Religious Freedom and Discrimination

Edited by Justin Healey

ISSUES IN SOCIETY
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Religious Freedom and Discrimination is Volume 384 in the ‘Issues in Society’ series of educational resource books. The aim of this series is to offer current, diverse information about important issues in our world, from an Australian perspective.

KEY ISSUES IN THIS TOPIC
According to the latest census, 68.3 per cent of Australians identified a religious affiliation, while an unprecedented 22 per cent declared themselves to be of 'no religion'. Religious freedom is a fundamental human right, safeguarded by the Australian Constitution; individuals are free to express a diversity of views, as long as they do not incite religious hatred.

This book provides an overview of the latest trends in religious affiliation in Australia. The book also explores human rights and religion in Australian law, in response to recent calls for stronger legislative recognition and protection of religious freedoms, including exemptions from anti-discrimination laws.

How much vilification is experienced by religious groups in Australia? Should faith-based organisations be allowed to discriminate to ‘avoid injury to religious sensitivities’? Is there enough separation between religion and the state, or should Australia’s government be more secular? Even in a modern and tolerant multi-faith society such as Australia, religious freedom is a complex and contested concept – where does the balance lie?

SOURCES OF INFORMATION
Titles in the ‘Issues in Society’ series are individual resource books which provide an overview on a specific subject comprised of facts and opinions.

The information in this resource book is not from any single author, publication or organisation. The unique value of the ‘Issues in Society’ series lies in its diversity of content and perspectives.

The content comes from a wide variety of sources and includes:

- Newspaper reports and opinion pieces
- Website fact sheets
- Magazine and journal articles
- Statistics and surveys
- Government reports
- Literature from special interest groups

CRITICAL EVALUATION
As the information reproduced in this book is from a number of different sources, readers should always be aware of the origin of the text and whether or not the source is likely to be expressing a particular bias or agenda.

It is hoped that, as you read about the many aspects of the issues explored in this book, you will critically evaluate the information presented. In some cases, it is important that you decide whether you are being presented with facts or opinions. Does the writer give a biased or an unbiased report? If an opinion is being expressed, do you agree with the writer?

EXPLORING ISSUES
The ‘Exploring issues’ section at the back of this book features a range of ready-to-use worksheets relating to the articles and issues raised in this book. The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

FURTHER RESEARCH
This title offers a useful starting point for those who need convenient access to information about the issues involved. However, it is only a starting point. The ‘Web links’ section at the back of this book contains a list of useful websites which you can access for more reading on the topic.
CHAPTER 1
Religion in Australia

RELIGION IN AUSTRALIA
A FACT SHEET OVERVIEW WRITTEN BY DR NICOLA HENRY AND KAROLINA KURZAK, ON BEHALF OF THE AUSTRALIAN COLLABORATION

Religion has been defined by the Australian High Court as “a complex of beliefs and practices which point to a set of values and an understanding of the meaning of existence”. The faith communities that practise religion in Australia exhibit many different structures of belief, practice and organisation that frame their attitudes to life as a whole.

In Australia, religion is usually associated with a belief in God (for instance, as in the Jewish, Christian or Islamic traditions). Religion also includes an awareness of the sacred, supernatural or divine (as in Buddhism or Hinduism, for example). While religion is often regarded as a path to moral truth or social wellbeing, non-religious people may aspire to these goals in different ways (for example, via secular humanism). Sociologists tend to view religion as a social construction designed to give meaning to the causes, consequences and purpose of existence and to offer comfort in the face of life’s uncertainties.

The development of a multi-faith Australia
For more than 40,000 years prior to European settlement, Indigenous Australians followed belief systems which were embedded in complex oral traditions and based on the forces of nature, ancestral influence and reverence for the land. Integral to indigenous belief systems were Creation stories, notably Aboriginal stories of the ‘Dreamtime’, which combined knowledge, customary law and beliefs about the origin of the land and its people. A belief in the interconnectedness of spiritual, human and natural phenomena continues to permeate indigenous mythology, ceremonial life and artistic traditions. The first known contacts between indigenous people and outsiders with different belief systems reach back to the sixteenth century, when Muslim fishermen and traders from the east Indonesian archipelago visited mainland Australia.

European settlement in Australia brought with it chaplains of the Church of England (now the Anglican church). Other Christian churches arrived as transportation and immigration continued so that by the early nineteenth century, the various Roman Catholic, Presbyterian, Congregationalist, Lutheran, Baptist and Methodist faiths were all present in Australia. Christianity has remained the dominant religious
tradition in Australia, with sectarian rivalry – notably between Irish Catholics and English Protestants – being a feature of Australian life until the latter part of the twentieth century.

Jewish people first came to Australia aboard the First Fleet in 1788 and many more arrived as refugees after World War II. The first evidence of Buddhist settlement dates to 1848 when Chinese miners arrived in Australia following the discovery of gold. Immigration from South East Asia since the Vietnam War has also increased the numbers of Buddhists in Australia. Muslims and Hindus came to Australia throughout the nineteenth century to work on cotton and sugar plantations and as cameleers, divers and sailors. Muslim numbers have increased steadily in more recent times as a result of civil strife in Lebanon, Iraq, Iran and Afghanistan and due to immigration, more generally, from Turkey, Egypt and other parts of the Middle East.

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<th>Catholic</th>
<th>Other (Christianity)</th>
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<th>Not stated/ inadequately described</th>
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<td>18.7</td>
<td>7.2</td>
<td>22.3</td>
<td>21,507.7</td>
</tr>
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</table>

(a) Includes respondents who objected to stating their religious affiliation.

Please note that data for 2011 was sourced from the ABS article Reflecting a Nation: Stories from the 2011 Census.

Source: ABS Census of Population and Housing.
Changing religious affiliations

According to the ABS, in 1901, the year of Federation, 40 per cent of the Australian population identified themselves as Anglican, 23 per cent as Catholic and 34 per cent as ‘other Christian’. Approximately 1 per cent identified themselves as ‘non-Christian’. Similarly, the first census in 1911 showed that 96 per cent of Australians identified themselves as Christian.

After the end of World War II, and with changes to the White Australia policy in that period, there was a flow of migrants from a number of different countries and a considerable diversification of religious affiliation in Australia. Orthodox Christians came from Greece and the Middle East, and Catholics came from Italy, Hungary, Poland and Vietnam. Alongside these churches, Pentecostal, Independent Chinese and other ethnic churches have also emerged. In Melbourne and Sydney today there are churches of every Christian tradition.

Table 1 shows religious affiliations at each census since Federation.

Among the most striking findings of the 2011 Census is the growth in the number of people affiliating with non-Christian religions, which rose from 4.9 per cent of the total population in 2001, to 7.2 per cent in 2011. Hinduism, Islam and Buddhism were the fastest growing of these faiths, with increases of 189, 69 and 48 per cent respectively. These trends reflect changes in the countries of origin of recent immigrants, among whom these religions are more highly represented than in the total population of Australia. It should be noted, however, that religion is often used as an identifying label unrelated to religious practice; for example, people who identify as Jewish may not necessarily be practising Jews.

Other key developments have been the continuation of a long-standing trend of decline in Christian affiliation (from 96 per cent in 1911, to 68 per cent in 2001 and 61 per cent in 2011) and the growing proportion of Australians who identify as having ‘no religion’ (from 15 per cent in 2001 to 22 per cent in 2011). Among the Christian faiths, Anglicanism recorded the most significant decline, from 21 per cent in 2001 to 17 per cent in 2011, while Pentecostal affiliation rose from 1.1 to 1.1 per cent in the same period. Young people (aged 15-34) were the most likely to profess no faith, at 28 per cent in 2011.

Constitutional and legislative protection for religious practice

Religious freedom is safeguarded by section 116 of the Australian Constitution, which states that: “The Commonwealth of Australia shall not make any law establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth”. This reflects both the protection of religious practice from state interference and a stronger separation of religion from the state than in most other Western nations, including the UK and USA.

In Australia, individuals are free to express a diversity of views, as long as they do not incite religious hatred. The Racial Discrimination Act 1975, giving force to the International Convention on the Elimination of All Forms of Racial Discrimination, makes racial discrimination unlawful in Australia. The Australian Human Rights Commission has responsibility for investigating discrimination complaints based on religious (and other) grounds. State legislation (e.g. the Victorian Government’s Racial and Religious Tolerance Act 2001) provides further protection against religious vilification.

Legislative protections have been invoked in the wake of worldwide terrorist attacks which led to some offensive anti-Muslim reactions in Australia. After the September 11 attacks in the USA in 2001, Islamic religious leaders reported abuse, physical assaults and hate mail against Muslim people in Australia. Within a fortnight of the attacks, the Victorian Equal Opportunity Commission received over fifty complaints of incidents, such as vandalism, women’s hijabs being ripped off and Muslims being refused service at banks.

The place of religion in Australian society

The decline in formal religious affiliation in Australia over the past half-century has been matched and in some cases exceeded in other Western countries, with the marked exception of the USA.

The Australian Community Survey (1998) revealed that religion is less important to Australians than other identifying markers (such as gender, occupation, income, education and nationality). According to that survey, while 10 per cent of respondents stated that religion was the single most important category for describing who they are – and a further 11 per cent said that religion was ‘extremely important’ to their identity – 43 per cent said it was ‘not important at all’.

Studies by the Christian Research Association indicate that over the last twenty years Australia has witnessed ageing church congregations and a substantial decline in regular churchgoing, particularly among churches that depend on cultural heritage as the basis for attendance. Conversely, some churches with alternative attendance models and different organisational structures have been growing. These findings suggest that the nature of Christian faith – and perhaps religious faith more broadly – is undergoing a transformation. It may be that many Australians are growing wary of traditional organised religions and their formal institutions.

In 2008 the US-based Search Institute’s Center for Spiritual Development in Childhood and Adolescence published a comparative study on young people’s attitudes towards spirituality in eight countries. Relative to young people in other countries, young Australians were seen to be less dedicated to spiritual development. The study found that 28 per cent of Australian youth – four times the international average – disavowed belief in a spiritual dimension to life. Also, Australian youth were considerably less likely to have had regular
Religious Freedom and Discrimination

Christian churches of different denominations. This organisation has come together with the Australian Federation of Islamic Councils and with the Executive Council of Australian Jewry to build understanding and harmony via the National Dialogue of Christians, Muslims and Jews. Similarly, the Australian Council of Christians and Jews promotes education and dialogue to improve mutual understanding and to heighten awareness of anti-Semitism and other forms of prejudice.

Other significant interfaith organisations have also emerged. The Australian Partnership of Religious Organisations facilitates collaborative work among representatives of major faith bodies and national-level multicultural community organisations. The Australian Intercultural Society works to engender community harmony and inclusion and to improve interfaith and intercultural relations. These organisations exemplify the concerted efforts being made to cross religious boundaries and to encourage greater tolerance among religious communities.

Public attitudes to different religious groups and interfaith dialogue

The 2012 report Mapping Social Cohesion reviewed findings from a large-scale survey that considered Australian attitudes toward religion. The report indicated that nearly 25 per cent of respondents attested to negative attitudes towards Muslims. By contrast, negative attitudes to other religious groups were far less prevalent, with only 5 and 3 per cent of respondents indicating negative attitudes to Christians and Buddhists respectively.

Encouragingly, there have are increasing efforts to strengthen relationships between different religious groups. The National Council of Churches in Australia represents a collaborative relationship between 19
### Religious populations worldwide

This is a list of religious populations by proportion and population. Estimates made by reliable sources differ. The CIA’s *World Factbook* gives the population as 7,021,836,029 (July 2012 est.) and the distribution of religions as Christian 33.39% (of which Roman Catholic 16.85%, Protestant 6.15%, Orthodox 3.96%, Anglican 1.26%), Muslim 22.74%, Hindu 13.8%, Buddhist 6.77%, Sikh 0.35%, Jewish 0.22%, Baha’i 0.11%, other religions 10.95%, non-religious 9.66%, atheists 2.01% (2010 est.).

#### Adherent estimates

Adherents.com says “sizes shown are approximate estimates, and are here mainly for the purpose of ordering the groups, not providing a definitive number.”

<table>
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<tr>
<th>Religion</th>
<th>Per cent</th>
<th>Adherents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christianity</td>
<td>31.5%</td>
<td>2.1 billion</td>
</tr>
<tr>
<td>Muslim</td>
<td>23.2%</td>
<td>1.6 billion</td>
</tr>
<tr>
<td>Unaffiliated</td>
<td>16.3%</td>
<td>≤ 1.1 billion</td>
</tr>
<tr>
<td>Hindu</td>
<td>15.0%</td>
<td>1 billion</td>
</tr>
<tr>
<td>Buddhist</td>
<td>7.1%</td>
<td>394 million</td>
</tr>
<tr>
<td>Folk</td>
<td>5.9%</td>
<td>376 million</td>
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<tr>
<td>Other</td>
<td>0.8%</td>
<td>300 million</td>
</tr>
<tr>
<td>Jewish</td>
<td>0.2%</td>
<td>African traditional religions 100 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sikhism 23 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Juche* 19 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Spiritism 15 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Judaism 14 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bahá’í 7 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Jainism 4.2 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Shinto 4 million</td>
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<tr>
<td></td>
<td></td>
<td>Cao Dai 4 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Zoroastrianism 2.6 million</td>
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<tr>
<td></td>
<td></td>
<td>Tenrikyo 2 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Neo-Paganism 1 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unitarian Universalism 800,000</td>
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<tr>
<td></td>
<td></td>
<td>Rastafarianism 600,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Scientology 500,000</td>
</tr>
</tbody>
</table>

Notes

- a. These figures may incorporate populations of secular/nominal adherents as well as syncretist worshippers, although the concept of syncretism is disputed by some.
- b. Non-religious includes agnostic, atheist, secular humanist, and people answering ‘none’ or no religious preference. Half of this group is theistic but non-religious. According to a 2012 study by Gallup International “59% of the world said that they think of themselves as a religious person, 23% think of themselves as not religious whereas 13% think of themselves as convinced atheists.”
- c. Chinese traditional religion is described as “the common religion of the majority Chinese culture: a combination of Confucianism, Buddhism, and Taoism, as well as the traditional non-scriptural/local practices and beliefs.”
- d. For Eastern religions such as Buddhism, Taoism, Confucianism, Shinto or Animism etc., people often have religions which are a mix of belief systems. This leads to the unusually large uncertainty in the calculations for Buddhism. The smaller number of approximately 500 million represents traditional Buddhists (have taken refuge in the Three Jewels, those following all of the precepts of Buddhism laid down by the Buddha), whereas the larger number of 1.2 billion includes ‘natural Buddhists’ (as well as secular/nominal Buddhists), lacking specific ceremony, as long as they do not profess belief in another religion.
- e. Juche is not generally considered a religion, as it is a political belief system; some sources call it a ‘political religion’.

### Wikipedia

Since the first Census, the majority of Australians have reported an affiliation with a Christian religion. However, there has been a long-term decrease in affiliation to Christianity from 96% in 1911 to 61% in 2011. Conversely, although Christian religions are still predominant in Australia, there have been increases in those reporting an affiliation to non-Christian religions, and those reporting ‘No Religion’.

In the past decade, the proportion of the population reporting an affiliation to a Christian religion decreased from 68% in 2001 to 61% in 2011. This trend was also seen for the two most commonly reported denominations. In 2001, 27% of the population reported an affiliation to Catholicism. This decreased to 25% of the population in 2011. There was a slightly larger decrease for Anglicans from 21% of the population in 2001 to 17% in 2011. Some of the smaller Christian denominations increased over this period – there was an increase for those identifying with Pentecostal from 1.0% of the population in 2001 to 1.1% in 2011. However, the actual number of people reporting this religion increased by one-fifth.

Between 2001 and 2011, the number of people reporting a non-Christian faith increased considerably, from around 0.9 million to 1.5 million, accounting for 7.2% of the total population in 2011 (up from 4.9% in 2001). The most common non-Christian religions in 2011 were Buddhism (accounting for 2.5% of the population), Islam (2.2%) and Hinduism (1.3%). Of these, Hinduism had experienced the fastest growth since 2001, increasing by 189% to 275,500, followed by Islam (increased by 69% to 476,300) and Buddhism (increased by 48% to 529,000 people).

The number of people reporting ‘No Religion’ also

<table>
<thead>
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<th>RELIGION</th>
<th>Population '000</th>
<th>%</th>
<th>Proportion born overseas(a) %</th>
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<td>61.1</td>
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<td>Uniting Church</td>
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<td>Presbyterian and Reformed</td>
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<td>Total(b)</td>
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<td>100.0</td>
<td>26.1</td>
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(a) Proportion of people reporting this religion who were born overseas.
(b) Total includes inadequately described (supplementary codes) religions and people who did not state a religion.

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Census reveals Hinduism as the fastest growing religion in Australia

_Census of Population and Housing_ data released by the Australian Bureau of Statistics shows more Australians than ever are identifying as having no religious affiliation.

Christianity remained the most commonly reported religion in Australia with 61.1 per cent of the population reporting affiliation with a Christian religion – a decline from 63.9 per cent in 2006. There was an increase in the number of people not reporting a Christian faith from 36.1 per cent of the population in 2006 to 38.9 per cent in 2011. The number of people reporting ‘No religion’ increased significantly, from 18.7 per cent of the population in 2006 to 22.3 per cent in 2011.

The most common non-Christian religions in 2011 were Buddhism (accounting for 2.5 per cent of the population), Islam (2.2 per cent) and Hinduism (1.3 per cent). Of these, Hinduism had experienced the fastest growth since 2006, increasing from 148,130 to 275,534, followed by Islam from 340,394 to 476,291 and Buddhism from 418,749 to 528,977.

2011 Census Executive Director, Andrew Henderson, said these figures are once again a reflection of Australia’s diverse cultural canvas.

“Census data gives us a critical insight into the diversity of the country and how it has changed over the past five years. We see the changes in our diverse landscape in a number of topics, such as language spoken at home, country of birth and ancestry data, in addition to religion,” Mr Henderson said.

“Census data, including information on Australia’s diverse make-up is vital for helping to plan a brighter future for all Australians.”

The question of religious affiliation is the only optional question in the Census, with 8.6 per cent of Census respondents not answering the question.


Increased strongly, from 15% of the population in 2001 to 22% in 2011. This is most evident amongst younger people, with 28% of people aged 15-34 reporting they had no religious affiliation.

Over half of the overseas-born population (56%) reported a Christian denomination; the two most commonly reported were Catholicism (24%) and Anglicanism (12%). Non-Christian religions were reported by 19% of the overseas-born population, with Buddhism (6.8%), Islam (5.4%) and Hinduism (4.3%) being the most prevalent. The proportion of the overseas-born population who reported ‘No religion’ was 20%, slightly lower than the level for the Australian population as a whole (22%).

Recent arrivals were less likely than longer-standing migrants to report an affiliation to Catholicism (18% and 26% respectively) and Anglicanism (7% and 13% respectively). In contrast, a higher proportion of recent arrivals reported Hinduism (10.0% compared to 3.0%), Islam (8.4% compared to 4.7%) and Buddhism (7.7% compared to 6.6%). These differences reflect the larger number of new arrivals from non-European countries.

New arrivals were also more likely than longer-standing migrants to report ‘No Religion’ (24% compared to 19%).


_SELECTED RELIGIONS – LONGER-STANDING AND RECENTLY ARRIVED MIGRANTS (a)_

<table>
<thead>
<tr>
<th>Religion</th>
<th>Long-term migrants</th>
<th>Recent arrivals</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Religion</td>
<td>20%</td>
<td>24%</td>
</tr>
<tr>
<td>Catholic</td>
<td>26%</td>
<td>20%</td>
</tr>
<tr>
<td>Hinduism</td>
<td>7%</td>
<td>10%</td>
</tr>
<tr>
<td>Islam</td>
<td>5%</td>
<td>8.4%</td>
</tr>
<tr>
<td>Buddhism</td>
<td>4.3%</td>
<td>7.7%</td>
</tr>
<tr>
<td>Anglican</td>
<td>12%</td>
<td>7%</td>
</tr>
<tr>
<td>Not stated</td>
<td>3%</td>
<td>6.6%</td>
</tr>
<tr>
<td>Baptist</td>
<td>0.1%</td>
<td>0%</td>
</tr>
<tr>
<td>Presbyterian &amp; Reformed</td>
<td>0.3%</td>
<td>0.1%</td>
</tr>
<tr>
<td>Uniting Church</td>
<td>0.1%</td>
<td>0%</td>
</tr>
</tbody>
</table>

(a) Total includes inadequately described (supplementary codes) religions.
DON’T STOP BELIEVING: RELIGION HAS A PLACE IN AUSTRALIA’S FUTURE

An unprecedented 22 per cent of Australians have declared themselves to be of ‘no religion’, however the rate of decline in religious belief has slowed, according to this opinion piece by Peter Sherlock

Recently the Prime Minister called upon the Labor Party to “repent” of its introduction of the carbon tax. His comments were ridiculed by some critics, not for the substance of what he said, but for the language he used.

Concepts such as ‘repentance’, ‘sin’, even ‘forgiveness’, are seen as being at odds with objective, scientific analysis, and out of step with 21st-century Australia.

Like much of the developed world, in the last 50 years Australia has seen an extraordinary decline in the proportion of the population that claims religious affiliation. Historians have questioned the extent to which Australians have ever been particularly religious.

Nevertheless, religious language, religious culture and religious issues permeate contemporary Australian life.

A Royal Commission is underway investigating institutional responses to child sexual abuse, with a major focus on sexual abuse in the churches. The debate about same-sex marriage is frequently portrayed in the media as a contest between conservative Christian and enlightened liberal values.

Hundreds of thousands of Australian children attend schools run by religious organisations. Australian religious leaders are frequently in the news, attempting to hold governments to public account, or being criticised themselves for failing to meet their own standards.

So what is religion? How does it manifest in contemporary Australia? And why does anyone bother with it any more?

According to the 2011 census, 68.3% of Australia’s population identified a religious affiliation, while an unprecedented 22% – 4,800,000 people – declared themselves to be of ‘no religion’. The Christian Research Association argues that the 2011 data shows the surprising durability of religious identity in a secular context: although religious affiliation dropped by 1.2 percentage points between 2006 and 2011, this was slower than the decline of 3.3 percentage points between 2001 and 2006.

The rate of decline in religious belief has slowed.

As religious demographers note, the declaration of affiliation on the census does not translate into visible participation in religious rituals such as church attendance. There is no straightforward way to measure how many people attend religious services weekly, monthly or annually. And, as Elizabeth I would have said, it is impossible to make “windows into men’s souls”.

But it is possible to measure religious activity in ways other than church attendance or census affiliation. Sociologists and anthropologists have used analysis of believing, behaving and belonging to detect religious practices in human societies. These categories – the ‘three Bs’ – stem from the work of French sociologist Emile Durkheim, who attempted to define religion a century ago.

Durkheim’s major work, Elementary Forms of the Religious Life (1912), was based on early ethnographic accounts of Australian Aboriginal culture, specifically the Arrernte people. Durkheim’s thesis has been contested and modified, not least because of his flawed, second-hand approach to understanding Arrernte country and language.

It is nevertheless striking that Indigenous Australians stand at the

Whether based on dogma and superstition, irrational fears and dreams, bonds of affection and hatred, located in institutional frameworks or private piety, religion is part of the ways in which humans try to answer our biggest questions.
heart of the study of religion as a social phenomena despite historic marginalisation in what has been seen as one of the most secular nations on Earth.

Moreover, Indigenous Australian cultures continue to challenge the modern European tendency to separate the sacred from the secular, the supernatural from the social, the physical from the spiritual.

**BELONGING**

It seems clear that Australians still believe. Two-thirds of us tick a religious identity box on the census. Australians are also well imbued with non-institutional beliefs: the fair-go, mateship, the dream of owning home and land, the belief that “our golden soil has wealth for toil”.

Australians engage in a wide range of ritual behaviours.

Some of us go to church, mosque, synagogue, temple. But what about daily visits to the gym, weekly football matches, Saturday morning grocery shopping, marathons and bike rides, the annual ANZAC commemoration, the sacred opportunity for pilgrimage to the Somme, Kokoda, Gallipoli? It is rare for a death to go entirely unmarked by even the most basic of funeral rituals.

It is the category of belonging that is most difficult to assess in Australia. The membership of many churches has declined, and where power and influence is overtly exerted, it is viewed with suspicion. Yet community clubs and workers’ unions have also lost members, perhaps at a faster rate than the churches.

Do we live, then, in a secular society?

Yes, in the sense religious beliefs are able to be as critically interrogated and assessed as any other viewpoint. No, in that Australia is host to a bewildering variety of religious identities and ritual behaviours, now firmly including ‘no-religionism’.

Amore useful concept than secularisation is detraditionalisation, as developed by Belgian theologian Lieven Boeve in a western-European context. Detraditionalisation describes the loss of connection, a break in transmission, the fracturing of identity throughout western society, whereby tradition is interrupted.

This phenomenon applies not only to religion but also to a whole range of cultural and artistic arenas – music, literature, fine arts, philosophy.

A loss of institutional attachment to what were the dominant religious groups a century ago, the growth of ‘no religion’, and the pluralisation of religious participation across a wide range of faiths can therefore be seen as parallel to the decline in political-party membership, the rise of minor parties, and the alienation of many voters from politics.

It is the stress of detraditionalisation that helps to provoke culture wars, such as those fought out over the shape of a national history curriculum. For traditions help us to answer the ultimate questions: Who are we? Where did we come from? Why are we here? Are we alone?

The loss of tradition, of an elite canon of key truths, documents, rituals, can separate us from each other, leaving us bereft of identity, or it can allow new traditions and truths to emerge. The experience of loss, however, is traumatic, as the ultimate questions still remain.

It is part of the nature of humanity to strive to answer these questions. This is a mission that religion shares with the sciences. Although different tools may be used where religion is predicated on faith and science on doubt, both require imagination.

It is a mission religion also shares with politics. It’s no wonder politicians elicit support from voters through the appeal to values, for it is an appeal to beliefs that can change behaviours.

It is a mission religion shares with the arts, including sport. All represent the attempt to give expression to our beliefs through beauty, performance, physical achievement.

Whether based on dogma and superstition, irrational fears and dreams, bonds of affection and hatred, located in institutional frameworks or private piety, religion is part of the ways in which humans try to answer our biggest questions.

Religion undoubtedly has a place in Australia’s future. It is nothing more and nothing less than a body of beliefs, behaviours, and identities through which we attempt to answer, or even just live with, our deepest questions.

Peter Sherlock is the Vice-Chancellor at the University of Divinity, Melbourne, Victoria.

**THE CONVERSATION**

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION OR BELIEF

The Australian Human Rights Commission presents the following extracts from the International Covenant on Civil and Political Rights, relating to religious freedom.

**Article 18**

Article 18 of the ICCPR states:

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.

This right has been examined in detail by the United Nations Human Rights Committee (see below) and by the Commission in the work available through our Freedom of Religion and Belief project page, www.humanrights.gov.au/freedom-religion-and-belief

**General comment**

The Human Rights Committee has made extensive comments in its General Comment No. 22: The right to freedom of thought, conscience and religion. Headings and notes have been added here to sections of this Comment for ease of reading.

**Freedom of thought, conscience, religion and belief is fundamental**

1. 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 Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief. The fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in Article 4.2 of the Covenant.

2. Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms ‘belief’ and ‘religion’ are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.

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 of everyone 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.
4. The freedom to manifest religion or belief may be exercised “either individually or in community with others and in public or private”. The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest. The observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or headcoverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group. 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.

Note: For further information in this area, see the notes at www.humanrights.gov.au on ‘Freedom to believe and the freedom to manifest that belief’ and “The collective aspect of freedom to manifest religion or belief”.

5. The Committee observes that the freedom to “have or to adopt” a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one’s current religion or belief with another or to adopt atheistic views, as well as the right to retain one’s religion or belief. Article 18.2 bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by Article 25 and other provisions of the Covenant, are similarly inconsistent with Article 18.2. The same protection is enjoyed by holders of all beliefs of a non-religious nature.

6. The Committee is of the view that Article 18.4 permits public school instruction in subjects such as the general history of religions and ethics if it is given in a neutral and objective way. The liberty of parents or legal guardians to ensure that their children receive a religious and moral education in conformity with their own convictions, set forth in Article 18.4, is related to the guarantees of the freedom to teach a religion or belief stated in Article 18.1. The Committee notes that public education that includes instruction in a particular religion or belief is inconsistent with Article 18.4 unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

7. In accordance with Article 20, no manifestation of religion or belief may amount to propaganda for war or advocacy of hatred that constitutes incitement to discrimination, hostility or violence. As stated by the Committee in its General Comment 11, States parties are under the obligation to enact laws to prohibit such acts.

Note: In ratifying the ICCPR Australia reserved the right not to introduce further laws to implement Article 20. It did not reject the substance of Article 20, but indicated (as the Human Rights Committee has also said) that Article 20 should be interpreted consistently with Article 19.

8. Article 18.3 permits restrictions on the freedom to manifest religion or belief may be limited but only by law and only where necessary on grounds specified by Article 18.
**Prohibition of advocacy of national, racial or religious hatred**

**Article 20 of the International Covenant on Civil and Political Rights**

Article 20 of the ICCPR states:

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

**Australian interpretative declaration and reservation**

This requirement however is subject to the right of parties to make reservations. Parties to treaties can make reservations which limit or exclude particular obligations.

Australia has made the following reservation to Article 20:

*Australia interprets the rights provided for by Articles 19, 21 and 22 as consistent with Article 20; accordingly, the Commonwealth and the constituent States, having legislated with respect to the subject matter of the article in matters of practical concern in the interest of public order (ordre public), the right is reserved not to introduce any further legislative provision on these matters.*

**CERD Article 4**

Article 4(a) of CERD requires countries to criminalise all dissemination of ideas based on racial superiority or hatred and incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any racial or ethnic groups.

Article 4(b) of CERD requires the criminalisation of participation in organisations which promote and incite racial discrimination.

**Australian interpretative declaration/reservation**

On becoming a party to CERD in 1975, Australia made a declaration in relation to Article 4(a) that it was not then in a position to criminalise all the matters covered in the article. This declaration has generally been described as constituting a reservation.

During Australia’s Universal Periodic Review in 2011, the Australian Government committed to establishing a systematic process for the regular review of Australia’s reservations to international human rights treaties.


manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. The freedom from coercion to have or to adopt a religion or belief and the liberty of parents and guardians to ensure religious and moral education cannot be restricted. In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in Articles 2, 3 and 26. Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in Article 18. The Committee observes that paragraph 3 of Article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only 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 may not be imposed for discriminatory purposes or applied in a discriminatory manner. The Committee observes that the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition. Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific
nature of the constraint. States parties' reports should provide information on the full scope and effects of limitations under Article 18.3, both as a matter of law and of their application in specific circumstances.

Note: For further information in this area see the notes at www.humanrights.gov.au on ‘Permissible limitations on freedom to manifest religion or belief’ and ‘Balancing freedom of religion and other rights: European approaches’.

9. The fact that a religion is recognised as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including Articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers. In particular, certain measures discriminating against the latter, such as measures restricting eligibility for government service to members of the predominant religion or giving economic privileges to them or imposing special restrictions on the practice of other faiths, are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under Article 26. The measures contemplated by Article 20, paragraph 2 of the Covenant constitute important safeguards against infringement of the rights of religious minorities and of other religious groups to exercise the rights guaranteed by Articles 18 and 27, and against acts of violence or persecution directed towards those groups. The Committee wishes to be informed of measures taken by States parties concerned to protect the practices of all religions or beliefs from infringement and to protect their followers from discrimination. Similarly, information as to respect for the rights of religious minorities under Article 27 is necessary for the Committee to assess the extent to which the right to freedom of thought, conscience, religion and belief has been implemented by States parties. States parties concerned should also include in their reports information relating to practices considered by their laws and jurisprudence to be punishable as blasphemous.

10. If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under Article 18 or any other rights recognised under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it. Conscientious objection to military service must be accommodated

11. Many individuals have claimed the right to refuse to perform military service (conscientious objection) on the basis that such right derives from their freedoms under Article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection,

Rights of members of ethnic, linguistic and religious minorities

Article 27 of the International Covenant on Civil and Political Rights

ICCPR Article 27 states:

> In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Human Rights Committee General Comment No. 23: The rights of minorities indicates that:

> The rights recognised in this Article include, but are not restricted to, peoples entitled to be recognised as ‘peoples’ for the purposes of the right to self determination.
> These rights are not restricted to citizens (except where specific rights such as voting rights under Article 25 are expressed to be restricted in this way).
> While the rights recognised under Article 27 they imply a right of members of ethnic, religious and minority communities to maintain their cultures and an obligation on States to take measures to ensure protection of these cultures.

but the Committee believes that such a right can be derived from Article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one’s religion or belief. When this right is recognised by law or practice, there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs; likewise, there shall be no discrimination against conscientious objectors because they have failed to perform military service. The Committee invites States parties to report on the conditions under which persons can be exempted from military service on the basis of their rights under Article 18 and on the nature and length of alternative national service.

Commission work
See the freedom of religion and belief project page on www.humanrights.gov.au for links to projects, speeches and papers.

Freedom of religion and belief in Australian law
For more detail see:
• Article 18: Freedom of religion and belief
• The law, judiciary and religion
  (Professor Carolyn Evans, 2009).

Constitutional law
While there is some protection given to religious freedom in the Australian Constitution, it is far from comprehensive. Section 116 prohibits the Commonwealth Parliament from enacting legislation that would prohibit the free exercise of religion or establish a religion. This constitutional protection is, however, limited in a number of ways.

• It applies only to the Commonwealth and does not extend to legislative or other action by the States.
• It does not apply to all Commonwealth government action but only to legislation or actions taken under legislation.
• It does not, in its terms, protect beliefs that are not religious (although the High Court has interpreted it to extend to atheism and agnosticism at least).

Interpretation of s116 by the High Court has in most respects been restrictive and limiting.

Statutory protection
Rejection of proposals for a Bill of Rights to give effect to Australia’s obligations under the ICCPR, and of the proposal by the Commission for specific Religious Freedom legislation, means that there is no comprehensive Commonwealth legislation that protects religious freedom or prohibits discrimination on the basis of religion or belief.

Common law
As discussed on our ‘Common law rights and human rights scrutiny’ page, there are presumptions in statutory interpretation that Parliament did not intend to limit fundamental rights, and intended to legislate consistently with Australia’s international obligations including under human rights treaties. As well as being included in Australia’s international obligations through ICCPR Article 18, religious freedom has been recognised as among the common law rights covered by the common law presumption. The presumptions regarding common law rights and regarding consistency with Australia’s international obligations are both, however subject to being dispaced by sufficiently clear words in legislation.

MORE INFORMATION
> Attorney-General’s Department Guidance Sheet
  HumanRights/PublicSectorGuidanceSheets/Pages/
  Righttofreedomofthoughtconscienceandreligionorbelief.aspx
> Law and Religion Scholars Network, www.law.cf.ac.uk/clr/
  networks/lrsncd90.html

Australian Human Rights Commission (2014),
Freedom of thought, conscience and religion or belief.
The limits of religious liberty and the right to free and public expression of religious ideas are being debated in Australia where there is a broad commitment to upholding freedom of religion, writes Reverend Peter Kurti

Questions about how much freedom religious believers should enjoy to express their faith and dutiful obedience to a supreme being have been in the news more frequently in recent days.

In the United States, the Supreme Court ruled in favour of family-owned company Hobby Lobby which had challenged the government over insurance obligations to be imposed by Obamacare. The decision, which was handed down by a majority of the justices, upholds the right of faith-based employers to choose freely how to provide benefits for their employees.

Meanwhile the European Court of Human Rights (ECHR) handed down a decision that appears to impose limits upon a person’s right to express their religious beliefs. In that case, the ECHR upheld a decision by the French government to ban the wearing of the niqab in public places and ruled that the ban did not infringe the right to religious freedom.

Although Article 9 of the European Convention on Human Rights (ECHR) upholds the freedom to manifest one’s religious beliefs, it does set limits if they are in the interests of social cohesion. In other words, the ECHR states that the right to manifest one’s religious beliefs is not an absolute right. It must always be balanced against other rights and freedoms enjoyed by citizens.

The limits of religious liberty and the right to free and public expression of religious ideas are also being debated in Australia where there is a broad commitment to upholding freedom of religion. Every state and territory has anti-discrimination legislation which contains exemptions protecting the right to religious liberty and ensuring it is balanced against other rights.

These exemptions are not there to justify discriminatory behaviour. Rather they are there to protect the right to religious liberty and to strike the balance between different rights and freedoms. Unfortunately when they evaluate these exemptions, Australian courts look to be taking a more restrictive view of religious liberty as they seek to strike an appropriate balance.

Earlier this year the Victorian Court of Appeal upheld a decision which found a Christian youth camp liable for refusing to take a booking from a homosexual support group. In what was one of the most important elements of the decision, all three justices held that there was no distinction between homosexual behaviour and homosexual orientation.

The youth camp’s policy was intended to uphold its view of Christian standards of behaviour. Instead it was found to have discriminated against the persons involved themselves.

Once claims about discriminatory behaviour or beliefs are presented as assaults upon the person rather than as simply being about the content of religious faith, rights become non-negotiable. One judge in the youth camp’s case, Neave JA, said there can be no exemption for religion in situations “where it is not necessary for a person to impose their religious beliefs upon others.”

This test invites scrutiny of a wide range of religious practices including marriage. Would the refusal of a minister of religion to perform a same-sex marriage amount to such an unnecessary imposition of religious belief?

Indeed, the issue of same-sex marriage and the campaign to promote it by groups such as the Australian Greens is an example of the threat posed to religious liberty by aggressive secularism.

Of course, any decision about the changes proposed to the Marriage Act 1961 is ultimately a matter for our democratically elected Federal Parliament. But the campaign to amend the Act in order to allow for same-sex marriage does seek to silence the views of those who might harbour religiously based reservations about such a change.

Proponents of same-sex marriage argue that it needs to be adopted in the name of tolerance, dignity and equality. But the push for what is dubbed ‘marriage equality’ makes little allowance for those whose religious convictions lead them to stand up for the traditional meaning of marriage. Instead it imposes what can be described as a ‘tyranny of tolerance’ under which the individual law-abiding religious believer has no place in the public sphere to express dissent.

The mark of the good citizen used to be the display of personal conviction. Now it is the ostentatious display of open-mindedness often resulting in traditional religious beliefs being suppressed.

Instead of allowing greater freedom to express religious belief in the public sphere, the impact of a tyranny of tolerance religion is to confine religion to
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The forgotten freedom: threats to religious liberty in Australia

Executive summary from a Centre for Independent Studies report, written by Peter Kurti

The campaign for what has been dubbed ‘marriage equality’ is gaining ground in many Western countries, including Australia, despite religious and secular people not always sharing a common point of view on the matter. In an accompanying development, the cause of marriage equality has become something of a proxy for those who advance an aggressive secularism and dismiss the religious reservations of believers.

The Australian Greens have been at the forefront of this assault on religious liberty. For example, in 2011, Cate Faehrmann, a Greens MP in the NSW Parliament, insisted that religious freedom must never be permitted to trump discrimination on the basis of sexual orientation; in March 2014, WA Greens Senator Scott Ludlam condemned Prime Minister Tony Abbott’s principled, faith-based opposition to same-sex marriage as homophobic.

The right of Australian religious groups and communities to order their affairs in accordance with their beliefs and traditions is recognised in every state by anti-discrimination legislation. The exemptions afforded by these Acts do not exist simply to justify what would otherwise be unlawful discrimination; rather, they are there to protect a fundamental human right, namely the right to religious liberty, and to ensure that right is balanced against other rights. Nevertheless, these very protections are under threat from the organised forces of secularism. This enthusiasm for securing equality in all human relationships and social interactions continues to drive the state to impose new virtuous standards of conduct and thought upon the citizenry.

Contemporary debate about religious freedom usually concerns the extent to which the liberal state should permit the free expression of religious ideas in the public square. However, a key source of pressure on religious liberty comes from the emergence of a new ‘statist’ form of liberalism that is more concerned with the pursuit of equality than with the empowerment and freedom of individuals to express themselves and order their lives as they choose. Statist liberalism regards religious faith as little more than a subjective preference of taste rather than as the organised expression of a form of life for engaging with what is believed to be of ultimate meaning.

Many religious believers are concerned that aggressive secularism seeks to drive religion, particularly Christianity, completely from the social and cultural realm where faith is practised, into the private and confined realm of the mind. Secular virtues such as equality are now being imposed by the state in the name of tolerance and dignity.

There is an additional concern that issues of equality and sexual orientation will always prevail when they come into conflict with freedom of religion. The pursuit of equality imposes nothing less than a tyranny of tolerance upon the individual citizen. This tyranny, in turn, threatens the freedoms the citizen has long enjoyed under the liberal state to pursue his or her conception of the good life.

Rather than constructing and imposing models of equality upon the individual, the political and cultural framework of the liberal state needs to allow believers and non-believers alike, with differing and even conflicting points of view, to live together peacefully.


But belief and practice are inseparable. Freedom to believe must surely be accompanied by the freedom to speak so long as no threat is posed to social cohesion and the wellbeing of others.

The Reverend Peter Kurti is a research fellow at The Centre for Independent Studies.

The recent release of the Federal Government’s draft Human Rights and Anti-Discrimination Bill (HRAD) has reignited Australian debate about human rights, religion and the law. The current controversy is around the permanent exceptions in the HRAD which allow religious bodies to discriminate “to avoid injury to religious sensitivities”.

The retention of the generally unpopular exceptions could be seen as a win for religious organisations that want to discriminate: they’ve kept the broad exceptions in the current laws and had them extended to the new protected attributes of gender identity, sexual orientation and religion.

However, several submissions by religious organisations to the Senate Legal and Constitutional Affairs inquiry into the Bill state that the HRAD should do more to recognise and protect religious freedom. The Anglican Church Diocese of Sydney wrote in their submission (no.380):

“We note that the Bill makes some allowance for rights of freedom of religion, freedom of association, freedom of speech and cultural expression through exceptions. However, while exceptions are necessary, casting the protection of these rights in a wholly negative manner, in the form of ‘exceptions’, does not do justice to their importance …

There is a need for positive recognition and support for freedom of religion, freedom of association, freedom of speech and cultural expression in the Bill, among other human rights.”

Freedom for Faith (F4F), a new body “representing various Christian Churches and faith-based organisations in relation to issues of freedom of religion”, similarly argued (in submission no.447):

“F4F is deeply concerned that religious freedom and freedom of association are protected only by means of ‘exceptions’ … F4F is of the view that addressing issues of religious freedom only by way of narrowly construed exception could be seen as being a violation of Australia’s international human rights obligations.”

The recent release of the Federal Government’s draft Human Rights and Anti-Discrimination Bill has reignited Australian debate about human rights, religion and the law.

The call for stronger legislative recognition and protection of human rights other than non-discrimination is surprising because conservative Christian groups have been among the most influential opponents of a Federal Human Rights Act, a law that would provide positive recognition and support for human rights, or at least for those rights contained in the ICCPR (including the right to freedom of religion and associated rights such as the right to peaceful assembly, freedom of expression and freedom of association).

Let’s go back a bit: in 2009-10 the Australian Government commissioned the National Human Rights Consultation (NHRC), a process designed “to seek a range of views from across Australia about the protection and promotion of human rights.” The adoption of a Human Rights Act was supported by over 87% of a record 35,000 public submissions and was a key recommendation of the National Human Rights Consultation Committee.

Nevertheless, the Australian...
Government decided not to introduce a Human Rights Act on the basis that “the enhancement of human rights should be done in a way that, as far as possible, unites rather than divides us”. A key element of the perceived division was the opposition of some (but certainly not all) Christian groups. The Anglican Church Diocese of Sydney was one of the bodies that led the charge against a human rights law (their submission to the Consultation Committee is at www.sds.asn.au).

Many of the Christian groups and individuals that led the ‘no campaign’ were concerned that a Human Rights Act would undermine religious freedom and threaten democracy by transferring political power to the judiciary.

Human rights advocates (including Christian human rights advocates) countered that a Human Rights Act would provide a useful framework within which to incorporate considerations of religious freedom (along with other rights) in political, administrative and judicial decision-making. Proponents of a Human Rights Act argued that even very weak domestic human rights legislation (which is what was proposed in 2009-10) would provide stronger protection for rights, including religious freedom, than is currently available.

Of course, it’s a bit cheeky (but not entirely outlandish) to suggest that the conservative Christian groups’ current calls for legislative recognition of human rights equates to an about-turn on the question of a Human Rights Act. After all, the HRAD establishes a mechanism by which individuals can pursue complaints of unlawful discrimination. Apart from section 60 which provides for qualified “equality before the law for people of all races”, the Bill doesn’t even protect the right to equality. It is not an appropriate vehicle for general rights protections.

Nevertheless, I do hope that all this talk of the need for better legislative recognition of freedom of religion, expression and association will still be ringing in the ears of would-be Human Rights Act opponents when it comes time to review Australia’s human rights framework in 2014.

Rachel Ball is Director of Advocacy and Campaigns at the Human Rights Law Centre.

Racial discrimination laws and religion

Summary of the scope of Australian racial discrimination laws from Racism. No way!

The various Australian Acts relating to racial discrimination use different definitions of ‘race’ and some of the State and Territory legislative definitions provide wider coverage than the Federal Racial Discrimination Act. The table below summarises the scope and the interpretation of ‘race’ in each of the acts using terminology contained in those acts. No inferences are made about the scope and interpretation of ‘race’ as defined in each act. [Laws relating to religious beliefs are highlighted in red.]

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RDA: Commonwealth Racial Discrimination Act (1975)

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REINFORCING RELIGIOUS INEQUALITY:
THE AHRC INQUIRY INTO RELIGIOUS FREEDOM AND
AUSTRALIA’S VEXED RELIGIOUS LANDSCAPE

The following commentary from the ABC Religion and Ethics website is by JK Nelson, A Possamai-Inesedy and KM Dunn

From mid-2008 to mid-2009, the Australian Human Rights Commission (AHRC) sought to gather views from faith, interfaith and civil society groups on Freedom of Religion and Belief in the Twenty-First Century. The inquiry set out to examine freedom of religion and human rights in the face of increased religious diversity, but also to examine the role of religion in the public sphere. It engaged with issues that related to public funding of religion and faith-based services, and raised the question of whether religious arguments had a legitimate place in public debates. There was a stated attempt to understand the implications of this growing diversity on the relations between religion and the state.

A central component of the consultation process involved seeking public submissions, of which 2,033 were received. Our focus here is different from that Inquiry Report, as our primary interest is critically to analyse the ‘religious voice’ in the public submissions and the impact of the public submission process on social policy.

We want primarily to address two related research questions:

- What was the nature of the voice expressed in the submissions, and to what extent was this voice reflective of the broader Australian population’s views of freedom of religion and belief in Australia?
- If submissions had a particular, interested view of freedom of religion, what implications might this have for social policy and the place of religious minority groups in Australia?

The public submissions made overt suggestions on social policies, including religious exemptions from anti-discrimination laws, the development of anti-religious-vilification legislation, and the commentaries on these matters have been the case studies for our analysis.

Religion and public life

Many democratic states subscribe to the idea of state neutrality, or the separation of church and state. Farida Fozdar recently concluded that the supposed secular neutrality of the state in Australia had been found wanting, and that the discourse of political leaders showed that the state was instead privileging “members of one religious faith over others” and associating the character of the nation with Christianity. The latter can be seen as contrary to political secularisation where the state is seen to affirm its independence from religion.

Regardless of one’s position within the debate, it has become apparent that religion is increasingly present in the public sphere in many countries previously characterised as socially and politically secular – including Australia. One of the most pressing challenges facing contemporary societies is how to handle the management of moral and religious diversity – the basis of the AHRC’s Inquiry. Recent international flashpoints around the management of religious diversity include the wearing of head scarves and other religious symbols within the public sphere of France, as well as the minaret referendum in Switzerland.

As the Inquiry found, to some Australia is a Christian country; to others it is a secular country and to others it is multi-faith country. Those who are convinced that Australia is a Christian nation can point to the foundational presence of Christian practices within the polity to affirm their view (for instance, the Parliamentary Prayer, the appearance of ‘God’ in the Preamble to the Commonwealth of Australia Constitution Act, and so on). Those who see Australia as a secular country can point to the section 116 of the Commonwealth of Australia Constitution, which proscribes establishmentarianism. Then there are those who see Australia as officially a multi-faith nation, and they point to sections of the statements on multiculturalism that advocate religious diversity and tolerance.

The Inquiry’s analysis revealed that as plurality and presence of religion within the public sphere increases, the scope of shared values contracts and the possibilities for public disputes over basic institutions increases. It
could be argued that Australia is entering into a post-secular period in which the management of religion becomes more necessary. The picture that emerged was not just complicated – it revealed the contested nature of these visions.

**Context**

The context for our discussion of freedom of religion and human rights is one of increasing religious diversity and the shift of religion from the private to the public sphere. The latter entails a more robust contribution to the development of various social policies. These are areas of public life and public policy where religion and the state intersect. There is no national Bill or Charter of Rights in Australia to provide protection of religious and human rights, though there are state-based versions in the ACT and Victoria. In the absence of national protections, religious and belief organisations – particularly outside the ACT and Victoria – turn to patchy anti-discrimination and anti-vilification laws.

The Constitution also speaks to freedom of belief and religious rights. Section 116 states that:

“The Commonwealth shall not make any laws for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any public trust under the Commonwealth.”

Determining the extent of this freedom, especially for minority groups, was central to the Inquiry’s overall mission. The Australian public was asked to evaluate freedom of religion, as well as address a number of specific issues, including what are the rights and responsibilities of religious, spiritual and civil society organisations, and to assess the effects of recent changes to State, Territory and Commonwealth legislation. Essentially there was an attempt to gauge if belief and religious practice were sufficiently protected. Previous research has indicated that section 116 has been limited in its application, applies only to the federal government, and has had marginal legal use in the defence of minority religious groups (Niland, 1985; Richardson, 1995: 199-201).

Tom Calma, the then Race Discrimination Commissioner and Aboriginal and Torres Strait Islander Social Justice Commissioner released the Discussion Paper for the Inquiry with a speech entitled ‘Like oil and water? The intersection of freedom of religion with belief in human rights.’ Calma reflected on the increased presence and influence of religion in the public sphere, and asserted the apparent incommensurability between religious convictions and human rights. The recent increasing public and political involvement of religions within Australian social policy have been seen as a somewhat anti-modern influence on society. Media bites operate through dualisms of “creationism versus evolutionism,” “cults and cult survivors” and the perceived schism between religion and science research.

The implicit negative framing of religion in the public sphere in conjunction with the shift in the religious landscape could well lead to feelings of defensiveness on the part of certain religions. The submissions reveal varying degrees of defensiveness and resentment on the part of Christians.

**Background to the data**

As we’ve already stated, in 2009 the AHRC received 2,033 submissions to the Freedom of Religion and Belief in the Twenty-First Century inquiry. Submissions to the Inquiry were a source of data that could be systematically examined to ascertain the religious voice of those who participated in the Inquiry.

A coding framework was developed by a project team – staff from the AHRC and two of the authors of this article (Dunn and Nelson) – to analyse the submissions.
One of our aims was to examine the representativeness of the religious voice in the submissions, and the coding framework was set up in such a way so that we could, where possible, compare the views and attitudes expressed in the submissions to those of the general Australian population.

Overwhelmingly, most submissions came from individuals, couples or family groups (91.5%). Other contributions came from organisations – most commonly these were representative religious organisations or local religious organisations (6.1%). 14% of submissions used the online questionnaire template provided as part of the Inquiry call for public comment. Submissions were relatively evenly split between those that dealt with a single issue only (47.2%) and those that addressed multiple issues (52.8%). Christian groups made up 61% of all organisation submissions and just over 84% of religious organisation submissions.

In addition to the submission process, the Inquiry also had an outreach component. Consultations were held in every state and territory, and the faith and associated community leaders consulted represented 98% of the Australian population with a religious affiliation (24 consultations with 274 participants). However, organisations with less than 10,000 followers within Australia were not included within that part of the consultation process.

Although the Inquiry Report can claim to be representative, there were no open public fora during this review, and the focus groups were facilitated discussions by invitation only. The Australian Christian Lobby successfully demanded a focus group be held where no other religious group would be present. The Australian Christian Lobby’s solo focus group reinforced the over representation of the Christian majority voice. In general, the ‘Christian voice’ could be characterised as defensive and resentful of the legitimacy offered to non-Christians and atheists. The dominance of the Christian ‘religious voice’ was also seen in the submission process.

**Religion and the state in Australia**

About one quarter of the submissions made a comment on religion's relation with the state, and the rest made no comment on this topic. The majority of submissions that discussed the relationship between religion and the state argued that their own religion should have more influence on the state (than it currently does or more than other religions have). About 6% of the submissions to the Inquiry asserted that Australia should see itself as a secular country.

The Inquiry Report commented that secularists perceived a creeping of faith into government decision making. Conversely, many more submissions were concerned that secularism presented a problem to religious belief and freedom in Australia. About 14% of submissions expressed the view that religion in Australia was currently being threatened by secularism.

An analysis of submissions found that almost 40% of submissions asserted the idea that Australia should see itself as a Judeo-Christian country. In the face of an increasingly multicultural and multireligious landscape, many Christian religious submissions represented their faith as the ‘core’ culture and were despondent or resentful of its displacement from the centre of Australian cultural life. Taken together, this indicates that there was substantial antipathy towards secularism, apart from a small minority (6%) who asserted that Australia should see itself as a secular country.

**Comments on religious exemptions, protections and vilification legislation**

In broad, the submissions were opposed to further human rights protections for religious freedom, against legislation to prohibit religious vilification and in favour of exemptions from the provisions of discrimination laws (in order that they can 'lawfully' discriminate).

Of the 1,029 submissions that mentioned exemptions, 92% were in favour of religious groups receiving exemptions. The overwhelming support for religious exemption might seem surprising, however, as noted above, the majority of organisation submissions stemmed from Christian religious groups, and at the same time the majority of religious run social services – such as education, aged care, hospitals and social welfare are Christian-run. The large volume of expressed opinion in favour of exemptions suggests the possibility of a coordinated campaign. The intention of such a campaign would have been to influence public policy on the matter of discrimination legislation.

**One of the most pressing challenges facing contemporary societies is how to handle the management of moral and religious diversity – the basis of the AHRC’s Inquiry.**

A number of submissions documented incidences of religious discrimination and religious harassment, including the Christian majority. Well over a decade ago the Human Rights and Equal Opportunity Commission reported that religions such as Jehovah’s Witnesses, Seventh Day Adventists, Jews, Orthodox Christians, Muslims, Sikhs and Scientologists (as well as a number of lesser-known minority groups) were most likely to be the victims of religious discrimination. The submissions reflect a continuation of this trend with all Muslim, Jewish and other minority religious organisations (such as Pagans and Scientologists) dedicating large sections of their submissions to the discrimination their adherents are exposed to.

The Inquiry Report recounted the ways in which freedom of religion was impaired for Australian Muslims and other minorities. Previous empirical research has also affirmed that non-Christians endure higher rates of racism, and experience substantive inequality in terms of life chances and their ability to construct places of workshop and private schools.

The Christian majority, across the bulk of the
submissions, also pointed to acts of discrimination which were argued to stem from the consequences of legislation, such as the Victorian Racial and Religious Tolerance Act (2001), the Abortion Reform Act (Victoria) and the Victorian Charter of Human Rights. The Australian Christian Lobby was the most vocal in its argument against the legislation. The majority of the Christian groups made reference to at least one of those pieces of legislation to demonstrate their perceived discrimination.

The Catch the Fire Ministries Inc v Islamic Council of Victoria Inc. (2006) case was commonly cited as a case study to demonstrate the risks associated with “government entanglement with religious matters particularly through religious vilification laws, anti-discrimination laws and bills or charter of rights.” This legislation was argued to have “imposed profound restrictions on religious freedom (and freedom of speech)” and to “promote more conflict than now exists.” These Christian groups and individuals felt that the anti-vilification instruments were impairing their freedom to assert the superiority of their belief system and the inferiority of others.

Although the percentage is low (only 3.6% of submissions), there was a call for further protection through legislation. Each submission from an Islamic, Jewish, Pagan or New Religious Movement (such as Scientology) supported the call for further legislative protection. Muslims argued that “the absence of consistent legal protection from religious discrimination and vilification across the country is of concern.”

Increasing religious diversity is forcing a reconsideration of some assumptions about Australian identity and character. In the face of a multicultural and multireligious landscape, the conservative Christian religious submissions represent themselves as the ‘core’ culture – one that existed in Australia prior to the immigration waves that in turn created the pluralistic religious landscape.

At the base of the Inquiry was an attempt to understand the implications of the growing diversity of belief and faith systems in Australia with an increasing intersection of religion and the state. Although the final report was clearly defined as a report to the AHRC rather than a report by the Commission, the Inquiry Report only infers the need for the Federal Government to pursue the development of a national social inclusion policy and programme agenda. It is appropriate to question if the process of the Inquiry was sufficiently democratic, and whether it was inclusive of the needs of a diverse citizenry. Policy making in religiously sensitive areas should be responsive to the attitudes of all Australians.

Increasing religious diversity is forcing a reconsideration of some assumptions about Australian identity and character.

One response in defence of the consultative process might be that “all groups have been consulted” and all groups treated equally in this process. There was indeed a strong attempt to be as democratic as possible, yet as argued earlier, the Christian-only focus group, the lack of public fora, the weight given to the Christian ‘majority’ and the reticence to suggest mechanisms to confront religious inequality, all serve to counter the claim for substantive equality across all groups.

Nevertheless, the public submissions and Inquiry mechanism as a means of democracy is an open process, in which weight of argument and persuasiveness are the determinants of influence. But this could be read as an example of professed state neutrality which has the effect of delivering and confirming substantive inequality. Christian groups had the benefits of effective establishmentarianism and were able to flood the submission process with their vested cases for religious privilege such that the status quo on religious entitlement prevailed.

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There are a variety of constitutional models governing the relations between the state and religion. These range from atheist states at one end of the spectrum to outright theocracies at the other. In between the two extremes, the extent of the contact between government and religious organisations is a matter of degree.

So far as Australia’s arrangements are concerned, the relevant provision is section 116 of the Australian Constitution, which states that the Commonwealth “shall not make any law for establishing any religion”. There is no such restriction on the legislative power of the States and Territories.

There is an obvious similarity between section 116 and the First Amendment to the United States Constitution, which states that Congress “shall make no law respecting an establishment of religion”. But what is meant by ‘establishing religion’? The two countries have a very different understanding of the meaning of ‘establishment’ and, by implication, of the extent to which religion and state have to be kept separate as a legal matter.

In the United States, the First Amendment is understood to impose a stringent separation between religion and the state. The state is required to be ‘neutral’ towards religion. Neutrality commands that laws must have a secular purpose: laws that have the objective of advancing or endorsing either a particular religion or religion in general will be struck down as invalid by the Supreme Court of the United States. More importantly, neutrality also demands that laws must not have the effect of assisting a particular religion or religion in general, regardless of their purpose.

Applying this approach, the US Supreme Court has disallowed religious activities in public schools, such as prayers and religious instruction. It has also disallowed state funding of religious schools. The Court reasons that even if the funds are intended for legitimate secular activities or purposes, such as the maintenance and repair of classrooms, the funds assist religious schools to advance their sectarian goals.

For instance, religious classes will be held in the classrooms that the state has paid to maintain and repair. Furthermore, if the state were involved in monitoring the use of funds, to ensure that they are used only for secular purposes, such surveillance would illegitimately ‘entangle’ the state with religion.

On this ‘wall of separation’ view, the point of the First Amendment is not to guarantee the equal treatment of religions. The First Amendment can be breached even if a law benefits all religions equally – so-called ‘indiscriminate establishment’. Instead, the point of the establishment clause is to guarantee the equal treatment of believers and non-believers. The need to protect non-believers against discrimination goes very far, with the Supreme Court saying that any endorsement or sponsorship of a particular religion or religion in general sends a message of inferiority and exclusion to non-believers.

In Australia, the constitutional guarantee against ‘establishment’ has been given a much more restricted reading. The High Court of Australia has found that the point of section 116 of the Constitution is merely to prevent the Commonwealth from passing laws that are intended and designed to establish a state religion, such as the Anglican Church in England, which has special privileges and is also subject to state control in certain matters. This interpretation led the High Court to hold in the DOGS case that public aid to religious schools does not breach section 116. The case dealt with Commonwealth statutes that granted money to the States on condition that the money was paid to non-government schools, many of them religious schools, to finance their educational programs, including the construction of buildings. The Court upheld the statutes.

It is obvious that the US insistence that laws may not be passed if they
have the effect of advancing religion imposes certain disadvantages on religion that are not imposed by the Australian approach to establishment. Which approach is preferable?

Some critics of the US approach claim that the supposed ‘neutrality’ of the state towards religion in the US is a myth. According to these critics, refusing to assist religion is anything but neutral. On the contrary, it is the equivalent of hostility to or bias against religion. Some go so far as to say that state neutrality is the ‘religion’ or ‘established church’ of atheists and that those who insist on neutrality are as fanatical and ‘fundamentalist’ as those who seek to impose their religious beliefs on others.

Although there is no doubt that many people find this argument seductive, I believe that it is confused. In my view, there are strong reasons for thinking that the US approach to the separation of church and state is preferable to the Australian approach and for rejecting the accusation that state neutrality towards religion is anti-religious.

In my view, the reason why the state should be neutral on religious matters is because this is the only way to treat everyone with mutual respect given the fact, emphasised by the political philosopher John Rawls, that reasonable people disagree on matters of religion.

A state that accepts the fundamental moral equality of all citizens does not take sides on matters about which reasonable people disagree. If one accepts this view, it follows that public aid should not be given to religious schools.

Of course, parents should have the option to send their children to religious schools. However, the government should not be in the business of subsidising their choices. This is because public money should not be used in a way that assists the propagation of views about whose value reasonable people disagree. To do so is an illegitimate use of governmental power.

The state neutrality approach is preferable because it is of the essence of separating the state and religion that governmental acts should not serve interests whose value is evident only on the basis of personal insights and revelation.

Furthermore, contrary to the claims of the critics, state neutrality on religion is not the equivalent of the state imposing atheism. An atheist state would be biased against religion because such a state would actively support atheism and actively discourage and even attempt to eradicate religion. However, a neutral state would not do this. The neutral state is not founded on belief in the non-existence of God and it does not attack religious beliefs as false or irrational. Instead, it refrains from taking any position on religious matters, leaving people free to believe and act as they please in their private lives, provided only that they do not violate the rights of others.

The most that can perhaps be claimed is that if the state does not provide symbolic and practical support to religious organisations, this will have the effect of diminishing the attractions of religion. Perhaps state withdrawal from religion will marginalise religion and lead to the increasing secularisation of society.

However, even if we assume that state neutrality will have detrimental consequences of this kind for religion, it is hard to see how this could amount to bias against religion. If religion is independently attractive, state refusal to aid it should make no difference. And if it is not independently attractive, why should it be given an artificial boost by the state? If anything, that would be biased, because it would distort independent assessment of the merits of religion and irreligion.

Although the Australian Constitution appears to entrench the principle of separation between religion and the state, the guarantee is of little practical importance, given the High Court’s view that section 116 does not prohibit the state from encouraging or giving aid to religion and that there is no constitutional obstacle to laws that indirectly assist the religious to further their religious goals.

In my view, the state neutrality approach is preferable because it is of the essence of separating the state and religion that governmental acts should not serve interests whose value is evident only on the basis of personal insights and revelation. The exercise of state power should be confined to serving interests whose value can be supported by evidence and arguments that everyone can understand, regardless of their religious views.

Denise Meyerson is a Professor of Law at Macquarie University. She researches and teaches in the areas of jurisprudence, constitutional theory and comparative human rights law. Her most recent book is Jurisprudence (published by Oxford University Press, 2011).

Religious freedom and recognition of a multi-faith society needs more focus and support in Australia, writes Hsin-Yi Lo

**Article 18, The Universal Declaration of Human Rights:**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

According to the 2011 National Census, Christianity remains as the largest religious group in Australia, while other groups – Hinduism (1.3 per cent), Islam (2.2 per cent) and Buddhism (2.5 per cent) – make up the larger portion for non-Christian groups. Although our society is blessed with many diverse faiths, experience has shown that religious leaders use their position to denounce other faiths.

Some religious philosophies may conflict with others, but it is important to remember all faiths have their unique values and customs, and many people regard religion as an integral part of their lives. To sustain a harmonious society, a multi-faith society should be strongly supported.

**Religious leaders discriminating against other religions**

In 2010, Reverend Fred Nile, the leader of the Christian Democratic Party, introduced a Bill to parliament to ban the burqa, following in the footsteps of France. Nile claimed the burqa “is not part of our culture and tradition” and that is a symbol of oppression. Although he was not successful, this is an example where a religious leader exercised political influence and power in an attempt to discourage other religious practices.

In November 2012, a plan was proposed at Doveton in Melbourne to construct an Afghan mosque – the Omar Farooq Mosque – next to Catch the Fire Ministries’ church, which was also planned for the area. Pastor Danny Nalliah of Catch the Fire Ministries was aggressively opposed to the mosque; he caustically said “frankly, I don’t think we can live side by side with a mosque next to us based on what’s happening in Europe”. Mr Nalliah is notorious for his anti-Islam attitude; in 2002 he was sued by the Islamic Council of Victoria for religious vilification.

President of the Afghan-Australian Association of Victoria, Khaliq Fazal, accused Mr Nalliah and his church of disseminating anti-Islam messages to neighbours. The Deputy Mayor of the City of Casey, Sam Aziz, supported Mr Nalliah’s claims.

In January 2013, Monash University’s Monash Mosque, planned renovations to accommodate its growing numbers of followers. This was met with scathing remarks from the Uniting Church Group, which is located next to the mosque. Richard Farrell, the Chairman of the Monash Uniting Church congregation, commented “in effect a mosque is a training ground for religious moderates at one end of the scale and religious fanatics at the other end”.

Reverend Hoon You, the Uniting Church minister of the Monash Congregation accused Islam of encouraging violence and inferred the Monash Mosque had hidden agendas. “The meaning of ‘mosque’ is ‘submission’, so when Islam invades European countries and they dominate, the first thing they do is build the mosque,” he said. “We do not know what the Muslim community is planning, so we would love to hear more on their reasons for developing the mosque, instead of their prayer room, which they already have”.

Of course, this is not indicative to all Christian groups, but the above examples exemplify how some religious leaders have used their influential status to indict smaller religious groups. Anti-Islam sentiments expressed by some Christian leaders have been under the spotlight in Australia in recent times. While the reasons to this is
Religion is regarded as a contentious issue by many Australians, and many would rather avoid discussing it. However, evading the topic will only perpetuate a reluctance to be more open to and learn about different religions’ customs and philosophies.

A matter of opinion, some believe it was former Prime Minister John Howard’s ‘war on terror’ policy that has, in some way, prompted negative stereotypes of Islam. Another possible explanation is some individual religious leaders, such as Pastor Nalliah, have an assertive view against Islam and its teachings. He once said “we either can follow the Koran and follow Islamic sharia law and be slaves in this nation or follow the Bible and be a free and democratic society”. Pastor Nalliah has even set up a political party, Rise Up Australia Party, advocating to limit Muslim migration.

More support for a multi-faith society

Religion is regarded as a contentious issue by many Australians, and many would rather avoid discussing it. However, evading the topic will only perpetuate a reluctance to be more open to and learn about different religions’ customs and philosophies.

Almost one quarter of Australians are born overseas, and they take with them their faiths. Faith is linked with personal values and morals; many people use their religion for guidance through life, challenges and in their understanding of the world. We need to acknowledge that not all Australians subscribe to the same faith, and persecuting a particular faith (as per the examples provided), would lead to further misunderstandings, ignorance and conflict. Religious leaders should be proactive in encouraging their followers to embrace and respect other faiths rather than abusing their position to trumpet prejudices.

We often and very proudly celebrate and honour our diverse cultures; we have Harmony Day and multicultural festivals where many Australians from different cultural groups gather and celebrate, such as the Lunar New Year. Religious freedom and recognition of a multi-faith society, on the other hand, does not receive the same amount of support and focus. To enjoy the freedom to practise one’s faith is a crucial element to a successful and harmonious multicultural society.

Hsin-Yi is currently working as the Project Officer for the National Ethnic and Multicultural Broadcasters’ Council and also serves as the Communications Officer for Deakin Golden Key. She holds a Bachelor of Arts (Media/Communications) majoring in Media/Communications and International Relations, and a Bachelor of Arts (Honours) from Deakin University.

Should there be a religious exception from anti-discrimination laws?

Reynah Tang urges the government to enact a human rights bill which would allow religious organisations to discriminate for religious reasons only on application to the Human Rights Commission, on a case-by-case basis.

Together with the Law Council of Australia, the Law Institute of Victoria strongly supports the consolidation of Commonwealth anti-discrimination laws. The enactment of the Human Rights and Anti-Discrimination Bill 2012 [Bill] should create a more consistent, efficient and effective regime for dealing with complaints of discrimination.

The government should be applauded for addressing the calls to remove the most contentious aspect of the Bill, the so-called ‘offends and insults’ provision. Clause 19(2)(b) was apt to cause confusion and debate and its removal would be welcome. Similarly, we welcome the Senate Legal and Constitutional Affairs Legislation Committee [Senate Committee] majority recommendation to remove the provision.

Another controversial issue is whether there should be a blanket exemption from the laws for religious organisations. Clause 33 currently permits religious bodies and educational institutions to discriminate in their non-religious day-to-day activities against staff and volunteers on grounds of sexuality, marital status, sex and other attributes.

The balancing of freedom of religion with other important human rights, such as the right to equality and to be free from discrimination, requires thoughtful consideration by our law-makers.

Recently, the Senate Committee issued a majority report which recommended that the draft Bill be amended to reflect the position in the equivalent Tasmanian legislation, the Anti-Discrimination Act 1998 (Tas). The Committee describes the Tasmanian model for religious exceptions as being ‘much narrower’ than those in the draft Bill, extending only to the protected grounds of ‘religious belief or affiliation’ and ‘religious activity’.

The Law Institute of Victoria urges federal parliament to pass the Human Rights and Anti-Discrimination Bill 2012. The aim, ultimately, is to have the highest standard of protection for all Australians so we can prevent discrimination in the first place rather than address wrongs.

The majority report quotes the evidence to the Senate committee of Ms Robin Banks, the Tasmanian Anti-Discrimination Commissioner, as stating that, “I think that what [the narrow exception] has meant in Tasmania is that religious bodies have perhaps turned their minds in different ways to how they ensure that their religious practice does respect the rights of others to the greatest extent possible without interfering with their doctrinal approach.” [para 5.56].

The Senate Committee preferred the Tasmanian approach on the basis that “no organisation should enjoy a blanket exception from anti-discrimination law when they are involved in service delivery to the general community.”

The LIV’s view is that an ‘as of right’ exception is difficult to justify in attempting the balance outlined above. It would therefore be preferable that exemptions be granted on a case-by-case basis, taking account of all the circumstances and providing a greater degree of accountability and transparency.

When my predecessor, Michael Holcroft, wrote a blog about the issue in November last year, it prompted responses from some members who suggested that the LIV not speak for the membership on such a sensitive topic.

One said he was “disappointed that the LIV has taken a partisan
approach with respect to religious freedom, whilst representing such a broad and diverse community”.

Another said, “topics like this one necessarily involve disputed issues of both values and facts. I am confident that the membership is not united on the view you’ve expressed here ... I think the LIV’s role should be to speak out for legal rights and freedoms which are under threat. In this case, perhaps that means the LIV should look into defending the right which those exempt cultural, social welfare and religious organisations presently have, to freedom of choice to meet their particular needs.”

In contrast, another member, “a regular representative of employees of religious schools” said he “powerfully agree[d] that the breadth of religious exemptions are anachronistic. The amendments to the Victorian Equal Opportunity Act, promptly repealed by the current state government, represented a small step towards a fair balance. We are left with state and federal legislation which both facilitate appalling acts of discrimination under the guise of protecting religious sensibilities.”

The LIV respects the opinions of all our members. The great diversity of our membership is part of its strength. In the short term, the LIV wants to see the Bill enacted. Accordingly, the LIV proposes that consideration be given, at the time of the proposed three-year review of the exceptions, to allow religious organisations to discriminate for religious reasons only on application to the Australian Human Rights Commission, on a case-by-case basis.

Once the consolidation of the existing regimes has been in place a while, we will be in a better position to judge the appropriateness or otherwise of the exceptions, including for religious organisations.

This will allow for further consideration of the inherent tensions involved, and for the divergent views to be aired. Given the interest in the topic that was excited by the November President’s blog, we hope that all our members will get actively involved in the debate.

The LIV urges federal parliament to pass the Human Rights and Anti-Discrimination Bill 2012. The aim, ultimately, is to have the highest standard of protection for all Australians so we can prevent discrimination in the first place rather than address wrongs. Once the consolidation of the existing regimes has been in place a while, we will be in a better position to judge the appropriateness or otherwise of the exceptions, including for religious organisations.

Reynah Tang is the President of the Law Institute of Victoria.

IN DEFENCE OF THE ‘FOUR FREEDOMS’

FREEDOM OF RELIGION, CONSCIENCE, ASSOCIATION AND SPEECH

Chelsea Pietsch from Christian lobby group Freedom 4 Faith asserts the four freedoms are at risk of being undermined in Australian society due to a focus on other, sometimes competing rights

Understanding religious freedom

Religious freedom is a fundamental human right – the expression of which is bound up with the concept of human dignity as it enables people to live in accordance with deeply held views about what it means to be human. The right is safeguarded by placing certain limits on government with regard to interference in the public and private exercise of religious freedom, and by ensuring that the government does not privilege one belief system over another.

Religious freedom can only operate in a society that embraces the principle of mutual tolerance and respect. Further, it goes hand-in-hand with freedom of conscience, speech and association, which serve as the means by which people can consider, discuss and debate important questions about human existence. These ‘four freedoms’ are essentially indivisible, and each deserving of protection.

Religious freedom articulated in the International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) provides a comprehensive framework for understanding religious freedom as it incorporates other fundamental freedoms. Article 18 states:

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 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.

Article 18(3) also provides helpful guidance on what constitutes an appropriate limitation on freedom of religion. The use of the word ‘necessary’ means that a restriction cannot be imposed beyond what is strictly necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others – and not beyond what is necessary. In other words, any restriction must be clearly justified by real evidence and not assertion.

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While Article 18 does not refer explicitly to freedom of speech, speech nevertheless plays an important role in freedom of religion. It is often through speech – whether verbal, written, or symbolic – that we come to adopt beliefs of our own in the first place, and having done so, we continue to use speech to test the truth or falsity of our religious claims, and to share our findings with others.

**Laws which undermine the ‘four freedoms’**

One of the difficulties in seeking to protect the four freedoms is drafting laws that promote community cohesion rather than being a source of division and increased tension. Over the last 12 years, however, our Australian parliaments have implemented, or attempted to implement, legislation which undermines each of these four freedoms.

**Anti-discrimination laws threaten freedom of religion and association**

Perhaps one of the most obvious threats to religious freedom in Australia comes from changes to anti-discrimination laws across the country. There is an active constituency arguing to reduce or eliminate ‘religious exceptions’ that exist to safeguard legitimate expressions of religious freedom. This constituency seemingly has little understanding of, or respect for, the rights of religious communities to maintain their identity.

For example, the *Sex Discrimination Amendment Act*, which was passed in the final days of the Labor government, was amended to remove exemptions for Commonwealth aged-care providers. As a result of this, it is no longer lawful for a Commonwealth-funded religious aged-care facility to preference a married couple over an unmarried couple – whether heterosexual or homosexual.

Of course the government has a duty to ensure that all people, irrespective of their sexuality, have access to aged-care facilities. The problem is that the previous government sought to achieve this end by prohibiting people who share in one faith, and share similar expressions of that faith, from choosing to live together in their old age.

This was followed almost immediately by the NSW Anti-Discrimination Amendment (Private Educational Authorities) Bill 2013, which seeks to prevent private educational institutions from being able to discriminate against its students on the basis of attributes relating to their sexuality or relationship status.

However, such a proposal fails to recognise that many private educational institutions are religious communities established with the object of professing, practising and teaching a particular religious faith. This involves much more than including prayers at school or college assemblies, or mentioning God in the curriculum. Religious educational institutions are interested in the formation of the whole person, and often seek to establish a community that upholds the full teaching of the faith, including teachings on sex and sexuality.

Many religions, including orthodox Christian denominations, teach that sex is the celebration of a union between a man and a woman who have given themselves exclusively to one another in marriage. In fact almost every major Australian Christian denomination has a doctrinal statement to this effect.

As a result of this, Christian educational institutions may expect their students to uphold particular standards in relation to sexual practice. This applies to heterosexual as much as to homosexual practices. It is not about being ‘anti-gay’ or ‘anti-anything’, rather it is about proposing a way of life, and seeking to establish a community that upholds this way of life.

**Laws which undermine freedom of conscience**

Threats to religious freedom don’t just stem from anti-discrimination measures. Limitations are also imposed by legislation that limits freedom of conscience and speech, both of which go hand in hand with religious freedom.

For example, the Victorian *Abortion Law Reform Act* (2008) requires medical practitioners who have a conscientious objection to abortion to provide a referral to another health professional who does not have such an objection. Doctors and nurses are compelled to assist in abortion where there is a threat to the life of the woman, again irrespective of any conscientious objection they may have to the procedure.

Very recently, Tasmania passed the *Reproductive Health (Access to Terminations) Act 2013* which similarly limits the right of conscientious objection in relation to the issue of abortion by requiring medical practitioners who conscientiously object to abortion to provide their patients with a list of those who do not hold such an objection.

**Laws which undermine freedom of speech and assembly**

The Tasmanian *Reproductive Health (Access to Terminations) Act 2013* also limits freedom of speech
and assembly by preventing members of the public from engaging in ‘prohibited behaviour’ within 150 metres of abortion clinics. The Act defines ‘prohibited behaviour’ to include engaging in ‘a protest’ that can be ‘seen or heard’ by a person accessing the clinic.

Abortion is an extremely sensitive issue, and no woman approaching an abortion facility should be harassed or threatened. However, the difficulty is that the definition of ‘prohibited behaviour’ is so broad that it has the possibility of imposing a hefty fine, or even a prison sentence, on those who engage in even the most peaceful of protests.

In 2001, the Victorian parliament introduced legislation called the Racial and Religious Tolerance Act which proved to be controversial in its application. Section 8 of the Act states:

“A person must not, on the ground of the religious belief or activity of another person or class of persons, engage in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.”

In Islamic Council of Victoria (ICV) v Catch the Fire Ministries (CFM), the ICV claimed that CFM and two pastors had vilified Muslims in a church publication and seminar they had given on the topic of Islam. At first instance, the Victorian Civil and Administrative Tribunal (VCAT) found against CFM and the pastors and ordered them to make a public apology in The Age and the Herald Sun acknowledging, amongst other things, that they had vilified “all Muslim people, their God, their prophet Mohammed and in general Muslim beliefs and practices”. On appeal, however, the Court found that the Tribunal had incorrectly interpreted and applied the Act and referred the matter back to VCAT to be reheard in light of the Court of Appeal’s determination. The hearing never eventuated as the matter was settled through mediation. However, the proceedings had come at a great emotional and financial cost to the pastors and also had the effect of stifling reasonable public discussion on the topic of religion.

This case provides evidence of how legislation can be used as a vehicle to promote hostility and division as opposed to mutual tolerance and respect. We warn against creating or expanding legislation in a way that encourages litigation as the preferred method of dispute resolution.

**Recommendations**

What religious organisations really need by way of accommodation in anti-discrimination law is three things:

1. Accommodation which allows religious organisations to employ staff using criteria which derive from the mission and identity of the organisation
2. The right to give preference in some kinds of service provision to those for whom the service was established, and
3. Freedom to uphold moral standards within faith communities.

In addition to the maintenance of the existing protections for religious freedom, which could readily be redrafted in more appropriate and modern terms, adherents of a religious faith also need better protection for their human rights in a new environment of hostility to religious faith. In particular, there is a need to extend the notion of reasonable accommodation to cover issues of conscience in the workplace.

Finally, religious organisations need human rights organisations to support the four freedoms with the same energy that they expend on supporting other human rights. The track record of some of those organisations leaves much to be desired.

**Conclusion**

The four freedoms are at risk of being undermined in Australian society due to a focus on other, sometimes competing rights. In light of this, there is a need to ‘re-balance’ the rights agenda in view of recent developments, particularly the over-reach of the equality lobby. We now call the Federal and State governments to take steps to ensure that the freedoms of religion, speech, association and conscience are protected, strengthened and promoted.

The value of protecting and promoting religious freedom is an essential and indivisible part of a broader program to safeguard fundamental freedoms for Australian society.

**ENDNOTES**

3. For further reading on the subject of religious hatred legislation, F4F recommends Parkinson, Patrick, Religious anti-vilification, anti-discrimination laws and religious minorities in Australia: The freedom to be different (2007) 81 ALJ 954.
Promoting ‘religious freedom’ does more harm than good

Advocacy for religious freedom shapes religious and political contexts in ways that demand close scrutiny, cautions Elizabeth Shakman Hurd

The promotion of religious freedom is ubiquitous, and there is great excitement in the air all round the world as governments rush to feature it prominently in their foreign affairs portfolios.

The US has been advocating religious freedom for decades, renewing its efforts with the passage of the International Religious Freedom Act (IRFA) in 1998. Though most Americans have never heard of IRFA, most would probably support their country’s advocacy for religious freedom.

Many, including the National Association of Evangelicals, would affirm a divine origin of religious rights. But it is not only evangelicals: religious freedom advocacy commands a broad constituency that reaches across the political spectrum.

But what exactly do all these states mean by ‘religious freedom’? And are they for the same thing?

Nor is it just an American pet issue. Canada, many European states, the UK, and the EU are institutionalising external religious freedom advocacy. Last year, Canadian prime minister Stephen Harper launched an Office of Religious Freedom, modelled on the US State Department office; the UK and the European Union promote religious freedom through the Foreign and Commonwealth Office (FCO) and the European External Action Service respectively. The FCO distributes a ‘toolkit’ titled ‘Freedom of Religion or Belief: How the FCO Can Help Promote Respect for this Human Right.’ Other European states are scrambling to get on the religious freedom bandwagon.

But what exactly do all these states mean by ‘religious freedom’? And are they for the same thing?

 Liberal internationalists, believers in the divine origin of rights, and almost everyone else all celebrate religious freedom as a fundamental human right, a legal standard, and a social fact that can be objectively measured and achieved. It is a matter of persuading governments to comply with a universal norm. States and societies are positioned on a spectrum of progress, either climbing toward the achievement of religious freedom or slipping into persecution and violence caused – we are told – by religious hatred.

 Whose freedom?

Not everyone is convinced. Over the past three years I have co-directed the Politics of Religious Freedom project, a collaborative effort to understand the historical and cultural assumptions underlying national and international projects to promote religious freedom.

We have documented the complexities of the concept, and sought to unsettle the agreement in policy circles that religious freedom is a singular achievement, and that the problem is its incomplete realisation. We have asked whether a norm that...
is intended to secure human flourishing and peaceful co-existence could, in some circumstances, have the opposite effect.

Advocacy for religious freedom shapes religious and political contexts in ways that demand close scrutiny. For example, a regime of religious freedom describes and defines individuals and groups in sectarian terms rather than on the basis of other ties such as social class, neighbourhood bonds, or professional connections.

Positioning religion as prior to other affiliations makes it an even stronger marker of difference. Religious identities and differences start to seem like the natural foundation of social order – as just the way things are.

This creates a dangerous self-fulfilling prophecy. Take the Arab Spring, which had little to do with religion or protecting religious freedom (if anything). At stake were calls for government accountability, human dignity, justice, economic opportunity, and an end to dictatorship.

Yet in Washington, and now in many European policy circles, decision-makers often read these developments through the lens of Christian rights and freedoms. Hard and fast commitment to a religious rights model generates attempts by Western governments to secure equality and justice abroad by recognising religious individuals and communities, and seeking to guarantee their religious freedom.

In Syria, the primacy of religion means that simply being Christian or Muslim, Sunni or Shia is freighted with public and political significance. Perceived lines of religious difference are more important than whether one is pro- or anti-regime, or pro- or anti-democracy.

Privileging religion enables the regime to paint its opponents as ‘religious terrorists,’ reinforcing its grip on power through sectarian divide-and-rule tactics. In Burma, it enables the regime to chalk up discrimination and violence against the Rohingya to ‘religious hatred’, and avoid owning up to their complicity in the Rohingyas’ systematic social, economic, and political exclusion.

Promoting ‘Christian rights’, ‘Hindu rights’, ‘Muslim rights’, and so on makes the boundaries between religions seem natural and given, rather than made and open to question. Religious difference therefore becomes more and more pronounced as a marker of identity and community.

Religious freedom is a complex and contested concept. It is time to consider the alternatives.

On an individual level, this logic turns religion into the principal marker of identity, the core way to know who you are, and how you fit in. On a societal level, it leads groups to frame social tensions in religious terms, making it harder to respond to the multiple causes of discrimination and violence.

Religious freedom is a complex and contested concept. It is time to consider the alternatives.
I recently participated in a debate on the proposition that “God and His Prophets should be protected from insult.” But, I argued, this proposition is based on the premise of free speech, on the understanding that free speech is the starting point and what remains is to debate its limits.

I reject this premise entirely. Free speech is a liberal position, not some neutral universal. So here’s a frank memo to the liberals: enough of the self-indulgence. You don’t represent the default position. Billions of people around the worlds are not liberals. Stop feigning universality. Drop the pretence and let’s have an honest discussion. It is of the most basic human civility to respect others. That is the starting point – not free speech. To insult others is to treat them with gross insensitivity, insolence, or contemptuous rudeness. The onus is upon those who want to allow such behaviour to prove why this depravity should be permitted.

The idea of free speech is flawed in theory and politicised in practice. It is an idea impossible to implement, and has never been implemented anywhere historically – not even today, in liberal societies.

For instance, when justifying the most recent film insulting the Prophet, the White House said, “we cannot and will not squelch freedom of expression in this country.” Then Secretary of State Hillary Clinton noted, “our country does have a long tradition of free expression … we do not stop individual citizens from expressing their views no matter how distasteful they may be.” These sentiments have been echoed by leaders in Europe and Australia.

But these statements are simply not true. Free speech does not exist in absolute form. There is no absolute freedom to insult. Across the liberal West, we find defamation laws, sedition laws, professional standards and journalistic standards of reporting about politicians and celebrities. In Germany, denial of the Holocaust is prohibited by law. In the United Kingdom, the Public Order Act makes “threatening, abusive or insulting words” a criminal offence. In Australia, Commonwealth Criminal Code makes it an offence for a person to use a postal or similar service “in a way … that reasonable persons would regard as being ... offensive.”

As for in practice, we find numerous examples of people being convicted for mere speech. In the United Kingdom, Azhar Ahmad was convicted in 2012 for “grossly offensive communications” because of a comment he made on Facebook about British soldiers killed in Afghanistan, which read, “all soldiers should die and go to hell.” District Judge Jane Goodwin, in arriving at the conviction, noted that the test was whether what was written was “beyond the pale of what’s tolerable in our society.” In Australia, a Muslim man who sent letters deemed offensive to the family of dead soldiers was convicted last year under the above-mentioned criminal code provisions. These are but two of many examples that may be cited.

All beliefs and sanctities should be protected from insult; this should be done by the elevation of values, not imposition of law, argues Uthman Badar in this opinion from ABC Religion and Ethics

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can go. It’s about power using the notion of freedom to extend and enforce its reach.

Ultra-liberals may say here that they disagree with all these laws and cases and maintain absolute free speech for all – unqualified, carte blanche. But is such a position conducive to society? Would we accept white people using the ‘n word’ against blacks? Or a person shouting ‘Fire!’ in a crowded theatre? Or a student insulting his teacher, or a child her parent? Everyone teaches their children to respect others, not to insult. Why? Because insults beget insults, hate and rancour. Is that the type of society we want for ourselves and for our children?

Some forget, perhaps, that even in the western tradition, free speech was upheld as a most basic value for specific ends: to allow the profession of ideas, inquiry into truths and the ability to hold government to account. Do any of these noble ends – all of which are upheld in Islam, I should hasten to add – require the freedom to insult? Or does insult, in fact, defeat the very purpose of these ends? Insulting another person’s beliefs does not encourage them to think. Instead, it makes them more entrenched, defensive and prepared to retaliate – that’s human nature.

But, let’s be honest, the reason this debate over the freedom to insult others is still a live one is because secular liberalism has dominated both East and West, not by the strength of its values, but by the strength of its militaries. The Muslim world resisted and continues to do so. Unlike Christianity and Judaism, which crumbled under the force of secularism, Islam did not. Lands were divided and colonised, conquered and exploited. The Islamic state, the Caliphate, was dismantled, but the Islamic mind remained. It is in an effort to break this resistance that the insults come – to impose secular liberalism, to consolidate its victory forever.

Is the western world really in a position to lecture others about violence? Or about values? The ‘free world’ seeks to dominate and impose itself upon the rest by means of military, political and epistemic violence: perpetuating Orientalist fantasies about Muslims being prone to violence, backward, unable to manage themselves; propping up dictators like Hosni Mubarak and King Abdullah; destroying entire countries through war and invasion; using unmanned drones to kill indiscriminately in Yemen and Pakistan. This is the broader context of provocation in which the global Muslim reaction to insults come. It’s here that far more attention needs to be focussed.

When it comes to critique – as opposed to insult – I’d say, bring it on. Any attempt to quash or stifle serious debate is unacceptable in Islam. Critique of any ideas or beliefs is kosher. It’s halal. Insulting any beliefs or people is not. Critique Islam all you want. Write in measured, considered tones about why Islam is not the truth, or why the Prophet was not a prophet. Such books fill bookstores across the West as it is. Never have any of these books resulted in a riot. But to mock, to denigrate, to provoke, to agitate – that is something else, and is unacceptable.

Everyone has lines they will not cross. All worldviews and cultures are sensitive with respect to certain things they hold dear. In Australian culture, for instance, Jesus may have become fair game, but ANZAC is not. Modernity did not do away with sanctities; it merely shifted them from the religious to the worldly.

You can’t regulate civility. You can’t force people to be respectful. This is about elevating the human condition – reviving the sacred and the most basic value of human decency, which has been eroded by secular liberalism in the most hideous of ways.

To insult is not an acceptable mode of interaction for mature, self-respecting people. It is the *modus operandi* of pseudo-intellectuals with nothing to offer, no intent to engage, and only interested in projecting their own insecurities onto others. Insults bring nothing to society except hate and divisiveness.

Hence all beliefs and sanctities should be protected from insult, including that which is most sacred to billions around the world: God and His Prophets, peace be upon them all. This should be done, in our present context, by the elevation of values, not imposition of law. You can’t regulate civility. You can’t force people to be respectful. This is about elevating the human condition – reviving the sacred and the most basic value of human decency, which has been eroded by secular liberalism in the most hideous of ways.

**Uthman Badar** is a writer, activist and student of economics, Arabic and Islam. He is the spokesman of Hizb ut-Tahrir in Australia.

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The equality of all humans should be one of the most fundamental principles embedded in the moral frameworks and legal systems of civilised societies. It rightly forms the basis of Article 1 of the Universal Declaration of Human Rights.

Unfortunately, such a fundamental principle has not been properly established in many countries. Equality is denied when discrimination occurs. Discrimination is relatively commonplace, and particularly firmly entrenched in many religious organisations. Widespread discrimination can lead to intolerance and conflict, because, unsurprisingly, those who are discriminated against object to being treated as second-class citizens.

Australia’s recently drafted Human Rights and Anti-Discrimination Bill 2012 is commendable in its objectives but does little to reduce discrimination. It claims aspiringly “to eliminate discrimination, sexual harassment and racial vilification, consistently [sic] with Australia’s obligations under the human rights instruments and the ILO instruments”. However, this proposed legislation offers special measures, including exemptions to religious organisations so they can continue to discriminate on such attributes as religion, sexual orientation, gender identity, pregnancy etc.

It would seem that most governments lack the courage to stop religious organisations from discriminating. Some religions discriminate against people if they are not of the requisite religion (and subjective religions are related to race/culture), or preferred sex, sexual orientation, and marital status. Australia’s proposed legislation does not remove this inequity.

Many religions try to justify their religious discrimination as a right, the freedom to practise one’s religion. But such a right impacts adversely on others.

A distinction should firstly be made between invidious discrimination, which should be eliminated, and appropriate differentiation, of individuals or groups. Invidious discrimination occurs when a person or organisation treats others unfavourably because of their particular attributes, whether that be a person’s sex, sexual orientation, marital status, race etc. In contrast, appropriate differentiation would allow, for example, without claims of discrimination, segregated sporting events to occur for men and women, and an age limit to be applied to learning drivers, because a reasonable and objective explanation can be developed in these cases.

Within this framework, it is apparent there is no reasonable and objective explanation why a mathematics teacher at any school could not be an unmarried, pregnant, multi-coloured lesbian of no religion (or of another religion). The ability to teach mathematics is independent of the aforementioned attributes. To be denied a job because of a person’s particular attributes is a denial of equality that ought not be tolerated in a civilised society.

The discriminatory and bigoted values of some of the mainstream churches are no more ethically ‘right’ than the racist values that were relatively commonplace in the middle of the twentieth century. How can racial discrimination be ethically wrong but sexual discrimination be permitted? How can there be a moral basis for an Islamic black man who discriminates against women complaining that he is being discriminated against? How can a religious male politician who denies lesbians the right to marriage or to be a leader in his church claim that he treats people equally?

There is no justification for any of these situations because there is no moral distinction between these types of invidious discrimination. Intolerance of, and discrimination against, people with particular attributes is bigotry.

Many religions try to justify their religious discrimination as a right, the freedom to practise one’s religion. But such a right impacts adversely on others. So what happens when there is a conflict between religious freedoms and the rights of an individual, such as
an individual’s right to be treated equally and not to be subjected to invidious discrimination?

Many religions preach some variant of the ethical golden rule, or doing unto others as they do unto you. Members of one religion would not like members of other religions to exercise their religious freedom if that involved the imposition of the other religion on them, or allowing the other religion to kill them (if that were a ‘view’ of the other religion). Even if it were something more trivial, such as having another religion’s eating rituals being imposed on them, this would be a cause of stern objection.

That people do not want their individual rights to be violated by another religion (or any other person, organisation or government for that matter) is the key. It is then straightforward to conclude that a freedom of religion should only extend so far as to where it does not impinge on the rights of other individuals.

People can believe in and practice what they wish, no matter how profound, or silly and deluded, that might be, but not if it denies other people’s equality or human rights, causes discrimination, or otherwise adversely affects other individuals. A regime of religious discrimination juxtaposed on a principle of doing unto others as they do unto you is hypocrisy.

To avoid claims of having hypocritical bigoted views, one would think that religious organisations would reject their current discriminatory views and advocate legislative change that condemned and prohibited all invidious discrimination. Unfortunately, enlightened change is not the way of the bigot.

To explore further the nature of religious discrimination, consider the following scenario. What if a new religion were to be established tomorrow, and an inspired person drafts a religious text that reflects the views of the newly conceived and perfect God:

- A black person should learn in quietness and full submission. I do not permit a black person to teach or to have authority over a non-black person; the black person must be silent.
- Any black person who is arrogant enough to reject the verdict of the priest who represents your God must die.
- A black person who works on God’s holy day will be put to death.
- If a person has sex with a black person, both of them have done what is detestable. They must be put to death; their blood will be on their own hands.

The above verses are racist and abhorrent. They deny black people equality. Such a religious text must be treated with the contempt that any racially discriminatory text deserves. The proponents of the new religion would say that their God moves in mysterious ways or that the text is not meant to be taken literally. Neither explanation conceals the underlying racism and discrimination.

The astute observer would realise that these verses have been extracted from the Christian Bible and reworked to substitute the phrase ‘black person’ in biblical verses that condemn women, non-believers, a person who works contrary to God’s laws, and homosexuals. It is clear that the terms ‘woman’, or ‘gay, lesbian, bisexual, transgender, intersex person’, ‘Caucasian male’, or ‘pregnant person’ could have been similarly substituted.

If the newly drafted religious text is abhorrent, discriminatory and unacceptable in modern society, then so too is the Christian religion. Other discriminatory religions and organisations should be condemned with equal vigour.

It follows that public funding or support of any discriminatory religious organisations should be handled in the same manner as that for a body that might discriminate on the basis of race: governments should condemn them and never support or finance them, directly or indirectly.

It is absurd in modern society that governments give massive tax exemptions, and exemptions from discrimination legislation, to religious organisations. Many religions teach that only people of their religion are worthy of reward in a speculated afterlife. They discriminate in churches and hospitals, educational institutions and nursing homes.

In recent times a horrendous record of child sexual abuse in religious institutions has become public. Furthermore, many churches indoctrinate children to worship a god or gods that, according to their scriptures, are guilty of indiscriminately killing humans – the most warped of moral messages. Religions peddling discrimination and perverse moral messages deserve condemnation.

It would seem that the Declaration of Human Rights is no more than an aspirational piece of paper. People must work hard to secure the most fundamental of rights, because, while governments continue to allow people, organisations and religions to invidiously discriminate, there can be no equality.

David Swanton is an ethicist, PhD scientist and director of Ethical Rights. He is also ACT Chapter Coordinator for Exit International.

Religious freedom should be protected

Religious freedom is not a special permission to discriminate granted by government, but a fundamental human right that government is obliged to protect, asserts the Reverend Brian Lucas

Freedom of religion is a fundamental human right. Its existence and importance is acknowledged in the constitution and in international covenants to which Australia is a signatory. It is a freedom that cannot be ignored but it is a freedom questioned by many who want churches to abandon their beliefs in the public square.

Governments are obliged to ensure that freedom of religion and the freedom to manifest religious beliefs in public are recognised and protected in law. It applies equally to participation in religious observance and to the delivery of services by religious people and agencies, for both religious organisations and their members. Many people who have a religious belief exercise their religious freedom to promote the common good.

On Thursday a Senate committee will hold hearings on a draft Human Rights and Anti-Discrimination Bill that includes protections for religious freedom.

There are more than 1,300 Catholic parishes in Australia, where more than 600,000 parishioners worship every Sunday and work with their fellow parishioners to provide services to the local community.

The St Vincent de Paul Society, for example, works through parishes and has 40,000 members and volunteers helping people in need across Australia.

In the schools sector, there are more than 700,000 students being taught at more than 1,700 Catholic schools by more than 55,000 teachers. In healthcare, Catholic agencies provide more than 9,000 hospital beds and more than 19,000 residential aged care beds.

Catholic social services are the largest welfare provider outside of government, with more than 60 member organisations employing more than 10,000 staff and 4,000 volunteers providing a huge range of services.

As human beings endowed with religious freedom, people have the right to contribute to society and serve humanity in accordance with those beliefs.

The value of the work carried out by Catholic people and agencies is not just in the numbers of people helped, but that they are helped in the spirit of Christian love.

The draft laws propose religious freedom be exercised as exceptions to the anti-discrimination laws. Drafting legislation that way fails to recognise that religious freedom is not a special permission to discriminate granted by government, but a fundamental human right that government is obliged to protect.

To make this clear and to remove the potential for misunderstanding, the legislation should replace that language with words that recognise religious freedom as one of a number of important competing rights that must be balanced against each other.

As human beings endowed with religious freedom, people have the right to contribute to society and serve humanity in accordance with those beliefs.

We need a system that encourages all Australians to participate in the public life of the nation, not one that would reject some because they have a religious belief.

Parents choose Catholic schools for their children because they expect this education will be provided by teachers in a manner consistent with the doctrines, beliefs and practices of the Catholic Church. If a teacher in a church school publicly argues against church teachings or lives in such a way to challenge those teachings, the school should have the freedom to refuse to employ that person.

The bill also deals with freedom of speech and a number of commentators have criticised those sections that relate to offending people. This idea that one person can be responsible for how another person reacts is fundamentally flawed.

The law prohibits certain behaviour in the interests of good order in society, and rightly so. It can only require people to do or refrain from actions for which they are responsible. That is why we sometimes excuse people if for some reason, such as mental illness, they cannot be held responsible. No one can be responsible for how another person reacts and whether they may be offended by something said or done. The test must be an objective one.

A better approach is to ask whether this action or these words are such that a reasonable person would say they are calculated to incite hatred or violence against another.

The Catholic Church does not impose its beliefs on anyone and no one is obliged to work for a church agency. The expectation that those working in a Catholic agency will support its mission applies to everyone without discrimination.

The Reverend Brian Lucas is the general secretary of the Australian Catholic Bishops Conference. He gave evidence to the Senate committee hearing on the Exposure Draft of Human Rights and Anti-Discrimination Bill 2012.

Legal clarity and transparency, the reputations of fair-minded religious bodies, and maintaining existing religious exemptions to anti-discrimination laws by government can all be accommodated, writes Jamie Gardiner

There are dozens of major religions in Australia, and the Australian Bureau of Statistics counts hundreds in total. Most believe they hold the One and Only Truth, and that the others and their gods are heretics, heathens, impostors or worse.

One thing their leaders seem to agree on, however, for themselves and often for others, is that they are or should be above the law. In particular they seem to think – and have successfully lobbied governments for decades – that laws prohibiting discrimination should not apply to them.

As Justices Mason and Brennan said, however, in a High Court decision on what ‘religion’ means in Australian law, “canons of conduct which offend against the ordinary laws are outside the area of any immunity, privilege or right conferred on the grounds of religion.” (Scientology Case, (1983) 154 CLR 120, 136.) Discrimination today, unlike fifty years ago, does “offend against the ordinary laws.”

The Commonwealth Government has an opportunity this year, as it works on consolidating federal anti-discrimination laws (and adding protection on sexual orientation and gender identity), to revisit a great anomaly. This anomaly, found in every state and territory law as well as the Commonwealth Sex and Age Discrimination Acts, is the blanket ‘exemption’ given to religious bodies. It places them effectively above the law.

A blanket exemption for religious bodies imposes an unjustifiable limitation on the human right to equality.

Blanket exemptions are wrong. The human right to freedom of religion is not a peremptory norm of international law; it has the same status as other human rights. Like the human right to equality, it may be limited for legitimate purposes, by proportionate measures likely (on evidence) to be effective, and to the least extent possible. A blanket exemption for religious bodies imposes an unjustifiable limitation on the human right to equality.

The Government’s position is “to maintain existing religious exemptions to anti-discrimination laws.” While political rather than principled, it does not preclude bringing clarity and transparency to the law. Current laws give religious bodies, or “educational institutions established for religious purposes,” a licence to discriminate when to do so “conforms with” their “doctrines, tenets, beliefs or teachings,” or is “necessary to avoid injury to the religious susceptibilities of adherents of the religion. The latter test in particular is impossibly vague, subjective and of uncertain meaning. This licence is not only unprincipled, it is neither clear nor transparent. But it could be made so.

Many religious bodies, moreover, wish neither to discriminate nor to be tarred with the same brush of bigotry that the loudest lobby calls for.

Legal clarity and transparency, the reputations of fair-minded religious bodies, and the Government’s proclaimed intention can all be accommodated.

The key is to provide religious bodies the opportunity to claim a formal licence to discriminate, time-limited but renewable, conditional only on specifying precisely on what grounds and in which areas it is required, and in each case which specific “doctrines, tenets, beliefs or teachings” necessitate it. The limits of the licence would thus be...
clear, and outside them ordinary law would apply.

For example, the claim might be that the employment of unmarried mothers as primary teachers violates particular religious tenets. Or the provision of accommodation to divorced persons or unmarried couples (mixed sex or same-sex, perhaps with different doctrinal particulars for each) is contrary to specified teachings.

The claim would be lodged with the Commission in writing and be displayed on the claimant religious body’s website and in other promotional material so that any potential employee, recipient of services or other person interacting with the body can be duly alerted to the body’s intended discrimination practices.

This process would apply to all attributes where a religious exemption currently exists, namely the provisions of the Sex and Age Discrimination Acts and (if politically unavoidable) the new attributes. Consistent with the Government’s commitment to preserve current protections it would not extend to race and disability.

The licence to discriminate would (within its terms, and subject to the bona fides of the claimed justificatory doctrine) exempt the body from the operation of the Equality Act in relation to the specified conduct in its own activities with its own adult members and guests.

The default position is to respect, protect and fulfil the human right to equality. To depart from that principled position is the exception requiring specific action.

It will not, however, apply to anything done by the body in carrying out any activity or providing services funded in whole or in part by Commonwealth, State or local government, directly or through statutory authorities or other government-funded entities. The licence to discriminate will also not apply to permit discrimination against minors. They do not have legal capacity to assess the conditions represented by the licence and cannot give informed consent to them.

The default position is to respect, protect and fulfil the human right to equality. To depart from that...
Y

es, Tony Abbott is right. There is something unattractive about a university allowing public meetings at which attendees are segregated by sex.

But hang on a moment: is this not the normal arrangement in Orthodox Jewish services? And does Abbott not belong to the Catholic Church, which debars women from high clerical office? Why was he not indignant that the recent election of the pope was by an electorate composed entirely of men?

Most organised religions privilege men over women, and almost all of them privilege heterosexual relations over homosexual ones. Even our atheist prime minister seems quite unconcerned that we fund a large scale school chaplain program which is run by Christian groups which are often sexist and certainly homophobic.

It is true that it is far easier today to criticise the excesses of Islam than those of Christianity, but what critics like Abbott carefully evade is the ways in which religious fundamentalists of all kinds share common attitudes towards sex and gender.

Currently in Sri Lanka there is a vicious campaign being waged against Muslims by devout Buddhists, who have successfully sold many westerners the idea that theirs is a religion of peace and love, despite the recent history of Buddhists in Sri Lanka and Cambodia. Neither party wishes to discuss this because it might undermine their pathetic attempts to persuade us that no one in Sri Lanka has reason to fear persecution.

In a predominantly white and nominally Christian country like Australia it is easy to understand why people are so ready to see ‘Islamophobia’ in any criticism of the worst excesses of Islam. But religion is not equivalent to race: it is deeply racist – and unacceptable – to assume common characteristics to people based on their racial origins, which is unfortunately the language often used in discussing asylum seekers.

Religion, however, is a set of beliefs that people can either reject or accept, and in a democratic society it should be acceptable to point to it as the basis of a great deal of prejudice and discrimination. What is unacceptable is that people like Abbott ignore the behaviours of his own religion and concentrate on attacking Muslims because this plays well in the current political environment.

Very few politicians are brave enough to ask whether there are basic contradictions between the values of an open democratic society and those of almost all fundamentalist religions, in which I include the Catholic Church and many of the fast growing evangelical Christian denominations. As soon as religions start trying to impose their views on non-believers they have crossed the line that makes a truly democratic and liberal society possible, but while this is seized upon where Muslims are concerned it is largely ignored when Christians do the same.

Defenders of Abbott will presumably claim that Australia is a majority Christian country, and in terms of nominal affiliation this is probably still true. But the essence of rights in a democratic society is that it protects minorities from the views of the majority being imposed on them in the name of morality; thus we can agree that murder and rape are crimes, not because the Bible or other holy books says so, but because of a basic respect for human rights and dignity.

Of course moral choices have to be made in politics, and there are issues where politicians should not be bound by party policies. Although there is no sensible argument as to why same-sex marriage should be a matter of conscience for Labor parliamentarians, when issues of how we treat asylum seekers or live animal exports are not. But in a society that does not allow for an official religion moral arguments need more than religious prejudices to back them up.

I would be far less troubled by the media’s constant critique of Muslim excesses – and there are many – were there an equal willingness to ask hard questions about other religious practices. The recent election of Pope Francis was treated by the media as an exercise in celebrity worship, in which his murky history at the time of the Argentinian junta was barely mentioned.

Most Australians are instinctively secular, and even many who are church goers accept that idea that their views should not be imposed on others. Of course people have equal rights in arguing for their positions, but in doing so a secular society should not privilege one set of beliefs over another. Nor should we tolerate the hypocrisy of a practising Catholic attacking Muslims for sexism, when the entire governance of his church is based on the exclusion of women from positions of power.

Conservatives are fond of reminding us that with rights come responsibilities. The right to freedom of religion carries with it the obligation not to impose those views on others, and the willingness to engage in debate that does not rely on ancient texts as their justification.
Religious persecution is not a contest.

All persecution is an offence against our shared humanity, and so to be deplored and its victims embraced – however the temptation to weave public prejudices, laws and regulations in Western societies into a wider pattern of persecution against Christianity should be resisted, observes Andrew Hamilton.

In recent years much attention has been given to the persecution of Christians, initially behind the Iron Curtain and more recently in the Middle East, Asia and Africa. This research is invaluable because it brings to notice abuses that could otherwise be hidden, and helps their alleviation.

But in popular discussion the persecution of Christians is often compared with that undergone by other groups, like Muslims. The discussion takes on a competitive and proprietorial edge. This has unfortunate consequences.

In the first place it encourages an exclusive focus on the religious reasons for persecution. In fact religious belief is only one of many complex factors in persecution. Hazaras in Afghanistan, for example, have often suffered persecution on the grounds that they are Shiite, but this is only one reason among many which masks the tribal difference that underlies their persecution.

Similarly, the recently appointed Cardinal John Onaiyen has often cautioned against seeing the violence directed against Christians in the Obujan region as primarily religious. It reflects a wider tribal and economic conflict.

The real, if periodic, persecution of Christians in China also needs to be seen against a broader context. Chinese rulers fear small, committed groups that they cannot control. The memory of the catastrophically destructive Taiping rebellion, whose origins lay in a sick man’s chance reading of texts from Isaiah, lingers. The persecution of Christians today needs to be set alongside the even more implacable hostility to the Falun Gong.

In the Middle East the position of Christians is particularly parlous. They have often suffered violence and discrimination in the name of intolerant forms of Islam. But the recent violence and dispersal of these churches have been provoked in no small measure by the reckless Western invasion of Afghanistan and Iraq. After many Muslims identified the armies of the West with Christianity, local Christians were easy targets.

All persecution is an offence against our shared humanity, and so to be deplored and its victims embraced.

These complexities are likely to be lost when the persecution of Christians is made part of a comparison between religions.

Those with a competitive focus will also be more likely to associate serious persecution with the subtle forms of prejudice, discrimination and limitation of religious freedom experienced in Western societies. The broader context lends these experiences a gravity and significance that they would not have when studied in isolation.

When seen as part of international persecution, discriminatory attitudes and action become part of a large and grandiloquent story in which Christians see themselves as the victims of real or imagined enemies, whether they be large forces such as secularism or eco-feminism, or their representatives, such as politicians, the media or educated elites. That in turn leads away from engagement in the task of building a fairer society for all citizens to an attempt to redress the wrongs suffered by the victimised group. These are the risks of focusing on the persecution of Christians in a competitive way.

The temptation to weave public prejudices, laws and regulations in Western societies into a wider pattern of persecution against Christianity should be resisted.

But it is right to focus on the reality and wrongness of persecution wherever it is found. The persecution of Muslim groups are as abhorrent as violations of the human dignity of Christians. All persecution is an offence against our shared humanity, and so to be deplored and its victims embraced. That is the insight that led an earlier and more generous generation of Australians to endorse the UNHCR Convention on the Status of Refugees.

It is also right for Christians to have a special care for their fellow members who are persecuted elsewhere. This will naturally express itself in sympathy for their plight, advocacy for them, and in practical help.

It would be also decent for them to recognise that the military actions undertaken by their own governments have contributed to the persecution of Christians, and to deplore them.

The temptation to weave public prejudices, laws and regulations in Western societies into a wider pattern of persecution against Christianity should be resisted. Each regulation, attitude and action should be looked at on its own terms, the issues at stake considered coolly, and unjustified discrimination opposed.

This piecemeal approach may suggest that the causes of discrimination are wider than hostility to Christians. In particular, the tendency of all Western governments to try to act outside the rule of law, as has been egregiously evident in the Australian treatment of asylum seekers, will infringe on religious freedom as on other freedoms.

This has nothing to do with secularism but with the abuse of power. If Christians were drawn into a crusade, this might be an appropriate cause.

Andrew Hamilton is consulting editor of Eureka Street.

This question is becoming increasingly common in many parts of the world, and has been raised recently in Australia in regards to the anti-Muslim film of 2012. It is now again rearing its head with the presence of far-right and anti-Islam Dutch politician Geert Wilders, who is in the country for his speaking tour of Australia.

The common discourse surrounding these events has presented a simplistic dichotomy of two sides at war with each other over values or rights. With regards to Wilders’ arrival, the argument goes that those defending his tour are doing so because they believe in human rights, and particularly the right to free speech. Many have even made a point of mentioning that although they disagree with his opinions – some fiercely – they still see it as a point of duty to defend his right, to not only hold, but also to express his views.

Juxtaposing this argument is what is presented as the Muslim side of the discussion, epitomised by those Muslims who oppose his visit and call for restrictions to free speech. These Muslims, it is posited by those who defend Wilder’s free speech, have a different, outdated idea of how far the right to free speech ought to extend, and so are ostensibly in favour of seeing this freedom curtailed. This sits quite comfortably with the idea that Muslims are generally against human rights and freedom; quite often the right to free speech in particular.

But the debate is not that simple. Suggesting that such conflicts are merely about people arguing over different definitions of words or about one set of values up against another set is to pretend that we live in a social and political vacuum, where each side is standing on the same debating platform with equal fighting power. This is a very idealised, though entirely naïve, view of social relations. As Law Professor Costas Douzinas has stated, when presented in such a way, “a complicated set of relations, histories, traditions and communities is reduced to a simple calculus of right versus right, one of which must be wrong.”

So how else could one view the above discussion? Well, to begin with, it would do us no harm to take into account the power relations at play in the apparent battle between Islam and free speech. Viewed from this angle, the debate looks substantially different: we no longer have two equal sides simply differing over semantics. Instead we have a minority group, facing increasing discrimination and violence, opposing a figurehead of the dominant, more powerful group which not only initiates and perpetuates, but also benefits from such violence.

Human rights have extensively succumbed to the detriments of liberal capitalism, such that they remain (formally) equally accessible to all, while substantively their benefit rarely extends beyond the domain of the privileged.

Wilders, who heads a Dutch political party with around one million members, came to prominence and power as a direct result of his anti-Muslim views and proposed policies. Such policies include recommending the deportation of Dutch Muslims, banning the Quran in Holland, opposing the construction of mosques in western countries, and describing Islam as ‘violent’ and ‘retarded’. As such, he is a direct beneficiary of the widespread Islamophobia that has come to characterise the political landscape in numerous countries, and Australia is no exception.

This fact flies in the face of claims made by some that Wilders and his ilk courageously take such stances risking all; a fantasy sufficiently put to rest by author Sherene Razack in her book *Casting Out*. She illustrates instead that the populist Islamophobia espoused by Wilders is a sure path to fame, power, and importantly, plenty of money. The fact that a person espousing such overtly Islamophobic views is rewarded rather than shunned highlights the intensity and increasingly accepted nature of Islamophobia today.

Contrasting this are the Muslims on the receiving end of such vitriolic speech, who are subjected to increasing levels of violence around the world, often directly following the visit and incitement of individuals such as Wilders. It has been widely recognised that in countries where Muslims form a minority, they are subjected to violent intrusions into their lives. Many of these intrusions are politically and legally sanctioned and come in both systemic and individual forms. There are individual beatings or killings, as occurred in the United States recently where a man was pushed into the path of an oncoming vehicle.

Why do Muslims hate freedom of speech?

HUMAN RIGHTS CAN BE USED TO LEGITIMISE THE VIOLENCE OF POWERFUL STATES AGAINST THOSE WITH LESS POWER, WRITES MOHAMAD TABBAA
train after having been mistaken for a Muslim.

Other examples include potential and actual hijab bans in a number of European countries, the banning of mosques or minarets, and the more banal yet commonplace verbal attacks and negative media portrayals. Such a barrage of violence and repression has forced Muslims onto the back foot; they are constantly forced to explain themselves and at times they even have to justify their very existence.

In Australia, the news of Wilders’ visit has been welcomed by a group of white supremacists who wasted no time in calling on their followers to “do what should be done to this rag-head camel f-cking Islamic filth who have no place in civilised society.” That such threats of violence should come as a direct result of Wilders’ visit should not surprise anybody considering that mass murderer Anders Breivik, who massacred 77 innocent lives in Norway in 2011, was directly inspired by Wilders and held him in high regard.

In considering the role of power in this discussion, it would be apt to examine the historical and present relation of human rights to power; a relationship which will help us make some sense of the Muslim opposition to this much-cherished right to freedom of speech.

Universal human rights were formalised in the aftermath of the atrocities committed in World War II, in the form of the Universal Declaration of Human Rights (UDHR), adopted by the United Nations in 1948. One of the key purposes of this modern idea of rights was to provide a universal, irrevocable standard against which individuals could hold governments to account. The modern human rights movement redefined individual-state relations, (theoretically) restricting the sovereignty of states by subjecting them to human rights ideals.

To put it differently, human rights were supposed to provide individuals with a concrete tool against the overwhelming power of states; they were a weapon of the weak against the powerful, or as Douzinas succinctly puts it, “human rights are the latest expression of the urge to resist domination and oppression”.

Fast-track to our present arrangements, however, and one can identify a disturbing trend that has transpired since the creation of the UDHR. In what was perhaps inevitable human rights have now been usurped by states and government institutions; or, by the powerful. In what is a paradox of the modern human rights idea, human rights – those standards of behaviour that restrict a state’s power and action – have been almost completely entrusted to the protection of none other than states themselves.

Rather than asking why Muslims hate the right to free speech … we should instead be asking, why are Muslims resisting freedom of speech?

Human rights have extensively succumbed to the detriments of liberal capitalism, such that they remain (formally) equally accessible to all, while substantively their benefit rarely extends beyond the domain of the privileged. As such, much of the resistance-capital of human rights has been lost, or at least its power reduced to the symbolic and rhetorical realm.

The ironic yet disturbing outcome is that today, having changed their relation to power, human rights can be used to defend the powerful against the weak, as if the powerful have an inherent and natural right to oppress those below. Human rights have today replaced the traditional position of religion in the western world in being the moral value-system that governments can call upon to justify exploitation and exclusion.

By identifying themselves with human rights, states can claim to be the forces of good against an eternal evil. By doing so, they are able to use the capital of human rights as a dehumanising force, presenting others as uncivilised, backward and ultimately irrelevant, thus making intervention into their lives easily justifiable. By making appeals to human rights, the state is able to mask its actions of violence against others and present themselves instead as noble and even sacrificial.

In short, due to current power relations, human rights can be used to legitimise the violence of powerful states against those with less power. Human rights have become the expansive catchphrase that tolerates Wilders’ Islamophobia under the banner of freedom of speech, while powerful states are also able to sanction military interventions, such as that into Afghanistan, under the rubric of protecting the human rights of helpless women.

Returning to our original point of discussion, it is necessary now to reframe our initial question in light of this new perspective. Rather than asking why Muslims hate the right to free speech, as if it were an inherent and natural trait, we should instead be asking, why are Muslims resisting freedom of speech?

Keeping power relations in mind, it is barely surprising that a minority group would oppose what has now become an oppressive legal weapon in the guise of an emancipatory freedom. The discursive battle we are currently witnessing can be seen as a fight to define the position of human rights in social relations; a fight to determine the role of human rights in perpetuating or resisting cultural domination and symbolic violence. Over whether human rights are – as originally envisaged – a tool against power, or a further apparatus for the powerful to continue to linguistically beat people into submission.

Mohamad Tabbaa is a PhD Candidate in Criminology and Law at the University of Melbourne. His thesis is an investigation of Muslim voice, asking how Australian Muslims can speak today within a secular liberal climate. His work engages closely with critical Human Rights theory and terrorism. Mohamad was Executive Director and Media Spokesperson at the Islamic Council of Victoria from 2012 to 2014.

Religion should be taught secularly in our schools

It is important for kids to know about religion in historical, cultural and secular contexts, but not to be proselytised to, write Anna Halahoff and Cathy Byrne

Religion in schools is being debated once more in anticipation of findings from the controversial Review of the National Curriculum. This is a challenging topic locally and internationally. Can, and should, religion be taught in a secular context?

Conversation author Gary Bouma recently described the difficulties some groups are experiencing – adapting to the reality that Australia is increasingly both a religiously diverse and non-religious secular society.

What does ‘secular’ mean?

The commonly understood meaning of ‘secular’, as the separation of church and state, has different interpretations and implications. These interpretations influence people’s views on the place of religion in society and in our schools.

Hard secularism calls for complete separation and for the removal of religion from all public life, including state schools. A softer secular approach prohibits privileging one religion over others and argues instead for respect for religious diversity, including religious and non-religious worldviews. According to hard secularists, religious instruction, and even education about diverse religions, should not be allowed in government schools.

Australia’s debate appears to have moved on from that hardline position. The many actors involved in the current discussion include some prominent secularists, rationalists and humanists who oppose segregated religious instruction, but who are in favour of education about diverse religious and non-religious cultures and worldviews, taught by qualified teachers. Perhaps Australia is now ready to enable an inclusive and critical study of religions and ethics in the national curriculum.

Teaching religion secularly

This is not a new idea. Sweden, Denmark and England have been providing this type of broad-based study of religions for decades. Norway and Canada have more recently acknowledged the benefits of this approach and, despite legal challenges, now endorse a compulsory academic study of diverse religions and beliefs, for all ages.

The recent REDCo Project: Religion in Education. A Contribution to Dialogue or a Factor of Conflict in Transforming Societies of European Countries, found that students from many different societies want to learn about religious diversity, and that this learning can play a role in peaceful coexistence.

The Organisation for Security and Co-operation in Europe’s Office for Democratic Institutions and Human Rights also published the Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools. This document provides guidance for developing curricula, including procedures for assuring that implementation is fair. Further recommendations by the Council of Europe regarding religious and non-religious education, aim to promote tolerance and a culture of ‘living together’.
Critical education about religions can be taught in secular schools as long as no one view is presented as being correct, or better than another. In this critical approach, the students explore diverse worldviews, practices and beliefs, and the role that religious and non-religious ideas play in people's lives and in society. The aim is to develop understanding, not to instil belief.

A critical education about religion examines religions' role in conflict and also in dialogue and peace-building. This approach has been shown to develop positive attitudes to social inclusion and intercultural awareness – skills sorely needed to enhance young Australians' ability to live and work in a globalised world.

The need to nurture an appreciation of and respect for social, cultural and religious diversity” has been given a prominent place within the Melbourne Declaration on Educational Goals for Young Australians, the document shaping the Australian Curriculum.

The Melbourne Declaration highlights the need for schools to promote “the intellectual, physical, social, emotional, moral, spiritual and aesthetic development and wellbeing of young Australians” and for students “to understand the spiritual, moral and aesthetic dimensions of life”.

The current Australian Curriculum, under review, provides some opportunities to examine diverse religions, ethics and spirituality. However, there are few resources available, higher-priority competing demands for assessment, and limited teacher training opportunities in these areas.

Australia can learn from the above-mentioned, long-standing international examples and from emerging research. The review presents an opportunity for Australia to catch up with international best practices and policies, and to develop unique curricula, resources and teacher education opportunities for a dedicated subject in the Australian context.

The significant contribution of Christianity to Australian life need not be ignored, but it must be taught alongside the significance of Indigenous culture and spirituality, the diverse religions and spiritual traditions that have entered Australia more recently, newer religious movements and non-religious perspectives.

International crises and events impact local contexts. Religion and critiques of religion are prevalent globally. Consequently, religious and inter-religious literacy skills are vital for our children. These can only be obtained through high-quality, critical, secular education.

Anna Halafoff is a lecturer in Sociology, and a member of the Centre for Citizenship and Globalisation, at Deakin University. She is also an Associate of the UNESCO Chair in Interreligious and Intercultural Relations – Asia Pacific, at Monash University (2005-2012).

Cathy Byrne is a sociology tutor at Southern Cross University. She is also an advisor to ACARA on religion and on the curriculum capabilities of intercultural understanding and ethical behaviours.

THE CONVERSATION

If God is dead or dying, why criticise religion?

In our increasingly secular society, Damon Young argues for the freedom to philosophically criticise and debate religion.

Is criticising Christianity like flogging a dead horse. Certainly, for good or ill, there is the scent of carrion in this secular age.

"What ... are all these churches now," wrote Friedrich Nietzsche in The Gay Science, "if not the tombs and sepulchres of God?" This was 120 years ago, and the Lord hath not recovered since.

In the West in general, and Australia in particular, Christianity has certainly lost some of its power. First, it is simply less popular. In 1901, the year after Nietzsche went into his own sepulchre, over 96 per cent of Australians said they were Christian. A century later, this figure dropped to 68 per cent.

Meanwhile, the number of Australians who profess 'no religion' has risen dramatically, from less than 1 per cent to over 15 per cent. (According to the Australian Bureau of Statistics, when the 'if no religion, write none' choice was introduced in 1971, the 'none' percentage increased seven-fold.)

Second, as Christianity is less popular, Christians also seem less committed, institutionally speaking. According to the National Church Life Survey (NCLS), approximately one in five Australians go to church once a month – a smaller proportion of all those who are nominally Christians, in other words. And in only five years, from 1996 to 2001, the NCLS reports that church attendance dropped 7 per cent.

A trend is not destiny – things can change. But for now, the trends are clear. Fewer Australians are identifying as Christians, and these Christians are less committed to the traditional forms of worship than their forebears. Indeed, fewer Australians are committed to religion full stop. Put simply, religion in general, and Christianity in particular, are weaker in Australia than they once were.

This mirrors changes in England and the United States. A study released this year, conducted by the English House of Parliament, concluded that, if religious trends continue, "the number of people with no religion will overtake the number of Christians in Great Britain in 20 years". Over an eight-year period, the number of Christians dropped by almost 8 per cent, while ‘non-believers’ rose by almost 50 per cent.

In America, Trinity College research concluded that "Americans are slowly becoming less Christian". The decline in Mainline American churches was partly to do with the rise of Islam and non-denominational Christianity, particularly since 2001. But the summary report concluded that "the challenge to Christianity in the US does not come from other religions but rather from a rejection of all forms of organised religion". As of 2008, 15 per cent of surveyed Americans said they had no religion whatsoever.

Western Europe has similar broad trends. According to the Center for the Study of Global Christianity, the percentage of non-believers is similar to that of America. Even in Ireland, with one of Western Europe's highest rates of regular worship, bums on pews have decreased 25 per cent in 30 years.

Importantly, one need not visit a church to have faith – Christianity also has an anti-clerical tradition, which emphasises conscience and virtue instead of formal associations and their creeds. “Ever since men made it a sacred duty to dispute about what they cannot understand, and made virtue consist in the pronunciation of certain unintelligible words, which every one attempted to explain,” wrote the deist Voltaire in 1755, “Christian countries have been a theatre of discord and carnage.” Put simply, one can recognise a creator without signing up to a church.

Also, life without religion need not lack reverence or the numinous; need not be entirely encompassed by Max Weber’s iron cage. As I have argued previously, one can see a little blue campion flower as sublime; can be awed by a murmuration of starlings. Atheism or secularism does not mean anaesthesia.

Instead, the point is simply one of influence. In the West, Christianity is less prevalent, and less ardent, than it once was. In short (and listen carefully, I shall say this only once): Pope Benedict XVI is right. “There’s no longer evidence for a need of God, even less of Christ,” he lamented in his inaugural year.

“The so-called traditional churches look like they are dying.”

Given this, why bother critically...
If God is dead or dying, his memory still deserves debate.

examining religious texts, beliefs and customs in Australia, and other Western nations? It is important to give good reasons for civil but continuing criticism of the Judeo-Christian faiths.

First, it can help with people’s movement away from traditional worship; from faith to agnosticism or atheism, but not necessarily in a straightforward way. Debates between science and religion rarely persuade. This is partly because faith – which is quite different to scientific assumption – is not informed by disinterested research. It chiefly requires indoctrination or epiphany to work. But even if faith were based on evidence and logic alone, persuasion is also unlikely because of the incommensurability between worldviews.

It is difficult to sway someone, however intelligent and informed, who simply does not recognise one’s evidence or logic. For all their expertise in theology and science, George Pell and Richard Dawkins were never going to convince one another – they knew it, and so did we.

Nonetheless, if one cannot persuade, one can perhaps help with disorientation or confusion. Because of grief, anxiety or disappointment, some Christians lose their faith – if not in a creator, then in the revealed god of the Judeo-Christian Bible. It can be valuable to have concepts and opinions to cope with this; ideas and interpretations that grow more useful with time.

For example, Charles Darwin, who was never a zealous Christian, was moved by scientific honesty and personal tragedy to doubt the traditional portrait of a benevolent god. In 1864, his friend Thomas Huxley coined the word ‘agnostic’. Fifteen years later, Darwin used this idea to describe himself. While stopping short of atheism, like many of his nineteenth-century colleagues, Darwin took up his friend’s concepts to inform his own religious development.

Criticisms of Christianity today can offer the same assistance. The point is not to demolish religious arguments, leaving believers to convert in the picturesque ruins of their faith. Instead, the point is to demonstrate the value of a secular or atheist outlook – a value that can be recognised afterwards, once the biases and blind spots of faith have been partially or fully removed.

Second, criticism also helps to reveal these biases and blind spots. One of the shortcomings of faith is metaphysical sleight of hand, in which one’s prejudices are smuggled away into a supernatural world. It is a way of avoiding criticism – from oneself and others.

Likewise for cosmic conceit, in which one’s own psyche is used to explain the universe’s complexity and dynamism. A kind of metaphysical narcissism prevents one from recognising nature as nature. Even for the most faithful, piety can become vice.

In each of these cases, by critically examining religion we gain a more honest portrait of the human condition; of its capacity for delusion, repression, obsession, and so on. These are by no means exclusive to Christianity, or religion in general. But by exemplifying them, the Abrahamic faiths provide a rare glimpse into the psychological architecture of homo sapiens; of the passages between the mind’s dungeon and parapets, so to speak.

Third, by arguing against the Judeo-Christian worldview, we do what all good citizens must: we tell the truth. The point is not to destroy Christianity, but to denounce what is false, because it is false, and because many still believe it – including in politics, as it promotes particular policy or moral leadership. And, in doing this, good critics also allow Christians and other believers to reply, so the argument can continue.

That we can debate in this way, without fear of state punishment or clerical censure, is something to welcome – the virtue of a mature civilisation, rather than an infantile one. As Alasdair MacIntyre argues in After Virtue, healthy traditions are partly arguments about these traditions – homogeneity is the symptom of a dead or dying tradition. Of course, as MacIntyre is also at pains to point out, some common ground is required for this – precisely what incommensurability can deny. But this is an argument for more philosophical intimacy, wider reading and greater sympathy, not for giving up criticism altogether.

Fourth, criticism of religion – including Christianity, with which many of us in the West are most familiar – can be intellectually rewarding. While boredom or irritation can equally arise, it is sometimes a cerebral pleasure to deal with the Gordian Knot of supernatural belief, for example – to exercise one’s mind by untangling or cutting conceptual strands. This might be because many metaphysical claims are, as A.J. Ayer argued in Language, Truth, and Logic, meaningless claims – neither true nor false. Their difficulty is because of mistakes in language, for example, not because we lack the logic or evidence to solve them.

Nonetheless, it can be particularly rewarding to put one’s mind to work upon something like faith; to discover the psychological quirks behind the belief, and the novel concepts and emotions that come with it. Religion is, in short, philosophically interesting if not philosophically convincing, and Christianity – with its omniscient, omnipotent Lord – is particularly so.

If I am right, this does not mean that one must condemn religion; that Australians have a civic duty to pick on the church, or the faithful. And it is certainly not an argument for the use of ad hominem attacks on specific believers. Instead, it is a justification for criticism; for the value of bold, reasonable and sincere debate, even if no one is immediately convinced.

If God is dead or dying, his memory still deserves debate. 

Damon Young is an Australian philosopher, writer and the author of Distraction.

ON SECULARISM IN AUSTRALIA: A RATIONALIST’S PERSPECTIVE

Ian Robinson, President Emeritus of the Rationalist Society of Australia, forwards his arguments in favour of civil governments being guided by secular, and not religious, principles

In 2012 a year eleven student at a Sydney Catholic school wrote to the Rationalist Society of Australia requesting answers to a set of seven questions for a project she was doing. Below are the seven questions and the responses written by Ian Robinson.

My Oxford Dictionary defines ‘secular’ as “concerned with the affairs of the world, not religious or spiritual” so in this sense all civil government is ‘secular’. The only civil governments that are not fully secular in this sense are Vatican City and some fundamentalist Muslim states. The governments of all the major countries in the world – including Australia, the USA, Great Britain, New Zealand, Italy, India, etc etc – are all secular governments. Religious organisations frequently attempt to influence the decisions of civil governments, often successfully, but this does not alter the fact that all such civil governments are ipso facto secular, “not religious or spiritual”. You need to bear this in mind in reading the responses below.

1. Why do you think Australians are moving away from traditional parties founded upon religious values and looking towards a secular government?

The only major party in Australia ever founded even indirectly on religious values was the now virtually defunct Democratic Labour Party. All the major political parties today and in the past are based not on religious values, but on political and social values, values such as freedom, equality of opportunity, security, individualism, community, fairness, justice, fair distribution of resources, and so on. The differences between them are more matters of emphasis than of basic values, so for example, the Liberal Party may emphasise free markets and security more while the Labor Party may emphasise equality of opportunity and the fair distribution of wealth. But, in answer to your question, Australians have always supported parties not based on religious values. Thus they are not moving away from them. However what may be happening is that Australians in general are less inclined to let religious values interfere with and override the more fundamental social and political values our society is based on.

2. Do you believe Australia should completely turn away from the Christian values that she was historically based upon?

This question is predicated on an invalid assumption. Historically Australia was not based on Christian values but the ideas more or less associated with the Eighteenth Century Enlightenment, from which we get most of our important social and political values: freedom of speech, universal education, scientific method, freedom from dogma, separation of Church and State, tolerance, and especially the three central values – liberté, égalité, fraternité, i.e. liberty, equality and fraternity. These are widely accepted if not universal values. Very few if any specifically Christian values underpin the Australian ethos. (Have you read the United Nations Declaration on Human Rights?)

3. How long do you think people of Australia have been considering a secular nation?

The idea of a secular nation was embodied in the Australian Constitution in 1901, when Australia was formed, and was very prominent even before then. So the answer is, from the beginning. The Constitution
tried to keep the separation of Church and State very clear and distinct. To a certain extent it failed because its wording permitted a later High Court strongly biased towards religion to misinterpret the intention of the founding fathers and allow governments to support religion and this has caused a blurring of the Church/State distinction in the last few decades.

4. Do you think Australia’s government will ever completely turn to secularism?

The answer to this question is that civil government is and ought always to be secular, so the question makes no sense. Perhaps what you mean is: will religion ever have no influence on the decisions of secular government? I don’t think so. Religions have the right to express their opinions; but I don’t think secular decisions can be based on non-secular, i.e. religious, values. Religions must argue from those secular values that they support.

5. Do you think religion is on the downfall and where do you think atheism or no religion stands; rise, fall or stable; higher or lower then religions?

It is not a matter of what I think. The plain fact is that religious numbers have been falling steadily for a number of decades and atheism or indifference to religion are rising rapidly. Across the world, it is only in poor countries, where religion offers the false hope of a better life after death, that religion is growing. There is a strong correlation between the education and welfare levels of a country and the number of people who reject religion. The more people know, and the less they have to worry about, the more likely they are to reject the delusion of religion.

6. Of the following, which political party do you think has the closest policies to secularism and why?

I think they are all secular. Some are more susceptible to religious influence than others. There has always been a strong Catholic element in the Labor Party and the current leader of the Liberal party and some of his shadow cabinet are committed Catholics. The Greens tend to be more atheist or agnostic.

7. Why did you personally choose to follow non-religious policies?

a. I don’t believe religious views, even if I held them, have a place in political life. (Note: This is not the same as saying that the political views of religious people do not have a place.)

b. I don’t believe there is any convincing evidence for the supernatural claims of religion, and there is a plethora of telling evidence against them.

c. I believe on balance religion has not been a force for good in the world. Although there have been some admirable religious believers who have done some very good things, religion has also given us exceptionalism and intolerance of others, and in the past (and in the latter two cases, to this day) religions have lent significant support to absolute monarchy, hierarchical societies and hereditary privilege, slavery, colonialism, curbs on free speech, the subjugation of women and exploitative right-wing and fascist dictators and oligarchies. Recently, a study showed that higher rates of belief in and worship of God in a country correlate significantly with a higher incidence of social dysfunction, measured by higher homicide, juvenile and early adult mortality, STD [sexually transmitted disease] infection, teen pregnancy, and abortion rates.

So I think anybody who cares about their fellow human beings and cares about the truth ought to eschew religion and try to do good by non-religious means.

Ian Robinson is President Emeritus of the Rationalist Society of Australia.
WORKSHEETS AND ACTIVITIES

The Exploring Issues section comprises a range of ready-to-use worksheets featuring activities which relate to facts and views raised in this book.

The exercises presented in these worksheets are suitable for use by students at middle secondary school level and beyond. Some of the activities may be explored either individually or as a group.

As the information in this book is compiled from a number of different sources, readers are prompted to consider the origin of the text and to critically evaluate the questions presented.

Is the information cited from a primary or secondary source? Are you being presented with facts or opinions?

Is there any evidence of a particular bias or agenda? What are your own views after having explored the issues?

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Brainstorm, individually or as a group, to find out what you know about religious freedom and discrimination.

1. According to findings in the 2011 census, Australia is a multi-faith society. In descending order, list the five largest religious affiliations in Australia, including the percentage of adherents.

1. 

2. 

3. 

4. 

5. 

2. Explain what is meant by the term, ‘freedom of religion’?

3. What are the differences between agnosticism and atheism?

4. What is religious vilification?
Religious freedom is safeguarded by the Australian Constitution, which protects religious practice from state interference and offers a stronger separation of religion from the state than in most other Western nations, including the UK and USA. In Australia, individuals are free to express a diversity of views – as long as they do not incite religious hatred. Briefly explain how the following laws offer constitutional and/or legislative protection for religious practice:

**AUSTRALIAN CONSTITUTION (SECTION 116)**

**RACIAL DISCRIMINATION ACT 1975**

**YOUR OWN STATE/TERRITORY LEGISLATION**

**INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

**INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**
Form into pairs or two larger opposing groups. Choose one of the following discussion topic statements and in the space below compile a list of points considering the pros and cons of the chosen proposition. Debate the possible impacts of your position in relation to human rights and religious freedom. Conclude with a collective vote on which approach is most favoured, and explain the majority’s reasons for their decision.

- Promoting religious freedom does more harm than good.
- All religious belief should be protected from insult; this should be done by the elevation of values, not imposition of law.
- Many religions try to justify their religious discrimination as a right, derived from the freedom to practise one’s religion – but such a right impacts adversely on others.
- Religious freedom is not a special permission to discriminate granted by government but a fundamental human right that government is obliged to protect.
- Are you for or against introducing a religious exception from anti-discrimination laws in Australia?

FOR

AGAINST

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Complete the following multiple choice questionnaire by circling or matching your preferred responses. The answers are at the end of the next page.

1. Match the following religious affiliations from the latest census (2011) with the corresponding percentage of adherents in Australia.

<table>
<thead>
<tr>
<th>Religious Affiliation</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anglican</td>
<td>0.5%</td>
</tr>
<tr>
<td>Baptist</td>
<td>1.1%</td>
</tr>
<tr>
<td>Buddhism</td>
<td>1.2%</td>
</tr>
<tr>
<td>Catholic</td>
<td>1.3%</td>
</tr>
<tr>
<td>Eastern Orthodox</td>
<td>1.6%</td>
</tr>
<tr>
<td>Hinduism</td>
<td>2.2%</td>
</tr>
<tr>
<td>Islam</td>
<td>2.5%</td>
</tr>
<tr>
<td>Judaism</td>
<td>2.6%</td>
</tr>
<tr>
<td>Lutheran</td>
<td>2.8%</td>
</tr>
<tr>
<td>No Religion</td>
<td>5.0%</td>
</tr>
<tr>
<td>Pentecostal</td>
<td>17.1%</td>
</tr>
<tr>
<td>Presbyterian and Reformed</td>
<td>22.3%</td>
</tr>
<tr>
<td>Uniting Church</td>
<td>25.3%</td>
</tr>
</tbody>
</table>

2. Which of the following laws currently offer protection and/or freedoms for religious practice? (Select all that apply)

a. Human Rights Act
b. International Convention on the Elimination of All Forms of Racial Discrimination
c. Human Rights and Anti-Discrimination Bill 2012
d. International Covenant on Civil and Political Rights
e. Racial Discrimination Act 1975
f. Universal Declaration of Human Rights

3. Respond to the following statements by circling either ‘True’ or ‘False’:

a. Since European settlement, Christianity has remained the dominant religious tradition in Australia. True / False

b. Buddhism is the fastest growing faith in Australia since 2006, according to the 2011 census. True / False

c. According to the latest global estimates, Islam is the largest major religious group. True / False

d. After the September 11 attacks in the USA in 2001, Islamic leaders reported abuse, physical assaults and hate mail against Muslim people in Australia. True / False

e. Anti-semitism is the discrimination against or prejudice or hostility toward Hindus. True / False

f. An unprecedented 32% of Australians have declared themselves to be of ‘no religion’ in the latest census (2011). True / False
MULTIPLE CHOICE

4. Match the following terms to their correct definitions.

a. Agnosticism  
   1. Any system or mode of thought or action in which human rather than spiritual concerns predominate.

b. Atheism  
   2. Principle that maintains all significant beliefs and actions should be based on reason and evidence, that the natural world is the only world there is, and that answers to the key questions of human existence are to be found only in that natural world.

c. Freedom of religion  
   3. Principle that supports the freedom of an individual or community, in public or private, to manifest religion or belief in teaching, practice, worship, and observance.

d. Humanism  
   4. Complex of beliefs and practices which point to a set of values and an understanding of the meaning of existence

e. Interfaith dialogue  
   5. Self-identified association of a person with a religion, denomination or sub-denominational religious group.

f. Rationalism  
   6. Belief that God's existence can neither be proved nor disproved, on the basis of current evidence.

g. Religion  
   7. Valuing or treating a person or group differently because of what they do or do not believe.

h. Religious affiliation  
   8. Systematic mistreatment of an individual or group of individuals as a response to their religious beliefs or affiliations or lack thereof.

i. Religious discrimination  
   9. Willingness to accept and permit religious beliefs and practices which disagree with one's own.

j. Religious persecution  
   10. Acceptance or belief that there is no credible factual or scientifically reliable evidence for the existence of a god/s or the supernatural.

k. Religious tolerance  
   11. Principle of the separation of government institutions and persons mandated to represent the state from religious institutions and religious dignitaries.

l. Religious vilification  
   12. Cooperative, constructive and positive interaction between people of different faiths, spiritual or humanistic beliefs, at both the individual and institutional levels.

m. Secularism  
   13. Conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, an individual or class of people because of their religious beliefs or activities.

MULTIPLE CHOICE ANSWERS

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Religion has been defined by the Australian High Court as “a complex of beliefs and practices which point to a set of values and an understanding of the meaning of existence”. The faith communities that practise religion in Australia exhibit many different structures of belief, practice and organisation that frame their attitudes to life as a whole. (The Australian Collaboration, Religion in Australia). (p.1)

In Australia, religion is usually associated with a belief in God (for instance, as in the Jewish, Christian or Islamic traditions). Religion also includes an awareness of the sacred, supernatural or divine (as in Buddhism or Hinduism, for example). While religion is often regarded as a path to moral truth or social wellbeing, non-religious people may aspire to these goals in different ways (for example, via secular humanism) (ibid). (p.1)

Sociologists tend to view religion as a social construction designed to give meaning to the causes, consequences and purpose of existence and to offer comfort in the face of life's uncertainties (ibid). (p.1)

Among the most striking findings of the 2011 Census is the growth in the number of people affiliating with non-Christian religions, which rose from 4.9% of the total population in 2001, to 7.2% in 2011. Hinduism, Islam and Buddhism were the fastest growing of these faiths, with increases of 189, 69 and 48 per cent respectively. These trends reflect changes in the countries of origin of recent immigrants, among whom these religions are more highly represented than in the total population of Australia. It should be noted, however, that religion is often used as an identifying label unrelated to religious practice; for example, people who identify as Jewish may not necessarily be practising Jews (ibid). (p.3)

Other key developments in the 2011 Census have been the continuation of a longstanding trend of decline in Christian affiliation (from 96% in 1911, to 68% in 2001 and 61% in 2011) and the growing proportion of Australians who identify as having 'no religion' (from 15% in 2001 to 22% in 2011). Among the Christian faiths, Anglicanism recorded the most significant decline, from 21 per cent in 2001 to 17 per cent in 2011, while Pentecostal affiliation rose from 1 to 1.1 per cent in the same period. Young people (aged 15-34) were the most likely to profess no faith, at 28 per cent in 2011 (ibid). (p.3)

Religious freedom is safeguarded by section 116 of the Australian Constitution, which states that: “The Commonwealth of Australia shall not make any law establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth”. This reflects both the protection of religious practice from state interference and a stronger separation of religion from the state than in most other Western nations, including the UK and USA (ibid). (p.3)

The 2012 report Mapping Social Cohesion reviewed findings from a large-scale survey that considered Australian attitudes towards religion. The report indicated that nearly 25 per cent of respondents attested to negative attitudes towards Muslims. By contrast, negative attitudes to other religious groups were far less prevalent, with only 5 and 3 per cent of respondents indicating negative attitudes to Christians and Buddhists respectively (ibid). (p.4)

According to the 2011 Census, Christianity remained the most commonly reported religion in Australia with 61.1% of the population reporting affiliation with a Christian religion – a decline from 63.9% in 2006. There was an increase in the number of people not reporting a Christian faith from 36.1% of the population in 2006 to 38.9% in 2011. The number of people reporting 'No religion' increased significantly, from 18.7% of the population in 2006 to 22.3% in 2011 (Australian Bureau of Statistics, Religious affiliation in Australia). (p.7)

The most common non-Christian religions in 2011 were Buddhism (2.5% of the population), Islam (2.2%) and Hinduism (1.3%). Of these, Hinduism had experienced the fastest growth since 2006, increasing from 148,130 to 275,534, followed by Islam from 340,394 to 476,291 and Buddhism from 418,749 to 528,977 (ibid). (p.7)

The 2012 release of the Federal Government's draft Human Rights and Anti-Discrimination Bill has reignited Australian debate about human rights, religion and the law. The current controversy is around the permanent exceptions in the HRAD which allow religious bodies to discriminate “to avoid injury to religious sensitivities’(Ball, R, Human rights and religion in Australian law. Where does the balance lie?). (p.17)

Although the Australian Constitution appears to entrench the principle of separation between religion and the state, the guarantee is of little practical importance, given the High Court's view that section 116 does not prohibit the state from encouraging or giving aid to religion and that there is no constitutional obstacle to laws that indirectly assist the religious to further their religious goals (Myerson, D, Religion-state relations in Australia). (p.24)

The commonly understood meaning of ‘secular’, as the separation of church and state, has different interpretations and implications. These interpretations influence people’s views on the place of religion in society and in our schools. Hard secularism calls for complete separation and for the removal of religion from all public life, including state schools. A softer secular approach prohibits privileging one religion over others and argues instead for respect for religious diversity, including religious and non-religious worldviews. (Halafoff, A and Byrne, C, Religion should be taught secularly in our schools). (p.45)

The governments of all the major countries in the world – including Australia, the USA, Great Britain, New Zealand, Italy, India – are all secular governments. Religious organisations frequently attempt to influence the decisions of civil governments, often successfully, but this does not alter the fact that all such civil governments are ipso facto secular, not religious or spiritual (Robinson, I, Religion and Belief Systems in Australia Post-1945). (p.49)
Religious Freedom and Discrimination

Glossary

Agnosticism
An agnostic is someone who holds that the ultimate cause (God) and the essential nature of things are unknowable or unknown, i.e. that God’s existence can neither be proved nor disproved, on the basis of current evidence.

Atheism
The acceptance or belief that there is no credible factual or scientifically reliable evidence for the existence of a god, gods or the supernatural.

Belief system
An organised way of trying to explain the world around us. It is something that distinguishes human beings, and becomes an integral part of culture, e.g. Confucianism, humanism, Islam, capitalism and feminism.

Freedom of religion
Freedom of religion or ‘freedom of belief’ is a principle that supports the freedom of an individual or community, in public or private, to manifest religion or belief in teaching, practice, worship, and observance; the concept is generally recognised also to include the freedom to change religion or not to follow any religion. Freedom of religion is considered by many people and nations to be a fundamental human right and is covered by Article 18 of the Universal Declaration of Human Rights. By ratifying the International Covenant on Civil and Political Rights in 1980 Australia has undertaken to respect and protect freedom of religion and belief.

Humanism
Any system or mode of thought or action in which human rather than spiritual concerns predominate.

Interfaith dialogue
Refers to cooperative, constructive and positive interaction between people of different religious traditions (i.e., ‘faiths’) and/or spiritual or humanistic beliefs, at both the individual and institutional levels.

Multi-faith
To be multi-faith is to feel an affinity with aspects of more than one religion, philosophy or worldview, and to believe that no one is superior to the others. This term should not be confused with interfaith, which concerns the communication between different religions.

Racial vilification
Conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, an individual or a class of people because of their race, colour, descent, ancestry, nationality or national origin, ethnicity or ethnic origin.

Racism
Term used to describe the belief that some groups are superior to others based on cultural, linguistic or religious or perceived biological differences.

Rationalism
Rationalists hold that all significant beliefs and actions should be based on reason and evidence, that the natural world is the only world there is, and that answers to the key questions of human existence are to be found only in that natural world.

Religion
Religion has been defined by the Australian High Court as “a complex of beliefs and practices which point to a set of values and an understanding of the meaning of existence”. The faith communities that practise religion in Australia exhibit many different structures of belief, practice and organisation that frame their attitudes to life as a whole. In Australia, religion is usually associated with a belief in God (for instance, as in the Jewish, Christian or Islamic traditions). Religion also includes an awareness of the sacred, supernatural or divine (as in Buddhism or Hinduism, for example). While religion is often regarded as a path to moral truth or social wellbeing, non-religious people may aspire to these goals in different ways (for example, via secular humanism). Sociologists tend to view religion as a social construction designed to give meaning to the causes, consequences and purpose of existence and to offer comfort in the face of life’s uncertainties.

Religious affiliation
The self-identified association of a person with a religion, denomination or sub-denominational religious group.

Religious discrimination
Discrimination occurs when, because of race or religious conviction, a person is treated less favourably than a person similarly situated but of another race or religion would be treated.

Religious persecution
Religious persecution is the systematic mistreatment of an individual or group of individuals as a response to their religious beliefs or affiliations or lack thereof.

Religious tolerance
The willingness to accept and permit religious beliefs and practices which disagree with one’s own.

Religious vilification
Conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, an individual or class of people because of their religious beliefs or activities.

Secularism
The principle of the separation of government institutions and persons mandated to represent the state from religious institutions and religious dignitaries. One manifestation of secularism is asserting the right to be free from religious rule and teachings, or, in a state declared to be neutral on matters of belief, from the imposition by government of religion or religious practices upon its people. Another manifestation of secularism is the view that public activities and decisions, especially political ones, should be uninfluenced by religious beliefs and/or practices.
Websites with further information on the topic

ABC Religion and Ethics  www.abc.net.au/religion
Adherents.com   www.adherents.com
Anglican Church of Australia  www.anglican.org.au
Atheist Foundation of Australia Inc  www.atheistfoundation.org.au
Australian Bureau of Statistics  www.abs.gov.au
Australian Federation of Islamic Councils  http://muslimsaustralia.com.au
Catholic Church in Australia  www.catholic.org.au
Centre for Independent Studies  www.cis.org.au/research/religion
Christian Research Association  www.cra.org.au
Compass – ABC TV  www.abc.net.au/compass
Executive Council of Australian Jewry  www.ecaj.org.au
Federation of Australian Buddhist Councils  www.buddhistcouncil.org.au/fed/home
Freedom 4 Faith  www.freedom4faith.org.au
Hindu Council of Australia  www.hinducouncil.com.au
Jewish Australia Network  www.jewishaustralia.com
National Council of Churches in Australia  www.ncca.org.au
Rationalist Society of Australia  www.rationalist.com.au
Religion Interfaith Network  www.regionalinterfaith.org.au
Religious Tolerance  www.religioustolerance.org
Uniting Church in Australia  www.uca.org.au

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