



FORCIBLY DISPLACED PEOPLE NETWORK

**Submission to the ACT Legislative Review of the *Sexuality
and Gender Identity Conversion Practices Act 2020***

Focus on experiences of LGBTIQ+ forcibly displaced people

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About Forcibly Displaced People Network

The Forcibly Displaced People Network (FDPN) is an Australian organisation dedicated to advocating for LGBTIQ+ individuals who have been forcibly displaced¹ from their homes due to persecution based on their gender identity or sexual orientation. FDPN proudly stands as the first registered organisation led by LGBTIQ+ people who have experienced forced displacement.

FDPN is at the forefront of efforts to raise awareness about unique challenges faced by LGBTIQ+ refugees, people seeking asylum, and migrants. We advocate for intersectional policies and services for LGBTIQ+ individuals in forced displacement. Through our national and international work, we are amplifying voices, paving an inclusive path towards fulfilling potential and shaping a future where every individual not only survives but thrives. With an unwavering commitment, we persistently work towards a future that upholds, celebrates, and safeguards the rights and dignity of forcibly displaced LGBTIQ+ people.

We welcome an opportunity to make a submission to the ACT Legislative Review into the *Sexuality and Gender Identity Conversion Practices Act 2020*.

In this submission we respond to the following terms of reference to bring the issues that LGBTIQ+ asylum seekers, refugees and migrants experience to the attention of the ACT Government:

- TOR 1 Has the introduction of the Act resulted in any behavioural change relating conversion practices?
- TOR 2 Is there evidence of formal or informal practices continuing to occur in the ACT?
- TOR 4 What is the awareness level across the community, particularly communities of faith, about the Act and the complaints process?
- TOR 6 Is there a good understanding across the community of:
 - a. who the Act applies to and why?
 - b. what constitutes a sexuality or gender identity conversion practice?

This submission is based on:

- primary data collected from LGBTIQ+ forcibly displaced people through community consultation.
- the first-ever national survey of the settlement experiences for LGBTIQ+ forcibly displaced people and published the report 'Inhabiting Two Worlds At Once'.²

Content warning: this submission contains real life accounts of sexual and gender-based violence, transphobia and sexuality and gender identity conversion practices.

¹ Using the term 'forcibly displaced' we refer to people seeking asylum, refugees and migrants from non-Western countries who experienced a degree of coercion for reallocation to Australia.

² Cochrane, B., et al. (2023). "Inhabiting Two Worlds At Once": Survey on the experiences of LGBTIQ+ settlement in Australia. Available at <https://fdpn964079271.files.wordpress.com/2023/10/inhabiting-two-worlds-report-into-lgbtiqua-settlement-outcomes-fdpn-colour.pdf> Canberra, Australia: Forcibly Displaced People Network

Recommendations

1. Expand the definition of sexuality and gender identity conversion practices to include elements of and recognise it as a manifestation of gender-based violence.
2. Ensure that primary prevention of gender-based violence is inclusive of LGBTIQ+ experiences including with specific recognition of sexuality and gender identity conversion practices.
3. Ensure that primary prevention of sexuality and gender identity conversion practices takes into account such manifestations of gender-based violence as arranged and forced marriage, female genital mutilation/cutting and coercive control.
4. Ensure that awareness raising and outreach is done for LGBTIQ+ forcibly displaced people to increase their understanding of both what constitutes a sexuality and gender identity conversion practice and how to seek support and justice.
5. Ensure that funding is provided to community organisations led by LGBTIQ+ forcibly displaced people to enable targeted primary prevention of and support after experiences of sexuality and gender identity conversion practices.

Evidence of formal and informal conversion practices

The Inhabiting Two Worlds At Once report³ has recorded 4 instances of sexuality and gender identity (SGI) conversion practices that took place in Australia. This number constitutes 5% of the sample. 2 of the instances have taken place in VIC (that has a similar ban to the ACT), 1 instance took in NSW (a respondent has not provided a post code of their location) and 1 instance took place in TAS. The lack of evidence for the ACT should not be read as no evidence that these practices are occurring, as we will demonstrate further, but rather than LGBTIQ+ forcibly displaced people may not describe some practices as SGI conversion practices. This brings us to what we see as an important gap in the Act, that is the understanding a link between homo/transphobically motivated gender-based violence and SGI conversion practices.

Expanding on the definition of SGI conversion practices

The above mentioned 4 instances of SGI conversion practices were provided in response to the question 'Have you experienced any type of sexual and gender-based violence in Australia?'. A respondent was asked to choose between yes and no option, and then answer an optional question where a respondent chooses a type of violence, that also includes SGI conversion practices.⁴ All 4 respondents who reported SGI conversion practices also reported that they had experienced arranged or forced marriage in Australia. They formed 50% of all respondents who reported having experiences arranged or forced marriage in Australia. Additionally, we were provided with the following case study by a community member:

³ The Inhabiting Two Worlds At Once report is the first comprehensive national survey into settlement outcomes for LGBTIQ+ people seeking asylum, refugees and migrants. The report is based on 82 responses from all over Australia with the exception of NT. It is worth noting that SOGIESC data is routinely not collected in relation to LGBTIQ+ forcibly displaced people. We outline in the report why our sample is representative despite the small size.

⁴ Inhabiting Two Worlds At Once, p. 44.

Amina⁵ is a queer woman from Sudan. In Sudan she secretly dated women. On one occasion, Amina's father has caught her kissing a woman. To avoid familial shame, he planned to arrange a marriage for her with a man, who had been living in Australia. As Amina recalls, for her father a heterosexual marriage was a way to 'change her sexuality'. Amina had no choice to agree to a marriage.

We argue that for LGBTIQ+ forcibly displaced people heterosexual marriage, in particular in the context where their sexuality or gender identity is outed, becomes a tool of SGI conversion practice. The primary purpose of such marriages is in changing person's sexuality or gender identity. In our report, 23% (n=19) reported experiences of arranged or forced marriages prior coming to Australia.

While forced marriages are illegal in Australia, LGBTIQ+ forcibly displaced people are faced with particular challenges when trying to seek justice. For those who had these marriages officiated in their countries of origin and them now residing in Australia there may be no justice mechanisms available. Divorces may not be possible where civil process does not annul the marriage in the same way as a religious process does, or where a person is on a protection visa. Being on a protection visa means that a person is not able to attend an embassy appointment, as this may jeopardise their safety and visa. For those LGBTIQ+ forcibly displaced people where an arranged or forced marriage took place in Australia, using the criminal justice system may not be possible for the fear/threat of being ostracised from their ethnic community.

We also argue that there may be links between drivers for female genital mutilation/cutting (FGM/C) and SGI conversion practices for LGBTIQ+ people. The excerpt of the *Inhabiting Two Worlds At Once* report that focuses on experiences of trans displaced people⁶ has found 3 instances of FGM/C were reported prior coming to Australia and 1 instances was reported in Australia. Among the survivors of this violence prior to Australia were two trans men and one nonbinary person. A survivor of FGM/C in Australia was a trans man as well. This is an important finding as much of the support around FGM is likely targeted to those who identify as women.

This evidence creates a strong case that the definition of SGI conversion practices must incorporate elements of gender-based violence, in particular coercive control. Consider the following case study:

Sunshine is a trans woman from Malaysia. She first came to Australia as an international student and started her transition in her second year of studies. For a year she was able to hide her transition from her parents. Sunshine's parents live in Malaysia and they only communicated online. Sunshine's parents were financially supporting her.

Soon Sunshine's gender identity became known to her parents. They hired a private investigator to collect evidence that Sunshine was undergoing gender transition. After they have received confirmation, they cut all financial support to Sunshine with an ultimatum that it can be restored when she stops her transition. The cutting of financial support has resulted in Sunshine dropping the university degree in her final semester, becoming homeless and undergoing a serious mental health crisis including hospitalisation.

⁵ Names and countries provided in this submission are changed for privacy reasons and to avoid identification.

⁶ *Inhabiting Two Worlds At Once*, focus on trans displaced people. Available at: https://fdpn964079271.files.wordpress.com/2023/11/fdpn_inhabiting-two-worlds-at-once-trans-participants.pdf

The case study above urges to consider what constitutes a SGI conversion practice and the role of coercive control in it. We argue that primary prevention efforts to address gender-based violence must specifically take into account experiences of LGBTIQ+ people including SGI conversion practices. Equally, primary prevention of SGI conversion practices must expand and taking into account such manifestations of gender-based violence as arranged and forced marriage, female genital mutilation/cutting and coercive control.

Seeking support and justice after an experience of a SGI conversion practice

The same barriers as described in relation to seeking justice from an arranged/forced marriage described above persist in relation to seeking justice from SGI conversion practices. While FDPN strongly supports the criminalisation of SGI conversion practices, we recognise that the criminal justice system may not be a safe or preferred way to resolve the experiences for LGBTIQ+ forcibly displaced people.

LGBTIQ+ forcibly displaced people have a distrust to and fear of authority figures for their prior experiences of persecution. It is likely that authority figures played a role in persecution that resulted in displacement. Many LGBTIQ+ people who are currently on temporary visas fear any engagement with the system in particular making complaints assuming that this may result in visa cancellation (regardless of the factuality of this fear).

Thus, it is critical to conduct awareness raising and outreach to LGBTIQ+ forcibly displaced people specifically to ensure that they are aware of support and justice options. Case studies provided in this submission also raise a challenge where perpetrators of SGI conversation practices are not ordinarily residents of Australia. In these instances, it is unclear what the criminal justice or ACAT response can achieve for LGBTIQ+ forcibly displaced people. This necessitates a peer-led community support response. Community organisations led by LGBTIQ+ forcibly displaced people are well equipped to provide this support with sufficient resourcing. This would align and assist achieving the Act's objective to recognise and prevent harm from SGI conversion practices.

Finally, awareness raising is required across culturally and linguistically diverse communities in Australia with the focus on behaviour change in relation to LGBTIQ+ people in these communities. Such efforts should not automatically assume a link between one's culture and prevalence of SGI conversion practices, but rather foster relationships with community leaders to ensure acceptance, equality and safety for all in the community.

Once again, thank you for the opportunity to make a submission. If you wish to discuss this issue further, please contact Renee Dixon, FDPN Chair, using the details below.

Renee Dixon

Co-founder, Chair

Forcibly Displaced People Network

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