



2008

Freedom of Religion
and Belief in the
21st Century



Discussion Paper



Australian
Human Rights
Commission

everyone, everywhere, everyday



AUSTRALIAN
multicultural
foundation

 RMIT University

 MONASH University

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Foreword

Freedom of religion and belief is a fundamental human right protected by a number of international treaties and declarations, including article 18(1) of the International Covenant on Civil and Political Rights (ICCPR). This right encompasses freedom of thought on all matters and the freedom to manifest religion and belief individually or with others, in public or in private.

In 1998 HREOC released its report *Article 18: Freedom of Religion and Belief*. The report made 26 recommendations across 10 broad areas. The last decade has seen some recommendations implemented – to varying degrees across the country – but others have not yet been taken up.

In some ways the Australia of 2008 is similar to the Australia of 1998, but in other ways it is very different.

Australia continues to be a proud multicultural and multi-faith nation though the diversity of our population is even greater than before. This increased diversity has enriched our nation in many ways. However, as with all fast-moving change, there have been some trials as demonstrated some years ago with the terrorism attacks of 9/11, and subsequent events, which put issues of religion squarely back into the public debates about freedom, safety and human rights. Freedom of religion and belief are vitally important rights that all people have, irrespective of their religious affiliation, and people must not be vilified or alienated because of these beliefs.

Most significantly, 2008 will be remembered as the year that Prime Minister Rudd offered a long-awaited National Apology to the Stolen Generations which began the healing process/journey for many Indigenous Australians. At the same time the National Apology transfixed the nation and crystallised the realisation that positive steps such as this ‘sorry’ advance both a nation and a people.

In such a climate it is timely for HREOC to initiate a follow-up investigation to its Article 18 report. The Freedom of Religion and Belief in the 21st Century project will be a way for Australia to take stock of its progress over the last decade but more critically, to enable us take steps in the right direction to advance our nation’s social and cultural prosperity. The starting point for this project is the release of this Discussion Paper.

This partnership project will provide for the participation of all Australians via submissions in response to the issues raised in this Discussion Paper. It will also seek to gather additional evidence and insight from leaders and experts working in the realm of religion and belief. In addition, a number of supplementary papers will examine related issues to those raised in the core report. These complementary processes will equip the project team with a multi-layered dossier from which to construct their final core report.



Tom Calma
Race Discrimination Commissioner
and Aboriginal and Torres Strait Islander Social
Justice Commissioner

It is not surprising that the presence of religion and faith is growing within public and political discussion. I hope that this paper ignites a deep discussion about the current state of freedom of religion and belief in Australia and provides an opportunity for all Australians to engage in a dialogue about where we should head in the future.

A handwritten signature in black ink, appearing to read 'Tom Calma'.

Tom Calma
August 2008

Freedom of Religion and Belief in the 21st Century

Submissions invited

Submissions are invited on issues of Freedom of Religion and Belief in the 21st Century in Australia. In particular we are interested in your responses to any or all of the questions in the Discussion Paper, as well as any other issues of concern.

How to make a submission

Electronic submissions are encouraged. If you would like to make a submission on any of the issues in this paper, please send comments in hard copy to:

Freedom of Religion and Belief in the 21st Century Submission
Race Discrimination Unit: Education and Partnerships Section
Human Rights and Equal Opportunity Commission
GPO Box 5218
Sydney NSW 2001

or go online: www.humanrights.gov.au/frb
or by email at: frb@humanrights.gov.au
or by fax at: (02) 9284 9849

For any queries please telephone:
(02) 9284 9600 or 1800 620 241 (TTY)

Closing date for submissions:

31 January 2009

Confidentiality

Submissions will be treated as public documents unless confidentiality is requested. HREOC will:

- include a list of submissions in its final report;
- refer to submissions in the text of the final report and other HREOC publications; and
- publish selected submissions on its website.

If you want your submission, or any part of it, to be treated as confidential, please indicate this clearly.

Requests by members of the public for access to confidential submissions will be determined in accordance with the Freedom of Information Act 1982 (Cth).

About this Discussion Paper

This Discussion Paper will:

- provide the background and context to the Freedom of Religion and Belief in the 21st Century project
- outline the overall project objectives
- outline the report's focus, including the 'Content for consideration' section which lists research questions as a guide for participants
- detail the consultation process
- provide a brief biography on each of the researchers
- outline the project outcomes

Background and context

In 2006 the Ministerial Council on Immigration and Multicultural Affairs endorsed the *National Action Plan to Build on Social Cohesion, Harmony and Security* (NAP). As part of the NAP, the Human Rights and Equal Opportunity Commission (HREOC), Australia's national, independent statutory authority which administers Commonwealth human rights laws, has been funded to undertake a range of projects. One of these projects is Freedom of Religion and Belief in the 21st Century.

HREOC has commissioned the Australian Multicultural Foundation, (AMF) in association with RMIT University and Monash University, to prepare a report on Freedom of Religion and Belief in the 21st Century.

This team will consult with the Australian Partnership of Religious Organisations (APRO) in preparing its report.

This project builds on HREOC's earlier report *Article 18: Freedom of Religion and Belief* released in 1998 and the 2004 report *Religion, Cultural Diversity and Safeguarding Australia*, by the (then) Department of Immigration and Multicultural and Indigenous Affairs and the Australian Multicultural Foundation, in association with the World Conference of Religions for Peace, RMIT University and Monash University.

The federal government has indicated in its policy platform that it will publicly consult with the Australian population about how best to recognise and protect the human rights and freedoms enjoyed by all Australians. It is also pursuing the development of a national social inclusion policy and program agenda. Within this

agenda, counter-radicalisation, human rights promotion and protection, and community harmony within a multicultural social reality are likely to be strong and complementary areas of action. This report, therefore, will be conducted during a period that may offer many important opportunities to define and influence the future of religious freedoms and belief within Australia.

Overall project objectives

The overall project objectives are as follows:

- Evaluate response to *Article 18: Freedom of Religion and Belief* and its recommendations.
- Work with spiritual and religious communities and civil society organisations to record their concerns and positive reactions to Article 18.
- Work with spiritual and religious communities and civil society organisations to record their concerns and positive reactions to Section 116 of the Australian Constitution.
- Model a cooperative approach to constructing a response to issues of freedom of religion and belief.
- 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 s116 of the Australian Constitution.
- 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.
- Explore the interface between religion, political and cultural aspirations.
- Analyse whether new technologies (especially communication technologies) are changing the role, practice, promotion or evolution of religious and other forms of belief and behaviour.
- Examine cultural rights and whether cultural beliefs impinge on human rights.
- Produce a major report on these issues which includes:
 - Demographic information about the size, spread, growth and location of religious groups in Australia; and

- Recommendations for promoting freedom of religion and belief (including secular belief) in Australia.

Focus: What this report will explore

The Australian multicultural and multifaith context is changing rapidly with continuing globalisation, migration, and technological innovations (particularly communication technologies). We are more diverse than ever before and this diversity challenges current understandings of freedom of religion and belief. The responses to the ‘war on terror’ which include civil, legislative and security measures have not been recently or comprehensively evaluated in terms of the impacts on the practice, expression and perception of religion and spirituality in Australia.

The presence of religion and faith is growing within public and political discussion. While this may be related to a revitalisation of religion and the rise of religious fundamentalism, this is also because of other factors including:

- the emergence of a multi-faith Australia with an increased presence of Muslims, Buddhists, Hindus, Jews and other religious communities who in practicing their religion sometimes challenge current public policies
- the shift away from mainstream Christianity, and the rise of Pentecostalism and other newer forms of Christianity
- the growing interface between science, its actual and potential discoveries and faith traditions, especially in regard to ethical dilemmas
- the privatisation of government services and their outsourcing to private bodies including those sponsored by faith communities
- the emergence of issues related to accommodation and dissent in pluralist societies, including internal religious debates, questions around cultural diversity, respect for difference and human rights
- the growing awareness of the contribution that religious communities make to the social capital of a nation, through activities such as volunteering
- the impact of the new security laws and their implementation on freedom of religion and belief

As well as the core report, HREOC and AMF are commissioning a number of other expert writers and agencies to prepare up to eight supplementary papers that will expand on some of the themes addressed in the core report.

The supplementary papers will include examination of:

- Freedom of religion and belief and wellbeing
- The law, judiciary and religion
- Religion and the arts
- Media and perceptions of faith
- Indigenous spiritual expression
- Education and religion
- The intersection between freedom of religion and gender equality
- Religious freedom and expression and radicalisation

Consultation and research

This project will consult with faith communities and other civil society organisations to record their concerns, their positive reactions and proposed solutions to build a more socially cohesive and harmonious society that protects and promotes Article 18 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) internationally, and nationally, Section 116 of the Commonwealth of Australia Constitution Act.

There are seven key areas for consideration, that are based on the report’s objectives, which reflect existing and emerging debates and issues related to freedom of religion and belief in Australia. These include:

- Evaluation of the 1998 HREOC Report on *Article 18: Freedom of Religion and Belief*
- Religion and the State – the Constitution, roles and responsibilities
- Religion and the State – practice and expression
- Security issues in the aftermath of September 11
- The interface of religious, political and cultural aspirations
- Technology and its implications
- Religion, cultural expression and human rights.

These areas are outlined in greater detail with accompanying research questions in the ‘Content for consideration’ section of this paper.

“Freedom of religion and belief are vitally important rights that all people have, irrespective of their religious affiliation, and people must not be vilified or alienated because of these beliefs.”

Tom Calma

Researchers

The report's three researchers all have extensive experience and expertise in the fields of religion and multicultural affairs.

Desmond Cahill, Professor of Intercultural Studies at RMIT University, is one of Australia's leading social researchers. In 2006, he was made an honorary fellow of the Australian Council of Educational Leaders for his work in immigrant, cross-cultural, interfaith and international education. He currently chairs the Religions for Peace (Australia), and represents Australia on the Asian Conference of Religion and Peace (ACRP). He led Melbourne's successful bid to stage the forthcoming Parliament of the World's Religions, the world's largest interfaith gathering, and is now its honorary Program Director. He is a member of APRO and of the Victoria Police Multifaith Advisory Council.

Gary Bouma, Professor Emeritus, and the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Chair in Intercultural and Interreligious Relations - Asia Pacific at Monash University and Chair of the Board of Directors for the Parliament of the World's Religions 2009. He is Associate Priest in the Anglican Parish of St John's, East Malvern. His research in the sociology of religion examines the management of religious diversity in plural multicultural societies, post modernity as a context for doing theology, religion and terror, inter-cultural communication, religion and public policy, women and religious minorities, and gender factors in clergy careers. His recent books include: *Australian Soul: Religion and Spirituality in the Twenty-First Century* (Cambridge University Press) and *Democracy in Islam* (Routledge) which he has written with Sayed Khatab.

Dr Hass Dellal was appointed Executive Director of the AMF in 1989, an organisation established to promote a strong commitment to Australia as one people drawn from many cultures. Dr Dellal has had extensive experience throughout Australia and internationally on multicultural affairs. He serves on a number of committees and boards and has prepared numerous reports, programs and conferences that deal in community relations, community capacity building, business, polices relations, youth issues, access and equity, cultural and religious diversity, skill recognition, cross cultural training, second language development, philanthropy, and the arts as well as research for policy development on behalf of government, community and private sector.

Outcomes of the project report

A final report will be produced and released in early 2010. It will consist of the core report as prepared by the researchers, and eight supplementary papers which address related issues.

This report will inform governments, faith communities, NGOs and relevant organisations, and contribute to the ongoing debates around culture, faith, identity and national unity. The report will be published and distributed by HREOC and will also be available online. Project material will be available in government and professional publications.

Content for consideration

This section outlines the seven areas that the report is exploring, and provides research questions to contextualise the topic and serve as a prompt. These areas and the questions are a guide only, and respondents should not feel limited by these.

1: Evaluation of 1998 HREOC Report on Article 18: Freedom of Religion and Belief

This is to evaluate the impact of the report, and assess changes in the social climate between 1998 and the present. *Article 18: Freedom of Religion and Belief* surveyed Australian federal, state and territory legislation as it related to the practice and expression of religion, faith and spirituality. The major issues were religious expression, discrimination on the ground of religion or belief and incitement to religious hatred.

The full report and an overview of major issues can be found at: www.humanrights.gov.au/human_rights/religion/index.html#Article

(Appendix 1 is the list of Recommendations from *Article 18: Freedom of Religion and Belief*)

Questions to consider include:

1. What are areas of concern regarding the freedom to practice and express faith and beliefs, within your faith community and other such communities?
2. Have new issues emerged since this report was published in 1998 relating to expression of faith?
3. Is there adequate protection against discrimination based on religion or belief, and protection of ability to discriminate in particular contexts?
4. How are federal and state and territory governments managing incitement to religious hatred, and the question of control and responsibility?
5. How well have the recommendations of *Article 18: Freedom of Religion and Belief* been implemented by the various state and federal governments?

2: Religion and the State – the Constitution, roles and responsibilities

This is about assessing existing legislative protection of freedom of religion and belief, and its practice and expression in Australia, as expressed in the Constitution. Within this, what are the roles and responsibilities of spiritual and civil societies and do these need to be codified in law?

Section 116 of the Commonwealth of Australian Constitution Act states that:

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.

The Constitution

Questions to consider include:

1. Is this section of the Constitution an adequate protection of freedom of religion and belief?
2. How should the Australian Government protect freedom of religion and belief?
3. When considering the separation of religion and state, are there any issues that presently concern you?
4. Do religious or faith-based groups have undue influence over government and/or does the government have undue influence over religious or faith based groups?
5. Would a legislated national Charter of Rights add to these freedoms of religion and belief?

Roles and responsibilities

Questions to consider include:

6. a) What are the roles, rights and responsibilities of religious, spiritual and civil society (including secular) organisations in implementing the commitment to freedom of religion and belief?
b) How should this be managed?
7. How can these organisations model a cooperative approach in responding to issues of freedom of religion and belief?
8. How well established and comprehensive is the commitment to interfaith understanding and inclusion in Australia at present and where should it go from here?
9. How should we understand the changing role and face of religion, nationally and internationally?

3: Religion and the State – practice and expression

The emergence of a multifaith Australia has brought issues regarding religious expression to the fore in debates, politically and culturally. This area is about balancing the expectations of faith-based organisations with civil society organisations.

Questions to consider include:

1. What are some consequences of the emergence of faith-based services as major government service delivery agencies?
2. How should government accommodate the needs of faith groups in addressing issues such as religion and education, faith schools, the building of places of worship, religious holy days, religious symbols and religious dress practices?
3. Is current legislation on burial practice and autopsy practice adequate? Are any other of your religious practices inhibited by law, procedural practice or policy (i.e. education or health)?

4: Security issues in the aftermath of September 11

In response to the events of September 11, 2001, the federal and state governments enacted changes to existing legislation and introduced new legislation. The changes were introduced to better protect Australia from the threat of terrorism, both internally and externally. This section seeks to assess the impact of the legislative changes on religious and ethnic communities and determine if cultural identity and freedom to publicly express or act in accordance with beliefs has been affected.

Questions to consider include:

1. a) Have the changes in federal and state laws affected any religious groups, and if so how?
b) How should this be addressed?
2. How should the Government balance physical security and civil liberties?
3. Consider and comment on the relationship between law and religious or faith based communities, and issues such as legal literacy, civil liberties, dissemination of law to new immigrant communities, and the role and conduct of judiciary, courts and police.
4. a) Is there religious radicalism and political extremism in Australia?
b) If so, what are the risks to Australia?
5. Can you provide any examples of social exclusion in regard to religion? How and why do issues of social exclusion develop?

5: The interface of religious, political and cultural aspirations

This area is seeking to research and map the current relationships that exist between religious, political, cultural and indigenous groups and what they seek to achieve. It is about describing the interaction of these groups within contemporary Australian society.

Questions to consider include:

1. a) How would you describe the interface between religion and politics and cultural aspirations in contemporary Australia?
b) What issues does this include?
2. How should government manage tensions that develop between aspirations?
3. How do you perceive gender in faith communities?
4. Do you believe there is equality of gender in faith communities?
5. What do you think should be the relationship between the right to gender equality and the right to religious freedom in Australia?
6. Citizenship and Australian values have emerged as central issues, how do you balance integration and cultural preservation?
7. What are reasonable expectations to have of citizens' civic responsibility, rights, participation and knowledge?
8. Is there a role for religious voices, alongside others in the policy debates of the nation?

6: Technology and its implications

The present day has seen, and continues to witness unprecedented technological changes, particularly in the area of communication. This report seeks to identify and analyse some of the significant impacts of these developments.

Questions to consider include:

1. How have the new technologies affected the practice and dissemination of religious and faith communities?
2. Has new technology had an impact on your religion and/or your religious practice?
3. What issues are posed by new religions and spiritualities using new technologies?
4. Is your freedom to express your religion or beliefs hindered or helped by current media policies and practices, considering reporting, professional knowledge, ownership, and right of reply?
5. What impact do the media have on the free practice of religion in Australia and the balanced portrayal of religious beliefs and practice?
6. Are there religious or moral implications in the development of new technologies such as the internet and or mobile phones, especially in regard to religious vilification and hatred?



7: Religion, cultural expression and human rights

In a country as multicultural as Australia, freedoms of cultural expression, religious expression and human rights need ongoing exploration. This section is about gaining a deeper understanding of how effective Australia's current human rights framework is, and if tensions between human rights, religious expression and cultural expression are of concern.

Questions to consider include:

1. Is there satisfactory freedom of cultural expression and practice within the normative social and legal framework?
2. Do service providers in your state or territory support the right to cultural security, safety and competence?
3. How can the cultural aspirations and human rights of Aboriginal and Torres Strait Islanders be met?
4. What are the issues impacting on Aboriginal and Torres Strait Islanders communities at present, and proposed solutions?
5. Are there any issues in regard to participation in the faith community for people with disabilities?
6. How is diverse sexuality perceived within faith communities?
7. How can faith communities be inclusive of people of diverse sexualities?
8. Should religious organisations (including religious schools, hospitals and other service delivery agencies) exclude people from employment because of their sexuality or their sex and gender identity?
9. Do you consider environmental concern to be an influence shaping spiritualities and value systems?
10. a) Are there religious groups, practices and beliefs that you think are of concern to Australians?
b) Should these be subjected to legislative control, and should they be eligible for government grants and assistance?

Appendix 1:

List of Recommendations from HREOC's 1998 Report *Article 18: Freedom of Religion and Belief*

The full report is available at: www.humanrights.gov.au/human_rights/religion/index.html#Article

Recommendations on a federal Religious Freedom Act

- R2.1** The Commonwealth Parliament should enact a Religious Freedom Act which, among other things, recognises and gives effect to the right to freedom of religion and belief.
- R2.2** The Religious Freedom Act should affirm the right of all religions and organized beliefs as defined to exist and to organise and determine their own affairs within the law and according to their tenets.
- R2.3** The Religious Freedom Act should cover the full range of rights and freedoms recognised in ICCPR article 18 and Religion Declaration articles 1, 5 and 6 including but not limited to:
- freedom to hold a particular religion or belief
 - freedom not to hold a particular religion or belief
 - freedom to manifest religion or belief in worship, observance, practice and teaching
 - freedom from coercion which would impair religion or belief
 - the right of parents and guardians to organise family life in accordance with their religion or beliefs
 - freedom from discrimination on the ground of religion or belief (detailed in chapter 4).
- R2.4** In accordance with ICCPR article 18.3 the Religious Freedom Act should permit only those limitations on the right to manifest a religion or belief which are prescribed by law and necessary to protect public safety, health or morals or the fundamental rights and freedoms of others (detailed in chapter 3).
- R2.5** For the purposes of the Religious Freedom Act, religion and belief should be given a wide meaning, covering the broad spectrum of personal convictions and matters of conscience. It should include theistic, non-theistic and atheistic beliefs. It should include minority and non-mainstream religions and belief systems as well as those of a more traditional or institutionalised nature.

Religion or belief should be defined as a particular collection of ideas and/or practices:

- that relate to the nature and place of humanity in the universe and, where applicable, the relation of humanity to things supernatural
- that encourage or require adherents to observe particular standards or codes of conduct or, where applicable, to participate in specific practices having supernatural significance
- that are held by an identifiable group regardless of how loosely knit and varying in belief and practice
- that are seen by adherents as constituting a religion or system of belief.

The definition should not apply to all beliefs but only to those that clearly involve issues of personal conviction, conscience or faith. This definition would not cover beliefs which are caused by mental illness or which are motivated by criminal intent.

- R2.6** The obligations in the Religious Freedom Act should apply to individuals, corporations, public and private bodies and all other legal persons who maybe subject to Commonwealth legislation.

Recommendations on Indigenous heritage

- R3.1** The current legislative regime protecting Indigenous cultural heritage should be enhanced in line with the recommendations made by the Hon. Elizabeth Evatt in Review of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984.
- R3.2** Adequate minimum standards should be established by the Commonwealth and the States and Territories to ensure consistent treatment and protection for Indigenous heritage throughout Australia.
- R3.3** Proposed changes to the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth) should ensure that the Heritage Act is enhanced as an effective federal avenue of last resort to protect Indigenous religious and spiritual heritage.

R3.4 Australia should continue to support the completion and adoption of the Draft United Nations Declaration on the Rights of Indigenous Peoples to provide better protection for the right of Indigenous Australians to religious freedom.

Recommendations on Indigenous burials

R3.5 A Working Group should be established to develop national standards on the preservation of traditional burials and associated rituals.

R3.6 The Working Group should be convened by the Aboriginal and Torres Strait Islander Commission and include representatives of relevant State and Territory agencies, Indigenous organisations and traditional Indigenous communities.

R3.7 In developing the national standards, consideration should be given where appropriate to the proposed national standards on protection of Aboriginal heritage in Australia (See R3.2).

R3.8 When the national standards are finalised, they should be referred to the Standing Committee of Attorneys-General with a view to their being incorporated into relevant State and Territory legislation.

Recommendations on autopsies

R3.9 The Standing Committee of Attorneys-General should establish a Working Group to develop and encourage the adoption in State and Territory legislation of best practice standards on the rights of family members and other persons in relation to decisions concerning autopsies. The standards should include provision for:

- due consideration to be given to the cultural and spiritual beliefs of family members regarding autopsy decisions
- procedures for the deceased person's next of kin to have his or her wishes taken into account in matters including whether an autopsy occurs and the manner in which it is undertaken
- rights of review for family members in relation to autopsy decisions with flexibility in time limits

- involvement where appropriate of religious and cultural organisations including Indigenous organisations.

R3.10 The Department of Health or equivalent agency in each State and Territory should review training programs for health workers and other professionals involved in autopsies and other procedures relating to human bodies to ensure issues of cultural and religious sensitivity are adequately addressed in those programs.

Recommendation on medical procedures

R3.11 The Standing Committee of Attorneys-General should establish a Working Group to give further consideration to changes proposed by the Jehovah's Witnesses to the laws governing parental consent to medical treatment of children. The Working Groups should include legal, medical and ethical experts and a representative of the Commission. It should develop and encourage the adoption in State and Territory legislation of best practice standards on the medical treatment of children.

Recommendation on female genital mutilation

R3.12 The federal Attorney-General through the Standing Committee of Attorneys-General should encourage the development of legislation in Queensland and Western Australia specifically prohibiting female genital mutilation.

Recommendations on anti-witchcraft and fortune telling laws

R3.13 The federal Attorney-General through the Standing Committee of Attorneys-General should encourage Queensland and Victoria to repeal legislation criminalising the practice of witchcraft, fortune-telling, sorcery and enchantment.

R3.14 The federal Attorney-General through the Standing Committee of Attorneys-General should encourage Queensland, Western Australia, South Australia, the Northern Territory and Tasmania to repeal legislation criminalising the practice of fortune-telling.

Recommendation on coercion in religious belief and practice

- R3.15** The federal Attorney-General's department should convene an inter-faith dialogue:
1. to examine the question of methods of coercion in religious belief and practice and how they should be dealt with
 2. to consider whether legal limitations should be imposed on religious groups regarding coercive tactics
 3. to formulate an agreed list of minimum standards for the practice of religious groups

Recommendation on discrimination on the ground of religion and belief

- R4.1** The proposed Religious Freedom Act should make unlawful direct and indirect discrimination on the ground of religion and belief in all areas of public life, in accordance with ICCPR articles 2 and 18 and Religion Declaration article 4, subject to two exemptions.
1. A distinction, exclusion or preference in respect of a particular job based on the inherent requirements of the job should not be unlawful. Preference in employment for a person holding a particular religious or other belief will not amount to discrimination if established to be a genuine occupational qualification.
 2. A distinction, exclusion or preference in connection with employment as a member of the staff of an institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, being a distinction, exclusion or preference required by those doctrines, tenets, beliefs or teachings made in good faith and necessary to avoid injury to the religious susceptibilities of adherents of that particular religion or that creed should not be unlawful provided that it is not arbitrary and is consistently applied.

Recommendations on incitement to hatred on the basis of religion and belief

- R5.1** The federal Attorney-General through the Standing Committee of Attorneys-General should encourage the States and Territories to repeal laws creating the offence of blasphemy or to abolish the common law offence of blasphemy, as appropriate.
- R5.2** The Commonwealth should withdraw Australia's statement of interpretation relating to ICCPR article 20.
- R5.3** The proposed Religious Freedom Act should proscribe the advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence as required by ICCPR article 20. The Act should exempt from the proscription of religious vilification, acts done reasonably and in good faith:
- in the performance, exhibition or distribution of an artistic work
 - in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest, or
 - in making or publishing a fair and accurate report of any event or matter of public interest
- R5.4** The process and remedies available for contravention of the religious vilification provision should be civil remedies similar to those provided for in the racial hatred provisions of the Racial Discrimination Act 1975 (Cth).

Further information

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