



Alerting governments to the suffering of persecuted Christians

Committee Secretary,
Parliamentary Joint Committee on Human Rights
Parliament House
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Dear Committee Secretary,

Inquiry into Australia's Human Rights Framework

Christian Faith and Freedom Inc. (CFF) thanks the Committee for the opportunity to make this submission to the above Inquiry. It does so in support of better protection for freedom of religion and freedom of expression in Australia.

Christian Faith and Freedom Inc. (CFF) is an Australian-based charity which monitors and disseminates news and analysis of violations of the liberty of Christians in many parts of the world. It was founded to alert governments and churches to the suffering of persecuted Christians, and to raise finance to support those in crisis.

On “whether existing mechanisms to protect human rights in the federal context are adequate and if improvements should be made,” CFF would point to the well-recognised shortfall of legal protection for freedom of religion and freedom of expression in Australia. The Australian Human Rights Commission’s “free and equal” position paper correctly recognises that “[r]ecent public discussions about how far government and private action should be able to limit freedom of speech, freedom of religion, the right to equality and a person’s privacy, are examples of areas where there is an inadequate legal framework to resolve complex interactions between fundamental rights and freedoms”.

The main aspect of the “the right to equality” which is under-protected is discrimination on grounds of religion, which has no protection at all in New South Wales, is inadequate in other states, and (as the position paper also acknowledges) in federal legislation. There is no basis to suggest that “the right to equality” in other respects is “an area where there is an inadequate legal framework”. There has been constant concern amongst people with religious conviction that “the right to equality” has expanded so much in past years as to displace freedom of religion, particularly concerning religious speech. This is something which needs to be addressed, to correct the balance in favour of freedom of religion.

CFF is familiar with the commitments made by Australia under the International Covenant on Civil and Political Rights (ICCPR) in its advocacy on behalf of disadvantaged religious groups in different parts of the world. It should be an uncontroversial outcome of any human rights-related inquiry

concerning fundamental liberties that legal protection for freedom of religion must be enacted to the level guaranteed by the ICCPR. Australians with religious conviction, of which there are a great number given Australia's multicultural composition, are becoming frustrated, and have expressed alarm, that inquiries over the last decade or more have produced no improvement in legal protection for religious freedom. This concern is acute amongst Christians who have fled from existential danger under oppressive regimes in their countries of origin – Iran, Iraq, Syria, Sudan, Nigeria and many others in South Asia, North Africa, the Middle East and Mesopotamia. They were targeted precisely for their ethnicity and religious convictions. In spite of generational persecution, they remain loyal to their faith. Their values, and their deep appreciation of the freedoms they came to Australia to enjoy, have made them exemplary citizens.

The successive governments appear to advance legislation where there is political advantage in doing so, and freedom of religion has suffered instead of being guaranteed. It is the responsibility of government to commit to legislation that supports freedom of religion. CFF and its supporters would commend the Committee, and the Government, for all efforts towards protection that meets the ICCPR standard, not just piecemeal improvements. This issue is not going to go away in the future, until legislation that encroaches on freedom of religion is brought in line with treaties such as the ICCPR, which gives all rights full support.

CFF would respectfully remind the Committee of the text of article 18:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

On “whether the Australian Parliament should enact a federal Human Rights Act, and if so, what elements it should include (including by reference to the Australian Human Rights Commission's recent Position Paper)”, CFF would express its deep concern at the position paper's suggestion for the “Freedom of thought, conscience, religion and belief”. Anyone familiar with article 18 of the ICCPR will wonder why it has been turned into the following:

- (1) Every person has the right to freedom of thought, conscience, religion and belief. This right includes—
 - (a) the freedom to have or to adopt a religion or belief of their choice; and
 - (b) the freedom to manifest their religion or belief in worship, observance, practice and teaching, either individually or as part of a community and whether in public or private.
- (2) No-one may be coerced in a way that would impair their freedom to have or adopt a religion or belief in worship, observance, practice or teaching.

The original article 18 text has been cut short by different adjustments, some subtle (like confining the right to manifest religion or belief only individually or “as part of a community”), some blatant (like removing the “liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions”), some which have

no explanation (like the right not to “be coerced in a way that would impair their freedom to have or adopt a religion or belief in worship, observance, practice or teaching”).

The removal of article 18.3 is understood to be because a different clause deals with limitations in the same way for all rights, allowing “reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom”. This would allow limits to be placed on the manifestation of religion with much less justification than is needed under article 18.3 i.e. “necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others”. No reasons are specified in the Human Rights Act clause (similar to “public safety, order, health, or morals or the fundamental rights and freedoms of others”). “Reasonable limits” is completely different from “necessary”.

It is incumbent upon the Australian Human Rights Commission to explain why it has made these changes. It does not escape attention that there is significant erosion of the original ICCPR right. Any changes which have that effect can only be treated as an attempt to reduce the protection which government is responsible to deliver. This cannot be regarded as acceptable, especially since Australia should lead the way among Western democratic systems.

Finally, any Human Rights Act must at all costs avoid rights being used to pitch different interest groups against each other. That would be the most divisive outcome possible for Australia.

With sincere thanks,

Mrs Elisabeth Karen Bos
(National Director)