

# **FREEDOM OF RELIGION AND BELIEF IN THE 21<sup>ST</sup> CENTURY**

I am making this submission on behalf of Christian Brethren churches in Australia.

At the time of this submission there are 232 Christian Brethren churches or assemblies in Australia. Each church operates autonomously and the views expressed in this submission will not represent all of the affiliated churches but it does incorporate comments and thoughts received from churches and individuals within our network of churches.

We appreciate the opportunity the project provides to voice our opinions about many issues which we have regarded as a right rather than a privilege, living in a country with a Christian heritage.

We acknowledge the wisdom of our constitutional fathers in identifying a right for Australians to practice their religion freely and without fear and favour or intervention by the state. We do however realise that the statutory powers of governments at all levels have imposed restrictions on our rights and we propose to canvas some of these issues in this submission.

We also acknowledge that we have a biblical duty to obey the laws of the land and pray for our Leaders.

We note the invitation to give consideration to the 7 terms of reference and we propose to make submissions in respect of some of those terms.

## **1. EVALUATION OF 1998 HREC REPORT ON ARTICLE 18: FREEDOM OF RELIGION AND BELIEF**

*What are the areas of concern regarding the freedom to practice and express faith and beliefs, within your faith community and other such communities?*

An area of concern from our network of churches which imposes restrictions on freedom to practice religion, relates to the establishment of new places of worship. In our experience there is significant difficulty by most if not all church and religious groups to receive approval at local government level to obtain the relevant "use" rights to be granted an approval for a place of worship, school or other use associated with a religious activity or work.

Most of our network of churches have smaller congregations and traditionally would use the church building for 2 or 3 services on a Sunday and possibly for other activities during the week, most of which would be concluded within a reasonable hour.

There are always significant restrictions on developing future church sites mainly because of parking requirements by councils. The parking *spaces to member ratios* do not seem to take the restricted use of the facility into account. It is usually the case for our churches that there may be only 1 or 2 hours per week when there is maximum attendance in their place of worship. The rest of the week usually produces little by way of traffic, parking or noise concerns for adjoining neighbours.

Another area of concern is the potential loss of the right for churches and religious groups to positively discriminate in matters, such as employment and paid and lay positions, leadership and other officers in churches and church organisations on the basis of gender, religion, sexual preference etc.

We see the right to make our own choice in these matters as an important right that should not be altered. For example, in the schools operating within our network of churches we believe we should be able to determine the qualifications of a candidate for employment based on matters such as the candidates theological and moral views.

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

1. S 116 of the Constitution prohibits the Commonwealth from establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion.

This restriction on the Commonwealth's powers is balanced against the Commonwealth's powers to make laws in respect of matter such as trade or the ability to raise funds, marriage and divorce and the welfare of children, antidiscrimination, copyright laws. These powers obviously provide the Commonwealth with the ability to regulate indirectly many of the functions of religious groups and should not be altered so that they provide some avenue to suppress religious freedom.

We submit that the powers provided to the Commonwealth are adequate in conjunction with the common law and we are not disposed to the rights being codified within a Bill of Rights. We acknowledge that the states powers and those of local government are virtually unlimited in terms of their impact on the practice of religion.

2. *How should the Australian Government protect freedom of religion and belief?*

We submit that the government will best protect freedom of religion by listening to religious groups and providing an equal opportunity for the large and small groups, churches and individuals to voice their opinions concerning matters of policy and legislation and where possible, government should not to seek to over regulate the activities of religious

groups who are law abiding and submit to the laws of the land. If changes to the law are considered necessary it should be incumbent on the movers for the change to establish how the reforms will permit religious freedom to continue.

Over the past few years there has been a shift in syllabus input from the Commonwealth as each of the states have come to rely more heavily on Commonwealth funding for education.

We would submit that part of any changes to the syllabus permit and promote freedom of religion and belief in activities carried out within the education syllabus. It is important for example in NSW that the teaching of scripture in schools be maintained to permit children who wish to attend scripture classes to have that opportunity, rather than the state prohibiting the activity. Therefore in negotiating syllabus issues with the states the Australian Government should require that all of the states permit religious instruction in schools.

We endorse the decision of government to provide chaplaincy opportunities in schools and would submit that nothing be done to suppress religious freedom on those chaplains in carrying out their tasks.

Finally, we submit that church governance be left to churches to determine and not be the subject of government intervention.

### **3: Religion and the State – practice and expression**

In this section you request comment regarding the emergence of multifaith in Australia bringing issues regarding religious expression to the fore.

One of the concerns expressed to the writer is that there must be a fundamental right available to all religious groups to freely practice and propagate their faith. To that end, freedom of speech including the right to express views about other religions or faiths must be a right that is available to all religious and faith groups. It must be possible to compare, contrast and have an opinion about another faiths without a fear of there being a complaint of vilification. There have been actions brought under state legislation alleging vilification and these actions result in the suppression of views.

It is important for religious groups and faiths to observe the laws of the land. The interaction between responsible obedience by religious groups and appropriate levels of governance by the state no doubt will create

tension. Legislation after consultation with interest groups should reduce the tension.

In terms of the practices of the state we submit that it is important that for all parliamentary sittings to commence each day with a pray so that our elected representatives will not forget that they too are answerable to God.

Finally, there are some within our movement who choose to abstain from voting and wish that this right continue. This choice is based on a passage from the bible found in Romans Chapter 12 verse 1 which says: *"Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God."*

## **6: Technology and its implications**

Technology such as the internet has brought significant opportunities for the propagation of information by religious groups. The nature of that technology makes it impossible to regulate and accordingly it is difficult to conceive that the government will be able to harness what religious groups do in utilising this technology.

## **7: Religion, cultural expression and human rights**

You are seeking comment regarding whether there is concern about the tension between human rights, religious expression and cultural expression.

Tension will arise if religious groups are prohibited or restricted in carry out their beliefs and practices because of legislative control on religious groups.

Further to what has been previously stated we submit that the aim of legislative control should be to protect those who comply with the spirit and intent of the law and to regulate the behaviour of those who do not wish to observe laws of the land.

The conduct of religious groups who do not adhere to the law in their practices and beliefs, will correctly concern Australians. However laws that restrict or prohibit religious freedom must be avoided unless the exercise of that religious freedom is illegal or contrary to acceptable public standards. If that is the case then there must be a legal response by the state with appropriate sanctions against those individuals or groups who do not adhere to appropriate conduct in our society.