



**Uniting Church in Australia
National Assembly**

**Submission
Australian Human Rights Commission**

Freedom of Religion and Belief in the 21st Century

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Introduction

The Uniting Church in Australia

The Uniting Church in Australia (UCA) was born in 1977 when the Congregational Union of Australia, the Methodist Church of Australasia and the Presbyterian Church of Australia joined together to form the nation's only truly indigenous mainstream Christian movement.

The Uniting Church is the third largest Christian denomination in Australia with more than 1,100,000 adherents.¹ The Church celebrates its multicultural membership, and its continued work in the area of Indigenous reconciliation in partnership with its Aboriginal and Torres Strait Islander members.

The Uniting Church seeks to bring God's vision of a reconciled and renewed world into the present, to reflect God's love for everyone, work for justice and peace and follow the example and teachings of Jesus Christ who taught what it means to love one's neighbour and one's enemy, called on his disciples to heal the sick and give to the poor, and who himself challenged the systems and structures of oppression in his society. In all of this, we are called to act with integrity, ensuring that our words and our deeds are aligned.

In the *Statement to the Nation*² made by the Inaugural Assembly in 1977, the Uniting Church committed to a continued involvement in social and national affairs, affirmed the Church's "eagerness to uphold basic Christian values and principles, such as the importance of every human being", and stated

that the first allegiance of Christians is to God, under whose judgement the policies and actions of all nations must pass. We realise that sometimes this allegiance may bring us into conflict with the rulers of the day.³ But our Uniting Church, as an institution within the nation, must constantly stress the universal values which must find expression in national policies if humanity is to survive.

The Uniting Church unites not only three former denominations, but also Christians from a wide variety of cultural and linguistic backgrounds. Our cultural diversity was affirmed in the statement adopted by the Fourth Assembly of the Uniting Church in 1985, *The Uniting Church is a Multicultural Church*.⁴ This statement remembers that Jesus Christ "made peace between people of every race, culture and class" and states that such unity is

a goal to be achieved as we commit ourselves to one fellowship to achieve justice, affirm one another's cultures, and care for any who are the victims of racial discrimination, fear and economic exploitation.

Within the Uniting Church there are many multicultural congregations reflecting the great diversity of cultures that make up modern day Australia. In addition, there are almost 200 culturally and linguistically diverse groups who worship in 26 languages other than English.

The Uniting Church continues to see reconciliation with Indigenous people as essential to the life and health of the Church and Australian society. The Uniting Aboriginal and Islander Christian Congress (UAICC), established in 1985, leads the Church in ministry and solidarity

¹ according to Australian Bureau of Statistics data from the 2006 Census

² *Statement to the Nation*, Uniting Church in Australia, Inaugural Assembly (1977), available: http://www.unitingjustice.org.au/images/pdfs/resources/churchstatementsandresolutions/1_statement1977.pdf

³ for discussion about religious allegiances see the Preliminary Note on p. 5

⁴ *The Uniting Church is a Multicultural Church*, Uniting Church in Australia, Fourth Assembly (1985), available: http://www.unitingjustice.org.au/images/pdfs/issues/community/assembly-resolutions/4_multicultural1985.pdf

with Aboriginal and Torres Strait Islander people. At its Seventh Assembly in 1994, the Church formally entered into a relationship of Covenant with its Indigenous members, recognising and repenting for the Church's complicity in the injustices perpetrated on Australia's Indigenous community, and pledging to move forward with a shared future. The UAICC's generous response to this statement, among other messages, called upon the broader Church to take up the mission of reconciliation. The Uniting Church hopes for a nation which acknowledges and protects the rights of Indigenous Australians as the first peoples of this land.

The Uniting Church and Interfaith Relations

The Uniting Church is committed to creating and sustaining communities of peace. It values mutually respectful and positive relationships with people of other faiths and affirms the place of interfaith dialogue in creating and sustaining a culture of peace and harmony. As Christians we believe that all people are created by God and that we are called to live together in peace, loving our neighbour as God loves us and all people. As a manifestation of this belief, the Uniting Church National Assembly has a permanent working group dedicated to interfaith relations. The Relations with Other Faiths (ROF) Working Group:

- is involved in numerous interfaith dialogues and relationships (the Australian National Dialogue on Christians, Muslims and Jews, a formal national bilateral dialogue with the Executive Council of Australian Jewry, the Women's Interfaith Network, the Asia Pacific Interfaith Dialogue Forum, and a national dialogue with the Australian Federation of Islamic Councils);
- produces interfaith worship resources for congregations who wish to engage with other faiths in worship;
- is committed to providing continuing theological education and professional development to Uniting Church Chaplains in schools, prisons and hospitals, recognising that these are multi-faith placements; and
- organises visits to places of worship and participates in global events such as the Parliament of World Religions and other interfaith seminars and programs

The Uniting Church Commitment to Human Rights

The Uniting Church has, from its inception, been publicly committed to social justice and human rights, including freedom of religion. This commitment began in the *Statement to the Nation*, made at the Inaugural Assembly in 1977, which affirmed

our eagerness to uphold basic Christian values and principles, such as the importance of every human being, the need for integrity in public life, the proclamation of truth and justice... religious liberty and personal dignity, and a concern for the welfare of the whole human race.

The statement also pledged the Church to

seek the correction of injustices wherever they occur... We will oppose all forms of discrimination which infringe basic rights and freedoms.

This statement was remembered by the Uniting Church in 2006 when it adopted its human rights statement, *Dignity in Humanity: Recognising Christ in Every Person*.⁵ This statement articulates the theological groundings of the Church's commitment to human rights and states

the Uniting Church believes that every person is precious and entitled to live with dignity because they are God's children, and that each person's life and rights need to be protected or the human community (and its reflection of God) and all people are diminished.

In *Dignity in Humanity*, the Church confesses its role in perpetrating violence and in the abuse of human rights through action, inaction, complicity and collusion, and condemns "the abuse of human rights and the failure to uphold and promote human rights as contrary to the gospel of God's love in Christ for all human beings and the earth."

This statement also articulates the Church's support for the human rights standards recognised by the United Nations (UN). The UN human rights instruments express the birthright of all human beings to all that is necessary for a decent life and to the hope of a peaceful future. As such, the Church continues to urge the Australian Government to fulfil its responsibilities under the UN human rights covenants, conventions and treaties which it has signed or ratified, and is dedicated to assessing current and future national public policy and practice against these human rights instruments.

In light of this continued commitment to human rights and the upholding of the United Nations' human rights standards, the Uniting Church welcomes this inquiry into freedom of religion and belief in Australia. As a religious organisation with strong interfaith links, the Church is particularly concerned with the complete protection of freedom of religion and belief for all Australians.

It is in this spirit that we offer this submission which is framed by the values, principles, history and commitments outlined above.

It does not address all the questions posed in the discussion paper, rather focussing on those questions which the Church is best placed to offer comment.

This submission has been prepared for the National Assembly of the Uniting Church in Australia by the following committees, units and individuals with support from numerous other agencies and individuals:

Relations with Other Faiths Working Group
UnitingJustice Australia
Justice and International Mission, Synod of Victoria and Tasmania
Rev Dr Chris Budden

⁵ *Dignity in Humanity: Recognising Christ in Every Person*, Uniting Church in Australia, Eleventh Assembly (2006), available: http://www.unitingjustice.org.au/images/pdfs/issues/human-rights/assembly-resolutions/dignityinhumanity_booklet.pdf

Preliminary Comments

The Rights of Religious Organisations

The Christian tradition has, at its heart, the belief that human beings are created to be in relationship – in relationship with God and with each other and with the planet. Central to Christianity is the understanding that we are necessarily communal beings and that faith is only able to be fully and adequately expressed communally. Jesus' interpretation of the Ten Commandments received by Moses became one of the core tenets of the Christian faith:

'You shall love the Lord your God with all your heart, and with all your soul, and with all your mind.' This is the greatest and first commandment. And a second is like it: 'You shall love your neighbour as yourself'.⁶

There is no authentic love of God that is separate from authentic love of one's neighbour. Faith in God expressed in relationship, in community, is at the heart of Christianity. We believe that Christianity is not alone amongst religions in the importance it places on community life as integral to the faith. This has implications for how we in the Uniting Church understand the autonomy that religious organisations (being structural expressions of a religion in society) need to be granted within a secular democratic society in order that they may be allowed to flourish.

This autonomy, however, must never be self-serving. For Christians, love of neighbour is to be expressed as service directed towards the well-being of everyone and society as a whole. In Australia it is religious organisations (mostly Christian) which deliver a very large proportion of (not for profit) community, healthcare and education services. Much of this is delivered on behalf of government.

The Uniting Church also believes that faith-based organisations are an essential part of civil society and that one of the measures of a healthy civil society is the quality of participation by faith-based organisations in the social, cultural and political life of a country. The Uniting Church has a strong history of support for and participation in Australian civil society, and is committed to making a positive contribution to Australian life, upholding the common good within civil society.

The Uniting Church believes that the common good is served by upholding human rights in society, such as the right of every person to freedom of thought, conscience and religion, the right of every person to adopt a religion or belief, individually or in community, and to manifest that religion or belief in worship, observance, practice and teaching as described in Article 18 of the ICCPR. We believe that these rights have important implications for the freedoms allowed religious communities, groups, organisations and bodies.

It is necessary to remember, however, that not all religious communities, groups and organisations, manifest their religion in ways that serve the common good. The history of Christianity is scarred with examples of churches perpetrating violence, abuse and appalling discrimination against people and communities on the basis of race, gender, sexuality and religion, and claiming those actions to be in the name of God. Expressions of faith can become so degraded and perverse that the central tenets of authentic Christianity no longer have meaning in those contexts. The right to freedom of thought, conscience and religion, must always be bound together with the "due recognition and respect for the rights and

⁶ Matthew 22:37-39, *The Holy Bible: New Revised Standard Version* 1996, c1989 (Nashville: Thomas Nelson)

freedoms of others and of meeting the just requirements of human dignity and the general welfare of a democratic society”.⁷

Consistent with and in the context of the rights and freedoms described by the international human rights instruments, we believe that religious communities, groups and organisations should be accorded the freedoms necessary for the practice and maintenance of the faith. We also believe that religious communities, groups and organisations should be open to be challenged by society for any practices which may infringe upon the wellbeing of others and the general welfare of society.

The Religion Declaration and General Comment 22

In addressing the questions posed by the Australian Human Rights Commission (AHRC) in its Discussion Paper, *Freedom of Religion and Belief in the 21st Century*, this submission will draw on all the relevant international human rights instruments, especially the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Civil and Political Rights* (ICCPR), and also on the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief* (UN General Assembly resolution 36/55, 25 November 1981) (the Religion Declaration) and the interpretation of Article 18 of the Convention on Civil and Political Rights issued by the Office of the High Commissioner for Human Rights in 1993 (General Comment 22).

The Religion Declaration describes in Article 6 certain freedoms which arise out of Article 1 concerning the right of everyone to freedom of thought, conscience and religion and the freedom to manifest one’s religion or belief, the freedom to establish and maintain appropriate charitable or humanitarian institutions (Article 6(b)).

Paragraph 1 of “General Comment 22, The right to freedom of thought, conscience and religion (Article 18)”, OHCHR, 48th Session, 1993, states that

The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others... The fundamental character of these freedoms is also reflected in the fact that the provision cannot be derogated from, even in time of public emergency, as stated in article 4.2 of the Covenant.

Paragraph 4 goes on to comment:

The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts... In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.

The Comment goes on to argue that limitations on the freedom of religion (Article 18.3) must only be applied “for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions must not be imposed for discriminatory purposes or applied in a discriminatory manner” (paragraph 8).

⁷ *Dignity in Humanity*, Uniting Church in Australia, paragraph 13(d) based on Article 29(b) *Universal Declaration of Human Rights*, *op cit*.

Human rights, religion and the modern nation state

The way religious freedom and people's religious rights are understood in society depends significantly on the way in which religion is understood, and the relationship which is said to exist between religious affiliation and citizenship.

In Western Europe, up until about the time of the 16th century religion was not a separate category of life but a public and social overarching narrative and ritual within which people lived all of life. From the 16th century, with the rise of the nation state, under the influence of the Enlightenment, and the development of a rationalised and segmented ordering of society with industrialisation, religion came to be seen as a separate category or domain of life. It became personal and private, a set of privately held beliefs and personal convictions.

The nation state gradually claimed control over all parts of life, and slowly took over many responsibilities that had previously been part of the life of the church. The state required allegiance from its citizens, and to achieve that end, a privatised religion with limited essential communal expression was very helpful. Over time, the individual gained a greater freedom to think and believe as they liked, provided in public they did nothing to disrupt the peace of the nation and the power of the sovereign (or government).⁸

The important point is that the modern framework for the consideration of religious freedom and right of expression is that religion is (i) personal and privatised and (ii) allowed a place in society as long as it gives support to people's primary loyalty as citizens and the existence of the democratic state. Religious institutions have a place in this form of society as they (i) provide private morality, (ii) help support the education of the young in morality and citizenship, and (iii) care for the poor and disadvantaged.

The deep challenge in our society is that there are religious communities which increasingly reject this framework. In particular, they are no longer satisfied to accept the priority of the loyalties that pertain to citizenship over their religious loyalties. They are no longer prepared to easily equate citizenship and religious loyalty (or what Christians might call discipleship).

This does not mean that people who claim the priority of their faith over loyalty to the state are not good and loyal citizens. Nor does it mean that they would seek an end to the separation of church and state. It misunderstands the nature of religious commitment to regard such a stance as a case of 'either/or'. We believe that this misunderstanding contributes to fear, confusion and even aggression against religious communities who openly confess the priority of their religious loyalty.

The Uniting Church itself made such a confession on the occasion of its inauguration in 1977 when it publically announced that its "first allegiance... is to God, under whose judgement the policies and actions of all nations must pass" and that it fully expected this allegiance to occasionally "bring us into conflict with the rulers of the day"⁹.

It is of vital importance that in discussions about how to best protect freedom of religion we develop a new framework that allows for the priority of people's religious loyalty without denying that such a stance can be held alongside a deep and authentic commitment to one's nation.

It is premature to suggest what this might mean and what new framework is needed. What is important is that a serious and more nuanced public conversation and exploration of the

⁸ It is important to note, however, that this privatisation (of Christianity in particular) did not necessarily lead to a greater tolerance of religious diversity. This is a much more recent development in human history.

⁹ *Statement to the Nation, op. cit.*

issue must begin right now, and that policy makers become aware that such a shift to more public and communal expressions of faith are occurring and are not limited to any one religious faith.

1 | Evaluation of the 1988 HREOC Report on *Article 18: Freedom of Religion and Belief*

A look back at the Uniting Church response

The Uniting Church in Australia, through its national justice agency, National Social Responsibility and Justice (now UnitingJustice Australia), made a submission to the Human Rights and Equal Opportunity Commission in November 2000. This submission addressed the Church's concern about statements and guidelines being developed and issued by the Human Rights and Equal Opportunity Commission (HREOC), now the Australian Human Rights Commission (AHRC), regarding religious organisations, particularly in the area of employment, as a consequence of the *Article 18* Report.

The Church was concerned about the very limited exemptions being suggested for employment practices by religious organisations and the [legal] requirement “that religious organisations accommodate the religious beliefs and practices of employees of other faiths”.¹⁰

The submission stated the Church believed that

respect for the right to freedom of belief requires that religious organisations have autonomy in determining how religion should shape their activities.¹¹

It strongly argued that religious organisations should be able to take account of people's religious beliefs in relation to employment within the organisation and regarded this as “acting in accordance with their purpose – a purpose which the human rights instruments recognise as legitimate.”¹²

The submission compared the autonomy of political parties, which in accordance with the right to freedom of association, are able to take account of political belief and commitments in determining who to employ at all levels and places in their organisation.

Further, the Church stated

The Uniting Church in Australia believes that where the church contravenes human rights, it should be held accountable. But we insist that Australian law that purports to protect human rights must be interpreted in a way that is consistent with the relevant human rights instruments. These recognise that believers are entitled to express their religious belief through religious organisations, that is, that religion will be relevant to the work of religious organisations.¹³

¹⁰ National Social Responsibility and Justice (November 2000), ‘Submission to the Human Rights and Equal Opportunity Commission, regarding religious organisations’, p. 2

¹¹ *ibid.*, p. 8

¹² *ibid.*

¹³ *ibid.*, p. 10

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

The Uniting Church has been increasingly concerned about the apparent rise of discriminatory attitudes against particular religious groups and communities in Australia, especially Muslims. The Christian Democrats, prior to the federal election of 2007, ran a vigorous national campaign to end Muslim immigration. In NSW we experienced race riots at Cronulla, and a number of local councils have made decisions to disallow the building of Muslim schools on such spurious grounds as traffic congestion, some bowing to significant community pressure in the form of aggressive rallies and other community actions which have included expressions of racial and religious hatred and vilification.

The right of churches and other religious bodies to the freedoms necessary for the practice of their faith traditions is also under attack from a handful of secular bodies in Australia. The Uniting Church in Australia is supportive of the development of national human rights legislation such as a Human Rights Act (as it has been supportive of the development of state-based human rights legislation), and believes that such a development will provide a necessary opportunity to strengthen the protections afforded to religious organisations.

Freedom of conscience and religion in the abortion debate in Victoria

The Uniting Church National Assembly does not hold a position on abortion, and as with many other matters relating to medical and sexual ethics, there exists a diversity of opinion among Church members. A number of (state) synods have, however, made formal statements. Because society so often fails women and their children, synods have recognised that the final decision must be left to the pregnant woman and that the Church should support both women who have an abortion and those who continue with their pregnancy.

While not holding to a single position affirmed through national resolution, and supporting the development of human rights legislation in states, territories and federally, the Uniting Church is concerned by recent events in Victoria pertaining to the *Abortion Law Reform Act* and the public debate around the development of that Bill and believe that they have implications for the proper protection of freedom of religion in Australia.

The Victorian Law Reform Commission (VLRC), for example, in their report on abortion laws in Victoria argued that organisations should not be permitted to have a right to freedom of conscience under law, with no exemption. In their view:¹⁴

8.32 As freedom of conscience is generally understood to be held by individuals, the conscience provision should not extend to corporations. This is consistent with existing conscience provisions in other Victorian laws.

8.33 The danger in extending the provision to institutions is that it may establish a precedent of corporations holding interests that could be categorised as human rights. This could lead to perverse outcomes.

This was repeated in the section of the report considering the right to freedom of thought, conscience and religion, where the VLRC argued that Catholic organisations should be denied a right to conscientious objection on the grounds that “human rights are generally regarded as residing in individuals rather than organisations.”¹⁵

¹⁴ Victorian Law Reform Commission (March 2008), ‘Law of Abortion’, p.114.

¹⁵ *ibid.*, p. 170.

In questioning this position with the VLRC, the Justice and International Mission Unit of the Synod of Victoria and Tasmania was informed:¹⁶

This is not a specific position or stance of the VLRC, but a restatement of principles of human rights law which is supported by the article referred to in the Report (Cook and Dickens Human Rights Quarterly at footnote 18). The human rights principle that rights reside only in individuals, not organisations, is also expressly indicated in the Victorian Charter (*Charter of Human Rights and Responsibilities Act*) which expressly states that the rights enshrined in the Charter only apply to 'persons' (see Section 6 'Application').

We are concerned by the position taken by the Victorian Law Reform Commission. We believe that it is inconsistent with Article 18 of the UN *Universal Declaration of Human Rights* and Article 18 of the *International Covenant on Civil and Political Rights* and with the Religion Declaration and General Comment 22. The Uniting Church believes that faith-based organisations *are* accorded freedoms and rights within the international human rights treaty system (they are inherently different in this to corporations).

Liberty Victoria has taken a view of the right to freedom of religion as extremely limited, suggesting that it must give way to all other human rights in any consideration of law, by arguing:¹⁷

People are entitled to freedom of religion and to conduct their life in relation to those beliefs, however, they are not entitled to impose those beliefs on others or to have them implemented through state laws and then forced on others who do not share that belief system.

This statement is clearly based on the false and misleading assumption that only people who profess a religious faith would hold an anti-abortion stance. It demonstrates a lack of respect for freedom of conscience for religious and non-religious people alike. It is also overly simplistic, failing to take account of the operation of our democratic system which allows for the passing of laws (representing the opinions of political representatives) which are not supported by all citizens.

We believe that the Victorian Parliament has limited the right to freedom of religion and conscience in a way that is inconsistent with Article 18 of the *International Covenant on Civil and Political Rights* and its interpretation as described in General Comment 22, paragraph 3:

Article 18 distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right to hold opinions without interference in article 19.1. In accordance with articles 18.2 and 17, no one can be compelled to reveal his thoughts or adherence to a religion or belief.

Section 8 of the *Abortion Law Reform Act 2008* deals with the issue of conscientious objection by registered health professionals with regard to abortion:

¹⁶ E-mail from the Victorian Law Reform Commission, 3 November 2008.

¹⁷ Liberty Victoria (November 2007), 'Submission to the Victorian Law Reform Commission Inquiry into the Law Governing Termination of Pregnancy, p. 11.

- (1) If a woman requests a registered health practitioner to advise on a proposed abortion, or to perform, direct, authorise or supervise an abortion for that woman, and the practitioner has a conscientious objection to abortion, the practitioner must –
 - (a) inform the woman that the practitioner has a conscientious objection to abortion; and
 - (b) refer the woman to another registered health practitioner in the same regulated health profession who the practitioner knows does not have a conscientious objection to abortion.
- (2) Subsection (1) does not apply to a practitioner who is under a duty set out in subsection (3) or (4).
- (3) Despite any conscientious objection to abortion, a registered medical practitioner is under a duty to perform an abortion in an emergency where the abortion is necessary to preserve the life of the pregnant woman.
- (4) Despite any conscientious objection to abortion, a registered nurse is under a duty to assist a registered medical practitioner in performing an abortion in an emergency where the abortion is necessary to preserve the life of the pregnant woman.

The Act does not specify penalties that apply to registered health practitioners who refuse to comply with Section 8 of the Act. Written advice provided by Christina Dickinson, Adviser to the Minister for Health stated:

A registered health practitioner who held a conscientious belief and failed to disclose this to a woman patient who sought the practitioner's advice or assistance with an abortion, or who failed to make an effective referral in accordance with subclause 8(1)(b) would be liable to be found to have engaged in professional misconduct under the Health Professions Registration Act. The relevant tribunal hearing the charges of misconduct would determine the appropriate penalty.

In no other jurisdiction in Australia is a registered health practitioner who has a conscientious objection to abortion required to refer a woman to a registered health practitioner they know “does not have a conscientious objection to abortion”, under legislative threat of professional misconduct proceedings. Only NSW comes close to this. In New South Wales the Department of Health has a mandatory Policy Directive, *Pregnancy – Framework for Terminations in New South Wales Public Health Organisations*, but this only applies to “public health organisations that manage facilities in which terminations occur”. It does not apply to all registered health practitioners in NSW. Presumably, health professionals who have a conscientious objection to abortion in NSW simply have the option of not working in a public health facility that provides abortions. The Policy Directive requires a staff member to provide a referral to another medical specialist or health professional, but even here the health professional doing the referral is not required to know that the person they are making the referral to does not have a conscientious objection to abortion. There is no requirement to participate in an ‘emergency abortion’.

In Western Australia the right to conscientious objection to abortion is absolute and is extended to everyone as well as hospitals, health institutions and any other institution. There are no requirements to participate in an ‘emergency abortion’ or to make referral.

In the Northern Territory and Australian Capital Territory the right to conscientious objection to abortion is also absolute applying to everyone and with no requirements to participate in an ‘emergency abortion’ or make a referral to another health professional.

In Tasmania the right to conscientious objection applies to everyone over all aspects relating to abortion, but is only restricted in that it does not remove the duty of a person “to participate

in treatment which is necessary to save the life of a pregnant woman or to prevent her immediate serious physical injury.” There is no obligation to make a referral to another health professional.

In South Australia the right to conscientious objection is very similar to Tasmania. It applies to all people and does not require any referral to another health professional. However, in any legal proceedings that arise out of a person exercising their conscientious objection, the burden of proof is on the person claiming the conscientious objection to demonstrate that they hold such an objection. The law also states that the right to conscientious objection does not remove “any duty to participate in treatment which is necessary to save the life, or to prevent grave injury to the physical or mental health, of a pregnant woman.”

In all other Australian jurisdictions the right to conscientious objection is extended to everyone, not simply those who might be directly involved in carrying out the procedure. The Victorian Act limits the right to conscientious objection only to registered health professionals, meaning other staff in any health facility will have no right to conscientious objection.

The point being made is that the Victorian Parliament has limited the right to freedom of religion and conscience in a way that breaches the state’s international obligations. In contrast, in Tasmania and South Australia there has been an accommodation of the right to freedom of religion and conscience for health professionals while seeking to maintain the duty of care that the health professional owes to pregnant women seeking treatment.

1.2 Have new issues emerged since the *Article 18* report was published in 1998 relating to the expression of faith?

The global context in which religion is practiced and discussed has changed fundamentally since the terrorist attacks of 11 September 2001. Religion has increasingly been seen in terms of its potential to destroy and divide, as motivation for violence and a “flashpoint” for conflict. In this context, the potential for religion to be a positive force in the forging of peaceful global and local communities is all too often lost.

Australia has not been immune to these changes. In the media and in public life we have seen a changing approach to religion and the way it is discussed, particularly in relation to Australia’s Islamic community. Religion is now used in an increasingly political frame, becoming the apparent issue of difference in Australia.

The multicultural heritage that Australia has in the past proudly celebrated has increasingly become a point of difference. In Australian society, we have seen significant hostility towards Muslim Australians and Australians of Middle Eastern descent, such as during the 2005 “race riots” at Cronulla. In the political arena, the previous Federal Government increasingly retreated from its use and promotion of the term “multiculturalism”, most clearly seen in the decision to drop the title from the Government Department that deals with multicultural affairs (now the Department of Immigration and Citizenship) at the beginning of 2007, and also in an increasing focus on “integration” in its policies for migrants and prospective citizens. The popularity of Pauline Hanson and her anti-multicultural policies is another manifestation of this change in Australian society, occurring even prior to the September 11 terrorist attacks.

For more in depth discussion on issues raised by the question, see section 4.1.

1.3 Is there adequate protection against discrimination based on religion or belief, and protection of ability to discriminate in particular contexts?

Discrimination on the basis of religion is prohibited by Article 2.1 of the ICCPR which guarantees the enjoyment of human rights

without distinction of any kind, such as race, colour, sex, language, **religion**, political or other opinion, national or social origin, property, birth or other status. (emphasis added)

However, until these commitments are implemented in Australian domestic law, the Australian Government is under no legal obligation to comply with them. The Uniting Church does not believe that there is sufficient uniform protection against discrimination based on religion or belief in Australia. Article 2 of the ICCPR also requires the Australian Government to “take the necessary steps... to adopt such legislative or other measures as may be necessary to give effect to the rights recognised in the Covenant.”

Federally, the Australian Constitution does not provide any such protection, and nor is there any legislation that prohibits discrimination on the basis of religion. This means that the Federal Government can enact laws or policies which discriminate on the basis of religion or belief, without any avenues for people or religious organisations adversely affected by such laws to seek legal redress. The provisions of the *Racial Discrimination Act 1975* (RDA) are indirect and selective at best. The RDA will only cover discrimination if a religious group can be classified as an “ethnic” group, and may arguably protect against discrimination on religious groups in certain circumstances such as indirect race discrimination. We believe that this is not sufficient protection.

At the state and territory level, Victoria, Queensland, Western Australia, Tasmania, the Northern Territory and the ACT have legislation in place which prohibits direct and indirect discrimination on religious grounds. It is unlawful under these Acts to discriminate on the basis of lawful religious belief¹⁸ or on being associated with someone holding a lawful religious belief. The New South Wales *Anti-Discrimination Act 1977* does not prohibit discrimination on the grounds of religion, although the definition of ‘race’ under this Act does include ethno-religious background which provides protection for members of a religion associated with a specific racial or ethnic group. The South Australian *Equal Opportunity Act 1984* does not specifically outlaw discrimination on the basis of religion.

This incomplete patchwork of state and territory legislation prohibiting discrimination on religious grounds, coupled with the lack of any such protection at the federal level, leads us to believe that there is insufficient protection against religious discrimination in Australia. Federal legislation prohibiting religious discrimination, including a specific provision which allowed for discrimination on the basis of religion by faith communities in the area of employment in leadership and teaching positions, where it is reasonably necessary for maintaining the integrity of the religious organisation, would negate the need for comprehensive state legislation.

¹⁸ Joint Standing Committee on Foreign Affairs, Defence and Trade (2000), *Conviction with Compassion: A Report on Freedom of Religion and Belief*, Chapter 4, p. 60, available: <http://aph.gov.au/house/committee/jfadt/Religion/relchap4.pdf>

1.4 How are federal and state and territory governments managing incitement to religious hatred, and the question of control and responsibility?

There is some protection against expressions of racial and religious hatred in the workplace through existing anti-harassment legislation.

The Federal *Racial Hatred Act 1995* allows for complaints to be made to the Australian Human Rights Commission for public acts based on race which are likely to offend, insult, humiliate or intimidate. However, this legislation does not allow for any criminal sanctions and AHRC has no ability to enforce its rulings.

Verbal or written attacks on the basis of race or religion in public (on the street, in a park, in the pub) or private places (such as a party or at a BBQ) can be dealt with by criminal proceedings if a person can prove that the attack made them fear for their safety. In such a case they then seek recourse through the charge of assault.

A number of Australian states have legislation to prevent incitement to religious hatred.

Queensland legislation in place since 1991 has made advocating racial or religious hatred or hostility that incites unlawful discrimination a criminal offence.

In Tasmania legislation in place since 1998 forbids incitement of hatred towards, serious contempt for, or severe ridicule on the basis of religion.

In NSW, the *Anti-Discrimination Act 1977* was modified in 1994 to allow for both civil and criminal action to be taken against those who incited hatred against ethno-religious groups, which so far have only included Jews, Muslims and Sikhs. The NSW law has continued to operate without controversy, although we remain concerned at its selective coverage of religious groups.

The Victorian Government introduced the *Racial and Religious Tolerance Act 2001* as a necessary deterrent to those small groups of extremists and some media commentators that would seek to incite racial and religious hatred. The Act offers recourse to civil complaint in cases where the target feels able to try and conciliate with the person inciting the hatred or seek legal sanction where such a conciliation is not possible. In the most extreme cases the law allows for criminal prosecution. At the same time the Act allows for legitimate criticism and critique of religious beliefs or cultural practices.

Case Study: The Victorian Racial and Religious Tolerance Act

A range of arguments have been used against Victoria's *Racial and Religious Tolerance Act*. Most of the correspondence received from Christian sources seeking repeal of the part of the Act that deals with incitement to hatred of people on the basis of their religion does so on the grounds that the writers believe that Islam is an "evil" or dangerous religion. They argue that Christians should be hostile to Islam and should be free to say anything at all against Islam and against Muslims to protect ourselves from their dangerous religion.

The *Racial and Religious Tolerance Act* prohibits racial and religious vilification. The Act is in two sections. One section allows for complaints to be made in cases where people believe that others have sought to incite 'hatred against, serious contempt for, or revulsion or severe ridicule' of them on the basis of their race or religion.

The other section provides for criminal prosecution of those that "intentionally engage" in activities that "incite hatred" and "threaten, or incite others to threaten, physical harm

towards” people or their property on the basis of their race or religion or “intentionally engage in conduct that the offender knows is likely to incite serious contempt for, or revulsion or severe ridicule of” a person on the basis of their race or religion. There have, to date, been no prosecutions under the second part of the law.

A prosecution under the second part of the Act requires the approval of the Director of Public Prosecution.

Under the civil part of the Act, which is the part where complaints can be made, the complaints are made to the Victorian Equal Opportunity and Human Rights Commission (VEOHRC). The VEOHRC can decline complaints that they believe to be frivolous, vexatious, misconceived or lacking in substance and have done so in a number of cases. If not declined, the VEOHRC attempts to lead the parties to resolution through conciliation. A significant proportion of complaints are resolved at this stage. Of the 62 complaints for all reasons between July 2003 and April 2005, 14 were resolved through conciliation. The VEOHRC does not prosecute, make judgements, impose outcomes or award compensation.

Under the civil part of the Act, actions taken in private cannot be subject to complaint and only people who are the target of the vilification, or an organisation that represents them, can make a complaint. For example, a private meeting of a group of neo-Nazis that actively set out to incite hatred of Jews could not be subject to complaint even if a Jewish person was to ‘gate-crash’ the meeting.

Also, under the civil part of the Act, there are exemptions to complaint in particular contexts, providing that a person acted reasonably and in good faith. Those contexts include artistic work, any genuine academic, religious or scientific purpose, any purpose that is in the public interest or in making or publishing a fair and accurate report of any matter of public interest.

Complaints that are declined or cannot be resolved by conciliation can go on to be dealt with by the Victorian Civil and Administrative Tribunal (VCAT). VCAT hears applications to strike out any complaints that “are frivolous, vexatious, misconceived, lacking in substance or an abuse of process.” Of the 62 complaints made between July 2003 and April 2005, 19 were referred to VCAT.

On 29 July 2005, Justice Morris, the President of the Victorian Civil and Administrative Tribunal (VCAT) summarily dismissed a complaint by convicted pedophile and self-declared witch, Robin Fletcher, against the Salvation Army that the teaching of an Alpha course in prison vilified witches. Justice Morris stated that the claim was “preposterous”. The ruling by Justice Morris offered clarification about the operation of the Act in his findings. Justice Morris stated:

“The Act is reserved for extreme circumstances: such as where a person engages in conduct that inflames others to hate a person or persons because they adhere to an idea or practice or are of a particular race.”

Justice Morris stated that for an action to be regarded as having incited hatred under the Act the offending action is not “conduct that provokes thought; it is directed at conduct that is likely to generate strong and negative passions in the ordinary person. An example of such passions would be where persons are so moved that violence might result.” Justice Morris stated that in determining if racial or religious vilification has occurred as defined under the Act, the level of offence felt by the person making the complaint of alleged vilification is irrelevant. He stated that, “the law recognises that you can hate the idea without hating the person”. Justice Morris stated that it was not a breach of the Act to assert “that a particular religion (or, indeed, no religion) is the true way; and that any way, but the true way, is false.” He stated “criticism of a religion or religious practice is not a breach of the Act; the Act is

concerned with inciting hatred of people on the basis of race or religion.” Justice Morris stated that evangelism is not a matter that would be interfered with by the Act.

The only case in which there has been a judgement made by VCAT (outside of cases where VCAT has dismissed applications) under the *Racial and Religious Tolerance Act* is that involving Catch the Fire Ministries. On 17 December 2004, Judge Higgins handed down his ruling in the case between the Catch the Fire Ministries and the Islamic Council of Victoria. The Judge found that Catch the Fire Ministries had sought to incite “hatred against, serious contempt for, revulsion of or severe ridicule of” Muslims through the seminar it held, and had sought to “incite a feeling of hatred towards Muslims” through an article published in its newsletter and an article it had published on its website incited “hatred against and serious contempt for people who are Muslims.” The judge found that the activities of Catch the Fire Ministries in question were “not engaged in reasonably and in good faith for any genuine religious purpose or any purpose that is in the public interest.”

The transcript of the Catch the Fire Ministries seminar that was part of the VCAT case indicates that Pastor Scot told his audience that all Muslims are on the path to becoming terrorists and that Muslims have a plan to violently take over Australia. For example on page 19 of the transcript Pastor Scot said:

“There are many things which in Qur’an that are not completely clear, not very clear, so then you read the Hadith, you read the explanation. OK. So when people read that, they study that for six years, seven year, they become true Muslim. And we call them terrorist, but actually they are true Muslim because they have read the Qur’an, they have understood it, and now they are practising it.”

From page 23 of the transcript:

“if you don't become Muslim then your head should be chopped off. Or if you don't pay the poll tax. You have the option to leave the country, if you don't do that then your head should be chopped off. So that's Islam.”

Pastor Scot’s presentation at the seminar on 9 March 2002 claimed about Muslims that:

- their faith teaches them that it is good for them to kill people not of their faith;
- their faith teaches that those who kill people of other faiths are ranked above others;
- their faith teaches them not to be friends with anyone outside of their faith;
- they seek to deceive non-believers about the true nature of their faith;
- they use their money to fulfil their desire for power;
- people in the media are afraid of them and so do not report accurately on what they do;
- they have control over parts of government; and
- they seek world domination.

On 14 December 2006, the Court of Appeal handed down its findings in the appeal made by Catch the Fire Ministries against the adverse finding made against them by the Victorian Civil and Administrative Tribunal (VCAT) for inciting hatred against Muslims. The case was sent back to VCAT to be reheard, but no new evidence was introduced. The matter was subsequently settled by agreement between Catch the Fire Ministries and the Islamic Council of Victoria without a further ruling by VCAT.

In 2006 the Victorian Parliament modified the *Racial and Religious Tolerance Act 2001*. The most significant change was to make it harder for trivial, malicious or vexatious complaints to be pursued in the VCAT. If VEOHRC declines a complaint under the law, the person making

the complaint can still seek to have the complaint heard by VCAT. However, VCAT can decide if it will hear the complaint by making an assessment simply on written submission by the parties involved. This will allow VCAT to more easily dismiss complaints that are trivial, malicious or vexatious without the person who is the target of the complaint having to appear before VCAT.

The Parliament increased the power of the VEOHRC to require parties to meet to conciliate complaints across the range of anti-discrimination laws that exist in Victoria, including the *Racial and Religious Tolerance Act 2001*.

The Parliament made it clear that conveying or teaching a religion or proselytising are exempt from complaint under the *Racial and Religious Tolerance Act 2001*, provided that they are not done unreasonably to incite hatred against people of other races or religions.

In our view the model of the Victorian *Racial and Religious Tolerance Act* could be further improved to prevent incitement to religious hatred. We would recommend the repeal of Section 12 under Part 2 of the Act, providing exemption for private conduct. We argued at the time of consultation about the Act that such an exemption seems unnecessary and sends an inappropriate message to the community. Given sections 7 and 8 deal with incitement, rather than the expression of hatred, serious contempt, revulsion or severe ridicule, conduct that is not incitement is already exempt. However, section 12 means that a private meeting of similar minded people for the purpose of inciting hatred of others on the basis of their race or religion could not be subject to complaint. Thus, currently Part 2 of the Act could be taken to send a message to the community that inciting hatred against others on the basis of their race or religion is acceptable provided it is done in private and provided that it does not go so far as to attract criminal prosecution under Part 4 of the Act.

If section 12 were repealed, it could be replaced by a safeguard clause providing exemption from complaint where the complainant entrapped the respondent.

Another concern we hold is that under the legislation only the targets of the vilification may seek recourse. In effect, the Act allows for individuals and groups to spread material with the intention of spreading racial and/or religious hatred and prejudice provided that such material is not distributed to people who are the targets of the vilification.

Members of the Uniting Church have been subjected to material from 'Christian' groups that seek to vilify other religions, especially Islam, and that appear to have the intention of creating fear, prejudice and hatred towards members of those religions.

Our initial response to such material is to attempt to persuade such groups to cease with the distribution of their material and ask them, that if they feel they must comment, to make only accurate statements about other religions. When this fails our only recourse is to pass the material to the peak bodies of the religions being vilified so that if they choose to they can lodge a complaint. This is far from ideal and results in the 'Christian' groups positioning themselves as martyrs to a conspiracy by the State Government, the VEOHRC and other faiths. We are concerned that this has the potential perverse effect of increasing their influence and support. Ideally, where attempts at informal dialogue fail, we would like to be able to make formal complaint under the legislation when our members are targeted for distribution of material, where such material breaches sections 7 or 8 of the Act. Such provision, allowing for a challenge from groups sharing the same religion, would undercut the claim that such groups make that they are being persecuted by other religions.

1.5 How well have the recommendations of *Article 18: Freedom of Religion and Belief* been implemented by the various state and federal governments?

The Commonwealth Parliament has not introduced a *Religious Freedom Act* as was recommended by the *Article 18: Freedom of Religion and Belief* report. The Uniting Church supports the introduction of federal human rights legislation. A national human rights charter or act would, we expect, include the right to freedom of religion as articulated in Article 18 of the ICCPR.

If the Commonwealth Parliament does not introduce such legislation, then the Uniting Church would support the introduction of a *Religious Freedom Act* consistent with the recommendation of the *Article 18: Freedom of Religion and Belief* report. The Act should proscribe the advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence as required by Article 20 of the *International Covenant on Civil and Political Rights*. Such legislation could be modelled on the Victorian *Racial and Religious Tolerance Act*.

2 | Religion and the State – the Constitution, roles and responsibilities

2.1 Is this section of the Constitution an adequate protection of freedom of religion and belief?

The protections provided for freedom of religion and belief under Section 116 of the Australian Constitution have been subject to extensive scrutiny, consideration and debate in various forums including the courts. The *Article 18* report concluded that “the wording of Section 116, coupled with the weight of judicial opinion, leaves little doubt that its scope is limited. In particular, it does not amount to a constitutional guarantee of the right to freedom of religion and belief.”¹⁹ The Uniting Church supports this conclusion, and believes that Section 116 of the Constitution does not provide adequate protection for freedom of religion and belief in Australia.

2.2 How should the Australian Government protect freedom of religion and belief?

In light of the assertion that the current protection provided in Section 116 of the Constitution is inadequate, we believe that the Australian Government should provide greater legal protection for freedom of religion. This belief is grounded in the Uniting Church’s strong commitment to the protection and promotion of human rights. The legal protection of all human rights, as outlined in the United Nations system of human rights treaties and conventions, is vital to ensuring all people can live in peace and dignity. Australia, as a signatory of the International Covenant on Civil and Political Rights, is obliged to protect freedom of religion domestically. The Uniting Church supports the adoption of an Australian Human Rights Act as the appropriate avenue to provide this legal protection. This position is discussed further in our responses to questions 1.3 and 2.5.

The protection of freedom of religion and belief does not, however, end with the enactment of legal protections. We consider that a pro-active approach is needed to address what we believe has been increasing hostility towards Muslim Australians since the September 11 terrorist attacks in 2001. We believe that this antipathy has been fuelled in part by misinformation about the Muslim religion. In light of this, we welcome any community education initiatives aimed at promoting greater social cohesion and interfaith understanding, particularly as it relates to Muslims in Australia. Such programs could be run by the Federal Government, or an independent body such as the Australian Human Rights Commission. Furthermore, in order to achieve a non-discriminatory, non-vilifying and fair portrayal of all religions in the media, an education program for news editors could be introduced.

For further discussion about how governments can foster interfaith respect and understanding and a generally more inclusive and hospitable society, see section 2.8.

¹⁹ Human Rights and Equal Opportunities Commission (1998), *Article 18: Freedom of religion and belief*, available: http://humanrights.gov.au/pdf/human_rights/religion/article_18_religious_freedom.pdf, p.13

2.3 When considering the separation of religion and state, are there any issues that presently concern you?

There is no clear Constitutional separation of religion and state in Australia. Section 116 of the Australian Constitution, although prohibiting the establishment of an official state religion, does not separate church and state.

The Uniting Church understands that Australian society, if it ever could have been correctly described as Christian, cannot now be so described. Australia is a secular society that is religiously diverse. Western Christendom has ended and with it people's general knowledge and understanding of the Christian faith, its beliefs, doctrines, practices and scriptures. This does not mean that we would deny the significant influence of Christianity on the development of Australian society since European settlement. Christian churches have played an important role in Australian society, often for good through the provision of services to people who otherwise receive no support and the positive influence of Christian values, but sometimes for worse in such cases as the mistreatment and abuse of Indigenous Australians and the abuse of children living in institutions.

The Uniting Church does not seek that Christianity be understood as, or declared to be, the religion of the state. However, many recent public debates about the perceived or actual influence of Christianity have failed to distinguish between attempts by some groups to gain ground in the claim that Australia is a Christian nation and, on the other hand, the legitimate, appropriate and desirable engagement with Australia's political life and public policy by religious institutions and organisations (see below for further discussion).

As stated earlier in this submission, the Uniting Church is clear that its mission will necessarily and inevitably involve it in Australia's political life and that sometimes this means that we will be in conflict with the rulers of the day. The Church believes that it is called to speak prophetically into the world, to 'be in the world but not of the world'²⁰ as is often said. Without separation of church and state this stance becomes almost impossible to maintain.

2.4 Do religious or faith-based groups have undue influence over government and/or does the government have undue influence over religious or faith-based groups?

The Uniting Church believes that religious groups do not have undue influence over government. As a Church committed to engaging with government as it advocates for the development of public policy which serves the interests of those most in need in our society and which promote social justice, human dignity, peace and environmental sustainability, it would be fair to say that we would prefer to have more influence than we do. In comparison to business and industry groups for example, the capacity of faith-based organisations to influence public policy is, we believe, limited.

Even so, over the last few years there has been considerable discussion, writing and heated debate in the public forum about the extent of the Christian influence on matters of public policy and the positions of individual politicians. This discussion has been fuelled by issues such as the reported secret meetings between the previous Prime Minister, John Howard, and the Exclusive Brethren, the open declarations of Christian adherence by a number of high profile parliamentarians, media attention on the Parliamentary Prayer Breakfast, the participation by parliamentarians in a number of Hillsong Church events, the engagement of politicians with the 'Australia's Christian heritage' movement which fronts a more aggressive

²⁰ an idea drawn from the Gospel According to John, chapter 17

campaign to claim Australia as a 'Christian nation' and the Prime Minister Kevin Rudd's openness about his faith and how it influences his worldview.

Faith-based organisations should not be denied the opportunity to advocate with government on matters of social policy. They are a significant part of civil society. Any questions of undue influence by religious groups or representatives should not be treated any differently to concerns about undue influence by any other group or individual.

In a democracy with a vibrant civil society, governments will be and should be open to receiving representations from all parts of society. It is their responsibility to weigh up the variety of advice and opinions they receive and to finally make decisions in the best interests of the nation. It is also the responsibility of governments to be transparent and accountable for the decisions they make and to ensure that they act with integrity at all times.

On the matter of whether and to what extent politicians allow their religious beliefs to influence their decision making on issues of public policy, every politician, regardless of whether they profess a particular faith or not, carries a set of values that influences their worldview and their responses to particular issues and situations. It is unrealistic to think that politicians can put their values aside (and nor do we believe should we ask them to – presumably they have been elected because they have been perceived to hold certain values). The electorate has regular opportunities to pass judgment on whether politicians have presented themselves truthfully and acted in the interests of their particular constituents. Once again, we believe that the most important issues are honesty, integrity, transparency and accountability.

2.5 Would a legislated national Charter of Rights add to these freedoms of religion and belief?

We believe that freedom of religion and belief should be protected in a Human Rights Act or charter. We note the recommendation of the *Article 18* report, that "the Commonwealth Parliament should enact a *Religious Freedom Act* which, among other things, recognises and gives effect to the right to freedom of religion and belief."²¹ We believe that this protection called for in the recommendation should be incorporated into a Human Rights Act. Freedom of religion should be protected in a manner reflecting the provisions contained in the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief. The inclusion of such protections in a Federal Human Rights Act or charter would give direct effect to Australia's international human rights obligations in the protection of freedom of religion.

As part of the March 2008 Uniting Church Assembly Standing Committee resolution which formally adopted support for an Australian Human Rights Act, it was resolved to support an act which

implements Australia's commitment to human rights outlined in

- the Universal Declaration of Human Rights,
- the International Covenant on Economic, Social and Cultural Rights, and
- the International Covenant on Civil and Political Rights²²

²¹ Human Rights and Equal Opportunities Commission, op. cit., p.v

²² Uniting Church in Australia National Assembly, Assembly Standing Committee (March 2008), *A Uniting Church Response to Human Rights Legislation*, available: http://www.unitingjustice.org.au/images/pdfs/issues/human-rights/assembly-resolutions/11_asc_humanrightslawlegislation2008.pdf

As discussed previously, the Uniting Church is supportive of exemptions provided to religious communities, groups and organisations which allow them the freedoms necessary for the practice of their faith and believes that such exemptions should be addressed in a national Human Rights Act or charter.

Despite the state and territory anti-discrimination legislation which protects freedom of religion, and the Victorian and ACT human rights charters which also do so, the value of a national Human Rights Act protecting freedom of religion cannot be overstated. State legislation does not apply to matters governed by federal law, and the Australian Constitution allows for laws made in Federal parliament to over-ride state legislation when those laws are incompatible.

A Human Rights Act alone is not a guarantee against human rights abuses. It exists within a country's system of law and government. Supported by a robust and open political culture and a nation's capacity to meet the basic demand of its people, we believe that a Human Rights Act can make a real difference to the protection of basic freedoms.

2.6 a) What are the roles, rights and responsibilities of religious, spiritual and civil society (including secular) organisations in implementing the commitment to freedom of religion and belief?

We would recommend the following principles for civil society organisations, including religious bodies, as important for the protection of freedom of religion and belief in Australia:

- respect for the diversity of religious beliefs in Australia
- a commitment to engage in respectful interactions and practices
- a commitment to contribute to improving mutual understanding
- clear and transparent structures, including employment practices

2.8 How well established and comprehensive is the commitment to interfaith understanding and inclusion in Australia at present and where should it go from here?

The answer to this question is twofold. The first has to do with the ideology that formed Australia as a nation state: the 'White Australia' policy. Gwenda Tavan argues that, despite its so-called abolition, the 'White Australia' policy continues to influence public imagination and that Australians have not yet fully come to terms with the policy's historical significance.²³ 'Its ghost rises each new decade to haunt political debate, whether the issue is multiculturalism, asylum seekers, Asian immigration or Indigenous affairs.'²⁴ The second response flows from the first and that is to explore how the ideology of the 'White Australia' policy has evolved and manifested itself in the rhetoric of national security and social cohesion. The movement forward would need to take into account how "Australians" have come to understand the "other" and how that understanding influences the way policies and legislation are written; how public and political rhetoric has been shaped by the fear or anxiety of the "other"; and how education, formal and informal, can be used as a positive vehicle for change on a national scale. In summary it would seem that government (past and present) responses and commitments to interfaith relationships and encounters are highly

²³ Tavan, G. (2005), *The long slow death of White Australia* (Melbourne: Scribe Publications), p. 4

²⁴ *ibid.*, p. 5

motivated by a commitment to (or “fears about”) national security and social cohesion rather than a genuine need for creating and maintaining communities of belonging.

Australia’s religious diversity is intimately tied to the shifts of immigration policies since the abolition of the ‘White Australia’ policy in the 1970s. Gary Bouma maintains that the religious nature of Australia is essentially a product of migration.²⁵ However, as the ‘White Australia’ policy was inclined to welcome an exclusively British migration, it inevitably made itself felt in a Christian denominational pattern that belonged to another side of the world. The settlement of people of non-Christian faiths and the high level of religious diversity as Mary Pearson observes²⁶, has been an unforeseen consequence of the radical redefinition of immigration policy legislated by the Whitlam Government.

Interfaith encounters and relationships are not new in Australia. The first inhabitants of this land had their own religions and spiritualities. The Afghans and the Chinese were among some of the early migrants to Australia in the 1840s and 1860s. They brought with them their own cultural and religious practices, naturally resulting in interfaith encounters. Although religious diversity is a direct result of migration, it has not usually been given the same attention as cultural or ethnic diversity, at least until 11 September 2001. Though religious diversity receives greater acknowledgement now than it has historically, it would be a mistake to assume that Australia is now no longer multicultural but multi-religious.²⁷ Rather awareness is growing that Australia is now both culturally *and* religiously diverse.

The emphasis on cultural diversity in Australia has been formed around the need to ensure social cohesion. The roots of the ‘White Australia’ policy lie in a history of invasion and occupation resulting in the exclusion of the “other” according to race. Recently, the “other” included the refugees, asylum seekers and Muslims who are seen as a threat to national identity or social cohesion. This past continues to haunt the Australian imagination and has often played a part in the shaping of immigration policies and national consciousness. This past is shaped by anxiety, geographical isolation, insecurity, and obsessive border control. The motivation behind the ‘White Australia’ policy was ‘the desire of Australians to build a strong and prosperous society founded upon the principle of racial and cultural homogeneity’.²⁸ This ideology has continued to undergird Australia’s current understanding of citizenship, belonging and responsibility and consequently government responses to these issues.

Interfaith encounters and groups were not initiated by governments but by local church groups and national church organisations such as the National Council of Churches in Australia (NCCA) to meet the challenges of diversity and to find positive ways of sharing and living together. The Uniting Church in Australia National Assembly resolved in 1989 to set up a working group (see the *Introduction*) to explore the implications of religious diversity and to find strategies and resources for building communities of difference based on understanding. There are a number of religious groups (Christian and non-Christian) who had been engaging in interfaith exchange long before the events of September 11th.

September 11th became a global defining moment for a greater commitment to interfaith relationships and the “official” involvement of governments. This is not peculiar to the Australian context. Paul Morris makes the pertinent point that although interfaith relationships and encounters are not new, what is new is governments working together with religious

²⁵ Bouma, G. D. (1997), *Many religions, all Australian: religious settlement, identity and cultural diversity* (Kew, Australia: Christian Research Association), p. 2

²⁶ Pearson, M. (2006), ‘Faithful neighbours: who is welcome? Questions of theology and practice in interfaith dialogue’. (Dissertation, Charles Sturt University), p.2

²⁷ There has been a tendency to view Australia’s religious diversity as something new and therefore misunderstood as a phase that now supersedes Australia’s multicultural identity.

²⁸ Tavan, G., *op cit.*, p. 11

organisations on various interfaith issues. This he terms the third phase of interreligious dialogue of which the Asia-Pacific Regional Interfaith Dialogue forum is an example. The first two phases according to Morris are historical relationships, that is, 'ancient interactions that took place on different levels' and modern interfaith dialogue dating back to the World Parliament of Religions in Chicago in 1893.²⁹

The Asia-Pacific Regional Interfaith Dialogue forums are co-sponsored by the Australian, Indonesian, Philippines and New Zealand governments. Alexander Downer, former Australian Minister of Foreign Affairs and Trade, initiated the first of these interfaith dialogue forums in response to the Bali bombings in 2002. The forum was originally limited to the countries of South East Asia but since the inclusion of New Zealand as a co-chair, the term "Pacific" was included in the title and additional countries within the Pacific were invited. Since its inception in December 2004 in Yogyakarta, Indonesia, religious leaders have been considered by governments to play a key role in fostering and sustaining cultures and communities of peace within the region. These forums are currently held each year with a declaration and commitment to varying tasks at the end of each forum. These forums are a positive contribution to interfaith dialogue, however the concern shared by some of the delegates is that the annual frequency of the meetings leaves insufficient time for tasks to be completed. This runs the risk of the forums collapsing into a habitual dialogue with little opportunity for collaborative tangible action.

Another model of relationship between religious communities and government is the Australian Partnership of Religious Organisations (APRO) which was established in 2003. Its purpose was to provide advice to Government at the national level (both ministers, the public service but also to members of parliament not in the Government) on religious and cultural issues. Despite the increasing tendency of the Government and its departments to treat APRO as peak body, it is not. Nor does its membership necessarily represent the breadth of Australian religious organisations. APRO's membership does however include people who are members of major faiths bodies as well as national-level multicultural community organisations and it prides itself as 'a practical example of how successfully faith and ethnic communities can work collaboratively in Australia'.³⁰

These are some positive examples of the way government and religious organisations are working together to build communities of difference and to promote cultures of peace. However, there is still more that can be done. Dialogue and shared understanding is important but so is the need for action. There is a continuing need for the following:

- Interfaith education in schools both public and private
- Further research in the area of interfaith dialogue, creating and maintaining cultures of peace, and communities of difference based on understanding
- Rethinking how Australia has defined citizenship, responsibility and belonging and shifting our ideology in relation to these topics
- Funding programs, strategies, events, activities that promote interfaith inclusion and understanding
- Funding programs, strategies, events, activities that promote cultural awareness and understanding
- Funding conversations about collaborative interfaith action projects
- Funding conversations about what it means to be a culturally and religiously diverse nation and how this may affect how we shape legislation, national rhetoric and speech.

²⁹ Morris, P. (2007), *Building bridges: faith communities and governments working together for the common good*, paper presented at Building Bridges: the Third Asia Pacific Regional Interfaith Dialogue, Waitangi, New Zealand, May 2007

³⁰ from APRO flyer

3 | Religion and the State – practice and expression

3.2 How should government accommodate the needs of faith groups in addressing issues such as religion and education, faith schools, the building of places of worship, religious holy days, religious symbols and religious dress practices?

The Uniting Church is committed to the right of every person to freedom of thought, conscience and religion, the right of every person to adopt a religion or belief, individually or in community, and to manifest that religion or belief in worship, observance, practice and teaching as described in Article 18 of the ICCPR. We believe that religious communities, groups and organisations should be accorded the freedoms necessary for the practice and maintenance of the faith which includes the freedoms to educate in the faith, build places of worship, observe holy days, display the symbols of the faith and observe religious dress practices.

The Uniting Church believes that all faith groups should have the freedom to build places of worship and faith-based schools with regard to due process. No faith group should be denied permission to build a place of worship or school solely on the grounds of their religious identity. Local demographics and history, in and of themselves, should not be a reason for denying permission to a faith group to build in a new area or an area new to that particular group. We believe that local councils are using issues such as traffic flows and environmental impact as the basis for denying building applications to Muslim groups in particular. These concerns should never be used as an excuse to discriminate and we would recommend closer examination of such decisions. A national Human Rights Act may be a useful tool for the provision of extra checks and balances in this regard and opportunities for redress should a religious group believe that they have been the subject of religious discrimination.

We believe that there is a general lack of awareness within workplaces and educational institutions about holy days other than those of western Christianity. This applies equally to Eastern Christian traditions (which usually celebrate their Christian feast days on different dates to the western calendar), as well as to other faith groups. Australia celebrates three holy days as public holidays—Good Friday, Easter Sunday and Christmas Day—all observed by the western Christian calendar. In this practice Australia is similar to many other nations, although a number of these do not gazette Good Friday as a public holiday (Great Britain, United States, France, and Brazil among others). Some countries permit significant members of religious minorities to take certain religious holidays (for example Egypt allows Coptic Christians designated holy days) and in Great Britain the civil service and some businesses now permit employees to ‘shift’ designated public holidays to alternative dates of their own choice.

In Australian workplace legislation, religious discrimination is sometimes covered by additional objections. We note that religious observance in and of itself is not sufficient reason for an employee to refuse to work on a public holiday or for those members of minority religious groups wishing to gain leave for observance of non-designated holy days. We are concerned that employees requesting leave for reasons of religious observance are being denied such leave under the ‘reasonable hardship’ exemption for employers, when the ‘hardship’ is in fact a rostering difficulty or a minor inconvenience. At the same time, we recognise that there will be times when it will not be reasonably possible to grant an employee leave for religious observance.

The Uniting Church believes that the right to worship is central to freedom of belief and to a harmonious society and would encourage the Australian Human Rights Commission and the

federal and state governments to explore options to make possible the observance (without undue penalty) of religious holy days for members of minority religious groups, including those other than western Christian traditions.

While current workplace laws and governance practice at educational institutions allow for consideration of religious practice and observance, Uniting Church university chaplains have observed that the general lack of awareness both of provisions of legislation and of religious practices and holy days of minority religious groups sometimes makes this very difficult for individual believers to achieve. For example, applications for deferral of examinations or special consideration for assessments and assignments scheduled for Friday midday (principal Islamic prayer time), Saturdays (Jewish and Seventh Day Adventist Sabbath), during Ramadan, or other holy days can still be treated with extreme suspicion.

The Uniting Church supports the freedom of individuals to carry religious symbols and wear religious apparel as a legitimate expression of their faith, except where such apparel may raise legitimate and serious occupational health and safety concerns and except in such cases where an item of religious apparel is captured under laws regarding apparel more generally, for example, laws prohibiting the wearing of helmets and other head and face coverings in banks. Whilst most western Christian religious groups have ceased to wear specific religious apparel in public over the past forty years, this should not be considered normative. The freedom to identify oneself as a member of a religious group is fundamental to the right to freedom of belief and freedom of worship.

4 | Security issues in the aftermath of September 11

4.1 Have the changes in federal and state laws affected any religious groups, and if so how? How should this be addressed?

We are greatly concerned about the disproportionate and discriminatory impact on Australia's Islamic community of the suite of Federal anti-terrorism laws implemented in the period since 11 September 2001.

Whilst it is not the case that these laws themselves are inherently discriminatory, we do believe that they have been drafted so broadly that they are open to interpretation and to application in a discriminatory manner.³¹ In 2005, Liberal MP Petro Georgiou highlighted his concern that laws that were intended to be non-discriminatory might be applied in a discriminatory way – “that the security and police agencies will use their powers against people who are suspect because of their actual or presumed religion or ethnic background, not on the basis of information about behaviour of particular individuals.”³²

Furthermore, their enactment in a time when Muslims in Australia have experienced greater suspicion, vilification and discrimination in the public sphere, have led Muslims to believe they are being unfairly targeted. As noted by numerous leaders in the Australian Islamic community, such a sentiment leads to alienation, doing little to reduce the threat of terrorism. We note that in a letter to all federal MPs in 2004, reported in the *Herald-Sun* newspaper, 25 Australian Muslim organisations voiced their concern that “only Muslims have been arrested and only organisations linked to Muslims have been proscribed.”³³

Various Uniting Church agencies have voiced concern over several of the legislative packages, including in submissions to parliamentary inquiries into the *Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002* and the *Anti-Terrorism Bill (No 1)*. These submissions have covered concerns over aspects of various pieces of legislation including the use of control orders and preventative detention, and the vague and inappropriate definitions of “sedition” and “a terrorist organisation.” Each of these issues has important implications for the human rights of those prosecuted under these laws, and we believe, in particular for Muslim Australians.

A submission to the Human Rights Committee on Australia's compliance with the ICCPR from the National Association of Community Legal Centres, the Human Rights Law Resource Centre and the Kingsford Legal Centre reported that community legal centres in Australia have indicated that the Australian Federal Police and Australian Intelligence Security Organisation, in policing anti-terrorism laws, have focussed “disproportionately upon those members of the Australian community who have links (by way of family and/or country of origin) with Tamil, Pakistani, Arab and East African communities overseas.”³⁴ In its submission to the Security Legislation Review in 2005, UnitingJustice Australia expressed concern about the policy agenda underlying the various pieces of anti-terrorism legislation, that casts certain people, be they Australian citizens or not, as “more likely” to be “terrorists”. It also conveyed our concern in particular that anti-terrorism legislation expresses and

³¹ Chong, A. (2006), 'Anti-Terror Laws and the Muslim Community: Where Does Terror End and Security Begin?', *borderlands e-journal*, vol. 5, no. 1, available: http://www.borderlands.net.au/vol15no1_2006/chong_muslim.html

³² Petro Georgiou MP, quoted in “Terror laws: unease mounts”, *The Age*, 19 October 2005

³³ Herald Sun, 'End discrimination, say Muslims', 16 June 2004

³⁴ National Association of Community Legal Centres, Human Rights Law Resource Centre and Kingsford Legal Centre (2008), *Freedom Respect Equality Dignity: Action*, NGO Submission to the Human Rights Committee: Australia's Compliance with the International Covenant on Civil and Political Rights, available: <http://www.hrlrc.org.au/files/5DNAGO4XRH/NGO%20Report%20on%20Australia%20to%20HRC%20-%20Final.pdf>

perpetrates a view that members of the Islamic community, as well as any person of “middle eastern appearance”, is more likely to be a “terrorist”. We believe that this trend is symptomatic of a shift in the political discourse around religion in Australia, particularly in relation to Islam and Muslim Australians in the community. This has been seen, for example, in comments by the then Federal Education Minister Brendan Nelson in August 2005 which advised Muslims who were not prepared to accept “Australian values” to “clear off”.³⁵

We highlight two notable cases where these laws have been misused, both involving Muslims in the Australian community. The high-profile case of Dr Mohamed Haneef shows that “anti-terrorist laws are framed so broadly that they catch innocent people and tie up resources”.³⁶ There was no evidence that Haneef knew anything about the bombing involving his second cousin at Glasgow airport, and yet was held without charge in detention for 12 days. Although somewhat less well-known, the case of Izhar ul-Haque raises similar concerns. After objecting to continuing to cooperate with police operations which had persisted for close to six months and consisted of demands he kept in regular contact, visiting his home and instructing him to wear a wire, ul-Haque, a medical student living in Sydney, was charged with training with a terrorist organisation and sent to Goulburn’s supermax prison. Kept in isolation, ul-Haque was interrogated by police without them notifying his lawyer or reading him his rights.³⁷

The ability of these laws to be imposed in a discriminatory manner has created what Agnes Chong, co-founder and co-convenor of the Australian Muslim Civil Rights Advocacy Network, has labelled a parallel legal system³⁸, one of anti-terrorism law, separate from criminal law. Chong cites Senator Kerry Nettle in 2004:

A bomb went off near the Rooty Hill mosque about three weeks ago. That person was not tried for terrorist offences; that person was tried under the criminal law... That person was a non-Muslim Anglo member of community. Every Muslim community individual who has been picked up in similar circumstances has been tried under terrorism legislation.³⁹

A similar phenomenon has been observed in the UK, as found in a study by the Institute of Race Relations:

In a number of cases, Muslims who have been involved in crimes such as credit card fraud or forgery have also been charged as suspected terrorists. In this way, the police have, it seems, used the extra powers available under terrorism legislation against ordinary criminal suspects.⁴⁰

At the state level, the Victorian *Racial and Religious Tolerance Act* has resulted in religious groups in Victoria being more cautious in speaking with hostility against one another, which is a positive impact of this legislation. It has made it harder for extreme religious groups to openly advertise their activities and attract supporters. For example, in 2005 a lecture tour entitled *Mosques and Miracles* which claimed to warn Christians about the dangers of Islam and the threat that Australia will become an Islamic State avoided being held in Victoria, while being held in other states around Australia. However, it was subsequently held in

³⁵ The Age, ‘The making of Muslim Australia’, October 23, 2005, available: <http://www.theage.com.au/news/general/the-making-of-muslim-australia/2005/10/22/1129775997101.html>

³⁶ Steketee, M. (2008), ‘Real terror is found in legislation’, *The Australian*, 1 May, available: <http://www.theaustralian.news.com.au/story/0,25197,23624850-7583,00.html>

³⁷ Allard, T. (2007), ‘Spies in the eyes of others’, Australian Muslim Civil Rights Advocacy Network, available: http://amcran.org/index.php?option=com_content&task=view&id=116&Itemid=154

³⁸ Chong, (2006), op. cit.

³⁹ Senate Legal and Constitutional Committee Hansard, 17 June 2004

⁴⁰ cited in Chong (2006), op. cit.

Victoria in 2007, but restricted only to people who had a reference from their pastor or mission agency. The latter condition allowed the organisers to avoid any possibility of complaint being made under the *Racial and Religious Tolerance Act*, as if the event did incite hatred of Muslims, as there would be no Muslims present, then no complaint could be made under the Act. The Victorian Act shows the positive effects anti-vilification legislation can have for all religions in Australia. We recommend the enactment of similar legislation at the national level. We note that this is also a recommendation of the Human Rights and Equal Opportunity Commission report *Isma-Listen* on the experiences of prejudice against Muslim and Arabs in Australia.⁴¹

4.2 How should the Government balance physical security and civil liberties?

Terrorism can never be justified. Terrorism destroys human dignity, human rights and human life. While the Church has expressed support for the purpose of Government implementing legitimate, fair policy to suppress terrorist activity and protect the common good, it has spoken out against situations where it considers that counter-terrorism legislation has made undue incursion into basic civil and political freedoms without appropriate justification.

Various agencies of the Church have expressed concern that counter-terrorism measures enacted since September 11 were targeted towards particular segments of the community on the basis of racial and religious profiling, as discussed in section 4.1. The Uniting Church rejects any policy which seeks to, or has the effect of creating social disharmony, division and conflict.

The Uniting Church's Tenth National Assembly pledged the Church to work for peace through justice and genuine security, living out our strong belief that:

true justice can only be achieved through means that do not consist of violence, nor perpetuate the cycle of violence; true security can only be achieved through non-violent means that seek to build trust and relationships of understanding and acceptance between nations and people.⁴²

We do not believe that it is either appropriate or necessary for Australia to defend itself from terrorism by violating fundamental human rights such as the right to a fair trial and the presumption of innocence. A response to terrorism must be proportionate to the threat. We do not believe that the threat to Australia posed by terrorism represents a 'public emergency threatening the life of the nation', the condition laid down in the International Covenant on Civil and Political Rights for the suspension of human rights. When a state responds to the threat of terrorism with laws which suspend the rights and civil liberties of the very people it is intending to protect, then the malicious intentions of terrorism have prevailed.

New laws must be shown to be absolutely necessary. That is, existing laws must be shown to be insufficient and it must be demonstrated that new legislation will adequately address current legal gaps and problems, and is proportionate to the threat.

⁴¹ Human Rights and Equal Opportunity Commission (2004), *Isma-Listen: National consultations on eliminating prejudice against Arab and Muslim Australians*, available:

http://humanrights.gov.au/racial_discrimination/isma/report/pdf/ISMA_complete.pdf

⁴² Uniting Church in Australia, Tenth Assembly (July 2003), *Uniting for Peace*, available:

http://www.unitingjustice.org.au/images/pdfs/issues/uniting-for-peace/assembly-resolutions/10_unitingforpeace2003.pdf

4.4 a) Is there religious radicalism and political extremism in Australia?

There are a number of Christian groups that hold extreme views in Australia. According to a list prepared the B'nai B'rith Anti-Defamation Commission in January 2002 these groups were the League of Rights, the Christian Separatist Church Society, Christian Identity, British Israel World Federation and the Ku Klux Klan.⁴³

In their 1991 report on racist violence⁴⁴, the Human Rights and Equal Opportunity Commission stated that:

“The League of Rights is undoubtedly the most influential and effective, as well as the best organised and most substantially financed, racist organisation in Australia. Its resources, influence, stability and professionalism far exceed those of any other racist organisation in Australia, past or present.”

The League of Rights was established in Australia in 1946. In 1991, the Human Rights and Equal Opportunity Commission found that the League was particularly strong in rural areas, where its meetings attracted hundreds of people. The League works through a number of divisions and subsidiary organisations including the ‘Christian Institute for Individual Freedom’.

The membership of the League of Rights appears to have declined significantly since 1991 although the Executive Council of Australian Jewry reports that the League of Rights continues to be the most persistent distributor of overtly anti-Jewish material in print form.⁴⁵

The League's claims to a Christian connection are explicit on their website <http://www.alor.org/>. The first stated objective of the League is “To promote loyalty to the Christian concept of God, to the Crown and to the Country.” Included on the website is the “League Prayer”, which it is claimed was developed by members of Roman Catholic, Anglican and Methodist Churches.

On the League's website is a paper by Eric Butler *“Has Christianity Failed?”* It claims that Judaism is an extension of Pharisaism and therefore that modern Jews are like the Pharisees of Jesus' time. Mr Butler goes on to state,

“This question is of far more than academic interest, and unless Christians have a clear understanding of the truth, they will be for ever retreating in the face of pressure from the modern Pharisees, who have demonstrated that they are past masters at distorting history to suit their own anti-Christian programme.”

The Holocaust is described as exaggerated Zionist propaganda used to make Christians feel guilty: “There were acts of bestial brutality, but the claim that six million Jews were systematically gassed as part of an official policy, denies commonsense.”

The website also carries another article by Eric Butler entitled *“The Enemy Within the Empire. A Short History of the Bank of England”*. In the article Mr Butler claims that the Bank of England was founded by Jews and that “its close contact with International Jewish finance is well known”. He goes on to state that “this private monopoly [the Bank of England] is the greatest internal enemy the British people have in their midst.”

⁴³ Ben Moshe, D. (2002), *Australian Racist Groups whose central teachings consist of a Racist Understanding of Christianity*

⁴⁴ Human Rights and Equal Opportunity Commission (1991), *Racist Violence*, Australian Government Publishing Service

⁴⁵ Jones, J. (2004), ‘Report on Anti-Semitism in Australia, October 1, 2003 to September 30, 2004’, Executive of Australian Jewry

In the 1990s, League publications were still promoting the notorious anti-semitic forgery *The Protocols of the Elders of Zion*, describing the Holocaust as a 'hoax' (the invention of Zionist propagandists), identifying prominent Jewish individuals in public life and declaring modern Christianity was 'little more than a form of Liberal Judaism'⁴⁶.

The Christian Separatist Church Society makes clear its claimed links to Christianity, as stated on its website <http://www.christianseparatist.org/other/welcome.html>:

"Christian Separatism takes its Church name from the commands of our Lord and our God Jesus Christ, Who tells those who obey Him, to come out from the antichrist world system of plutocracy and mammon and be a separate Christian people unto His praise and His worship."

They openly express hatred towards other religions, especially Judaism, and of 'race-mixing'. As they state on their website:

"We completely reject the idea that atheistic Jews, who do not believe in the Old or New Testaments and who rejected and murdered Jesus Christ, are by any stretch of the imagination believers in God. We reject the Marxist, Leninist, Humanistic doctrine of religious tolerance that relegates Christianity to the level of voodooism or a demonic practice of the boxer Chinese. Those who make such an affirmation of Christian Supremacy are often called bigots, an antichrist Jewish buzzword allegedly laid upon the king of England, when he refused to capitulate to the Jews and said, "By Good, I will not", affirming that by the strength of the Eternal, he would remain unshakably adamant in his position. We affirm that a Holy Spirit-filled man is indeed superior to a non-Spirit-filled man. While we are a law-abiding people, we reject the Marxist-Leninist Jewish ideology that race-mixing is somehow a civil right... we stand sure-footed upon the Rock of Ages in declaring that race-mixing is immoral and is the act of racial murder, not only of those participating in it, but also of the tens of millions that may well have been born in the intended created image of God in the future. We reject the absurdity and neo-Marxist-Leninist distortion that somehow all men are created equal."

Christian Identity is a name given to a complex, highly varied, and not well-organised movement. The most fundamental teaching pivots on the idea that Anglo-Saxons are the direct descendants of the Ten Lost Tribes of Israel and, thus, are the "true chosen people" of God. As the Christian Identity movement took shape in the USA during the early decades of the 20th Century, it was influenced by American Nativism, the Ku Klux Klan, and various strands of anti-semitism. Today, it preaches hate and condones or advocates acts of violence against ethnic groups, especially Jews.

The Executive Council of Australian Jewry in their 2004 report on anti-Semitism in Australia reported that Christian "Identity" churches in Australia continue to promote the idea that Jews are the spawn of Satan and you need to be a white Anglo-Saxon to be in the image of God.⁴⁷

Some Christian Identity groups are associated with various militia movements in the USA, while others reject such association. Part of the Christian Identity movement has connections with the white supremacist group Aryan Nation.

Jeremy Jones in his 2007-2008 report on anti-Semitism in Australia reports that one of the most visible pseudo-Christian groups in Australia is the "Bible Believers". It is reported that

⁴⁶ Markus, A. (2001), *Race: John Howard and the remaking of Australia* (Allen and Unwin), p. 117.

⁴⁷ Jones, J. op. cit.

for a number of years Anthony Grigor-Scott maintained a bulletin board on which he published long anti-Semitic tracts. He has an internet site which includes a huge volume of anti-Semitic material. A complaint lodged under the Federal *Racial Hatred Act* in 2005 resulted in a judgement in February 2007 ordering that the Bible Believers' church remove material from the website denying the Holocaust took place. Mr Grigor-Scott successfully appealed the judgement, on a procedural technicality and not on whether his material was in breach of the law.

Catch the Fire Ministries are also a group that has expressed extreme views. Brochures produced by Catch the Fire Ministries after the September 11 terrorist attacks in the USA encouraged people to get a map of their local area and circle Satan's strongholds (Mosques, bottleshops, brothels, Buddhist temples etc) and then take them to their church for the congregation to pray for God to pull down the strongholds. This activity was being done at a time when Muslims were being assaulted and insulted in the streets. Catch the Fire Ministries were at the very least insensitive to the effect their activities may have had. In our opinion, Catch the Fire Ministries appear to have shown a disregard for how their activities have provided assistance to race hate groups. For example, the distorted material they generated about their case before VCAT was used by the white supremacist group in the UK, Storm Front. While this use of Catch the Fire Ministries version of events was almost certainly not done with the approval of Catch the Fire Ministries, at the same time we are unaware of any public statement made by Catch the Fire Ministries speaking out against such groups.

There are also atheist extremist groups. The Creativity Movement has become active in Australia, describing themselves as the leading anti-Christian organisation in Australia. They have posted up stickers in public places calling on "White People Awake! Save the White Race!". The Creativity Movement was preceded by the World Church of the Creator, who believed that Christianity was a "Jewish mind poison" and that all 'non-whites' should be exterminated to allow the world to be ruled by 'white' people. Members of the World Church of the Creator were responsible for six murders, two bombings and ten attempted murders in the USA between 1992 and 2004.

Media reports in May 2007 stated that white supremacist groups had been active in Cairns, Rockhampton and Toowoomba, seeking recruits for the Ku Klux Klan, Storm Front and White Legion Knights of the Ku Klux Klan. The White Legion Knights had a website with an Australian page featuring propaganda presented as fact about African and Asian immigration, Aboriginal crime, the homosexuality agenda and Jewish influence in the media.

The Citizen's Electoral Councils engage in mass mailings of literature, sometimes containing bizarre and offensive anti-Semitic conspiracy theories.

There are Muslim extremist groups that also promote religious hatred. For example, Mission Islam had a 'New World Order' section on their website. The section included articles claiming to expose 'the lies of Jews', that the Jews have a plan to destroy the Middle Eastern Muslim countries, that Jews in the US Government are like a 'cockroach infestation', statements that Israel is a 'Neo-Nazi' state, that Jews are not a race, that the Talmud defines non-Jews as non-human animals, that Zionists rule the United States as though they were absolute monarchs and the promotion on the site of the proven hoax 'The Protocols of the Learned Elders of Zion'.

Violence and discrimination against people based on their religious belief is a sign of political extremism and, in some cases, religious radicalism in Australia.

The 2004 HREOC report, *Isma – Listen* documented increased levels of discrimination of Arabs and Muslims in Australia following the 11 September 2001 terrorist attack in the USA

and the terrorist bombing in Bali in October 2002. Muslim women were particular targets of physical violence carried out by strangers. Such incidents included having dogs set upon them, attempts to be run over, being spat at, having things thrown at them from cars and having their hijabs pulled off. The victims of such attacks often fear leaving their homes after such attacks.

The report also found that harassment and discrimination was also directed at people mistaken as Muslims, such as Christian Arabs and Sikh men wearing turbans. In one case reported by HREOC an Egyptian Christian woman was knocked to the ground and needed hospital treatment after a man threw stones at her from a passing car.

The Executive Council of Australian Jewry has also reported increased incidents of anti-Jewish violence, vandalism, harassment and intimidation in recent years. In the period 1 October 2003 to 30 September 2004 there were 455 reports of such incidents across Australia. The worst incidents of physical assault and property damage included the smashing of windows at synagogues and eggs thrown at Jewish people on their way to or from religious ceremonies. The 2008 report of *Antisemitism in Australia*, compiled by Jeremy Jones, reports that there were 652 incidents of racist violence against Jewish Australians between October 2007 and September 2008. These included physical assault, vandalism, arson attacks, threatening phone calls, hate mail, leaflets, posters and abusive and intimidatory e-mail. This was a 2% increase on the figures of the 2007 report.

The internet provides an opportunity for political and religious extremist groups to have reach into the Australian community. For example, after a Turkish Islamic school was the subject of an arson attack in northern Melbourne, racist comments welcoming the attack and encouraging further such attacks appeared on the website of the white supremacist group Storm Front.

There are also far less extreme Christian groups which, while they do not engage in the activities described above, do undermine mutual respect and understanding through particular activities. The Australian Prayer Network is such an organisation.

One of the major activities promoted by the Australian Prayer Network is the practice of spiritual mapping. The website has a series of instructional papers entitled, *Spiritual Mapping for Effective Spiritual Warfare*. The papers are mostly written by Diane Buker, who is the president and founder of Battle Axe Brigade Ministries International and The Sons of Issachar Training Center⁴⁸. The practice is defined as follows:

Spiritual mapping is the process of collating and putting spiritual information concerning a region or people on a map. The accumulated data is used in spiritual warfare to seize that region or people group from the enemy. Spiritual mapping is like having a bright light focused on an otherwise dimly lit area. It allows us to see how the enemy is strategizing and exposes Satan's hidden agenda for that particular region or people group.⁴⁹

The intention is that a group of people explore their local area and then use coloured pins to mark on a map places that are regarded as being of 'Satan's agenda'.

You are locating and infiltrating the enemy's camp for the purpose of ultimately breaking up his works.⁵⁰

⁴⁸ <http://www.battleaxe.org/>, accessed 26 February 2009

⁴⁹ http://ausprayernet.org.au/teaching/sm_articles1_1.php, accessed 28 January 2009

⁵⁰ *ibid.*

The example given provides a long list of categories and includes the following:

Cult and Occult Churches (Red Pin)

These would include Jehovah's Witness Kingdom Halls, Morman (sic) Temples, Bahia, Unity, Unitarian, Christian Science, etc. NOTE: We are not out praying against flesh and blood but locating the stronghold place that holds men's heart and mind in deception.

Occult and Occult Establishments (Blue Pin)

These would be businesses involved in the cult or occult. Places that do metaphysical healings, Reiki teaching, reincarnation and past life therapy, astrologers, chakra and energy works, I Chang. Places that don't seem obvious, comic book and baseball card shops. Many of them sell magic cards, Dungeons & Dragons as well. Large chain toy stores in malls sell all sorts of spiritual garbage. This list seems endless...

Homosexual Works (Yellow Pins)

In this category, we pinned only places that were owned and/or operated by homosexuals or were aggressively promoting the lifestyle.

It is so important to know that we are not against people. We believe God loves the sinner but hates the sin. We are determining the structure and strength of this principality however. We included homosexual churches on this list and not under cult and occult churches.⁵¹

The National Day of Thanksgiving, an initiative of the Australian Prayer Network⁵², expresses a vision of "the Lordship of Jesus Christ over our nation". Taken together with the spiritual mapping activity promoted by the Australian Prayer Network, it is reasonable to conclude that respect for the religious diversity in Australian society is not a value being encouraged. This is of concern insofar as the National Day of Thanksgiving is an event sanctioned by Australia's political leaders (in 2008, statements of support were sent by the Prime Minister, the Leader of the Opposition and the Governor General⁵³).

b) If so, what are the risks to Australia?

The risks from these extremist groups appear small in Australia. Those that advocate violence and hatred openly and crudely appear to have very small followings. Those that do not advocate violence have larger followings but, by their nature, pose a lower risk. However, even where violence is not advocated an environment of hate and hostility towards a group of people increases the likelihood that such people will be physically attacked, have their property attacked and be discriminated against. It is likely to cause members of that community to live in fear.

The recent campaign by NSW Parliamentarian, Fred Nile and the Christian Democratic Party to end what they call "Muslim immigration" provided some political oxygen to a very nasty campaign run by some Camden residents wanting to stop the building of an Islamic school in their town. At a public meeting of 1000 people, Fred Nile made a passionate speech in which he told the audience that "some Muslim schools overseas had produced terrorists", Islam opposed Christianity, the *Qur'an* condemned Christmas and that if these issues were not addressed, Australia would end up with "massive social problems". It is worth noting that the President of the Uniting Church, Rev. Gregor Henderson, challenged Nile's stance, as reported by the ABC.⁵⁴

⁵¹ http://ausprayernet.org.au/teaching/sm_articles1_5.php, accessed 28 January 2009

⁵² http://thanksgiving.org.au/aboutus_view.asp?intid=5, accessed 28 January 2009

⁵³ <http://www.thanksgiving.org.au/>, accessed 28 January 2009

⁵⁴ "MP "defending Australia" against Muslim school", 21 December 2007, Australian Broadcasting Corporation (ABC) News, accessed at Factiva.com

What is highlighted here is the necessity for community education on matters of religion and religious diversity, and strong voices and programs that will contribute to building a society that values and respects difference and that stands firm against such distorting minority voices.

5. The interface of religious, political and cultural aspirations

5.3 How do you perceive gender in faith communities?

How gender is perceived within different faith communities will depend in part on cultural, social, and religious conditioning. A case in point is the *hijab*. Western feminists have been criticised for making broad sweeping assumptions that Muslim women who wear the *hijab* do so out of a compulsory obligation to their faith other than as a matter of choice. Muslim women have reacted to this perception of them by making the point that this may be true for some Muslim women, however, this assumption cannot be made for all. Young women from the Muslim Women's Association would declare that for them the *hijab* represents both a religious symbol of their faith as well as a visible proud assertion of their religious identity. The trap to be avoided is making assumptions that women's oppression and inequality exist primarily in migrant ethnic non-Christian communities. The reality is that women's inequality still exists within western Christian communities. An example of this is the ongoing debate about women's ordination in various Christian denominations. Another point to note is that women from different cultural, social, and economic backgrounds may have different understandings of women's wellbeing and the notion of justice.

The complexity of women's place and role in their varying faith communities is often highlighted through interfaith dialogue. The Women's Interfaith Network (WIN) is one positive example of how understanding can be achieved through dialogue. It also highlights the need for women to cultivate spaces where women's concerns can be shared and their voices nurtured and empowered. Often the official representatives or voices on interfaith matters in the public sphere are men. In summary, women's voices, experiences of interfaith encounters and their role in bridge building within their different communities have often been underplayed. Women's voices and experience are usually marginalised, yet as Maura O'Neill asserts, 'women's dialogue is better able to bridge the gap between religious factions because of its method and content. Women's mode of interacting is more personal and their dialogue more practical.'⁵⁵

5.4 Do you believe there is equality of gender in faith communities?

It is a general perception that in most, if not all, faith communities, women are often seen and treated as the subservient half of their male counterparts. This being so, when the term gender is used it is often interpreted as relating to women, although the term is meant to be used in reference to both men and women. Ursula King, in referring to gender studies, states that although it concerns both women and men, 'at present gender studies are still mainly focussed on women because women have been voiceless for so long.'⁵⁶ The struggle for equality is an ongoing concern for women. King rightly argues that 'throughout most of human history there has existed an asymmetry in the relations of power, representation of knowledge and scholarship between men and women'. Furthermore, King emphatically states that 'feminism is the missing dimension in the dialogue of religions.'⁵⁷ The well being of women is an ongoing concern for women across the cultural and religious divide. Concerns about the dignity, equality, liberation and justice of women are issues feminists continue to debate and wrestle with in the struggle towards the realisation of women's full humanity and dignity. Maura O'Neill, in her assessment of the ineffectiveness of interfaith dialogue, states that 'women are still largely under-represented at the table, and women's issues, which are

⁵⁵ O'Neill, M. (2007), *Mending a torn world: women in interreligious dialogue* (Maryknoll: Orbis)

⁵⁶ King, U. (1995), ed., *Religion and gender* (Oxford: Blackwell)

⁵⁷ King, U. (1998), 'Feminism: the missing dimension in the dialogue of religions' in *Pluralism and the religions: the theological and political dimensions* edited by John D'Arcy May (London: Cassell)

at the heart of so much controversy between conservatives and liberals, need far more attention than they have been given.’⁵⁸

One example of how such under-representation continues occurred recently at the Asia-Pacific Regional Interfaith Dialogue in Waitangi, New Zealand in 2007. A proposal was made by a group of women for an increased percentage of the representation of women delegates within each country’s delegation quota. The proposal was met with some resistance from the floor, on the grounds that in some cultures men are deemed the official and authoritative representative to important official events, therefore, sending a woman when there were capable men available would bring shame on the men and the community, as this would imply that the men were incapable of carrying out important and official tasks!

On the reverse, the Asia-Pacific Interfaith Symposium on *Women, Faith and a Culture of Peace* hosted by the Multi-faith Centre at Griffith University, Brisbane on February 23rd -25th, 2008 tells a different story. The symposium attracted over 150 registrations (10 of which were brave men) from within the Asia Pacific region and a few from beyond. The focus of the symposium was on women and religion and their role and contribution to building a culture of peace. The symposium framed the definition of a culture of peace as promoted by United Nation’s agencies, NGOs and peace educators; ‘a culture of peace encompasses values, attitudes, modes of behaviour and ways of life that reject violence in all manifestations. It also seeks to address the root causes of conflicts and peacelessness and to resolve them through creative and participatory non-violent strategies’ (from the symposium flyer). The symposium brought together women from different cultures and faiths to explore issues of gender and religion and to celebrate the contribution as well as share and name the challenges women of different faiths face in building a culture of peace. The Symposium highlighted the need to be intentional about ensuring that women’s perspectives and experiences stay on the public and political agenda in their varying faith traditions and countries. Recurring themes included the use of inclusive language in prayer and liturgy as well as stories and models of empowerment. The Symposium was not intended just for women, although it was a welcome change to have men in supporting roles such as serving meals and helping in the background, roles normally assigned to women. The Symposium took a wholistic and interdisciplinary approach, making every attempt to address issues in all of their complexities and recognising that particular issues cannot be dealt with in isolation. On the whole it was a worthwhile event highlighting the need for continuing conversation beyond our Australian borders at both the regional and global levels.

Interfaith events and encounters such as the two events described above indicate that gender equality is not the usual norm in many faith communities. As O’Neill emphasises, intra-faith dialogue on gender equality is just as important as interfaith dialogue. Interfaith (and intrafaith) dialogue needs to bring together diverse perspectives within religious traditions in order to explore and understand differences both within their own religious traditions as well as external to it. This responsibility falls on both the state and faith communities.

Taking this responsibility seriously, the Uniting Church at its Eighth Assembly meeting in Perth, July 1997, affirmed the following statement: "that male and female are created in the image of God. Inherent in this affirmation is the acknowledgement that:

- each one of us has dignity and is of value;
- each one of us has a right to be welcomed and to participate within the community of God;
- we can celebrate the uniqueness of each individual and be encouraged to respect our differences;

⁵⁸ O’Neill, M., *op. cit.*

- we allow opportunities for each individual to use their gifts within the community of faith;
- we use and hear language that helps us to feel included within the Church;
- we express our sexuality as the embodiment of God's creation through right and just relationships."

Since that meeting of the Eighth Assembly, the Assembly through its various agencies and units, including the former Commission for Women and Men, has sought to progress the original mandate of the Commission which was formed to assist the Uniting Church 'to be a church that fully and visibly affirms that male and female are created in the image of God.' The mandate includes the following:

- claim a voice for gender issues within the church;
- assist the church to act more justly in relation to these issues across the totality of its life;
- reclaim and promote the full participation of women in the life of the church;
- encourage men to seek mutual community;
- seek and applaud signs of mutuality between women and men;
- celebrate and model the diversity of the membership of the church;
- foster study to enable the church to determine the bearing of the Gospel on gender issues;
- promote the place and use of feminist scholarship in that determination; and
- ensure that available resources are used to encourage healthy attitudes and behaviours for mutuality across the life of the church.

Gender equality is integral to the Uniting Church. The Uniting Church affirms the full humanity and dignity of women and seeks as best it can to ensure that women have the opportunity to participate in every possible way within the life of the church. Women are ordained and able to hold any appointed and elected offices in all councils of the Church.

5.5 What do you think should be the relationship between the right to gender equality and the right to religious freedom in Australia?

At the heart of the feminist concern for women's wellbeing is the matter of freedom from discrimination, violence and oppression and the capacity to exercise personal autonomy (individual freedom) as a recognition of women's full humanity and dignity. The understanding and practice of personal autonomy is, however, culturally and socially conditioned. In some cases religious beliefs (bound together with cultural and social traditions) become the vehicle through which the abuse of women, including domestic violence, political oppression and practices such as genital mutilation, are validated.

With regards to the particular issue of female genital mutilation, we are aware that some religious communities continue to support the practice of female genital mutilation, including raising money to send girls overseas to be subjected to the procedure. Australian governments should continue to support a legislative ban on the practice, including anything done to assist in facilitating the practice. In addition, there should be on-going efforts by Australian governments to target communities likely to be supportive of the practice to inform them of Australian law and of the likelihood of significant physical, emotional and psychological health impacts on women from the practice.

Rights must always be balanced against each other. The right to freedom of religion, for example, must be balanced against the right to be free from violence, persecution and oppression. In the case of women, we believe that the issue is how we might as a society

build respect for difference, respect for women, and a culture that supports women in their choices for their own lives and mitigates against oppression.

5.8 Is there a role for religious voices, alongside others in the policy debates of the nation?

A Christian responsibility to society has always been regarded as fundamental to the mission of the Church. In the Uniting Church our response to the Christian gospel will continue to involve us in social and national affairs.⁵⁹

One of the measures of the health of any democratic state is the strength of its civil society – unions, community organisations, advocacy groups, not-for-profit development and service agencies, voluntary and professional associations and faith-based organisations. A healthy civil society is one that is supported and encouraged by government and enables people to actively participate in the political life of their country.

The Uniting Church in Australia believes, not only that it has a legitimate role as a faith-based organisation in public policy debate, but that it has a responsibility arising out of the tenets of the Christian faith, to engage such debates.

In 1977, in its first *Statement to the Nation*, the Uniting Church articulated the vision and some of the core values which would drive its engagement in issues of social policy:

We pledge ourselves to seek the correction of injustices wherever they occur. We will work for the eradication of poverty and racism within our society and beyond. We affirm the rights of all people to equal educational opportunities, adequate health care, freedom of speech, employment or dignity in unemployment if work is not available. We will oppose all forms of discrimination which infringe basic rights and freedoms.

We will challenge values which emphasise acquisitiveness and greed in disregard of the needs of others and which encourage a higher standard of living for the privileged in the face of the daily widening gap between the rich and poor.

We are concerned with the basic human rights of future generations and will urge the wise use of energy, the protection of the environment and the replenishment of the earth's resources for their use and enjoyment.⁶⁰

It also declared that it fully expected the Church's allegiance to God, which underpins its commitment to human rights, justice and peace, to sometimes "bring us into conflict with the rulers of our day". The Statement went on to say that regardless of that possibility, "our Uniting Church, as an institution within the nation, must constantly stress the universal values which must find expression in national policies if humanity is to survive" and it promised "to hope and work for a nation whose goals are not guided by self-interest alone, but by concern for the welfare of all persons everywhere".

Christian churches have a strong history of advocacy and political lobbying on a variety of issues, including for example (and it is important to remember that not all Christians share the same views on all these matters):

⁵⁹ Uniting Church in Australia, Inaugural Assembly (July 1997), *Statement to the Nation*, available:

http://www.unitingjustice.org.au/images/pdfs/resources/churchstatementsandresolutions/1_statement1977.pdf

⁶⁰ *ibid.*

- conscription, the Vietnam War and the invasion of Iraq;
- employment, unemployment, welfare and industrial relations;
- poverty, economic justice and international aid;
- uranium mining, nuclear power, pollution and climate change; and
- issues of abortion, euthanasia, stem cell research and issues related to sexuality.

It is important to note, however, that the Uniting Church does not believe that Christian groups should have a privileged voice within Australian civil society. We are grateful for the richness and diversity that is multicultural and multi-faith society in Australia and seek to receive that diversity as a good gift from God. We are committed to working together with other civil society organisations, faith-based and others, to ensure that the development of public policy supports justice, human dignity, peace and a healthy and sustainable environment.

At the same time, we are deeply concerned by those religious groups that urge their supporters to vote for particular political parties and suggest that it is God's will that they do so.

There is a real risk that religious groups could seek inappropriate influence over politicians by making promises that they will tell their supporters that it is God's will for people to vote for the politician in question provided the politician promises certain outcomes to benefit the religious group if elected.

Pastor Nalliah, the head of the para-church group Catch the Fire Ministries, had issued public statements at the start of 2006 indicating that it was God's will that people vote for the Liberal Party in the South Australia state election as "they will do what the Lord wants them to do" and that the Judeo-Christian heritage of South Australia was under threat if the Labor Government was returned. In Pastor Nalliah's words, speaking on behalf of God, "the rulers who are ruling you even right now if they be re-elected to rule you for another season in the next three to four years ahead of you, you shall lose 20 years of what you have gained and this generation which is in this place shall not see My glory fall upon this State."

In 2006 Catch the Fire Ministries requested that its supporters give their support to the Victorian Liberal Party in the coming election. The Liberal Party adopted a policy of seeking to repeal the *Racial and Religious Tolerance Act*, which was a key outcome that Catch the Fire Ministries was seeking.

In August 2007 Pastor Nalliah told his supporters that God instructed him to "prophetically prepare Federal Treasurer Peter Costello as the future Prime Minister." Mr Costello had strongly supported Catch the Fire Ministries in their case where the Islamic Council of Victoria had complained that Catch the Fire Ministries had incited hatred against Muslims. Mr Costello publicly advocated for the repeal of the Victorian *Racial and Religious Tolerance Act*, an outcome sought by Catch the Fire Ministries.

7. Religion, cultural expression and human rights

7.6 How is diverse sexuality perceived within faith communities?

Over the last two decades and more, the Uniting Church's struggle to reach an agreed position on diverse sexuality within the Church has at times been a most public struggle, well reported by the Australian media. It is well known that there are diverse and mutually exclusive views held by faithful Church members about whether homosexuality can be regarded as a 'sin', whether gay and lesbian people can be ordained or in any positions of leadership, and whether same-sex unions can or should be 'blessed'. The diversity of theological and biblical views is also complicated by the diversity of cultures and generations within the Church. It is fair to say that this conversation remains a work in progress for the Church.

There are many Uniting Church congregations which are places of welcome, safety and refuge for gay, lesbian, bisexual, transgender and intersex (GLBTI) people. There are also congregations that are open about their desire to see the Uniting Church affirm a theological position against the acceptability of diverse sexualities.

Through its community services arm, UnitingCare, the Uniting Church has a number of services that seek to offer acceptance, care and support to same-sex attracted youth. Underlying these services is the understanding that the Christian church has been responsible for the oppression and abuse of GLBTI people and has had a devastating impact on the lives of many people. On the other hand, there are service agencies which deny same-sex couples opportunities that they offer to heterosexual couples and a very small number of Uniting Church associated groups who seek to 'heal' people of their sexuality so that they can lead a heterosexual life.

With regards to employment some agencies believe that the right to discriminate on the basis of sexuality is provided for by the exemptions contained in state anti-discrimination laws. This position reflects a belief that there is a received and orthodox Christian understanding of homosexuality, and that it is a core doctrinal issue, that is, a central tenet of the faith. This question of whether it is a core tenet of the faith is another major area of difference of opinion within the Uniting Church and finds expression in different employment practices.

The National Assembly has been actively committed to supporting dialogue between Uniting Church members and groups who hold opposing theological and biblical understandings on matters of human sexuality. It has been clear in the conversations it has brokered and the statements it has issued that the Church is committed to the principles of social justice and peacemaking, the realisation of the inalienable human rights of all people and the principle that all people must be equal before the law. It has remained vigilant in its promotion of respectful dialogue that does not seek to harm or vilify.

In 2003, the Tenth Assembly and Assembly Standing Committee of the Uniting Church adopted a resolution concerning ministry and membership in the Uniting Church. This resolution acknowledged that within the Church there is a range of views on questions of Biblical interpretation on various matters of Christian faith and practice⁶¹ and called on "members of the Uniting Church to seek to live together in peace as people of faith, notwithstanding differing views in the matter of same gender relationships."⁶²

⁶¹ Uniting Church in Australia National Assembly, Tenth Assembly/Assembly Standing Committee (2003), *Ministry and Membership in the Uniting Church*, minute 03.69.03.01

⁶² *ibid.*, minute 03.69.03.02

In 2006, the Eleventh Assembly of the Church acknowledged and lamented that the 2003 resolution caused deep concern and disquiet in some parts of the Uniting Church. It expressed “its regret that faithful Christian gay and lesbian people...have continued to experience pain in our church.”⁶³ The resolution included the following advice and encouragements:

6. Pursuant to clause 38 of the Constitution, to advise Synods and Presbyteries;
 - a) that congregations who resolve that they are unable in conscience to receive into ministry placement a person living in a committed same-gender relationship, shall not be compelled to do so; and
 - b) to respect the decision of a congregation indicating its willingness to consider calling a minister in a committed same-gender relationship.

7. to encourage Congregations:
 - a) to be aware that within many Congregations there is a diversity of belief on matters of sexuality and leadership and that some members do not feel free to express their beliefs;
 - b) to become safe communities where people may hold diverse beliefs on these matters and work together as the Body of Christ; and
 - c) to recognise that the possibility of living with difference is a gift which Christ offers to the world.

8. to encourage the whole church:
 - a) to commit itself to continue to grapple with the implications of the gospel of God’s grace for our humanity, the church’s life, and participation in God’s mission in the world;
 - b) to call on all members of the church who hold different views to work at living together in peace as members of the Body of Christ; and
 - c) to hope, pray and work for that common mind in faith which is Jesus Christ’s gift and will.⁶⁴

Consistent with the Church’s commitment to human rights, justice and equity, in 2008 the Assembly’s national justice and advocacy unit UnitingJustice Australia made submissions to two Federal parliamentary inquiries supporting the Rudd Government’s commitment to remove and change legislation that discriminated financially and legally against same-sex couples and their children.

In those submissions, UnitingJustice wrote,

No person in society should be denied the rights and benefits afforded by the State to others in equivalent situations, due to their sexuality or involvement in a committed same-sex partnership. This is also the case for children whose primary caregivers are systematically discriminated against by the State because they are in a same-sex relationship, and who suffer disadvantage as a result.⁶⁵

⁶³ Uniting Church in Australia National Assembly, Eleventh Assembly (2006), minute 06.41

⁶⁴ Uniting Church in Australia National Assembly, Eleventh Assembly (2006), minute 06.41

⁶⁵ UnitingJustice Australia (September 2008), ‘Submission to the Senate Standing Committee on Legal and Constitutional Affairs, Inquiry into the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Bill 2008*’, available: http://www.unitingjustice.org.au/images/pdfs/issues/human-rights/submissions/samesexgenerallawreform_unitingjustice_submission.pdf

7.7 How can faith communities be inclusive of people with diverse sexualities?

Our experience cautions us about the dangers of attempting to legislate for inclusiveness. However, it may helpful to note how significant it has been for the community of the Uniting Church that a great deal of energy has been committed to creating safe places and spaces. This has been important for those searching for places where their identity and relationships will be valued and it has been important for those struggling to understanding why a conversation even needs to be had. We are confident that (mostly) we are now able to meet each other, respectful of our differences, committed to upholding the dignity of everyone and clear that language or behaviour which does reflect such respect is not tolerated.

7.8 Should religious organisations (including religious schools, hospitals and other service delivery agencies) exclude people from employment because of their sexuality or their sex and gender identity?

See the response to question 7.6 above.

7.9 Do you consider environmental concern to be an influence shaping spiritualities and value systems?

A key concern of nearly all religions is consideration of the questions: where do we come from and how are we to live in the world? As issues like climate change, pollution, and over use of resources have emerged, they have challenged us to revisit these questions and how we see ourselves in relationship to the natural world.

The history of the World Council of Churches (WCC) provides a sketch of how the Christian churches have grappled with these issues over time. In 1966, the World Council of Churches' viewed creation as "nothing more than the backdrop, or the stage, for the main drama of history"⁶⁶ – the human drama. Furthermore, nearly all were comfortable with the following statement from the New Delhi Assembly, "The Christian should welcome scientific discoveries as new steps in man's (*sic*) dominion over nature."⁶⁷ However, by 1975, the word 'sustainability' had emerged in the discussions and there was movement to viewing nature has having worth in its own right.

In 2002 environmental concern was seen as a much more integral part of the life of the major churches. In Australia, the Heads of the Anglican, Catholic and Uniting churches issued the following statement:

The Christian faith believes that God is the Creator of the universe and source of all life and many Christians have already been inspired by their faith to become part of the world-wide movement for environmental well-being and sustainability. Human beings were not created separate from the natural world – our connection with God connects us also with the environment. We have a responsibility to act as good and faithful stewards of God's creation.⁶⁸

⁶⁶ Grandberg-Michaelson, W. (1994), 'Towards a theology of life', *Reformed World*, Vol. 44, No. 3, available: <http://warc.ch/pc/rw943/02.html>

⁶⁷ *ibid.*

⁶⁸ *Sustaining Creation: Message from Heads of the Anglican, Roman Catholic and Uniting Churches in Australia, Resources for Social Justice Sunday 2002*, available : <http://www.unitingjustice.org.au/images/pdfs/resources/sunday/2002/churchesmessage.pdf>

In 2006 The Climate Institute released the report *Common Belief*⁶⁹ which was a compilation of statements on climate change from 16 of the world's major faiths including a voice from Indigenous Australia. Common to all these statements was an acknowledgement about the links between faith and the environment and concern about the impact climate change was having on already disadvantaged people around the world.

The Uniting Church in Australia has since its inception in 1977 upheld the importance of the environment in the Christian faith. The following excerpt is from the UCA's first statement to the Nation:

We are concerned with the basic human rights of future generations and will urge the wise use of energy, the protection of the environment and the replenishment of the earth's resources for their use and enjoyment.

It is interesting to note, however, that the statement reflects a view of the earth as a 'resource' for humans to be exploited, wisely exploited, but nonetheless exploited.

In 1992, the Uniting Church in Australia adopted the statement *The rights of nature and future generations*. This document was significant in that it focused explicitly on the rights of nature itself as well as the rights of those who come after us to access the earth's resources.

In 2006, the Assembly adopted a statement addressing climate change, *For the Sake of the Planet and all its People*⁷⁰. It declares:

The Uniting Church's commitment to the environment arises out of the Christian belief that God, as the Creator of the universe, calls us into a special relationship with the creation – a relationship of mutuality and interdependence which seeks the reconciliation of all creation with God. We believe that God's will for the earth is renewal and reconciliation, not destruction by human beings.

The statement acknowledges Christianity's complicity in environmental destruction as a consequence of what is now regarded as a mistaken doctrine:

We have lived out a doctrine of the domination of nature by accepting and engaging in practices that have failed to safeguard the integrity of creation. We have supported systems and structures that exploit the natural environment in the service of human greed. We make this confession and we renew our commitment to move towards sustainable non-exploitative living, believing that God's creation—the earth itself and all the life that it supports—is precious and the earth's resources exist for the good of all now as well as future generations.

It is impossible to separately identify all the factors that influence the constant shaping and reshaping of our spirituality and values, and the development of Christian biblical and theological scholarship over time. It is clear, however, that our ongoing experiences of the world, in this case, our relationship with the environment and our scientific understanding of how the planet works and how humans impact upon it, give Christians cause to reconsider traditional theological understandings of the relationships between God, nature, and humankind. Ecotheology is now an important dimension of Christian theology.

⁶⁹ available : http://www.climateinstitute.org.au/index.php?option=com_content&task=view&id=33&Itemid=40

⁷⁰ Uniting Church in Australia, Assembly Standing Committee (November 2006), available at http://www.unitingjustice.org.au/images/pdfs/issues/living-sustainably/assembly-resolutions/11_asc_climatechange2006.pdf

7.10 a) Are there religious groups, practices and beliefs that you think are of concern to Australians?

b) Should these be subjected to legislative control, and should they be eligible for government grants and assistance

As outlined in response to question 4.4, there are religious extremist groups in Australia. Where these groups incite discrimination and violence against people they should be subject to civil sanction through law, and in extreme cases should be subject to criminal prosecution in line with Australia's obligations under Article 20 of the *International Covenant on Civil and Political Rights*.