advocate and, in turn, being sent to a Christian psychologist.
- 77 Robert Hemfelt, Frank Minerth and Paul Meier, *Love Is A Choice: The Definitive Book on Letting Go of Unhealthy Relationships* (Nashville: Thomas Nelson, 1989).
- 78 *Ibid.*, 6.
- 79 Andy Comiskey, *Living Waters: Pursuing Sexual and Relational Wholeness in Christ* (Desert Stream Ministries, 1996).
- 80 European Parliament, 'Report on the Situation of Fundamental Rights in the EU in 2016' (Report No 2017/2125/INI, 13 February 2018) <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2018-0025&language=EN>.
- 81 United Nations, 'United Nations Entities Call on States to Act Urgently to End Violence and Discrimination against Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Adults, Adolescents and Children' (Statement, September 2015) http://www.ohchr.org/Documents/Issues/Discrimination/Joint_LGBTI_Statement_ENG.PDF
- 82 All levels of government in Australia have to play a role in protecting human rights. Article 27 of the *Vienna Convention on the Law of Treaties*, opened for signature 23 May 1969, 1155 UNTS 331 (entered into force 27 January 1980) provides that a State cannot use the provisions of its own law or deficiencies in that law to answer a claim against it for breaching its obligations under international law.
- 83 Case of Velásquez Rodríguez v Honduras, Velásquez Rodríguez and ors v Honduras, Interpretation of the judgment of reparations and costs, IACHR Series C no 9, IHRL 1390 (IACHR 1990), 17th August 1990, Inter-American Court of Human Rights.
- 84 Yakin Ertürk, *The Due Diligence Standard as a Tool for the Elimination of Violence against Women*, UN ESCOR, 62nd sess, UN Doc E/CN.4/2006/61 (20 January 2006) [59].
- 85 We draw on international human rights law commentary, jurisprudence and literature. For example, Ignatius Yordan Nugraha, 'The Compatibility of Sexual Orientation Change Efforts with International Human Rights Law', *Netherlands Quarterly of Human Rights* 2017, 35(3): 176-192.
- 86 *Report of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity*, Victor Madrigal-Borloz, UN GAOR, 38th sess, Agenda Item 3, UN Doc A/HRC/38/43 (11 May 2018) [47], citing Christy Mallory, Taylor N T Brown and Kerith J Conron, 'Conversion Therapy and LGBT Youth' (Research Paper, Williams Institute, January 2018) and Jack Drescher et al, 'The Growing Regulation of Conversion Therapy' *Journal of Medical Regulation*, 2016, 102(2): 7-12.
- 87 See Christy Mallory, Taylor N T Brown and Kerith J Conron, 'Conversion Therapy and LGBT Youth' (Research Paper, Williams Institute, January 2018) and Jack Drescher et al, 'The Growing Regulation of Conversion Therapy' *Journal of Medical Regulation*, 2016, 102(2): 7-12.
- 88 *International Covenant on Economic, Social and Cultural Rights*, opened for signature on 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976).
- 89 Anand Grover, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, GA Res 6/29, UNGAOR, 14th sess, Agenda Item 3, UN Doc A/HRC/14/20 (27 April 2010) [23].

- 90 Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No 14: The Right to the Highest Attainable Standard of Health (Art 12)*, UN ESCOR, 22nd sess, UN Doc E/C.12/2000/4 (11 August 2000) [12].
- 91 CESCR, *General Comment No 22 (2016) on the Right to Sexual and Reproductive Health (Art 12) of the International Covenant on Economic, Social and Cultural Rights*, UN ESCOR, UN Doc E/C.12/GC/22 (2 May 2016).
- 92 *Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, UN GAOR, 56th sess, UN Doc A/56/156 (3 July 2001) [24].
- 93 *Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987).
- 94 The definition of torture under the CAT generally refers to acts by a public official. However, there arguably exists an obligation on the State to exercise due diligence to prevent, investigate, prosecute and punish private individuals. Torture by private individuals is easier to bring within the scope of the torture obligations of the ICCPR, due to the lack of reference to 'public officials' in the definition.
- 95 Human Rights Committee, *General Comment No 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 44th sess, UN Doc HRI/GEN/1/Rev.1 (10 March 1992) 30 [2].
- 96 *Report of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity*, UN GAOR, 38th sess, Agenda Item 3, UN Doc A/HRC/38/43 (11 May 2018) [47].
- 97 Committee against Torture, Concluding observations on the seventh periodic review of Ecuador, UN Doc CAT/C/ECU/7 (11 January 2017) [49]–[50].
- 98 Committee against Torture, *Concluding observations on the sixth periodic review of China*, UN Doc CAT/C/CHN/CO/5 (13 February 2016) [55]–[56].
- 99 Human Rights Committee, *General Comment No 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 44th sess, UN Doc HRI/GEN/1/Rev.1 (10 March 1992) 31 [5].
- 100 See, for example, Human Rights Committee, *Views: Communication No 74/1980*, Supp No 40, UN Doc A/38/40 (1983) (*Miguel Angel Estrella v Uruguay*) [1.6], [8.3].
- 101 See Sarah Joseph, Jenny Schultz and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary*, 2nd ed. (Oxford: OUP, 2004) [9.68].
- 102 *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976) arts 2(1) and 26.
- 103 Human Rights Committee, *Views: Communication No 488/1992*, 50th sess, UN Doc CCPR/C/50/D/488/1992 (25 December 1991) (*Toonen v Australia*); Human Rights Committee, *Views: Communication No 2172/2012*, 119th sess, UN Doc CCPR/C/119D/2216/2 (17 March 2017) ('G v Australia'); see generally *Report of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity*, *Victor Madrigal-Borloz*, UN GAOR, 38th sess, Agenda Item 3, UN Doc A/HRC/38/43 (11 May 2018).
- 104 Special Correspondent, 'LGBT Community Cheerful after Right to Privacy Ruling', *Hindu Times*, 24 August 2018.
- 105 Committee on the Rights of the Child, *General Comment No 20 (2016) on the Implementation of the Rights of the Child during Adolescence*, UN Doc CRC/C/GC/20 (6 December 2016).
- 106 *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
- 107 Ignatius Yordan Nugraha, 'The Compatibility of Sexual Orientation Change Efforts with International Human Rights Law', *Netherlands Quarterly of Human Rights*, 2017, 35(3): 176-192.
- 108 *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 18(3).
- 109 Human Rights Committee, *General Comment No 22: Article 18 (Freedom of Thought, Conscience or Religion)*, 48th sess, UN Doc CCPR/C/21/Rev.1/Add.4 (30 July 1993) [8] (*UN HRC General Comment No 22*). Paragraph 3 of *UN HRC General Comment No 22* on states: 'Article 18 distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice'. (<http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d-1167cc12563ed004d8f15>). Limitations on freedom of religion are also similarly expressed in Article 14(3) of the *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990), Article 12(3) of the *International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families*, opened for signature 18 December 1990, 2220 UNTS 3 (entered into force 1 July 2003) and Article 9 of the *Convention for the Protection of Human Rights and Fundamental Freedoms on Human Rights*, opened for signature 4 November 1950, 213 UNTS 221 (entered into force 3 September 1953) (*European Convention on Human Rights*).
- 110 *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 18(3).
- 111 *Eweida v United Kingdom* [2013] ECHR 37 (15 January 2013) [82]. See also *Ladele v London Borough of Islington* [2009] EWCA Civ 1357 (15 December 2009) [52].
- 112 The States are California, Connecticut, Washington D.C., Illinois, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Maryland, Washington, Hawaii, New Hampshire and Delaware. The city councils in another 10 States have also introduced bans for minors, being Gainesville, Milwaukee, New York City, Albany, Albany County, Madison, Bellefonte, Bethlehem, Ulster County and Rochester. An Assembly Bill in New York has also made progress.
- 113 The Human Rights Campaign has a summary of the bill and its status: Human Rights Campaign, *Therapeutic Fraud Prevention Act* (2018) <https://www.hrc.org/resources/therapeutic-fraud-prevention-act>.
- 114 *An Act to Amend the California Consumers Legal Remedies Act*, Pub L No 2943, § 1761 and § 1770, Cal Stat (2018).
- 115 Melanie Mason, 'California Legislator Shelves Bill to Ban Paid "Gay Conversion Therapy" for Adults', *Los Angeles Times*, 31 August 2018, <http://www.latimes.com/politics/la-pol-ca-conversion-therapy-bill-20180831-story.html#>.
- 116 445 NJ Super 129 (2014).
- 117 *Ferguson v JONAH* (Jury Verdicts L-5473-12, 25 June 2015).
- 118 *Ferguson v JONAH* (NJ Super, No HUD-L-5473-12, 5 February 2015) slip op IV B (Bariso J).
- 119 It has been found that a degree of system and regularity is required for a not for profit organisation's activities to be characterised as business. See *Fasold v Roberts* (1997) 70 FCR 489, applying *Hungier v Grace* (1972) 127 CLR 210.
- 120 See generally Justin Ling, 'Canada's Most Populous Province Just Banned Conversion Therapy for LGBTQ Youth', *Vice News*, 5 June 2015, <https://news.vice.com/article/canadas-most-populous-province-just-banned-conversion-therapy-for-lgbtq-youth>.

- 121 Manitoba Health Ministry, 'Province Takes Steps to Ban Conversion Therapy – Harmful Practice Has No Place in Manitoba Health Care: Minister Blady' (News Release, 22 May 2015) <http://news.gov.mb.ca/news/index.html?item=34930&posted=2015-05-22>.
- 122 Ibid.
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