

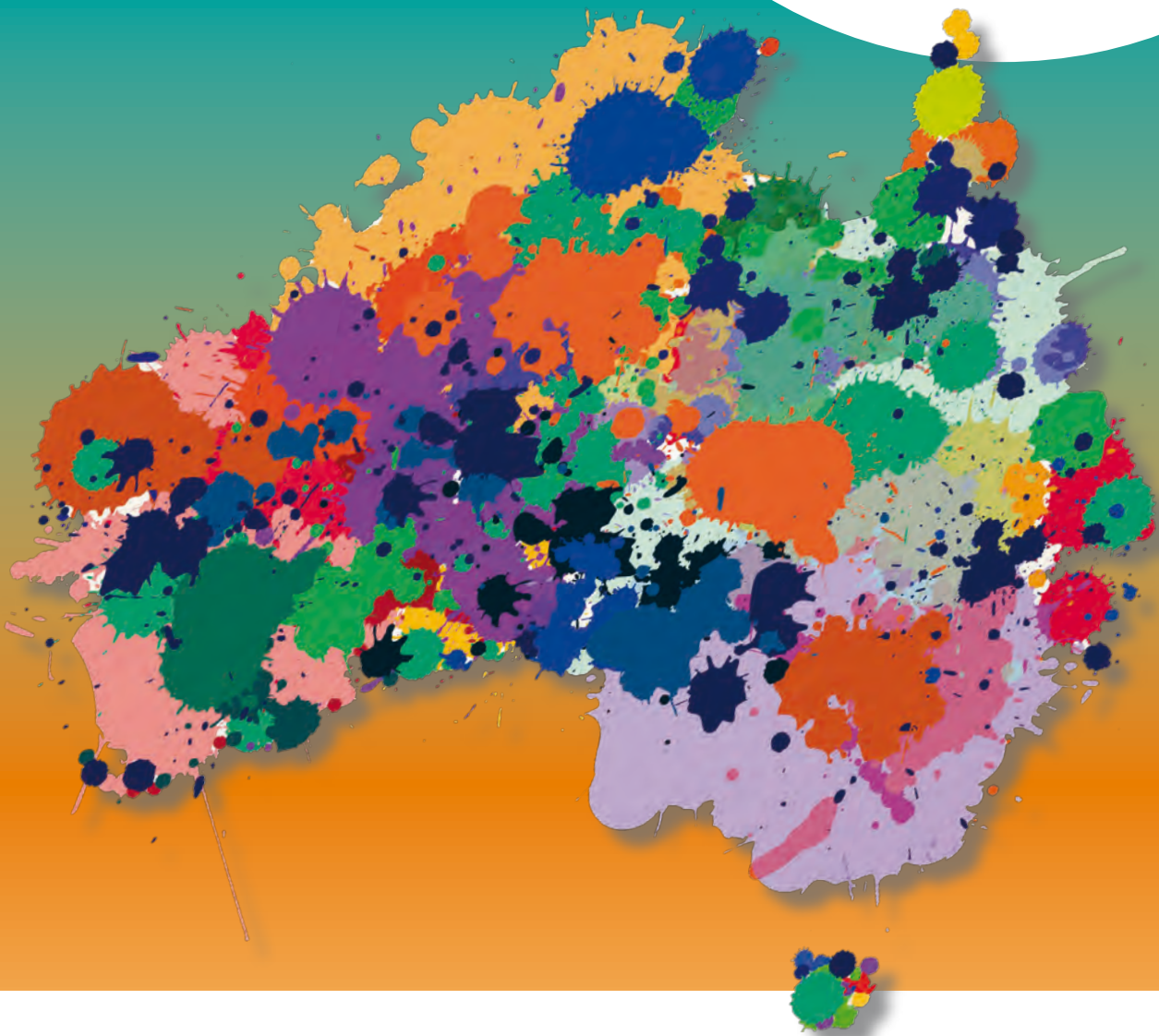


**Australian
Human Rights
Commission**

everyone, everywhere, everyday

2011

Freedom of
religion and belief
in 21st century
Australia



A RESEARCH REPORT PREPARED FOR THE AUSTRALIAN HUMAN RIGHTS COMMISSION

By Professor Gary Bouma, Professor Desmond Cahill, Dr Hass Dellal, and Athalia Zwartz

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Chapter One

Introduction

Background to the Current Study

In July 2006 the Ministerial Council on Immigration and Multicultural Affairs endorsed the National Action Plan to Build Social Cohesion, Harmony and Security (NAP). Under the NAP, the Australian Human Rights Commission (AHRC) was funded to undertake a range of projects; one is this research report, *Freedom of Religion and Belief in the 21st Century*. The AHRC commissioned the Australian Multicultural Foundation in association with Monash University and RMIT University to prepare this report. It builds on two previous reports; the first is *Article 18: Freedom of Religion and Belief* produced in 1998 by the then Human Rights and Equal Opportunity Commission.¹ The second is the 2004 report *Religion, Cultural Diversity and Safeguarding Australia*, which was produced by the then Department of Immigration and Multicultural and Indigenous Affairs and the Australian Multicultural Foundation, in association with Monash University, RMIT University and the World Conference of Religions for Peace (now Religions for Peace Australia).²

This research report has responded to the aims of the NAP in ‘fostering connections and understanding between Muslims and non-Muslims’.³ But, considering that other previous and current work has focused specifically on Muslim communities, this research has taken a broader approach. It researched and documents the general issues and concerns of religious and non-religious communities in Australia, principally based on direct consultation with the Australian people. Data from the face-to-face consultations and written submissions provided a valuable perspective on religion in general and religious groups in Australia. **The task of the research team was to accurately capture the views and comments from the consultations and submissions and to ensure that people can recognise their words or their views reflected in this report. It is important to note that this report attempts to capture all the views and thoughts heard during the research process; however, there is no way to weight or measure how representative these voices are. This report provides research data as compiled by the research team.**

Freedom of Religion and Belief as a Human Right

An important context for the discussions in this report is provided by the text of the major international rights instruments, which recognise freedom of religion and belief as fundamental human rights: the *Universal Declaration of Human Rights 1948* and the *International Covenant on Civil and Political Rights 1966* (the Covenant).

Universal Declaration of Human Rights, Article 18

Freedom of religion and belief are recognised as human rights in the *Universal Declaration of Human Rights*, which was proclaimed by the United Nations in 1948 as ‘a common standard of achievement for all peoples and all nations’. Article 18 states:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

1 Human Rights and Equal Opportunity Commission, 1998, *Article 18: Freedom of religion and belief*, Australian Human Rights Commission, viewed on 3 February 2009, <http://www.hreoc.gov.au/pdf/human_rights/religion/article_18_religious_freedom.pdf>.

2 D Cahill, G Bouma, H Dellal & M Leahy, (Department of Immigration and Multicultural and Indigenous Affairs), 2004, *Religion, Cultural Diversity and Safeguarding Australia*, Australian Multicultural Foundation, viewed on 8 February 2011, <http://amf.net.au/library/file/Religion_Cultural_Diversity_Main_Report.pdf>.

3 Council of Australian Governments, 2006, *National Action Plan to Build Social Cohesion, Harmony and Security*, Department of Immigration and Citizenship, viewed 6 April 2010, <<http://www.immi.gov.au/living-in-australia/a-diverse-australia/national-action-plan/nap.htm>>.

.....

International Covenant on Civil and Political Rights

Freedom of religion and belief are also recognised in the *International Covenant on Civil and Political Rights*, which was adopted by the United Nations in 1966. The Australian Government ratified (that is, became a party to) the Covenant in 1980. Therefore, the Australian Government has obligations (set out in Article 2 of the Covenant), including to respect and to ensure the civil and political rights of all individuals within its jurisdiction. Article 18 of the Covenant 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.

This report is concerned with freedom of religion and belief and its protection in Australia. The Australian Human Rights Commission's 1998 report *Article 18: Freedom of Religion and Belief* found that 'the level of protection afforded to the right to freedom of religion and belief in Australia is relatively weak compared to a number of other comparable countries'.⁴

The Australian Constitution says very little about religion and religious freedom. Chapter V, Section 116 of the Constitution, which deals with freedom of religion and belief states:

The Commonwealth 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.⁵

By restricting the legislative powers of the Commonwealth Parliament, Section 116 provides some protection. However, because the Constitution does not affect the legislative powers of the states and territories, which have more responsibility than does the Commonwealth for social regulation that may affect religious practice, the protection afforded by the Constitution is limited. Views vary on how far and how adequately Section 116 provides individuals with an avenue of legal redress if their rights have been violated.⁶

Freedom of religion and belief is often understood in relation to freedom from persecution, freedom of conscience, freedom to convert, and freedom to practise and manifest one's religion. Beliefs, whether religious or anti-religious or a-religious, may contribute to defining a person's identity, their reasons for living, their relationships with the material and transcendent aspects of the universe, their ways of living and ways of interacting with others. However, as this report and the supplementary papers highlight, freedom of religion and belief encompasses many areas of human life; for example, the right of Indigenous Australians to practise

4 Human Rights and Equal Opportunity Commission, *Article 18: Freedom of religion and belief in Australia*.
5 Commonwealth of Australia, 1900, *Commonwealth of Australia Constitution Act*, Parliament of Australia, viewed 14 October 2010, <<http://www.aph.gov.au/senate/general/constitution/chapter5.htm>>.
6 G Robertson, *The statute of liberty*, Vintage Books, Sydney, 2009.
Joint Standing Committee on Foreign Affairs, Defence and Trade, *Conviction with compassion: a report on freedom of religion and belief*, The Committee, Canberra, 2000.

their spirituality amid competing land claims, and how Australian courts manage and accommodate religious diversity while upholding the law. Freedom of religion and belief arises in the operations of governments, human rights bodies, civil society, and the judicial process.

This report provides an overview of the range of views, concerns and experiences that were presented during the research and, as much as possible, incorporates the precise language used in consultations and submissions so as to accurately reflect the voices of Australians.

Australia as a Religious Place

Australia has always been a spiritual place, as reflected in its unique and continually changing religious profile. This began with the Aboriginal and Torres Strait Islander peoples (the Indigenous peoples of Australia) who, over time, explored, named and dwelt across the continent. They forged their sense of belonging to and reverence of the land and its waters in harmony with the spirit-filled environment. Their spiritual knowledge still holds secrets unknown to mainstream Australia.

In more recent times, Australia was visited by various wayfarers, explorers, fishermen and shipwrecked sailors. Recent research suggests that Chinese visitors were familiar with Australia.⁷ The annual visits in recent centuries of the Muslim Makassan fishermen in search of trepang or sea slug are better documented; the oral traditions of the Arnhem Land peoples tell of these Muslims and their daily prayers.⁸

The arrival of the First Fleet in 1788 marked the beginning of radical change to Australia. Those who developed and implemented the penal colonies as well as those transported were mostly influenced by Christianity and the secularist Enlightenment, and these two major traditions have maintained a strong presence. Another foundational tradition is the pre-existing Aboriginal spiritualities, which have remained part of the Australian religious landscape even if marginalised, and in earlier times dismissed. Jews also arrived with the First Fleet, and have continued to be a part of and a presence in Australia.

The 20th century has seen the growth and arrival of new traditions in Australia, including Buddhist, Confucian, Hindu, Humanist, Islamic, Sikh and Taoist traditions, as Australia is drawn into Asia – culturally, economically and religiously. The rapid increase in the numbers of settlers migrating to Australia during the 18th and 19th centuries and early 20th century led to mainly inter-Christian rivalry, especially between British Protestants and Irish Catholics. However, since the Second World War, and particularly since the dismantling of the White Australia policy, successive migrant intakes have considerably diversified the Australian population. Further diversification is occurring due not only to ongoing migration schemes but also to the increasing numbers of temporary-visa holders who come to Australia to work or study. At any given time, up to one million long-term temporary-visa holders, many of whom have religious needs, are residing in Australia.

The increasing diversity of Australia’s population is revealed in the Census: since the 2001 Census, Chinese has replaced Italian as Australia’s second language after English; Buddhism is now Australia’s second religion after Christianity; Islam continues to grow, its adherents drawn from many countries. The rapidly increasing Indian population is resulting in similar growth of the Hindu and Sikh communities. So, Australia is partly a Christian country, partly a multifaith country, and partly a secularist country. This can make speaking or generalising about religion in Australia complicated. As this report shows, many religious and spiritualist voices mingle with secularist and humanist voices, with little unanimity on issues.

7 D Haveric, *Australia in Muslim discovery*, Lietelinna Press, Victoria, 2007.

8 J Isaacs, *Australian dreaming: 40,000 years of Aboriginal history*, Lansdowne Press, Melbourne, 1980.

R Perkins & M Langton (eds), *First Australians: an illustrated history*, Miegunyah Press, Victoria, 2008.

Chapter One Introduction

Australia exists in a very religious world. In 2002, the Pew Global Attitudes Project surveyed 44 countries (not including Australia), measuring the importance of religion in people's lives.⁹ In Africa, at least 80 per cent of people in every country saw religion as personally very important. Majorities in every Latin American country similarly prioritised religion, with the exception of Argentina (39%). In Muslim countries, such as Indonesia, Pakistan, Mali and Senegal, more than 90 per cent considered religion as very important in their lives, though less so in Turkey (65%) and Uzbekistan (35%).

In the United Kingdom, 33 per cent considered religion as very important, just behind the two leading European countries: Poland (39%) and Ukraine (35%). Religion was very important to the people of all Asian countries surveyed: Indonesia (95%), India (92%), the Philippines (88%) and Bangladesh (88%), with the exception of Korea (25%), Viet Nam (24%) and Japan (12%). In the United States of America, 59 per cent of the population considered religion to be very important in their lives.¹⁰

According to a series of analyses by the National Church Life Survey research partnership (2010) of data from the 2009 Australian Survey of Social Attitudes by the Australian National University, 45 per cent of Australians agreed – in many cases strongly agreed – with the proposition that ‘there is something beyond this life that makes sense of it all’, while almost a quarter (22%) disagreed. A third (34%) was unsure. Many more women (53%) than men (35%) agreed with the proposition; people aged 15–29 years agreed least (39%). Level of education was not a differentiating variable, nor was country of birth. Unsurprisingly, weekly religious attendance correlated very strongly with the agreement that there is ‘something beyond us’. However, it is important to note that non-attendance did not automatically imply disagreement.

The same survey asked Australians: ‘How important is religious faith or spirituality in shaping your life’s decisions, such as career, relationships and lifestyle?’ Thirty-eight per cent said it was either very important (13%) or important (25%); almost a quarter (23%) said it was of little importance. A very substantial number (38%), especially men, said it was not important. Older age, country of birth, and religious affiliation (but not education) were differentiating variables. In response to the question: ‘Which philosophy of life has had most influence on how you live today?’ 39 per cent of Australians nominated Christianity. Other philosophies nominated were non-Christian religions (5%) and secular Humanism (8%), while 16 per cent nominated ‘other philosophy’ (new age, nature/land, etc.). A large proportion surveyed (32%) did not nominate any influencing philosophy.¹¹

9 Pew Research Centre for the People and the Press 2002, ‘Among wealthy nations ... U.S. stands alone in its embrace of religion’, The Pew Global Attitudes Project, Pew Research Center for the People and the Press, Washington DC, viewed on 4 February 2011, <<http://people-press.org/reports/pdf/167.pdf>>.

10 J Micklethwait & A Wooldridge, *God is back: how the global rise of faith is changing the world*, Penguin, UK, 2009.

11 P Kaldor, P Hughes & A Black, *Spirit matters: how making sense of life affects well-being*, Mosaic, Melbourne, 2010, p. 154.

Chapter Two

The Research Strategy: Aims and Methodology

The focus of this research was the views expressed about issues relating to freedom of religion and belief in Australian society. The research methodology that was implemented and which was supported by an ongoing review of the literature is described below, and incorporated the following strategies:

- consultation with Australian faith and community leaders
- consultation with government officials, and NGO representatives consultation with the Australian public via a national call for submissions
- a series of commissioned papers related to faith and society

The research strategy was developed in order to accomplish the following ten aims:

1. Evaluate the response to *Article 18: Freedom of Religion and Belief* and its recommendations.
2. Work with spiritual and religious communities and civil society organisations to record their concerns and positive reactions to the *Article 18* report.
3. Work with spiritual and religious communities and civil society organisations to record their concerns and positive reactions to Section 116 of the Australian Constitution.
4. Model a cooperative approach to constructing a response to issues of freedom of religion and belief.
5. Outline the roles, rights and responsibilities of religious, spiritual and civil society organisations in implementing the commitment to freedom of religion and belief as articulated in *Article 18* and Section 116 of the Australian Constitution.
6. Assess, in the context of recent changes to Commonwealth, state and territory legislation that have been enacted to respond to the ‘war on terror’, whether these changes have had any impact upon freedoms of religion and/or belief and/or cultural identity, as well as the freedoms to publicly express or act in accordance to these beliefs and identities.
7. Explore the interface between religion and political and cultural aspirations.
8. Analyse whether new technologies (especially communication technologies) are changing the role, practise, promotion or evolution of religious and other forms of belief and behaviour.
9. Examine cultural rights and whether cultural beliefs impinge on human rights.
10. Produce a major report on these issues that includes:
 - demographic information about the size, spread, growth and location of religious groups in Australia
 - findings for promoting freedom of religion and belief (including secular belief) in Australia.

In the following chapters this report addresses each of the stated aims. The majority of these aims – exploring, assessing, analysing and examining various issues and topics – are covered in Chapter 3. Other aims were addressed as part of the research process, particularly during the consultations which, for the most part, gathered together participants from diverse backgrounds and modelled a cooperative approach to dealing with the concerns people raised. Some aims became less relevant once the research process began; for example, evaluating the report *Article 18: Freedom of Religion and Belief* was unnecessary beyond establishing that most participants were unfamiliar with the report. Concerns about, support for, and positive reactions to the myriad issues raised are presented in this report.

Terminology and Religious Discourse

Before presenting the research data, it is worth providing context to some of the commonly used terms and their accompanying discourses. There are differing views, understandings and uses of terminology around freedom of religion and belief, both between and within religious and philosophical traditions.

In this report, three terms need greater clarification: (i) religion and spirituality, (ii) secular and secularist, and (iii) exemptions, dispensations and accommodations.

(i) Religion and spirituality

Regulating, describing and/or defining ‘religion’ is a fraught exercise.¹² For example, to apply any one of the following descriptions is to limit religion to just one of its many complex dimensions, such as the metaphysical, ritualistic, experiential, social or intellectual dimension:

- sets of beliefs
- doctrines and dogmas
- rituals
- values
- communities
- peace and happiness¹³

Religion can be taken to refer to an organised form of maintaining, promoting, celebrating and applying the consequences of engagement with what is taken to be ultimately defining, enviroing, totally beyond, totally other, and yet profoundly encountered within life. These activities are usually done by or in association with a group, an organisation and/or a community.

Any attempt to define religion is further confused by the term ‘spirituality’, which is increasingly used ‘either as a proxy for religion or as something distinct from religion’.¹⁴ Those who say they are spiritual but not religious usually reject the organisational arrangements associated with most expressions of the spiritual and religious.¹⁵ However, spiritualities quickly adopt features of religions as they embrace more people and become more organised. Religious traditions also have spiritualities, such as Sufism in Islam or the Benedictine tradition in Christianity.

As noted in the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) paper on Indigenous Australians and freedom of religion and belief, spirituality is often used to express:

... an experiential encounter and relationship with otherness, with powers, forces and beings beyond the scope of the material world. The other might be God, nature, land, sea or some other person or being.¹⁶

12 J Richardson, ‘Regulating religion: a sociological and historical introduction’ in J Richardson (ed), *Regulating religion: case studies from around the globe*, Kluwer Academic, New York, 2004.

13 N Tarakeshwar, J Stanton & K Pargament, ‘Religion: an overlooked dimension in cross-cultural psychology’, *Journal of Cross-Cultural Psychology*, vol. 34, no. 4, 2003, pp. 377–94.

14 G Bouma, ‘Defining religion and spirituality’ in J Jupp (ed), *The encyclopedia of religion in Australia*, Cambridge University Press, Melbourne, 2009, pp. 22–7.

15 G Davie, *Religion in Britain: believing without belonging*, Blackwell Publishing, Oxford, 1994.

P Heelas & L Woodhead, *The spiritual revolution: why religion is giving way to spirituality*, Blackwell Publishing, Oxford, 2005.

16 K Mikhailovich, ‘Indigenous spirituality’, supplementary paper, AIATSIS, 2010.

In this meaning, a sense of spirituality or a commitment to some form of spiritual practices or beliefs is not uncommon among sceptics. Bouma has written of the strong sense of spirituality that may be found in some secular or civic contexts.¹⁷ Although spirituality is integral to any or all religious experience, it is used more loosely; it tends to be a shorthand term for those religious experiences that the Western, hierarchical and taxonomic frames of reference may struggle to define. No definition is therefore endorsed in this report, as any attempt to do so will immediately exclude some belief systems that self-identify as religious, or will be so generic as to alienate others.

While open to the concerns of all persons and groups, spiritual and otherwise, this report focuses on religion and spirituality in their organised forms and as communities in Australian society. So, while the primary focus is on religious groups and communities in Australia and the freedom of religion and belief accorded to individuals, this neither exhausts the complexities of issues in this area, nor does it offer a satisfactory path to their solution.

(ii) Secular and secularists

This report consistently refers to ‘freedom of religion and belief’, which is the phrase used in the relevant human rights instruments. It is a term not without controversy, but it incorporates freedom of belief, including secularist belief. A number of submissions to this research claimed the right to unbelief and the right to be free from religion. They argued that the term ‘freedom of religion and belief’ excludes the rights of persons who hold beliefs that are not religious, or who believe it is their right to non-belief. However, this research team believes that the phrase is clearly intended to capture the human right to adhere to and practice any belief or non-belief.

More generally, however, Charles Taylor points to the different meanings of ‘secular’ in *The Secular Age*.¹⁸ The first meaning focuses on the common practices and institutions – including the state – which are not grounded in some faith or adherence to God and where religious institutions are separate from political institutions. In the separation of religion and the state, religion is largely a private matter, and politics can be done without God.

A second meaning of secular, largely driven by the rise of other beliefs, focuses on the absence of God from public spaces, or from the public square, in the various expressions of atheism and agnosticism. As we function in a particular sphere of activity – whether economic, cultural, political, educational, professional, or recreational, et cetera – generally there is no reference to God. These spheres act on their own internal principles without reference to any authoritative prescriptions of religious authorities. In this sense, secularity means the turning away from God, the denial of God’s existence and the fall in religious practice. It can imply an aggressive antipathy towards religion.

In Taylor’s view, there is a third meaning of secular, which consists of a move away from a traditional society where belief in God is unproblematic and a world without God incomprehensible, to a changed modern society where theism is one option – albeit perhaps embattled – among others, and difficult to accept. Other options emerge from science or different forms of reasoning. This third meaning takes a more holistic perspective, emphasising how cultures differ in the degree to which they enable or discourage belief in God or openness to mystery.’

Because of the different meanings associated with the term ‘secular’, some eschew the use of the word, preferring to speak about ‘civil society’ in which it is assumed that religion and state are separated but without designating which model of separation (e.g. the French, USA, Canadian, Indian, or Australian model) is

17 Bouma, *The encyclopedia of religion in Australia*, pp. 22–7.

18 C Taylor, *A secular age*, Belknap Press of Harvard University Press, Massachusetts, 2007.

Chapter Two *The Research Strategy: Aims and Methodology*

appropriate. In this report, we speak of ‘civil society’ rather than ‘secular society’, and we speak of ‘secularism’ as referring to a belief in no religious belief, such as is found in atheism, agnosticism, secular rationalism or Humanism; however, these ‘isms’ are generally claimed by their proponents to be underpinned by an ethical code based on reason.

(iii) Exemptions, dispensations and accommodations

In legislation across all Australian jurisdictions, religious groups are allowed exemptions or dispensations from complying with the legislation in relation to gender equality; for example, not ordaining women to the Christian priesthood, or not allowing women to become members of the Jewish Rabbinate. Some feel that the term ‘exceptions’ is more appropriate; while others prefer ‘dispensations’, which might imply an administrative process to grant approval for the dispensation. In the multicultural arena, the word ‘accommodations’ is preferred, implying the mainstream system shifts for, or accommodates, different behaviours or cultural practices; for example, different cultural burial practices, and the wearing of the Sikh turban or *kirpan*.

Methodology

Strategy 1 Consultations with Religious and Community Leaders

General consultations were held in every state and territory with faith leaders and associated community leaders. Where possible, all religions with more than 10 000 adherents in the 2006 Census were invited to participate in eight sets of state and territory consultations (some smaller religious or secularist groups did not have registered bodies in some states and territories). Other relevant organisations, such as major ecumenical and interfaith bodies, including the national and state Council of Churches and Indigenous groups were invited. Specifically invited were representatives from organisations representing atheist, sceptic, rationalist, or secular humanist viewpoints (see Table 2). Many such organisations also made submissions.

Two focus groups were held in every state and territory for religious and community leaders. Additional consultative focus groups were organised after the research team was approached by organisations wishing to further discuss the complex issues. In response, additional consultations were held in Brisbane, Canberra, Melbourne and Sydney with Christian denominational representatives as organised by the Australian Christian Lobby. Additional consultations were also held in Brisbane, Sydney and Melbourne with pagan and spiritual communities. The number of Australians identifying with pagan and Wiccan groups has increased rapidly since the 2001 Census, growing by about 45 per cent to about 30 000 adherents (see Table 5). Also, one youth consultation was held in Melbourne. It was not possible to include the leaders of every religious group, as that would have greatly expanded the scope of this research. But the research did incorporate the leaders of groups representing about 98 per cent of the Australian population with a religious affiliation, as measured by the 2006 Census. In total, 24 consultations were held, with a total of 274 participants. Table 1 details the number of consultations and participants in each state. Table 2 lists the participants in the consultations.

Table 1 Number of consultations in each state and number of participants in each state

State or Territory	No. of Consultations	No. of Participants
ACT	3	33
NSW	4	37
NT	2	15
QLD	4	43
SA	2	25
TAS	2	28
VIC	5	67
WA	2	26
TOTAL	24	274

The groups invited are listed below in alphabetical order.

Christian denominations

Anglican, Assemblies of God, Baptist, Brethren, Catholic, Christadelphian, Christian Outreach Centres, Church of Christ, The Church of Jesus Christ of Latter-day Saints, Coptic Orthodox, Greek Orthodox, Jehovah’s Witness, Lutheran, Macedonian Orthodox, Presbyterian, Russian Orthodox, Salvation Army, Serbian Orthodox, Seventh Day Adventist, Uniting Church of Australia

Other Religions

Bahá’í, Buddhist, Judaic, Hindu, Muslim, Sikh

Other World Views

Atheist, Humanist, Rationalist, Sceptic, Secular

Other Spiritualities

Pagans and Wiccans, Temple of Set, Order of Isis, TAWI

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Table 2 Participants in the eight general state and territory consultations

Group/Organisation (in alphabetical order)	Representation at the Eight State/Territory Consultations	Total Number of Representatives in the Consultations
Anglican	6	16
Atheist/Rationalist/Humanist Groups	4	9
Assemblies of God	1	1
Australian Council of Churches	3	3
Bahá'í	7	11
Baptist	3	8
Brethren	0	0
Buddhist	7	17
Catholic	8	24
Christadelphian	0	0
Christian Outreach Centres	0	0
Churches of Christ	3	4
The Church of Jesus Christ of Latter Day Saints	0	0
Coptic Orthodox	1	1
Government Departments	4	9
Greek Orthodox	0	0
Hindu	5	7
Indigenous	1	1
Interfaith Organisations	2	4
Islam	7	26
Jehovah's Witness	0	0
Judaism	6	13

Group/Organisation (in alphabetical order)	Representation at the Eight State/Territory Consultations	Total Number of Representatives in the Consultations
Lutheran	2	2
Macedonian Orthodox	2	3
NGOs	3	9
Other	6	10
Other Christian Groups	7	23
Other Spiritualities	2	5
Pagan	3	12
Presbyterian	6	11
Russian Orthodox	1	1
Salvation Army	2	2
Secular Party of Australia	3	5
Serbian Orthodox	3	3
Seventh Day Adventist	4	5
Sikh	3	5
Uniting Church	5	13
Youth	1	11
TOTAL 274 participants		

Note:

Some groups and organisations are not represented in every state and territory.

Some participants were office holders in their organisations, others participated as individuals.

Religiously affiliated organisations and welfare bodies are included under their religious category.

Information is based on how participants identified themselves on consent forms.

In this first strategy of the research, 274 participants were consulted. The mainstream churches were generally well-represented, and groups other than Christian were generally in attendance, particularly Bahá'í, Buddhist and Islamic representatives. However, Indigenous representation occurred in only one state. The consultations took place in a spirit of cooperation in accord with the guidelines, which asked participants to present their viewpoints but not to debate issues of difference. Consultations were significant learning experiences; participants were challenged in a face-to-face context with alternative viewpoints. The aim was to model cooperative dialogue across beliefs and unbelief in accord with the fourth aim of the research.

Chapter Two *The Research Strategy: Aims and Methodology*

Strategy 2 Consultations with Government Officials and NGO Representatives

Other consultations were held with key leaders and stakeholders in each state and territory, with the state offices of the Department of Immigration and Citizenship (DIAC), ethnic communities' councils, human rights bodies, and government multicultural offices approached. These interviews provided the specific state or territory context to the issues raised in consultations.

Strategy 3 Consultations with the Australian Public

Electronic public submissions were called for through advertisements in each capital city's major newspapers in September 2008. This process saw an unanticipated number of submissions. A total of 2033 were received: 149 from organisations, and 1884 from individuals.

An unprecedented number of submissions were received during the public submission process. Due to resource constraints, the Australian Human Rights Commission was not able to publish all of them; however, most submissions that were received from organisations are available on the Australian Human Rights Commission website. Some submissions were made confidentially. Requests to view particular submissions should be addressed to the Australian Human Rights Commission.

Professor Kevin Dunn and his team from the University of Western Sydney carried out a content analysis on the submissions. Professor Dunn and Jacqueline Nelson's supplementary paper, *Meta-Analysis of Submissions*, analyses the submissions for their content and format, and their paper compares the data with other data sets at his disposal.¹⁹ It was found that 0.6 per cent of submissions were from anonymous or unknown participants, and 0.5 per cent of submissions were from groups of individuals in a petition format. The submissions from local religious organisations accounted for 2.4 per cent, and 3.7 per cent were from representative or umbrella religious organisations. Non-religious organisations accounted for 1.1 per cent of submissions, and 0.1 per cent were from faith based or spirituality organisations. Over 90 per cent of submissions came from individuals, couples or family groups. While the submissions from organisations generally clearly stated their faith or non-faith position, most submissions from individuals did not specify their faith background.

The majority of submissions were short, with 60 per cent comprising less than one page; 34 per cent were 1–10 pages, and 5 per cent of submissions were more than ten pages. Of the submissions, 62 per cent were deemed to be original, while 38 per cent were considered to be formulaic, as in closely or exactly resembling other submissions. Also, some submissions simply endorsed the submissions of others. (For exact percentages and further information regarding the submissions, please see the Dunn analysis.)²⁰

The submissions reflected a wide variety of views and concerns, and while many were reasoned, considered and supported by empirical evidence, many were short expressions of personal opinion on a variety of issues. For the purposes of this research, religion has been broadly understood as beliefs and practices that ground the meaning of human existence in the daily observable universe, but also involving an understanding of purposes and beings that are beyond but intersect with this universe. These beliefs and practices are usually associated with a community that may be more or less organised. Most of the input came from people associated with recognisable religious organisations and communities, although responses were welcomed from individuals from all religions and spiritualities, as well as those with none.

19 K Dunn & J Nelson, 'Meta-analysis of submissions', supplementary paper, University of Western Sydney, 2010.

20 K Dunn, 2010.

Strategy 4 Commissioning of Specialist Papers

A series of specialist papers were commissioned to inform the core report. It was recognised that the breadth of a topic such as freedom of religion and belief cannot be adequately addressed in one research report, so a range of academics and respected professionals in relevant fields were commissioned to write papers to supplement the main report, adding depth and breadth. The papers and their authors are as follows:

- Kevin Dunn and Jacqueline Nelson, University of Western Sydney, *Meta-Analysis of Submissions*
- Carolyn Evans, University of Melbourne, *Legal Aspects of Religious Freedom*
- Anna Halafoff, Monash University, *Multifaith Initiatives and Countering Radicalisation*
- Nicholas Tonti-Fillipini, John Paul II Institute for Marriage and Family, *Religion in a Secular Society*
- Katja Mikhailovich, *Indigenous Spirituality*
- Maria Dimopoulos and Justice Mushin, *Freedom of Religion and Belief and the Courts*
- Natasha Klocker, Vic Health, *Freedom of Religion and Belief and Well-being*
- Kevin Clements, *Freedom of Religion and Belief and Global Peace*
- Patricia Madigan, *Gender in the Catholic Church*
- Ghena Krayem, *Gender in Islam*
- Peta Pellach and Melinda Jones, *Gender in Judaism*
- Amareswar Galla and Conrad Gershevitch, *Freedom of Religion and Belief and the Arts*

Demographic Setting

Over the last two decades, Australia’s religious composition has changed profoundly with the global movement of people, ideas and new technologies. The Australian Census, conducted every five years, traces the trends and patterns that determine such changes. The Census reveals not surprisingly that the primary factor that has shaped and continues to shape Australia’s religious profile is immigration.²¹

Post-World War II saw the beginning of Australia’s immigration program, accompanied by the catchcry ‘populate or perish’. The aims of the program were to fill Australia’s empty spaces, expand the Australian labour force, and develop Australia’s manufacturing industries. The original intention was that the annual intake would be 90 per cent British and rurally oriented.²² But these aspirations were quickly forgotten, as displaced persons from Europe arrived. The British did arrive in substantial numbers, and continued to arrive, together with other western Europeans. The late 1960s saw migration extend from eastern, northern and southern European groups to include the Balkans, Turkey and Latin America. During the 1960s and 1970s, successive governments eased racially discriminatory restrictions on immigration, and refugees from Viet Nam constituted the next major wave of migration. Since the 1970s, with large intakes from China, India and the Philippines, the immigration intake has continued to diversify, as has the religious profile.

The following tables present the demographic data from selected Censuses showing the changes in Australia’s religious profile from 1947 to 2006. The tables show the increasing proportion of those declaring ‘no religion’,

21 For an historical overview of Australia’s religious demography, the reader is referred to *The Australian people: an encyclopedia of the nation, its people and their origins* (2001), edited by James Jupp and his more recent *The encyclopedia of religion in Australia* (2009). However, as the submissions have highlighted, differences and tensions have emerged around Australia and its religious self-perception – whether as a multifaith nation with a Christian foundation, as a secular pluralist nation, as a Christian nation, as a civil society with a multi-religious base or as a secularist nation. A brief mapping of recent population changes provides the socio-demographic context.

22 C Price & J Martin, (eds), *Australian immigration: a bibliography and digest, no. 3, part 1, The demography of post-war immigration*, Department of Demography, ANU, Canberra, 1975.

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the declining proportion within the population of English Protestant groups – Anglicans and the MPCRU group (Methodist, Presbyterian, Congregational, Reformed, and Uniting) – and the increasing diversity. The 2001 Census showed that for the first time, three religious groups, not two, accounted for 50 per cent of the population. Other indicators of increasing diversity were revealed in the 2006 Census, which reported more Scientologists (2507) than Quakers (1983), more Muslims (1.7%) than Lutherans (1.3%), more Buddhists (2.1%) than Baptists (1.7%), and more Hindus (0.5%) than Salvationists (0.3%). There were about the same number of Bahá'ís (12 331) as the Reformed (10 608) and about the same number of Witches (8206) as Spiritualists (9845). The number of Atheists also grew, increasing from 24 464 in 2001 to 31 305 in 2006, after decreasing in the 1996–2001 period.²³

The Australian Census includes a question regarding religious identification, which provides a series of snapshots of Australia's religious composition.²⁴ The overall picture is one of increasing religious diversity and a regular increase in the number who declare that they have no religion (see Tables 3, 4 and 5). While many said they have 'no religion', this was a very mixed category: a miniscule proportion said they were Atheists, while many considered themselves to be 'religious', or 'spiritual'²⁵. They were simply not identifying with a particular organised form.

Table 3 The number and proportion of selected Australian religious groups in the 1947, 1971, 1996, 2001 and 2006 Censuses

Religious Identification*	1947		1971		1996		2001		2006	
	OOOs	%	OOOs	%	OOOs	%	OOOs	%	OOOs	%
CHRISTIAN										
Anglican	2957	39.0	3953	31.0	3903	22.0	3881	20.7	3718	18.7
Baptist	114	1.5	176	1.4	295	1.7	309	1.7	317	1.6
Catholic	1570	20.7	3443	27.0	4799	27.0	5002	26.7	5127	25.8
Lutheran	67	0.9	197	1.5	250	1.4	250	1.3	251	1.3
MPCRU**	1678	22.1	2199	17.2	2011	11.3	1887	10.1	1732	8.7
Orthodox	17	0.2	339	2.7	497	2.8	529	2.8	544	2.7
Pentecostal	–	–	–	–	175	1.0	195	1.0	220	1.1

23 G Bouma, D Cahill, H Dellal & M Leahy, 'Religion and diversity in a globalising Australia: beyond ground zero', forthcoming publication.

24 Responses to the 'religion question' in the Census provide data on patterns of religious identification in Australia. The ABS has one of the most carefully developed classification systems for coding responses to this question (see The ABS 2005 *Australian Standard Classification of Religious Groups, second edition*. Cat No. 1266.0). Census data on religious identification has been widely used as the most reliable indicator available by researchers, policy makers and those who need to know the relative size of different religious groups. Such data have been used to allot air time on public radio for religious programming and to assess the need for chaplains representing different traditions and the provision of other services.

25 P Hughes, 'Are Australians "losing their religion"?' *Pointers: Bulletin of the Christian Research Association*, vol. 20, no. 2, June 2010, pp. 1–6.

Religious Identification*	1947		1971		1996		2001		2006	
	000s	%	000s	%	000s	%	000s	%	000s	%
OCG***	270	3.8	683	5.4	653	4.4	711	3.7	777	4.0
Total Christian	6,673	88.0	10,990	86.2	12,583	70.6	12,764	68.0	12,686	63.9
BUDDHISTS	-	-	-	-	200	1.1	358	1.9	419	2.1
HINDUS	-	-	-	-	67	0.4	95	0.5	148	0.7
JEWS	32	0.4	62	0.5	80	0.5	84	0.4	89	0.4
MUSLIMS	-	-	22	0.2	201	1.1	282	1.5	340	1.7
OTHER****	4	0.1	14	0.1	69	0.4	92	0.5	109	0.5
Total	37	0.5	99	0.8	617	3.5	911	4.8	1,105	5.6
Inadequate Desc.	19	0.2	29	0.2	54	0.3	352	1.9	134	0.7
No Religion	26	0.3	856	6.7	2949	16.5	2905	15.5	3707	18.7
Not Stated	825	10.9	781	6.1	1551	8.7	1836	9.8	2224	11.2
Total Population	7,579		12,756		17,753		18,769		19,855	

* Only those Christian groups larger than 1% and other groups 0.4% and larger in 2006 have been included.

** MPCRUC combines the data for the Methodist, Presbyterian, Congregational, Reformed and Uniting Churches. The Uniting Church was formed in 1977 in a merger of Congregational, Methodist and about half of the Presbyterians.

*** OCG - Other Christian Groups less than 1%

**** Other religious groups less than 0.4% of the population

Source: Australian Bureau of Statistics

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**Table 4 Changes in Australia's religious profile 1996–2006
Christian groups (groups 0.1% and over)**

Religious Identification	1996		2001		2006		2001–2006 % growth rate
	000s	%	000s	%	000s	%	
CHRISTIAN							
Anglican	3903	21.99	3881	20.68	3718	18.73	-4.20
Baptist	295	1.66	309	1.65	317	1.60	2.59
Brethren	22	0.12	19	0.10	24	0.12	26.32
Catholic	4,799	27.03	5,002	26.65	5,127	25.82	2.50
Churches of Christ	75	0.42	61	0.33	55	0.28	-9.84
Jehovah's Witnesses	83	0.47	81	0.43	81	0.41	0.00
Latter Day Saints	45	0.25	50	0.27	53	0.27	6.00
Lutheran	250	1.41	250	1.33	251	1.26	0.40
Oriental Christian	31	0.18	36	0.19	33	0.17	-8.33
Orthodox	497	2.8	529	2.82	544	2.74	2.84
Pentecostal	175	0.98	195	1.04	220	1.11	12.82
Presbyterian/Reformed	676	3.81	638	3.4	597	3.01	-6.43
Salvation Army	74	0.42	71	0.38	64	0.32	-9.86
Seventh Day Adventist	53	0.3	54	0.29	55	0.28	1.85
Uniting	1,335	7.52	1,249	6.65	1,135	5.72	-9.13
Other Christian	253	1.43	324	1.72	411	2.07	26.85
Total Christian	12,583	70.55	12,764	68.00	12,685	63.89	-0.62
National Population	17,753		18,769		19,855		5.79

Source: Australian Bureau of Statistics

**Table 5 Changes in Australia's religious profile 1996–2006
Other religious groups (0.01% and over)**

Religious Identification	1996		2001		2006		2001–2006 % growth rate
	000s	%	000s	%	000s	%	
BUDDHISTS	200	1.13	358	1.91	419	2.11	17.0
HINDUS	67	0.38	95	0.51	148	0.75	55.8
JEWS	80	0.45	84	0.45	89	0.45	6.0
MUSLIMS	201	1.13	282	1.5	340	1.71	20.6
OTHER							
Aboriginal Traditional Religions	7	0.04	5	0.03	5	0.03	3.0
Bahá'í	9	0.05	11	0.06	12	0.06	9.1
Chinese religions	4	0.02	4	0.02	4	0.02	0.0
Druse	2	0.01	2	0.01	3	0.02	50.0
Japanese religions	1	0.01	1	0.01	1	0.01	0.0
NATURE RELIGIONS							
<i>Paganism</i>	4	0.02	11	0.06	16	0.08	45.5
<i>Wicca/witchcraft</i>	2	0.01	9	0.05	8	0.04	-11.1
<i>Other</i>	4	0.05	4	0.02	6	0.03	50.0
Total Nature Religions	10	0.01	24	0.13	29	0.15	20.8
Rastafariansim	1	0.01	1	0.01	1	0.01	0.0
Satanism	2	0.01	2	0.01	2	0.01	0.0
Scientology	1	0.01	2	0.01	3	0.02	50.0
Sikhism	12	0.07	17	0.09	26	0.13	52.9
Spiritualism	8	0.05	9	0.05	10	0.05	11.1
Theism	2	0.01	3	0.02	3	0.02	0.0
Zoroastrians	2	0.01	2	0.02	2	0.01	0.0

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Religious Identification	1996		2001		2006		2001–2006
	000s	%	000s	%	000s	%	% growth rate
Other Other Religions	8	0.04	10	0.04	11	0.06	10.0
OTHER Religions Total	69	0.39	92	0.5	109	0.55	18.5
NO RELIGION							
Agnostics	9	0.05	18	0.09	22	0.11	22.2
Atheists	7	0.04	24	0.13	31	0.16	29.2
Humanists	4	0.02	5	0.03	8	0.04	60.0
Rationalists	1	0.01	2	0.01	2	0.01	0.0
NO RELIGION nfd	2928	16.36	2856	15.22	3644	18.35	27.6
NO RELIGION Total	2949	16.5	2905	15.5	3707	18.67	27.6
NOT STATED / INADEQUATE							
Not Stated	1551	8.67	1836	9.78	2224	11.20	21.1
Inadequate Description	54	0.31	352	1.88	134	0.67	-61.7
NOT STATED / INADEQUATE Total	1605	8.98	2188	11.7	2358	11.88	7.8
NATIONAL POPULATION	17,753		18,769		19,855		5.8

Note:

Significant changes may have occurred where populations are less than 4,000 and growth % is 0. In each case, changes may equal several hundred. These are not expressed here due to rounding.

nfd: Not further defined

Source: Australian Bureau of Statistics

At the state and territory level, there are differences in the religious profiles (see Table 6). In the 2006 Census, Catholicism, predominant particularly in the two largest states and in the ACT, was the largest religious group in all states and territories, with the exception of Tasmania where Anglicans were close to a third of the population. Anglicanism had the smallest numbers in the Northern Territory (12.28%) and South Australia (13.72%). The Uniting Church of Australia had its largest presence in South Australia (10.01%) and its smallest in Western Australia (3.79%). The Orthodox, both Eastern and Oriental, have their highest numbers in the two largest states. Pentecostal Christianity has its highest numbers in Queensland (1.56%). Christianity's proportion is especially small in the Northern Territory (54.64%) as well as in Western Australia (59.34%) and South Australia (59.83%).

Regarding the religions other than Christianity, Buddhism, which is the largest, has a strong presence in Victoria (2.69%) and New South Wales (2.57%) whereas the pattern is reversed for Islam (New South Wales 2.58%, Victoria 2.22%); both religions have little presence in Tasmania. Judaism is strong in Victoria, Hinduism

in New South Wales. Looking at the 'no religion' category, the most religious state or territory at the 2006 Census was New South Wales (14.26% with no religion) followed by Queensland (18.61%), with those with no religion in Queensland almost doubling in the previous ten years. The least religious is South Australia (24.25% with no religion) followed by the two territories.

Table 6 Religious profile of each Australian state and territory 2006 (a)

	NSW %	QLD %	SA %	TAS %	VIC %	WA %	NT %	ACT %	Other Territories %	Australia %
Buddhism	2.57	1.22	1.53	0.55	2.69	1.75	1.47	2.20	17.68	2.11
Christianity (TOTAL)	67.71	66.30	59.83	64.24	60.53	59.34	54.64	60.23	27.17	63.90
Anglican	21.76	20.38	13.72	29.25	13.62	20.44	12.28	16.74	10.09	18.73
Assyrian Apostolic	0.11	0.00	0.00	0	0.02	0.00	0.00	0.00	0	0.04
Baptist	1.47	1.91	1.73	1.82	1.40	1.67	2.49	1.32	0.56	1.60
Brethren	0.12	0.15	0.09	0.47	0.10	0.11	0.02	0.02	0	0.12
Catholic	28.18	24.00	20.16	18.43	27.49	23.69	21.14	28.03	11.30	25.82
Churches of Christ	0.15	0.27	0.47	0.36	0.31	0.50	0.08	0.13	0	0.28
Eastern Orthodox	3.14	0.82	2.97	0.50	4.54	1.29	1.70	1.99	0	2.74
Jehovah's Witnesses	0.35	0.61	0.42	0.46	0.29	0.54	0.27	0.22	0	0.41
Latter Day Saints	0.24	0.40	0.23	0.34	0.20	0.28	0.22	0.20	0	0.27
Lutheran	0.54	1.96	4.71	0.46	0.86	0.61	3.89	1.16	0.35	1.27
Oriental Orthodox	0.32	0.03	0.04	0.02	0.18	0.06	0.012	0.07	0	0.17
Other Protestant	0.26	0.31	0.18	0.16	0.25	0.40	1.15	0.26	0.17	0.28
Pentecostal	1.05	1.56	1.33	1.00	0.84	0.92	1.13	0.99	0.30	1.11
Presbyterian & Reformed	3.35	3.73	1.39	2.54	2.90	2.24	1.46	2.73	0.69	3.01
Salvation Army	0.31	0.39	0.36	0.47	0.28	0.29	0.24	0.29	0	0.32

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	NSW %	QLD %	SA %	TAS %	VIC %	WA %	NT %	ACT %	Other Territories %	Australia %
Seventh-day Adventist	0.33	0.38	0.15	0.22	0.18	0.28	0.17	0.16	0.17	0.29
Uniting Church	4.57	7.23	10.01	5.78	5.56	3.79	6.97	4.02	2.37	5.72
Christian nfd(b)	1.323	1.93	1.61	1.82	1.40	2.07	1.37	1.77	1.03	1.58
Other Christian	0.14	0.27	0.28	0.16	0.12	0.17	0.08	0.14	0.13	0.17
Hinduism	1.13	0.36	0.34	0.16	0.86	0.42	0.27	1.01	0.13	0.75
Islam	2.58	0.52	0.70	0.22	2.22	1.24	0.56	1.35	30.19	1.71
Judaism	0.56	0.10	0.07	0.05	0.83	0.27	0.06	0.18	0	0.45
Other Religions (TOTAL)	0.57	0.45	0.60	0.37	0.55	0.57	2.01	0.65	0.91	0.55
Australian Aboriginal Traditional Religions	0.01	0.01	0.01	0.01	0.01	0.03	1.61	0.01	0.56	0.03
Other Religious Groups	0.56	0.43	0.59	0.36	0.54	0.54	0.40	0.64	0.35	0.52
No religion(c)	14.26	18.61	24.25	21.53	20.42	22.89	23.13	23.36	13.54	18.67
Other religious affiliation(d)	0.57	0.69	0.70	0.68	0.75	0.75	0.73	0.80	0.60	0.67
Religious affiliation not stated	10.06	11.75	12.00	12.20	11.16	12.77	17.12	10.22	9.79	11.20
Total	100	100	100	100	100	100	100	100	100	100

- a) Religious affiliation is coded to the Australian Standard Classification of Religious Groups, Second Edition (2005)
- b) Comprises 'Christian, nfd', 'Apostolic Church', so described', 'Church of God, so described', Australian Christian Churches, so described', and 'New Church Alliance, so described'.
- c) Comprises 'no religion, nfd', 'Agnosticism', 'Atheism', 'Humanism' and 'Rationalism'.
- d) Comprises 'Religious belief, nfd', 'Not Defined', 'New Age, so described', and 'Theism'.
- nfd: Not further defined

Source: Australian Bureau of Statistics, 2006 Census

Chapter Three

Religious Issues in 21st Century Australia

With more than 2000 submissions received and 24 consultations held, it is not surprising that what emerged from this research was the diversity and complexity of religious Australia. The following sections group the data around major themes that emerged during the research. Those themes are:

- The Current Religious Character of Australia
- Human Rights and Religion
- Ethos: Exemption, Employment, Service Provision
- Legislation: Constitutional, National and State-based
- Governments and Diversity
- Education
- Particular Issues in Secular and Multifaith Australia

Chapter 4 explores areas that were prompted in the discussion paper, but were not the subject of much discussion in either the submissions or consultations.

The Current Religious Character of Australia

Hearing and reading how people view religion in present-day Australia can help us to understand the issues they raise. The research data revealed differing views about what Australia's religious character was, is, or should be: Indigenous, Christian, secularist, or multifaith. The research revealed significant concerns about the direction in which society in general, and governments in particular, appear to be heading in relation to the role and management of religious affairs. Simultaneously, however, many participants in the research felt – and felt strongly – that the situation is quite satisfactory in Australia, that the nation has a good working model of freedom of religion and belief that does not need to be changed. Their message was to 'retain the status quo' because Australia is a peaceful country without serious interreligious tensions.

Australia as Christian

A strongly held sentiment regarding the religious character of Australia was that Australia is a Christian nation – historically and currently – whose values and culture are based on Christian teachings, and that 'deep in the Australian psyche lie Christian values'²⁶. It was felt that these values are reflected in our public ethos and institutions, our legal system, and our social and political structures. One submission stated:

... at every corner whether it be in government, social welfare, health, science, on the battlefield and all kinds of pioneering work ... it has been committed Christians that have very often, spearheaded the way ... it has been Christianity that has historically shaped this nation over the past 230 years and not other religions.²⁷

The Christian heritage was seen as critical to how Australia or the Australian Government deals with immigration, legislation, social norms and practices. It was seen as critical to the way Australia understands and identifies itself as a nation. The Calvinistic Political and Social Association stated that those coming into Australia '... should be told that Australia is a nation built on Christian principles, and that, while it provides

26 ACT General Consultation 2

27 Submission 21 Peter Magee

freedom to adherents of other religions, it has civil laws and values based on the Christian religion’.²⁸ Similarly, FamilyVoice Australia argued that:

Australia is a nation with a Christian heritage and Christianity remains the majority religion today. It is appropriate that the major Christian feasts – Christmas, Easter and the weekly Sunday – continue to be marked by society as a whole. There is no need to attempt to treat the holy days of other minority religions on the same basis. To do so would be inappropriate.²⁹

The Christian Democratic Party (WA Branch) supported this view, and advised:

... this country has a Christian heritage that is reflected in many of its laws and in the preamble of its Constitution. It would be inappropriate to disregard this important heritage when deciding on what limitations to impose on the right to manifest a religion or belief.³⁰

These voices were also supported by some Asian Christians who wrote in their submission: ‘Many of our members have come to Australia or been born in Australia to parents who came to Australia because of the Christian heritage and values of the nation’.³¹ Their submission further argued:

The Australian government is obligated to respect the Christian religion as its first and foremost responsibility. We object to the idea that other religions are equal to the worship of Almighty God.³²

Many submissions³³ argued that the Preamble of the Constitution, ‘Whereas the people ... humbly relying on the blessing of Almighty God ...’ demonstrates that the ‘Australian Government is obligated to respect the Christian religion as its first and foremost responsibility’.³⁴ ‘Australia’s foundations, in law, parliament and constitution have their basis on faith in the Lord Jesus Christ and belief in the Bible as the living word of God’.³⁵

There was strong advocacy for understanding and upholding Australia as a Christian nation. For some participants, this strong Christian sentiment was expressed in the opinion that migration changes since the 1950s have occurred at a rate too rapid and too diverse. They feel the consequent religious diversity poses a challenge, if not a danger, to the traditional values of Australia and its social cohesion. Trevor Sullivan of Nanango Christian Faith Centre Inc wrote that ‘... the greatest threat is the introduction of “multiculturalism” as a subversion of the existing, stable, and free Christian nation’.³⁶ Anthony Adams wrote: ‘We as a nation are welcoming immigrants to our country that have radically different attitudes and values than the majority of us’.³⁷

The research revealed a high level of concern that there is too much deference to religious minorities, especially the Muslim communities, at the expense of mainstream values, and that the shift to allegedly appeasing minority groups threatens core social values. Fears were expressed about accommodating different religious laws and practices. Mrs Thorpe wrote:

28 Submission 1347 Calvinistic Social and Political Association
29 Submission 95 FamilyVoice Australia
30 Submission 169 Christian Democratic Party (WA Branch)
31 Submission 405 Full Gospel Assembly Melbourne
32 Submission 405 Full Gospel Assembly Melbourne
33 Submissions 169, 405, 734, 975, 1515, 1587 1593, 1779, among others
34 Submission 405 Full Gospel Assembly Melbourne
35 Submission 1761 Australian Heart Ministries
36 Submission 734 Trevor Sullivan
37 Submission 1779 Adams

... the one thing I am really afraid of for our country is that it will be taken over by Muslims. It only takes a few Muslims to force the rest of us to do their bidding and for Australia to become as dangerous a place as elsewhere in the world where Islam has been allowed to spread its poison.³⁸

While fears like the ones above were expressed, no examples occurring in Australia were adduced to give substance to them.

I'm concerned with the dumbing down of law to accommodate diversity – soon it'll be a great big melting pot of world views to a coffee coloured mix that does nothing to inspire, and then you have victims everywhere. Can we accommodate Shari'a law or tribal Hindu law? We don't want to end up with two lots of conflicting law in Australia.³⁹

The Australian Association of Christian Schools questioned pluralism in Australia: '...that we as a nation should **subscribe** to *pluralism* as if it were a national doctrine or public creed – *an acceptance of all religious paths as equally valid.*' They wrote:

The policies of *accommodation, compromise and appeasement* may be well-intentioned.

However, unless such policies are tempered with a rigorous examination of the incompatibility of Australia's legal standards with some cultural practices and law codes, we are destined with other nations to degenerate into a troubling morass of destabilizing and incompatible belief systems, cultures and social norms.

The European experiments built around various expressions of *accommodation* and *appeasement* have not given rise to greater cohesion and well-being. Rather, they have created ghettos of intense fundamentalism (of various religious and political persuasions) within surrounding permissive and accommodating host cultures that have no idea what to do with what they have created.⁴⁰

The fear expressed was that minorities could rule the majority, because, it was felt, there is no balance in present policies, and this enables new communities to challenge some of the norms of their adopted society. Few specific examples of these fears were given; however the hijab was mentioned in this context, as was sharia law, equality in gender relations, and any concessions to the gay lobby. Those who expressed these fears and concerns saw religious diversity in Australia within the context of Australia as a Christian nation hosting and accommodating religious minorities, part of whose adjustment to living in Australia is to accept Australia's core values and institutions.

Voices from minority communities revealed that they were acutely aware of the difficulties they face in being heard and in practising their religion at times, particularly the difficulties in building schools and places of worship in the face of concerted local opposition, and reactions to the physical expression of their faith through clothes and appearance. Throughout the consultations, the ability to critique was widely held as a key component of a democracy; minority communities shared this view but also felt they lacked the same capacity to reply to criticism, a position that can amount to a sense of implicit rejection. Through submissions and in consultations, members of minority communities indicated that religious minorities' perception of 'accommodation' is not that accommodations challenge core values but rather they allow for different religious expressions; for example, permitting Sikh boys to have long hair at school⁴¹ or Muslim girls to wear the hijab.⁴²

38 Submission 1992 Thorpe

39 New South Wales Australian Christian Lobby Consultation

40 Submission 1602 Australian Association of Christian Schools

41 Queensland General Consultation 2

42 Tasmania General Consultation 2

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Australia as Secularist

Another strongly emerging voice through the consultations and the submissions was the secularist voice; this was largely comprised of atheist, humanist, rationalist, and sceptic voices and views. This voice expressed concern about the growth of political religion in Australia, the religious lobby groups, and religious influence on political parties, all of which they perceived as attempts to 're-Christianise' Australia according to a narrowly defined Christianity. These voices rejected the idea that Australia is a Christian nation: 'I'd contest the idea that the Christian tradition is the majority view, this needs more context'.⁴³ They argued that Christian groups have a voice louder and with more influence than befits their size. David Broughton expressed his concern that '... the religious faithful of Australia have too much influence in the formulation of government policy and legislation'.⁴⁴ Concerns were frequently raised about the privileges given to religious institutions in the form of tax exemptions and subsidies, and outsourcing welfare services to religious organisations. Of particular concern was public money being invested in religious organisations that may have discriminatory practices or may proselytise as part of their mission and service delivery. A key point of the submission from Sydney Atheists was: '... government and its institutions must be secular to ensure that they are able to properly represent all citizens'.⁴⁵

As was heard among Christian denominations and churches, secular voices had a variety of views and perspectives. Some were more anti-religious; Penny Holland wrote that this research report:

... should not just be about accommodating a variety of religions and cultures (necessary though that is) but also about quelling the excesses of superstition in favour of a more rational society.⁴⁶

Many submissions argued for the need to not only consider freedom of religion but to also uphold the right to 'freedom from religion'.⁴⁷

The secularist voice contested also the notion that religion has a monopoly on morality and, that without religion, values operate in a vacuum. Furthermore, secularists expressed that they felt uncomfortable with their placement within the framework of religion, citing the example of the terminology used in the Census: 'non-religion'. Secularists argued for a new Census question: 'Do you have a religion? Yes or No'. Secularists often perceive religion as including a belief in the supernatural; they rigorously reject this concept and any affiliation with this framework. However, some faith groups argue that secularists or atheists have strong world views akin to religious views, and should be seen as such. The submission from the Humanist Society of Queensland highlighted the conflicting views between and among all voices, be they Christian or secular:

Religion and Humanism should be understood as different systems of Belief - one is a supernaturalistic/religious system, the other a naturalistic/secular system. Religion and Humanism should, therefore, be seen as two sides of the same coin of belief. The concentration on Religion as the key term is a significant problem to non-religious people as it leads to their exclusion in practice.⁴⁸

The conflicting voices of secularist groups and Christian groups are aptly summed up in the public-versus-private debate. The most frequently heard concerns were that '... there is an attitude in this 'secular' country that atheist is a dirty word and the religious somehow deserve special rights'.⁴⁹ In contrast, was '... the sense

43 New South Wales General Consultation 1
44 Submission 4 David Broughton
45 Submission 1637 Sydney Atheists
46 Submission 34 Penny Holland
47 Submission 61 Rosemary Sceats
48 Submission 981 Humanist Society of Queensland
49 Submission 6 Zena Davies

that religious voices are not legitimate to be heard in public debate, and that the secular voice is the only appropriate public voice'.⁵⁰

The Australian Christian Lobby wrote:

Religion, in all its conspicuous diversity, is a positive and commendable feature of Australian multi-faith society. It should be fostered in the tradition of least legislative or other interference, without an overly strict approach to neutrality such as would eliminate religion from all visibility in public institutions, or an overprotective approach towards 'tolerance' which would inhibit outward religious practise or confine it to private places of worship. The outward expression of religion should be a conspicuous part of Australian society.⁵¹

The discussion paper prompt question about the role for religious voices in national policy debates elicited strong responses in submissions and consultations. It was pointed out by all that in a democratic society there is a place for *all* voices in the public discourse. The Anglican Diocese of Sydney stated:

... there is no burden of proof upon religious people as to why they may participate. To suggest that religious involvement in public life flouts some right or principle is naive at best and sinister at worst ... In these and other cases, that their voice is 'religious' is quite irrelevant. Their policy arguments, and their performance of public service, will stand or fall before the public on their merits.⁵²

The Humanist Society of Western Australia's submission qualified this slightly, stating:

... those who speak on behalf of religious organizations or groups are entitled to speak only on behalf of their organization ... They are not entitled to speak (as many of them do) on behalf of someone they call 'God'... In making the claim to speak on behalf of a higher authority, (whose existence is open to severe doubt), they avoid the necessity to argue their case on rational grounds.⁵³

It was not the public voice or the contribution of particular voices that appeared to concern many but the perceived superiority or imposition of a moral view. The Secular Party of Australia argued:

... there is a role for religious voices in explaining the views that may arise from a particular religious perspective. There are no grounds for the presumption that religious leaders should necessarily have expertise in issues of ethics or morality, or that a religious viewpoint in politics has merit merely because it is religious.⁵⁴

One submission stated that '... if Christian political extremism is not kept in check, more and more civil liberties – and eventually, human rights – will be curtailed' and cited proposed mandatory internet filters as an example.⁵⁵

Many Christians articulated their resistance to a secular agenda if it meant that religion was confined to the private sphere, or that religious values were not considered relevant in a plural society. Some expressed their belief that the:

... difficulty in Australia, especially in the professional world, is that you don't discuss your faith, that's considered private, which means you miss out on conversations that can educate and encourage respect⁵⁶

50 ACT General Consultation 1
51 Submission 1858 Australian Christian Lobby
52 Submission 1533 Anglican Diocese of Sydney
53 Submission 132 Humanist Society of Western Australia
54 Submission 1283 Secular Party of Australia
55 Submission 1438 Claire de Lune Society of Wicca
56 Queensland General Consultation 2

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Those with a faith indicated that they felt that having any faith position is outside the mainstream now, and that faith-based arguments are considered invalid. Some Christian voices in this research raised concerns at what they consider an ‘aggressive secularism’, which they see as being opposed to democratic principles in that secularists do not respect different views and, as such, are holding to a double standard whereby Christian views are dismissed because they are religious, and secularist views are unchallenged.

The sense was that there is a default position that secular is ‘right’, that secular is framed as more logical and rational, a framework that those with religious views would reject. Secularists, on the other hand, would argue that secular views *are* more logical and rational, and feel that religion is for consenting adults in private. Their particular concern is the public teaching of Christianity and its presentation as normal and visible. The issue of teaching children religion, or the ‘indoctrination of children’ was an often repeated concern for secularists, who were concerned that ‘... taxpayers’ money should not be spent on indoctrinating children under the age of reason, because children cannot decide what they believe, and amounts to an abuse of human rights’.⁵⁷ However, others feel that secularism does not seem cognizant of Article 18 (4) of the International Covenant on Civil and Political Rights, which spells out the right ‘... belonging to the individual (parent and child) to ensure the religious and moral education of children in conformity with their own convictions’.⁵⁸ This includes the right to establish religious schools, and for parents to send their children to those schools.

While there were certainly those who felt their religious freedoms are encroached upon, there were also many who felt comfortable with the present situation and satisfied with current measures and mechanisms. They felt that the right to freedom of religion and belief is well respected in Australia, that people are capable of resolving tensions with common sense and good will, and that the problems that are experienced are relatively minor and part of the process of accommodating different and diverse cultures and religions. While some people and organisations noted that some faiths may have difficulty in building places of worship or schools, they considered that these difficulties are resolved in the end, and more regulation would not necessarily help address issues. Dan and Adeline Keenan wrote: ‘We believe that Australian laws already allow for the trouble free practice of religious faith. No changes are needed’.⁵⁹ The Catholic Social Justice Commission held that the ‘... public institutions in Australia and the good sense of Australians have a proven track record sufficient to resolve any likely issues where religion and good order may seem to be in conflict’.⁶⁰ The Australian Association of Christian Schools wrote:

... the status quo that allows for representatives of all sorts of organisation, religious and civil society, to access and influence government is both equitable and reasonable and should not be disturbed.⁶¹

Some Christians further argued that the existing climate for freedom of religion and belief is adequate precisely *because* of Australia’s Christian heritage, that ‘... it is the love of Jesus Christ that allows us to have one of the most tolerant and cohesive nations in the world’.⁶²

However, this view of Australia was not shared by all, and smaller faiths felt they are unable to fully observe and practise their faith in Australia. FAIR (Forum on Australia’s Islamic Relations) wrote that ‘... on a day to day level, there are many issues facing Muslims and their freedom to practice [sic] their faith overtly or

57 Victoria General Consultation 1
58 Submission 1858 Australian Christian Lobby
59 Submission 99 Dan and Adeline Keenan
60 Submission 1750 Catholic Social Justice Commission
61 Submission 1602 Australian Association of Christian Schools
62 Submission 1761 Australian Heart Ministries

covertly, intertwined with their cultural habits'.⁶³ Sikhs likewise indicated that '... recent events in Australia have highlighted blatant discrimination and concerns in regards to the freedom of practising the Sikh religion'.⁶⁴

Australia as Multifaith

The view that Australia is a multicultural nation, and consequently a multifaith nation, was clearly expressed by those representing minority religions, the mainstream, civil society and Christian organisations. Accepting the reality of a religiously diverse Australia was felt to be demonstrated through accommodations for religious practices and dress, but primarily through education and understanding. There was strong support for interfaith initiatives at every level and the belief that through education and engagement, prejudice and ignorance can be combated and meaningful exchange and harmony developed. Multifaith initiatives were seen as promoting pluralism and tolerance in a more educational way than alternatives such as legislation. Affinity Intercultural Foundation stated '... by celebrating universal values that all faiths and cultures share in common, people can learn to tolerate and accept differences'.⁶⁵ The Executive Council of Australian Jewry wrote, '... that personal communication enriches the cultural and spiritual perspective of those who are engaged, and we believe that such activities improves the texture and atmosphere of Australian life'.⁶⁶ The Australian Partnership of Religious Organisations (APRO) wrote in its submission:

APRO is a practical demonstration of how successfully diverse religious communities can work collaboratively in Australia. We consider this work vital to our goal of helping to build a harmonious community in Australia.⁶⁷

While Australia was considered a good model for interfaith relations and dialogue, it was also argued that this dialogue could be more robust, and that not all sensitivities need to be deferred to. Conversations tended to focus on religious diversity and interrelations rather than on multifaith as a component of plurality in civil society.

Some criticisms of multifaith engagements were that political correctness can be too much observed, diluting diversity and enhancing '... the sense that all religions say the same thing, they are all different paths to one truth - which to us, is insulting'.⁶⁸

Some Christian organisations were reticent about involvement in interfaith activities. The Presbyterian Church in Western Australia wrote:

In general, the Presbyterian Church of Australia does not typically participate in interfaith initiatives, partly because of concern that such initiatives are often predicated upon a theoretical commitment to philosophical pluralism which is problematic from our theological perspective.⁶⁹

Trevor Sullivan echoed a similar sentiment when he wrote:

We respect people of all faiths and love them as we love all men, but this absurd assumption that we can work together to make the world better by compromising our own faith and accommodating the many and varied faiths of others is unacceptable and deeply offensive to Bible believing Christians ... Christ did not

63 Submission 1510 FAIR

64 Submission 1835 Sikh Community of Brisbane

65 Submission 1929 Affinity Intercultural Foundation

66 Submission 203 Executive Council of Australian Jewry

67 Submission 1361 Australian Partnership of Religious Organisations

68 New South Wales Australian Christian Lobby Consultation

69 Submission 1587 Presbyterian Church in Western Australia

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advocate this mingling and working together with the heathen for the betterment of society. He taught that we should tell all men that He is Lord and that every knee shall bow to Him!⁷⁰

Leadership was raised as a concern, that interfaith leaders and those involved in interfaith activities are not always representative of their communities in that they are often more tolerant than those they represent. Some Christian voices indicated that those involved in multifaith activities are too liberal and do not represent Christianity because, according to some, involvement in aspects of multifaith can concede elements of one's faith:

There can be no compromise to one's religious beliefs - we don't all just view religion differently, it's not much of a muchness with different emphases. That attitude is okay for liberalists, but not for ordinary Christians.⁷¹

Contrasting views were expressed by other Christian denominations. The Uniting Church in Australia National Assembly stated that it '... values mutually respectful and positive relationships with people of other faiths and affirms the place of interfaith dialogue in creating and sustaining a culture of peace and harmony'.⁷²

Exclusivity was another criticism of the multifaith agenda, that multifaith dialogue excludes many Australians by not including those with 'no religion'. There were also comments that the interfaith movement gives precedence to monotheistic religions, and that there needs to be acceptance of diverse spiritualities, including paganism. The Humanist Society of Queensland wrote: '... as things are at present it is our experience that the religions/faiths rarely involve us in their activities on the basis of equal participation'.⁷³ In a similar vein, the Pagan Awareness Network (PAN) wrote that it has '... faced an uphill battle in its attempts to be included in interfaith initiatives. PAN members participating in such initiatives report significant resistance from some quarters to having Pagans openly included in events'.⁷⁴

70 Submission 734 Trevor Sullivan
71 Victoria Australian Christian Lobby Consultation
72 Submission 1921 Uniting Church in Australia National Assembly
73 Submission 981 Humanist Society of Queensland
74 Submission 785 Pagan Awareness Network

Human Rights and Religion

While the human rights regime is often said to have had its origins in the European Enlightenment, it was pointed out in several submissions that the ideas, if not the discourse, about human rights can be found in various forms of religious morality and religious law that predate the Enlightenment by many centuries. Inevitably, there will always be inherent tensions in balancing human rights, religious beliefs and religious practice, such as the freedom of religion and belief versus freedom of expression, which was a commonly raised contest, as were the conflicts between individual rights and community rights and conflicts between particular groups. These frictions can be deep.

The Major Issues and Theology Foundation wrote that the notion of human rights has roots in medieval theology, but has been:

... set free from its foundation in a strong sense of the justice of God, and is now seen as ... something we 'own' because of our intrinsic humanity. Rights as 'entitlements' can proliferate without a corresponding growth in capacity to meet those rights other than a growing demand upon the state as the ultimate 'rights-guarantor' in society.⁷⁵

This was a concern other Christians shared about the human rights discourse itself, and contributed to unease with current human rights bodies and their work.

It is also to be noted that according to the feedback from the various state and territory anti-discrimination bodies, the number of religious discrimination complaints is relatively small and limited, reflecting Australia's acclaimed religious harmony. Some submissions were framed in terms of contests between religious rights and other competing rights. For example, the Bahá'í community of Australia suggested:

... there is a tendency to treat the right to freedom of religion or belief as less important than certain other civil and political rights and this right is often treated as a 'second class citizen' in the sphere of human rights.⁷⁶

The Council of Australian Humanist Societies wrote: '... religious freedom is also a human right, but one that needs to be exercised in the light of education and experience ... in this respect it is like a political freedom, a choice made'.⁷⁷ Or, in the words of the Secular Party: '... humans have rights, religions do not'.⁷⁸

Many submissions reinforced the fact that freedom of religion and belief is a fundamental human right, but expressed concern that there is a growing trend to give precedence to anti-discrimination legislation over the right of freedom of religion and belief to manifest in the practice of faith.

Individual v. Communal Rights

There were different views on the appropriate relationship between individual and collective rights in relation to freedom of religion and belief. Concerns were voiced about the extent to which Australian human rights frameworks place emphasis on the rights of individuals: '... because society is more than a collection of individuals, communities have existence in and of themselves'.⁷⁹ The question of the rights of communities and individuals is particularly relevant when considering freedom of religion and belief where most faiths and traditions are formed into communities. Most of the discussion came from religious representatives, who advocated for greater acknowledgement of the rights of community. It was argued that Australia has assumed a radically individualistic interpretation and practice of human rights, and, in so doing, has weakened if not

75 Submission 1632 Major Issues and Theology Foundation

76 Submission 1921 Australian Bahá'í Community

77 Submission 1142 Council of Australian Humanist Societies

78 Submission 1283 Secular Party

79 ACT General Consultation 2

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lost the relationship between individual rights and the common good. The Church of Jesus Christ of Latter-day Saints argued:

While there is presently an emphasis within much of the intellectual discourse in Australia on the right of individuals to be free from religious intrusion, governments must be careful not to inadvertently restrict the rights of believers while protecting the rights of non-believers.⁸⁰

By contrast, Liberty Victoria argued (with supportive examples) that the licence to discriminate:

leaves individuals vulnerable to unrestrained discrimination by religious bodies, and where the state needs to protect such individuals' human rights, and for that matter their religious freedom not to believe in, nor act according to, the dictates of the beliefs of a religious body to which they do not subscribe.⁸¹

The Bahá'í Community likewise argued that '... laws should be premised on the protection of the rights of the individual rather than the rights of a religion per se' but also highlighted the concept of the 'defamation of religions' which has been advanced internationally (although it does not appear in these terms in any of the human rights instruments to which Australia is committed) as a distortion of human rights machinery.⁸²

The Salvation Army, however, argued that legislation needs to encompass '... organisational rights where a religious organisation, as distinct from how its individual personnel are styled, can claim the benefit' of legislation.⁸³ The Anglican Diocese of Sydney had a similar view to the Salvation Army, and queried the presentation of 'religion primarily as a matter for individual choice rather than communal affair' and argued that 'religious people often meet together in organised groups, and traditionally the "freedom of religion" has also been a defence of the life and identity of these groups'. The submission argued that this concern is reflected in the ICCPR and the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* when they mention the place of religion communities, their organisations and the education of children.⁸⁴ The Ad Hoc Interfaith Committee articulated:

For most people, religion is a communal and public commitment, underscoring the fact that the person is not simply an isolated, autonomous individual but a person in solidarity with others. This solidarity is underscored also in other communities – locality, school, business, and cultural and sporting activities, and most particularly in the family (Article 16). In such communities people keep faith with the allegiances that give meaning to their lives. Respect for human rights requires the protection of the communities and associations by which a culture of human dignity flourishes.⁸⁵

Many supported the argument that individual rights have communal expression, that people should be able to express their rights communally, and that the role of governments should be absent. Group or institutional rights, however, represented a different category; here existed difficulty in distinguishing between individual expressions of rights communally, and the rights of communities and groups. It was argued that communities, and religious communities, protect and nurture and develop values that are essential to productive social life and social cohesion.

However, it is counterproductive to assume that communities, individuals, governments and religions are monolithic. Religion as such cannot be considered as being captured under a single umbrella despite the usefulness of this concept; the reality is that cultural and religious complexity abounds at each of these levels. For example, there are Catholics who are gay, there are Mahayana and Tantrayana Buddhists, and there are

80 Submission 1012 The Church of Jesus Christ of Latter-day Saints

81 Submission 1607 Liberty Victoria

82 Submission 1921 Australian Bahá'í Community

83 Submission 1689 The Salvation Army

84 Submission 1533 Anglican Diocese of Sydney

85 Submission 1687 Ad Hoc Interfaith Committee

evangelical Christians who work respectfully with Muslims. There are huge differences among the members of any community, to say nothing of the diversity in the ways in which the norms of a community are interpreted and followed.

Other participants argued that pushing the rights of religious groups, particularly where they contravened the rights of others, like gays or women, was unacceptable in a plural civil society. In some cases this represents a conflict between community and individual rights, in others a conflict between the rights and strongly held views of different groups. JobWatch argued:

... the community's best interests are afforded by facilitating genuine equality of opportunity for all its members. It is only in rare circumstances that competing interests, rights or "community standards" justify limiting the operation of anti-discrimination legislation.⁸⁶

Anglicare Sydney argued that conflicting rights should be balanced by determining which rights are general and which specific:

... the general right of persons not to be discriminated against on the basis of religion ... the specific right of persons to practise their religious beliefs by the establishment of charities with a religious ethos ... In light of this, the most appropriate method to determine an appropriate outcome is to accept in principle that a specific right must, to the extent of any conflict, prevail over a general right.⁸⁷

Freedom of Religion v. Freedom of Speech

A second significant area of contestation was between freedom of religion and belief and freedom of expression. A strongly expressed concern was the sense of an eroding freedom of speech, where people felt their ability to criticise was threatened by fear of offending others, or by anti-discrimination legislation. It was argued that the ability to criticise religion honestly, sincerely and in the pursuit of truth was imperative, and that Australia was experiencing an insidious inhibition of freedom of speech. The example frequently cited was the legal case *Catch the Fire Ministries Inc. v. Islamic Council of Victoria Inc.*

Christian voices and secular voices united in shared concern regarding vilification legislation. The Rationalist Society of Australia wrote: '... the "right to freedom of opinion and expression" (Article 19) is threatened and even perhaps infringed by religious vilification laws in some states and the proposed Commonwealth Religious Freedom Act.'⁸⁸ Likewise, the Australia New Zealand Secular Association argued that the '... Victorian government's legislation concerning vilification should be repealed if that has not already occurred. The only sanction against free speech should be where it advocates violence against others.'⁸⁹

Others argued, however, that moral limits and respect must come before the rights of freedom of expression; there cannot be complete freedom to say whatever one feels, but the issue lies in deciding the moral limits and the limits of pluralism and freedom, and where freedom of religion and belief lies in the hierarchy of human rights.

Exemptions and exceptions

Exemptions, exceptions or accommodations were raised as a major concern in the context of human rights, with Christian organisations arguing that the current processes for exemptions are a converse expression of freedom of religion and belief as articulated in Article 18 of the ICCPR. Their revocation would spark a strong reaction and would seem to contravene the right to religious freedom. Yet, these claims are based on the

86 Submission 1604 JobWatch

87 Submission 1535 Anglicare Sydney

88 Submission 1143 Rationalist Society of Australia

89 Submission 682 Australia New Zealand Secular Association

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presupposition that religious rights take precedence over all other rights and the law itself. Where is the line to be drawn in terms of individual and collective rights of religious organisations?

Christians argued that anti-discrimination laws have been given primacy, and that the religious exemptions that are a reflection of freedom of religion and belief according to Article 18 are merely tolerated, not viewed as a right to be protected. FamilyVoice wrote:

... the most pressing human rights issue associated with freedom of religion in Australia today is the increasing discrimination against religious practice imposed by tribunal decisions under so-called antidiscrimination or equal opportunity laws.⁹⁰

FamilyVoice further argued that when human rights bodies talk about balancing rights, such as balancing the right to gender equality with the right to religious freedom, ‘... balanced in this context clearly means limited. It is disturbing to have the body allegedly defending human rights in Australia proposing the curtailment of the right to religious freedom’.⁹¹ However, Liberty Victoria presented the arguments of Cass Sunstein and what he calls the ‘asymmetry thesis’: ‘... it is unproblematic to apply the ordinary civil and criminal law to religious institutions, but problematic to apply the law forbidding sex discrimination’.⁹²

It was also suggested that there is a need for religions to protect their freedoms in relation to cultural relativism; for example, some argued that freedom of religion and belief is essential to the preservation of their cultural heritage. UNESCO supports efforts to preserve and maintain cultures, including non-material culture.⁹³ Many Christians also argued that exemptions were necessary in order for them to maintain their cultural heritage just as much as they may be for other cultures.

This argument was also presented in the context of the clash between the freedom of association and anti-discrimination legislation when people are seeking to work with others of their own faith:

... people should be free, for example, to form male sporting clubs or female business clubs – or vice versa. People should be free to associate on the basis of religious or other beliefs they hold in common – and not be subject to the undue influence of antidiscrimination laws.⁹⁴

Or, as Jenny Eckford wrote:

Freedom of association is also fundamental to our democratic freedoms. Churches, Christian schools, church-run welfare agencies and other associations should be exempt from anti-discrimination legislation, so they can practise their own values – without being forced to hire people who reject those values, such as practicing homosexuals, promiscuous heterosexuals or believers in witchcraft.⁹⁵

Other Christians argued that this clash is an issue that needs to be faced by Christians not only through exemption legislation, but through thought and theology:

... while priests are restricted to men, and particular views on same sex relationships are held which can be seen as breaching of equal opportunity provisions, the question remains, how should Christians reconcile that – these concepts need to be worked at, it’s not enough to expect exemptions on issues, how can we reconcile these?⁹⁶

These comments reflect the internal diversity in religious groups regarding most of the issues encountered.

90 Submission 95 FamilyVoice

91 Submission 95 FamilyVoice

92 Submission 1607 Liberty Victoria

93 United Nations Educational Scientific and Cultural Organisation – Culture, 03-03-2011, UNESCO-Culture, viewed on 8 March 2011 <http://portal.unesco.org/culture/en/ev.php-URL_ID=34603&URL_DO=DO_TOPIC&URL_SECTION=201.html>.

94 Submission 95 FamilyVoice

95 Submission 154 Jenny Eckford

96 Victoria Australian Christian Lobby Consultation

Ethos: Exemptions, Employment, Service Provision

The question of how religious organisations can maintain their mission and ethos, and their philosophy and culture, particularly when these come into conflict with the individual rights of others, was of major concern and interest across the research data, and encapsulates many of the most pressing issues around freedom of religion and belief in Australia today.

Across all research data, calls to maintain current exemptions were strongly iterated by faith groups, particularly by Christian churches and organisations. Many participants in consultations identified feeling ‘under siege’ from those with a secular agenda, and expressed concern about anti-discrimination legislation, proposed changes to current exemptions, and the right to proselytise. These concerns were raised particularly about recent legislation in Victoria, with the *Racial and Religious Tolerance Act 2001*, the *Abortion Law Reform Act 2008*, the Victorian *Charter of Human Rights and Responsibilities 2006* and, nationally, the coinciding research process for the National Human Rights Consultation, chaired by Father Frank Brennan.

The format followed at consultations initially provided all participants the opportunity to raise two or three issues that were of concern to them in relation to freedom of religion and belief, followed by more in-depth discussion. The issues around ethos maintenance for faith-based organisations and service providers were raised at every consultation, and shared by multiple participants.

The range of views and arguments articulated during the consultations are summarised below according to three topics: ethos maintenance, exemptions, and service provision. Although there is significant overlap between these areas, they have been separated in order to reflect the nuance of discussion and proffered arguments.

Ethos Maintenance

Developing and maintaining ethos is of primary concern to faith based organisations, yet what this means to, and within, different entities varies. Some organisations ask members to model and adhere to certain values, whereas others require members or employees to subscribe to their faith, or denomination.

One participant put it:

Maintaining ethos is through witness, and how we deal with other people and the respect we show them and our interest in their wellbeing as well as our faith and observance. In operationalising ethos, part of it is creating the space for believers to do what they do best, and this is a fundamental right of freedom of religion and belief that is manifested in the public and through goods and services that the church provides. We also need to model that ethos, and we want to employ those who have clearly articulated beliefs, who can declare them and speak to the implications of their beliefs in how they make choices.⁹⁷

Exemptions

The need for positive discrimination

In relation to maintaining the ethos of an organisation, many identified positive discrimination in hiring staff as a key component in running an organisation with a specific mission, and that this was an essential part of their freedom of religion and belief. This was not only for the organisations offering the service, but also for:

... the individuals and agencies who access goods and services based on the beliefs they hold – there needs to be a freedom to express our conscience in employment practices and a commitment for people to access the goods and services on the basis of their conscience also.⁹⁸

97 New South Wales Australian Christian Lobby Consultation

98 New South Wales Australian Christian Lobby Consultation

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The Ad Hoc Interfaith Committee wrote: ‘... generally speaking the clients of such services have a preference for the more personal and caring approach of Church based organisations vis a vis State based agencies’.⁹⁹

Many Christian submissions and participants strongly emphasised that:

... for a faith-based organisation, the promotion of that faith is inherent to and intertwined with the practical work they carry out. It drives the initiatives they undertake. Faith-based organisations aspire for their practical work ultimately to promote the faith that underpins them¹⁰⁰

Following this imperative, many faith-based organisations shared the following assertion:

ANGLICARE Sydney cannot employ, at any level, someone who is hostile to or unsupportive of its mission, vision or values ... Religious charities such as ANGLICARE Sydney also maintain the right, provided this is done in good faith, to decide whether some or all of the positions offered by it carry a ‘faith dimension’.¹⁰¹

Others argued that governments not only need to support and encourage the provision of different services and the access to them but also that:

... the language around exemptions needs to change to reflect them as the legitimate right of parents to send their children where they like – and [we’d] expect service providers and government [to] support that, – so it’s not a matter of exemptions or concessions, it’s the right of people and organisations.¹⁰²

One participant articulated it as: ‘Exemptions are protections, they are fundamental human rights, and the right of religious freedom – exemptions are attempts to protect the rights of believers in areas where they might be trespassed against’¹⁰³, because exemptions are related to cultural maintenance.

Arguments around why exemptions are necessary included those described above: clients of the services have a right to access services on the basis of their consciences, and seek out such services; and exemptions are intrinsic to manifesting and practising one’s faith, and as such are a component of the fundamental right to freedom of religion and belief. Arguments relating to freedom of association were also raised in this context, whereby it was argued that as a Christian businessman choosing not to open on Sundays, ‘... it is fair to choose to have people around me who share that practice, same as Muslims and Jews would do we need to have accommodation saying that that is okay’.¹⁰⁴ It was argued that ‘... freedom of association can help overcome religious practice differences, as different faiths have different holy days, Christians have Sundays, Jews have Saturdays, Muslims have Fridays,’ so workplaces comprised of particular faiths find it convenient to express their faith.¹⁰⁵ Ed and Ann Pitt wrote:

Another thing which is fundamental to our democratic freedoms is the freedom of association. Churches, Christian schools, welfare agencies etc should be exempt from antidiscrimination legislation. This would mean that people in all these organizations/agencies would be free to practice their own values & not be forced to employ those who reject those values ... Being Christians I know that we would feel uncomfortable doing voluntary work among people with differing views & values to our own.¹⁰⁶

Many submissions contained the same text:

Freedom of association is also fundamental to our democratic freedoms. Churches, Christian schools, church-run welfare agencies and other associations should be exempt from anti-discrimination legislation,

99 Submission 1687 Ad Hoc Interfaith Committee
100 Submission 1534 Anglican Retirement Villages Diocese of Sydney
101 Submission 1535 Anglicare Sydney
102 ACT Australian Christian Lobby Consultation
103 New South Wales Australian Christian Lobby Consultation
104 New South Wales General Consultation 1
105 Victoria General Consultation 2
106 Submission 179 Ed and Ann Pitt

so they can practise their own values — without being forced to admit or hire people who reject those values, such as practising homosexuals, promiscuous heterosexuals or believers in witchcraft.¹⁰⁷

Further points were raised about the unique place of employment in religious contexts. The example of pastoral care was raised, ‘... which has its own internal logic, principles and parameters, and is not paid by hour for a specific job’.¹⁰⁸ Additionally:

... faith communities have a concept of feeling called into leadership, rather than being employed to do a job, so our faith communities that are voluntary need to know that their leader whom they pay is committed to the same values and principles, so when we employ we can’t accept anyone.¹⁰⁹

Complexity of debate

The debate about ethos preservation and promotion is highly nuanced, with multiple voices coming from within the same organisations, and from between affiliated or same-faith organisations.

It was argued that there are many contingencies; for example, the nature of the work, and where the position sits in relation to the value base in operation, as well as the workplace, its size and nature. Faith schools were considered differently to other faith-based services such as hospitals, shelters, aged care facilities, and employment agencies, because they involve the rearing of children in the faith.

Different views were put forward. World Vision Australia wrote that while faith-based organisations should not be prevented from implementing employment practices that ensure the maintenance of the unique identity of those organisations, World Vision Australia also recognised the importance of the ‘... perspective of people of all faiths and of no faith in undertaking the complex and important work that we are called to’.¹¹⁰ Mission Australia submitted that ‘... this is a complex issue and requires better defined protections for religious organisations and those seeking employment with them’, and offered a model for this in their submission based on the type of organisation, and the specific role.¹¹¹ However, others like FamilyVoice argued that every staff member is important, and asked, ‘... why can’t a religious school be free to cultivate a religious atmosphere supported by its entire staff? Attacks on these exceptions are attacks on religious freedom.’¹¹² Arthur Gilmour affirmed this: ‘... choosing cleaners/gardeners and teachers who model Christian values is important, even though it may not be relevant to performing the formal job description’.¹¹³

Some participants spoke of organisations that develop a code of ethics to which employees are asked to adhere: ‘... there are groups who ask for all staff to share their religious values and seek exemptions from fair employment practice, we only ask staff to share our general values.’¹¹⁴ This was argued by others also:

... it shouldn’t be discriminatory to ask someone to adhere to a statement of faith, the values you’d like reflected — in the corporate sector organisations put in attitudinal criteria, so other organizations should be able to put down a series of values that is a statement of faith, so long as it’s not racial.¹¹⁵

And: ‘... like commercial organisations, we look to employ people who raise the reason for being of the organisation, and staff committed to the goals of the organisation.’¹¹⁶

107 Submission 393 Pauline Williams
108 Victoria General Consultation 1
109 Victoria General Consultation 1
110 Submission 1850 World Vision Australia
111 Submission 768 Mission Australia
112 Submission 95 FamilyVoice Australia
113 Submission 845 Arthur Gilmour
114 Queensland General Consultation 2
115 Tasmania General Consultation 2
116 New South Wales Australian Christian Lobby Consultation

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The Presbyterian Church presented:

... in a broader sense, the ability to discriminate on the basis of an organisation's core commitments and values is central to the democratic freedoms of our country. The tendency in some quarters to portray religious bodies as somehow different in this respect from other social institutions is unfortunate. For example, when recruiting staff or appointing officeholders, a political party could be expected to display discrimination resembling that practiced by religious bodies. It is reasonable, for example, that a politician from the Left of the Labor party might discriminate against individuals with pro-free market views when recruiting staff for her office team.¹¹⁷

Discussion about whether all roles, or only particular roles, need to be filled by people of faith was common, with conflicting responses. But it was generally agreed that there needs to be a consistent approach in dealing with such matters and, further, that determining such issues is not easy, that there should be limitations on employment practices, but where the line should be drawn is contentious. The question of who should determine the boundaries of discrimination in employment was also raised, with Christian voices arguing: 'It is essential for it to be acknowledged that genuine occupational qualifications cannot be determined externally, in ignorance of the religious mission, values and strategy of a religious organisation'.¹¹⁸

There was never agreement within consultations on how to best address these issues, or on what mechanisms or structures could be developed to assist with employment discrimination and exemptions.

Opposition to positive discrimination

Other participants opposed exemptions in principle, while acknowledging that there are positions in organisations where certain requirements are necessary; for example, a minister has to be of the faith and trained appropriately. However, it was argued that exemptions could enable discrimination on the basis of people's faith, which undermines freedom of religion and belief. It was argued strongly that '... if there are going to be exemptions, then there needs to be accountability'¹¹⁹ and that accountability has been lacking and remains lacking, in terms of funding and the services provided.

The research data included many arguments against exemptions. Liberty Victoria argued:

... religious belief and practice that is self-regarding, held or engaged in willingly by competent adults, must be respected. Religious practice that affects others, directly or indirectly, should have no special status ... if religious groups sought exemption from laws preventing racial discrimination there would be public consternation. Substituting the word 'black' for women and homosexuals illustrates the point: modern Australia would find such discrimination unacceptable.¹²⁰

JobWatch wrote:

Recruitment, selection and employment related decisions should be based on sound and defensible criteria, such as ability, merit, performance, behaviour and the operational requirements of the employer, untainted by irrelevant reference to a person's attributes, eg sex, sexual preference and gender identity. For example, while the marital status or sexual orientation of an employee may be relevant if the person is a religious instructor, they are of limited, or of any, significance for persons performing other roles, for example, teaching maths, cleaning or administrative duties.¹²¹

117 Submission 1587 Presbyterian Church in Western Australia
118 Submission 1355 Baptist Community Services NSW & ACT
119 Victoria General Consultation 1
120 Submission 1607 Liberty Victoria
121 Submission 1604 JobWatch

Likewise, the Office of the Anti-Discrimination Commissioner (OADC) Tasmania did not support exemptions:

... because, in private, people are free to practice their religion and religious beliefs. However, in the public sphere when religious organisations are providing employment and service delivery, it is important to ensure that currently unlawful discrimination is not made lawful. This would impinge on many other people's human rights of non-discrimination.¹²²

Further, contrary to what religious organisations argue, the OADC 'is of the view that not permitting religious organisations to exclude people on the basis of their sexuality or gender identity does not conflict with freedom of religion'.¹²³

While these topics are convoluted, generally those who supported exemptions were more concerned with employment practices, and freedom in employing staff. Those who opposed exemptions were generally more concerned with fairness in the provision of services, with the potential for discrimination against those using the services of faith-based providers, and with the potential for exemptions to be used to violate the rights of minorities, such as women and gay people.

Service Provision

It was presented by participants of faith and non-faith backgrounds that service provision has slowly moved beyond the purview of government to that of charitable non-government organisations (NGOs). Many religious organisations argued that faith-based welfare services historically pre-date government welfare services, and that it '... is only comparatively recently that government has become involved as a regulator, a direct service provider and funding authority'.¹²⁴ However, of concern to those of no faith background is that many service providers are faith based, and that this can lead to discrimination against those whose lifestyles and values do not match that of the organisation or that the proselytising messages of organisations reach people in already vulnerable positions. Liberty Victoria wrote that there '... are grave issues to be explored with "faith-based" service delivery'.¹²⁵ One participant stated:

... some faiths are very strong in charity, and people help and work but preach Christianity, and this is happening at a great rate, and we oppose this. Proselytising is not good, as Hindus we respect all religions.¹²⁶

Other concerns about faith-based service provision were raised. 'Practitioners of minority faiths and same-sex couples are at times discriminated against and at worst, actively persecuted'.¹²⁷ The Australian Council of Humanist Societies wrote in their submission:

... one consequence of government funded services being delivered by religious organisations is that these organisations have their profile within the community boosted. This ensures their viability in a society where social survey figures show a steady decline in active involvement and commitment to religion.¹²⁸

The Humanist Society of Queensland wrote:

As migration to Australia by non-Christians increases, the pressure on government to grant equal treatment to all religions will inevitably increase along similar lines, creating a vast body of disparate groups with competing ideologies all claiming government support and assistance. Government funding of a growing multitude of private religious charities, schools, chaplains, community services and agencies, etc., run by

122 Submission 89 Office of the Anti-Discrimination Commissioner, Tasmania

123 Submission 89 Office of the Anti-Discrimination Commissioner, Tasmania

124 Submission 1655 Uniting Care Commission; also Submission 1534 Anglican Retirement Villages

125 Submission 1607 Liberty Victoria

126 New South Wales General Consultation 1

127 Submission 1438 Claire De Lune Society of Wicca

128 Submission 1142 Australian Council of Humanist Societies

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different religious organisations will prove an unsustainably heavy fiscal and regulatory burden for future generations to carry.¹²⁹

The most significant criticism of faith-based organisations was, however, that if they are receiving tax exemptions or are in receipt of Commonwealth money for providing services, they should provide that service to all people and not discriminate against those who may not fit with their values, such as gays, transsexuals, and single mothers.

The Council of Australian Humanist Societies argued:

... government funding to religious organisations violates the usually accepted meaning of separation of religion and state. Religion is a private matter that citizens are free to engage in or not. It therefore follows that organisations of people supporting or engaging in a particular religion ought to be funded entirely from the resources of those people.¹³⁰

This criticism was voiced both by Christians and those with no faith. Uniting Care Commission wrote:

... there should be no exemptions or variations on the grounds of the beliefs, practices or demands of any faith group or civil society. If any group wishes to deliver a service determined by its value base that is not in accord with the terms of funding, then that organisation should fund the service itself.¹³¹

Additionally, it was argued that in particular situations it is not just that the service providers may discriminate against people, but that there may be no choice for those seeking assistance, that in aged care, for example, often the only option for the elderly and infirm is to go to services affiliated with Christianity, which may not suit those of other faiths or of no faith. Ernst Willheim provided an example of this in his submission:

A friend was a patient in a hospice run by another religious institution. Religious symbols were on the walls. When the friend asked if the religious symbol could be removed the reaction was very hostile. The friend believed the standard of personal care dropped. This friend was a member of a race which, in another country, had suffered serious discrimination from the religious institution running the hospice. The hospice was publicly funded and was the only hospice in the city where he lived ... There is an urgent need for external supervision of faith-based organisations that contract to provide public functions with a view to eliminating these kinds of coercion and discrimination.¹³²

There was clearly the perception that ‘... there is an undue coziness between the institutions of the Christian church and the government in running welfare.’¹³³

One participant recalled his experiences of looking for work and finding that employment services were dominated by Christian organisations. He stated that when his faith was known, he received no assistance. Anecdotal examples were given of people turned away, treated differently or ostracised because of lifestyle choices, or judged and deemed as wrong and immoral, and not receiving the assistance that the organisations were funded to provide.

Simultaneously, however, other participants argued that ‘... churches have always been providing services, it’s church mission, and if government wants to come in and change things, then that is government intervention’.¹³⁴ Faith-based service providers were well represented in the research, and expressed their

129 Submission 981 Humanist Society of Queensland

130 Submission 1142 Australian Council of Humanist Societies

131 Submission 1655 Uniting Care Commission

132 Submission 44 Ernst Willheim

133 Victoria General Consultation 1

134 Queensland Australian Christian Lobby Consultation

concerns and difficulties. Mission Australia wrote that faith-based organisations employ significant numbers of people and that many of them:

... have a better record than governments in equal opportunity employment standards ... many of these service providers subsidise government operations and provide a higher standard of care ... many organisations and their staff see their work as a calling and therefore offer far higher levels of service than government agencies do.¹³⁵

Mission Australia wrote:

The key message here is get some context, Australia needs this sector, it behaves well as an employer, it serves the community incredibly well and has been found 99.999999% of the time to protect and operate within the human rights framework we have in this country. This sector is not broken; it does not need fixing and in fact is exemplary within employment and service groups for its good practises.¹³⁶

Views were expressed that the onus is on government to choose to fund organisations, not on the organisations to change. One participant stated: ‘... we practice our faith through public and private engagement with the community, in partnership with government at times, but we will not have the government inhibit our ethos’.¹³⁷

Others pointed out that it is a reciprocal relationship; these organisations provide services where the government does not, and the government uses them: ‘... the government needs churches providing services, and they cannot assume that by putting minimal money in, they can dictate the organisation’s mission’.¹³⁸ Another way of viewing faith-based service provision was as a ‘... constructive partnership ... between state governance and religious ministry’.¹³⁹ Also, this ‘... cooperation of religion and state is an important element of Australian social structure and should be maintained’.¹⁴⁰ One participant said:

... there are claims from some that if you receive government money, you shouldn’t proselytise, that you engage with government on the government’s terms, but we see it as a partnership, that we have legitimate expectations regarding maintaining the ethos of organisations.¹⁴¹

Others argued that when receiving government funding, organisations should be required to fully disclose what they will and will not do in terms of providing a service and receiving funds for delivering the service, or:

... if organisations are in receipt of government funding, and providing a public service, they should keep their religious beliefs private, and if the service provided is faith based, groups should not apply for government funding.¹⁴²

Some argued that it was acceptable for organisations to employ who they want, but when in receipt of government money, they have a responsibility not to be discriminatory. Some Christians also expressed their frustration with the effort required to receive government funding:

... it is becoming too hard for faith based service providers to get government funding, there are too many requirements, and the government keeps putting more onus onto organisations, but no more funding.¹⁴³

Others found that they had to remove all religious references in order to obtain funding.

135 Submission 768 Mission Australia
136 Submission 768 Mission Australia
137 ACT General Consultation 1
138 Queensland Australian Christian Lobby Consultation
139 Submission 1533 Anglican Diocese of Sydney
140 Submission 1632 Major Issues and Theology Foundation
141 ACT Australian Christian Lobby Consultation
142 Queensland General Consultation 1
143 Tasmania General Consultation 2

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Another issue raised about service provision was the difficulties presented by ‘... patients who refuse to be cared for by nurses of different ethnic or religious background, because of their prejudice’.¹⁴⁴ How to best deal with this issue was of concern. It was thought that is not possible to tell patients they have to accept staff because patients can then become non-compliant, which has serious clinical, mental and physical outcomes. This issue is experienced by many aged-care facilities due to the increasing numbers of nurses from diverse backgrounds; the question was asked: Can legislation help deal with this issue? Another participant stated:

Jewish ethos is not about creed, and nor are people always outwardly religious, but they are part of a cultural package, and we need it from birth to the grave, so in aged care, we need staff who can speak certain languages and understand cultural aspects.¹⁴⁵

Christianity, as the majority faith and with the vast majority of faith-based service providers, was most vocal on this issue, although those claiming no religion also argued strongly. Other faith communities expressed various views:

... Australian Baha’i Community supports exemptions ... in employment based on the inherent requirements of a particular job. More general exemptions should not, however, be permitted as these would undermine the spirit and intention of the law.¹⁴⁶

The Muslim Women’s National Network of Australia wrote:

... adherents of different religions should be left to decide matters pertaining to their faith e.g. faith-based schools should not be obliged to employ people whose stated beliefs or lifestyle contravene those accepted by the religious community.¹⁴⁷

However, the Executive Council of Australian Jewry stated that it:

... is opposed to the delivery of government services such as employment agencies, by religious bodies, as we feel this may lead both to the possibility of discrimination and to the undue influence of religious doctrine in the provision of such services.¹⁴⁸

144 Queensland General Consultation 2
145 New South Wales General Consultation 2
146 Submission 1914 Australian Bahá’í Community
147 Submission 767 Muslim Women’s National Network of Australia
148 Submission 203 Executive Council of Australian Jewry

Legislation: Constitutional, National and State-based

Legislation as an area of concern was consistently raised, predominately in the context of opposition to new legislation. What was meant by legislation was rarely elucidated; the term was used in reference to religious anti-discrimination legislation, religious anti-vilification legislation, and national human rights charters or Acts. Some participants observed that, ‘... there is too much misinformation about charters of rights, there needs to be more information and education’.¹⁴⁹ Many arguments about legislation were presented, both in support of and in opposition to further legislation related to the protection of human rights and the right to freedom of religion and belief in Australia. This section outlines general comments about legislation, practical issues in implementing legislation, and arguments for and against new legislation. Unless otherwise clarified, the term ‘legislation’ refers to the enactment of laws around protecting the right to freedom of religion and belief, usually legislation relating to anti-discrimination or anti-vilification legislation in the context of religion.

Many of those who opposed legislation, particularly Christian organisations, opposed the introduction of any new legislation. Within those groups, some said they would also like to see recent legislation rescinded or amended, particularly the Victorian *Racial and Religious Tolerance Act 2001*.

General Comments

There was generally consensus that legislation must be ‘... accompanied by education – attitudes and mind sets cannot change with legislation only; there must be education and awareness building’.¹⁵⁰ Another participant articulated:

... laws need to be supported by the active creation of a culture of respect and human rights education – legislation can act as catalyst for policy change, but both are needed. Legislation and education have a dual role to play.¹⁵¹

It was also argued that for meaningful debate, greater clarity around what is meant by legislation – national, state-based, covering all human rights, or relating to freedom of religion and belief – would be beneficial.

Many referred to the benefits and limitations of human rights legislation: ‘I appreciate choice in society, and find that legislation allows freedom, but it’s important that rules do not become an end in themselves.’¹⁵² The difficulty in aligning intent with outcomes was noted: ‘... the intention behind legislation can be good, but there is a disjoint with outcomes, between the theory and the practice’.¹⁵³ It was felt that developing legislation related to religion is difficult without a clear and accepted definition of religion.

Other concerns were raised about the practical aspects of implementing legislation on freedom of religion and belief. The Ad Hoc Interfaith Committee listed a number of concerns:

Provocation and hostility is talked up in pursuit of litigation, rather than down. It is more readily available to those with resources at the expense of those without. It also works to the detriment of those religious groups with a proselytising mission. In particular it works against the Australian Church and Christian individuals who have consistently shown moderation in the face of provocation such as the *Piss Christ* exhibition and the publication of Richard Dawkins’ *The God Delusion*. This moderation stems from the suffering and rejection motif so integral to the Christian Faith.¹⁵⁴

149 New South Wales General Consultation 1
150 Queensland Australian Christian Lobby Consultation
151 South Australia General Consultation 2
152 New South Wales General Consultation 1
153 Queensland Australian Christian Lobby Consultation
154 Submission 1687 Ad Hoc Interfaith Committee

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Some participants observed that resolving problems using legislative measures is time prohibitive:

... to bring a proceeding to conclusion can take between three and four years, depending on how determined the offending party is; additionally, the court should have the power to make interim orders to prevent offence continuing.¹⁵⁵

Others argued that it is important to have just one national body, rather than state and territorial and national bodies that can be appealed to, because ‘... the aggrieved goes to one and then can go to another, any time, it’s a major procedural issue’.¹⁵⁶ Participants raised concerns about frivolous anti-discrimination complaints, which can be lodged with up to five entities: ‘... they may be dismissed by some, but heard by others, and the legal process and level of evidence is not the same’.¹⁵⁷

Support for legislation

Advocates for legislation were in the minority in the research – in submissions and consultations. This could be related to the faith persuasion and background of the majority of those who participated in the research through submissions or consultations. Nonetheless, many and varied voices were heard advocating for legislative measures for dealing with freedom of religion and belief in Australia. Some participants in the research argued that Australia does not have ‘adequate protection at present, some states offer protections, but there is no protection federally, only the ICCPR, and that needs to be codified into domestic law’.¹⁵⁸ Organisations such as the NSW Young Lawyers Human Rights Committee expressed their ‘... in principle support for efforts to legislatively entrench a right to freedom of religion and belief under Australian law’.¹⁵⁹ Some Christian voices expressed support; the Major Issues and Theology Foundation wrote:

... the codification and clear statement of rights is important and will serve the cause of justice and improve the access of individuals to redress against large and powerful organisations in government and private enterprise which may impugn their rights.¹⁶⁰

The Uniting Church National Assembly in Australia wrote that it supports:

... the development of national human rights legislation such as a Human Rights Act (as it has been supportive of the development of state-based human rights legislation), and believes that such a development will provide a necessary opportunity to strengthen the protections afforded to religious organisations.¹⁶¹

Other advocates for legislation include Liberty Victoria:

It is our view that the Australian Government should seek to enact a comprehensive Human Rights Charter that will reflect the international human rights instruments (ICCPR, ICESCR, CEDAW, CERD, Convention Against Torture.) Embedding rights in a comprehensive Charter is important because rights often require a balancing act, given that the human rights of people in one group may necessarily be in tension with the rights of those in another group. For example, there is a tension between freedom of religion and belief on the one hand and equality for all citizens on the other.¹⁶²

155 New South Wales General Consultation 2
156 New South Wales General Consultation 1
157 ACT Australian Christian Lobby Consultation
158 New South Wales General Consultation 1
159 Submission 1925 NSW Young Lawyers Human Rights Committee
160 Submission 1632 Major Issues and Theology Foundation
161 Submission 1921 Uniting Church National Assembly in Australia
162 Submission 1607 Liberty Victoria

Other religious organisations indicated they would support human rights legislative protection of freedom of religion and belief if it were ‘... in the same terms as the 1948 Universal Declaration of Human Rights, Article 18’.¹⁶³ Likewise, the Justice and Peace Office of the Catholic Archdiocese of Sydney argued that such measures ‘... should be guided by the strength of the international instruments in their commitment to the fundamental right of freedom of belief and conscience. Full ARTICLE 18, not part’.¹⁶⁴ Christian organisations were more inclined to either support or accept legislation if it were to incorporate the entirety of Article 18, with its protections for religious organisations.

However, the arguments in favour of introducing legislation in Australia to protect human rights were usually concerned with all human rights equally, and did not have a particular concern with freedom of religion and belief. When freedom of religion and belief was singled out, it was in relation to the lack of protection for religious discrimination in contrast to racial discrimination. One participant stated:

... religious freedoms need to be better protected in legislation, particularly considering global contexts, and legislation needs to capture the heart of UN treaties, and that all religious groups have freedom and are accorded the necessary freedoms for maintenance and practice of their faiths.¹⁶⁵

Others argued that legislation should protect people *from* religion:

... religion does want to impose on others in a variety of ways – stem cell research, contraception, we need to actively legislate against religions being able to impose their views on all people.¹⁶⁶

Freedom from religion was a commonly articulated phrase in considering freedom of religion and belief.

Other arguments in favour of legislation were focused on the power of legislation to change society: ‘... civil nice words aren’t going to make any difference. What legislation does, although it’s flawed, is say Government says this behaviour is not acceptable in a civil society’.¹⁶⁷ One participant commented: ‘... legislation has played an important role in protecting against racial vilification – another example is sexuality, if we didn’t have gender equality legislation, people wouldn’t have equal rights’.¹⁶⁸ Another participant spoke of their personal experience of religious discrimination in the workplace, but as faith is not included in the rights of employees relating to unfair dismissals under the *Fair Work Act 2009* (Cth), they were not able to pursue it.

Many arguments were articulated in the context of consistency; that is, that Australia should have uniform laws between states and territories and as a nation, that ‘... we need cohesive human rights across the whole country’.¹⁶⁹ Others argued that Australia needs to develop a ‘national charter, especially when you consider the global context – consistency is very important’.¹⁷⁰ Consistency and the need for legal protection were felt keenly by Muslims and Sikhs. The Australian Islamic Mission wrote:

... the absence of consistent legal protection from religious discrimination and vilification across the country is of concern. The lack of protection under NSW anti-discrimination law is of particular concern to Muslims in NSW, where the majority of Australian Muslims live.¹⁷¹

163 Submission 1012 The Church of Jesus Christ of Latter-day Saints
164 Submission 1596 Justice and Peace Office of the Catholic Archdiocese of Sydney
165 Victoria General Consultation 1
166 Victoria General Consultation 2
167 New South Wales General Consultation 1
168 Tasmania General Consultation 1
169 ACT General Consultation 1
170 Tasmania General Consultation 2
171 Submission 1260 Australian Islamic Mission

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FAIR (Forum on Australia's Islamic Relations) argued similarly:

Some of the confusion within states is the use of state and federal laws which can create some conflict of interest. The NSW state law under the 1977 Anti-discrimination Act does not include religion per se. It does cover ethnicity but is no protection for Muslims, Christians or Buddhists (the three largest religious groups).¹⁷²

The Australian Muslim Civil Rights Advocacy Network wrote:

The absence of federal religious discrimination laws has become even more pertinent in light of extensive reports of discrimination and vilification against the Muslim community, as documented by the Human Rights and Equal Opportunity Commission. In light of the findings of widespread discrimination against the Muslim community specifically because of their adherence to the religion of Islam, the lack of specific protection against religious discrimination has now become urgently inadequate. The failure to enact federal laws to prohibit discrimination on the ground of religion must be addressed.¹⁷³

The Australian Partnership of Religious Organisations (APRO) echoed this view: 'In particular, APRO is concerned with the lack of Commonwealth legislation against religious vilification and inconsistencies within legislation across Australian states and territories.'¹⁷⁴ The Sikh Interfaith Council of Victoria stated that with freedom for religion and belief, '... if there is any, it is not uniformly enforceable throughout Australia. Religion being a non-negotiable matter some uniformity of legal protection is essential'.¹⁷⁵

It was not only faith voices calling for consistency. The South Australia Equal Opportunity Commission wrote:

South Australia's equal opportunity laws [are] out of sync with the rest of Australia in regard to religion, where no remedy is available. In one instance, which gained some local media attention, a Sikh man was asked to remove his turban in an Adelaide hotel, but he could not lodge a complaint as the hotel's actions are not unlawful under South Australian legislation.¹⁷⁶

Opposition to legislation

Considerable opposition to the idea of legislation of any description – anti-vilification, anti-discrimination, or a national charter – was voiced throughout the research process. An overview of the arguments opposing legislation is outlined below. The spectrum of views and positions highlight the importance of this issue, the consideration it is accorded by groups, and the difficulty of negotiating issues relating to protection of freedom of religion and belief.

General comments

General comments opposing legislation included the sentiment that civil law should not interfere unduly with religious law:

... as long as one isn't extreme and outrageous, there should be harmony between religious and civil law – there are some areas that go into difficulty, such as how animals are killed, but as long as civil law is minimalist there is room to manoeuvre.¹⁷⁷

172 Submission 1510 FAIR
173 Submission 1867 Australian Muslim Civil Rights Advocacy Network
174 Submission 1361 Australian Partnership of Religious Organisations (APRO)
175 Submission 1546 Sikh Interfaith Council of Victoria
176 Submission 1703 South Australia Equal Opportunity Commission
177 ACT General Consultation 2

Others argued that the issue with legislation lay in the problem with legislating against thought: ‘... legislating against hate is almost as crazy as legislating for niceness, you cannot legislate against what goes on in someone’s head’.¹⁷⁸ Others argued that religion, religious convictions, and beliefs belong in a different category to race and sexuality, and ‘... therefore the protocols and laws that pertain to racial and sexual vilification do not apply to religious vilification’.¹⁷⁹ It was argued that religion and, in particular, ‘... Christianity does not lend itself easily to codification, it is based on relationships and emerging understandings’.¹⁸⁰

Existing legislation is adequate

Many put forward the argument that existing legislation is adequate and that there are no significant issues relating to freedom of religion and belief in Australia: ‘... it would be superfluous legislation’.¹⁸¹ Anglican Media Sydney wrote that they ‘seek an atmosphere of free exchange of ideas and the opportunity to put forward our views and feel as though this opportunity is already afforded to us by present legislation’.¹⁸²

Many pointed out that Australia has common law, employment discrimination laws, racial discrimination laws, and equal opportunity laws: ‘Australia’s legislation is pretty good, especially compared internationally ... the current legislation works well in protecting our rights and the rights of others, and there are already controls in place for complaints’.¹⁸³ Others contended that it is:

...important to look at areas where common law and religion overlap, where religious followers come into conflict with the law, like FGM, cults, religious doctrine with ethics and so forth, but existing legislation is adequate to cover this.¹⁸⁴

The Australian Family Association of Mt Druitt wrote:

We have unanimously decided to recommend to the commission that no further legislation is required to support the people of Australia in matters relating to human rights and freedom of religion. Our common law already provides sufficient protection in these matters, and any recommendations from this inquiry (and its proposed Charter of Rights) will, more than likely, interfere in the peaceful practice of religion rather than support it.¹⁸⁵

Others suggested that the issue is not legislation per se, but rather its interpretation: ‘Section 116, and ICCPR provide adequate protection, whether it is interpreted correctly by government bodies is a separate issue’.¹⁸⁶

However, the Office of the Anti-Discrimination Commissioner of Tasmania wrote:

... s116 is inadequate in that it does not protect individuals applying for positions with private organisations from being subjected to religious requirements ... that private organisations do not have to abide by s116 of the Constitution. For example, religious schools wanting teachers of a particular religion may be permitted to include a religious test for applicants, absent discrimination laws, although the Commonwealth would not be permitted to require a particular religious belief as a qualification for any Commonwealth office.¹⁸⁷

178 Victoria General Consultation 2
179 New South Wales Australian Christian Lobby Consultation
180 ACT Australian Christian Lobby Consultation
181 Queensland General Consultation 1
182 Submission 1538 Anglican Media Sydney
183 New South Wales General Consultation 1
184 ACT Australian Christian Lobby Consultation
185 Submission 1446 Australian Family Association of Mt Druitt
186 New South Wales General Consultation 1
187 Submission 89 Office of the Anti-Discrimination Commissioner, Tasmania

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Others argued that anti-discrimination legislation was unhelpful in navigating conflict and disagreements in areas where there are contesting ideas and beliefs, that the only way issues could be judged and addressed was by actions committed: ‘... if laws are needed in relation to religious hate, they should be criminal, and have to prove the requisite intention, and the Attorney General would need to consent to prosecution’.¹⁸⁸ One participant put it more simply: ‘... it’s the behaviour, if there’s incitement to violence, then it’s a criminal matter’.¹⁸⁹ It was argued by many that civil and criminal codes should be adequate to deal with race and religious discrimination, and going through these systems also eliminates the trivial and frivolous claims lodged.

Section 116

It was argued that Section 116 of the Australian Constitution is adequate and intentionally minimalist: ‘... it says as little as possible and it is entirely negative because the state is not very good at defining religion, practitioners are better at defining it’.¹⁹⁰ Another interpretation of Section 116 argued that ‘... even though the founding mothers and fathers were deeply religious, this language is not in the constitution, they refrained from writing it in because they knew that totalism comes from legislation’.¹⁹¹ Other participants argued that Section 116 does not provide a full and robust protection for freedom of religion and belief and expression; one participant argued that ‘... it was largely useless and deficient; nothing is in breach of it’.¹⁹² The Australia New Zealand Secular Association shared this view:

... there is no constitutional separation of church and state in Australia at either a federal or state level. This has allowed religious organisations to become extremely wealthy partly at the expense of secular taxpayers as there is no constitutional bar to governments gifting taxpayers’ money to religion via exemptions, grants and awards as noted.¹⁹³

Alternatives

Arguments against legislation were raised where it was felt that existing codes may not be completely adequate, but that developing new legislation is not the only possible solution. Developing the capacity of civil society or enhancing existing legislation were put forward as possible alternatives to new legislation. Some argued that ‘... civil society is the solution; we need to preserve the potential of civil dialogue to deal with issues when they arise’.¹⁹⁴ And: ‘... a basic sense of cooperation and a laissez faire attitude works well, and cannot be legislated for’.¹⁹⁵ It was voiced that it is better to have good relationships, where:

... you can say hey, you’ve gone too far with that, and use community pressure – currently we’re losing that, and people are relying on courts and governments to step in, but communities should step up and put moral pressure on each other.¹⁹⁶

Across states, it was argued that:

...communities work pretty quickly to defuse tensions, and resolve tensions, and that should be our preference as long as communities continue to show that willingness, instead of running off to a structure

188 New South Wales Australian Christian Lobby Consultation
189 Victoria General Consultation 2
190 ACT General Consultation 2
191 ACT General Consultation 2
192 Western Australia General Consultation 2
193 Submission 682 Australia and New Zealand Secular Association
194 New South Wales Australian Christian Lobby Consultation
195 Northern Territory General Consultation 1
196 New South Wales General Consultation 1

to sort out disagreements – we need to have faith in communities, and create situations where community dialogue is encouraged.¹⁹⁷

Ideas such as advertising campaigns were proffered: ‘... similar to domestic violence, ad-campaigns are far more effective than legislation’.¹⁹⁸ Strong support was also voiced for ‘... additional provisions to provide protection against religious discrimination, not new legislation’.¹⁹⁹ It was argued that current legislation should be expanded to address the gaps where they do exist; most comments noted gaps in the protection against religious discrimination – there is adequate racial, gender, disability anti-discrimination legislation, but not religious.

Legislation is counter-productive

Many argued that legislation is counter-productive to its aims. This argument was voiced frequently in various ways, but in essence most who put this view felt that ‘... further legislation is redundant and counter intuitive to the aims of legislation’.²⁰⁰ It was argued that legislation and the processes it involves leads to a culture of distrust rather than cooperation: ‘... going through a court battle over something, like defamation, only entrenches attitudes, wastes money, and does not achieve much’.²⁰¹ One participant expressed it as: ‘... anti-vilification laws are anti-democratic and unhelpful for the common good; rather than increase understanding and build relations between religious traditions, they tend to increase ignorance and breed hostility and mistrust’.²⁰² Many agreed that ‘... you create freedom of expression, personal and communal and respect for others through interfaith dialogue’.²⁰³ Others argued that legislation would be open to misuse and push religion out of the public sphere. Concerns were consistently raised that resolving conflict through legislative measures undermines attempts to build respect and harmony – conciliatory approaches were preferred.

Additionally, it was argued that legislative measures could contribute to a culture of ‘taking offence’. Participants spoke of their concern that legislation leads to a culture of taking offence, because people choose to be offended. One participant said:

... there is a wider philosophical issue of respecting the other view, rather than taking the negative tack of being offended by the other view – it is possible to give undue credence to people being offended.²⁰⁴

Legislation was seen by some as providing a useful mechanism for people to be intolerant.

Judiciary issues

Further arguments against legislation or a national charter of rights were centred on the judiciary; it was argued that legislation requires literal interpretations and that the law interprets in an absolutist way, which can lead to the original intent of the law being lost. A salient concern was that federal legislation would be developed by Parliament and then administered by an unaccountable, unelected judiciary, leading to ‘... various interpretations in different states, depending on the personal beliefs of judiciary’.²⁰⁵ The Christian Democratic Party (WA Branch) argued: ‘Bills of Rights remove the legislative power of democratically elected government

197 New South Wales Australian Christian Lobby Consultation
198 New South Wales General Consultation 1
199 New South Wales General Consultation 2
200 ACT Australian Christian Lobby Consultation
201 Queensland General Consultation 2
202 New South Wales Australian Christian Lobby Consultation
203 ACT General Consultation 2
204 South Australia General Consultation 1
205 New South Wales General Consultation 1

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and place it into the hands of an unelected judiciary, unanswerable to anyone.²⁰⁶ This can be interpreted as ‘unelected judges having the capacity to overrule the will of the people’.²⁰⁷ The Institute for Judaism and Civilisation wrote that rights become:

... withdrawn from the public political sphere into the domain of judicial, executive and administrative interpretation. Judges, officials and committees are then permitted by themselves to apply and interpret these rights, away from the scrutiny, debate and validation of the public political sphere.²⁰⁸

Similarly, the Major Issues and Theology Foundation wrote that a second objection many Christians have to a charter of rights:

... is that it places greater influence over rights outcomes in the hands of judges rather than elected legislators. The assumption behind this objection is that elected legislators are better able to reflect the will of the people than unelected judges.²⁰⁹

Overregulation

Participants also argued that Australia was moving towards an overregulated society:

Our concern is that we are moving towards tyranny through anti-discrimination legislation, because the state is defining how I live my life and conduct my business in all sorts of minute ways in civil society.²¹⁰

It was argued that ‘... laws generally restrict freedoms rather than grant them, an important premise that needs to be carefully considered’.²¹¹ Rather, it was preferred that governments ‘... support the existing legislative framework, and develop greater cooperation and resolution of conflict between state, federal and local governments’.²¹²

Religious vilification legislation

One particular area of legislation that attracted considerable attention was that of religious vilification, with many Christian individuals and organisations opposing it on the grounds that it would stifle debate.

Some views supported vilification laws, acknowledging that while there is a fine line between criticism and vilification, vilification occurs when action or hatred is incited. Some argued that because Australia has legislation protecting against racial vilification, religious vilification should be protected also. But there was usually agreement, even among the strongest opponents that ‘... criticising teachings is okay, just not vilifying individuals’.²¹³

Arguments against religious vilification legislation were articulated in terms of ‘... we have protections guaranteeing freedom of expression – religious vilification laws are not necessary because there are laws against slander’.²¹⁴ Others argued that while it is desired that all show restraint and respect, it cannot be enforced: ‘... the downsides outweigh the benefits; all people need to be open to criticism and able to defend and give account of their beliefs’.²¹⁵

206 Submission 169 Christian Democratic Party (WA Branch)
207 New South Wales Australian Christian Lobby Consultation
208 Submission 1070 The Institute for Judaism and Civilization
209 Submission 1632 Major Issues and Theology Foundation
210 Victoria General Consultation 2
211 ACT General Consultation 1
212 New South Wales General Consultation 1
213 New South Wales General Consultation 2
214 Victoria General Consultation 1
215 New South Wales Australian Christian Lobby Consultation

However, the predominant argument against anti-vilification legislation was that it would stifle debate. One participant argued that ‘... we need to ensure respective voices of faiths and religions are not so diminished that they become an amorphous mass – in mature democracies, you engage in discussion while disagreeing with each other’.²¹⁶ This was supported by many Christian voices, which expressed the view that people ‘... have to be able to criticise religion, especially when it’s so broadly defined, including belief and non-belief, to curtail the freedom to discuss a religion is very serious’.²¹⁷ The Australian Association of Christian Schools wrote:

... while anti-vilification law may have a place in a democratic society, it should certainly not be used to silence people of faith, to crush informative comment and debate, to eliminate freedoms of expression and belief or to intimidate citizens who demonstrate goodwill and constructive law-abiding engagement in society.²¹⁸

It was not only Christian voices that expressed concern about freedom of expression; Sydney Atheists wrote that ‘... it is essential to the functioning of our society that there is freedom to discuss, (constructively) criticise and evaluate all such systems’.²¹⁹ Similarly:

... the Rationalist Society of Australia believes there are both serious inconsistencies, if not inherent discrimination, plus significant threats to freedom of speech both in the existing state laws on incitement of religious hatred and potentially in any similar provisions in the Commonwealth Religious Freedom Act recommended in the HREOC 1998 Report.²²⁰

Others expressed it more strongly: ‘... the evil done by vilification laws is greater than that done by leaving it to civil society; there’s a deep anxiety about the protection of the right to be offended, although people want respect, people should be able to make the claims they see’.²²¹ And: ‘... we need to engage in debate rather than hide behind vilification laws that oppress and stifle freedom of speech’.²²²

Christian organisations and congregations were the most outspoken against vilification laws: ‘Christians are concerned because we don’t want to be told what we can and can’t preach on’.²²³ Some argued: ‘... human rights and vilification legislation are used as tools against Christian practices that aren’t vilification but normal church functions’.²²⁴ Often the discussion around religious vilification referred directly or indirectly to the first case under Victoria’s Racial and Religious Tolerance Act, *Catch the Fire Ministries Inc. v. Islamic Council of Victoria Inc.*, a case which has caused some Christians in the other states and territories of Australia to feel their freedom of expression is under threat. The Ad Hoc Interfaith Committee wrote:

The cost of such legislation has already been shown through the Victorian experience to be too great, both to free speech and religious expression. Religious anti-vilification legislation provides a weapon in the hands of one religious group against another. This does not engender tolerance.²²⁵

Furthermore, there was a sense within some Christian communities that the legislation is based around accommodating Jews and Muslims and religious minorities.²²⁶ A second fear expressed was that this kind of legislation can be used not only in quelling legitimate criticism but also in prohibiting proselytising. While much of the concern arose from the case mentioned above, others pointed out that it is:

216 ACT General Consultation 1
217 ACT Australian Christian Lobby Consultation
218 Submission 1602 Australian Association of Christian Schools
219 Submission 1637 Sydney Atheists
220 Submission 1143 Rationalist Society of Australia
221 New South Wales Australian Christian Lobby Consultation
222 New South Wales General Consultation 1
223 Victoria Australian Christian Lobby Consultation
224 Queensland Australian Christian Lobby Consultation
225 Submission 1687 Ad Hoc Interfaith Committee
226 Queensland Australian Christian Lobby Consultation

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... important to bear in mind that the success stories, the mediation stories don't get out, they are bound by confidentiality, so they can't get out, and people don't realise the good that comes from it.²²⁷

The 1988 referendum

Submissions also raised the matter of the 1988 referendum under the Hawke Government, where four proposals to amend the Constitution were put to the Australian people. The fourth proposal, '... was to extend the right to trial by jury (section 88) and freedom of religion (section 116), and to ensure fair terms for persons whose property is acquired by any government (new section 115A)'.²²⁸

Parliament's *History of Australian Referendums* presents the 'yes case':

'While the Constitution provides limited protection for these rights, the state and territory governments are not bound to observe these rights. The existing protections are inadequate and should be extended'.

And the 'no case':

'The proposal threatens rights and freedoms all Australians have now. It is inadequate, unnecessary and legally flawed. The proposal could threaten the future of state aid for independent schools'.²²⁹

The referendum question read:

'A Proposed Law: To alter the Constitution to extend the right to trial by jury, to extend freedom of religion, and to ensure fair terms for persons whose property is acquired by any government. Do you approve of this proposed alteration?'²³⁰

The proposal was not carried, did not obtain a majority in any state, and the 'rights and freedom' question had the least electoral support, gaining only 31 per cent of votes in favour of amendment.²³¹

Just Fair Treatment, a group of lawyers and academics practising, advising and writing in the fields of international, constitutional and human rights law in Australia and around the world, wrote of the 1988 referendum:

Considering that only 8 amendments have been made to the Constitution and that Australia is considered the 'frozen continent ... when it comes to constitutional change by leading constitutional expert Sawyer, this is not surprising.²³²

However, others argued: 'Australians at the time were not fooled by the word "extend", which was seen as synonymous with interference'.²³³ FamilyVoice wrote that the proposal would have been:

... more likely to reduce freedom of religion. The Minister for Justice at the time, Senator Tate said: 'I cannot, nor can anyone, give an absolute ... guarantee' that government funding for Christian schools would be upheld by the High Court under the proposed new constitutional provision.²³⁴

227 New South Wales Pagan Consultation

228 Parliament of Australia, 17 Feb 2011, 'History of Australian referendums', Parliament of Australia, viewed on 8 March 2011, <http://www.aph.gov.au/HOUSE/committee/laca/ConstitutionalChange/part2.pdf>.

229 Parliament of Australia, 'History of Australian referendums'.

230 Parliament of Australia, 'History of Australian referendums'.

231 Parliament of Australia, 'History of Australian referendums'.

232 Submission 1701 Just Fair Treatment

233 Submission 1657 Gregory FJ O'Regan

234 Submission 95 FamilyVoice Australia

Legislation has not worked elsewhere

Some participants argued against legislation on the grounds that it has not been successful in other countries, or where it has been enshrined in Australia, with Victoria’s legislation often provided as an example. It was argued that society does not function more amicably where legislation is in place. There were anecdotal international examples from the United States, Canada and the UK of legislation ‘gone wrong’.

These participants argued that taking a racial discrimination model and applying it to religious discrimination was problematic, and that the implications were not properly considered:

... the Act is constructed as if freedom of religion and belief was processed through culture and race, and that is mistaken; in religion you have conscious and conscientious belief, which is not acknowledged in the Act.²³⁵

There were criticisms of the premises of the Act:

... what is reasonable and in good faith – in religion, what is that? I think the Christian faith is reasonable. I don’t think the view of God in other religions is reasonable, the concepts of reasonableness are much easier when considering race, not religion.²³⁶

It was argued that the Victorian legislation did not incorporate all of the necessary limitations that are in the Universal Declaration of Human Rights or in the International Covenant on Civil and Political Rights, making it subjective. Furthermore, it was argued, the Act places power with the Victorian Civil and Administrative Tribunal (VCAT), which then can determine whether something is a genuine religious belief or practice, and VCAT are not equipped to undertake this task. Further criticism of the Act came in the context of online media and blogs, where vilification was felt to be common and extreme, yet not addressed in the Act.

The Victorian *Charter of Human Rights and Responsibilities 2006* was also criticised, particularly in relation to its failure to protect health professionals from being forced to act against their conscience when Victoria legalised abortion. Additionally, it was argued that the abortion legislation effectively denies organisations the right to maintain their ethos, as doctors are required to refer patients elsewhere for abortions, even if this is against their conscience or that of their organisation. For these critics, the legislation does not protect the rights of all.

235 Victoria Australian Christian Lobby Consultation

236 Victoria Australian Christian Lobby Consultation

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Governments and Diversity

This section presents the views and concerns expressed about the role of governments in managing diversity, including religious diversity.

In a nation such as Australia, which has multiple and diverse faith communities; faith-based education, health and employment services; and which is a party to various human rights conventions, the role of governments is perceived in different ways by the interested parties.

Role of governments in diversity

All governments manage diversity: through policies that either limit or encourage diversity, or simply by ignoring diversity altogether, which is rare.²³⁷ The role of Australian governments in managing diversity was often expressed in submissions and consultations in terms of ‘the majority’, ‘the minorities’, and their respective rights. Minority faiths called for accommodations for practices that were within common law, and for equality in all matters; the majority expressed concerns about the rights of minorities competing with the rights of the majority.

The majority is generally a Christian majority, the group that not only accounts for the greater part of research data in this report but is also Australia’s largest religious group according to the 2006 Census.

Managing and/or balancing minority and majority rights was frequently raised in submissions and consultations, and it was suggested that governments need to be wary of accommodating the rights of minorities at the risk of encroaching on the rights of the majority:

Seeking to protect minority rights can impede on majority rights and is it fair to the majority to impede their rights in order to allow another minority right? Minority right should not always prevail, there may be cases where it’s important to respect minority practices, but they must be weighed carefully so it doesn’t impose an unreasonable burden on majority.²³⁸

However, there were a variety of views expressed about accommodating minorities: to what extent minorities should be accommodated and how this should be determined. Submission 169 from the Christian Democratic Party (WA Branch) stated:

... adherents of non Christian religions should recognise that in case of conflict between their tradition and Christian traditions, the Christian practice should prevail out of respect for Australia’s well established Christian heritage.²³⁹

The Christian Democratic Party (WA Branch) argued that immigrants should not be expected to relinquish any of their cultural practices ‘... as long as these practices reflect the Christian values at the core of our national heritage and do not alienate them significantly from mainstream Australian society’.²⁴⁰ One participant said: ‘... the state should have a Biblical and Christian world view in managing other religions; it shouldn’t adopt an anti-Christian heritage or attitude’.²⁴¹ Andrew Schaper shared this view:

... there seems to be a feeling that allowing the majority to have their way on ethical matters is somehow unfair to the minority, but that is democracy. The majority must remain concerned for the minorities but are not expected to let them have their way to the detriment of all else.²⁴²

237 G Bouma (ed.) *Managing religious diversity, Australian Association for the Study of Religion*, Erskineville NSW, 1999. Cahill, Bouma, Dellal & Leahy, 2004.

238 Victoria General Consultation 2

239 Submission 169 Christian Democratic Party (WA Branch)

240 Submission 169 Christian Democratic Party (WA Branch)

241 Victoria Australian Christian Lobby Consultation

242 Submission 10 Andrew Schaper

The Australian Association of Christian Schools related this discussion to political correctness:

... we have significant concerns that the pressures of political correctness from political minorities that have pervaded the Australian political and social landscapes for the past two or three decades not be allowed to disturb the values framework of much larger populations that have served our society well.²⁴³

Maren Lee offered a similar perspective: ‘... we should not be unduly concerned with political correctness in case we should offend small minorities. We should be proud of who we are and what we believe’.²⁴⁴ One participant stated a view that was also supported in one of the submissions: ‘... when considering the role of the state in dealing with religion, this comes down to Muslims more than any other group’.²⁴⁵

One Muslim participant expressed the complexity of any discussion about majority and minorities:

... as a part of a Muslim minority, in many issues in ethics and morality, I find myself closer to Catholics than secular Muslims, so when we talk about majority and minority, what do we mean in Australian context?²⁴⁶

In terms of what role the governments – federal or state and territory – should play, opinions were divided. Some argued: ‘Government must be neutral and ensure the rights of all, limited only by the principled human rights framework itself’.²⁴⁷ The interpretation of the meaning of neutral was varied. The Christian Brethren said governments need to listen to religious groups and provide equal opportunity for large and small groups, churches, and individuals to voice their opinions concerning matters of policy and legislation, and ‘... where possible government should not seek to over regulate the activities of religious groups who are law abiding and submit to the laws of the land’.²⁴⁸ The Australian Muslim Women’s Network wrote:

S116 of the Constitution prohibits the establishment of any religion by the state. The state should therefore remain impartial between religions and between those who do not hold any religious belief. The state should not prevent the reasonable practice of any religion, nor should it require people to abandon the practice of their beliefs in the interests of secularism. For example, it should not prevent Jews from wearing yarmulkes, Sikhs from wearing turbans or Muslim women from wearing hijab in public areas.²⁴⁹

Others advocated for governments to play an active role – promoting acceptance of diversity and the understanding of different traditions. The Sydney Atheists wrote:

... only education and the willingness to hold open and reasoned discussions can enable us to together decide what kind of society we want to be, including the values systems needed to nurture and protect it. No written law or charter of rights can alone ever do so. It is the responsibility of government to provide that education for, and support that interaction between all its citizens, especially the young and vulnerable.²⁵⁰

This view was echoed in the consultations, where it was argued by some that ‘...it is important that the government facilitates the healthy interaction of communities, rather than having communities living in parallels, finger pointing – the government has a role in facilitating this’.²⁵¹

243 Submission 1602 Australian Christian Schools Association

244 Submission 30 Maren Lee

245 Victoria Australian Christian Lobby Consultation; also Submission 95 FamilyVoice Australia; Submission 1587 Presbyterian Church of Western Australia

246 Victoria General Consultation 2

247 Submission 1607 Liberty Victoria

248 Submission 978 Christian Brethren Churches

249 Submission 767 Australian Muslim Women’s Network

250 Submission 1637 Sydney Atheists

251 Victoria General Consultation 1

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Others qualified this view:

... it's not the role of state to manage diversity; that poses diversity as a problem needing containment – the role of state is to set parameters which support life in the common good.²⁵²

Similarly, the Executive Council of Australian Jewry ‘... strongly supports the maintenance as government policy of multiculturalism, which we believe has led to the development of Australia as a highly successful multi-ethnic and multi-religious society’.²⁵³ The Muslim Women’s National Network of Australia stated: ‘The Australian federal government and state governments should take a more pro-active stance in encouraging understanding and acceptance of diversity’.²⁵⁴

For others, playing a positive role involved ‘protecting the freedom to practice one’s faith be it a majority or minority faith’,²⁵⁵ which the Sikh Interfaith Council of Victoria said is ‘the task of government’.²⁵⁶ Others said the government should go further:

... we recognise that at certain times there are particular communities that are put under pressure. And in those situations, the government has a role to assist that community, and if any other community is criticising that first community, then the government has a role to intervene. So the role of the government should be to respond to the varying exigencies demanded at different times, in the interest of common security.²⁵⁷

Many articulated their views on the role of governments in terms of what governments should *not* do. Some argued that the ‘... government should not fund religions at all, not at the expense of the taxpayer – the government must be neutral’.²⁵⁸ The Atheist Foundation of Australia shared this view, arguing that ‘... social security, social services and welfare paid for by the taxpayers should be the responsibility of the governments to whom the money was entrusted’.²⁵⁹ The Ad Hoc Interfaith Committee argued that governments should not define religion:

The state is the servant and guardian, not the master of the communities of allegiance in which free persons express their identity and solidarity with others. Defining what is an acceptable manifestation of a person’s religion or belief in teaching, practice, worship, and observance flies in the face of ICCPR, Article 18(1). Persons and more particularly communities define their own religion: this is not the role of Governments.²⁶⁰

Others argued that governments should play a minimal role; for example, the Executive Council of Australian Jewry:

... believes that the present harmony between the different religious groups in Australian society can be maintained and extended through contact and discussion at a personal level. We do not think government involvement is particularly useful or necessary, except in setting the ‘tone from the top’.²⁶¹

Role of governments in religious diversity

The role of governments in managing religious diversity is inextricably linked with the management of diversity more generally, and differs only in that it deals with issues that relate specifically to religion and faith, practising one’s faith, proselytising, and developing religious organisations that deal with the public.

252 New South Wales Australian Christian Lobby Consultation
253 Submission 203 Executive Council of Australian Jewry
254 Submission 767 Australian Muslim Women’s Network
255 Submission 1546 Sikh Interfaith Council of Victoria
256 Submission 1546 Sikh Interfaith Council of Victoria
257 Victoria General Consultation 1
258 South Australia General Consultation 1
259 Submission 32 Atheist Foundation of Australia
260 Submission 1687 Ad Hoc Interfaith Committee
261 Submission 203 Executive Council of Australian Jewry

This research found that many are concerned about freedom of religion and belief and the role of governments, and believe that ‘... the greatest threat to freedom of religion comes not from other individuals or groups but from the State’.²⁶² The Presbyterian Church in Western Australia wrote about government interference and the law of unintended consequences, and said that one of their key concerns about the discussion paper was an unstated philosophy that ‘intrusion into the activities of religious groups by Federal Government bodies will foster a more harmonious social environment within Australia’.²⁶³ The Australian Association of Christian Schools wrote that it:

... does need to express its deep concern about the spectre of losing long-standing and well-respected freedoms and protections for majority populations in deference to minorities whose standards are drawn from other frameworks that are incompatible with Australian law.²⁶⁴

However, the articulated threat posed by governments was generally argued to be manifested in legislation – a charter of rights, or anti-discrimination and anti-vilification legislation. The Lutheran Church of Australia’s Commission on Social and Bioethical Questions wrote that ‘... our religious freedom is already under threat’. Their submission referred to two cases in 2008. They argued that despite religious exemptions in law, NSW Wesley Mission were found guilty of discrimination, ordered to change their policy and pay \$10 000 in compensation to two gay men whose request to become foster parents had been rejected by Wesley Mission, and a case brought against a Christian group in Victoria who refused a campsite booking from a gay group.²⁶⁵ One participant stated:

A bill of rights to give greater freedom of religious expression can lead to the state limiting the diversity of practice. Around the world, the greatest threat to FRB is the state.²⁶⁶

The Australian Christian Lobby shared these concerns, and argued:

... one of the greatest threats to the enjoyment of the freedom of religion and religious expression is the possibility of private action by those who do not agree with the tenets of that religion or what is expressed.²⁶⁷

Other participants suggested:

... the state cannot ask for absolute loyalty – it can ask for loyalty to the things it needs, citizens are required to obey the law, not more, not less and loyalties to things above the state need to be respected.²⁶⁸

In managing religious diversity, some argue that governments cannot understand religion, that they can only claim sovereignty over the body, in common law and practice, and not over the heart. The Anglican Synod of Australia set out this argument:

Christians are generally very respectful of and cooperative toward government, knowing it to be one of God’s methods of bringing peace and order to society. However moments arise when Christians simply refuse to cooperate because they owe an allegiance to someone greater. This self-understanding is crucial to the current project. The researchers, the AHRC and the Government need to know Christians carry a very real belief that Jesus Christ stands above us all. He has our primary allegiance, which we will not change for anyone.²⁶⁹

Or as George Fryer asks in his submission to the research: ‘Who do we obey? God or Government? God given Holy writings or man made Human Rights?’²⁷⁰

262 Submission 1685 Christian Schools Australia
263 Submission 1587 Presbyterian Church in Western Australia
264 Submission 1602 Australian Association of Christian Schools
265 Submission 241 The Commission on Social and Bioethical Questions, Lutheran Church of Australia
266 Victoria Australian Christian Lobby Consultation
267 Submission 1858 Australian Christian Lobby
268 ACT General Consultation 2
269 Submission 1533 Anglican Diocese of Sydney
270 Submission 7 George Fryer

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The Presbyterian Church in Western Australia spoke of the need for the Australian Government to promote religious freedom globally:

One hopes the preoccupation with domestic issues is not a display of Australian provincialism which is contrary to the purpose of the ICCPR, namely the promotion of religious freedom globally. Having endorsed the ICCPR, the Australian Federal Government is obligated to use its diplomatic powers within the international community to promote religious liberty in all nations of the world, especially those that are ICCPR signatories. It is of concern that the promulgation of the ICCPR over a decade ago has not remedied the abuse of religious minorities in some Islamic countries. In particular, the ICCPR has not mitigated the “culture of harassment” of Christian minorities which remains endemic across the Islamic world.²⁷¹

Those who saw governments as posing a threat to freedom of religion and belief supported ‘... less government ... we don’t want to have government interfere in our lives – once they get involved, the process becomes bureaucratic and cumbersome’.²⁷² Others articulated this sentiment in the context of the common good: ‘... who owns the common good? Not the state ... and unless a group is acting in a way that undermines the common good, they should be left alone’.²⁷³

However, Liberty Victoria argued that governments have a role to play in protecting those who do not have religious or faith-based beliefs:

... people must be free to believe and follow their particular religious belief, so long as they respect the human rights of others and government must ensure that those who do not share or accept that belief are not constrained by it, nor have it imposed on them.²⁷⁴

While the topic of government funding to faith-based organisations is addressed elsewhere in this report, it is important to note that some participants argued that it was the role of governments to recognise and protect religion, but it was another thing to subsidise religion.²⁷⁵ Similarly, many argued that ‘... states are placing more and more emphasis on religious groups to provide services when this is a state responsibility’.²⁷⁶

However, many argued that it is the role of governments to fund and support religious diversity. The Affinity Intercultural Foundation wrote:

... the law should have a ‘fair go for all’ tone by extending to affected communities legal and financial assistance’ and that ‘the Commonwealth should be clear that legally it is impartial to all faith traditions as in s116’.²⁷⁷

The Sikh Community of Brisbane wrote: ‘...most importantly Australia needs to address the lack of knowledge of faiths, their beliefs and the reasoning behind these beliefs’ and recommended having ‘... a Multi Faith Government Department to address the needs and issues of all Religions and Beliefs of Australians’.²⁷⁸ The Australian Federation of Islamic Councils highlighted the ‘...importance of collaboration, partnerships and dialogue between Government and not for profit interfaith organizations on these pertinent issues confronted by the Muslim community and wider community’.²⁷⁹

271 Submission 1587 Presbyterian Church in Western Australia
272 Western Australia General Consultation 1
273 New South Wales Australian Christian Lobby Consultation
274 Submission 1607 Liberty Victoria
275 Victoria General Consultation 1
276 Western Australia General Consultation 1
277 Submission 1929 Affinity Intercultural Foundation
278 Submission 1835 Sikh Community of Brisbane
279 Submission 1050 Australian Federation of Islamic Councils

Education

Education and its multiple variant themes proved to be an issue of primary and often personal concern to participants. Who was to be educated, by whom, with what, and in what type of environment was discussed and debated. In the consultations in particular, education was a topic where alternative views were exchanged; the following example of a discussion thread from a general consultation held in Queensland demonstrates this:

Commentator 1

‘We need to have interfaith taught in schools, we need to have comparative education. This teaches children and teachers and frees up resources and it’s important for faith based schools also.’

Commentator 2

‘However, it’s important to recognise that in faith schools, it is important to have faith teachers. You can’t teach content without values.’

Commentator 3

‘You have curriculum guidelines, and teachers have to respect other faiths, so there is no reason to assume a Buddhist or a Catholic can’t teach something in a school of a different faith.’

Commentator 4

‘In public schools you have to work with different attitudes, so you identify your position, you don’t seek to instruct it or instil it in others, and you encourage critical discussion.’²⁸⁰

Education about Religions

While many aspects of education were controversial, there was majority consensus on the need for, and benefits of, education about religion. Repeated calls were made for all schools to develop awareness, familiarity, and respect for difference, from the first year to the final year of a child’s education. The Bahá’í community wrote:

... legal mechanisms alone will not engender the commitment and mutual understanding required to sustain a culture of peaceful co-existence and respect for diverse beliefs ... we believe the greatest safeguard is a long-term preventative strategy rooted in educational efforts.²⁸¹

It was argued that comparative education in public and private schools would break down ignorance and foster spiritually literate children. The Rationalist Society of Australia recommended that first ‘... courses in comparative religion should be developed and introduced into all government schools in Australia’ and that second: ‘The introduction of such courses should be a condition of government funding to non-government schools’.²⁸² The Australia New Zealand Secular Association similarly stated:

... multiculturalism is right in theory but it depends on how citizens are integrated from an early age. Again, primary secular education should be compulsory so children learn to respect and celebrate difference.²⁸³

It was argued that ‘... children ought to be taught multiple world views ... educational systems should not mould a child in a particular way’.²⁸⁴

280 Queensland General Consultation 1
281 Submission 1914 Australian Bahá’í Community
282 Submission 1143 Rationalist Society of Australia
283 Submission 682 Australia New Zealand Secular Association
284 Queensland General Consultation 1

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There were disagreements on how to educate about religion. Some argued that teaching about religion is best done by existing teachers as part of the state curriculum. Others disagreed, arguing that good comparative education ‘... needs people of faith speaking about their faith from a personal perspective.’²⁸⁵ Others indicated that ‘... schools should be required to teach religion as an historical, not religious concept, which would sow the seeds of tolerance and acceptance’.²⁸⁶

Other concerns were raised concerning teaching about particular faiths; for example, how to teach spiritual religions from an intellectual perspective. Hinduism was given as an example of a spiritual and universal faith that does not translate well into textbook lessons. But a general consensus appeared to be that while these concerns are valid, information about how a faith is structured, and its cultural significance, can be developed and taught to children. Which faiths should be taught as part of education about religions was also raised, and whether the various schools and traditions within faiths would be included. Additionally, the question of the place of secular views in education about religions was broached. A participant argued: ‘... in a multicultural community, taxes should be spent on teaching moral, ethical, humanist principles in all schools, with comparative religion and critical thinking’.²⁸⁷ Frustration was expressed at the current lack of entitlement for non-religious rationalists to teach programs in schools: ‘...even when parents ask, the choice is only to teach about religions, not no religion’.²⁸⁸

The development of a religious education curriculum framework would be a fraught task, considering the level of disagreement within religious communities, between religious communities, and between religious and non-religious views. However, the consistently strong support for education *about* religions – in every consultation, participants argued and called for education about religions in all schools – makes this one of the few findings of the report that can be made unequivocally, as it garnered support from the majority of participants, irrespective of their backgrounds.

Education Policy

The development of consistent education departmental policies on issues relating to the practice and expression of faith within schools was also called for. Particular issues raised in relation to this were Sikh traditions (such as not cutting hair, wearing bracelets, and carrying the *kirpan*), and other faith requirements related to dress, the hijab, observing the Sabbath and not sitting exams or participating in other activities on Saturdays. It was argued that there is a need for a body or organisation, which schools and parents could consult for assistance in dealing with issues as they arise to ensure consistency and better understanding, and as an avenue for redress or negotiation.

Religion in Government Schools

There were concerns raised in relation to teaching Christian Religious Education (CRE) in government schools. Various experiences and anecdotes were offered about CRE: from parents of other faiths, and from parents with no religious or faith beliefs. The views varied; some argued no religious education should be incorporated into schools, others argued that religious education would be acceptable if other faiths were taught or there were reasonable alternatives for those opting out. Diana Warnock wrote: ‘I am opposed to prayer and denominational religious instruction in public schools. This is properly a matter for parents’.²⁸⁹ Diana Craigie, a Jewish parent, recounted her son’s experience of the CRE program at her local public school. She wrote:

285 Queensland Pagan Consultation

286 South Australia General Consultation 2

287 Victoria General Consultation 1

288 Queensland General Consultation 1

289 Submission 18 Diana Warnock

I could understand Christian only teaching if we went to a private Christian school. However, my son attends the local PUBLIC school ... Exclusion is listed as one of the main and major forms [of bullying] ... Therefore, my son is fundamentally being bullied by school because he is not part of the mainstream religion underwritten by the school. I am not against teaching religion at school. I believe that if religion is taught at school, it should be ALL religions. If children were educated about world religions from an early age, maybe we could help stem this tide of religious righteousness.²⁹⁰

The Humanist Society of Queensland wrote:

... teachers in Queensland schools are permitted by the State's Education Act to read the Bible to their charges. This is in addition to the provision of religious instruction from clergy; prayers, hymns and other sacred texts during assemblies; and the interventions of Christian chaplains who officiate at assemblies, mentor vulnerable 'at-risk' students, work in classrooms and organise camps and other school events. Whilst the input of religious organisations is encouraged and bolstered by the Queensland Department of Education, children removed by their parents from religious instruction, etc., generally do not receive 'other instruction in a separate location' as required by the current Education Act because it is difficult for schools to provide the alternative. On the contrary, schools often try to talk parents out of withdrawal as an option in order to avoid the problem of what to do with those students.²⁹¹

National Schools Chaplaincy Program

The National Schools Chaplaincy Program (NSCP) was strongly critiqued in consultations – not so much the concept, rather its implementation. Participants from various states were highly critical of the accreditation process which, they argued, is dominated by Christian ministries making it difficult for chaplains of other faiths to be accredited. Concerns were that in some states the accreditation organisations are Christian organisations, whose publicly stated missions are proselytising and evangelising, with no effective accountability regarding how funds are spent. Queensland participants had particular concerns regarding the NSCP:

... there is a huge database of concerned parents, because the NSCP framework clearly states that there is to be no privileging of one religion over another, but in Queensland, this does happen – it's a social justice issue – the tax we pay goes into \$160 million for the NSCP, but we have no say in the process and watch it being dominated by one faith.²⁹²

At the time of the consultation, it was believed that Queensland had appointed only one non-Christian chaplain, a Buddhist nun, and that the Islamic Council of Queensland had applied but was unsuccessful in having a chaplain accredited.

Others from across Australia had concerns with the NSCP: '... we have Christian evangelical untrained, unqualified chaplains teaching God's love as salvation, when trained psychologists are needed.'²⁹³ Others, including Christian representatives, identified the difficulty of overcoming religious bias in one-on-one counselling with young people, which can be very influential for the young people, and that the NSCP undermines the separation of religion and governments by providing chaplains. The Anglican Education Commission suggested that the NSCP deserves review: – '...the position of "chaplain" is essentially a student welfare position, but these positions may be occupied by people with an interest in Christian evangelism'.²⁹⁴ However, Christian Brethren Churches '...endorse the decision of government to provide chaplaincy

290 Submission 27 Diana Craigie
291 Submission 981 Humanist Society of Queensland
292 Queensland Pagan Consultation
293 ACT General Consultation 1
294 Submission 1536 Anglican Education Commission

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opportunities in schools and would submit that nothing be done to suppress religious freedom on those chaplains in carrying out their tasks'.²⁹⁵

Faith-based Schools

Faith-based schools were at the intersection of many of the most dominant and inflammatory issues arising throughout the research: development and maintenance of ethos, service delivery, exemptions and exceptions under anti-discrimination laws, indoctrination of children, discrimination while in receipt of public funding, and separation of religion and state. This was also an area dealing with rights – of children, parents, schools and employees – and therefore attracted passionate discussion. Some of the main points for and against faith-based schools and regarding ethos and teachers that came out of the research are summarised below. While these issues overlap considerably and do not lend themselves to simple categorisation, they have been presented in discrete sections: Support for faith-based schools; Opposition to faith-based schools; Ethos maintenance; and Indoctrination.

Support for faith-based schools

Many expressed support for faith-based schools, with the central argument being that faith-based schools provide the core values that government schools and society in general struggle to instil in young people. It was suggested that '... more and more people are going back to the core values for their children'.²⁹⁶ This, it was argued, is because such values have become eroded in government schools, and that 'faith-based schools provide values with a real foundation in a faith, not just stating values in a vacuum, which is something state schools need to grapple with'.²⁹⁷ Furthermore, many argued that it is their right and responsibility as parents to raise children in this way. One participant said:

Jews believe in teaching children from the cradle to the grave, making literate Australians, and literate Jews, but that's incredibly expensive – governments need to support all education, for children of all faiths, in their faith.²⁹⁸

This sentiment was shared by other faiths. The Australian Parents Council argued for the:

... right of parents to choose the kind of education that shall be given to their children, as encapsulated in Article 18 (4) of the International Covenant on Civil and Political Rights (ICCPR), and include the wording of the United Nations Covenant on Economic, Social and Cultural Rights, Article 13 (3) and (4) respecting the right of parents to choose schools other than those established by public authorities.²⁹⁹

Independent Schools Queensland also supported faith-based schools from the perspective of parents, and highlighted the:

...importance of independent schools serving the interests and expectations of parents and ... being able to teach and operate in ways consistent with their underlying beliefs, standards and codes of conduct.³⁰⁰

The Christian Democratic Party (WA Branch) argued that:

...the existence of Christian schools is paramount to the preservation of religious freedom in Australia. The State should continue to support Christian schools as long as they prepare their students to fulfill the variety

295 Submission 978 Christian Brethren Churches
296 Tasmania General Consultation 2
297 ACT General Consultation 1
298 New South Wales General Consultation 2
299 Submission 1605 Australian Parents Council
300 Submission 1991 Independent Schools Queensland

of roles they will be requested to have after school and throughout their lives. This is a public purpose test which all government and private schools should pass.³⁰¹

The Muslim Women’s National Network of Australia also supports the right of religions:

... government should not seek to interfere in the religious beliefs of particular religions or denominations. Adherents of different religions should be left to decide matters pertaining to their faith e.g. faith-based schools should not be obliged to employ people whose stated beliefs or lifestyle contravene those accepted by the religious community.³⁰²

Opposition to faith-based schools

Many participants, mostly secularists but also some of faith, opposed faith-based schools for a variety of reasons. One of the most common concerns raised was that faith-based schools ‘... are not helpful in a multicultural multifaith society, they tend to lock people into their own faith’.³⁰³ ‘You need to start with children to create and foster a tolerant society, and it’s harder to do when kids are brought up segregated, from within religious institutions.’³⁰⁴ The Council of Australian Humanist Societies considered that ‘... government funding of faith-based schools has potentially divisive consequences and should be phased out’.³⁰⁵ Others felt:

... government funding of faith-based schools has been to the detriment of public schools, governments should fund good high quality education systems, and those wanting extra religious education can do that additionally.³⁰⁶

Zena Davis resented ‘... the money given to religious schools when public education is in dire need. Why should tax payers support the continued indoctrination of unsubstantiated destructive beliefs?’³⁰⁷ The Secular Party of Australia shared this view: ‘The government should not contribute to the advancement of religion via the funding of faith schools.’³⁰⁸

There were concerns about the operation of some faith-based schools, that while they are a ‘... reasonable concept in one sense, you have the Exclusive Brethren schools teaching a creed of inversion, tax evasion and diminished roles for women, and that’s problematic’.³⁰⁹ It was claimed that there is a lack of monitoring of faith schools by state and territory education departments, which troubled at least one participant: ‘...one of my concerns as a Christian is the prevalence of Christian schools with parents who have a very narrow focus, who perpetuate a lack of diversity and awareness’.³¹⁰ Parent-controlled Christian schools, particularly in regional country areas, were raised as a significant emerging issue. It was felt that these schools are established with the desire to maintain and control a particular religion in developing children, who are then not exposed to other religious and cultural viewpoints.

The exclusion argument was raised by the Office of the Anti-Discrimination Commissioner of Tasmania (OADC), which wrote:

The main issue of concern to the OADC is religious organisations citing religious beliefs as a reason to be exempt from discrimination laws. Currently in Tasmania, the Catholic Church is seeking an amendment to

301 Submission 169 Christian Democratic Party (WA Branch)
302 Submission 767 Muslim Women’s National Network of Australia
303 New South Wales General Consultation 1
304 South Australia General Consultation 2
305 Submission 1142 Council of Australian Humanist Societies
306 New South Wales General Consultation 1
307 Submission 4 Zena Davis
308 Submission 1283 Secular Party of Australia
309 ACT General Consultation 1
310 South Australia General Consultation 2

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the ADA to include an exception that would permit religious schools to refuse enrolments to students not of the school's faith. The OADC finds this particularly concerning as public funding is provided to private schools, including religious schools.³¹¹

The Anglican Education Commission wrote:

The Anglican Church has been a significant provider of education since 1788. Its establishment of elementary and secondary schools pre-dates the involvement of governments in educational provision. The Church's purpose has always been twofold: to provide quality education and to communicate the basic tenets of the Christian faith. Parents who enrol their children in an Anglican school acknowledge this dual mission even though they may not be an active adherent of any religious persuasion, let alone the Anglican Church. Anglican schools have always had an open enrolment policy.³¹²

The topic of faith-based schools and enrolment aroused strong feelings, because it included arguments related to exclusion, government funding, isolation, and double standards. For example, it was suggested that if Islamic schools were seeking exemptions to enrol only Muslim students, reactions would be different to that of a Catholic school seeking exemptions to enrol only Catholic students.

Ethos maintenance

While this issue related to many faith-based service provisions – hospitals, aged-care facilities, shelters – the question of how faith-based schools are run and to what extent they are able to develop and maintain their ethos, and discriminate in order to do so, is a right strongly defended by Christian groups, and rejected by secular groups.

Many faith-based schools and upholders of the faith said they believed that:

... teaching is not just about transmitting facts to students but depositing faith in students, having a faith and an ability to articulate and communicate that faith and pass it on, and that is a genuine occupation of schools.³¹³

And, to this end:

... you need Christians employed at all levels in Christian schools, in administration and all areas – everyone has a part to play – consider the example of the business manager who works closely with families regarding fees, he still has to witness the faith.³¹⁴

The Calvinistic Political and Social Association wrote: 'Christian schools and other Christian institutions must be free to restrict membership and staff to those who subscribe to the Christian standards as required in the constitutions of these institutions'.³¹⁵

The expectation of parents was also raised as a consideration:

... schools need to have the ability to bring people on staff who share the core values of that faith based institution in order to honour the commitment and expectations of parents who pay.³¹⁶

Christians, and other faiths to a lesser extent, argued strongly that in faith-based schools, everyone is valuable regardless of their position, meaning everyone needs to be thinking and acting in accord with the ethos of the school, and ethos is far more than subscribing to a group of teachings – it is how you present those

311 Submission 89 Office of the Anti-Discrimination Commissioner, Tasmania
312 Submission 1536 Anglican Education Commission
313 ACT Australian Christian Lobby Consultation
314 ACT Australian Christian Lobby Consultation
315 Submission 1347 Calvinistic Political and Social Association
316 Victoria General Consultation 1

teachings in all aspects of life and teaching. As such, Christian groups argued that the choice has to be given to the employer to discern and decide as appropriate, that choices should not be forced on organisations. One participant stated:

... schools need the freedom to employ who they want, people who will live out the faith, and many schools do not have the freedom to do this, and that's of real concern to us as Christians.³¹⁷

It was felt that this is part of honouring the commitment and expectation of parents. The Ad Hoc Interfaith Committee wrote:

... the faith-based school is a religious community and the faith provides a context and a focal point for the child's education. In a religious school, through the teaching and example of staff members who adhere to the religion, the codes of conduct that follow from the religious beliefs are taught and practiced.³¹⁸

There is, however, disagreement among Christian groups around ethos maintenance: is the ethos an inclusive ethos or an exclusive ethos, and to what extent is it necessary? The Uniting Church wrote:

... religious groups should have the right to educate their own children, and any others who self-select in, within their own faith ethos, providing it is within limits set by regulation and legislation. No school, faith or civil, its staff and administration should be exempt from any human rights or equal opportunity provision which might apply.³¹⁹

Other Christians argued that when considering an applicant for a position in a school, the nature of the role, the relationship with students, and whether they fit the ethos of the school all need to be considered, as there is a need to maintain harmony and cohesion in the workplace, and the employer needs the ability to make these choices, which vary from place to place. They provided the example of not always being able to find Christian teachers, which results in the need to choose non-Christians who can fit in.³²⁰

Countering arguments from opponents, advocates for faith-based schools argued that there is choice: parents choose to send their children to faith-based schools and, furthermore, parents and employees already have a prior choice, so institutions should be able to be consistent with their beliefs. Also, '... employing people consistent with a school's viewpoints and values is not taking away rights, because if people do not like it, they can send their kids to another school'.³²¹ Additionally, using a rights-based argument, it was argued that because parents have the right to choose an education for their children and to have that right supported by government, it must therefore be a legitimate right to choose the ethos of the school. This argument was underpinned by the assumption that religion is a private matter, separate from government function.³²²

Others argued that while religious schools are criticised, they have been most active in promoting interreligious relations – with tours, interfaith programs, and the like. Furthermore, rather than increasing insularity or a lack of respect for others, religious schools develop the students' respect and understanding of their own religious identity, and '... if you respect what you have, you can respect other's views'.³²³

The reason ethos maintenance was raised in the submissions and consultations as such an important issue is because Christian schools see the '...greatest threat coming from the state and anti-discrimination laws'.³²⁴ However, opponents of faith-based schools argued that when a school is in receipt of government funds, this

317 ACT Australian Christian Lobby Consultation
318 Submission 1687 Ad Hoc Interfaith Committee
319 Submission 1655 Uniting Care Commission
320 ACT Australian Christian Lobby Consultation
321 Victoria Australian Christian Lobby Consultation
322 ACT General Consultation 1
323 Victoria General Consultation 2
324 ACT Australian Christian Lobby Consultation

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ought to change expectations because society's money should not be used to enable discrimination against gays, single parents, and those of other faiths in their roles as teachers, other school staff, or students.

Indoctrination

One of the arguments presented by opponents of faith-based schools was that of indoctrination. Opponents presented it as a '... philosophical problem – nurturing a child in a faith, instructing them, is that freedom of religion and belief, the child doesn't have any choice in the conditioning of his mind'.³²⁵ While opponents felt that parents should not have the right to impose this on anyone. One participant stated:

... we are very concerned about the indoctrination of children, it is their right that they be taught about all faiths, and grow up and make up their own minds – but with the funding of faith schools, the state is paying for the indoctrination of our children.³²⁶

325 Victoria General Consultation 1

326 Victoria General Consultation 2

Particular Issues in Secular and Multifaith Australia

This section outlines some of the specific practical issues raised in relation to the practice and manifestation of faith. It begins by listing the issues raised in many of the consultations and submissions relating to the practice and regulation of religion in a pluralist Australia. Then it focuses on particular issues and concerns raised by members of specific faiths or worldviews before including a special section focused on Islam, given the weight of comment on Islam.

Practice and Regulation of Religion in Pluralist Australia

One issue raised in many consultations was the need for appropriate religious training for religious leaders. Many faiths are bringing in religious leaders from overseas but there are problems with language competence and cultural competence for religious leaders trained in their own countries.³²⁷ One participant stated; ‘... there are leaders out there in the community without English which makes it hard to interact with rest of society and understand how Australia operates.’³²⁸ Although, this issue is relevant for many faiths, it was raised predominantly by Muslims:

‘theology training is an important issue – Imams need to be trained in Australia and in Australian culture and be educated because in their country of origin they may have a different culture, it may not be democratic or have discrimination laws.’³²⁹

Or, as another participant put it, ‘Imams need to be trained in Australia, we need home grown Imams’.³³⁰ Some participants felt: ‘... because of the damage one small group can have, which affects the majority, it could be worth registering religious leaders ... and having professional development’.³³¹

Another participant raised this issue in relation to the Hindu community, saying that many Hindi priests are literate only in Tamil and many have low levels of education. The participant went on to say that this has significance because these priests are in leadership and advisory roles:

... young people have problems that they cannot talk about with anyone including the priests. If priests had language capabilities and an understanding of Australian society, young people could go and talk to them. Often they are anxious about courses, they have a lot of expectations when they come, and they think they understand the language, but they find it harder than expected.³³²

During consultations in particular, the following were raised as being outdated or inappropriate in multifaith, multicultural Australia:

- The practice of many hotels to have Bibles in rooms was raised by some participants from minority faiths and with other world views.
- The expectation on people to take oaths on the Bible instead of on other unavailable holy texts, and the varying degrees of accommodation for those of a different faith, especially in legal contexts, was raised in some consultations and submissions.
- The practice of Parliament’s opening prayers only reflecting Australia’s majority faith was frequently raised, with participants noting the importance of Parliament and the nation’s leaders demonstrating the

327 South Australia General Consultation 2
328 South Australia General Consultation 2
329 ACT General Consultation 1
330 ACT General Consultation 1
331 Victoria General Consultation 1
332 South Australia General Consultation 2

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acceptance and appreciation of diversity in Australia, perhaps through a rostered system of prayers and readings from the major faith and secular traditions.

- Some participants rejected Australian public holidays that are based on Christian celebrations and the Western Christian calendar. It was argued that while legislation cannot recognise the holy days of all faiths, accommodation should be available in workplaces whereby staff request to have time off for their religiously significant days, and subsequently make up the time taken off.
- Concern was regularly expressed that there was inadequate respect for the sanctity of holy days as public holidays, and that their religious significance was diminishing. One example raised was the proposal for an AFL game on Good Friday, with participants feeling that such an initiative would represent a setback for all religions.
- The wearing of religious dress or religiously symbolic accessories, such as a cross or a hijab in workplaces such as schools and hospitals was regularly raised. It was argued that wearing religious icons is part of witnessing to deeply held beliefs. But complaints were made about the lack of uniformity in policy or lack of policy in dress code, where some religious symbols were allowed, and not others.
- While a few submissions argued for legislation to outlaw male circumcision, some were concerned about the increasing difficulty in locating medical practitioners prepared to perform this religious procedure. A few submissions focused on privacy and complete confidentiality in selected situations, such as police investigations. It was also raised in the context of confessional secrecy, and sexual abuse cases.

While many comments expressed satisfaction with the current situation, some faith communities raised particular issues in consultations and submissions. The following is a brief overview of the issues and concerns raised by specific groups:

Bahá'í

- Bahá'í participants articulated a concern regarding their under-representation in multifaith initiatives, despite being a world religion.³³³

Buddhist

- Buddhists raised the difficulties experienced by visiting monks and nuns, who have taken a vow of poverty and cannot show earnings or receive a minimum wage, with obtaining visas from the Department of Immigration and Citizenship.
- Buddhists expressed concern at a sense of inequity in funding and resource allocation from government departments and funding bodies, in comparison to other faith communities. The main evidence given for this was the lack of a full-time Buddhist school.
- In dealing with death, Buddhists hold that the body should be left untouched for at least three hours while the spirit departs the body. Buddhist organisations have been negotiating with hospitals to accommodate this practice. If death occurs at home, Buddhist practice could be easily followed. Some Buddhist organisations are developing written forms for Buddhists to complete for hospital staff, which detail exactly what Buddhists want done at the moment of death and after death, so that their wishes can be documented and thus respected. For some Buddhists, extended families may not hold the same beliefs, and may not respect their wishes, so a formal written document outlining the individual's wishes could prevent conflict.

Christian

- Orthodox Christians raised the issue that local government regulations regarding noise may prevent bell-ringing at midnight during Orthodox Easter celebrations. This was seen as an infringement of the right to freedom of religion and belief.
- Seventh Day Adventists raised the difficulties they encounter in observing the Sabbath on Saturdays, such as when examinations are held on Saturdays, or when sporting activities are conducted on Saturdays.
- Christian Brethren raised the matter of their practice of abstaining from voting, and consider this an important right to be respected.
- Some Christian groups raised, as an issue, the right to wear the crucifix, which is important to some Christians in witnessing to their faith or as an individual devotion. This had been challenged in some employment or educational contexts.

Hindu

- Hindus raised issues relating to burial rites. When performing burial rites, Hindus require significant time for the last rites to be performed, but often funeral centres do not accommodate their needs, and they are hurried on, creating more distress for the bereaved.
- Hindus also expressed concern that their faith was under-represented in the multifaith movement.

Humanist

Various submissions from secular humanists raised issues concerning themselves and their worldview, based on their experiences of exclusion and bias in governments.

- In Australian law the ‘advancement of religion’ is a charitable activity, but the ‘advancement of humanism’ is not, because humanism is not accepted as a system of supernaturalist belief. Humanism in other countries, including in New Zealand, however, is accepted as a charitable organisation because its activities have been beneficial to the community.
- The wording of the religion question in the Australian Census, phrased: ‘What is the person’s religion?’ implies an expectation that the person has a religious affiliation. Humanists advocate a question reading: ‘Does the person have a religion?’ or ‘Does the person have a system of belief (religious or philosophical)?’
- The Australian Census form does list humanism as an example of ‘other’ (religion) together with Salvation Army, Hinduism and Judaism. Humanism should be placed instead next to the ‘no religion’ box.
- Governments and other bodies do not officially acknowledge secular ethical life philosophies such as secular humanism as credible and equivalent alternatives to religion.
- Religious organisations are permitted to provide ‘religious instruction’ in public schools, but so far no humanist group has been allowed that right.³³⁴

Jewish

- Jewish submissions expressed concern regarding security, particularly at synagogues and Jewish schools, and its cost. Some participants stated that as individuals they did not usually feel threatened,

334 Submission 981 Humanist Society of Queensland; Submission 1142 Council of Australian Humanist Societies

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but Jewish installations and organisations were often seen as targets for hostile violent attacks or vandalism.

- The Executive of Australian Jewry also raised their deep concern regarding vilification of Jews and anti-Semitic content on the internet.³³⁵

Jehovah's Witness

- In its submission, the Jehovah's Witness organisation raised the issue of the right to refuse medical treatment for children when this contravenes the doctrines of the faith and the over-riding of this right by medical authorities.³³⁶

Muslim

- Muslim participants raised issues relating to obtaining visas for international visitors and guest speakers, and indicated there was much inconsistency from government in relation to this.
- Muslims raised the issue of discrimination against Muslim women wearing the hijab in employment and education settings, as well as negative reactions from the public generally.
- Many Muslim participants cited difficulty in many parts of Australia in obtaining permission or raising funds to build mosques, schools, and community centres.
- Muslim participants also raised issues relating to funeral and burial rites for Muslims. In Islamic practice the body must be buried immediately after washing. Under Australian law, the body is sometimes required to be kept in a morgue and/or an autopsy carried out.
- Muslims raised the issue of halal food, and the right to have access to halal food, particularly in prisons and universities.
- Muslims also raised issues relating to accommodations in the workplace for prayer time, Islamic dress, and fasting during Ramadan.³³⁷

Pagan

Paganism is an umbrella term that covers a number of nature-based spiritual traditions.³³⁸ The consultations and submissions revealed significant areas of concern regarding paganism and pagans' ability to practice their faith in Australia. Pagans believe that the lack of information or understanding of their faith complicates issues; many in the wider community assume that Satanism is a part of paganism, when it is separate and distinct. Recognition was raised as the biggest issue that underlies other matters. According to the Pagan Awareness Network, there are approximately 30 000 people in Australia who follow a pagan or nature-based religion, and this is confirmed by the 2006 Census, which also shows the significant, recent growth of paganism.

- Pagans raised issues in relation to marriage: that they are unable to have pagan celebrants registered, forcing pagans to have a civil celebrant instead of a pagan celebrant, which means a civil marriage as opposed to a religious marriage.
- Pagans raised the issue of pagan chaplains in the Australian Defence Force, which, unlike the USA, does not allow pagan chaplains despite many pagans serving in the force.

335 Submission 203 Executive of Australian Jewry

336 Submission 1011 Watchtower Bible and Tract Society of Australia

337 Submission 1510 FAIR; Submission 1260 Australian Islamic Mission; Submission 1867 AMCRAN, among others

338 Submission 785 Pagan Awareness Network

- In consultations, pagans reported of encountering difficulties, such as being forbidden to advertise the venue of gatherings when they are held, or being required to advertise only the gathering and not the location, and they also cited difficulties obtaining permission to carry their athames (ceremonial daggers) to ceremonies.
- Pagans raised issues related to burial practices. First, family members often disregard the deceased pagan’s wishes concerning the burial and service. Second, the structure of traditional funeral services, with a lectern and rows of chairs for congregants, is not appropriate for pagans, who prefer to stand in a circle.
- Pagans have difficulty securing suitable venues for their meetings because of the stigma attached to their faith; scout groups and churches will not allow them to hire their halls, and council spaces are too expensive.³³⁹

Sikh

- Members of the Sikh community expressed concern at the difficulties they encounter in relation to their religious practices, such as prohibiting hair cutting, which has ramifications, particularly in schools and workplaces. It was indicated that children are sometimes ostracised and bullied or that schools insist that students have short hair. It was suggested that to ensure consistency, education departments need to have policies and protocols on this and related matters.
- Sikhs stated that the requirement of wearing the *kirpan* was problematic in Australia, one participant recalling his experience of volunteering to go to the Commonwealth Games Village for the spiritual health of forty Sikh athletes, but was unable to minister to his people because of metal detectors, which made no allowances for kirpans. Sikhs stress that the *kirpan* has been worn for over three centuries with no incidents of misuse.
- Sikhs also found wearing the turban was problematic, particularly in relation to riding bicycles or motorbikes, as wearing a helmet is required by legislation.
- Sikhs raised the difficulty some encounter when playing sport and wearing the bangle.
- Sikh participants also argued that there are high levels of ignorance around Sikhism as a religion, its practices and requirements. They described how requirements relating to hair and turbans, *kirpans*, and bangles are key aspects of Sikh spirituality, and the denial of them can have significant repercussions.³⁴⁰

Muslim Concerns and Concerns about Islam

Islam attracted much more attention in the research than did other faith traditions, because of the high profile of Islam and the negative portrayal of Islam in the media. Levels of mistrust and fear about Islam were conveyed, as well as concern for the experience of Muslims in Australia.

Deep-seated concern about Islam was widespread in the research process. Some participants expressed fear regarding Islam:

... it’s fine to say we have nothing to fear, but some Christian churches do feel there is something to fear that might affect our freedom, we have no wish to vilify, but we do feel there is something of concern – we’re fearful about losing the freedom to believe, express and propagate our faith, which is fundamental to many Christian beliefs.³⁴¹

339 Submission 785 Pagan Awareness Network; Submission 1438 Claire de Lune Society of Wicca, among others

340 Submissions 1835 Sikh Community of Brisbane; Submission 1546 Sikh Interfaith Council of Victoria

341 Victoria General Consultation 1

Chapter Three *Religious Issues in 21st Century Australia*

As the Dunn paper highlights, there were high levels of unprompted expressions of concern about Muslims in the submissions. Seventeen per cent of submissions included critical commentary about Islam. FamilyVoice wrote:

... latent Muslim jihadists in 2001 were ready to engage in violence against Christians and churches in Australia when emboldened by overseas jihadist events ... Traditional Islam views religion and politics as the one thing. The goal of Islam is to gain land and power as the base for a unified Islamic community which lives in submission to Islamic law and which subordinates non-believers in accordance with that law.³⁴²

The Christian Democratic Party (WA Branch) wrote that Islam poses ‘... a considerable challenge to the maintenance of Australia as a free society with a Christian heritage’.³⁴³ The Presbyterian Church in Western Australia wrote:

... while the great majority of Australian Muslims may be peaceful, law-abiding citizens following a moderate version of their faith, the proven potential for Islam to foster the growth of radical fundamentalist variants is of great concern to many Australians.³⁴⁴

Many submissions from individuals, as opposed to organisations, were vehement in expressing their concerns about Islam. Mr and Mrs Nothrop wrote:

... it is a great mistake to regard Islam particularly, as ‘just another religion’. Instead Islam is a theocracy to be considered alongside competing forms of government of communism, democracy, dictatorships, etc. Supporting Islam is supporting a change from democracy to theocracy where there is no separation of church and state.³⁴⁵

Ms Hollyock argued that the Islamic tradition of seeking to establish Islamic law may warrant controls being put on Islam to monitor threats, but that similar controls are not warranted for Christians or faiths that see religion and politics as separate:

It is well documented that Muslims seek to gain control over land in order to set up an Islamic community which lives in submission to Islamic law and which treats ‘infidels’ or ‘non-believers’ in the Muslim faith as inferior in accordance with that law. Whilst this might warrant certain ‘controls’ being implemented in order to monitor threats to such things as security, and the displacement of Australian law by sharia law, it would be detrimental to the wellbeing of the majority of Australians to impose the same ‘controls’ on Christian churches and other faith-based groups which do not share the inseparable religious/political nature of Islamism.³⁴⁶

Some of the key concerns regarding Islam in Australia that were expressed in the consultations and submissions are as follows:

- Some Christians indicated that they feared the introduction of sharia law in Australia, mentioning intolerance of criticism, punishment for apostates, gender inequality, and the threat of fundamentalist Islam.
- It was stated that fears are heightened by a sense that governments appease Muslim communities, and that Islam receives preferential treatment.
- Participants raised international examples, such as the Danish cartoons, the penalty of death for blasphemy in Pakistan, and the penalty of death for apostasy under sharia law.

However, other participants – Christian, people of other faiths, and people of no faith – raised concern for Muslims living in Australia.

342 Submission 95 FamilyVoice Australia
343 Submission 169 Christian Democratic Party (WA Branch)
344 Submission 1587 Presbyterian Church in WA
345 Submission 1202 Lindsay and Diana Nothrop
346 Submission 1230 Sue-Ellen Hollyock

Concerns for Muslims held by non-Muslims are as follows:

- Some participants argued that evangelical Christians demonise Muslims, in part because of high levels of ignorance by churches about Islam.
- Some participants argued the post-9/11 anti-terror legislation was Islamophobic.
- Many participants expressed concern about the negative stereotyping of Muslims, particularly in the media, believing it to be related to a lack of awareness and knowledge about Islam.
- Some participants argued there was a lack of protection for minority groups, particularly for Muslims, and that governments stay silent rather than speaking out in defence of minorities. The Australian Partnership of Religious Organisations (APRO) argued that Muslims were particularly vulnerable ‘... in the current climate of hostility towards Muslim people in Australia’.³⁴⁷
- Many participants argued that Muslims were discriminated against in employment and education, and that the issue is particularly important for Muslim youth. The Refugee Resettlement Advisory Council highlighted areas of discrimination against Muslims.³⁴⁸
- It was argued that Muslims are clearly placed as ‘other’, and that ‘... for Muslim children growing up in this society, seeing their religion vilified at every turn, they see how they are viewed as Muslims, which in turn affects how they view themselves’.³⁴⁹
- The wider effects of a negative discourse around Islam were raised, with participants finding that ‘Muslim’ is used pejoratively, as an offensive term hurled against various Australians.

Muslim participants made suggestions to counter the negative image of Islam and Islamic organisations:

- Muslims raised the need for better dialogue and engagement between Muslim communities, noting that the religious, ethnic and cultural diversity within Muslim communities in Australia could often impede progress.
- Some Muslims suggested that Muslims need to beware of shutting themselves off and becoming afraid to reach out, arguing that as Muslims, there is a greater need to accept, meet and embrace others.
- Some participants argued that within some Muslim communities, there could be greater education and understanding of what it means to live in a pluralist society.

The Australian Federation of Islamic Councils as a peak body spoke for many Muslims when it wrote:

The Australian Muslim community is large, diverse and heterogeneous, composed of at least 120 ethnic and/or linguistic backgrounds, each with their unique cultural norms, but with one unifying element, we are all AUSTRALIANS. Australian Muslims deserve every opportunity to fully participate in the Australian community as equal Australians, no different to the other Australians living up the street from them. It is also true that one of the most disadvantaged communities in Australia is the Muslim community, many of whom are newly arrived from war ravaged parts of the world, some with little or no English language skills.³⁵⁰

Indigenous Spiritualities

Indigenous participants attended one of the consultations and raised a variety of issues regarding freedom of religion and belief. Fundamentally, recognition of and respect for Indigenous religions and spiritualities is

347 Submission 1361 Australian Partnership of Religious Organisations
348 Submission 1643 Refugee Resettlement Advisory Council
349 South Australia General Consultation 1
350 Submission 1050 Australian Federation of Islamic Councils

Chapter Three Religious Issues in 21st Century Australia

essential to reconciliation. The failure to respect Indigenous religions and spiritualities commenced with the complete dismissal of their cultures and ways, and was further undermined by aggressive missionary work and Indigenous affairs management that denied culture, language and religion. Participants described the corrosive effects of this on their ability to cope, to manage their affairs, and to maintain social cohesion.

Indigenous people's freedom of religion and belief need to be protected in the same way as those of other groups. At one time recognised as legitimate religions and spiritualities, Indigenous religions and spiritualities are now swept up in the blanket-dismissal of pagan religions and beliefs, and are officially disparaged and discriminated against by some religious groups in Australia. Coming to appreciate Indigenous religions and spiritualities may assist these groups to re-examine the basis for and practice of their dismissal of pagan spiritualities, which include most of the earth-based, nature, and Wiccan spiritualities current in Australia (see Table 4, page 17).

Chapter Four

Religion and Belief in Contemporary Australia: Other Issues

The *Freedom of Religion and Belief in the 21st Century Discussion Paper* and online submission format raised a host of issues, only some of which garnered significant attention. The following is an overview of issues that were either prompted but did not receive much attention, or were not raised across the consultations and submissions and so received comparatively minimal deliberation.

Security Legislation

While, there was some concern about the impact of security legislation and security technology, little mention was made of these. Although post-9/11 security legislation was raised as one of the seven areas of exploration for the research, little mention was made of it in either the submissions or the consultations. When the issue was raised, it was done so in one of two contexts. The first was in the context of a need for greater protection of human rights, which some saw as under threat from security legislation, with the example of Dr Haneef raised several times. Civil Liberties Australia argued: ‘Australia’s legislative response to the threat of terrorism has been disproportionate, and has fundamentally abrogated the rights and liberties of Australians.’³⁵¹ The second was in the context of the Muslim community and their sense of being targeted by such laws, which, it was argued, has contributed to a climate of fear. Others, such as the Secular Party of Australia, shared this view:

... the perception has been that the draconian security laws have been targeted at Muslim groups. This perception is justified. Such laws may be counterproductive in that they increase the feeling of alienation in these groups.³⁵²

The Sikh community also felt affected by the legislation: ‘Since September 11, changes in security laws have affected the Sikh community adversely. The laws promote the exclusion of Sikhs from mainstream society’.³⁵³ The Australian Muslim Civil Rights and Advocacy Network wrote:

Counter-terrorism legislation has had an enormous impact on ethnic and minority communities, and the effects have been particularly disproportionate on Muslim communities. The breadth of the laws, their discretionary or selective application and the way in which the police and security agencies use their extended powers, constrain basic freedom of association, speech and belief.³⁵⁴

However, the Executive Council of Australia Jewry expressed its ‘appreciation for the legislative measures, which have been implemented to date. These measures enhance our security against the possibility of terrorist attack, and have our strong support’.³⁵⁵

Sexuality

While sexuality is a major issue of debate within some religious groups, it was not raised as a significant issue in consultations or submissions, except in a few contexts. One of these contexts was the wish of some groups to discriminate in matters of employment and service delivery. Also the point was raised that while spirituality is connected to wellbeing, it causes many gay people stress when they are seeking a spiritual bond.³⁵⁶

351 Submission 1508 Civil Liberties Australia
352 Submission 1283 Secular Party
353 Submission 1546 Sikh Interfaith Council of Victoria
354 Submission 1867 Australian Muslim Civil Rights Advocacy Network
355 Submission 203 Executive Council of Australian Jewry
356 Tasmania General Consultation 2

Sexuality fits within the context of human rights and is another pertinent example of a contest between rights. Human rights legislation that allows exemptions based on homosexuality was seen as privileging religious communities and not respecting the rights of all. One participant stated: ‘... gay people work, pay taxes, and contribute to community in many ways – they have earned their rights and recognition’.³⁵⁷ Another said: ‘... there must be some kind of accountability in religious organisations, they cannot incite hatred and discrimination and be protected by legislation, government has a duty to protect communities’.³⁵⁸ However, the Major Issues and Theology Foundation wrote: ‘... the right to freedom of belief is more foundational to the human person than rights of a political and economic nature, provided that persons have true freedom to associate and dissociate in Australian society’.³⁵⁹ The Ad Hoc Interfaith Committee wrote that the Church belief:

‘...on sex before marriage is at this moment a minority one, and may need protection as a right of the manifestation of religion. The Churches’ belief that the homosexual act is wrong is more widely held in society, but the Churches’ lower tolerance for it is another right which needs to be protected as a manifestation of religion.’³⁶⁰

There were diverse view regarding this matter among Christian denominations and faiths; the Calvinistic Political and Social Association wrote:

God also forbids people to practise homosexual relations. Hence the Government runs counter to the Christian principles upon which our nation was established if it condones such practices by legislating to grant homosexuals “equal rights” with heterosexual relations.³⁶¹

Mission Australia’s view was:

... all people should be accepted by the church regardless of their behaviours; the church should be a place of acceptance for all without question. Christianity is about offering grace and a place of safety where people can work through issues in their lives ... There are clearly different views around diverse sexuality in leadership roles in churches and this is one best left for them to discuss.³⁶²

Many qualified their stance. One participant summarised the views of many Christians when making the following comment: ‘I have a certain view on sexuality, based on a certain interpretation of Scripture that we hold to, but to label me as homophobic and inciting hatred is very far from the truth’.³⁶³

Media

The media play a significant role in society and have undergone substantial changes over recent years – to the types of media and the ways in which they are used – but the media did not receive much attention in submissions and consultations.

Some concerns about the media that were raised indicated quite contradictory perceptions. Secularists argued ‘... in general the media tend to portray Christianity in a positive light ... portrayal of other religions, sects or

357 Tasmania General Consultation 2
 358 Victoria General Consultation 1
 359 Submission 1632 Major Issues and Theology Foundation
 360 Submission 1687 Ad Hoc Interfaith Committee
 361 Submission 1347 Calvinistic Political and Social Association
 362 Submission 768 Mission Australia
 363 Victoria General Consultation 2

cults may be less positive'.³⁶⁴ The perception of Christian groups was quite different. They argued that media is free '... to vilify Christianity with impunity'.³⁶⁵

Some lamented the moral decline in media, which, it was argued, contributed to the 'dumbing down of culture' and the elevation of '... excessive self interest and entertainment'.³⁶⁶ Media Standards of Australia argued more strongly, writing in their submission that the media:

... most especially the Internet, television and radio are allowed the freedom to morally pollute all Australians ... with their gratuitous violence, sexual perversion, blasphemy and obscene language, and promotion of so called "recreational" drugs, and irresponsible premature sexual behaviour.³⁶⁷

There were statements about the role media plays, particularly in contributing to division and hatred.³⁶⁸ Affinity Intercultural Foundation wrote that the media's coverage of global events and their attribution of terror to Islam and:

... Middle Easterner Muslims which has been the cause of widespread sectarianism and hatred, impacting on Muslims and other groups, and preventing them having full rights and access to the equal employment, protection from hatred.³⁶⁹

The Executive Council of Australian Jewry raised the issue of vilification on the internet, '... which is increasing in intensity and frequency ... legal remedies are inadequate and difficult to enforce where material appears on the internet'.³⁷⁰ The Church of Scientology raised the issue of anti-religious propaganda in media and advocated for a '... restriction on religious misinformation and misrepresentation known or reasonably known to be untruthful in the media'.³⁷¹ Some organisations spoke of a lack of accountability in the media, particularly in relation to being taken out of context; Muslim organisations spoke of implementing 'no media' policies because of the continual misrepresentation of interviews and statements.³⁷²

Proposed internet censorship was raised as an area of concern; it was felt that the dangers of creating blacklists and underground movements need to be considered, as does the issue of '... being fined for being linked to a banned website, but banned websites are not listed, so how can people be punished for a crime they didn't know existed?'³⁷³

Another issue raised was religious profiling and identification in the media, and the media's tendency to identify the religion of people from religious minorities, such as Muslims or Sikhs, but '... you don't see 'young Anglican boy arrested'.³⁷⁴

One issue of emerging interest, relevance and concern was regulation of public discourse and the responsibilities of organisations, with the advent of new media and the collapse of the distinction between public and private media. The Anglican Church has been grappling with this issue: '... who owns cyberspace - for example the blog sites of church members - is the church responsible for those?'³⁷⁵

364 Submission 1283 Secular Party of Australia
365 Submission 1066 Media Standards of Australia
366 Submission 1990 Australian Evangelical Alliance Public Theology
367 Submission 1066 Media Standards of Australia
368 Queensland General Consultation 1
369 Submission 1929 Affinity Intercultural Foundation
370 Submission 203 Executive Council of Australian Jewry
371 Submission No 1931 Church of Scientology
372 Queensland General Consultation 2
373 Queensland Pagan Consultation
374 Queensland General Consultation 2
375 New South Wales General Consultation 1

Chapter Four Religion and Belief in Contemporary Australia: Other Issues

Gender

Issues of gender equality were raised in a number of submissions, but rarely in the consultations. It was raised as an issue within faith communities, Islam in particular. The Dunn paper³⁷⁶ notes the high levels of concern regarding Muslims (17% of submissions included critical commentary about Muslims) and this often included concern about the treatment of women. Dr John Hartnett stated: ‘... in Muslim communities women are treated like chattels; they are beaten by their husbands ... This is not part of the Australian way of life and should not be tolerated.’³⁷⁷ Patricia Smith wrote: ‘... what certain faiths believe is acceptable in relation to gender equality is anathema to most of us’.³⁷⁸ But she noted that women are often consensual participants. However, it was noted in consultations that much of this debate relates to culture, not religion, and that cultures influence religion in this regard.³⁷⁹ Joan Cross shared the concerns of others in her submission:

... many academics, writers, community leaders, and intellectuals seem to think that almost any religious, racial or cultural beliefs can be allowed to take precedence over gender equality ... while privately people will always make their own arrangements within their families, the law itself should never suspend equal human rights between men and women just because of religious or cultural beliefs.³⁸⁰

Joan Cross’s submission was primarily concerned with Islam and gender; Islam was critiqued considerably in relation to the role and treatment of women in many submissions. The Muslim community raised issues in relation to gender equality, such as issues experienced by women when seeking a divorce, and the approach of imams to women and divorce.

For Christian communities, there were different gender issues: ‘... gender equality is a point of debate on the issue of women priests but it is not the legislative business of State intervention – this is a matter for Church debate’.³⁸¹ However, Mrs Linda Dickson argued: ‘Australian law which provides for gender equity should always override faith based laws that discriminate against gender.’³⁸² The Ordination of Catholic Women Inc. argued:

Women’s equality in 2009 is accepted in most western societies as a human rights issue. The norm ... women are recognized, valued and remunerated for making very real and unique contributions at all levels in society, including at the most senior levels of leadership. Women’s position in secular society therefore can’t help but interact in complex ways with practices of faith that deny women’s place in church decision-making.³⁸³

The Ordination of Catholic Women went on to say: ‘... many Catholic women and men are now increasingly frustrated with a Church practice that is no longer meaningful or credible in an educated, technological and global society’.³⁸⁴

Church groups noted: ‘... there can be tension between gender equality and Christian groups ... we believe Biblically there is equality in salvation, but not in terms of roles performed’.³⁸⁵ The Anglican Deaconess Institution Sydney Ltd shared this view:

376 K Dunn, 2010.
377 Submission 757 Dr John Hartnett
378 Submission 792 Patricia Smith
379 Victoria Multifaith Youth Consultation
380 Submission 16 Joan Cross
381 Submission 792 Patricia Smith
382 Submission 789 Mrs Linda Dickson
383 Submission 1752 Ordination of Catholic Women Inc.
384 Submission 1752 Ordination of Catholic Women Inc.
385 New South Wales Australian Christian Lobby Consultation

In the Christian community, and within the Anglican denomination, there is equality of gender based on the saving work of Jesus Christ for all humanity ... [but] ... in the Bible, distinctions are made between men and women for the good ordering of relations.³⁸⁶

However, they noted that along with other group within society, Christians groups feel there is an under-representation of women in church leadership, but that this imbalance is being redressed ‘... through more effective networking, identification of skills, mentoring and the active promotion of women’.³⁸⁷

Job Watch argued in its submission: ‘... for the repeal of a number of employment related exemptions contained within the SD (Sexual Discrimination) Act. We believe these exemptions go beyond the scope of reasonable limitations on human rights’.³⁸⁸

Gender equality is a difficult issue in relation to freedom of religion and belief. Some assert their right to discriminate against women as a religious right, as the Ad Hoc Interfaith Committee stated:

Those Churches that limit the priestly role to men are not going to change their position. The question is whether our society is mature and tolerant enough to accept that this shall be the case.³⁸⁹

Yet, equally, many women asserted their right to full inclusion as a religious right, including the Ordination for Catholic Women Inc. However, there were many statements affirming this subject as an issue for religious organisations to grapple with, free from government interference. Gender equality is another example of an issue that is not easily arbitrated, settled or satisfactorily managed.

Euthanasia

The issue of euthanasia did not receive much attention in submissions or consultations. However, the Council of Australian Humanist Societies did address euthanasia in its submission:

... according to credible surveys of public opinion, over 80% of the population support the option of physician assisted dying (voluntary euthanasia) being available to the terminally ill should they request it. This view is held across religious, political and age group social divides. However, a Bill to legalize this practice was rejected in the Victorian Upper House of Parliament after intense pressure from the Australian Christian lobby and other conservative Christian organisations.³⁹⁰

Abortion

Abortion was not raised as an issue, except (i) as it relates to the new laws in Victoria and the inability of the Victorian Human Rights Charter to provide protection of religious rights where deemed by many to be needed, and (ii) in so far as its provision is limited by those who have religious objections to it. In this case, the protection of the religious rights of those who morally oppose abortion may, if other providers are not available, limit the access to this service by those who seek it.

Creationism

Teaching creationism and intelligent design as alternatives to evolution to scientifically explain the origins of the universe and humankind was raised in one state, where some complained that it had been surreptitiously

386 Submission 1539 Anglican Deaconess Institution Sydney Limited
387 Submission 1539 Anglican Deaconess Institution Sydney Limited
388 Submission 1604 JobWatch
389 Submission 1687 Ad Hoc Interfaith Committee
390 Submission 1142 Australian Council of Humanist Societies

Chapter Four Religion and Belief in Contemporary Australia: Other Issues

introduced into the curriculum. No one objected to it being taught in faith-based schools. However, one participant stated:

... it's interesting because in the application form for teachers, they are being asked 'do you support a creationist view of the world' - but irrespective of personal beliefs and what you have to teach - everything has a place, Intelligent design, evolution, all should be there in curriculums to be critiqued and assessed and compared.³⁹¹

Chapter Five

Religion and Belief in 21st Century Australia: The Findings

As this research process has amply demonstrated with the spread and depth of responses from across Australia through the many consultations and the 2033 submissions, religion in a civil society cannot be ignored, nor can it be privatised, and nor can it be relegated to the margins. Religious groups contribute to the spiritual and social wealth of the nation. But religion can also be divisive, as a reading of Australian history shows.

In contrast to the 1998 report *Article 18, Freedom of Religion and Belief*, this report found that the focus of the discussion around religion had shifted. The major issues of the 1998 report related to new religious movements as well as recommendations regarding a religious freedom Act. But more than a decade later, little enthusiasm was found for such an Act. Other key issues of the 1998 report were around specific areas relating to the practice of religion, such as burials and autopsies. The 1988 report also made recommendations on religious discrimination and incitement to hatred on the basis of religion and belief. It would seem from the evidence that support for religious anti-vilification legislation has become more polarised.

Since the 1998 report, world events such as 9/11 have changed the way religion is perceived; religions are globalised, which raises new issues and alters existing ones. One salient aspect is the dynamic nature of issues. Such issues are never fixed or stagnant; they ebb and flow according to local, national and international influences. In addition, as evidenced by Table 5 in the report, the rise of minority religions in Australia and the emergence of new, fully developed religious communities and faiths have significantly changed how religions are understood in Australia. There has been a growing recognition of the role of multifaith as a key aspect of multiculturalism and as a component of developing a harmonious and socially cohesive society. Additionally, since the 1998 report, there has been a rise in the concern among religious groups to draw more clearly their boundaries and to promote and protect their ethos, despite the difficulties in operationalising any specific religious organisational ethos.

In this changed context, the following findings have emerged from the research process, the submissions and the consultations. These findings are solely based on the research material and reflect the voices of those who participated.

Education as a Critical Need

First, the research revealed that there is strong support from all voices – whether religious, spiritual, secular or agnostic – for education about the religions, spiritualities and worldviews present in and affecting Australia. It was felt that such education, beginning in primary and secondary schools and continuing into tertiary institutions, would increase understanding and knowledge and, in so doing, reduce discrimination and prejudice.

Second, based on many comments in submissions and the consultations, it is apparent that there is a need for an organisation or body that monitors and adjudicates and informs and assists in dealing with issues relating to religious practice within the education system. A lack of consistency across school policies and a lack of understanding and information can enhance difficulties, and an organisation that provides guidance and support to individuals and educational institutions would be valuable.

The Religious Character of Australia

The self-definition and religious character of Australia has been and remains a contentious issue, with various voices advocating Australia as a Christian nation, or as a secular nation, or as a multifaith plural nation. This issue is important, because it influences the way the different voices articulate policy and practice and argue for change.

.....

Related to this is the need for new measures of religiosity. In the past, religiosity has been measured by how often one attends church, or observes other aspects of a faith. Many measures that are currently used rest on Christian and Protestant assumptions about religion. However, considering the changing demographic profile and social character of Australia, new measures are needed as many identify with a religion culturally, not necessarily practising that faith in its organised and official contexts.

Greater recognition of a wider range of spiritual communities in Australia, such as pagan and Indigenous beliefs, is needed. For example, pagan communities experience high levels of distrust and discrimination. Greater awareness and understanding is needed to prevent discrimination.

The Role of Religious Leaders

Religious Australia is generally well-led by its leaders who understand the complexities of a complex civil society. There were, however, calls for comprehensive orientation training for clergy from overseas who are now serving in Australia, whose numbers are increasing. There have been limited initiatives in delivering programs that prepare leaders for living and serving in the Australian community and within the Australian context, including looking at meeting the needs of second generation Australians and language requirements. Respondents from Muslim and Hindi communities raised the need for imams and priests who are equipped and trained in the Australian context.

There were also calls for all religious leaders to be trained in the changing nature of religious Australia, to consider other faiths respectfully and to appreciate the role multifaith activities can play in building social cohesion.

Religious leaders have a transnational role to play in assisting their communities to improve, promote, and overcome conflicts from the past and present involving various countries of origin. They can also help to ensure that the transnational flows of charities, money and other forms of capital build social cohesion.

To Legislate or Not Legislate

Legislation was perhaps the biggest issue to emerge during the research process. This was expressed as concern, if not a suspicion, regarding legislation – distrust of and opposition to any legislative change was the strongest sentiment expressed. This opposition was primarily to protect exemptions for religious groups from anti-discrimination legislation. However, others supported legislation to protect freedoms; still others felt that the status quo was adequate. Larger faith communities, particularly Christian organisations, feared that their current freedoms might be curtailed, and some minority groups were unconvinced that legislation would work for them. Many felt adequately protected by existing provision for religious freedom as in the Constitution, but many were not aware of its limitations.

The Presence of Negative Attitudes

Significant distrust of Muslims and Islam was expressed by some. There were also reports of discrimination against Muslims and other religious minorities. An issue to emerge from the research was that people of pagan belief reported high levels of prejudice, discrimination and a lack of recognition of their beliefs. Reports of hostility and discrimination were validated by the sentiments expressed in some submissions. The research process also uncovered some prejudice and hostility toward gay people, and also significant concern was expressed regarding employing gay people, particularly in faith-based schools.

The Media’s Various Voices

The media are special, varied voices. First, some claimed that the media perpetuates stereotypes about minority communities. Muslims and Sikhs in particular, and also secular and Christian voices, reported being misrepresented and denigrated or neglected by the mainstream media. Some suggested that journalists and media commentators increasingly are less well-informed or display some bias about the nature and role of religion and religious communities and the different beliefs and practices, even though religion is much more on the national and international agendas.

Second, there are emerging issues around responsibility in cyber media, particularly in blogs. However, others reported an increased ability to use the media among minority religious groups, and that the rapid rise of new media technologies has enabled greater focused discussion and communication within groups and across transnational networks.

The Understanding of Human Rights

Many commented on the lack of understanding and information about human rights as rights separate to legislation, their role and function, and what they mean for societies. Also, there was a lack of information and precise understanding about human rights legislation in Australia, and the limitations of the Constitution as a protection. Some suggested that human rights agencies could engage more meaningfully and more regularly with religious organisations to increase empathy and understanding.

The Role of Governments

Religious organisations play a legitimate role in providing government-funded social services to Australians – in health, education, aged care, welfare and employment – although there was concern expressed at their charitable status and associated tax exemptions, and some practices of discrimination associated with the provision and delivery of services. Also, concern was expressed regarding the perceived growing influence of religious lobby groups in Australia, and their perceived influence in government policy-making and decisions. On the other hand, religious groups are concerned that religion is under threat from what was termed ‘aggressive secularism’, and that the role of religion and its contribution to the social and economic advancement of the community is undermined, and a lack of respect for faith and people of faith exhibited.

An important finding is that no religious group argued that it sought to make its religious law the law of Australia or of the individual states and territories. All saw their role as working within the constitutional framework of Australia.

Conclusion

The most definitive findings of this report are the enormous breadth and range of voices, the complexity of debate, the shifting nature of contexts, and accommodation of opposing voices. The methodology employed did not enable the research team to measure the weight behind each voice. The research brief was to listen to and report the issues raised. The research process did find much middle ground in views and expectations, and the research process itself was a learning experience for most participants.

In conclusion, increases in religious diversity and the emergence of significant religious communities have changed the context of the consideration of issues related to freedom of religion and belief. There is a need to develop appropriate responses to the unique and varied Australian religious contexts and settings, including ancient Indigenous traditions, Christian heritages, and minority faith communities. There is a pressing need for education about religions to reduce ignorance and fear while promoting intergroup respect.

Chapter Five Religion and Belief in 21st Century Australia: The Findings

There is a current of anti-Muslim discourse that suggests an entrenched hostility often related to overseas events. The accommodation of genuine religious differences has not become easier. Religious leaders have a key role to play, through both example and teaching. The context is made more complex by the internal diversity of religious groups and voices, as well as by media coverage. The roles of governments and legislation are not clear for the various groups seeking protections of their rights and redress for injuries. The Australian Human Rights Commission needs to continue to monitor issues of freedom of religion and belief, including non-belief. The Commission also needs to foster a discussion about the place of religious rights alongside other rights, allowing for the view to be heard that religious rights are absolute, and then to allow that view to be tempered by other views. The consultations and submissions have made it clear that this is an area much affected by local, national and transnational factors, and one with which many Australians are ready to engage in the spirit of dialogue and with the clear presentation of views characteristic of a healthy, genuinely democratic society.

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- *Supplementary papers will be made available on the Australian Human Rights Commission website <www.humanrights.gov.au>.**

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