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# Official Committee Hansard

JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND  
TRADE

(HUMAN RIGHTS SUBCOMMITTEE)

**Reference: Australia's efforts to promote and protect freedom of religion and  
belief**

MONDAY, 6 MARCH 2000

CANBERRA

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**JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE**

**Human Rights Subcommittee**

**Monday, 6 March 2000**

**Members:** Senator Ferguson (*Chair*), Senators Bourne, Brownhill, Calvert, Chapman, Cook, Gibbs, Harradine, O'Brien, Payne, Quirke and Schacht and Fran Bailey, Mr Baird, Mr Brereton, Mrs Crosio, Mr Hawker, Mr Laurie Ferguson, Mr Hawker, Mr Hollis, Mr Jull, Mrs De-Anne Kelly, Mr Lieberman, Mr Martin, Mrs Moylan, Mr Nugent, Mr O'Keefe, Mr Price, Mr Prosser, Mr Pyne, Mr Snowdon, Dr Southcott and Mr Andrew Thomson

**Subcommittee members:** Mr Nugent (*Chair*), Mr Hollis (*Deputy Chair*), Senators Bourne, Ferguson, Harradine Payne and Schacht and Mr Baird, Mr Brereton, Mrs Moylan, Mr Price and Mr Pyne

**Senators and members in attendance:** Senator Harradine and Mr Baird, Mr Hollis and Mr Nugent

**Terms of reference for the inquiry:**

To inquire into and report on Australia's efforts to promote and protect freedom of religion and belief, in particular:

1. the extent of violations of religious freedom around the world and the probable causes of those violations;
2. implications for other human rights arising from:
  - a lack of religious freedom and
  - religious differences; and
3. the most effective means by which the Australian government and NGOs can promote freedom of religion in the region and around the world.

**WITNESSES**

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**Subcommittee met at 10.32 a.m.**

**CHAIR**—On behalf of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I declare open this public hearing. Today's hearing is the last for our inquiry into Australia's efforts to promote and protect freedom of religion and belief and will finalise its evidence gathering phase. Over the past few months the subcommittee has held two hearings in Canberra and one each in Sydney and Melbourne. Throughout this inquiry our terms of reference have directed our efforts to considering three major issues: firstly, the extent of violations of religious freedom around the world and where we can get the evidence, the probable causes of those violations; secondly, the effect of a lack of religious freedom or of religious differences on other human rights; and, thirdly, the most effective ways of which our government as well as non-government organisations can promote freedom of religion and belief in the Asia-Pacific region and around the world.

An inquiry such as this raises many profound practical and philosophical matters, such as the exercise of freedom of religious belief or practice impinging on other people's rights. The subcommittee has received a considerable amount of material on such issues as well as specific examples of a tax on freedom of belief and the practice of religion. We have two witnesses scheduled to give evidence today. The first is Dr Max Wallace, who has provided a submission that deals with the connection between religious freedom and cults and also addresses the issue of tax exemptions for religious organisations. These are issues which have not been covered elsewhere in the evidence we have received. Then we will hear from the Human Rights Commissioner, Mr Chris Sidoti. Among other matters, the commission's submission encouraged us to give particular attention to indigenous spiritual beliefs, and we look forward to exploring the many philosophical and practical ideas in the submission. Therefore, on behalf of the subcommittee, I welcome Dr Max Wallace. Dr Wallace, the subcommittee prefers that all evidence be given in public, but should you at any stage wish to give evidence in private you may ask to do so and the subcommittee will give consideration to your request.

[10.33 a.m.]

**WALLACE, Dr Max William (Private capacity)**

**CHAIR**—Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the House itself. I invite you to make an opening statement before we proceed to questions.

**Dr Wallace**—My name is Max Wallace. I have a PhD from Macquarie University. My thesis topic concerned the sociology of culture and religion. My recent papers include *The Politics of Irrationality: Theorising the Conversion Experience in Cults*, delivered to the Centre for the Mind's conference on Irrationality in July 1997; *Not in Trade or Commerce*, a paper which discussed how religious organisations are able to engage in commercial practices yet not be subject to the Fair Trading acts, the Skeptics Conference 1988 and *The Purple Economy*, which discusses religious wealth and the origins of the tax exemption for religion in Australia, the Skeptics Conference 1999.

The issues I wish to raise today are cults and the tax exemption for religion. These are separate but related issues. Freedom of religion and belief, of course, is a cornerstone in the constitutional separation of church and state. The American scholar Steve Turner has written:

It is often forgotten that the clause separating church and state in the US Constitution was originally written to protect the former from the latter and not vice versa ... the point of the separation was to foster spiritual diversity rather than circumscribe its public relevance.

The issues in the difficult question of balancing support for religious freedom with the need for respect for human rights within cultic organisations is something I address in my paper *The Politics of Irrationality*. Referring to anthropological literature, I pointed out:

It is odd that the bizarre beliefs of other cultures are often accepted in the name of tolerance and cultural relativism, but the bizarre beliefs of those who, for whatever reasons, find cult ideas as a way of extending their understanding of the world, are unacceptable.

Comparing critics of cults to cult apologists, I said:

One side of the debate arrogates the right to itself to tell all people in these organisations how they should think and feel, while the other side of the debate demonstrates a callous indifference to those individuals who, for whatever reason, leave cults completely shattered.

I quoted Dick Joslyn, a former member of the Heaven's Gate group, 38 of whom committed suicide in 1997 in the belief that by abandoning this life they would reconvene on a spaceship behind the Hale-Bopp comet. Joslyn was interviewed on the ABC's *Lateline* program on 3 April 1997. He responded to the allegations of the extremely bizarre nature of his former colleagues' beliefs. He referred by means of caricature to how indigenous people of the Americas might have been equally mystified by a European description of Christianity in the 16th century. He said:

If you were a native American and these boys came over on this ship—in dresses—and said 'You know what? We worship this guy who is nailed to this piece of wood and we eat his body and drink his blood every Sunday.'

To speak to his point, Joslyn is right that what counts as bizarre can be relative and few of us can afford to live in glass houses when we express surprise at, mock or criticise the beliefs of others. Having said that, I do not believe that it should be possible without legal sanction to encourage others to commit suicide. Also, the other kinds of human rights abuses that occur within cultic groups cannot be just dismissed as either unfair criticism by those who have some sort of grudge against cults or the notion that certain conducts are integral to cultic belief systems. We have a way to distinguish between conduct that is acceptable and conduct that is not. It is the rule of law.

After Senator Chapman's criticism of the Vibrational Individuation Program cult in the Senate on 22 April 1999, I contacted him and subsequently prepared for him a document detailing the need as I saw it for a Senate inquiry into cultic activity in Australia. This included my translation of some of the main recommendations of the 1996 Belgian government inquiry. Were such an inquiry to be held, it could go a long way to clearing the air on this issue and establish guidelines of global relevance as to how governments and societies could reconcile the civil liberties of those who wish to pursue religious freedom with the human rights of those who join cults or are affected by them.

I pointed out that it would reflect poorly on the government to refuse to hold such an inquiry where there had been a royal commission in South Australia into the situation surrounding the Aboriginal beliefs known as 'secret women's business' concerning Hindmarsh Island. Such a refusal would infer that, where money and property development is concerned, a royal commission is justified, but where families are being traumatised

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by cults it is not sufficiently important—and this from political parties that characterise themselves as deeply concerned with the welfare of the family.

In the document *An argument for a Senate select committee inquiry into cultic activity in Australia*, I suggested that these issues should be addressed: whether intentional psychological damage should be an offence, whether encouraging others to commit suicide should be an offence, the rights of children within cultic groups, the need for regulation of harmful pseudo-medical practices, whether groups engaged in commercial practices could be brought under the fair trading acts, the need for accreditation of certain organisations, informed consent, cooling off periods for donations to organisations, identification of groups, cold canvassing in public places, educational publicity in schools; the need for halfway houses; the need for a 1800 number for those in cult induced distress; the role of mediation officers to act as honest brokers between families and individuals with loved ones in groups, and what could be done to qualify the tax exemption for religion so that it is not exploited by groups who commit human rights abuses. To that list I would add the question of the curricula in private fundamentalist Christian and cultic schools.

I will conclude these remarks with some discussion of the question of the tax exemption for religion. As I indicated in my submission, what seems to be a global exemption from taxation for religion in Western style liberal democracies has unintended consequences. I mentioned the report in the *Australian Financial Review* of 20 August 1998 and indicated that the education ministry of the government of Thailand was drafting a bill to regulate the building of temples and impose heavier punishment on monks guilty of misconduct. The review reported that, 'The income of temples, which is tax free and virtually untraceable, is estimated at several billion dollars a year.' The scale of the sums involved was so significant that 'the government is calling Thai Buddhism's ruling body, the Sangha Supreme Council, to account. Its Religious Affairs Department has urged the council to issue clear-cut guidelines requiring Thailand's temples to be more open in running their affairs.'

In Japan the practice of commercial organisations registering as religions, or conversely, religious organisations engaged in commercial activity trading on their exemption appears to have become institutionalised. In the autumn 1995 issue of *Japan Echo* Professor Yamaori Tetsuo remarked:

Somewhere along the line the average Japanese image of Buddhism became one of temples whose raison d'être is sightseeing and rites of passage and whose tax exempt status is protected by the Religious Juridical Persons Law. Under the stimulus of the Aum affair, Prime Minister Tomichi has spoken of reviewing the religious corporation system but Aum Shinrikyo is by no means the only group that has used the Juridical Persons Law as a cloak for pursuing its own profit. Indeed the greatest beneficiaries of the law have been Buddhist organisations.

While the effects of the tax exemption would not be felt to the same extent in Japan, given the scale of their wealth, it is quite shocking that the Aum Shinrikyo could be subsidised through exemption by the Japanese taxpayer as they engage in various murders culminating in the Sarin gas attack in Tokyo. Even more alarming is the claim in Marshall and Kaplan's *The Cult at the End of the World* that they sought nuclear weapons in Russia. In doing so, they were aided and abetted by tax free donations and the tax exemption. I note in passing that the Japanese government refused to allow Australian Federal Police to interview the members of Aum in custody in Japan who were residing on a sheep property in Western Australia in 1993.

I conclude with these remarks. On 9 February 1999 the *Los Angeles Times* reported that the President of the Seventh Day Adventist Church resigned amid claims of financial irregularities. The *Times* said this may have involved misuse of the church's tax exempt status in America. In our Senate on 15 December 1992 the then Senator McMullan said:

The income tax exemption that applies to religious institutions applies to the Sanitarium Health Food Co. because it is owned by a religious institution.

He meant the Seventh Day Adventists:

We are not all that happy about that, but the attempt to disentangle that would be too difficult.

The *Times* reported that the Seventh Day Adventist Church is worth \$15.6 billion. Similarly, *Time* magazine reported on 4 August 1997 that the Church of Jesus Christ of Latter Day Saints, or Mormons has worldwide assets of \$30 billion. Like the Seventh Day Adventists, the Mormons run businesses in Australia. In particular, they own a company called Ag-Reserves Australia which, according to the *Bulletin* of 14 April 1998, reports they grow a number of crops, including a third of Australia's sweet corn. The income from this activity would apparently be tax free. The question arises: why could the commercial organisations of foreign multibillion dollar churches be exempt from taxation while the government has no way of reconciling their charitable activity in Australia with their income? Organisations that advance religion were excluded from the Industry Commission's 1995 report *Charitable organisations in Australia*.

In conclusion, should freedom of religion and belief also mean freedom to accumulate unlimited wealth tax free globally with little or no accountability? Using the Human Rights Commission's *Article 18* as indicative of the fact that significant human rights abuses occur within coercive cultic organisations, will the government

commence an inquiry into cultic organisations in Australia with a view to contributing a fair and balanced methodology for dealing with this problem, a methodology that would be of practical assistance to those countries now grappling with this problem? Thank you.

**CHAIR**—Thank you, Dr Wallace. You obviously studied the subject of cults pretty comprehensively.

**Dr Wallace**—Yes.

**CHAIR**—Could you give us some thoughts on how widespread you see the growth of cults. Do you see there being a particular resurgence in recent times and, if so, why? I would be particularly interested in your comments about Falun Gong, if you see that as a cult.

**Dr Wallace**—It is a Chinese group.

**CHAIR**—It is not only a Chinese group. There is a Falun Gong in this country as well. That has been raised with us on a number of occasions. I would be interesting in hearing about that.

**Dr Wallace**—Historically there have always been cults but in the West they seem to have made a resurgence, particularly after the Second World War. In my submission to Senator Chapman I pointed out that, going by a rough estimate of my reading of the census, I would say that about 500,000 Australians are affected by cults. I would say that between two and three per cent of the population are involved one way or the other. That is a relatively small number, but compared to Japan, for example, where about a third of the population are involved in new religious movements in one way or another, being a completely different culture, that is quite understandable.

To speak to your point about the Falun Gong, my position is that I think the Chinese have got it wrong. I think it is wrong of them to attempt to stamp out this cultic organisation. What I would say to the Chinese government is, 'Look, there is a way of approaching the question of religious freedom with respect to cultic organisations, and it is by putting legislation in place that protects the individual rights within cultic organisations. If a cultic organisation oversteps the mark with respect to that legislation, by all means apply the full force of the law. But, if they don't, then leave them alone.' That is my position.

**CHAIR**—Do you see Falun Gong as a cult or as a religion?

**Dr Wallace**—It is an interesting question. Again, in my submission to Senator Chapman I gave him four definitions of what a cult is. How do we draw a distinction between a cult and a religion? Basically I would say that a religion is more outwardly looking and is more public in its affairs. A cult tends to be more inwardly looking and to be committed to its own affairs and to become totally ensconced in the activities of its own members and who is doing what within the cultic organisation. Another key difference which I think is quite important is that with cultic organisations their *raison d'être* is recruitment. They spend a lot of time on that, whereas the mainstream religions are not as concerned as they were in the past with recruiting. But the cult groups are very activist with respect to recruitment.

**CHAIR**—But how would you define a good cult and a bad cult?

**Dr Wallace**—I suppose a good cult would be one that does not breach any of the laws of the land.

**CHAIR**—Perhaps harmless and not harmless would be a better phrase.

**Dr Wallace**—Yes, that is right. In my experience—and I have been working on this now continuously for eight years—most of the groups do create problems, particularly for families and individuals within the group. Basically, this problem is a bit out of sight. While there have been a number of *Four Corners* programs on this and various other television programs and a number of newspaper reports and the like—it is fairly constantly in the media—despite all of that, with the Human Rights Commission the word 'cult' does not occur in this document *Free to believe?* They did not see it as a problem. As I understand it, they were swamped by parents and individuals with problems of spouses and loved ones in groups. They made a wonderful job of dealing with the problem in their report *Article 18*. I will stop there.

**Mr HOLLIS**—Tell us a little bit about this coercion. You say there are 500,000 people affected by cults—

**Dr Wallace**—Yes, that is right.

**Mr HOLLIS**—It is interesting you use that word. You did not say 500,000 membership.

**Dr Wallace**—No, we don't know the exact membership. The point I was trying to drive at is that, as I said in my submission to Senator Chapman, there has never been a stratified random sample in this country to get a reasonably accurate membership of cultic organisations. What I am trying to indicate is that, if you factor in the parents, friends, loved ones and associates of people in cults, that would push the number up to around about that figure. I can give you a copy of my submission.

**Mr HOLLIS**—We have had the Falun Gong people come before us and we have had strong representation from the Chinese saying it is a cult. They have produced very graphic photographs and a booklet. I think we

are all in receipt of a book. Then we have had the people themselves, the Falun Gong practitioners, coming before us and saying, 'We are just a meditation group,' or whatever group they are. What I am trying to get at is that with everyone who joins a cult or a movement or whatever you like to call it—and often the parents may see it as very strange—it is not necessary that each of those people is not greatly affected. I will use this as an example because I am Catholic. But, if someone who came from a very strong different religion suddenly wanted to become a Catholic, they may run into these problems

**Dr Wallace**—That is right.

**Mr HOLLIS**—When I say 'problems' I mean pressure within the family or they are ostracised by the family or the family might try to talk them out of becoming a Catholic or any other religion, Seventh Day Adventists—

**Dr Wallace**—Or Mormons, or whatever the case may be. I see the point you are driving at. The answer to your question is, in my view, the kind of conversion experience people go through. When people go into an organisation, some of them go there just to see what is going on and they do not get too mixed up in it. Some of them go more regularly and begin to be a little bit committed to it but keep a private life to themselves. Then others are totally—how shall I say—committed and they cut ties with their family. In a sense, they become targets of the accusation that they have been brainwashed.

**Mr HOLLIS**—I take on board what you have said and I agree with you. But where would you put on that scale an evangelical religious movement? That is a group which has had a lot of new recruits and is growing very much. I do not know about coercion, but from what I understand a lot of these things happen when people go along to one of these meetings. I am not suggesting that there is coercion, but some could argue that that is a form of cult. It is known that people may give a certain amount of their money over to some groups. I have no doubt that within some families it causes some consternation. If you have had a very strict Anglican or Catholic upbringing and suddenly you are attracted to an evangelical type activity, it seems to me that everyone shares this desire to convert.

Just to give a personal example, which I suppose I shouldn't, I have a niece who is somehow involved in one of these evangelical things. We have had many discussions because I think not that it is wrong but that missionaries going to Africa, where she is at the moment, is very wrong. In my view we are putting our values on another society. I have told her this. Then I have told her at other times that I do not mind what religion she is, as long as she does not try to convert me. She came back very cleverly to me and said that she respected my point of view but she had found such joy and satisfaction in this movement that she felt it was her duty to share it and convert everyone else.

**Dr Wallace**—This is the dilemma.

**Mr HOLLIS**—What I am doing is explaining my difficulty in knowing what is a cult. The chairman asks: what is a cult and what is religion? I think the line between the two is sometimes fairly hard to define.

**Dr Wallace**—Cultic activity could go on inside a mainstream religion. The allegation has been raised about Opus Dei within the Catholic church. I have some documents here from parents who have children in Opus Dei. It is very disturbing to read their accounts of what has happened between themselves and their children. Again, if a religious organisation begins to take on practices that become extremely regimented and they seek to control the behaviour and the thought processes of individuals within a sect or group within a mainstream church, sure it can tip over and become quite cultic. With respect to evangelical movements, the New Zealand group the Cooperites come to mind. In this case the group went back to traditional 19th century Christianity. Whoever joined the group had to sign a contract essentially giving everything they possessed to the group. The leader of the group called himself 'Hopeful Christian' and he had total control over the assets of everybody. There was strict control of women and all the rest of it. Eventually he was arrested for sexual offences against children and gaoled. There is a wide continuum of groups where what they do can be reasonably benign right through to groups that are hostile to their own members.

**Senator HARRADINE**—Nowhere here have you named which are the cults in Australia.

**Dr Wallace**—In my submission to Senator Chapman I have included a document which spells out about 65 groups in Australia. I can get you a copy of this if you like.

**Senator HARRADINE**—Could we just go through it?

**Mr BAIRD**—I would be interested to see that.

**Dr Wallace**—I will read them out to you if you like. There is All One Voice—

**Senator HARRADINE**—Sorry, where is this?

**Dr Wallace**—It is headed 'CultAware inquiries'. It is in my submission to Senator Chapman.

**CHAIR**—But you did not include a copy of that—

**Dr Wallace**—Yes, I did. It should be there. I included all these documents. There are 65 of them on this page. I can read them if you like.

**CHAIR**—I thought we had got a copy, I must admit. Perhaps you would like to start to take us through some of them anyway.

**Dr Wallace**—These are organisations that the CultAware group received queries about to 30 June 1995: All One Voice, Amway—

**Mr BAIRD**—Amway is a marketing organisation, I thought.

**Dr Wallace**—There is a book called *The Cult Free Enterprise*. There are a lot of disaffected people who have come out of Amway alleging that they have been exposed to the same kinds of detrimental activities that occur in mainstream cultic groups. The list goes on: Network 21, Assemblies of God, Ashtar Command, Australian School of Meditation—

**Mr BAIRD**—Who is making these definitions? Assemblies of God would be, as a group, up there as one of the largest church groups.

**Dr Wallace**—As I said to Mr Hollis, over the passage of time activities can occur within groups that begin to resemble cultic activity but other times it may not be. At certain times for certain individuals it may well be. In those circumstances, as Mr Hollis said, it is quite possible to have a conversion experience to a mainstream religion and to cause dissent within a family group and to feel that the group itself has in some way or other affected you. The list continues: the Australian School of Mysteries, Berea Christian Centre, Boston Church of Christ, the Brethren, Tibetan Buddhism, Theravada, Children of God, Christadelphians, Christian Science, the Circle, Divine Light Mission, Elan Vital, ET Earth Mission, Eden Centre, Eckankar, Emin, Foundation for Humanity's Adulthood, Hare Krishna, Hoffman Process, I Am, Inner Peace, Jehovah's Witnesses, Jondalah—

**CHAIR**—To save you having to read them all, they are on page 61 of the briefing document, the paragraph at the top.

**Dr Wallace**—Most of these that are here were also in the Belgian government's inquiry. I might add in passing that the CultAware organisation was a voluntary organisation. There was no real place where people with problems with respect to cultic organisations could turn to government.

**Mr BAIRD**—I suppose that for a Christian what is seen by others as Brainwashing goes back to the Christian belief of a radical change of viewpoint.

**Dr Wallace**—A road to Damascus experience?

**Mr BAIRD**—Yes. You would find that that concept applies across the broad spectrum of Christian thought, that there has to be a significant change. It is not just an acquired philosophical view but there has to be, if it is significant, a significant change. The concept of 'born again' which is used by southern Baptists is one which is used universally in the Christian church. When you pick up, for example, Assemblies of God, who tend to talk about that, what they say, having a big chunk of churches in my electorate and having been to a whole number of them—Assemblies of God is one of them, the biggest in my electorate — what is said is no different from what you could find in the Anglican church or the Baptist church or the Church of Christ.

**Dr Wallace**—So what is your question?

**Mr BAIRD**—I am not an Assemblies of God person—and they have changed their name—but the fact that you have got that there starts to put doubts on your whole approach to it. What is seen by somebody from outside in a judgment on the Christian church of a radical change of viewpoint is seen by most people in the Christian church as 'This is the way it is. If you want to be significantly involved in the Christian church, this is it.'

**Dr Wallace**—I do not quite understand your point.

**Mr BAIRD**—Your view is that this is cultic practice. I think there is a danger in someone from the outside saying what we as Christians see as being appropriate for somebody making a judgment on one particular brand of church as being cultic when in fact what they are doing, perhaps more enthusiastically than some of the others—

**Dr Wallace**—All I was saying was the CultAware organisation had received contact about this organisation, and questions had been asked about it. Someone had made a query, and CultAware was merely reporting the fact that this had occurred. As I said to Mr Hollis, it is quite possible that within a small group within a large church there are often splits or sects in churches where a group will follow a particular line of teaching and things begin to get a bit heated. It can begin to resemble cultic activity. Intimidation within a small group can occur in mainstream churches as much as it can occur—

**Mr BAIRD**—It happens in political parties too. Do you have cult awareness in terms of that?

**Dr Wallace**—There are political cults.

**CHAIR**—Tell us about them.

**Dr Wallace**—One was raised by Senator Boswell some years ago.

**Senator HARRADINE**—I was interested to see what you have got there, but that is not a list of cults; it is a list of organisations which have been mentioned to the voluntary organisation that you referred to.

**Dr Wallace**—It depends on your definition of ‘cults’, Senator.

**Senator HARRADINE**—Precisely. Are you saying from your examination and study of the listed organisations that they are cults?

**Dr Wallace**—I would qualify my statement to reflect what I just said to Mr Hollis and Mr Baird. There are certainly groups in that list that would be cultic, sure. The definition of a cult is in the document, Senator.

**Senator HARRADINE**—I understand that.

**Dr Wallace**—Would you like me to read it to you?

**Senator HARRADINE**—No. You have mentioned it before. So you are putting that to us just as described. In other words—

**Dr Wallace**—Well, it is just one document in quite a lot of documents, Senator. It is just illustrative—

**Senator HARRADINE**—So inquiries have been addressed to CultAware about those groups?

**Dr Wallace**—Yes, that is right.

**CHAIR**—So allegations have effectively been made.

**Dr Wallace**—Well, not necessarily allegations. CultAware alone, until they disbanded in 1999, have been handling significant problems that families face with their sons and daughters and spouses.

**Senator HARRADINE**—What about an individual who does have a conversion experience? That individual is a member of a religion, say a mainstream religion, and that person commits his or her life to the Lord and undertakes in good faith charitable works and lives with joy and love and commitment and so on with absolute dedication.

**Dr Wallace**—That is not a problem, Senator.

**Senator HARRADINE**—That is what I am trying to get at.

**Dr Wallace**—The problems are the kinds of behaviours that go on inside cultic organisations. There are abuses of human rights. There are restrictions on behaviour and belief. Perhaps a way of addressing the senator’s query would be to refer to page 2 of my submission, where I pointed to the Belgian government’s committee of inquiry. They listed the kinds of activities that can go on in these organisations.

**Mr BAIRD**—That is page 2 of your submission?

**Dr Wallace**—Yes, right down the bottom. It starts ‘Family offences, abandonment, disappearance, abduction of children ...’.

**Mr BAIRD**—Yes, I see.

**Mr HOLLIS**—I have a very open mind on this. It often seems to me that it comes down so much to the individual rather than the organisation. I have absolutely no doubt that things go on in organisations that we may call cults. As members of parliament, I think we have all dealt with parents of children who have been involved. But we have also dealt with all sorts of other things. I would suggest—and I am no expert on it—that some of these things even happen within mainstream religion. Mainstream religion is not averse to a bit of brainwashing. What do the Jesuits say: give me your child when he is five for three years and I will give you a Catholic forever?

**Dr Wallace**—Mr Hollis, I bring you back to the conclusions of *Article 18*. After the submissions, the Human Rights Commission had these recommendations—this is page 82—to examine the question of methods of coercion in religious belief and practice and how they should be dealt with, to consider whether legal limitations should be imposed on religious groups regarding coercive tactics, to formulate an agreed list of minimum standards for the practice of religious groups. The commission came to those recommendations because of the evidence they had before it. That is the situation. There are these problems. It comes back to the individual, but the evidence is that a lot of individuals are suffering in a wide variety and in a significant number of ways. It is a problem that heretofore has not really been addressed in any significant sense by any Australian parliament, with the exception of the 1985 South Australian Legislative Council inquiry into the Church of Scientology in 1985, where they called witnesses, they heard evidence and they made recommendations. Apart from that, there hasn’t been anything since the sort of draconian legislation of the 1960s with respect to the Church of Scientology.

**Mr BAIRD**—In that list of offences on page 24, is it listing the Assemblies of God in terms of the CultAware inquiries? I think their members would be horrified if they thought that it was being suggested that they had that responsibility.

**Dr Wallace**—With respect, Mr Baird, I think we have dealt with that, haven't we? We have discussed it at some length already.

**Mr BAIRD**—I do not believe we have. You come to this inquiry suggesting certain things in terms of cult inquiries. You happily read it out. You have listed in the group Assemblies of God. There is a maligning of a very significant group in our community. The Assemblies of God church in my electorate would be of the order of 10,000 people. No-one suggests in any way that they are involved in any of the practices. In fact, we have about five of our Shark footballers who are involved in their churches there. What I am suggesting is that there is a danger in throwing out these lists and then saying 'This is the definition and there is a suggested link between the two.' That is what I am putting to you. I understand that there are people in that group who may well deserve that appellation.

**Dr Wallace**—I have not got anything further to say about that, Mr Baird.

**CHAIR**—I am conscious of the time. Could I ask one last question. You referred to the freedom not to believe.

**Dr Wallace**—Yes.

**CHAIR**—Could you elaborate on your reasons for considering why that freedom is not well recognised in this country? My own inclination would be to think that it was very well recognised. I would have thought a lot of the churches rail against that very fact. I would be interested if you could expand on that before we wrap up.

**Dr Wallace**—I raise that in the context of the tax exemption and the fact that historically over a period of time the mainstream religions were able to accumulate significant amounts of wealth because of the legislation that goes back to the Statute of Charitable Trusts 1601, which defined religion as a charity. That definition was reinforced in an 1891 Privy Council case called the Pemsel case, where the exact wording of the 1601 statute was repeated in a finding by the Privy Council to say, 'Yes, this is a definition. Religion is a charity.'

From that time onwards, particularly in this century, religious organisations have been able to earn as much income as they like from any source whatsoever in ways that have been, I suggest, deleterious to their commercial competitors. This was raised in the Australian Senate on 20 May 1936 during the Depression. A number of senators stood up and made representations about organisations, similar to the example that I gave of Japan with Buddhist organisations. The allegation was that some organisations characterising themselves as Christian were in fact in business and using the tax exemption as a way to defeat their competitors. It was reflecting on that fact that there is unequal treatment between organisations that have carte blanche to run businesses tax free and commercial organisations that do not.

An example of this was raised in a submission to the charitable organisations report in 1994, where the Fitness Corporation of Australia in their submission dated 23 July 1995 complained bitterly about the YMCA, which was given religious status in a High Court case in 1926. The Fitness Corporation pointed out that the Y's financial turnover, according to their own statements, was \$25 million Australia wide in 1992 and had grown some 24 months later to \$42 million. They say on page 6 of their submission:

The YMCA's national director Bob Romanes was quoted as saying in the *Sunday Age* 6 March 1994, 'Today the YMCA has nothing to do with young, it has nothing to do with men, and nothing to do with Christian. The name is here to stay. We just have to wear it.'

The Fitness Corporation then go on and argue that this is a business, claiming the exemption. As I pointed out in my submission, there are foreign religions who are in effect multinational corporations worth billions of dollars paying no tax on their commercial operations in Australia. I think that is indefensible.

**Mr BAIRD**—I think that is a very sweeping statement. On the basis of pretty narrow evidence, to make such a sweeping statement—

**Dr Wallace**—Mr Baird, I do not think you were here when you I gave my introductory remarks.

**Mr BAIRD**—I heard what you said.

**CHAIR**—I think the clock has beaten us. We need to move on to our next witness. I thank you for coming here today. If there are any other matters on which we need additional information, the secretary will write. We will send you a copy of the transcript to which you may make alterations of grammar and fact.

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[10.35 a.m.]

**SIDOTI, Mr Christopher Dominic, Human Rights Commissioner, Human Rights and Equal Opportunity Commission**

**CHAIR**—On behalf of the human rights subcommittee, I welcome Mr Chris Sidoti. The subcommittee prefers that all evidence be given in public. However, should you at any stage wish to give your evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Although the committee does not require you to give evidence on oath, I should advise you that these are legal proceedings of the parliament and therefore have the same standing as proceedings of the House itself. I invite you to make a short opening statement before we proceed to questions.

**Mr Sidoti**—Thank you. The committee's inquiry into the promotion of freedom and religion of belief is an important one. As the committee has recognised, and as the foreign minister has recognised in making the reference to the committee, freedom of religion is an important human right. Indeed, its history traces back a very long time. It was recognised for modern purposes in President Roosevelt's statement before the end of the war on the four freedoms that he saw as being critical for the construction of a peaceful human rights abiding postwar society. Article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights recognised the importance of freedom of religion and belief and state the scope of that freedom in quite clear terms.

Because freedom of religion flows from international law, I want to make a number of comments about the international human rights legal system. I must say that my comments to the committee today are not what I anticipated saying when we wrote our submission nor when I was invited to appear before the committee. But I think it is an important opportunity, particularly in relation to the committee's third term of reference—how can Australia promote freedom of religion in the world and in the region—to say a few words about the international human rights legal system and its continuing centrality.

The human rights legal system in international law is built upon common minimum international standards which are voluntarily accepted by countries. Those standards have been negotiated over a long period of time and often with a great deal of difficulty. They represent what is common amongst the variety of different legal, political, economic systems with different religious backgrounds, different cultural and historical belief systems and different ways of approaching the world. Yet perhaps the greatest achievement of the international human rights legal system is that it represents what we can agree on as being common to all of us, in spite of those differences. Because it recognises what is common, it is minimal, that is, the bare minimum we can expect a human being to be entitled to receive from his or her government as a result of the essential humanity that we share.

Although the legal system was first developed after World War II by means of the Universal Declaration of Human Rights, which was a declaration of the general assembly, its fuller statement is built upon a treaty system which nation states have the capacity to adhere to or not adhere to as they see fit. The international human rights regime is not imposed upon any nation state. We are not told in Australia by the United Nations or by anybody else what human rights we have to respect. It is a decision that has been taken by Australian governments in the exercise of the sovereignty of Australia to accept these obligations, to make these commitments. Because they are not imposed, because they are our voluntarily accepted commitments, they represent a solemn undertaking by Australia. Indeed, that phrase 'solemn undertaking' has been used by the High Court itself to refer to the process of entering international human rights treaties.

First, because it is built upon a treaty system, these commitments represent promises to the international community. They are mutual obligations that arise between states that become parties to the treaties. Again, they are not obligations imposed upon us by the United Nations. That gives rise to the question of how on earth can we expect any other country to comply with these international human rights treaties if we ourselves are not prepared to comply with them. Indeed, how can we expect anybody else to take them seriously if we, through our political leaders, from time to time bring the whole system into contempt, indicating that the international community, which has a legitimate interest in the human rights performance of nations, should butt out of any particular interest in ours.

The human rights legal system is immature. There is no police force that will come around with a big stick and tell us what to do or force us to keep our promises. At the very best, human rights law is a fig leaf to clothe our nakedness. Take away the fig leaf and we are fully exposed. We are exposed as a community and we are exposed as an international community to all the kinds of gross violations of human rights that we saw during the course of World War II and that we see persistently since then. We have no basis to enter into dialogue with

major human rights violators, whether in relation to freedom of religion or anything else, if we ourselves are not prepared to accept the obligations that we have accepted ourselves, that we have promised to comply with through the international legal system.

Recently we have seen increasingly shrill comments—and I have to use the word ‘shrill’—about the international human rights legal system. We saw the most unfortunate comments being made by the Attorney-General after the Committee on the Elimination of Racial Discrimination 12 months ago reflected upon the legislation passed by the Senate to amend the Native Title Act. It was not a response that entered into debate with the committee but rather a dismissive response. We have seen increasingly dismissive responses to negative decisions taken against Australia under the complaints jurisdictions of the international treaty committees. Most recently, in relation to the debate on mandatory sentencing in the Northern Territory, which you will be pleased to know I will not enter into today, we have seen a series of highly prejudicial comments by state and federal leaders about the international system itself.

Those comments have been reported in the regional media. The *Bangkok Post* last week had an editorial about Australia’s newfound contempt for the international human rights legal system because of comments made by the Prime Minister. That editorial was repeated last Thursday in the *Jakarta Post*. It is interesting that it should be repeated in the *Jakarta Post* when it was precisely this international legal system that justified our proper intervention in East Timor under the auspice of the United Nations. Yet it seems that we are in the situation of tearing the fig leaf away from the international nakedness on human rights by these kinds of dismissive comments. I have to say that it does us no good whatsoever. It lumps us amongst the hardline states that reject the legal system. Far from those who have the temerity to criticise our performance, calling our general record into disrepute, it is the case that those who portray to the international community a perception that we have something to hide, that we are lining up with the hardline states on human rights law, are the ones who are bringing this whole country into disrepute. It is made worse by the comments that are made in private.

I am reliably informed that last week an official demarche was made to Unicef by a senior member of the Australian government’s mission to the United Nations in New York. That demarche was by way of a formal statement that was read to a senior officer of Unicef. Unicef it seems has also been invited by the Secretary General to comment on the mandatory sentencing laws. The demarche indicated that Australia, as it has been reported to me, considers this as an unjustifiable interference in the internal affairs of this country and an infringement of our national sovereignty. I have not seen the written demarche. This committee may wish to call for it as an expression of the government’s views on these matters. I know that, before the intervention with Unicef, the Ambassador of Australia to the United Nations in Geneva met with the High Commissioner for Human Rights. I do not know what was discussed at that meeting, but I suspect it may well have been the same issue.

If this is going to be the approach that we take, we are understandably drawing contempt upon ourselves and exposing ourselves and limiting ourselves in what we can do in the international promotion of human rights. The comment that I understand some within Unicef made after this demarche last week was that Australia was starting to sound like China, whenever Unicef takes an approach towards China and China’s human rights performance. As I say, lining up with the hardline states on human rights is the last thing this country should be seeking to do at the moment.

If we are interested in promoting regionally and throughout the world the right to freedom of religion, we need to establish our own credibility and our own acceptance of the international human rights legal system. Our performance is better than most. In some cases it is the best in the world in many aspects of human rights compliance. I therefore do not know why we are so frightened about the occasional criticism that we draw the whole system into disrepute by the way in which we attack it when somebody asks questions about us.

The international human rights legal system also has important implications for Australians. Although they are built upon commitments made through mutual obligations under treaties to the international community, for me the most important part of the accession to treaties is the promise that it represents to Australians that Australian governments will respect the human rights of their own citizens and others within this jurisdiction. That is particularly important in Australia now because we are alone among developed Western parliamentary democracies in not having some form of constitutional or statutory bill of rights. Under those circumstances, the only protection that Australian citizens and residents have for their human rights against Australian governments is contained in the treaties that we have ratified and the attachment of those treaties to the jurisdiction of the Human Rights Commission.

Freedom of religion, as I indicated in the beginning, is a most important freedom. Australia’s legal protection of freedom of religion is very limited. In the submission that we made to the committee, we enclosed a copy of our report *Article 18*, which analysed the existing legal framework for the protection of freedom of religion within Australia. It indicated there is some protection from religious discrimination at the

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state and territory level, but not in all states and territories. The largest states do not have that protection. At federal law, there is only very limited protection for freedom of religion. There is no protection whatsoever for the positive right to freedom of religion and belief as distinct from the negative right to be free from discrimination. In these areas our own jurisdiction, our own legal framework is very lacking. It seems to me under those circumstances that, if we are to talk about the appropriate protection in law of freedom of religion in other jurisdictions, we need to get our own house in order.

Our report *Article 18* made a number of recommendations to the Commonwealth and to the states and territories. The federal Attorney-General in parliament about a year ago indicated that the government did not accept the principal recommendation, that is, the enactment of a religious freedom act in Australia by the Commonwealth. At this stage we have not received a reply to any of the other recommendations made in the report *Article 18*. At the state level in New South Wales, there is again consideration of the extension of the coverage of the antidiscrimination act to include religious discrimination. I hope the New South Wales parliament will accept that recommendation. It is long overdue.

Regionally, our commission through the Asia-Pacific Forum of National Human Rights Institutions is also involved in the promotion of religious freedom. The last annual meeting of our forum in Manila last September saw a request come to the forum from the Indonesian Human Rights Commission for a study on religious freedom and ethnic and religious conflict within the region. The forum secretariat will be taking up that request, as it was endorsed by the forum as a whole.

Through the multilateral contacts we have in the forum, and through bilateral dialogues we are involved in, Australia as a nation and the commission as an institution, with many countries in the region, it is possible to promote better respect for religious freedom, to assert constantly on the basis of international law that it is one of the key human rights. My fear, though, as I say, is that our human rights dialogues, our opportunities for advancing human rights and human rights promotion within the region, are being seriously compromised at the moment because of the attitudes of many of our leaders towards the international legal regime.

**CHAIR**—Thank you, Mr Sidoti. When you talk about whether the legal structures are there for freedom of belief, and you are suggesting that they are weak in this country—I am not suggesting you are saying that they are weak in this country—what is the practice? Is there a need to strengthen the legalities if the practice is not a problem? If there is not a problem, why would you need to strengthen the legalities? Or are you saying that the practice is not acceptable either?

**Mr Sidoti**—In the work that we undertook for the *Article 18* report, we sought submissions from the community on the very question of what is the experience of religious freedom within Australia. We received over 250 submissions, the majority of which supported better protection for religious freedom. Historically within Australia the practice of religious freedom has varied, and I think it has improved dramatically from what it was in the past. Right from the earliest days of settlement, there has been the experience of religious discrimination, particularly against minority religious groups. For much of the period between 1788 and up to 1970 even, that religious tension was predominantly between Anglican and Protestant Christians, on the one hand, and Catholic Christians, on the other. It was quite well known at the time that there were certain government departments where Catholics got jobs and others where Protestants got jobs. There were law firms and accountancy firms and medical practices and even workplaces in factories and so forth that discriminated explicitly on the grounds of religion between those Christian denominations.

I think, and my experience is, that that kind of discrimination is very much a thing of the past. It perhaps reflects the success of the Irish Catholic community in moving into a mainstream position within Australian society. It certainly reflects significant changes in numbers and proportions of the Christian denominations as a result of postwar immigration. But the smaller religious communities or their members today still experience discrimination in employment, in housing and in establishing places of worship that the predominant denominations experienced in the past. I regret that, because the position of most of us is now fairly acceptable, we tend to ignore the problems that these smaller minority groups face. For them, religious freedom remains a critical issue.

Again, to talk about international comparisons, it is not an issue here as it is in many other countries. We do not have people being imprisoned because of their religious beliefs or persecuted through torture or exclusion from major forms of social activity. We are talking about important human rights issues of discrimination but not major issues that go to the physical integrity of the person through detention or torture. But it remains an important issue. As I indicated, most of the laws that we have are directed towards protection of negative freedom, that is, freedom from discrimination, rather than the positive freedom to believe and practise and undertake the forms of religious activity that a religious belief compels.

**CHAIR**—If the situation has improved over the years, presumably that has been as a result of education rather than the legal structures because the legal structures are weak. Therefore, is it realistic to assume that imposing stronger legal structures will make much difference or is education not the way to go?

**Mr Sidoti**—I think education has been important. I think equally or perhaps even more important has been change in political and economic power within the community, particularly in the case of Catholic Christians, that has seen previously poor and disadvantaged minorities assume positions of influence and some degree of share in the wealth. I think those changes in the actual structures or sociological changes within society are very important. But education is very important as well.

The problem with education, the problem with public awareness or public opinion, though, is that it can become subject to the winds of changing fortunes. Certainly, in times of economic hardship, minorities will always find themselves disadvantaged. Again, in the context where we seem to be turning our back more on international law, I think we can expect that, following the lead of political leaders, people within the community will become much more contemptuous of the respect for rights that arises from moral commitment rather than from legal obligation.

**CHAIR**—One of the issues that has come before this committee during the inquiry fairly frequently is the subject of sects as opposed to religions. The definition between the two is a matter of opinion sometimes. Do you have a view on the treatment of sects in this country? I would be particularly interested in your views, given your connection with the Asia-Pacific forum, on Falun Gong, which exists in this country and which is certainly an issue overseas in places like China.

**Mr Sidoti**—I have no knowledge other than media knowledge of Falun Gong. I really have no view at all as to whether it is a form of physical and mental discipline or religious or subversive or what. On the broader question of what is a sect and what are the rights of a sect, the approach that we recommended in *Article 18* is an approach that says that religious belief for legal purposes has both subjective and objective elements. It is not sufficient to say that whatever anybody proclaims to be a religious belief is a religious belief and all forms of activity should be tolerated. For example, there is no suggestion anywhere in the world that human sacrifice should be tolerated on the grounds of religious freedom.

One of the keys is what the ordinary criminal law provides. If we have to enact special laws to deal with particular religions or particular asserted religious beliefs, then I think we have to ask questions as to whether there is discrimination or persecution of that religious belief. But, if there is a general criminal law that reflects human rights standards internationally and covers areas of activity that would generally be accepted as being contrary to the good of the community and it applies to religions equally, then I do not think there can be any complaint that the law affects in one way or restricts in some way the particular activities or beliefs of individuals.

Human sacrifice is one obvious example. Child exploitation or child sexual abuse is another obvious example. So there are areas where even subjectively genuinely held religious beliefs can be circumscribed by law. Article 18 of the ICCPR reflects those legitimate restrictions. It talks about legitimate restrictions on the basis of public health, public morals, public good and public security—fairly standard grounds that need to be narrowly interpreted. So there are restrictions that are possible. The critical issue is what is the application of the general criminal law, rather than seeking to single out a particular sect for particular attention. It is when we do that that we start running into trouble.

**CHAIR**—As you know, we run this committee very democratically, so I shall give the other members an opportunity to ask questions.

**Senator HARRADINE**—Do you know how many people are suffering torture and imprisonment in Vietnam because of the exercise of their freedom of religion and worship?

**Mr Sidoti**—No, I do not know the figure, Senator. There is a dispute between international human rights organisations and the government of Vietnam's classification of prisoners. The government of Vietnam will say there are none. International human rights organisations have a variety of estimates. What the actual figure is, is something that I do not know, I am afraid.

**Senator HARRADINE**—I must have misunderstood your first comments. The issue that you raised is, I am sure, a matter of concern for the majority of us, if not all of us. But to use as an excuse Australia not coming up to the level that is needed for not concentrating very strongly on human rights abuses that occur in this particular area in other countries is a bit of a copout, is it not?

**Mr Sidoti**—Exactly. If I was not clear, I apologise. It is an absolute copout. My view is very strongly to the contrary. There is no perfect human society. Given my religious background, which is shared with you, I think we probably both agree that there will never be a perfect human society. Therefore, if any of us wait for perfection before we criticise another, we will be waiting a hell of a long time. The importance of the

international human rights legal system is that we are all in it together. Performance varies from country to country. But, because we know none of us is perfect, we have the right to call others to meet a high standard of performance.

We have to be able to subject ourselves to scrutiny as much as we are prepared to subject anybody else to scrutiny. Indeed, from my experience over many years in talking about human rights internationally, it is precisely because Australia has a reputation of being honest about its own human rights performance that we have credibility when we criticise anybody else's. We are not seen as being self-righteous. We have not been to date anyway. We are not seen as being self-serving, as some nations of the West are. We are prepared to say our performance is not up to scratch in these areas, but we are also free to say to you that your performance is deficient.

**Mr BAIRD**—You are talking in terms of religious freedom, because that is what the inquiry is on.

**Mr Sidoti**—I am talking generally. Religious freedom is one of the four freedoms that Franklin Roosevelt saw as being critical. It is one of the central freedoms, but it is part of a broader international human rights legal system which all hangs together as an integrated whole. We are not able, in my view, to say that we will attach importance to freedom of religion and perform well and talk about that without being prepared to accept the system as a whole—the fabric of human rights law.

**Senator HARRADINE**—Specifically on the issue of violations of human rights and the human right of freedom of religion and belief, what priority does Australia give to that? For example, do you know what priority the department of foreign affairs gives to the issue of violation of human rights in relation to freedom of religion by comparison to that given by the United States of America?

**Mr Sidoti**—I cannot give an assessment overall of the department. I am sure that you will be asking the department that.

**CHAIR**—We already have.

**Mr Sidoti**—I can speak about my experience, though. When I was involved in human rights delegations to China and Vietnam, and in other bilateral human rights work that we do, the question of freedom of religion featured prominently. It was one of the critical issues raised in both the China delegations I went on and in the Vietnam delegation. I am aware that it continues to be an issue in the Australia-China human rights dialogue.

**Senator HARRADINE**—Do you know what actual actual amounts are spent in this particular area? For example, are there particular rapporteurs in particular embassies in countries that give rise for concern?

**Mr Sidoti**—I do not know. I have not seen or come across particular rapporteurs on any single human rights issue. There tends to be somebody in the embassy who will have a human rights mandate. But that is just impressionistic, I am afraid.

**CHAIR**—We asked those specific questions of DFAT at the last hearing. They were taken on notice.

**Mr BAIRD**—You mentioned that you would like to see the principles of religious freedom legislated on and implemented in Australia. What would you see as being the key planks? Where do you feel are the greatest failings in Australia at the moment? Is it the question of employment? Do you have any evidence of discrimination on employment? What are the other areas where you think we have major problems at the moment or problems?

**Mr Sidoti**—The area of employment is still a significant issue. One of the difficulties in any of these questions is measuring how broad a problem it is, particularly when there is no coverage of religious discrimination in New South Wales and Victoria, the two biggest jurisdictions. We cannot even rely upon the self-reporting of complaint systems. I do have jurisdiction at the federal level, but it is a weak jurisdiction. It is only an attempt to conciliate and report to parliament. We have not received many complaints in the past about religious discrimination in employment, though there have been some. It is on the public record that I have a number at the moment in relation to employment services—this question that has arisen over the last six months.

Employment remains an issue of concern. It was the major issue addressed in the submissions that we received. Giving a statistical estimate of the incidence, though, is not possible at this stage. Again, submissions addressed questions of discrimination in attaining accommodation. In renting premises, people indicated to us that they had clear experiences of religion based discrimination. The third area is in establishing places of worship. There have been a number of issues in local government approvals across the country where it seemed to us and to the courts in many instances, where these issues have gone to courts, that planning decisions were being affected by religious considerations rather than just planning considerations. I think that situation has improved significantly over the last 10 to 15 years. We do not seem to be getting anywhere near the number of complaints or submissions about discrimination in establishing places of worship. Again, the submissions we received in the process of preparing this report indicated there were still some problems.

**Mr BAIRD**—We heard the previous representation from Dr Wallace, but isn't the investigation of cultic behavior of organisations which are considered to be mainstream the flip side? If you have religious freedom, then you are also going to enshrine that freedom to go about your business. Obviously, where it starts to intrude in terms of gross abuses, that can be covered by the legal framework. It was rather interesting to hear you talk about religious freedom, on the one hand, and hear Dr Wallace talking about the abuses of cults, on the other.

**Mr Sidoti**—The question of cults is difficult, particularly the question of coercive conversion, whether it is conversion in or out. Anticult groups are very strident about coercive conversion in. Many of the cults or new religious movements, as they prefer to be called, are equally concerned about conversion out. When we were doing this report, this became one of the most difficult issues that we were asked to grapple with, and in the end failed to. What we did suggest is the need to examine this question of forced conversions both ways and to develop some guidelines and to involve religious communities generally and human rights lawyers in developing guidelines about what kinds of practices are acceptable and what are not.

**Mr BAIRD**—I have problems with the list provided in Dr Wallace's submission of those who are regarded as being involved in cultic behavior. Some of these organisations I regard as almost mainstream. You have a group which is saying this is unacceptable behavior. Guidelines would be useful so that there is a definition, because there are dangers in people being labelled as being cultic.

**Mr Sidoti**—That is right. Guidelines need to be developed in consultation with the broad cross-section of religious communities. It cannot be imposed by lawyers, but lawyers can assist because we have experience in preparing these things. I think we need to engage the religious communities generally in the development of guidelines so it is quite clear what practices are acceptable and what are not. One difficulty with even the question of what is or is not a cult is that almost every religious community in Australia is mainstream somewhere in the world. Therefore, what is mainstream or not is very much geographically related. Some people, for example, would consider the Mormons to be a cult. Yet go to Utah and you will find they are quite mainstream.

**Mr BAIRD**—But Children of God you do not find—

**Mr Sidoti**—No, some of those smaller ones tend to be more on the fringes of religious activity. But, if they have genuinely held religious beliefs that comply with the broader criminal law, they are acceptable and should be acceptable. But there are other groups that are not mainstream anywhere. We do need to engage them in dialogue and look at what forms of practices for conversion are acceptable and what are generally not.

**Mr BAIRD**—It then provides a code of conduct for the churches themselves, and to be reminded of that where there is evidence that some individual churches are straying in that regard

**Mr Sidoti**—Yes, or individual parts of individual churches. Even with the larger denominations, we cannot assume that everyone is acting properly within them.

**Mr BAIRD**—That is true. That is why general guidelines I think would be useful.

**CHAIR**—You made a very powerful statement earlier about Australia's performance in human rights terms and how that influences our standing or effectiveness in looking at human rights overseas. Could we look in a bit more detail at what we could do overseas without, in any sense, putting aside the comments about what we should do here.

We have not had submissions from a large number of organisations, particularly NGOs, that we probably would have expected for an inquiry of this type. When we informally inquired, the response was that it is a bit of a taboo subject or that you cannot separate religion from general human rights. It is all too difficult. Can you comment on how you see freedom of religion generally being observed in the Asia-Pacific region, in particular, where you have particular knowledge from the forum? Can you expand on your comment about the assessment that is going to be made in the Asia-Pacific forum on performance. When will that be completed? Will it be an assessment that is available generally across the forum or more publicly? What sorts of issues are you expected to deal with, particularly in relation to Indonesia, where you only have to watch the television news to be aware of the religious undertones or at least partial content in many of the difficulties that are going on there in Ambon, the Malukus and so on. Could you give us some more detail on what has happened there? What has Komnas HAM found? And what are your dealings in that respect?

**Mr Sidoti**—The Indonesian commission raised this issue precisely because of the events in the Malukus and in Ambon. There has been concern about the mutual killings between Christians and Muslims in those areas. Also there are questions about military involvement or some military involvement in that too. But that was outside the reference that they proposed. What they have requested is that the forum undertake a study of the causes of religious and ethnic rivalry or conflict and approaches towards reducing the level of conflict in the interests of respecting human rights. So it will not be a country by country assessment of actual

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performance but more a study as to what gives rise to these kinds of situations and what experiences we have had across our countries in trying to address them in ways that maximise human rights and prevent the loss of life.

The Indonesian Human Rights Commission, Komnas HAM, has been quite active in looking at the situation in Ambon, in particular. It has also been involved in working with the minister for human rights in the establishment of human rights courts, particularly a joint civil military court for Aceh, which is shortly to be established. The commission is desperately restricted in the staff that it has, so it tends to concentrate on some of the more high profile situations rather than looking just at individual cases scattered right across Indonesia. For that reason, it cannot give even a general assessment of the extent of human rights violations with religious freedom on a province by province basis, for example. The study should become a public document. The way in which the forum works is that whatever background papers are prepared or studies undertaken do get made publicly available.

**CHAIR**—When would you expect that might happen?

**Mr Sidoti**—Probably 12 months. I suspect, therefore, it will outlast the reference to this committee.

**Senator HARRADINE**—And they will deal with the questions of economic factors as well.

**Mr Sidoti**—That is right. In asking us to look at the issue of religious conflict, the Indonesian commission and we have very much in mind that often religious differences simply reflect or sometimes even mask economic differences and differences in social status and position within communities. Conflicts may be as much or more about economics than they are about religion in many circumstances. In trying to examine the causes of the conflict, they are explicitly inviting us to give some consideration to those kinds of underlying factors.

Looking more generally at the extent of respect for religious freedom in the region, again, I can work on experience rather than hard data. I have been involved in this region for a long time. My view is that respect for religious freedom is quite low within the Asia-Pacific region generally. We certainly have significant numbers of people who continue to be imprisoned and often tortured because of religious belief. Sometimes that is disguised by countries saying that individuals are breaching criminal law. That is why I say we need to be fairly careful in looking at the reasonableness of criminal provisions. You will find that most countries in the region will deny vehemently that there is any religious discrimination or religious persecution, but the facts are quite the opposite. We go through periods of greater tolerance and periods of lesser tolerance or greater persecution on a country by country basis. Certainly the practice of discrimination is very widespread, and the practice of more active persecution is quite common in a number of countries within the region.

**Mr BAIRD**—Have you done any reviews into the extent of it? We tend to focus on China in terms of religious freedom, but has your organisation conducted any studies? Part of the problem is hearsay.

**Mr Sidoti**—That is right, Mr Baird. My answer is no to your question. The commission's jurisdiction in terms of investigation is limited to Australia. The work that we do internationally tends to be based more on cooperation and joint projects like through the forum than us undertaking any independent assessment of anybody else's performance. So far as I personally am concerned, the work that I have done is mainly based upon work done by the major international human rights agencies, work done by some governments, such as the US State Department report and more recently its decision to establish a freedom of religion report annually, and then some of the work through the UN treaty systems and special rapporteurs. But I certainly have not done first-hand original research or investigation in relation to any particular country.

**CHAIR**—In terms of looking at freedom of religion overseas, do you see any role for NGOs? Are you aware of any NGOs that actually get involved in the issue?

**Mr Sidoti**—I am not aware of many NGOs that are specialising in freedom of religion. There are certainly a few within Australia. We receive their newsletters and follow the advice that they provide to us. There are also a few in the United States. In terms of major NGO activity, it tends to be part of a broader human rights mandate, such as Amnesty dealing with civil and political rights. Amnesty certainly takes up religious persecution issues. But we do not have a major international organisation of that profile or level of credibility that is focusing explicitly on religious freedom.

**CHAIR**—Changing the subject slightly, how well do we protect the freedom in this country not to believe? It has been suggested by another witness that we actually discriminate against those who do not believe, in the sense that religions get especially favourable treatment in terms of taxation and that is discriminatory against others.

**Mr Sidoti**—Religions do get favourable treatment, but the treatment in most instances is on a par with other not-for-profit organisations. There are some areas where there is benefit over and above other not-for-profit organisations, but in most cases it is on a par. The freedom of those who do not believe, it seems to me,

in most cases is on a par with those who do believe. That is, they can be subject to discrimination in employment or in accommodation or in other areas of activity. They have the same limited protection and the same lack of protection in some jurisdiction as religious believers do. I certainly have not come across significant variations which would lead me to say that the protection available to non-believers is less than or better than that available to religious believers.

**CHAIR**—I think the argument goes along the lines that, if a religious organisation runs a commercial business, they get tax advantages that are not available to commercial operations from non-religious organisations.

**Mr Sidoti**—That certainly is the argument, but the commercial business is normally run on a non-profit basis or rather the generation of surplus for related activities is the intention of it. To me, it is fairly comparable with most other charitable or not-for-profit organisations, and so far as I am aware in most instances the tax treatment is the same. If it were providing dividends to shareholders, for example, it would be taxable, as I understand it.

**Mr BAIRD**—Cross-subsidisation is one of the keynotes that often differentiates the two, I would have thought.

**Mr Sidoti**—That is right. There are questions of cross-subsidisation if the surplus is being put back in not to social welfare activity but to religious promotional activity. I do not know the extent to which that actually occurs. The experience of at least the religious groups that I have had most contact with tends to raise questions of cross-subsidisation in the other direction, that is, the donations by adherents tend to subsidise social welfare and educational endeavours rather than those endeavours subsidising religious practice.

**CHAIR**—Again moving on to a different area, do you have any current concerns in relation to respect for indigenous beliefs in Australia?

**Mr Sidoti**—Yes, there are concerns and the report has referred to those concerns. In relation to indigenous people, the connection between religious belief, broader cultural issues and relationship to land gives rise to very complex and difficult questions in law because here we are talking about religion and economically valuable assets having very intimate links. Our commission has been concerned about that in the past, and we have dealt with it in the context of our mandate in relation to indigenous social justice. It has received special attention in the *Article 18* report as well.

**CHAIR**—Could we talk a little about Vietnam and freedom of religion in Vietnam. This committee, apart from the formal hearing and the inquiry, gets quite frequent approaches in a formal sense from people in relation to a lack of freedom of religion in Vietnam and persecution, particularly of the Unified Buddhist Church in Vietnam. Do you have any information or knowledge in respect of Vietnam? I think you said you have been there on a delegation.

**Mr Sidoti**—I was in Vietnam with the human rights delegation in 1995, I think. Except for one very short visit a year or two later, I have not had direct personal involvement on the ground in Vietnam. The question about the treatment of the Unified Buddhist Church is certainly one that receives a lot of attention in international human rights discussions. So far as Christian denominations are concerned, again there have been concerns expressed on many occasions. The Vietnamese government did not adopt the approach towards the Christian churches that the Chinese government adopted in the post-1949 period. There is not the situation there of having an official and an unofficial or an open and underground Catholic Church or an official and an unofficial Protestant Church, at least to the same extent. There are certainly unofficial Protestant congregations in Vietnam. But the treatment of Christians in Vietnam, it seems to me, has not been as restrictive as it has in China, although that is not to say that there has been full and open freedom of religion at all times. So far as the Buddhist church is concerned, there has been a different attitude taken because of the longstanding political influence, in my view, of the Buddhist monasteries in Vietnam going back over a very long period. The legacy of that has seen the government adopt a particularly harsh attitude to those traditions within Vietnamese Buddhism that have tended to be more critical of government activities.

**CHAIR**—You mentioned China and your concerns about freedom of religion in China. I think you were a member of the first two human rights delegations that went there. I was a member of the third. From what you have seen, heard and read, do you perceive the situation is getting worse or is it just not changing or might there be some improvement?

**Mr Sidoti**—The difficulty with China is that one has to answer yes, yes and yes to all of those questions. I do not know whether it has ever been possible to look at China as monolithic. It certainly has not been possible to do that over the last 10 years. As a result of that, practice varies enormously across a huge country, not just from province to province but even at times from county to county. In one county religious worship can be broken up and people arrested, and right next door the same religious groups can conduct public worship on a

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regular basis without being touched. So it varies from place to place and from time to time. It has been a while since I have been to China, but from my continuing following of discussions and reports on China I do not see any consistent national trend of either improvement or worsening of the situation but rather this continuation of difference from place to place and from year to year.

**CHAIR**—What significance would you therefore place on the recent reports about the defection of one of the leading lamas, I think the No. 3 in the hierarchy from Tibet, to the Dalai Lama's government in exile in India?

**Mr Sidoti**—Tibet always has to be considered separately from the rest of China. Perhaps I was remiss in making those descriptions. In Tibet I think it has been an experience of almost unqualified suppression of much of the worship and activity of Tibetan Buddhism. The escape, the departure, however you want to describe it, of the third highest ranking lama in Tibetan Buddhism is certainly a clear public statement on his part of his assessment of the protection of religious freedom in Tibet and the capacity of Tibetan Buddhism to be active and to undertake the essential characteristics of worship and study, particularly study, of the Tibetan scriptures.

Clearly, he is a young person with a strong commitment to Tibetan Buddhism. He and those in his community within Tibetan Buddhism have long been seen as willing to try to work with the Chinese authorities within Tibet to find some form of accommodation that would enable them to express the essentials of their religious beliefs and undertake the necessary religious study. His departure from China is a public indication of his view that that kind of accommodation is not possible at the moment. To that extent, it is a very worrying development, in my view, because it reflects the assessment of somebody on the ground who has tried to work within the system, not somebody who has been in exile for a long period of time, as the Dalai Lama and many of his direct followers are and who are trying to comment on the situation in Tibet from a distance. This is somebody who has been trying to work through the system itself. His departure is expressing the view that that has not been possible.

**CHAIR**—Is it a fact that the particular individual, the Karmapa Lama, was the only senior ranking lama in Tibet who had been recognised by both the Chinese government and the Dalai Lama?

**Mr Sidoti**—I think that is significant. He embodied the hope of an accommodation between the central Chinese authorities and the Dalai Lama. That hope was not possible so far as the identification of the reincarnation of the Panchen Lama more recently has been concerned. There were hopes before that, and it fell apart with the Panchen Lama. Yet the future of human rights in Tibet—indeed, I would say the future of the Tibetan people as a cultural and ethnic community—lies in the short term in some negotiation and a settlement between the Chinese central government and the Dalai Lama.

**CHAIR**—Do you have any evidence that that is occurring or that is likely to occur?

**Mr Sidoti**—I think the departure of the Karmapa Lama tends to indicate that it is not occurring and it is not likely to occur in the foreseeable future.

**CHAIR**—I would like to turn to South Asia and India, in particular, the recent atrocities in respect of practising Christians there. Is India part of that Asia-Pacific forum?

**Mr Sidoti**—Yes, it is.

**CHAIR**—Can you give us any information on what action India might be taking in respect of religious intolerance, as those instances would seem to me to indicate there is still a problem?

**Mr Sidoti**—Yes, there is clearly a problem. The problem relates to the more fundamentalist Hindu groups fearing a more active Christian proselytising effort in parts of India. After the murders of a missionary and his two young sons, the government launched an investigation into their deaths. The report of that investigation has been strongly criticised by a number of human rights NGOs in India as being quite inadequate. The Indian Human Rights Commission deferred to the government investigation initially to give it the first go at having a look at what was happening. I do not know what their assessment of the report is since then. If the committee is interested, we can contact them and seek information from them about that.

**CHAIR**—I think we would be. Are there any developments in Pakistan?

**Mr Sidoti**—I have no knowledge, I am afraid.

**CHAIR**—As there are no other questions, thank you very much for coming today, Mr Sidoti. If there are any other matters on which we need additional information, we will write to you. We will send you a copy of the transcript of your evidence to which you can make corrections of grammar and fact. This concludes the formal evidence taking of this inquiry. On behalf of the subcommittee, I thank all those organisations and individuals that forwarded submissions and those that gave evidence at our hearings. Without those

contributions, this process would not have been as valuable as it has been. The subcommittee will now draft its report so that it can be tabled as soon as practicable this year.

Resolved (on motion by **Senator Harradine**):

That this subcommittee authorises publication of the proof transcript of the evidence given before it at the public hearing this day.

**Subcommittee adjourned at 12.13 a.m.**