

## Sub-Committee Comment and Recommendations

- 6.1 At the start of its inquiry, the Human Rights Sub-Committee determined that the most effective way to examine and address the issues raised by its very broad terms of reference would be to first establish what protections currently exist for freedom of religion and belief in Australia. The Sub-Committee then determined to examine the types of threats and challenges that might impact on religious freedoms, and from that basis determine recommendations for a course of action. The Sub-Committee then determined to turn its attention to the situation for religious freedom overseas.
- 6.2 The Sub-Committee initially found that while Australians generally enjoy freedom of religion and belief, this human right receives little formal protection. Most significantly there is no explicit protection for religious freedom at the Commonwealth level. Although the Constitution does go some way to preventing the Australian Government from restricting religious practice, it does not prevent states and territories from restricting religion or belief.
- 6.3 As both the Sub-Committee's inquiry and the Expert Panel's review have shown, there is a significant level of concern amongst Australian people of faith regarding religious freedom. However this concern is disputed and there is a lack of consensus about what response, if any, is warranted. In large measure these divergent opinions reflect the perception of "conflicting rights", between the right to freedom of religion and belief and the rights to freedom of speech and to non-discriminatory treatment. As the First Interim Report pointed out, striking a balance between these rights is a challenging and delicate task, especially where discussion and debate can be politically charged and is as likely to divide people as it is likely to bring them together.

- 6.4 Notwithstanding a lack of community consensus, the Sub-Committee is of the view that these are debates that must be taken forward in a constructive way with the objective of ensuring that all Australians enjoy protection for the full range of human rights. It is apparent from the Sub-Committee's inquiry and the Expert Panel's review that further community discussion, consultation and engagement is required to build as broad agreement as may be possible, including bipartisan and cross-party support, for further reforms to strengthen protections for religious freedom and belief. The Government's stated commitment to pursuing bipartisan support for a Religious Discrimination Bill is welcome, but should be extended to a process in which the Parliament itself takes the lead in community discussion and engagement.
- 6.5 As discussed in Chapter 4 of this Second Interim Report, there are a number of potential solutions to the issues identified as possible impediments to the full enjoyment to the human right of freedom of religion or belief. The Sub-Committee notes that the adoption of a Bill of Rights or other constitutional mechanisms would be a complex, difficult endeavour, in part owing to the wide range of views, and indeed lack of consensus, about the merits and/or scope of such a measure. This is something to examine and discuss in the longer term. What could be achieved in a shorter time frame, and with a greater chance of securing wide spread support, is the harmonisation of legislation throughout the country, so that all states and territories of the Commonwealth uphold the same framework of human rights in respect of freedom of religion and belief. In this regard it should be emphasised that Australia has long been a signatory to the Universal Covenant on Civil and Political Rights. Article 18 of the ICCPR constitute an internationally agreed standard to which Australia has subscribed. The Sub-Committee believes that this standard should be reflected in the laws of the Commonwealth and the States and Territories.
- 6.6 The Sub-Committee is cognisant of the fact that they were unable, in this parliamentary term, to further examine the international situation of the status of the human right to freedom of religion or belief, which was to form the basis of the latter stages of the inquiry. The Sub-Committee has received evidence that suggests that internationally, the human right to freedom of religion is under threat and as such, this area requires comprehensive investigation.

**Recommendation 1**

The Sub-Committee recommends that the Australian Government, in consultation with the states and territories, develop and introduce or amend as necessary, legislation to give full effect to Australia's obligations under Article 18 of the Universal Declaration on Human Rights and Article 18 of the International Covenant on Political and Civil Rights.

**Recommendation 2**

The Sub-Committee recommends that this inquiry be continued in the 46th parliament, so as to enable a proper and thorough consideration of the international situation for the status of the human right to freedom of religion or belief before a final report can be tabled.

**Senator the Hon Ian McDonald**

**Chair**

**Join Standing Committee on Foreign  
Affairs and Trade**

**2 April 2019**

**The Hon Kevin Andrews MP**

**Chair**

**Human Rights Sub-Committee**

