

Proposals for promoting religious freedom

- 8.1 Many submissions made recommendations and suggestions to improve freedom of religion and belief, both within Australia and internationally. These proposals are considered in this and subsequent Chapters, leading to the Committee's conclusions and recommendations.

Views of the Australian Churches

- 8.2 Believing that they had a major contribution to make to this inquiry, the Committee sought the views of all the major Australian Churches.¹

National Council of Churches

- 8.3 The National Council of Churches in Australia (NCCA) is made up of 14 churches. Until the Eastern and Oriental Orthodox Churches joined in the 1960s and 1970s, it was an Anglican and Protestant gathering. The Catholic Church joined in 1994.²
- 8.4 The NCCA drew attention to the several inter-faith initiatives that it sees as promising signs for the promotion of religious tolerance in Australia. These included:
- the Christian / Muslim Liaison Group, which was prompted by the violence in the Maluku Islands;
 - the Faiths Advisory Group in the Council for Aboriginal Reconciliation;
 - the Australian Council of Christians and Jews in NSW, Victoria, WA and the ACT;

1 See paragraph 1.3.

2 Submissions, p. 1108.

- the Catholic/Jewish dialogue in Australia, and
- the Uniting Church Assembly Working Group on Relations with Other Faiths, based in Sydney.

- 8.5 In addition, several of the ecumenical bodies in the Australian States have inter-faith contacts, such as the commission of the Victorian Council of Churches for the fostering of inter-faith relationships and Queensland Churches Together, which is interested in a Muslim/Christian dialogue in that State. Over several decades, the World Council of Churches, with which the NCCA is associated, sponsored a series of inter-faith dialogues. The former body continues to maintain formal relationships with the world's religious organisations.³
- 8.6 The Council referred to the need for inter-faith human rights education initiatives to combat rising levels of inter-related religious intolerance and racial violence around the globe. It recommended that the Australian Government support and inter-faith human rights education campaign, based on preparations for the World Conference on Racism. It also believes that the Australian Government should support organisations that promote religious tolerance through partnership.⁴
- 8.7 The NCCA recommended that an increased focus needed to be given to issues of governance, the strengthening of civil society and human rights education, in both the grant application and reporting stages of development grants. It welcomed the increased attention given to these areas in recent years, but encouraged the Australian Government to move further to promote religious tolerance, in the region and globally.⁵
- 8.8 The NCCA also drew specific attention to a range of migration issues and anti-Islamic sentiment in the Australian community. It noted that the isolation of some migration detention centres makes it difficult for detainees, especially those professing Islam, to receive visits from their clergy.⁶

Lutheran Church

- 8.9 Derived from a document of the Council of the Lutheran World Federation (LWF), the Lutheran Church of Australia referred to the wording in Articles 18 of the UDHR and of the ICCPR about religious

3 Submissions, p. 1109.

4 Submissions, p. 1111.

5 Submissions, p. 1112. See paragraphs 4.65-4.66 and 6.18 for references to the work of Australia's Centre for Democratic Institutions (CDI).

6 Submissions, p. 1110.

freedom as a human right. It also noted similar provisions in American, European and African human rights documents.⁷

8.10 Reports from members of the LWF, included in the submission, referred to the role of the churches in ‘awareness-raising and education for religious tolerance’. Other matters raised in this forum included:

- ecumenical and inter-faith dialogue as a means of removing ‘enemy images’;
- national constitutional provisions concerning religious freedom and legislative structures regulating the life of churches and religious communities;
- the connection between latent racism and xenophobia and expressions of religious intolerance, especially against immigrants and refugees;
- the broad acceptance of a commitment to religious freedom for all, and
- religious fundamentalism or extremism, reflected in violent persecution of Christians.⁸

8.11 The LWF proposed that:

- the Council ‘should remain seized of this issue’ of religious freedom as a human right, and that further information should be provided in an updated report in 2001;
- that each member church should continue and deepen its efforts to promote mutual understanding and religious freedom for all;
- that each member church should acquaint itself with the work of the UN’s Special Rapporteur on Religious Intolerance, and
- that, where racism and xenophobia, or poverty, or political manipulation, constitute underlying causes of religious intolerance, a comprehensive response should not fail to address those causes.⁹

7 Submissions, p. 1046.

8 Submissions, pp. 1050-1052 (*passim*). See Submissions, pp. 1054-1063, for details of the involvement of LWF churches in promoting and defending religious freedom.

9 Submissions, pp. 1052-1053.

8.12 In June 2000, the Council of the LWF voted:

- to renew and extend the invitation for member churches to provide additional information on their involvement in promoting and defending religious freedom, for further possible action at its next meeting;
- to request each member church to continue and deepen their efforts to promote mutual understanding and religious freedom for all, and to address religious fundamentalism, including through ecumenical and inter-faith dialogue and cooperation, and relevant educational and awareness-raising initiatives;
- to encourage each member church to acquaint themselves with the UN and regional human rights mechanisms for the promotion of religious freedom, including the work of the Special Rapporteur, and
- to ask the General to assist member churches to acquaint themselves with these mechanisms through the provision of appropriate materials.¹⁰

Salvation Army

8.13 The Salvation Army, Australia Eastern Territory, noted that it was involved in promoting and protecting freedom of belief by showing respect for people of all faiths, and seeking to serve humanity and meet human need without discrimination. It believed that the rights of all should be respected and, to that end, the Salvation Army seeks to refrain in any way from criticism, misrepresentation or persecution of those who may not have the same beliefs.¹¹

8.14 Addressing the first term of reference, the Salvation Army recognised that there are violations of religious freedom around the world, but leaves it to its leaders in those regions to deal internally with issues in joint social action where possible.

8.15 It also noted, in considering the inquiry's second term of reference, that a lack of religious freedom and misunderstandings because of religious differences have effects on other human rights, and often lead to situations of harassment or abuse. In its work in Australia and internationally, the Salvation Army promotes equal opportunities for all. It upholds the right of a person or a group to manifest the religion or belief of their choosing, provided that the human rights of others are not violated.¹²

10 Submissions, p. 1064.

11 Submissions, p. 1066.

12 *ibid.*

- 8.16 The Salvation Army believed that, to address the third of the inquiry's terms of reference, the most effective means by which the Australian Government and NGOs can promote freedom of religion in the region and around the world is by:
- being willing to learn from those who give the appearance of violating religious freedom;
 - by refraining from destructive attacks, and
 - by working cooperatively with Indigenous leaders of the regions of the world in an attempt to secure justice for all.¹³
- 8.17 In communities where there is a history of conflict, suffering and intolerance, the Salvation Army believed that the best efforts of governments and NGOs should be directed towards promoting structures that initiate cooperation. It stated that such structures have the potential to increase tolerance, reduce suffering and lead to reconciliation.¹⁴

Australian Christian Churches/Assemblies of God

- 8.18 Australian Christian Churches, and its member church Assemblies of God, do not operate in every country, but it believes that violations of religious freedom fall into two broad groups:
- where the government states that religious freedom exists under its jurisdiction, but in fact only exists within strict guidelines. The population is usually open to religious involvement, and there is often a strong 'underground' church. Such countries are 'mostly controlled' by Communist governments, and
 - where the majority of the population belongs to a particular belief and strongly opposes, even violently, any other persuasion having any freedom of worship and practice. Governments in these countries either do nothing to create religious freedom, or actively support citizens in restricting such freedoms. Australian Christian Churches believed that examples of such countries included Indonesia, India, Israel, Serbia and Spain.¹⁵

Uniting Church

- 8.19 The Uniting Church in Australia stated that freedom of religion and belief is central to respect for and the promotion of human rights, both within

13 Submissions, p. 1067.

14 *ibid.*

15 Submissions, pp. 1069-1070.

Australia and around the world. It believe that it has ‘a long and proud record’ in advocating human rights protocols, including support for religious freedom, both within this country and world-wide.¹⁶

- 8.20 With particular reference to the inquiry’s first term of reference, the Uniting Church noted that denials of religious freedom occur daily in many different places around the world. It believed that these violations generally related to the seeking of power, and to the manipulation of religious belief to gain this power at any cost. Religious belief may also be used to influence the social and even economic power of individuals and communities.
- 8.21 It noted that, while not the primary cause, religious freedom is ‘a precipitating factor’ in conflicts throughout Africa, the Middle East, Europe and in Indonesia. Extreme expressions of some religions can be used to incite violence against those who are different. Such violence is then used to influence political stability. While the Uniting Church accepted that this could be seen as a simple comment on a complex problem, it reflected that religious conflicts do not always demonstrate the commitments of those who practice those beliefs. Religious tensions can be heightened in situations where extremists in a group have taken power.¹⁷
- 8.22 Violations of religious freedom also occur where political groups from a religious majority seek to impose beliefs on others with a country. The Uniting Church believed that such explicit violations were often easier to identify than repression of religion by factions or, more inexplicably, by governments.¹⁸
- 8.23 Addressing the inquiry’s second term of reference, and with the situation in the Maluku Islands in mind, the Church also believed that religious difference have the potential to precipitate violence and sectarian hatred leading to civil and political unrest. It saw religious differences at the heart of many violent conflicts, with no clearer situation than the current situation in the Israel / Palestinian territories. It was aware that many conflicts may have a religious base and involve violations of human rights, these conflicts are much more complex than the religious differences themselves.¹⁹
- 8.24 In contrast to this violence, it pointed out that there is a growing commitment among the world’s religions for a recognition and respect for religious pluralism. It referred to a plea, issued by the Parliaments of the
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16 Submissions, pp. 1072, 1073.

17 Submissions, p. 1073.

18 Submissions, p. 1074.

19 *ibid.*

World Religious Forum in 1993, for religions to come together and to overcome the culture of violence with which it was faced.²⁰

- 8.25 With reference to the third term of reference for this inquiry, the Uniting Church believes that the most effective way to bring about change is to bear witness to the impact of an alternative. Thus, Australia can provide a model as a pluralistic society because it respects those from different religious traditions. It also advocates the free and public practice of these traditions.²¹
- 8.26 Secondly, the Uniting Church hoped that Australia would use its international power to stand against violence conflicts and abuse of human rights based on religious difference. It believed that this would involve:
- asking difficult questions of close neighbours about their treatment of religious minorities;
 - being a strong advocate of the UN, its treaty system and its implementation;
 - relying on well-informed trade agreements that take into account the impact of sanctions on religious minorities, as well as on governments, and
 - Australian foreign policy reflecting this country's respect of and commitment to cultural and religious differences.²²
- 8.27 Government and NGOs need to collaborate to resolve conflicts and support the realisation of religious pluralism around the world. The Uniting Church seeks the same rights for people of all religions, in Australia and the wider world. It drew attention to its work overseas where religious freedom is a day-to-day concern, and where it seeks an end to violence and the realisation of freedom.²³
- 8.28 Finally, the Uniting Church expressed the view that the Australian Government and NGOs have an important role to play in challenging governments that do not allow religious freedom, and those that allow religious difference to bring about violence and oppression. It believes that this view needed to be incorporated in Australia's foreign policy, and considered in responses to defence and trade issues. It expressed the hope that Australia would always listen to the voice of the oppressed, as well as

20 *ibid.*

21 *ibid.*

22 Submissions, p. 1075.

23 *ibid.*

of the powerful, when considering policies and actions in response to conflicts and lack of religious freedoms.²⁴

Catholic Church

8.29 The Australian Social Justice Council (ACSJC) referred to the teaching of the Catholic Church on religious liberty in the Declaration of the Second Vatican Council, *Dignitatis Humanae*. The main features of this document included the following major points:²⁵

- It affirms that religious liberty is a fundamental human right flowing from the essential dignity of the human person. Every person has a right to seek the truth, according to their conscience, and has a duty to live in that truth.
- No one should be compelled by any individual, social group or human power to act contrary to their convictions in religious matters, in private or public, alone or in association with others. Individuals or groups should not be prevented from acting in accordance with their beliefs, within due limits. These legitimate limits are derived from public order and the common good.
- Religious groups have a right to organise themselves according to their own principles, and not to be hindered by legislation or administrative action by the civil authority. They have a right freely to hold meetings or establish educational, cultural, charitable and social organisations.
- Parents have a right to act in accordance with their own beliefs on the kind of religious upbringing and instruction to be given to their children. The rights of parents are violated if their children are compelled to attend classes that are not in agreement with the religious beliefs of the parents, or if there is a single compulsory system of education, from which all religious instruction is excluded.
- Individual groups, institutions and the State share the responsibility of ensuring that human rights are protected and promoted, and that duties are fulfilled.
- It is the responsibility of individuals and groups, especially religious groups, to recognise and respect the right of other people to freedom in religious matters. This applies especially to those with whom they are not in agreement on religious matters, or who are marginalised because of their beliefs.

24 Submissions, p. 1076.

25 Submissions, pp. 801-802. These views were expanded in a supplementary submission: see Submissions, pp. 983-999. They are reflected throughout this Report.

- Governments have a duty to safeguard the religious liberty of all its citizens in an effective manner through legislation and other appropriate means. At the same time, citizens have a responsibility to call attention to the need for such laws, and to participate in discussion on the adequacy and appropriateness of proposed legislation.
 - It was the view of the Vatican Council that the right to religious liberty is of such paramount importance that it ought to be enshrined in the constitutional law by which a nation is governed.
- 8.30 The ACSJC expressed the view that the central question for this inquiry was how to make Australia's promotion of freedom of religion and belief more effective through its foreign policy. It believed that there is no one approach to the promotion of that freedom that will be appropriate and effective in every time and place. Australia's response should be considered on a case-by-case basis, always understanding the relevant international instruments as an agreed starting point.²⁶
- 8.31 At the international level, the ACSJC noted that good monitoring of situations by Australian diplomats was fundamental to an understanding of the complex interaction of economic, social, cultural and religious factors in situations of human rights abuse. It is sometimes too easily concluded that an issue is religious when it may have more to do with economics, ethnicity and other social factors.²⁷
- 8.32 With its own ethnic, cultural and religious diversity, according to the ACSJC, Australia is uniquely placed to promote freedom of religion in its region by becoming an example to the international community in its practice of protecting and promoting religious liberty for all.²⁸

Greek Orthodox Archdiocese

- 8.33 His Eminence Archbishop Stylianos pointed out that any kind of hatred or separation is forbidden by definition in all forms of religious practice. This does not mean that religious people have not misunderstood the true essence of religion. He suggested that, during the history of religion, prejudice and ignorance have sometimes distorted the noblest of intentions into 'the most disgraceful and fanatical expressions of bigotry.'²⁹
- 8.34 His Eminence noted that, in a purely religious context, the ideal of a 'tolerant society' fervently propagated by politicians internationally is not

26 Transcript, ACSJC, 15 October 1999, p. 67.

27 *ibid.*

28 Transcript, ACSJC, 15 October 1999, p. 68. See paragraph 4.79.

29 Submissions, p. 1086.

enough and cannot be tolerated by any ‘true spiritual leader.’ He referred to the fact that people only tolerate what is remote, indifferent, if not even hostile, suggesting that is not understood, or cannot be accepted, or loved, is tolerated. He believed that remaining in what he called the ‘minimalism of tolerance’ admitted in advance a failure to approach neighbours creatively.³⁰

- 8.35 His Eminence called for a kind of purification of terms so that even the term ‘diversity’, which tacitly implies division, should be replaced by a more positive word, such as ‘otherness’.³¹

Coptic Orthodox Church

- 8.36 Suriel, Bishop of the Coptic Orthodox Church’s Diocese of Melbourne, referred to the plight of Copts in Egypt, noting that they deserve the serious attention of the international community. His Grace recommended that the Australian Government should

- recognise the plight of the Copts in Egypt;
- be more sympathetic to Copts seeking asylum from Egypt, and
- exert pressure on the Egyptian Government, at both bilateral and international levels to improve the treatment of Copts.³²

Anglican Province of WA

- 8.37 The Social Responsibilities Commission of the Anglican Province of Western Australia noted that the basis of the freedom to enjoy religion and belief rested on the UDHR and related documents, generally referred to as ‘the human rights treaties’. It also noted that, in 1998, the Anglican Synod of the Diocese of Perth had passed a resolution to mark the 50th anniversary of the adoption of the UDHR.³³
- 8.38 The Commission believed that Australia has a history of commitment to the ideal of religious freedom because it was founded as a country where many people came to avoid sectarian dogma imposed through government systems.
- 8.39 This commitment is now fittingly part of Australia’s multicultural heritage, although the Commission believed that it must be constantly won through processes of reconciliation and bridge building. It saw the

30 Submissions, pp. 1098, 1099.

31 Submissions, p. 1099.

32 Submissions, p. 1105.

33 Material in this section was drawn from Submissions, pp. 1115-1116.

funding of these processes through multicultural and ethnic affairs agencies as part of this commitment to freedom of religion.

- 8.40 As a general principle it stated that, unless they are recognised and understood, differences cannot be accepted and given freedom to be expressed. The Commission believed that this principle needed to be seen in relation to two new areas of concerns in Australia.
- 8.41 The first of these is Indigenous religious traditions. The Commission noted that ‘significant overlap and complementarity’ is now being seen between Indigenous spirituality and Christianity. It said that, in the past, the Anglican Church tended to usurp Indigenous religious traditions. It suggested that most people in the Anglican tradition now could see that the spirituality of Indigenous Australians is critical to the restoration of their dignity, and to their ability to hold their place as a separate culture.
- 8.42 The Commission pointed out that some Indigenous Australians also hold Christian beliefs. The Anglican Church was able to learn from Indigenous religious traditions, particularly about the importance of living within the constraints of this ancient, now shared, land. On this point, the Commission concluded that freedom of religion for Indigenous Australians needed to be recognised by governments as a central principle to enable reconciliation to proceed, and to facilitate development of Indigenous communities.³⁴
- 8.43 The second area of concern to the Commission was globalisation. It saw those who protested in Seattle, USA, in 1999 and in Melbourne in September 2000 as in the tradition of those who drafted the UDHR. It saw those demonstrations as part of a desire to preserve diversity in a world economy, when that quality is being undermined by global marketing and consumption patterns.
- 8.44 The Commission noted that objections to globalisation are often expressed in strongly religious language and symbols. Protestors understood, it believed, that left to its own devices global capitalism will not respect human rights, or ecological rights. It saw freedom of religion had to be seen in relation to ensuring that there are global and local restraints to preserve and enhance diversity, both cultural and ecological.
- 8.45 Finally, the Commission expressed the view that Australia had to reinvigorate its commitment to global issues. Participation in the global economy is one part of globalisation, the other is to take responsibility to ensure human and ecological diversity is maintained.

34 Indigenous religious traditions are explored further in Chapter 9.

Summary

- 8.46 The views of the Australian Churches support those of other organisations and individuals who contributed to this inquiry. These views have made an important contribution to the thinking of the Committee on the range of other issues that were raised during this inquiry. Whether the focus was primarily international or concentrated on the rights of small religious bodies, all the Churches took strong stands in support of the principle of religious freedom in a number of ways, and with a variety of examples.

Other domestic measures proposed

- 8.47 Rev Helen Summers noted that Australia is a multicultural society with people from diverse religious and spiritual traditions, as well as from no religious traditions. She believed that Australia needed to develop practical measures to promote better understanding and respect between religious and spiritual groups, before better understanding can be developed internationally.³⁵
- 8.48 Rev Summers pointed out that there is inter-faith dialogue between Christians and Jews. Victoria's Islamic community and the Victorian Council of Churches meet four times per year, and at the World Conference on Religion and Peace (WCRP). There did not seem to be a large inter-faith organisation in Australia that included the smaller religious groups and traditions, many of which were in practice excluded by larger bodies.³⁶
- 8.49 In this context, Rev Summers noted that the WCRP made a conscious effort to restrict membership to the 'major religious traditions'. Moreover, invitations to attend events were usually restricted and normally not open to the public.³⁷
- 8.50 Rev Summers drew attention to the inter-faith movement in the USA, in which religious leaders and followers were brought together to discuss common ground, to foster better understanding between hostile groups, and to reject the use of violence in the name of religion. She gave details of the purpose and activities of the Temple of Understanding, a Global Interfaith Association. This was founded in New York in 1960 to address

35 Rev Summers: Submissions, p. 868-869, Transcript, 22 October 1999, pp. 219-220.

36 Transcript, Rev Summers, 22 October 1999, p. 219.

37 Submissions, p. 866, quoting Exhibit No 17.

‘the urgent need of our time for dialogue and understanding among the religions of the world.’³⁸

- 8.51 Rev Summers therefore recommended the establishment of a non-hierarchical inter-faith centre in each Australian capital city, starting with one centre given seed funding and support in kind. Such bodies would unite the small inter-faith groups that have been forming in the community, as well as encouraging traditional religious and spiritual organisations to participate in sharing common ground and information.
- 8.52 She saw these bodies acting as resource centres, coordinating events and networking at local and global levels. They would invite participation from various university disciplines. Most importantly, they would welcome all interested people who are committed to fostering genuine understanding, tolerance and respect for different cultural and religious practices and beliefs.
- 8.53 Other measures she suggested included:
- the establishment of a domestic and a regional award to an organisation for fostering inter-faith understanding and human values;
 - encouraging the media to broadcast positive examples of co-existence;
 - acknowledging and including representatives of major religions and spiritual organisations in civic activity in Australia,
 - by giving financial aid and support in kind, encouraging the establishment of national inter-faith centres in regional countries.³⁹
- 8.54 Ms Eliana Freydel Miller advocated the adoption of the Universal Laws of Ethics and Morality:
- recognition of God as Sole Creator and Sovereign Ruler of the Universe, and the prohibition of idolatry;
 - prohibition of blasphemy;
 - prohibition of murder;
 - prohibition of incest, adultery and all forms of immorality;
 - prohibition of theft;
 - establishment of courts of justice, and
 - prohibition of the taking or eating from an animal while it is still alive.

³⁸ Submissions, pp. 866, 1002, 1004.

³⁹ Submissions, pp. 870-871.

- 8.55 Ms Miller saw these as laws of human decency for righteous humanity, given by God. They are valid for all time, but are rarely stated. She believed that Australia should be instrumental in the making of an historical and positive choice, promoting in schools and universities the teaching of the ethics and morality of these Laws.⁴⁰
- 8.56 Prof Peter Sheehan, Vice-Chancellor of the Australian Catholic University, noted that universities have a special potential to educate others in religious tolerance and freedom of belief. This can come particularly through the training of youth in the importance of ethics and the significance of thinking in a socially just way. He expressed the view that educational policy needed to change, and the appropriate resources be distributed, to meet the challenges of this very important task.⁴¹
- 8.57 The Rev John McNicol suggested that Article 18 of the UDHR should be made known to every school child. Only if such views are planted at an early age can there be hope that future generations will show what many adults fail to exercise: love for those of other faiths. He also believed that the best means of achieving religious liberty would be through dialogue, creation of educational programs and for the setting up of a body to promote religious liberty and understanding.⁴²
- 8.58 Mr Ian de Mol recommended establishing a 'good quality' radio station reflecting values that promote strength of character, integrity, courage, honesty, care and concern for self and others.⁴³
- 8.59 Mr Michael de Mol's submission was one of a number that suggested that one way to promote a desired pattern of behaviour was through education. As an investment in Australia's future, and in order to comply with Article 26.2 of the UDHR, he recommended a moral education curriculum.
- Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups...
- 8.60 This would be based on the acquisition of human virtues from Kindergarten to Year 12, with administrators and teachers always keeping

40 Submissions, p. 807. These are also known as the 'Seven Universal Noahide Laws'.

41 Submissions, p. 9.

42 Submissions, pp. 20, 25.

43 Submissions, p. 2.

in mind the importance of intertwining this moral curriculum with that of the more usual subjects.⁴⁴

- 8.61 The Rev Dr Peter Crawford linked the idea of revelation and a resulting exclusive view of salvation with intolerance of other religions. While people must have the freedom to teach their children the basics of their faith, the emphasis should be on education and reason. This will make it more likely that the choice to believe will lead to ‘conviction with compassion rather than faith with fanaticism.’⁴⁵
- 8.62 The Humanist Society of Victoria Inc expressed the view that the present system of instruction of separate sectarian beliefs in the public education system defied the precept of secular education. It saw this as not conducive to social cohesion, and did not see that the State was obliged to cater for the spiritual needs of its people. The study of comparative religions, the many religious beliefs formed over the years, would educate children about the society in which they live.⁴⁶
- 8.63 Mr John Marmarinos recommended declaration of a day to ‘reinforce the importance of tolerance’ in Australia. He envisaged such a day being observed each year on the Saturday before Christmas, when people are focused on goodwill to all. He also advocated an inter-governmental agreement to facilitate construction of religious buildings, noting that bias had caused local planning laws to be used to prevent churches being built.
- 8.64 For human rights bodies to promote toleration, he believed that NGOs such as Amnesty International required monetary and material support.
- 8.65 He also believed that the provisions of HREOC’s Act should be extended to allow investigation of all areas of discrimination. In its annual report, the Commission should also provide details of the status of ‘toleration’ in Australia. This should include the nature and types of complaints, their investigation and details of any necessary legal reforms.⁴⁷
- 8.66 Ms Anita Chauvin and those who supported that submission believed that Australia should take a leadership role by acknowledging responsibilities in this country and overseas. Domestically, it should take a firm stance by:
- putting sound human rights practices into operation by such activities as genuine engagement in the Reconciliation process with Indigenous Australians;

44 Submissions, p. 99.

45 Submissions, p. 116. This phrase was the source for the title of this Report.

46 Submissions, pp. 178, 177. See also Submissions, p. 318, for support for these views.

47 Submissions, pp. 416-417.

- reviewing Australia's record in Indigenous matters and using this process as an opportunity to demonstrate here, and around the globe, an immediate, committed and constructive response to correct the currently identified failures to meet basic human rights in this country, and
- implementing policies and programs to reduce crime and violence, particularly among young and Indigenous people, to build resilience by minimising risk factors and maximising protective factors.⁴⁸

8.67 In its submission, HREOC referred to its Report on Article 18, stating that it had examined existing protections under Commonwealth, State and Territory laws. While a number addressed religious discrimination in anti-discrimination laws, these 'do not provide comprehensive guarantees of freedom of religion and belief.' This level of protection was seen as 'relatively weak', compared to many other countries. For example, while there is a measure of protection via s. 116, it stated that:⁴⁹

The Commonwealth Constitution does not provide a complete guarantee of protection for the right to freedom of religion and belief.

8.68 HREOC's Report also concluded that Australia did not satisfy its international obligations relating to freedom of religion and belief, as set out in the ICCPR and the UN Religion Declaration.⁵⁰

8.69 HREOC stated that implementation of the recommendations in its Report would be an important step forward in compliance with these international obligations. It also suggested that, if freedom of religion and belief was not fully protected in this country, Australia's international efforts would be 'fruitless'.⁵¹

8.70 The Commission noted that the Commonwealth had the Constitutional power to pass legislation ensuring greater protection for the right to freedom of religion and belief. A guarantee for this right could be sought via a referendum to amend the Constitution. HREOC believed that enacting the necessary Commonwealth legislation would be a more effective way to provide such a guarantee of religious freedom. It would also provide the opportunity to observe the operation of the legislation before a decision was taken about the need to amend the Constitution.⁵²

48 Submissions, pp. 355-356. Matters relating to Indigenous religious traditions are addressed in Chapter 9.

49 Submissions, p. 575. See Exhibit No 17, pp. 13, 15-16.

50 Submissions, p. 575, Exhibit No 17, p. 26.

51 Submissions, p. 576.

52 Exhibit No 17, p. 26.

Conclusions and recommendations: domestic measures

- 8.71 Australia is generally a free and tolerant society, but it is clear that discrimination against, and petty obstruction of, some individuals and groups occurs on religious grounds. As with any violation of human rights in this country, mechanisms exist to deal with infringements of freedom of religion and belief: bodies such as HREOC, anti-discrimination commissions and, ultimately if required, the legal system. It could be one of the signs of a tolerant society that the need to use these mechanisms declines over time.
- 8.72 At the most basic level, of course, Australia's overall record is the best advertisement for any messages this country might want to give to the rest of the world. While the processes are in place, further effort seems to be required to bridge a continuing gap between acceptance of the concept of freedom of religion and belief and putting it into practice on a daily basis, in any and every situation.
- 8.73 Some of the submissions to this inquiry showed that this gap exists in Australia. These submissions seemed to espouse tolerance. In practice, they rejected the possibility of tolerance towards other Faiths and spiritual traditions by undue insistence on the universality of 'Christianity'. They see these other Faiths and spiritual traditions as sources of division and dissension within Australia. The Committee does not support this view.
- 8.74 HREOC's statutory responsibilities are clear. While it can investigate claims of discrimination, it cannot provide enforceable remedies where discrimination has occurred in the area of religion or belief. Nevertheless, HREOC plays a vital role in protecting human rights in this country. It needs guaranteed resources to be able to continue to carry out its functions in a timely and effective way.⁵³

Recommendation 1

- 8.75 **The Committee recommends that the Australian Government continue to encourage and support the work of the Human Rights and Equal Opportunity Commission, and ensure that the resources with which it is provided allow it to carry out its work in relation to freedom of religion in timely, efficient, effective and appropriate ways.**

53 See paragraphs 4.50–4.54 for details of HREOC's powers and processes.

- 8.76 HREOC's Report, **Article 18: Freedom of religion and belief**, was released in 1998. The Government has stated that it will not implement that Report's first Recommendation, the enactment of a Religious Freedom Act in Australia.
- 8.77 The Committee has given this matter serious consideration and has concluded that such an Act is not necessary. It believes that, in spite of some problems for some groups and individuals, Australia is a very tolerant country. It has a good record and the freedom to believe or not to believe is not merely tolerated but accepted as a fact and a right. Such problems as exist are generally minor and usually resolved simply but, if necessary, through existing mechanisms.
- 8.78 The Committee notes that the Government does not, at this stage, intend to respond to other recommendations in the HREOC Report. That Report also raised concerns in the following areas:
- Indigenous heritage and Indigenous burials;
 - autopsies, so that the cultural and spiritual beliefs of family members can be given due consideration in decisions about this procedure;
 - medical procedures, so that further consideration can be given to changes proposed by the Jehovah's Witnesses to laws governing the treatment of children;
 - coercion in religious belief and practice;
 - discrimination on the ground of religion and belief, and
 - incitement to hatred on the basis of religion and belief.⁵⁴
- 8.79 There were considerable differences between the focus of this inquiry and the Report that HREOC presented in 1998. The latter's terms of reference were different and gave that inquiry a wide focus.⁵⁵
- 8.80 While the Committee does not accept the need for a Religious Freedom Act, it does believe that there would be value in a Government response to the other recommendations in the HREOC Report. With the other recommendations the Committee has made, we believe that a response would be a valuable, public statement of the Government's views on these important issues.

54 See Exhibit No 17, pp. iii-ix, for that Report's Executive Summary and its Recommendations.

55 See paragraphs 4.55-4.58 for a summary of these Recommendations.

Recommendation 2

- 8.81 **The Committee recommends that the Australian Government table in the Parliament a response to the Recommendations made by the Human Rights and Equal Opportunity Commission, in its Report *Article 18: Freedom of religion and belief*.**
- 8.82 There is a range of Commonwealth laws to protect the right of freedom of religion and belief within Australia, but the States and Territories also have responsibilities and legislation in this area. While national laws are necessary, they will be more effective if they are supported and reinforced by appropriate State / Territory laws.
- 8.83 A nation-wide review of existing human rights laws and practice would reveal any deficiencies that exist. It would then be possible for these jurisdictions to take the necessary measures to correct these deficiencies and ensure a greater degree of uniformity in law and practice around the country in this field. Such an approach would be consistent with the Government's views on the universality and indivisibility of human rights.

Recommendation 3

- 8.84 **The Committee recommends that the Australian Government coordinate a review of Commonwealth, State and Territory legislation to ensure the maximum degree of domestic protection of freedom of religion, with a view to the introduction of a greater degree of uniformity of human rights law and practice in Australia.**
- 8.85 Given its views on the universality and indivisibility of human rights, and its international obligations, the Australian Government can do a number of things to promote and protect freedom of religion and belief. The Committee has already made some recommendations that, if implemented, would assist in achieving that goal. Other recommendations, if adopted, would increase the uniformity within Australia of the response to any violations of that freedom.
- 8.86 These other recommendations for which the support of the different levels of government would be needed include:

- extension of the provisions of its Act to allow HREOC to investigate all areas of discrimination and to report on intolerance within Australia, and
- creation of a special day to reinforce the notion of tolerance.

Recommendation 4

- 8.87 **The Committee recommends that, based on the detailed recommendations made to this inquiry, the Commonwealth, State and Territory Governments examine ways of promoting and extending freedom of religion and belief within their jurisdictions.**

The role of the Churches

- 8.88 When governments have taken all appropriate measures to uphold this important right, they have fulfilled their international and domestic responsibilities. Beyond that point, the Churches and religious groups must take their own decisions, individually or collectively, about what actions to take to protect freedom of religion and belief in this country.
- 8.89 Although used occasionally in this inquiry, words such as ‘ecumenism’ or ‘ecumenical’ are not used as frequently now as they were in the late 1960s and early 1970s. At that time, the emphasis in the relationships between the major Australian Churches was on cooperation, on minimising differences and stressing similarities. It may be that this was a phase that had to be gone through to reach greater levels of understanding, acceptance and tolerance than had existed earlier in Australia’s history.
- 8.90 During a period in which freedom of religion and belief seems to be threatened in many new ways, there are measures which the Australian Churches could take that might be effective in strengthening this freedom. For example, Rev Helen Summers expressed the view that particular measures are required to develop further the bonds between religious groups. To do this, she suggested that a non-hierarchical inter-faith centre should be set up in each capital city, acting as resource centres and coordinating events.⁵⁶
- 8.91 While it supports the establishment of inter-faith centres, and a number of the other recommendations made by the Australian Churches, these are not matters for the Committee to decide. It cannot recommend that they receive any Government funding, especially as the various Churches appear to have little if any commitment to such support. Funding, and

⁵⁶ See paragraphs 8.51-8.52.

support in kind, to set up such bodies would have to come from the Churches and other interested spiritual groups themselves. This would be the first challenge in their commitment to such an idea.

8.92 This Committee reports to the Parliament, and it would not be appropriate to make recommendations that would have to be considered by other bodies. Nevertheless, the Committee would like to offer the following suggestions to the Australian Churches and other spiritual bodies:

- that they consider the establishment and funding of inter-faith centres in each of the Australian capital cities, and
- that they consider the establishment of a structure that would allow them, jointly or separately as appropriate, to examine and then implement additional means of enhancing both the principle and the reality of freedom of religion and belief in Australia.

8.93 Many other suggestions were made to this inquiry about ways in which freedom of religion and belief could be further protected. Many of these, though, fall outside the role of governments and, if implemented, would have to be undertaken by the Churches and other religious groups themselves.

Other issues

8.94 Among the many vexed issues presented to the Committee were those submitted by witnesses from the Jehovah's Witnesses and Christian Science. These included the rights of parents to prescribe medical treatment for children, and the non-medical practice of healing.

8.95 There must be limits to tolerance when society judges that religious beliefs or practices impinge on other fundamental rights, such as that of life, especially when children and their rights are involved. Society has the same right when the consequences of such beliefs are cruel or degrading. The latter could include traditional Indigenous punishments, or female genital mutilation. The Committee supports these views about society's rights in such matters.⁵⁷

Proposed international measures

8.96 Rev Summers gave a number of examples of various global and American inter-faith organisations. In particular, she drew attention to the Global School in Mucherla, India, as an example of how AusAID could help

⁵⁷ See also paragraph 10.43.

promote freedom of religion and belief and reduce sources of intolerance. She also recommended the establishment of national inter-faith centres in regional countries.⁵⁸

- 8.97 Mr John Marmarinos also recommended that Australia's legal and democratic principles, including religious toleration, continue to be exported through legal and administrative exchanges with people from other countries. The geographic range of, and languages broadcast by, Radio Australia and the ABC should include distance education of multi-religious programming, and the promotion of principles of toleration and richness in diversity.
- 8.98 Mr Marmarinos stated that AusAID already funded global education programs, including the development of material for secondary schools. He believed that this should be extended to include basic religious studies, and that provision of AusAID's packages should be subject to the human rights record of the recipient country. This would, he thought, act as an incentive for would-be recipients to improve their human rights records, including in religious toleration.⁵⁹
- 8.99 Mr Marmarinos' submission also suggested that there should be a graduated scale for the length of tourist visas for visitors from countries designated as having poor human rights records. Such a scale, he added, would be more symbolic than substantive in its effect on applications for these visas. Finally, he advocated the inclusion of human rights, ie, religious tolerance, as part of the agenda for any multilateral forum in which Australia participated.⁶⁰
- 8.100 The Australian Evangelical Alliance recommended that Australia's diplomatic missions be informed about abuses in their regions and report violations. It should be more to the fore in seeking the release of kidnapped religious workers. Australia's delegation to UNHRC should then be requested to take up any violations that are notified.⁶¹
- 8.101 The Alliance explained that because of the effectiveness of their networks, relevant NGOs could contribute to this process. In particular, NGOs with a religious emphasis can help to develop an atmosphere of understanding and goodwill in areas with difficult problems. They can also provide
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58 Submissions, pp. 1002-1007, 871.

59 AusAID's NGO Cooperation Program Guidelines state that support will not be provided for activities which 'subsidise evangelistic activity or missionary outreach, or similar activities by partisan political organisations.' See Exhibit No 63. These Guidelines were agreed following consultations with the Australian Council for Overseas Aid (ACFOA) and a range of its members with a religious emphasis in their work.

60 Submissions, pp. 416-417.

61 Submissions, p. 70. See also Transcript, ACSJC, 15 October 1999, p. 67. Posts already provide this information: see Transcript, DFAT, 24 September 1999, p. 27.

efficient channels for humanitarian assistance, and could also give independent assessments of claims for refugee status on the grounds of religious victimisation. Mr Marmarinos believed that they needed more support.

8.102 The Alliance also recommended that a ‘government secretariat’ be set up similar to the US Office of International Religious Freedom:

- to provide a reference point and facility to receive, research and respond to reports of violations of freedom of religion and belief;
- to report to Parliament annually, and
- to initiate and, where necessary, persist in advocacy about specific as well as general violations of this freedom.⁶²

8.103 The ACSJC drew attention to the possibility that the international network of religious organisations may be helpful in discerning whether a particular, proposed course of action is likely to worsen a situation. It believed that embargos on development assistance or trade should be used with great caution. Withholding development or humanitarian assistance is morally unacceptable, as it is likely to hurt the very people it is designed to assist, if these means are used in such cases as violations of freedom of religion.⁶³

8.104 The Bishops argued that Australia should treat more favourably applications for refugee status from those whose right to freedom of religion has been violated, or those who have fled a more generalised situation of the abuse of freedom of religion and belief.

8.105 Given its ethnic, cultural and religious diversity, the ACSJC believed that Australia is uniquely placed in its region to become an example to the international community in its practices of the protection and promotion of religious liberty for all.

8.106 Ms Anita Chauvin and her co-authors stated that Australia’s commitment to the international movement for human rights should not be restricted to the expression of the rights of this nation. Because it is in a position to show leadership, it should take a firm stance on human rights considerations in other countries.

62 Submissions, p. 570. Christian Solidarity (Australasia) made a similar recommendation: see Submissions, p. 635.

63 Transcript, ACSJC, 15 October 1999, p. 68.

8.107 They stated that this could be done by:

- facilitating trade alliances that include minimum expectations about adherence to human rights standards, including monitoring activities to ascertain whether these are being met;
- facilitating and participating in monitoring bodies to ensure that action is taken to redress abuses of human rights;
- ensuring scrutiny and subsequent actions are applied consistently to all countries; and
- acknowledging the prior sovereignty and / or independence of occupied countries such as Tibet, and advocating and assisting in the resolution of outstanding concerns in the process of achieving independence.⁶⁴

8.108 The ACT Quakers saw a need to arrange a program of cancellation, or at least deferral, of the debts and interest payments of beleaguered nations to provide breathing space to deal with their economic and social problems. This was recommended in the proposal known as Jubilee 2000 that would see the international debts of the world's least developed / poorest nations cancelled.⁶⁵

8.109 The Quakers expressed the view that Australia should show international leadership by enacting legislation giving sanctuary status to 'belief-based' meeting places, so that:

- countries in the region be encouraged to provide safe havens for victims of religious violence;
- it also provides development assistance for such havens, and
- the sanctuary status of such havens be protected by law.

8.110 Finally, the Quakers recommended that the Australian Government, with human rights NGOs and existing organisations of religious, spiritual or humanist beliefs, promote a better understanding of religious and other belief systems in the region and the world as a whole. The example suggested for use was the WCRP.

8.111 Christian Solidarity (Australasia) recommended that:

- an International Religious Freedom measure be enacted
- an Australian Commission on International Religious Freedom be established, and

64 Submissions, pp. 355-356.

65 Submissions, p. 667.

- a Special Adviser on International Religious Freedom be appointed.⁶⁶
- 8.112 Christian Solidarity (Australasia) expressed the view that a bipartisan foreign policy should be endorsed, authorising immediate action to correct violations of the right to religious freedom, particularly within countries that are Parties to relevant UN instruments. Such a bipartisan policy should also allow Australia to be a safe haven for the increasing number of genuine cases of people suffering religious persecution, especially for those Christians that will uphold this country's present laws.
- 8.113 Christian Solidarity (Australasia) also proposed that development assistance should only be channelled to governments that are not engaged in violating human rights and religious freedom. Such assistance to governments engaged in or tolerating such activities should be modified or withdrawn.
- 8.114 Christian Solidarity Worldwide made a number of recommendations for consideration, including:
- including the right of religious freedom in all human rights discourses with relevant countries;
 - making a satisfactory record in religious freedom a condition for all bilateral relations;
 - establishing a database of relevant laws, policies and practices, and raise concerns at regular intervals until satisfactory changes have been fully implemented;
 - provision of police training and programs to address police impunity;
 - establishment of a commission to monitor religious freedom, make policy recommendations and report annually on the position of religious freedom around the world;
 - establish a position of ambassador-at-large on religious freedom;
 - increase awareness of religious persecution among immigration control personnel;
 - allocation of funds to assist those suffering violations of freedom of religion and belief to be given to victims or to groups providing assistance or advocacy for such individuals or groups;
 - raising freedom of religion and belief at international forums;
 - mounting and leading a campaign to increase the attention focused on the right to religious freedom by, for example, initiating an

66 Submissions, p. 635.

international conference to promote the subject and an international year for religious freedom, and

- establishing an annual award for contributions to freedom of religion and belief, to draw attention to situations where it is denied.⁶⁷

Conclusions and recommendations: international measures

- 8.115 The Committee believes that Australia's record in protecting and promoting human rights is a very good one. There are, however, limits to what can be done to improve freedom of religion and belief in other countries. Nations regard what they do within their own boundaries as subjects of some sensitivity, and denunciations, or even frequent representations, by other nations may be of limited effect.
- 8.116 It is clear that, while freedom of religion and belief is seen as important and honoured in theory, it is regularly and, in some situations, brutally violated in a number of countries. This freedom is one of the basic human rights, and violating it in any way detracts from all the freedoms of the individual(s) against whom actions are taken.
- 8.117 Thus, actions such as those of the Chinese Government against priests, ministers, House Church leaders and followers of Falun Gong are a cause of concern. Should individuals offend against the law, it is appropriate that action be taken by the State. However, taking action against large numbers of people, as has been reported, for merely belonging to a group is a denial of basic human rights. The Committee notes that the apparent political nature of some of the demonstrations has probably been provocative. The Chinese Government states that it has only prosecuted those who have committed specific crimes.⁶⁸
- 8.118 Tolerance of religious killings by any government, in Indonesia for example, is unacceptable. That the police and the military are reported to have failed to take the necessary actions to protect all citizens, in the Maluku and elsewhere, is a matter of grave concern.⁶⁹
- 8.119 Notwithstanding such actions, Australia must accept that it is easy to give offence by being seen to impose its views. Equally, it must also avoid being seen to be patronising or intrusive. Opportunities arise, at both the multilateral level and in bilateral relationships, during which Australia's

67 Submissions, pp. 683-685 (*passim*).

68 See paragraph 5.82.

69 See paragraph 5.144.

views can, and are, put in appropriate ways. The DFAT submission provided examples of the countries to whom representations have been made about issues of religious freedom.⁷⁰

Recommendation 5

8.120 **The Committee recommends that the Australian Government continue to take every opportunity, in both multilateral forums and in its bilateral relationships, to promote the universality and indivisibility of all human rights, specifically the right to freedom of religion and belief.**

8.121 It is also clear that many violations of religious freedom occur in spite of the best intentions of the UN, many governments and individuals. The UN's human rights instruments, structures and processes all exist to protect individuals and groups. These fail from time to time, sometimes with appalling and well-publicised results.

8.122 It is very important that the UN continue its work in this area: much could not and would not be achieved without its credibility, authority and its efforts. Unless national governments support this work internationally, and extend it domestically, its effectiveness will be much reduced.

Recommendation 6

8.123 **The Committee:**

- **notes the valuable work done by the United Nations in extending and protecting freedom of religion and belief ;**
- **calls on the Australian Government to continue its support for the work of the United Nations in this area, and**
- **further calls on the Australian Government to continue to encourage other nations, in both multilateral forums and as part of its bilateral relationships, to support the United Nations actively in its work of protecting freedom of religion and belief.**

70 See paragraph 6.13.

- 8.124 In addition to the work of international bodies and diplomacy, it is still possible for Australia to give assistance to other nations. In fact, a great deal of good work is already undertaken in the region by a range of Australian institutions. Supporting the work of bodies such as the Asia Pacific Forum of Human Rights Institutions and the Asia-Pacific NGO Forum are worthwhile ways of achieving two purposes:
- assisting countries in the region in practical ways, and
 - demonstrating Australia's own achievements, flawed or incomplete as they may be in some areas, in furthering freedom of religion and belief.⁷¹
- 8.125 Given the range of their activities in some regional countries, assisting NGOs is of particular value. Much assistance is already given to these bodies indirectly by the Australian Government through training courses of various kinds.
- 8.126 Many other specific recommendations were made to the Committee, such as provision of training programs to reduce police impunity in some countries. These matters are already being addressed in the range of good governance programs of the type designed and administered by bodies such as CDI and AusAID. They are a particularly effective means of providing training in human rights law and practice, reflecting the theory of good human rights practice. They are also a further means of demonstrating Australia's commitments to basic human rights and practices.

Recommendation 7

- 8.127 **The Committee recommends that the Australian Government continue its support and funding for the good governance and human rights programs, undertaken by such bodies as the Centre for Democratic Institutions and the Australian Agency for International Development, designed to promote and protect freedom of religion and belief.**
- 8.128 The Committee believes that the human rights area of DFAT lacks the necessary personnel for the variety and the quantity of its workload. No staff member has any specialist knowledge of issues of religious freedom.

71 See paragraph 6.17.

We believe that some input of additional personnel with specialist expertise in this area could be justified.⁷²

- 8.129 It should also be noted that the Committee's next inquiry in the human rights field will focus on human rights in Australia's development assistance program.

Recommendation 8

- 8.130 **The Committee recommends that the Australian Agency for International Development continue and extend the programs that assist international non-government organisations to protect freedom of religion and belief.**

- 8.131 It was suggested that development assistance only be provided to nations with 'good' human rights records. It would not be practical to monitor each country receiving such assistance, and any cancellations or reductions would have the greatest impact on those that the assistance was designed to help.

- 8.132 Many of the recommendations made to strengthen religious tolerance internationally were valuable, but the Committee was unable to support them on a number of grounds, including administrative practicability. These proposals included:

- distance education by Radio Australia and the ABC to provide multi-religious programming and promotion of tolerance and richness in diversity;
- visas for tourists graduated according to their nations' human rights record;
- inclusion of advice from international religious networks as part of the process of deciding about the imposition of sanctions;
- use of NGOs' advice to assess claims for refugee status;
- more favourable treatment of applicants for refugee status for those fleeing religious persecution;
- introduction of a bipartisan foreign policy, able to 'correct' violations of the right to religious freedom, allowing Australia to become a haven for those suffering religious persecution;

72 See paragraph 4.69.

- establishment of trade-human rights links, including adherence to minimum standards and monitoring of compliance, and
- encouraging nations to establish legally protected ‘belief-based’ sanctuaries.

- 8.133 It is unlikely that any government would allow outside bodies, such as religious groups or NGOs, to have such influence in decisions about visas or refugee status. Similarly, governments are unlikely to accept a link between trade, tourism and human rights. Even if such links were established, it would be unacceptable to many governments to undertake the necessary detailed monitoring of activities of other governments.
- 8.134 Christian Solidarity (Australasia) recommended that Australia take a number of measures internationally, including establishment of an International Commission on Religious Freedom, enactment of an International Religious Freedom law and the establishment of the position of Special Adviser on International Religious Freedom.
- 8.135 If these proposals were to be adopted, they would duplicate measures already undertaken by the US State Department that is subsequently freely and widely publicised. This material is available for use by those with an interest in religious freedom at the international level. Australia does not have comparable resources, and there would seem to be little purpose in setting up duplicate structures and positions.