



Statement on the South Australian *Conversion Practices Prohibition Bill 2024*

Freedom for Faith opposes coercive and barbaric practices that are intended to change a person's gender identity or sexual attraction.

However, "Conversion Practice" bans are problematic. Coercive and barbaric practices are already banned under existing legislation. Creating extra prohibitions specifically addressing this issue risks unintended consequences and infringes fundamental human rights.

Many faiths have strong beliefs about the nature of gender and sexuality – beliefs that have been held consistently for thousands of years. All people, including those belonging to faith communities, have the right to hold these beliefs, teach them, exhort others to live by them, require members of faith communities and organisations to follow them, and support and encourage those who voluntarily do so. The ability of a person to form their own convictions by consenting to adopt religious beliefs is fundamental to a free and open society.

The *International Convention on Civil and Political Rights* (ICCPR) enshrines the fundamental human rights of freedom of speech, freedom of association, and freedom of religion as core, inalienable rights. As a signatory to this covenant, Australia has a responsibility to protect these rights for all Australians in accordance with the ICCPR, which sets a very high standard for any laws that restrict these rights.

We appreciate that the Conversion Practices Prohibition Bill 2024 (SA) is an attempt to balance this issue. The bill is an improvement on the NSW law, which itself is a significant improvement on the Victorian model that grossly violates human rights.

However, there are still significant concerns where the bill risks unnecessarily violating ICCPR human rights.

Notably, but not exclusively:

Definition of “suppression”

The term “suppression” is included in the definition of a conversion practice, however the term itself is not defined. “Suppression” has a wide semantic range. While the more common usage has an element of coercion or force, there are usages that could encompass a simple conversation, such as counselling a married, heterosexual man to not have an affair with another woman.

Ongoing religious teaching

The exemption for religious expressions (clause 4(3)(c)) includes the proviso “without more”, without specifying what the “more” is. This leaves open the possibility of interpreting the Act to mean that a single conversation with a consenting adult explaining a religious belief is not a conversion practice, but a second conversation, or supporting the person’s desire to live in accordance with that belief is illegal.

According to the principles of statutory interpretation the further clarification concerning religious statements at clause (4)(a) is non-binding because it is an ‘example’.¹ Also, it can only be binding if it falls within the actual exceptions at subclause 4(3) (whose limitations have already been stated). Because of this, amendments were proposed in NSW to make the exception binding by replacing the words ‘are examples of what does not constitute a conversion practice’ with the words ‘do not constitute a conversion practice’.

Ongoing religious practices and impact on religious schools

The bill proposes a non-binding example of an exception for ‘general requirements’ in relation to leaders and members of religious orders (but not other employees or volunteers). A separate non-binding example is provided for ‘general rules’ in schools. As noted above, these examples should be made binding. Failing this, the Bill will become the standard for employment and volunteer exemptions in SA, undermining the exemptions in the *Equal Opportunity Act 1984*. It is also necessary to clarify that churches and schools may not only set general standards, but also apply them. The bill should not limit the ongoing practices of religious institutions in fidelity to their beliefs about the nature of gender and sexuality – beliefs that have been held consistently for thousands of years.

¹ In *Mclaughlin v Dungowan Manly Pty Ltd (No 3)* Pembroke J stated: ‘Examples are a legitimate aid to interpretation but must give way where they conflict with a substantive provision of the legislation.’

Weak protections for parents

The protections for parents only cover, “parents discussing, or providing guidance ...” to their children on issues relevant to the bill. Parents do far more than merely discuss or provide guidance as they raise their children, including setting family rules and behavioural standards. Furthermore, as noted above, this clarification is made in a non-binding statutory example. The right of parents to raise their children consistent with their moral and religious beliefs should be respected.

Consent

When an adult seeks assistance or support, the person from whom they are seeking support needs to be able to respond to the expressed needs. The bill should make clear that adults can consent to seeking the support they need.

Accordingly, we cannot support the Bill in its current form. We call on the Government and Opposition to address these significant issues before progressing.

Mike Southon
Executive Director,
Freedom for Faith