

Cultural and Religious Freedom under a Bill of Rights

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GARTH BLAKE

Barrister, Sydney

Member of the General Synod of the Anglican Church of Australia

In Australia two inquiries have placed freedom of religion on the public agenda. In September 2008 the Australian Human Rights Commission initiated a follow-up investigation to its *Article 18* report by launching the *Freedom of Religion and Belief in the 21st Century* project. In December 2008 the National Human Rights Consultation was launched. Under their terms of reference the Consultation Committee will consider the protection and promotion of human rights in Australia.

In this context the Cultural and Religious Freedom under a Bill of Rights Conference was held from 13–15 August 2009 at Old Parliament House, Canberra. The Conference commenced with a dinner at which Sir Anthony Mason, former Chief Justice of Australia, gave an address on Human Rights and the Courts.

The second day was divided into four sessions. In the first session cultural, religious, community and theological perspectives were considered. Part of this session was a panel discussion among leaders of different faith groups and a politician, which was recorded and later broadcast on *The Spirit of Things* on ABC Radio National.⁴ Four theologians, three Anglican and one Jewish, also presented papers. In the remaining sessions North American, European, New Zealand, and Australian perspectives were considered. In these sessions papers were presented by legal academics and judges, both from overseas and Australia.

Among these papers was *Christian Concerns with the Charter of Rights* by Professor Patrick Parkinson AM of the University of Sydney Faculty of Law. In his paper Professor Parkinson noted the diversity of responses among the Christian Churches to the National Human Rights Consultation. Submissions critical of a bill of rights in Australia include those of the Presbyterian Church

4 The audio can be downloaded from The Spirit of Things website at <<http://www.abc.net.au/rn/spiritofthings/stories/2009/2659582.htm>>, accessed 21 September 2009.

of Australia,⁵ the Baptist Union of Australia,⁶ and the Anglican Diocese of Sydney.⁷ Supportive submissions include ones from the Uniting Church in Australia,⁸ and the Religious Society of Friends.⁹ Professor Parkinson described the submissions of the Standing Committee of the General Synod of the Anglican Church of Australia¹⁰ and the Australian Catholic Bishops Conference as 'bellwether submissions for Christian opinion'. The Australian Catholic Bishops Conference decided not to take a stand either for or against.¹¹ The Anglican General Synod Standing Committee supports human rights legislation if it takes religious freedom as seriously as international conventions do. It also supports anti-vilification laws which are very carefully drafted.

The third day was divided into two sessions. In the first session there were concurrent presentations on religious background and religious education, constitutional issues, and lessons from other countries. The final session considered the controversial case *Catch the Fire Ministries Inc v Islamic Council of Victoria Inc*¹² and related questions for religious freedom in the courts. This session was a panel discussion among current and former judges from the United States of America, Pakistan, New Zealand, and Australia.

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- 5 The submission of the Presbyterian Church of Australia can be found on its website at <<http://www.confederal.presbyterian.org.au/90611%20Human%20Rights%20Consultation%20Submission1.pdf>>, accessed 22 September 2009.
- 6 The submission of the Baptist Union of Australia can be found on the National Human Rights Consultation website at <[http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/BAE709CD2300CDA7CA25761F002183FB/\\$file/Baptist%20Union%20of%20Australia_AGWW-7T2A4E.pdf](http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/BAE709CD2300CDA7CA25761F002183FB/$file/Baptist%20Union%20of%20Australia_AGWW-7T2A4E.pdf)>, accessed 21 September 2009.
- 7 The submission of the Anglican Diocese of Sydney can be found on the National Human Rights Consultation website at <[http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/E35DD74FA68EBFAACA25761F00217C2E/\\$file/Anglican%20Church%20Diocese%20of%20Sydney_AGWW-7T28LK.pdf](http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/E35DD74FA68EBFAACA25761F00217C2E/$file/Anglican%20Church%20Diocese%20of%20Sydney_AGWW-7T28LK.pdf)>, accessed 21 September 2009.
- 8 The submission of the Uniting Church in Australia can be found on its website at <http://www.unitingjustice.org.au/images/pdfs/issues/human-rights/submissions/nationalhumanrightsconsultation_web.pdf>, accessed 21 September 2009.
- 9 The submission of the Peace and Legislation Committee of the the Religious Society of Friends can be found on the National Human Rights Consultation website at <[http://www.humanrightsconsultation.gov.au/www/nhrcc/RWPAttach.nsf/VAP/\(3273BD3F76A7A5DEDAE36942A54D7D90\)-Quaker_Peace_and_Legislation_Committee_AGWW-7RKFPW.pdf/\\$file/Quaker_Peace_and_Legislation_Committee_AGWW-7RKFPW.pdf](http://www.humanrightsconsultation.gov.au/www/nhrcc/RWPAttach.nsf/VAP/(3273BD3F76A7A5DEDAE36942A54D7D90)-Quaker_Peace_and_Legislation_Committee_AGWW-7RKFPW.pdf/$file/Quaker_Peace_and_Legislation_Committee_AGWW-7RKFPW.pdf)>, accessed 22 September 2009.
- 10 The submission of the Standing Committee of the General Synod of the Anglican Church of Australia can be found on its website at <<http://www.anglican.org.au/docs/PUBLICAFFAIRSCOMMISSIONFINAL.pdf>>, accessed 21 September 2009.
- 11 The submission of the Australian Catholic Bishops Conference can be downloaded from the Catholic Church in Australia website at <http://www.catholic.org.au/index.php?searchword=Human+Rights&ordering=&searchphrase=exact&Itemid=1&option=com_search>, accessed 22 September 2009.
- 12 (2006) 15 VR 207; (2006) 235 ALR 750; (2006) 206 FLR 56. There is a case note at (2007) 9 Ecc LJ 341–342.