

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS

AUSTRALIAN HUMAN RIGHTS COMMISSION

Submission

Freedom of Religion and Belief
in the 21st Century

30th January, 2009

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS

Freedom of Religion and Belief in the 21st Century

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DETAILS OF SUBMITTING ORGANISATION

Please fill out all the sections that apply to you. Items marked with an asterisk (*) are compulsory; you must fill them out for the submission to be complete.

Title: Freedom of Religion and Belief in the 21st Century – a Perspective of
The Church of Jesus Christ of Latter-day Saints

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Organisation Name: The Church of Jesus Christ of Latter-day Saints

Organisation Address: National Headquarters, 756 Pennant Hills Road

Suburb or Town: Carlingford

State/Postcode: New South Wales, 2118

If this is a group submission, briefly describe the objectives and activities or affiliation of your organisation.

The teachings of Jesus Christ and His atonement and resurrection are at the core of the beliefs of the Church. It is neither Catholic nor Protestant, but regards itself to be a latter-day restoration of original Christianity with the same structure, priesthood authority and beliefs as those presented by the Saviour to his followers 2000 years ago.

The Church holds that marriage and the family can last into the eternities subject to certain ordinances taking place in the faith's temples, of which there are five in Australia. These buildings are quite distinct from the 200 Latter-day Saint chapels or meeting houses which dot the country. Latter-day Saints believe the Holy Bible and the Book of Mormon to be scripture, along with certain revelations to Church leaders since the Church's organization in 1830.

Approximately how many members are in your organisation?

There are 13 million members worldwide, 130,000 members in Australia and a further 308,000 in New Zealand and the Pacific Islands.

Is your organisation affiliated with or associated with any religious or interfaith or civil or community organisations?

See above.

Is your organisation an interfaith organisation?

It is not an interfaith organization but firmly believes in the process of communication and cooperation between the faiths. We believe that intolerance, criticism and lack of respect for the beliefs of others is at the core of many of the ills of modern society including in our own country.

Have you participated in any interfaith service or activity during 2007/2008? If so, give details.

1. The Church-owned Brigham Young University in Provo, Utah, co-hosts the prestigious International Law and Religion Symposium each October and invites religious, legal and academic leaders from around the world to attend. Former president of the Australian Federation of Islamic Councils, Ameer Ali, attended the 2008 program.
2. The Church co-hosts international academic interchange visits. Monash University Professor Gary Bouma visited Brigham Young University in early 2008.
3. It sponsors visits by overseas Latter-day Saint academics with global roles in interfaith relations to meet with local religious and academic leaders. For example, Professor Fred Woods (*global Chair of Religious Understanding at Brigham Young University*) visited Melbourne in 2008. Islamic studies expert, Dr Daniel Peterson (*Professor of Islamic Studies at Brigham Young University*) toured Australia and New Zealand in 2007.
4. The Church is vitally involved in international disaster relief activities. Its humanitarian program often provides relief directly to those in need in communities throughout the globe regardless of creed or ethnicity. It also does so through the humanitarian agencies of other faiths such as Caritas

- and the Salvation Army and international bodies such as the Red Cross and Red Crescent. This is an on-going effort. Since the program's inception in 1985, well over \$AUD1 billion in aid has been given.
5. For a number of years, a number of the individual Sydney stakes (dioceses) of the Church have been involved in collecting goods for the needy and distributing them through other faith-based groups. As examples, in 2008, the Sydney Australia Greenwich Stake prepared 500 Christmas hampers which were presented to the Wayside Chapel for distribution to the needy. The stake made a similar contribution to the Salvation Army in 2007 and 2006.
 6. The New South Wales secretariat of the Church has participated with various interfaith organisations at events such as the Religious Freedom Institute, and Federal and NSW Parliamentary Christian Fellowship breakfasts and luncheons. Faith-oriented academic forums and Catholic World Youth Day activities also involved Latter-day Saint representatives. The secretariat has hosted Muslim leaders at various functions and made cash and in-kind donations to other faith groups in support of their humanitarian efforts.
 7. In June 2008, a collection of Perth stakes sponsored a 'Women of Faith Forum' to discuss issues of mutual interest. Four politicians attended along with representatives from Christian denominations such as the Catholic Church and various non-Christian faiths such as the Sikhs, Muslims and Buddhists.
 8. In Melbourne:
 - a. The Church serves on the Advisory Council and Youth Advisory Council for the Parliament of the World's Religions global conference to be held in December 2009.
 - b. It takes leadership roles in local council interfaith networks (eg. Greater Dandenong, Casey, Knox Councils) which focus on community education and building harmony amongst different faith traditions including Muslim, Jewish, Hindu, Sikh, Buddhism, Orthodox and various Christian churches.
 - c. It co-hosts interfaith tours of places of worship for various religions.
 9. In Adelaide, Church leaders have established working relationships with inter-faith organizations and forums as well as with other faith leaders such as Catholic Archbishop Wilson and chaplains at state universities.
 10. In Brisbane, at the request of Griffith University professor and founder of the university's interfaith centre, Swee Hin Toh, the Church is providing details of our involvement with other churches over the past 80 years. This is for a multi-faith book to be presented to the Queensland government. Church leaders have also had meetings with Catholic Archbishop Bathurst to exchange church teachings as well as to assist in the preparation of the Archbishop's own family history.
 11. In Papua New Guinea, the Church's women's organization (Konedobu LDS Relief Society) participated in a joint humanitarian project "Carry Home Blankets" with Catholic sisters. The Catholics provided the material and Latter-day Saints did the sewing. Fifty blankets were made with a joint presentation to Port Moresby General Hospital for new mothers and young babies.

Is there an interfaith body in your area, either locally or regionally?

Please give the name and location.

This submission is presented on behalf of the national organization of the Church in Australia. The only relevant bodies with which the Church is familiar are the National Council of Churches and the National Heads of Churches groupings. We are not affiliated with, nor have we been invited to participate in either of these bodies, but have had occasional ad hoc association with them. However, as noted above, some of our stakes and wards (parishes) are involved with the local interfaith networks in their communities. The Church prefers to target its activities towards joint community service and interfaith dialogue rather than ecumenical activities aimed at bringing the various faiths into some form of doctrinal unity.

Did you participate in any of the group consultations held in all states and territories for this report?

No. We were unaware of this process. It was not brought to our attention.

ISSUES OF IMPORT TO THE LATTER-DAY SAINTS

1. Introduction: Latter-day Saints and the Law in Australia

It is interesting that the AHRC consultation process associated with this paper coincides with Australia Day celebrations conducted on Monday, 26th January, 2009. In congregations throughout Australia, on the Sunday immediately prior to Australia Day, Latter-day Saints conducted worship services celebrating the country in which we live. Such presentations invariably would have been laudatory, extolling the virtues of our society, and would have reflected similar presentations that are given on the Sunday prior to Anzac Day each year. There is much for which Australian Latter-day Saints have to be grateful. We live in a free country and we are able to worship God according to the principles enunciated in our eleventh Article of Faith, viz. “We claim the privilege of worshipping Almighty God according to the dictates of our own conscience, and allow all men the same privilege, let them worship how, where, or what they may” (*Joseph Smith, 1842*).

We are naturally very much attuned to freedom of religion both in our own country and those nations around the world. As a faith that has proselytising and humanitarian service as key elements of its international outreach (with humanitarian activities always operating at arms-length from its proselytising efforts), Church members in Australia and elsewhere are keenly aware of restrictions to religious practice in many countries. In reaction to these restrictions, for many decades Church members have prayed that the doors of nations will open to the free practice of religion. In this respect, it regards as a miracle the fall of the Iron Curtain in Europe allowing, with various degrees of success, faith groups from around the globe to teach their religious views to people who previously were bound by the official state-sponsored religion of atheism.

The Church’s approach to the opening up of religious freedom in other countries is one of great care and respect for those in authority. It believes very much in the axiom propounded by Jesus Christ in which he said, “Render therefore unto Caesar the things which are Caesar’s and unto God the things that are God’s” (*Matthew 22:21, KJV*). To Latter-day Saints, this is not simply a nice scriptural aphorism; rather it is of practical application in the dealings that Latter-day Saint leaders, at a local, national and international level, have with counterpart secular and political leaders. The Saviour’s comments are closely reflected in the Church’s twelfth Article of Faith, viz. “We believe in being subject to kings, presidents, rulers, and magistrates, in obeying, honouring, and sustaining the law” (*ibid.*).

It is this pragmatic, respectful approach to dealings with national political leaders that has enabled the Church to operate in countries that would not normally entertain the presence of religious bodies within their borders. Church leaders have often said that there is only one way to

enter a country that has not previously accepted our presence and that is through the front door. We would never go through the back door, eg. by encouraging illegal activities such as the distribution of smuggled copies of the scriptures. As a further example, well prior to the dismantling of the Berlin Wall, the Church was permitted to build one of its most sacred edifices - a temple - in Freiberg, East Germany (announced 1982, dedicated 1985). Once constructed, Church members there performed sacred, private ceremonies unique to our faith that enabled the joining of families together both in this life and the next. The building of this "House of the Lord" was made at the suggestion of East German authorities after a request by Church leaders to the communist government to permit selected Church members to leave the country to go to the Swiss LDS temple to have these ceremonies performed. The East German authorities simply said, "Why don't you build a temple here." This suggestion would not have been forthcoming if the leaders of East Germany had not personally witnessed the respect and obedience of Latter-day Saints towards the laws and practices of the East German government.

Although this historical fact bears only tangentially on the AHRC study, it is intended to point out that the Church and its members in Australia will always respect the laws of this country. By the same token, it believes it is essential that government authorities are aware of the good community values and faithful citizenship of Australian Latter-day Saints. The Church contributes to Australian society through concerted mentoring of children, youth and young adults. Its missionaries (young men and women age 19-26 years), who return home after 18 months to two years of service, enrich local culture and the economy as they once more settle into regular life. The Church encourages volunteerism and, through its Helping Hands humanitarian service program, strengthens local communities. Church members are also encouraged to obtain as much education as possible and, so, become contributors to community resources rather than be people who deplete them.

Australian Latter-day Saints are invited to learn about our system of government, gain an understanding of those who govern us, participate in community leadership and, where appropriate, interact with government leaders. This is not so much an attempt to influence government action or legislation. Unlike certain other faiths, the Church takes a relatively limited position regarding attempts to influence public policy or legislative action. Rather, it is to ensure that government leaders, including those who may have little interest in or interaction with faith groups, are well aware of the positive contribution that Latter-day Saints, as good, loyal citizens, are making to the society in which we live. We would hope that the members of other faiths would follow a similar approach. The more interaction there is between people of faith and people in government the better will be the smooth operation of our society and the free exercise of religious belief.

While we firmly are of the view that Australia is a free country and espouses values which encourage religious and social pluralism, nevertheless there are contemporary issues which concern Latter-day Saint Church leaders that have the potential to erode religious freedom here. It is these to which this document is largely oriented. Some brief sections of the following are sourced from “*Freedom to do and to be*”, Elder Russell M. Nelson, Quorum of the Twelve Apostles, presented at the International Scientific and Practical Conference, “*Religious Freedom: Transition and Globalization*”, 27th May, 2004.

2. Worshipping freely; freedom of religion vs. freedom from religion

Most western countries, beginning with the U.S. in their 1789 Bill of Rights, have elected to protect religious freedom, since no amount of previous government regulation and suppression had succeeded in eliminating friction, conflict and, often, violence between faiths and between religious bodies and government. Protecting religious freedom requires that a system of respect and cooperation is in place which reduces tension between church and state without compromising national safety and security. This balance must recognise freedom of speech including freedom of religious speech. The state is unwise when it seeks to regulate religion. It can only justify the regulation of activity, including religious activity, when that activity threatens safety or security. Those who framed the Australian constitution understood and followed the U.S. framers in this respect.

It is our view that religious freedom really is the *First Freedom*. At core, it is individual agency to implement personal ethical principles and other beliefs. We cannot speak, assemble, or act unless we have first *thought* and, in the case of religion, until these thoughts have become deeply held inner convictions. Yet, since individual human rights were popularised and codified by the United Nations in 1948, these most fundamental rights have been downplayed in favour of less momentous matters. Certainly we have the opportunity now to deal with issues associated with gender equality and sexual orientation but if we do not mind our fundamentals, particularly including freedom of thought, conscience and religion, the whole human rights edifice may come tumbling down in reactionary anger.

Hence, we believe that where the exercise of religious freedom by certain faith groups infringes upon the rights of other faith groups or the privileges of certain members of the general population, these should only be controlled by existing criminal laws rather than through specially-devised regulations to control religious behaviour. Religious institutions should be entirely free to manage their organisations and articulate their values unfettered by government or other regulatory authorities. Australia would be a poorer place if faith organisations did not prosper or, through restrictive containment, were not encouraged to prosper.

Fundamental religious rights include: the right to believe or disbelieve; the right to worship, either alone or with others; the right to assemble for religious purposes; the right to own or occupy property for the purpose of worship; the right to perform religious ceremonies; the right to possess and distribute religious media; and the right to establish rules for fellowship in a religious society. (See *the United Nations Declaration on the Elimination of All forms of Intolerance and Discrimination Based on Religion or Belief* ("1981 Declaration"), Article 6.)

Governments are established for the benefit of their citizens, who should be equally protected and equally obligated under the law, be they believers or non-believers (*ibid*, Articles 2 and 3). We believe that our Creator and Judge holds government leaders accountable for their acts in relation to their citizens, both in making and administering laws for the good and the safety of the people. (See *Doctrine and Covenants of The Church of Jesus Christ of Latter-day Saints*, section 134:1.)

Therefore, care must be exercised to assure that government remains truly neutral in matters of religion, not only in lip-service and constitutional and common-law guarantees, but also in impartial application of the law. (*Metropolitan Church of Bessarabia v. Moldova* (European Court of Human Rights, App. No. 45701/99, 13 December 2001), para. 116 ("the State has a duty to remain neutral and impartial".)) Individuals and institutions are naturally inclined to seek preference over others, but the state must not yield to those inclinations. To discriminate in favour of one religion or belief-set, using non-religious labels such as "culture" or "history", is to discriminate against others. If the state allows dominance of any one religious *institution* or *form of non-belief* over another, discrimination results, allowing unequal treatment and regrettable restriction of other religious societies.

Inherent within the afore-mentioned principles is that all people, no matter what their form of belief/non-belief, should be treated with respect and dignity. While there is presently an emphasis within much of the intellectual discourse in Australia on the right of individuals to be free from religious intrusion, governments must be careful not to inadvertently restrict the rights of believers while protecting the rights of non-believers. For example, the right of a schoolchild to wear a small crucifix is little different to the right of a female Muslim student to wear a headscarf. Yet, some overseas and, possibly, Australian secularists are of the view that the wearing of a Muslim headscarf in a public school infringes upon the rights of non-religious school students and the secular nature of public education. However, it is our view that if governments take away the right of a Muslim student to wear a headscarf, this could open up to restriction a whole range of other religious freedoms because they appear to hamper the rights of non-believers in some way.

In Australia, this could apply to something as simple as holding scripture classes for school students during school time in public schools. Some secularists - fortunately not a large number - have complained that holding scripture classes entrenches religious affiliation as a normative behaviour. While we accept that public schools are largely non-religious institutions, holding scripture classes can facilitate the development of character and the instilling of values that strengthen society, the family and the individual.

We also note the strong negative reaction of the secular community towards the former Federal Government's national school chaplaincy program – announced in 2006 and boosted with further funding in June, 2007 – which was also supported by the then Federal Opposition. Far from being a means of establishing a 'state religion', as complained by some, the program has been an effective means of providing on-going support, counselling and, where deemed appropriate, spiritual assistance to students. As one community leader said at the time, the program "help(s) students deal with poor decisions they ha(ve) made and the consequences of their parents' actions...(the chaplains) are seen as someone independent of authority, somebody the students can relate to, somebody that they can trust" (see *The Age*, 27th June, 2007).

Holding Christ-centred Christmas activities in school or the community similarly has become a challenge because secularists (interestingly and generally *not* the members of other faiths) have complained about the intrusive nature of such events because, once again, they entrench Christian religious hegemony. We believe that while ever Australia is a predominantly Judeo-Christian community, and while ever the vast majority of people in the five-yearly National Census proclaim themselves to be Christians rather than non-believers, Christ-centred Christmas activities sponsored by schools, community organisations, shopping centres and so forth should not be curtailed or discriminated against.

3. Freedom to proselytise

Principles

Australian governments, including those at a national, state and local level, should be vigilant to ensure that religious proselytising is not restricted in any form. Each religion should be free to propagate itself among present and future generations, so long as it does not use coercive or fraudulent means. Its practices should not interfere with the peace of society. Each religion has a right to present its message in an orderly way to all who are interested. (*See International Covenant on Civil and Political Rights, Articles 18-19; European Convention for the Protection of Human Rights and Fundamental Freedoms, Articles 9-10.*) How can we have freedom of religion if we are not free to compare honestly, to choose wisely, and to worship according to the dictates of our own conscience? While searching for the truth, we must be free to change our mind - even to change our religion - in response to new

information and inspiration. Freedom to change one's religion has been emphasised in the Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. One's religion is not imposed by others. It is not predetermined. It is a very personal and sacred choice, nestled at the very core of human dignity.

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

Some local government bodies, including those in South Australia, have passed by-laws preventing street contacting and other forms of harmless religious practice and expression. We believe that any such restriction offends the principle of religious freedom. Many of these by-laws have been passed since the 1998 *HREOC Report on UNDHR Article 18: Freedom of Religion and Belief*. This appears to have been the product of the idea that government has some obligation to protect members of the public from religious solicitation. That circumscription is an interference with freedom of religious practice which *would offend the constitution if legislated by the Commonwealth*. We believe that state and local government should be obliged to observe section 116 of the Constitution, as does the Commonwealth itself. It appears that a secular faith, in the name of neutrality, is currently being allowed to trump religious freedom.

If conducted in an orderly way – meaning that individuals are not hounded to listen to a message nor that movement of traffic and people is impaired – the presentation of a religious message on a street corner is well within the limits imposed by the various international religious freedom covenants described previously.

It would appear that sharing a religious message by going door-to-door does not suffer from any restrictions in Australia at the present time. Nor does it appear that there any moves for such restrictions to be implemented. We would hope that this would continue and care is taken by governments of all types to ensure that such freedoms have inalienable protection.

4. The taxation treatment of financial contributions to religious groups

Much debate has occurred in recent times over the tax treatment of corporations that are owned by charities and religious bodies. At the present, these corporations are exempt from income tax, leading to criticism that they can operate within the marketplace at an unfair advantage to their competitors. This argument is not without foundation and it should be noted that The Church of Jesus Christ of Latter-day Saints owns no such income tax-exempt corporations in Australia.

However, there is an entirely separate issue, and indeed opportunity, which is being ignored by authorities at the federal level. We refer to the tax treatment of donations made by individual tax-payers to their faiths. The giving to charities and religions of volunteer time is regarded as a significant benefit to society. However, generally there is no recognition of the financial donations that are made to religious institutions and the impact that these have on social cohesion and community progress. The only means by which a deduction may be received in the hands of an individual is in instances where the religious institutions have established charitable trusts, deductible gift recipient (DGR) or other instruments for receiving contributions. However, the conditions under which trusts and DGRs operate are restrictive and are essentially confined to donations made to educational institutions.

It is our view that money donated to a charity/faith group is much more effectively utilised than if that same money was donated to the government in the form of taxation and then, ultimately, provided to those in need. Religious bodies and charities operate under strict staffing regimes. In our own case, we operate on an entirely voluntary basis. There is no paid ministry. Hence, monies that are received in the form of donations are used entirely for their end purpose, including assistance to the needy and betterment of individuals and families, without being siphoned off to be used primarily to cover administrative costs. Unfortunately, the giving of charitable donations can be discouraged if there is no commensurate benefit to the contributor in the form of a tax deduction. Conversely, donations to religious institutions will greatly increase if government policy recognises the benefits of such giving through a tax deduction regime.

Governments in other countries have recognised this for some period. In particular, in the UK and USA, tax deductibility for contributions to religious institutions has long been a feature of their tax systems. The former New Zealand government undertook a study of the benefits of such a system and introduced it in 2008. All contributions there, no matter how great or small, receive tax deductibility when made from a PAYE tax payers salary. We call upon the Australian government to introduce a similar system of tax deductibility for financial contributions to religious organisations.

5. Religious vilification

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

In the supposed interest of preventing disharmony or offence to feelings, some state governments have passed religious anti-vilification legislation and are seeking to be involved in the regulation of religious freedom and interaction between faiths. They should not be. As an example, the Victorian anti-vilification legislation has been passed and interpreted since

the 1998 HREOC Report on UNDHR Article 18: Freedom of Religion and Belief. Its introduction of the idea that any organ of the state can proscribe what a religion can say or do has diluted freedom of religious practice significantly. It is our view that previously existing laws, which deny anyone the right to harm another, are sufficient to restrain those who would go too far in the name of religion. Making new religious anti-vilification categories introduces a new idea that is inconsistent with Australian federal freedom of religion. We believe the country would be better off if local, state and federal government withdrew from attempts at regulation of religious practice. Existing efforts at such regulation should be repealed.

6. Employment rights

A fundamental feature of western religious practice has been the freedom of a faith group to employ within their secretariats, managing institutions and schools only those individuals who are living according to standards established by the faith group itself. However, in recent years, this right of association has become unduly complex with some legislation and subsequent court interpretations making it difficult for religious groups to pursue their goal of controlling whom they employ.

In *Corporation of the Presiding Bishopric vs Amos* in 1987, the U.S. Supreme Court upheld the right of a religious organisation to employ not only those of its own faith, but those who upheld the doctrines and practices of that faith. We think the U.S. Supreme Court was correct when it effectively decided that a law or a court interpretation of a law which forced a church to employ someone who did not subscribe to and uphold that church's beliefs and practices, amounted to political, executive or judicial interference in the practice of religion. We would like to see a similar line drawn in Australia by all three branches of government. Secularists will say against this that the law has effect as a teacher of values. However, we believe that government cannot instruct religious values without interfering with religious freedom.

7. Priest-penitent confessional protection

In an increasingly secular world, the courts or the police may call upon ministers of religion to give evidence or report on matters that have been revealed to them by penitent parishioners in the confessional. The regulations of The Church of Jesus Christ of Latter-day Saints require its ministers to not reveal any information received in the confessional to other parties except with the express permission of the individual who has made the confession. In Australia, four of the states and the Commonwealth have included priest-penitent confessional protection in their Evidence Acts. In other Australian jurisdictions common law doctrines are said to apply. However, there appears to be no protection for ministers of religion under common law.

An increasing feature of media reporting of cases that involve confessions is to mock and criticise religious groups for not revealing information pertinent to a case that might have been derived in a confessional. The attitude of state authorities, including the police, is often in lock-step with that of the media. However, it is the view of enlightened community leaders and certainly many religious leaders that there are very practical reasons for confessional privilege to be maintained and enhanced. In many instances, the confessional is seen to be the last resort for those who have committed significant errors in their lives. Far from brushing these issues under the table, or giving mere slaps on the wrist for significant misbehaviour, a confession enables ministers of religion to stop the behaviour and initiate recovery of those affected by it. Ministers of religion are ably suited to being able to help offenders to overcome serious behavioural problems and can complement the work of the judiciary and police whose actions are more centred on penalties and consequences.

Included within the repentance process as expounded by the Latter-day Saints are penalties imposed by the Church for serious sins. The most severe penalty is excommunication or the total withdrawal of an individual's membership of the Church and cessation of all privileges, something regarded as severe by Church members. What, then, about civil penalties and assistance for those affected by criminal activity? In our case, we require penitent individuals to report their crimes to the relevant civil authorities before they can receive forgiveness or receive reinstatement into full fellowship within the faith. They also must fulfill requirements to make restitution to those whose lives they have negatively influenced through their actions.

Although priest-penitent confessional protection is not without its difficulties, we believe the benefits far outweigh the alternative, viz. that criminal behaviour goes entirely unreported to any authority, religious or civil. We therefore call upon governments at all levels to protect this important privilege. Where priest-penitent protection is not available at a state or territory level, this essential tenet of religious freedom should be established. Where media and other public institutions mock and criticise religious groups that rely on the protection, governments and the judiciary should do all they can to stand up for and support those religious institutions that are being publicly maligned.

8. Diverse sexuality; affirming our own social values amongst our own congregations and to those not of our faith

We live in a time when the principles of social tolerance, and acceptance of many forms of behaviour that were formerly regarded as anathema, may eat into the capacity of a religious body to teach its values free from intrusion or sanction. For example, diverse sexuality is generally offensive to most contemporary religious sensibilities with the exception

of some of the more liberal Christian denominations or factions within certain denominations. Religion must retain its autonomy in regard to doctrine. Yet, those who are proponents of diverse sexuality seek to change religious opinion and belief by debate and education and, more recently, by bringing the courts into ecclesiastical decision-making. In the future, it is not unreasonable to expect proponents to ask for governments to regulate religious practices regarding sexuality. At the very least, one can expect proponents to attempt to regulate free speech when it comes to criticism by religious leaders of certain forms of sexual behaviour. A regulatory approach, in any form, cannot be considered without damaging precious religious freedom which would ultimately lead to more conflict and violence in society.

The Church of Jesus Christ of Latter-day Saints is pro-family, not anti-homosexual. Yet, when we state the importance of the natural family to the on-going security of society at large, by definition we preclude same gender marriage and homosexuality as acceptable forms of behaviour. To a Latter-day Saint, any form of sexual expression outside the bonds of marriage – whether heterosexual or homosexual – is regarded as sinful. For Latter-day Saints this principle has eternal as well as earthly implications. As stated previously, to us the family – husband, wife and children – has the potential to exist beyond this life subject to obedience to the scriptural commandments and the performance of certain ceremonies in our temples while still in this life.

According to a proclamation on the family issued by the Church in 1995, “The first commandment that God gave to Adam and Eve pertained to their potential for parenthood as husband and wife. We declare that God's commandment for His children to multiply and replenish the earth remains in force. We further declare that God has commanded that the sacred powers of procreation are to be employed only between man and woman, lawfully wedded as husband and wife” (*The Family: A Proclamation to the World from the First Presidency and Council of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints*). Further, “The family is ordained of God. Marriage between man and woman is essential to His eternal plan. Children are entitled to birth within the bonds of matrimony, and to be reared by a father and a mother who honor marital vows with complete fidelity. Happiness in family life is most likely to be achieved when founded upon the teachings of the Lord Jesus Christ (*ibid*).

The question, therefore, is whether, in describing the importance of marriage and the sinfulness of other forms of sexual behaviour, Latter-day Saints are offending the principle of tolerance, a principle that is so much a part of the contemporary discourse regarding human rights. While we fully embrace the concept of fairness before the law, we believe that society is at great risk if forms of behaviour are promoted as acceptable that communities over many thousands of years have found to be detrimental to social stability. We therefore feel that it is imperative

that faith groups be permitted to espouse social views that may be out-of-step with contemporary cultural and social mores. We believe we should be free to proclaim these views amongst our own members, over the pulpit, and in other venues where those not of our faith may be present, and to do so without legal sanction or penalty.

In describing these views, it is important also to state that the Church does not sympathise with or espouse views that would encourage discrimination against homosexuals with regard to their own civil rights. Whether it is in employment, in superannuation, or in inheritance rights, homosexuals should receive the same benefits and recognition as heterosexuals. Similarly, as a minority religion in many countries, and having suffered severe and often violent discrimination ourselves, we have an absolute abhorrence when a difference in views or behaviour results in violent action against any minority or social group. Hate crimes against homosexuals, in particular, are amongst the most repugnant actions that one human being can perpetrate against another. The laws of the land, if flimsy or inadequate in protecting the weak, should be strengthened to ensure that acts of violent discrimination are curtailed.

9. Religion and the State – the Constitution, roles and responsibilities

Section 116 of the Commonwealth of Australian Constitution Act states that: “The Commonwealth shall not make any law 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 office or public trust under the Commonwealth.”

We believe that this section is inadequate only insofar as it is not binding upon state and local government, while it is binding upon the federal government and federal authorities. Whenever there is a conflict between federal and state laws, or the interpretation of these laws, confusion and discord can arise. To further protect religious freedom, we believe the federal government should encourage the states to pass their own laws which would see them honour section 116.

Because there is a dearth of constitutional religious freedom protection at a state level, state governments are starting to legislate in the area of autonomy of the churches, thus eroding religious freedom. State and local government should stop seeking to regulate religious activity. As an example, freedom of religious practice is being circumscribed by town planning restrictions which increasingly limit the places where congregations of believers may build churches; what they may build and at what times they may use those buildings. Though those restrictions are generally framed in town planning language, their effect is to proscribe freedom of religious practice.

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

We believe such a charter could help if it protected freedom of thought, conscience and religion in the same terms as the 1948 Universal Declaration of Human Rights, Article 18. Inter alia, it would signal to the states what the acceptable limits of their own legislative and executive law and practice are.

10. Security issues in the aftermath of 11th September

How should the Government balance physical security and civil liberties?

While technology has increased the ways in which crime may be conceived, planned and committed, the elements of crime remain the same. Murder and conspiracy to commit murder are still crimes howsoever they are conceived and planned. While enforcement authorities ought to be able to avail themselves of new investigative technology, any use of technology which would interfere with any traditional civil or religious liberty should not be allowed without warrant from an independent judicial officer.

11. Gender and religion

Latter-day Saint principles

Amongst the Latter-day Saints, both men and women serve in a variety of leadership positions and provide general ministering to the members of their congregations. Women speak at the pulpit, as do men, and are members of governing councils at all levels of the Church. In the home, and “by divine design, fathers are to preside over their families in love and righteousness and are responsible to provide the necessities of life and protection for their families. Mothers are primarily responsible for the nurture of their children. In these sacred responsibilities, fathers and mothers are obligated to help one another as equal partners” (*The Family: A Proclamation to the World from the First Presidency and Council of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints*).

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

Government is apt to interpret the interface of religious theology and gender. However, we believe that government has no role in dictating equality of gender in a religious setting. If religious belief is to be truly respected, government has no place in this debate.

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

The right to religious freedom always comes first. This is firmly rooted in the principle of freedom of conscience and belief, as reflected in the various international covenants and treaties referred to previously.

12. Religious voices alongside others in the policy debates of the nation

With reasonable regularity, one hears many secularists decry the influence that religious bodies have on government decision-making or the extent to which attention is paid by government towards publicly-expressed religious views. It is as if secularists would wish to silence entirely that portion of the population that has a religious perspective and those faith groups that wish to bring their opinion to bear on an item of public debate. We believe that the government that does not invite religious viewpoints in any policy-making process is the government that excludes and marginalises a significant part of its constituency. Religion has always guided and will continue to guide the aspirations of many, if not most Australians. It is our view that those who express disdain for the extent of religious influence in our community are in a small minority. When surveys have been conducted on this issue in the past, the vast majority of respondents have been of the view that religious bodies should play an active part in the ideas marketplace.

13. Technology and its implications

Is your freedom to express your religion or beliefs hindered or helped by current media policies and practices, considering reporting, professional knowledge, ownership, and right of reply?

At the present time, the media can defame religious believers, in groups, without the risk of a defamation suit. This absence of risk often denies a meaningful right of reply in practice since there is no risk to the media outlet in ignoring the religious reply. However, a defamation law in favour of religious groups with a table of damages would endanger press freedom. An independent reviewer (ombudsman) of media fairness outside of government could redress this imbalance.

What impact do the media have on the free practice of religion in Australia and the balanced portrayal of religious beliefs and practice?

They often denigrate religious belief directly or with innuendo and, in the absence of laws requiring relatively unedited right or reply, organised religion is powerless to defend itself against the media.
