



16 January 2017

Parliament of Australia
Joint Standing Committee on Foreign Affairs,
Defence and Trade,
Human Rights Sub-Committee
Attention:
Inquiry Secretary

**RE: Submission to Joint Standing Committee on Foreign Affairs,
Defence and Trade, on Religious Freedom**

Dear Ms

Background

1. The Joint Committee has been asked to examine the status of freedom of religion or belief (Article 18 of the International Covenant on Civil and Political Rights) around the world, including Australia. This submission draws upon the longstanding Quaker concern that each person is to be valued for their own integrity of belief and religion. The Religious Society of Friends (Quakers) was founded on the basis of spiritual freedom for individuals within a group context of mutual seeking and support. The world-wide Quaker community is itself culturally and theologically diverse, and its global body (Friends World Committee for Consultation) has the role of bringing together Friends of different traditions and cultures in worship and dialogue.

International Overview

2. We endorse the Universal Declaration of Human Rights which says that “everyone has the right to freedom of thought, conscience and religion”, and this includes freedom to practice religion and to change it. We note that this right is also reflected in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief.

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3. The report of the United Nations Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, in August 2016, spoke of the importance of “positive efforts towards overcoming all forms of discrimination – direct, indirect and structural discrimination, by both public and private actors”. He detailed the negative impact of human rights violations against women and girls, religious minorities, indigenous peoples, refugees and lower status groups. He specifically identified ongoing harassment by militant groups to stigmatise dissidents, minorities and converts, and affirmed the significant role of civil society organisations in monitoring violations. We consider that the United Nations itself needs additional resources to enable better monitoring.

Australia

4. We note that the Australian Constitution Section 116 says:

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.

Given that the different States and Territories, as well as the Commonwealth, make their own human rights and anti-discrimination legislation, there are gaps in the provision of protection for freedoms in general, including religious freedom. We see the value of a Charter of Rights that would specify in a national way the rights that are protected in Australia, and would reflect accepted international human rights standards.

5. We were represented at the November 2015 Australian Human Rights Commission Religious Freedom Roundtable, at which 25 different belief communities were represented. We support the following points that emerged from that meeting:

- The right to religious freedom intersects with other human rights, particularly the rights to freedom of expression, freedom of association and freedom of assembly.



- This means that:
 - religion interconnects with ethnicity and culture
 - religious discrimination can intersect with racial discrimination
 - there can be tension between the rights of individuals and collective rights
 - we should not force people to act against their conscience.
- The role of government and legislation should be to establish clear boundaries for legal behaviour and not to exacerbate social disharmony.
- Education initiatives must incorporate educating government and the public service, media and the wider community on religious freedom and individual faith traditions.

We are committed to building a society based on nonviolent communication among citizens of different faiths, and within faith groups. We oppose the use of violence in the expression of religious belief.

Interfaith Dialogue

6. We acknowledge the role of two particular organisations. The Australian Partnership of Religious Organisations was formed in 2003 to promote interfaith harmony and mutual respect, to combat religious prejudice and discrimination, and to address common concerns. Its membership crosses many religious boundaries. Religions for Peace Australia is part of a global network committed to global peace and to promoting co-operation among religions. We see these as offering important avenues for people from the different religious groups to be supported and offered a listening ear. Many of our members have been involved in interfaith dialogue and we would like to see more opportunities for such dialogue.

Conscientious Objection

7. As part of our commitment to building peace at all levels, we are particularly concerned to preserve the right of conscientious objection to military service, including that based upon religious belief. Although this right is not explicitly



recognised in the international human rights treaties, the UN Human Rights Committee, which oversees implementation of the International Covenant on Civil and Political Rights, has made it clear that conscientious objection to military service is protected under the right to freedom of thought, conscience and religion. On July 30, 1993, the Committee made a general comment (22, Paragraph 11): "The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief."

8. In Australia, conscientious objection was originally confined to those opposed to all war, and Quakers could expect to qualify because of their pacifist orientation. The 1992 *Defence Legislation Amendment Act*, however, changed the conscientious objection provisions so that objection to a particular war became an acceptable ground for seeking exemption, with decisions being made by a special tribunal of lawyers. Given the nature of war today, we support the inclusion of this right in legislation.

9. In relation to issues such as same-sex marriage, we consider that the legal recognition of this option should be possible without infringing upon religious freedom. Existing law already allows religious celebrants to discriminate on the basis of religious doctrine or principles. However we do not believe that such an exemption should be broadened to cover normal legal, community and commercial services. In most cases it is likely that there will be alternative sources of services for this not to be an issue.

Conclusion

10. We endorse the international human rights instruments which provide for freedom of religion and belief.

11. We support the UN Special Rapporteur's call for positive efforts by public and private actors to overcome all forms of discrimination that violate the human rights of religious minorities, dissidents, and converts. We consider that the United Nations itself needs additional resources to enable better monitoring.



12. Australia would benefit from a national Charter of Rights that would incorporate international standards of human rights including freedom of religion and belief.

13. We support the findings of the Australian Human Rights Commission's Religious Freedom Roundtable (Nov 2015) that the right to religious freedom intersects with other human rights, that governments should establish clear boundaries for behaviour, and that education about religious freedom is essential.

14. We are committed to building a society based on nonviolent communication among citizens of different faiths, and within faith groups. We oppose the use of violence in the expression of religious belief. We encourage inter-faith dialogue as part of the way forward.

15. We are concerned to preserve the right of conscientious objection to military service, including that based on religious belief. We affirm the provision in the *1992 Defence Legislation Amendment Act* that allows objection to a particular kind of warfare to be grounds for exemption.

16. In relation to same-sex marriage, we consider that the legal recognition of this option should be possible without infringing upon religious freedom. Existing law already allows religious celebrants to discriminate on the basis of religious doctrine or principles.

Regards,

Jo Jordan
Presiding Clerk
Religious Society of Friends (Quakers) in Australia