

F.A.C.S. REPORT

FOUNDATION for the ADVANCEMENT of CHRISTIAN STUDIES
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"Bringing into captivity every thought to the obedience of Christ" (2 Cor. 10:5)

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On February 24, the Commonwealth government published the United Nations *Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief* in the Commonwealth of Australia Gazette. The publication of this Declaration placed into Australian law immediately one of the most dangerous pieces of legislation to appear in Australia. What follows is an analysis of this Declaration and its implications for all citizens in Australia — especially Christians.

How the System Works

Section 47 of the *Human Rights and Equal Opportunity Commission Act 1986* provides for the addition of "international instruments" to this act. These "instruments" can be added at any time the government is inclined to add them. For these instruments to attain the force of law, it is only necessary for the Attorney-General to publish proposals in the Commonwealth Gazette. If there is no objection lodged within 90 days these proposals remain part of the abovementioned Bill and therefore part of the law of the Commonwealth of Australia.

The addition of the Declaration is governed by Section 48 of the *Acts Interpretation Act 1901*, which provides a window of opportunity to have the Declaration disallowed. This Act governs the introduction of regulations necessary to enforce many acts of parliament. The procedures require the tabling of the regulations (or in this case the UN Declaration) in the parliament. Once tabled, there are 15 sitting days for a member of parliament to give notice of motion to disallow the regulation or "instrument." Once notice of motion is given, there are 15 sitting days for the House to hear the motion. Failure to hear the motion within this period automatically causes the item to be disallowed. From the time the house elects to hear the motion, it has a further 15 sitting days to conclude the debate and vote to retain the regulation or else it is automatically disallowed.

The New Age of Tyranny

Is This the End of Religious Freedom in Australia?

by Ian Hodge

Thus, while the UN Declaration becomes law at the time of publication in the Commonwealth Gazette, there is a window of opportunity where it could be disallowed. Once the opportunity passes, the only way for the legislation to be changed is with another act of parliament, something more difficult to obtain.

To What Extent?

There is some legal debate over the jurisdiction of the Human Rights Act. The Act itself appears to limit its

make a stand. Let it be clear that while there is a fine selection of legal minds ready to disagree with some of the arguments that appear below, it appears safer to err on the side of caution. In other words, I would rather exaggerate the dangers than minimise them. If it turns out some of the suggested implications here prove not to be true, I can live with that far easier than I can live with the thought of having ignored the issue because it *might not* be applicable. Since I have at least one State Attorney-General on my side, not to mention some additional fine legal minds in the country, I've decided to phrase the objections as if they apply to the States. So, be warned, and read what follows with this in mind.

The Declaration, originating in the United Nations, contains provisions that have implications for the Christian Church and for the practice of the Christian faith by its adherents. The following excerpts fall into the areas of concern.

Who is Sovereign?

The fundamental point of contention in this kind of issue is the question of who is sovereign? The UN Declaration sets out early to address this point in Article 1, paragraph 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.

"The implementation of this Declaration . . . is a potential restriction of the freedom of association in the workplace . . . and the abolition of freedom of speech."

application to the Commonwealth and the Territories. This would appear to confine many of the points in this Act, including the UN Religion Declaration. However, legal debate is divided on this point. Thus, for example, the New South Wales Attorney-General has circulated a letter to various churches saying he is opposed to this Declaration because his legal adviser (State¹ Crown Solicitor) tells him it will have far-reaching implications on state law. According to the Attorney-General, this Declaration requires all laws to conform to the ideas expressed in the Declaration.

When senior legal opinion is divided, it is difficult for the layman to

1. In this essay, State with a capital 'S' refers to a geographical entity such as Victoria; state with a small 's' refers to a political entity.

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Editor: Ian Hodge

Note what it is telling us here. That the freedom of religion is *subject to such limitations* — as determined by whom? By God Almighty? No! By the political state. In one simple statement, this UN Declaration delivers into the hands of the Commonwealth government all power and authority to circumscribe and limit any religion it thinks necessary in order to "protect public safety, order, health and morals." Morals? Whose morals will the state now protect? The morals of the Triune God of Scripture? If not, it will protect the morals it proclaims itself. In short, the federal parliament makes itself the new god.

Clearly, the state is granted *total jurisdiction* over all areas of life and thought. For, if the state can limit a religion, it effectively renders that religion null and void, leaving it an empty shell. A religious war is thus in progress, but too many people do not realise either the nature of the battle or that they are personally involved; they are on one side or the other. There is no neutrality. Writes Rushdoony,

The governmental area of the state must be strictly limited lest all government be destroyed by the tyranny of one realm. The issue in the persecution of the early church was the resistance of the Christians to the totalitarian claims of the state. The Christians were asked to sacrifice to the genius of the emperor, i.e., to offer incense to him. This, in its earlier forms, was not a recognition of the deity of the emperor, because only the dead emperor was deified upon approval of the senate. It was a recognition that the state, in the person of the emperor, was the mediating and governing institution between the gods and men, and that

all life and government was under the jurisdiction of the state. Religious liberty was available to the church upon recognition of that premise. The Roman Empire, in other words, like the modern state, assumed that it had the right to deny or to grant religious liberty because religion, like every other sphere of human activity, was a department under the state. The church denied this. Christians defended themselves as the most law-abiding citizens and subjects of the Empire, ever faithful in prayer for those in authority, but they denied the right of the state to govern the church. The church, directly under God, cannot submit itself to any government other than that of Jesus Christ. This was the issue.²

And it remains the issue today. This much is clear from the Declaration.

Has Christ Been Replaced?

It is also profitable to consider the issue from another angle. A key teaching in the Scripture is the idea of salvation. In the Bible, man does not save himself — in fact he cannot save himself. In the Scriptures it is Jesus Christ alone, the Second Person of the Trinity, who is the Great Mediator, the One who justifies and saves His people from their sins. This salvation is comprehensive in its scope. There is not one area of life that is outside the domain of Christ's saving work.

In the modern world, where Christ as Saviour is denied, the political state is hailed as the new saviour. The state, given enough taxpayers' money — not to mention sufficient time — is the new messiah. Unfortunately, too many people believe this lie. Like the Pharisees of old, they believe that the good life can be achieved on earth through political action. Thus they call on the messianic state to pass laws that will eliminate sin, or at least ameliorate the effects of man's wickedness. To believe this desired result can be achieved by political action, however, is to trust in salvation by law, the very notion that the Bible condemns so frequently.

Since we are dealing with the United Nations it is necessary we understand their position in this. And it is a position that is quite open and blatant. For, in the Preamble to the Charter of the United Nations the following is stated: "We the peoples of the United Nations determined to save succeeding generations from the scourge of war. . . ." The UN is "determined to save" people from the blight

of war. How will they do this? They can only do this if they know the cause of war. And war, as the Bible tells us, comes from within the heart of man.

What is the source of quarrels and conflicts among you? Is not the source your pleasures that wage war in your members? You lust and do not have; so you commit murder. And you are envious and cannot obtain; so you fight and quarrel. . . . (James 4:1-2)

If the UN is determined to save us from the scourge of war it can only do so if it takes the place of Christ and can find a way to change the heart of man. This it cannot do, so it will attempt to save by external means. That is, it will attempt to save by making new and tougher laws, such as the Declaration that is the focus of our discussion. This is the purpose and intent of both the UN and its Declarations, not just on religious matters, but in other areas as well. The *Human Rights and Equal Opportunities Commission Act 1986* already has attached to it other declarations or conventions. From the International Labour Organisation we have the Convention Concerning Discrimination in Respect of Employment and Occupation; there is the International Covenant on Civil and Political Rights; the UN Declaration of the Rights of the Child; and there's more.

The modern state is thus inevitably a priestly state and a soteriological state, dedicated to the radically anti-Christian religion of works-salvation, salvation by law. The proliferation of legislation is impelled by this messianic urge, and every political campaign presents its program as a kind of true second advent. Only the right combination of laws is needed to create the good, true and saving society!³

It is this fact, more than any other, that has been the cause of the United Nations. The revival of orthodox Christianity at the time of the Reformation was eventually overshadowed by the humanistic Enlightenment. Man's new-found faith in himself required a political order to replace the sovereign God of Scripture. This new god would need to be able to unite the created order, hence the emergence of the United Nations as man's hope for self-salvation. This new god, like the God it replaced, would make laws, not written on tablets of stone but on pile upon pile, mountain upon mountain, of government paper. Whereas God's laws were written on two tablets, the new god would issue unending decrees in its attempt at total control. The result was

2. Rousas J. Rushdoony, *Politics of Guilt and Pity* (Fairfax, VA: Thoburn Press, 1978), pp. 332-333.

3. Rushdoony, *Politics of Guilt and Pity*, p. 298.

a new morality where anything goes. Only one thing is not permitted: disagreement with the basic faith of the humanist world. It is now considered politically incorrect to disbelieve that man can save himself.

The new and saving order had arrived, and "a new international morality," based on the promise of the oneness and sovereignty of man, was the gospel of the day. The social gospel had done its work; it was now time for social action: the World must be disarmed, and the United Nations made the world government. Nationalism and national independence must be destroyed. A world law and a world court must have prior jurisdiction. All barriers of nation and immigration must be steadily smashed in the name of the new morality. Racial integration must be furthered because the unity and amalgamation of races is supremely good. Local civil governments and the strength of local roots must give way to "greater loyalties." All men as men have equal right apart from their character, condition, education, or any other factor, and any form of differentiation or discrimination is evil. This and much more, including a new sexual, is the new international morality of social action. Man is made sovereign, and no moral law is recognized which stands in judgment over men and discriminates between them. In the words of the Rev. Charles Ferguson, "the clay becomes potter," man now becomes his own god and maker. Man becomes his own saviour and effects "Reconciliation through self-offering" (Stephen F. Bayne, Jr., Bishop of Olympia: *The Faith, the Church and the University, a Report of a Conversation Among University Christians*, p. 36. Cincinnati: Forward Movement Publications, 1959.)

The churches have indoctrinated their members into this faith, and they have been extensively supported by their membership. Much is made of the unrest in the churches by some reporters, but the unrest is mainly a minor one, a rebellion at particular points where someone's private ox is gored. In the main, most church members are content to remain in their clearly humanistic churches with only minor protests. Separating churches have had only limited successes, usually limited to strong personalities who command a following. A

general stand in terms of principles is lacking. Most church members differ from their clergy only in degree, not in kind: their faith is equally humanistic but not as militantly consistent as the faith of the clergy. Church members hold to a humanism of ease, to a man-centred faith in which God's chief end is man's happiness and material welfare. Their conception of God is of a cosmic Santa Claus. The clergy hold to a crusading and consistent humanism. But the logic of both positions calls for a one-world order. The most surprising thing about the United Nations is that it did not come sooner. The coming of the United Nations was not a trick of politicians but a religious necessity, called into being by the religious humanism of the Western world. The work of Alger Hiss in the formation of the U.N., and of subversives

"By law, parents must now submit to the state's demands for their children."

within the churches, would have been futile if the theological climate had not favored them. The roots of the United Nations are in religious humanism, and the U.N. will flourish in spite of all its abject failures as long as these roots remain strong. Only a return to orthodox Christianity can shatter the messianic humanism of the United Nations.⁴

There is a war of the gods in progress. Ultimate victory for God Almighty is certain. Meanwhile, each one of us must see the nature of the battle and determine his place in it. It is a question of who is saviour: God or man? For the Christian there can be only one answer.

The lines of division are, doctrinally, as sharply drawn as in the days of Rome and of emperor-worship, which involved essentially the recognition of the soteriological and priestly role of the state as the divine-human messianic order. The lines of division, humanly and ecclesiastically, are, unfortunately, scarcely drawn as yet. But men cannot seek justification *socially* by law and works of law, and long retain a conception of *individual* salvation through justification by faith. The presence of the former is due to the erosion of the latter. Men who have Christ as their all-sufficient

priest cannot create or tolerate a priestly and soteriological state.⁵

The Meaning of Discrimination and Intolerance

Perhaps the most insidious part of this Declaration is its definition of intolerance and discrimination. Article 2, paragraph 2 states:

For the purposes of the present Declaration, the expression "intolerance and discrimination based on religion or belief" means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

Note the four key words: *distinction, exclusion, restriction and preference*. And these key words are preceded by that little word *any*. Do they mean these words to be taken literally? If so, what are some of the possible difficulties that might arise if you were to show *any* preferences based on religious belief? For example, Galatians 6:10 instructs Christians to do good to all men, especially those of the household of faith. Is this not to make a preference based on religion? And could such action result in a non-Christian having his human rights and fundamental freedoms nullified or impaired? Say you were to select a new employee because he was a Christian. This could easily fall under the definition of intolerance and discrimination. (Imagine the reverse: you select an employer because he's a committed Christian? If you turned down one employer in order to take this job, could he take action under this act? That question will no doubt become the topic of much legal debate as to whether or not the act covers such a circumstance. But are we willing to take the risk that the judgement will be in the favour of the Christians?)

In essence, any prohibition against employing the person of choice for whatever reason is a denial of the freedom of association. The implementation of this Declaration, as is State law against discrimination, is a potential restriction of the freedom of association in the workplace. We would be a controlled people. Slaves, is a more emotive term, but suitably expresses the people's relationship in Australia to the Federal (and State) government with the implementation of this Declaration.

4. Rousas John Rushdoony, "Has the U.N. Replaced Christ as a World Religion?" published in a book, *Your Church — Their Target*, no publisher, no date. This essay of Rushdoony's appeared in the late 1960's.

5. Rushdoony, *Politics of Guilt and Pity*, pp. 298-299.

Think of other activities. Private schools are already under attack from homosexual communities who want the school's freedom to select staff based on their religious belief to be taken from them. In New South Wales, for example, Anti-Discrimination legislation excludes Christian schools and churches from the intent of the Act. But, as the NSW Attorney-General has pointed out in correspondence to the churches, he is advised by the State Crown Solicitor that the UN Declaration *may* require state legislation to conform with the sentiments of the Declaration.

Effectively, this puts the church and all Christians under the total jurisdiction of the political state. This attempts to make the state the God of society. In Christian theology it is the Triune God of Scripture who has total jurisdiction or control over all things. When men try to deny this idea, they merely transfer the concept of total control or predestination to the political order. Predestination, it is clear, is an inescapable concept.

But man — *finite* man — cannot have total rule without becoming a tyrant. Only God can rule totally without

This is the paragraph which perhaps concerns the NSW Attorney-General. There is some debate about the extent of this clause, however. Within the *Human Rights and Equal Opportunities Commission Act 1986* the word "State includes the Australian Capital Territory and the Northern Territory." Elsewhere, paragraph 6 (1), it is declared that "this Act binds the Crown in right of the Commonwealth and of Norfolk Island but, except as otherwise expressly provided by this Act, does not bind the Crown in right of a State." It is argued on this basis that this particular Act has little or no legislative implication for the state governments in Australia. Can we be certain of this, however?

In paragraph 4 of the *HREOC Act*, "this Act is not intended to exclude or limit the operation of a law of a State or Territory that furthers the objects of the Convention and is capable of operating concurrently with this Act." Now if the definition of "State" as provided within the Act is kept strictly, it appears that "State" refers to the six geographic and political entities commonly referred to as States of Australia, but in addition includes the Territories. Note the phrase "not intended to exclude."

It is necessary to read these two sections together to properly understand what is being legislated. Paragraph 4 is an apparent modification

to the sentiments expressed in 6 (1). While paragraph 6 (1) is intended to keep the States out of the umbrella of the legislation, paragraph 4 allows the Federal government to partially enter by the back door. Paragraph 4 apparently makes provision that where a State Act covers the objects of the Convention, the State Act is *not excluded* from the provisions of the Federal Act. Thus, for example, if there were a State *HREOC Act*, the provisions of the Federal Act would become part of, and override, the conditions of the State Act.

For these reasons, it seems better to err on the side of caution, expecting the worst but hoping and working for something better. Therefore, we share the concern of the NSW Attorney-General and rightly fear that this Declaration might be used in attempts to overturn state laws, such as the NSW Anti-Discrimination laws, that protect Christian schools and churches from its attempts to eliminate certain kinds of discrimination and intolerance.

Who Owns Your Child?

It is not usual to talk about children as if they are mere economic chat-

tels. Ownership is usually confined to things and objects, not people. Not since the abolition of slavery has it been appropriate to talk about people, especially children, as being owned by someone. Yet ownership is inescapable if we mean by ownership that someone, or some entity, has the right of control over the child.

The biblical pattern of ownership is unique. It declares that it is God who owns everything. All things that people have are therefore *delegated* to them by God Almighty. Thus, the concept of stewardship is the heart of biblical teaching. Adam and Eve were placed in the Garden and given certain duties and responsibilities. After the fall man's responsibilities are no less. He is to use those resources which Providence put into his possession for the glory of God and the extension of God's Kingdom on earth — as it is in heaven.

One of the "possessions" God has given to the family is children. It is often thought that parents own the child, but there is a mutual ownership in the biblical family. While parents have obligations and responsibilities to children, so too do children have duties towards parents. Thus, it is better to say that children are owned by the family rather than the parents.

Not so, says the modern political state. Parents apparently cannot be trusted to fulfil their obligations. They are negligent. Children are sometimes unfortunate enough to have parents who neglect their duties. But the political state — made up of the same human stock that it declares cannot be trusted to do its job properly in respect of the child — somehow will overcome this propensity in man to be negligent. Politicians and bureaucrats, it seems, are not like ordinary parents. They are almost never negligent, so they claim for themselves. But more importantly, the state claims to be able to "save" children from their parent's negligence by transferring custody of the child from the family to the state.

By law, parents must now submit to the state's demands for their children. If the state decrees that the child must attend school from the ages of 6-15, then so be it. This is law. This is the "right" age and the "right" period of time for children to be in school. What's more, the state has declared that the school — as it defines the term — is the only suitable place for the child's education to occur. Thus, the introduction of compulsory education laws in the latter half of last century was the point when ownership (i.e. ultimate responsibility) of the child was transferred from the family to the state.

The UN Religion Declaration does nothing more than reinforce this prin-

"The sole purpose of a Constitution . . . is to limit those in Federal Parliament."

violating man's freedom and liberty. Even redeemed men are not totally free from the effects of sin. Those unredeemed, who are still slaves to sin, produce slave societies that are ruthless in their rule. Only free men produce a society that provides relative freedom for man for they are willing to *restrict* their jurisdiction, placing their confidence in the total predestinating government of Almighty God. They know it is not necessary for them to rule in every area, for God is not afar off, but He rules and is active in this world moment by moment. This is why more people flee *to* Christian societies than flee *from* them. It is stark evidence of the truth of these matters.

The Extent of the Law

Article 4, paragraph 1, of the Declaration states:

All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

ciple. Although the Declaration states (Article 5, Paragraph 1) that children will have the "right" to be taught the religious beliefs that parents choose, it is clear from the tenor of the Declaration that this freedom has some serious limitations to it. In fact, the whole nature and purpose of the Declaration is to limit religious activity, so that no one religion may discriminate, or be intolerant, of other religions.

Well may we ask then what use is it to have a religious belief. Religions of all kinds discriminate against others. All religions say that their beliefs are the right ones and others are wrong. Thus, the UN Declaration has as its purpose the *abolition* of all religious belief — except for the religious beliefs underlying the UN Declaration itself: the belief in the all-powerful, all-knowledgeable, all-wise, all-controlling messianic state. This is the religion we are offered in place of our present beliefs.

Thus, we see that what the Declaration promises in one paragraph it takes away somewhere else. Paragraphs 3 and 5 of Article 5 therefore confines the religious beliefs that may be taught to children as guaranteed in Paragraph 1:

3. The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

5. Practices of a religion or beliefs in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1, paragraph 3, of the present Declaration.

To understand these paragraphs properly, it is necessary to keep in mind the definition that the Declaration gives to discrimination and intolerance. Four key words were used: *distinction, exclusion, restriction and preference*. Let's see if we can make sense out of all this.

On the one hand, to show a *preference* to someone (where it might affect his fundamental rights, as Article 2 says) is to fall into the embrace of this Declaration. Thus, to prefer one job applicant because of his religious belief would seem to be a discriminatory act that this Declaration is keen to abolish.

Similarly, however, when a child is taught to hold to orthodox Christian

faith he is also be taught to *prefer* this belief system over all others. Also, he's taught that this selection of Christianity automatically causes him to declare all other religions to be false, and teachers of these religions deceivers and liars concerning the truth. That is what the Bible requires of all those who profess to adhere to its teaching. The Declaration, on the other hand, requires a child to be taught to tolerate other religions. Well, we should most certainly teach him to be patient, kind, charitable to all men, but he is to show this *especially* to those in the household of faith (Gal. 6:10). In short, Christians are to show *preference* for other Christians, just as Muslims are taught to give special consideration for other Muslims. This preference, however, will now be limited by government decree, just as we have seen in Article 1.

This point cannot be stressed too strongly. Remember, the Declaration definition of discrimination and intolerance includes the idea of preference. Now it says that the child is to be raised in a spirit of tolerance. Tolerance, being the opposite of intolerance, means that preference becomes non-preference. Children are to be raised in a spirit of non-preference concerning religious belief. In short, the Declaration intends to put an end to *all* religious belief.

By such action, the Declaration shows that it is ludicrous in its ambition. To suggest that people can have a religious belief that does not display preference is to make a mockery of the way in which the human mind works. What the Declaration is actually saying is that we are to prefer its set of beliefs rather than those taught in the Bible. In essence, it wants people to discriminate in favour of its basic ideas. It wants us to be intolerant of all others that do not agree with its sentiments. In short, the Declaration wants us to do with its beliefs what it prohibits for any other belief system.

In a word, the UN Declaration is nonsense. There is no other word to describe it. And if we fall for its aims and ambitions, we display our ignorance of its aspirations, or we reveal our preference for the beliefs the Declaration upholds.

It is not too difficult to see that Paragraph 5 of Article 5 grants a vicious power to the government. Not only must children be taught to be tolerant of all other religions, but he cannot be taught anything that might be injurious to his physical or mental well-being. Is teaching fundamental Christian truths injurious to a child's mental well-being? Some people think so, and they are very vocal supporters of the sentiments behind this UN Declaration. It is not too hard to imagine how this Dec-

What Has to be Done?

The Declaration already has the force of law. Unless it is disallowed during the period that it is before the Houses of Parliament, the only way this Declaration can be removed from law is by a specific act of Parliament.

Under the *Acts Interpretation Act 1901* (Sect 48), which governs the introduction of this Declaration, there is an opportunity to have the Declaration disallowed in either House of the Federal Parliament. On May 26, Liberal Senators moved in the Senate a notice of motion to disallow the Declaration. A similar motion was foreshadowed in the House of Representatives on May 27. With parliament in recession until August, we have a little more time to lobby politicians to ensure its defeat. This much we must do. We owe it to our children not to leave them in a political situation worse than we inherited.

Write to Members of Parliament. Promise to recruit at least one other person to write, and get that person to recruit another, and so on down a long chain of individuals. Bring this matter before church groups, anyone, in fact, who will listen and act to save the day.

Tell a friend about this issue. Order more copies of this newsletter and pass them around among friends and church groups. (FACS is assisting in the publication of a book on the issue. Written by David Mitchell and Ian Hodge, it will be available early in July. We'll let you know as soon as it is available. Pray that it will be out in time and used by God to awaken people to the issues.)

Last, but certainly not least, make this a matter of personal and corporate prayer.

laration might be used to limit the activities of Christian schools, or to prevent Christian parents from operating home schools.

Suitable Places

So far we have seen that the *Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief* has attempted to put an end to all forms of religious belief except belief in the political state as saviour and lord. This is the belief system that is being offered to us in this Declaration.

Its comprehensiveness, however, can be seen in Article 6. On the one hand, in Sub-Paragraph (a) it grants the freedom "to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes." A little later, sub-Paragraph (e) grants the right "to teach a religion or belief in places suitable for these purposes." Well might we ask what is a "suitable place" for the teaching of religion. While there is no categorical statement that a

religion will be limited to "suitable places" it is easy to see that there is an *implied* concept that someone must define what is a place suitable for the teaching of a religion. Who shall make such a judgement? We answer that question the moment that we ask it: the state will determine what places will be suitable for the teaching of religion.

It may come as a surprise to some that there should be an attempt to control the places of religious worship. But in 1984 the Baulkham Hills Shire Council banned a Northmead family from holding church services in their home.⁶ According to the chief town planner, any place of worship needed the approval of council. In most cases, this would require specific zoning to permit worship services to be held in homes. Neighbours had apparently complained. The sentiments reportedly expressed by one councillor were, "If everyone wanted to set up a place of worship, the place would be shemuzzle."

Thus, the thin edge is exposed; the principle is established. Religious worship is to be controlled. More specifically, *Christian* religious worship is to be restricted. If the council can ban worship in the home for 24 people, then why not for 12 people, and why

“. . . the Commonwealth should pass laws that prevent people from practicing some of the beliefs of false religions.”

not for six or two? And if it can be banned in the home, why not elsewhere. Especially, if a UN Declaration makes provision for the development of "suitable places" for worship.

Implications

There are some further practical implications that might be drawn from the UN Declaration. So far, I have given some examples of how I think it is possible that this Declaration might be used. In this section I'm going to let my imagination run a little more and draw some hypothetical illustrations that might be implicit in the Declaration.

It has already been suggested that a prospective employee could use this Declaration to claim discrimination if someone else was selected for the position because of his religious belief. This principle, that someone who misses out because of a religious belief has been discriminated against, can be applied elsewhere. Employment in

Christian schools by non-believers, practicing homosexuals, and others is a clear example. But there's an example that, while it may appear to be extreme, is no more than an extension of the principle stated here. Could a prospective marriage partner who is turned down because of religious beliefs take action under this Declaration or other legislation which might support its sentiments? A frivolous example, you say. Wouldn't get past the front door of those enforcing Human Rights and Equal Opportunities legislation, you argue. Yet there are many examples of people using the courts for equally petty situations.

While it may be fair to say that this is probably not the *intention* of the Declaration, the question that must be asked is could it be used in this way in the future? Surely, if the Declaration does not intend to be used in this manner, then it seems it could fairly be asked to ensure, within itself, that it makes these kinds of particular exclusions. This way, everyone would know exactly what is the intention of the Declaration.

The Declaration, however, is not so clear. And it is this propensity to vagueness, unclear definitions, and faulty logic that should concern us. It is because it leaves doorways open that it invites someone to use it in ways that might not be envisaged at the time it was written.

Denominational welfare institutions, such as retirement villages built for members of a particular denomination, will no longer be able to select on the basis of religious test. This right, however, has almost been taken away by the fact that the government finances most denominational welfare institutions. With the money has come government control, and many are finding that they may no longer use their denominational institutions for the exclusive use of its members.

Recent activity in New South Wales by homosexual groups has put pressure on the government to repeal its anti-discrimination legislation which specifically excludes private schools and churches. The President of the Anti-Discrimination Board which administers the Act has reportedly received a "significant number" of complaints, alleging discrimination at Christian schools. Apparently "numerous" men and women have been either dismissed or not hired in the first place because of their sexual preferences. Under the present law, the Board cannot take action against the schools. But if the UN Declaration re-

quires that State legislation conform with its intentions, then the privileges and advantages of the Christian school will disappear.

Rev. Dr David Mitchell, whose efforts against this UN Religion Declaration (and others similar to it) have been remarkable, has raised the question of whether or not this Declaration might prohibit evangelistic activities. If this were true, it means the end of free speech. In fact, since the Declaration appears to make teaching a religion an offence by instructing someone to prefer one religion over another, the end of free speech appears certain. Will it become a crime for a Christian to approach an unbeliever and tell him that there is only one way of salvation: faith and trust in Jesus Christ as Lord and Saviour? There is only one way to ensure that freedom to evangelise continues to exist: do everything possible to ensure that this UN Religion Declaration is overturned.

Contradictions

It is difficult to see how the courts of the land can enforce a piece of legislation that is contradictory. Not only does there appear to be contradictions within itself, but the UN Declaration appears to disagree with sentiments expressed in the Australian Constitution itself. For example, Section 116 of the Australian Constitution 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."

Now this section of the Constitution offers some very interesting thoughts. *First*, it states that "the Commonwealth shall not make any law for establishing any religion," yet this is exactly what the UN Declaration attempts to do. It attempts to establish the religion of secular humanism as the only religion that is to receive legal status in the Commonwealth of Australia. No doubt the Federal government does not see itself as establishing any particular religion, which means our task is to help it realise its error.

A religion of some kind, of course, is inescapable. It is a myth to assume that we can somehow have a belief which, at the same time, is not a religious belief. A religious belief is one where a person has a belief about himself and where he comes from (i.e., metaphysics); it includes a belief about how knowledge is obtained and verified (i.e. epistemology); and incorporates concepts about justice,

6. *The Mercury*, May 29, 1984, p. 1.

goodness, right and wrong (i.e. ethics). These three concepts are inescapable: everyone has some belief about them. The only question is this: which answer is the *right* answer? But we cannot answer this question without assuming answers to the basic questions themselves. We must assume that either we are the creation of God Almighty, or we assume the origin of the human race lies elsewhere. If we assume the former, then we must recognise that the answer to the two remaining concepts must be based on what God tells us, not on what we like to imagine. Naturally, if we assume we're not created, then we have to somehow show how man, without the aid of Divine Revelation, can be certain that what he knows is right and true.

Second, Section 116 states that "the Commonwealth shall not . . . [prohibit] the free exercise of any religion." The Christians have already lost out on this one, if they are seeking to prevent the Commonwealth from passing any laws which limit the free exercise of religion. In wartime, for example, some religious groups were banned from practicing their religion (e.g. Jehovah's Witnesses). There are other religious beliefs which we may wish the Commonwealth government (or State governments) to prohibit. So, ultimately we cannot expect that the Commonwealth will limit itself in making legislation of the present kind which interferes with the free exercise of a religion.

Rather, we must expect that the Commonwealth *should* pass laws that prevent people from practicing some of the beliefs of *false* religions. For example, there are religions which encourage cannibalism. We certainly would want the Federal government to prevent this from occurring within Australia where it has the appropriate jurisdiction to do so. In some places homosexuality is also a religious practice, as are various kinds of immoral (from the Biblical perspective) sexual practices, and there are sound biblical reasons for having government legislation restricting these activities.

No, we certainly do not want the Commonwealth to keep right out of religious issues. We want it actively promoting the true religion, and those beliefs and practices that are right, noble, and true. In short, we want the Commonwealth government to be actively Christian and encourage and legislate in terms of the Christian faith.

Third, "no religious test shall be required as a qualification for any of-

fice or public trust under the Commonwealth." This clause is fascinating, and reflects similar sentiments as found in the UN Declaration. The Declaration is an attempt to prevent the Commonwealth and others from practicing discrimination or intolerance on religious grounds. That is exactly what this phrase in the Constitution also encourages. While its origin needs to be kept in mind (i.e. it was an attempt to prevent any one Christian denomination gaining advantage from the Commonwealth by prohibiting the Commonwealth from implementing any religious test), the wording in common usage today can be used to argue that the Australian Constitution forbids the Commonwealth from showing religious discrimination.

Thus, it could be argued — wrongly, I believe — that the UN Declaration only extends sentiments already expressed in Section 116. We need to be on our guard on this one, lest our enemies use the Constitution to support their agenda. Our silence on this clause just might be used against us.

Had we been less complacent, we might have opposed the wording of Section 116. Not that the *sentiments* behind the section are wrong. Quick and Garran, in their *Annotated Constitution of the Australian Commonwealth* point out that this section "is not intended to prohibit the Federal Government from recognizing religion or religious worship. The Christian religion is, in most English speaking countries, recognized as a part of the common law."⁷ The authors of these words were present at the time of the formation of the Australian Constitution, and their knowledge of the *intent* of the framers of the Constitution cannot be dismissed lightly. Their comments, however, take us to another dimension of this debate: the meaning of the Constitution.

"Original Understanding" — or The End of Federalism

I am going to present here an argument that makes some lawyers shudder. They don't like to get too involved in it. It is an argument over the *original intent* of the Constitution. There are some who follow an interpretive approach to the Constitution called "original understanding." Those subscribing to this view in Australia are unfortunately unnoticeable because there are so few of them. There is,

however, a larger and more vocal group in the United States. A recent defender of this view is Judge Robert H. Bork, former President Ronald Reagan's failed nominee to the US Supreme Court.

The lawyer's hesitation over this view is understandable. The argument is not popular, for it places a real restriction on the activities of the Federal government. The courts, made up of legal people, do not tend to uphold the Constitution's original meaning or intent. But, "if law is more than naked power," argues Robert H. Bork, "it is *that* meaning the Justices [have] a moral duty to pronounce."⁸ The sole purpose of a Constitution, as we shall see, is to limit those in Federal parlia-

"It is because we can take the high moral ground on this Declaration that we can be certain the victory is ours on this issue."

ment. It is a document designed to give *limited jurisdiction* to the politicians in Canberra. What were the original meaning and circumstances of the Australian Constitution relating to religion?

Thus, a key issue in this debate is the meaning of the Constitution itself. The UN Declaration assumes that the Federal Government is able to pass legislation in this area of religious belief. It assumes that the Commonwealth can also enforce state and municipal governments to bring their legislation into line with the Declaration. This view we must vigorously reject.

Prior to the establishment of a Federal parliament, the basic government in Australia was at the State level. When the Federal Government was formed, the States handed over certain of their powers to it. The Australian Constitution, especially Section 51, sets forth those powers in writing. Thus, in the words of Quick and Garran, "the Federal Parliament is a legislative body capable only of exercising enumerated powers. Its powers are determined and limited by actual grants to be found within the Constitution. *Anything not granted to it is denied to it.*"⁹ This is the sole purpose of the Constitution: to set forth the duties and the limitations of the Federal Parliament. The fact, therefore, that the Commonwealth was prohibited from making any religious test for public

7. John Quick and Robert Randolph Garran, *The Annotated Constitution of the Australian Commonwealth* (Sydney, NSW: Legal Books 1976 [1901]), p. 951.

8. Robert H. Bork, *The Tempting of America* (New York: The Free Press, 1990), p. 176.

9. Quick & Garran, *op. cit.*, p. 952, emphasis added.

office does not mean that the State governments could not do this. This power was *retained* by the States, for they did not deny themselves the power to legally establish any one religion over another.

The Constitution is therefore a *limiting* document: it limits the activities of the Federal Parliament. It sets out the boundaries of the Federal Parliament. Thus, Australia has a Federal *Constitutional Government*. This "means something more than government according to the terms of a Constitution. It means government according to rule as opposed to arbitrary government; it means government limited by the terms of a Constitution, not government limited only by the desires and capacities of those who exercise power, . . ." as Sir Kenneth Wheare put it. "The real justification of Constitutions, the original idea behind them, is that of limiting government and of requiring those who govern to conform to law and rules."¹⁰

The attempt by the Federal Parliament to inflict upon the Australian people the United Nations *Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief* must therefore be seen as an attempt to legislate in an area where it has no Constitutional jurisdiction. In short, what it is doing is illegal — if by legal we keep in mind the concept of original intent, or original understanding. (Remember, this is an argument that won't get a hearing from too many judges and lawyers in this country, just as it did not help Robert Bork to the bench of the US Supreme Court.)

The Constitution, by setting forth the enumerated powers of the Federal Government, clearly establishes the independence of the State parliaments. These legislative bodies, once the key governments in Australia, have slowly had their powers reduced. This came about essentially when they handed over a lot of the revenue raising to the Commonwealth. Now we have the annual fiasco of the States seeking finance from the Federal Government. He who pays, however, calls the tune. And the Federal politicians are not shy in letting their demands be known.

In its latest grab for power, the Federal Government is seeking to control all education in the country. It has already taken control over business activity by offering to operate a federal register of business names. Its corpo-

rate watchdog, the Australian Securities Commission extends further control over businessmen and women.

Similarly, since it finances more than a fair portion of State-run educational institutions, it now seeks control over education. A former NSW Labor Premier, echoing these activities, declared that State governments were unnecessary. Welcome centralised government.

Thus the very bulwark against tyranny is being broken down. Self-government at the State level is being replaced by national government from Canberra. It is easy to predict what kind of Republic will be established. We will not look at the United States

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as our example, but at the French Revolution and its Reign of Terror.

Given the current status of affairs in the legal profession, this argument is not bound to hold much strength with them. Yet we must insist that the argument is valid, and we should not be afraid to use it. For, as Bork observes, "the interpretation of the Constitution according to the original understanding, then, is the only method that can preserve the Constitution, the separation of powers, and the liberties of the people."¹¹

Conclusion

The *Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief* must be defeated. It must not be permitted to proceed through the Parliament and remain as part of the law of this country.

In summary, our opposition to this Declaration is as follows. *First*, it sets forth the political state as the supreme sovereign or power. Only God Almighty, however, is entitled to this position. The state knows no higher authority than itself, and is therefore attempting to take the place of God who alone is the Supreme Lawgiver. *Second*, the state's purpose in laws of this kind is to endeavour to be the saviour of mankind from what it considers are evil actions. Again, Christianity asserts Christ as the true Saviour,

and none can take His place. *Third*, by legislating this Declaration, the Federal Parliament has made secular humanism the official religion. This contradicts the spirit of the Declaration itself, but proves beyond doubt that religious neutrality is impossible. There is always a religion of some kind behind all legislation. *Fourth*, the Declaration contradicts the religious liberty clause of the Australian Constitution (Section 116) as it was originally understood. In effect, this means the Constitution cannot be used as a standard to have fixed laws.

For these reasons, the more vigorous our opposition to the Declaration, the more we align ourselves with everything that is good and true, for Jesus Christ declared that He alone is "the Way, the Truth, and the Life." Thus the nature of our opposition to the Declaration is religious. We cannot take the high moral ground on this if we want to somehow argue that the state should be neutral towards all religions. Our faith requires us to believe that the state is

to legislate God's righteous standards of equity and justice in the affairs of men. To believe and desire less than this is a departure from the faith and a denial of the God who is the Creator and Saviour of mankind.

Free speech, a free press, and the freedom of religion have all disappeared with the appearance of the Religion Declaration. Thus, what this generation has inherited it has managed to squander in a very short space of time. Conscience, governed by the dictates of Scripture, demands that we do something to halt the slide in arbitrary law and the tyranny that usually accompanies it.

It is because we *can* take the high moral ground on this Declaration that we can be certain the victory is ours on this issue. It may well be that we must suffer for a time for our sins of commission and omission, those wrong things we've done that we shouldn't have done as well as those things that we should have done which, for some reason, we didn't get around to doing. With God on our side, however, who can defeat us, for He has promised to never leave us nor forsake us. Accordingly, we can be bold and courageous in this battle with those who wish to control the church of the Lord Jesus Christ. Let us therefore stand in the name of the King.

10. K.C. Wheare, *Modern Constitutions* (Oxford: Oxford University Press, 1960), p. 137.

11. Bork, *op. cit.*, p. 159. While it is recognised that these words were written in discussion of the US Constitution, the sentiments are equally applicable to the Australian situation. It's just that we have no outspoken judges defending the idea of "original understanding."