

Strengthening Religious Diversity and Harmony in South Australia

Report by the Taskforce on Religious Diversity

South Australia 2010

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Executive Summary

This report summarises the findings of the Taskforce on Religious Diversity of South Australia, established by the Minister for Multicultural Affairs, Grace Portolesi. The Taskforce looked into the following matters; the current approach to community education about religious freedom; the identification of strategies to acknowledge the contribution of the Muslim community to economic, social and cultural life; strategies to educate the community about some of the major elements of Islamic faith; the range of complaint mechanisms available in relation to issues of religious freedom; and current community-education programs about formal complaint mechanisms.

The Taskforce drafted 16 recommendations in relation to religious diversity, all requiring action from State and local Government, community organisations, sport organisations, schools, universities, complaint-management bodies and public- and private- sector employers.

With regard to community education, the Taskforce concludes that there is a need to increase public understanding about the various religions that co-exist in South Australia to tackle prejudice and discrimination. State Government, local government, schools, complaint-management bodies, and employers all have a responsibility to educate community members.

The Taskforce concludes that, while it is foremost the responsibility of the religious groups themselves to create awareness about exceptional achievements of its members, the State Government should, however, provide leadership by acknowledging members of diverse religious groups, with special attention to young people.

In relation to community education about elements of Islamic faith, the Taskforce suggests that there is a lack of public understanding about Islam, and that Universities should cooperate on research and publications about religious diversity.

The Taskforce observes that current legislation on discrimination on the grounds of religion provides only limited legal protection for victims of discrimination, and that it needs to be amended especially at the Commonwealth level.

Existing education programs for staff members and new arrivals about formal complaint mechanisms should incorporate information on discrimination on the grounds of religion or religious appearance or dress.

List of recommendations

- 1. That the Government of South Australia supports a yearly public event at which all religious groups and leaders come together to reaffirm and celebrate South Australia's commitment to respecting and valuing cultural and religious diversity.**
- 2. That the Government recommends to the Speaker of the House of Assembly that, at the opening of the South Australian Parliament and Parliamentary sessions, an opportunity is created to acknowledge South Australia's cultural and religious diversity.**
- 3. That local councils demonstrate their commitment to religious diversity and the inclusion of members of diverse religious groups by engaging them in council activities.**
- 4. That the South Australian Government encourages all education providers to include information about religious diversity and religious beliefs in their school curricula.**
- 5. That employers in the public and private sectors incorporate information on ethical conduct, and discrimination based on religious appearance or dress, into existing induction and management training provided to employees.**
- 6. That the State Government and religious communities explore ways to acknowledge exceptional contributions to South Australia by members of diverse religious groups.**
- 7. That the State Government, local sporting organisations and youth clubs work with youth of culturally and religiously diverse backgrounds to strengthen and increase inclusion of these young people in society.**
- 8. That the Government of South Australia facilitates, via Multicultural SA, consultation between media organisations and religious-community organisations to improve the relationship between the media, the public and religious groups.**
- 9. That the University of South Australia, the University of Adelaide and Flinders University – through their institutions such as the International Centre for Muslim and**

Non-Muslim Understanding; the Don Dunstan Foundation; the Research Unit for the Study of Society, Law and Religion; and Oasis – cooperate to increase public education and information about religious diversity.

10. That the South Australian Government, the business sector and trade unions demonstrate their commitment to religious diversity by encouraging employers to accommodate, whenever possible, staff who wish to take annual leave to celebrate religiously significant days.

11. That, acknowledging the history of debate about discrimination on the grounds of religion, the South Australian Government works with the Commonwealth Attorney-General to strengthen the powers of the Australian Human Rights Commission in relation to discrimination on the grounds of religion.

12. That complaint-management bodies and SAPOL implement improved complaint processes for victims of verbal and/or physical abuse based on religious intolerance.

13. That complaint-management bodies and SAPOL investigate their own data-collection techniques, related to incidents of verbal and/or physical abuse motivated by religious intolerance and reported by members of diverse religious groups, to determine whether the current data reflects the reality.

14. That agencies such as the Equal Opportunity Commission, the Office of the Employee Ombudsman and the Fair Work Ombudsman review their training sessions and materials with a view to incorporating information on religious diversity and discrimination on the grounds of religion or religious appearance or dress.

15. That the public and private sectors, trade unions, religious organisations and complaint-management bodies review their dissemination of information about discrimination complaint mechanisms.

16. That the organisations in charge of settlement services and education programs for newly arrived migrants and refugees ensure proper dissemination of information to newcomers about rights and responsibilities under Australian law, including the right to seek redress via complaint mechanisms.

Introduction

Recent calls to ban the burqa in South Australia led to significant media attention. In response, the Minister for Multicultural Affairs, Grace Portolesi MP, took part in a public forum about wearing religious dress as part of one's right to freedom of religion and belief.

A Taskforce on Religious Diversity was established, consisting of representatives of: South Australia Police; the Department of Immigration and Citizenship; the Equal Opportunity Commission; the Office of the Employee Ombudsman; the Catholic Education Office; the Association of Independent Schools of SA; the Department of Education and Children's Services; the University of South Australia; SA Unions; Business SA; and Muslim community organisations. The Taskforce was chaired by Lieutenant Governor Hieu Van Le AO, the Chairman of the South Australian Multicultural and Ethnic Affairs Commission.¹ The Taskforce met three times between June and November 2010, and it carried out an independent review based on the following terms of reference:

- To examine the current approach in SA to community education about religious freedom, with a particular focus on education programs managed by employers for employees and by unions for members.
- To identify strategies that could be implemented to acknowledge the contribution of the Muslim community to the economic, social and cultural life of South Australia.
- To identify strategies that could be implemented to educate the South Australian community about some of the major elements of the Islamic faith.
- To report on the range of complaint mechanisms available in relation to issues of religious freedom.
- To report on the current community-education programs about formal complaint mechanisms.

In a fact-finding exercise, the Taskforce shared and collated all information available among its members and sought, whenever information gaps were identified, additional information from external sources. Based on its findings, the Taskforce devised 16 recommendations.

¹ For a complete list of the members of the Taskforce for Religious Diversity, see Appendix 2.

This report aims to provide a general overview of the South Australian projects and programs in relation to religious diversity, as identified by the Taskforce. It further attempts to identify current issues in relation to religious diversity and to offer suggestions for concrete action by Government, businesses, trade unions, schools, complaint-management bodies, community organisations and others.

Terms of Reference 1: to examine the current approach to community education about religious freedom

Religious diversity

The Taskforce acknowledges that South Australia has a proud history of religious freedom, and that the very founding of South Australia and its early years as a colony were characterised by “religious pluralism”. The colony was founded at a time of great conflict, in Britain, between the Church of England and the so-called “dissenting” denominations – such as the Baptists, the Congregationalists and the Methodists. South Australia, the new colony, would be a place of “civil and religious liberty”. Circulars promoting the new colony were distributed among Dissenter congregations across England. As a result, South Australia, in the early days, became home to Anglicans, Catholics, Scottish Presbyterians, German Lutherans, Quakers, Unitarians, Swedenborgians, Jews and Muslim Afghan cameleers. All these religious groups established places of worship such as churches, synagogues and mosques, in Adelaide. This is one of the reasons why Adelaide was known as “the City of Churches”. Throughout the 20th Century, the range of faiths present in South Australia grew with the arrival of every new group of settlers, such as Sikhs, Hindus, Baha’is and Buddhists. In the 2006 Census, South Australians identified themselves as being followers of almost 150 categories and sub-categories of faith. Albanian Orthodox, Rastafarian, Taoism, Witchcraft, Animism, Druidism, Atheism – all these and more are listed against the question of “religious affiliation”².

The Taskforce acknowledges every citizen’s right to believe, or not to believe in a religion of one’s choice. However, the Taskforce is aware that the mere collection of different religions in South Australia does not, in itself, constitute dialogue. Being conscience of the existence of other faiths is not the same as talking to one another and truly understanding and appreciating each other. The Taskforce believes that additional commitment from all parties is needed to strengthen further religious diversity and harmony in South Australia.

Given South Australia’s history of religious freedom, the Taskforce would welcome the State Government demonstrating its commitment to religious diversity by supporting the organisation of a yearly event to celebrate religious diversity in South Australia.

² See Australian Census of 8 August 2006.

Terms of Reference 1: to examine the current approach to community education about religious freedom

Such an event should take place throughout the State, and not just in the Adelaide metropolitan area. It would be a sustained effort of South Australians of all religious backgrounds to come together to listen to each other and to seek common ground. During this event, religious groups and leaders could open their churches, mosques, temples and synagogues to share their religious values with the public. South Australian religious-community groups could use this event to build closer links between each other and to strengthen multi-faith initiatives, such as the “Cultural Diversity Week: Open House”, of the Interfaith Network of the City of Greater Dandenong, Victoria. In Dandenong, a yearly event is organised during which all places of worship are open to the public. Bus tours are offered to visit the different places of religious worship in the region where members of that faith community inform the public about their beliefs and practices.

The organisation of a similar event in South Australia would give a strong message about Adelaide’s image of being a “City of Churches”, and it would increase public understanding about the various religions that peacefully co-exist in South Australia. It would also allow for further development of interfaith relationships and dialogue between the diverse religions.

1. That the Government of South Australia supports a yearly public event at which all religious groups and leaders come together to reaffirm and celebrate South Australia’s commitment to respecting and valuing cultural and religious diversity.

Religious diversity recognised in Parliament

The Taskforce concludes, on the basis of the data collected, that dissemination of information about religious diversity and freedom in South Australia needs closer State Government attention. The Government can, by promoting religious diversity to the public, tackle prejudice and discrimination of diverse cultural and religious groups. Improved awareness among the population will ultimately lead to further inclusion of members of religious and multicultural groups within South Australian society.

Starting in its own Parliament, South Australia should demonstrate recognition and respect for its multicultural and religious diversity by inviting different speakers to reflect upon their religions and their perspectives on issues of faith.

Terms of Reference 1: to examine the current approach to community education about religious freedom

The Taskforce notes that Parliament starts every session with a reading of prayers.³ These prayers are traditionally based on Christianity and are part of the standing orders. After the prayers have been read, there is an acknowledgement of the traditional owners of the land – a recent initiative of the current Speaker. The Taskforce is aware of the fact that in, for instance, the Scottish Parliament, members of a religious affiliation are requested to address Parliament for up to four minutes during its weekly “time for reflection”. This “time for reflection” provides a sense of the diverse religious beliefs, – including no religion –, in Scotland. The Taskforce suggests a similar practice be established in South Australia.

Another option to demonstrate respect for religious diversity would be a celebration similar to the one held during the 2010 opening of Federal Parliament in Canberra. During this opening, an ancient smoking ceremony in honour of the first indigenous member of the House of Representatives was performed. In addition, a family Qur’an was used by the first Muslim representative to swear his oath, and more religious diversity was demonstrated by a Jewish representative wearing a kippah (a traditional Jewish head covering) as a sign of respect.

2. That the Government recommends to the Speaker of the House of Assembly, that at the opening of the South Australian Parliament and Parliamentary sessions, an opportunity is created to acknowledge South Australia’s cultural and religious diversity.

Local Government commitment to religious diversity

On a community level, a broad range of small, ad hoc projects and programs in relation to community education about religious freedom has been initiated by community organisations. These projects vary from public presentations by local, interstate and

³ The Prayer reads: “Almighty God, we humbly beseech you to bless this Parliament and to direct and prosper our deliberations to the advancement of Your Glory and the true welfare of the people of this State. Our Father, which art in Heaven, Hallowed be Thy Name, Thy Kingdom come. Thy will be done in earth, as it is in Heaven. Give us this day our daily bread. And forgive our trespasses, as we forgive them that trespass against us. And lead us not into temptation, but deliver us from evil. For Thine is the Kingdom, and the power, and the glory, for ever and ever. Amen.”

Terms of Reference 1: to examine the current approach to community education about religious freedom

international speakers on diverse religions such as Christianity, Judaism, Baha'i and Islam, to open days at mosques, temples and synagogues. Projects further involve, among other things, the sharing of food, Muslim fashion shows, interfaith gatherings, and publications about religions and spirituality.

These projects are predominantly initiated by local community groups to reach out to community members, and are occasionally carried out in conjunction with local councils. These events present a chance to inform a broader public about diverse religions and to bridge the gap between members of different religious backgrounds. It is noted, however, that many of these projects reach only certain community members. Most people who attend these events already have an interest in other religions and religious freedom. Those members of the public who have no interest in this subject whatsoever, and who may have certain misconstrued perceptions of non-mainstream religions, are often not reached by these programs. The Taskforce believes that local councils should be more involved in reaching a wider public through community projects. Local councils have an important role to play in including members of diverse religious groups in the community. By demonstrating respect for religious diversity and by promoting harmony within their communities, councils should demonstrate much-needed leadership. Council support is vital for community organisations that are running events celebrating religious freedom and diversity. Not only can councils assist in the marketing and advertising of these events, their support will, above all, increase local understanding about religious and multicultural diversity within the community and ensure that real connections between people are being made.

3. That local councils demonstrate their commitment to religious diversity and the inclusion of members of diverse religious groups by engaging them in council activities.

Religious-diversity education in schools

The collected data demonstrates that, in the education system, some schools provide religious education classes, at different levels, to their pupils and sometimes staff. However, the Taskforce has concluded that many Government schools do not teach students about religious diversity in itself, but a focus on beliefs education may occur within the areas of

Terms of Reference 1: to examine the current approach to community education about religious freedom

multicultural education, the Society and Environment learning area, values education and Studies of Asia.

For example, at some independent schools, older students are taught about major world religions, such as Christianity, Islam, Judaism, Buddhism and Hinduism. Younger children learn about different cultures and their religions. At Catholic schools, older pupils receive education about religious diversity via the Framework for Religious Education Learning.

In Government schools, religion-related studies can occur at three levels: curriculum; religious seminars; and programs managed by volunteers of different faith groups.

Within the curriculum, teachers use a wide range of resources to support beliefs education through Studies of Society and Environment, values, multicultural education, human rights education and Studies of Asia. Teaching and learning is designed to enable students to develop an understanding of the presence and influence of religion in life and society. It is not the purpose of this study to bring about commitment to any set of beliefs, but to create a sensitive understanding of the variety of beliefs by which people live – whether religious, non-religious or traditional.

In the early, primary and middle years of schooling, there is no separate subject called Religious Studies. In the Senior Secondary Years, three religious studies courses are offered in the South Australian Certificate of Education for senior secondary students. The uptake for these courses is, however, not strong in Government schools.

Regulations under the South Australian *Education Act* allow for religious seminars to be held on one half-day per school term. School Governing Councils can make the decision to endorse a religious seminar, within departmental guidelines. Student participation is voluntary and requires the informed consent of parents.

The Christian Pastoral Support Worker (CPSW) Program in Government schools complies with the policies of the Department of Education and Children's Services. It is interesting to note that the formal agreement between the Minister of Education and the Heads of Churches State Schools Ministry Coordinating Group does not preclude a similar program or agreement being developed with any other faith group that is seeking to offer a volunteer service in schools. There is an obligation, however, that all current volunteers involved in the

Terms of Reference 1: to examine the current approach to community education about religious freedom

delivery of religion-related programs operate at all times under the direction of the principal and follow the obligation of all people on a school site to refrain from proselytising.

Some teachers at independent, Catholic and Government schools have undertaken professional training on Islam and Judaism, countering racism and multicultural education. On another level, universities offer courses in religious studies that can be undertaken as a major, sub-major or elective in degree programs for undergraduates.

The new Australian Curriculum will provide opportunities for students to learn about diverse belief systems – both religious and non-religious. Education is an important vehicle for addressing misconceptions, ignorance and prejudice about religions among young people, and it is important for all South Australian children to be consistently educated about all major belief systems, such as Christianity, Hinduism, Islam and Buddhism.

4. That the South Australian Government encourages all education providers to include information about religious diversity and religious beliefs in their school curricula.

Religious-diversity training in the workplace

Business SA expresses the view that: “Current small business practices indicate that small businesses do not have the resources to develop and conduct their own training, and often depend on information from other sources.”

The Taskforce would welcome current training (including for managers) being altered to incorporate religious and multicultural diversity. Small-business networks should be engaged to explain to business owners the commercial benefits of having staff from diverse multicultural backgrounds.

Larger service providers with frequent dealings with community members of different cultural and religious backgrounds are South Australia Police and the Department of Immigration and Citizenship. Both organisations offer regular training for their staff members. South Australia Police provides cultural and linguistically diverse training and publications outlining major

Terms of Reference 1; to examine the current approach to community education about religious freedom

world religions to all sworn police. The Department of Immigration and Citizenship offers cultural-diversity awareness training with a religious-diversity component to staff members.

Information provided by SA Unions shows that it does not provide any education on religious diversity for its members or any members of its affiliate organisations.

In addition, official complaint-management organisations, such as the Office of the Employee Ombudsman and the Equal Opportunity Commission, also do not cover any specific training on religious diversity.

On this basis, the Taskforce concludes that a bigger effort should be made to engage all employers to strengthen their religious-freedom education programs, and that information dissemination should increase.

5. That employers in the public and private sectors incorporate information on ethical conduct, and discrimination based on religious appearance or dress, into existing induction and management training provided to employees.

Terms of Reference 2: to identify strategies to acknowledge the contribution of the Muslim community to the economic, social and cultural life of South Australia.

Acknowledgement of special contributions

The data collected by the Taskforce does not reveal any specific strategies to promote the social, economic and cultural contribution of the Muslim community in South Australia by the private and public sectors, including the education sector. Furthermore, most community projects do not specifically address this issue, with the exceptions of the organisation of a conference on Muslims' contribution to Australian history, and the publication of the *Murray Migrant News*, a community newspaper. Small community projects, however, are, in themselves, proof that members of community organisations and religious communities are actively contributing to the economic, social and cultural life of South Australia.

National projects worth mentioning are the programs developed as part of the National Action Plan to Build on Social Cohesion, Harmony and Security (NAP) relating to the promotion of the Muslim contribution to Australian society. These projects include research projects,⁴ small community grants,⁵ and a project regarding appreciation of Muslim culture in Australia. South Australia is a partner in this project.

The Taskforce believes that it is foremost the responsibility of religious groups, themselves, to create awareness about exceptional achievements of their members. By appointing ambassadors among themselves, religious groups can promote the social, economic and cultural contributions of their members to the general South Australian public. Successful artists, scientists, and sports and business people, should become ambassadors and play an important role in educating and informing the public about their religion and its values. The promotion of diverse religions by successful public figures will lead to better general understanding and acceptance of diverse religions. Recognition will lead to empowerment and further inclusion in South Australian society of members of diverse religions.

The Taskforce is of the opinion that, since there are minimal strategies to promote the contributions of diverse religious groups in South Australia, the State Government should

⁴ Such as "Muslim Australian voices", "Muslim Australians and Local government", "Civil and social participation of Muslim Women", "Understanding Muslim Identities", and a publication named "The Australian Journey-Muslim communities".

⁵ Such as "Who?", "You will achieve", "Linking communities through participation & opportunity", "Youth Leadership program" and "Step-In-Out: Multicultural Young Men's Leadership".

Terms of Reference 2: to identify strategies to acknowledge the contribution of the Muslim community to the economic, social and cultural life of South Australia.

provide leadership. It should recognise members of diverse religious backgrounds who make a positive influence to South Australian society by acknowledging them. Such acknowledgements would not only put members of different religious groups in the limelight, but also promote religious diversity and harmony within South Australia.

6. That the State Government and religious communities explore ways to acknowledge exceptional contributions to South Australia by members of diverse religious groups.

Religious diversity in sport

The Taskforce believes that special attention should be given to the position of young people from diverse religious backgrounds. The Taskforce encourages community organisations, such as local sporting organisations and youth clubs, to assist in getting young CALD (Culturally and Linguistically Diverse) people involved in sport and youth clubs. Community programs that focus on youth from diverse religious backgrounds allow young people to connect with their local community by way of sport, and this would help them become active within their community and prevent further isolation. The Taskforce would like to draw attention to successful projects, both locally and nationally, such as the project “On the same wave” of the Surf Life Saving Association of Australia.

The Taskforce also believes that these projects should be initiated not just in Adelaide, but implemented in rural South Australia as well.

7. That the State Government, local sporting organisations and youth clubs work with youth of culturally and religiously diverse backgrounds to strengthen and increase inclusion of these young people in society.

Terms of Reference 3: to identify strategies to educate the South Australian community about some of the major elements of the Islamic faith.

Information about diverse religions

The collected data leads to the conclusion that information that explains some of the major elements of Islamic faith is not widely available to the public in South Australia.

Most information currently available is provided by Muslim-community organisations by way of information sessions and workshops in schools and public places, such as local libraries. These presentations are sometimes about specific subjects, other times about Islam in general. In addition, several organisations have published information leaflets about Islamic issues (such as Ramadan, Jihad and misconceptions about women) for the community.⁶ In addition, a book about a South Australian who converted to Islam has been privately published.⁷

As mentioned above, information about Islam is in a minimal way taught to students at independent, Catholic and Government schools, which led the Taskforce to recommend an update of existing school curricula.

Major service providers, such as South Australia Police and the Department of Immigration and Citizenship, inform their staff about Islam via extensive Islamic Awareness Training and publications. However, most employees working in the public or private sectors do not receive any information about the major elements of Islamic faith. Trade unions do not provide any information about the elements of Islamic faith to their members, either.

With a growing Muslim community in South Australia, the Taskforce supports educating the South Australian community about the major elements of the Islamic faith.⁸

Recent events, such as the burqa debate, increased demand from the media and the public for information about Islam. This led to a need for the Muslim community – which is very diverse not only in its religious, but also in its cultural background – to strengthen its presence by establishing a media liaison group. By working in a collaborative way, Muslim groups will be able to respond in an adequate, professional and timely way to the increasing

⁶ These brochures are published by the Muslim Women's Association.

⁷ For instance "2 veil or not 2 veil: the life of an Aussie Muslim" by Janine Evans.

Terms of Reference 3: to identify strategies to educate the South Australian community about some of the major elements of the Islamic faith.

demand for information about Islam. The establishment of a media-liaison group is currently underway. This group aims to streamline all information disseminated about Islam. One of the main tasks for the group will be to establish good working relationships with South Australian media and to provide members with media training. Other tasks will be to collate media presentation kits and to create a roster of expert members willing to deliver presentations about Islamic matters.

The Taskforce acknowledges the need for the media-liaison committee to receive adequate media training, and it sees a need for the State Government to work with the group.

8. That the Government of South Australia facilitates, via Multicultural SA, consultation between media organisations and religious-community organisations to improve the relationship between the media, the public and religious groups.

Educating the public about religious diversity

The Taskforce sees a role for the universities of South Australia to facilitate information dissemination about diverse religions within the State. The universities should cooperate on research and publications about religious diversity, and the elements of the different religious faiths, to create a better public understanding of these topics. The universities could also demonstrate leadership by organising, for instance, a conference on religious diversity and the elements of faith of the different religions.

9. That the University of South Australia, the University of Adelaide and Flinders University – through their institutions such as the International Centre for Muslim and Non-Muslim Understanding; the Don Dunstan Foundation; the Research Unit for the Study of Society, Law and Religion; and Oasis – cooperate to increase public education and information about religious diversity.

Religious significant days

Given the religious history of South Australia, most significant Christian days, such as

⁸ According to the 2001 Census, there were 7,478 Muslims in South Australia, and according to the 2006 Census there were 10,517 Muslims in South Australia.

Terms of Reference 3: to identify strategies to educate the South Australian community about some of the major elements of the Islamic faith.

Christmas, Good Friday and Easter, are currently public holidays. The Taskforce believes that the South Australian Government should demonstrate leadership by advocating the needs of members of diverse religious groups to South Australian employers to celebrate their own religious significant days within South Australia. The Taskforce is aware of the fact that the State Government already has policies in place to allow its personnel to take special leave with pay to celebrate important religious holidays. The Taskforce encourages all employers to allow their employees to take an annual leave day for religiously significant days.

The Taskforce would like to see it become common practice for employees from different religious backgrounds to be allowed to take an annual leave day to celebrate their own religious days, such as Eid-ul-Fitr, Yom Kippur, Diwali, Orthodox Christmas and Vesak. The Taskforce believes that trade unions, as advocates for workers rights, should take this issue up with their members from different religious backgrounds

10. That the South Australian Government, the business sector and trade unions demonstrate their commitment to religious diversity by encouraging employers to accommodate, whenever possible, staff who wish to take annual leave to celebrate religiously significant days.

Terms of Reference 4: to report on the range of complaint mechanisms available in relation to issues of religious freedom.

Discrimination legislation

In South Australia, there is currently one relevant act that deals with discrimination on the grounds of religion: the *Equal Opportunity Act 1984* (SA). At a federal level, there is the *Racial Discrimination Act 1975*, the *Human Rights and Equal Opportunity Act 1986* and the *Fair Work Act 2009*.

Under the *Equal Opportunity Act 1984*, it is unlawful to treat a person less favourably because of his or her appearance or dress required by, or symbolic of, the person's religious beliefs. It is important to note that this Act refers only to discrimination related to religious dress and appearance, and then only in an education or employment setting. It does not cover religion, itself, as grounds for discrimination.

South Australians who feel discriminated against on the grounds of religious dress or appearance can complain to the South Australian Equal Opportunity Commission (EOC). If the complaint is considered to have substance, the Commission will try to resolve the complaint by conciliation. If this fails, the case can be referred to the Equal Opportunity Tribunal.

The Commonwealth *Australian Human Rights Commission Act 1986* (AHRCA) formerly known as the *Human Rights and Opportunity Act 1986* (HREOCA) establishes religion as grounds for discrimination by virtue of the international instruments that Australia is signatory to.⁹ Religion is, however, covered only in employment or against actions of Commonwealth Government agencies. Victims of discrimination can seek redress through the conciliation-based complaint mechanism of the Australian Human Rights Commission (AHRC).

The inclusion of "ethnic origin" in the *AHRCA Act's* definition of race allows some scope in the bringing of complaints relating to religion, where it can be linked or identified with an ethnicity. Race discrimination applies in wider areas, such as employment, goods and services, education and the like.

Individuals who experience discrimination in the workplace also have the right to complain to the Fair Work Ombudsman based on the *Fair Work Act*. The Fair Work Ombudsman has the

⁹ *The International Covenant on Civil and Political Rights (ICCPR)* (1966) and the *Declaration on the Elimination of All forms of Intolerance and of Discrimination Based on Religion or Belief* (1988)

Terms of Reference 4: to report on the range of complaint mechanisms available in relation to issues of religious freedom.

power to investigate allegations of unlawful workplace discrimination and may initiate and seek a civil penalty against an employer.

In conclusion, based on Commonwealth and State laws, South Australians who feel discriminated against on the grounds of their religions potentially have the choice of various regulatory enforcement methods:

1. a discrimination complaint to the Australian Human Rights Commission (workplace and Commonwealth agencies, and if there is a link with religion and ethnicity in other areas as well);
2. a discrimination complaint related only to religious dress or appearance to the South Australian Equal Opportunity Commission; and
3. a discrimination complaint to the Fair Work Ombudsman (workplace only).

If conciliation is unsuccessful at the AHRC or EOC, then the complainant has the option of taking the complaint to the Federal Court of Australia or the South Australian Equal Opportunity Tribunal (EOT) respectively. Both are civil jurisdictions. The Federal Court has the power to provide recommendations only, while the EOT can deliver a binding judgement.

There is one more option: to take a complaint to the United Nations Human Rights Committee. This can be done only when all domestic remedies have been exhausted. The Human Rights Committee, however, can provide only recommendations and can not deliver a binding judgement.

The Taskforce is of the opinion that there is a need to further strengthen the protection provided by discrimination laws on the basis of religion. Current legislation, as described above, is very limited and does not suffice in many cases of discrimination based upon religion. For instance, if a person is refused service in a shop because of the fact that he or she is a Muslim, current legislation would not provide this person with any avenue of complaint. The Taskforce is concerned that there are deficiencies in the current legislation.

The Taskforce understands that, in 2002, the South Australian Government sought community views on the inclusion of religion in the *Equal Opportunity Act 1984*. There was a significant number of submissions and strong opposition. As there was no consensus, the

Terms of **Reference 4: to report on the range of complaint mechanisms available in relation to issues of religious freedom.**

Government decided not to proceed to include religion as a ground in the legislation. In an amendment passed in 2009, only religious dress and appearance was included.

The Taskforce is also aware of the 2010 Australian Human Rights Commission submission to the Commission of the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD). This submission is a reaction on the 15th, 16th and 17th periodic report of the Australian Government to the CERD Commission.¹⁰ The submission concluded that "some Australians are protected from discrimination on the basis of religion and belief by State and Territory laws, but many others are not. Laws providing protection from discrimination on the basis of religions and belief are a patchwork across Australia."

The Taskforce is also informed that the Commonwealth Attorney-General, along with Attorneys-General in States and Territories is considering a process of harmonising the approach to discrimination law around Australia to reduce inconsistencies in legislation. This process is part of the Human Rights Framework developed by the Commonwealth Attorney-General. The Taskforce considers that this might provide some opportunity for the State Government to strengthen discrimination law for South Australians.

The Taskforce also acknowledges that strengthening the existing powers of the Australian Human Rights Commission in relation to religious discrimination would provide increased protection for South Australians, and it encourages the South Australian Government to address this issue with the Commonwealth Attorney-General to ensure that federal legislation is amended.

The Taskforce furthermore believes that given the limited legal protection for victims of discrimination via the legal system, there is a need to further educate the community to enhance understanding and empathy for community members who are from diverse cultural and religious backgrounds.

11. That, acknowledging the history of debate about discrimination on the grounds of religion, the South Australian Government works with the Commonwealth Attorney-General to strengthen the powers of the Australian Human Rights Commission in relation to discrimination on the grounds of religion.

Terms of Reference 4: to report on the range of complaint mechanisms available in relation to issues of religious freedom.

Review of complaint processes

Although South Australia has the *Racial Vilification Act 1996* in place, the Act does not specifically cover religious vilification. The Act makes it unlawful to incite hatred towards, serious contempt for, or severe ridicule of a person or a group of persons because of their race. Like the Commonwealth legislation, the definition of race does include “ethnic origin” so this may again allow some scope in the bringing of some complaints relating to religion where it can be linked or identified with an ethnicity. This remains untested, however and the *Racial Vilification Act 1996* has never been used in a successful prosecution.

At the Commonwealth level, the *Racial Hatred Act 1995* extends the coverage of the *Racial Discrimination Act* to allow people to complain about racially offensive or abusive behaviour. The definition of race again includes “ethnic origin”.

Feedback from community organisations indicates that victims are often reluctant to file an official complaint for fear of repercussions. A review could identify gaps and suggest measures to improve complaint procedures for those victims. New policies could include procedures for anonymous complaints, and the registration of complaints in victim-friendly environments other than police stations.

12. That complaint-management bodies and SAPOL implement improved complaint processes for victims of verbal and/or physical abuse based on religious intolerance.

Data collection

The Taskforce has currently no accurate statistics about the exact amount of complaints based upon incidents related to religious intolerance within South Australia. A comprehensive overview of all reported incidents motivated by religious intolerance is imperative to efficiently assess and address this matter further. The Taskforce has been able to source statistics and data relating to religious discrimination complaints from the Equal Opportunity Commission and the Australian Human Rights Commission.

¹⁰ See Australian Human Rights Commission Submission to the ICERD Committee of 8 July, 2010.

Terms of Reference 4: to report on the range of complaint mechanisms available in relation to issues of religious freedom.

Taskforce would like to see SAPOL collecting and analysing statistical information about complaints related to religious intolerance in order to identify potential patterns of discrimination on the grounds of religion. It is clear to the Taskforce that community organisations, due to their roots within and contacts with the communities, have an important role to play in the streamlining of complaints. The same goes for religious organisations, as their members often seek advice from their religious leaders when issues such as harassment and discrimination arise.

Community organisations are often the first, and sometimes the sole, point of contact for alleged victims of harassment and discrimination. Due to existing relationships and gained trust, it is easier for victims to disclose information to staff members of community organisations than to officials of complaint-management bodies. For this reason, it is important that staff members are adequately trained to refer complainants to official complaint-management organisations – such as the South Australia Police and the Equal Opportunity Commission – and to assist the complainant in the official procedure. The information received by the Taskforce shows an interesting range of informal and formal complaint mechanisms within the private and public sectors. These mechanisms, however, mainly deal with workplace-based complaints about harassment, discrimination and inappropriate workplace behaviour.

The Taskforce believes that there is value in SAPOL continuing to educate their employees about the crime of racial vilification, as the Taskforce has knowledge of people who reported vilification to the police and who were informed by the police that nothing could be done. The Taskforce is aware of the fact that the Australian Federal Police is trialing Islamic Awareness Programs, in both introductory and specialised modules.

Within the education sector, all participants have policies, both for staff and students, related to issues such as equal opportunity, bullying and harassment, grievances, sexual discrimination and racism. In conjunction with these policies, there is a wide range of informal and formal complaint mechanisms available to students, staff and parents. Harassment officers are often appointed to help staff who claim to be a victim of bullying or harassment. Most of these policies, however, do not refer to discrimination based upon religion and/or religious appearance or dress.

Terms of Reference 4: to report on the range of complaint mechanisms available in relation to issues of religious freedom.

In addition, most businesses, including small ones, have policies and complaint mechanisms in respect to grievances and equal opportunity issues for staff and clientele. Nevertheless, most of these policies do not refer to discrimination based upon religion and/or religious appearance or dress. It is important that staff members appointed as harassment officers are aware of the current complaint mechanisms in relation to discrimination on the grounds of religion or religious dress.

13. That complaint-management bodies and SAPOL investigate their own data-collection techniques, related to incidents of verbal and/or physical abuse motivated by religious intolerance and reported by members of diverse religious groups, to determine whether the current data reflects the reality.

Terms of Reference 5: to report on current community education programs about formal complaint mechanisms.

Review of training material

The information researched by the Taskforce demonstrates that there is a wide variety of training related to complaint mechanisms in South Australia, predominantly in the work-place. Nevertheless, the Taskforce concludes that there is a need to improve the current promotion of complaint mechanisms and to focus on training in relation to religion or religious dress or appearance. It is crucial that citizens are aware of their legal position, and refinements should be made in the currently available training materials.

Official complaint-management organisations, such as the Equal Opportunity Commission and the Office of the Employee Ombudsman, have extensive training programs about their complaint mechanisms, for which there is popular demand. Advocacy about the complaint mechanisms to the public by these bodies furthermore occurs via participation at community events, presentations, sessions on community radio, the Internet and through the publication of books that are available to the general public.

Current training however does not specifically focus on discrimination based on religion and religious appearance or dress. The Taskforce believes that it would be crucial to alter the existing training materials to address the issue of discrimination on the grounds of religion or religious dress or appearance.

14. That agencies such as the Equal Opportunity Commission, the Employee Ombudsman and the Fair Work Ombudsman review their training sessions and materials with a view to incorporating information on religious diversity and discrimination on the grounds of religion or religious appearance or dress.

Review of dissemination methods

The education sector, businesses, service providers and trade unions all have some sort of staff training regarding complaint mechanisms. However, yet again, in this training there is little or no focus on religion-based discrimination and how victims of discrimination on the basis of religion or religious appearance or dress can seek redress. Existing training could be amended to incorporate discrimination based upon religion and religious appearance or dress.

Terms of Reference 5: to report on current community education programs about formal complaint mechanisms.

It would be beneficial to alter existing training by creating awareness about the fact that discrimination based upon religion is unlawful under certain circumstances, and that victims can seek redress for this form of discrimination.

In addition, information campaigns should be carried out in different languages to increase awareness, among members of diverse religious groups, of complaint procedures.

Community organisations and religious organisations should ensure that their staff and volunteers are aware of the current complaint mechanisms in order to assist community members to file legitimate complaints to official organisations.

The Taskforce understands that most information about complaint mechanisms does not mention discrimination based upon religious dress and/or appearance.

The trade union movement has, in the past, extensively campaigned for the *SA Equal Opportunity Act* and the anti-discrimination provisions of the *Fair Work Act*. During the campaign however was no focus on discrimination based upon religion. There is a role for trade unions to create awareness of workplace discrimination based upon religious appearance or dress, and of the current flaws in the legal system in relation to discrimination on the grounds of religion. Furthermore, because of their expertise, trade unions would be the best bodies to assess the current effectiveness of the complaint mechanisms for workers.

In addition, the Taskforce has concluded that the training provided by official complaint-management organisations is mostly directed at employees, as most training takes place in the workplace. Non-working members of diverse religious groups, who are especially vulnerable and have a risk of potential exposure to discrimination, are not reached by this training.

There is a need to develop information in appropriate languages to efficiently target Culturally and Linguistically Diverse Communities and to inform them about religious diversity and the existence of complaint mechanisms.

Those non-working members can best be reached by members of community organisations. Community organisation staff and volunteers should first receive training in order to train

Terms of Reference 5; to report on current community education programs about formal complaint mechanisms.

others. The Taskforce notes that certain organisations are already aware of this need and are working on better ways to disseminate information.

15. That the public and private sectors, trade unions, religious organisations and complaint-management bodies review their dissemination of information about discrimination complaint mechanisms.

Outreach to newcomers

The Taskforce considers it constructive to use existing training programs to create awareness among newcomers from diverse cultural and religious backgrounds.

Organisations responsible for this training should amend the training so that it covers not only religious diversity in South Australia, but also the right to seek redress for discrimination based upon religion.

16. That the organisations in charge of settlement services and education programs for newly arrived migrants and refugees ensure proper dissemination of information to newcomers about rights and responsibilities under Australian law, including the right to seek redress by using complaint mechanisms.

APPENDIX 1

TERMS OF REFERENCE OF TASKFORCE ON RELIGIOUS DIVERSITY

- To examine the current approach in SA to community education about religious freedom with a particular focus on education programs managed by employers for employees and by unions for members.
- To identify strategies that could be implemented to acknowledge the contribution of the Muslim community to the economic, social and cultural life of South Australia.
- To identify strategies that could be implemented to educate the South Australian community about some of the major elements of the Islamic faith.
- To report on the range of complaint mechanisms available in relation to issues of religious freedom.
- To report on the current community education programs about formal complaint mechanisms.

APPENDIX 2

MEMBERS OF THE TASKFORCE ON RELIGIOUS DIVERSITY

- Mr Hieu Van Le AO, Chairman
- Mrs Julia Abdelale, Association of Independent Schools of SA Inc.
- Professor Pal Ahluwalia, University of South Australia
- Ms Joy Bedford, Catholic Education Office - Adelaide
- Mr Stephen Brennan, Employee Ombudsman
- Ms Anne Burgess, A/Commissioner for Equal Opportunity
- Ms Francesca Bree, Department of Immigration and Citizenship
- Ms Barb Cowey, Business SA
- Ms Laila El Assaad, Member of the Muslim community
- Ms Janine Evans, Member of the Muslim community
- Ms Janet Giles, SA Unions
- Ms Kathryn Jones, Member of the Muslim community
- Mr Rex Jory
- Chief Superintendent Dean Miller, South Australia Police
- Ms Miriam Silva, Member of the Muslim community
- Ms Sumeja Skaka, Member of the Muslim community
- Ms Jackie Thomson, Department of Education and Children's Services