

SUBMISSION TO DRAFT STATEMENT ON RELIGIOUS DIVERSITY IN NEW ZEALAND

(1) The Concept of Belief

The draft statement commences by saying New Zealand is a ‘country of many faiths, and increasing religious diversity is a significant feature of public life.’

This sentence unfortunately introduces bias from the start. As religionist Sara Hamilton has argued a faith is ‘a truth claim’¹. By omitting any mention of New Zealand’s secular culture² and the non-religious groups that have long been a feature of this culture, the Draft National Statement in its first paragraph seems to be attempting to frame the discussion in a way that minimises non-belief in New Zealand.

There are those of us in the secular community who have no religious, spiritual or faith based claims about what is true, but prefer to remain open minded about the meaningful interface between nature and culture. Many of us in the secular community are guardedly guided by evidence, evidence that is always contingent and open to review. We take the view, as Maitland expresses it, that ‘Alcoholics Anonymous begins where Christianity and Islam begin: you admit you cannot manage your own life and hand it over to a ‘higher power.’³

In paragraph 5 of the Draft Statement there is a recognition of ‘belief’ as distinct from ‘religion’, as protected by the international treaty documents cited. Why then was ‘belief’ omitted from the opening paragraph of the Draft statement?

With that said, the words ‘religion’ and ‘belief’ often occur together in constitutions and treaty documents. While ‘religion’ is the subject of much description and occasional legal attempts at definition, the word ‘belief’ is never defined. In fact, the United Nations Human Rights Committee states that ‘religion or belief’ includes non-faith systems such as atheism.

With that said, for religionists generally, ‘belief’ refers to systems of thought that are either *camera obscura* of faith systems or are appendages to the main game of faith. ‘Belief’ is tolerated as a gesture to a minority that just won’t go away.

But the word Belief can be defined to distinguish it from faith based truth claims:

'Belief' means a personal commitment to civic virtue, through such notions as

fairness or equality between individuals irrespective of an individual's - ethnicity;

culture, including an individual's political or social ideas;

gender or sexuality;

disability;

friendship between individuals irrespective of an individual's ethnicity, gender, sexuality, disability or political or social ideas;

commitment to *civil liberties* as they are expressed in law.

Defined in this way, 'Belief' is grounded in human behaviour with no reference to spirituality or the supernatural.

(2) Church and State

The second paragraph of the Draft National Statement on Religious Diversity cites the statement by Governor Hobson to a question by Catholic Bishop Pompallier at the signing of the Treaty of Waitangi in 1840. But, the word 'beliefs' is inappropriately inserted in brackets in the Draft Statement after the word 'faiths'. It is inappropriate because it is not in the original text.

Professor Rishworth has referred to this same text. Speculating on a religious response to future secular criticism of religion's place in law he says

there may come a point at which it is claimed [the Waitangi Treaty] envisaged a state in which religion would be actively protected, and that a wall of separation was never envisaged.⁴

This speaks to the comment in the Statement that 'New Zealand has no state religion'.

While there is no established state church it is also true New Zealand does not have a constitutional separation of church and state. The Human Rights Act and the Bill of Rights are silent on this question.

It is also true New Zealand is a Constitutional Monarchy with the British Monarch as the Queen of New Zealand. She is also of course of the head of the Church of England in Britain.

It is hard to believe there is a separation of church and state in New Zealand when the Christian religion is given such primacy in government.

Apart from having a head of state who is the head of an Anglican Christian church, the government persists with Christian prayers in Parliament, has a flag with three Christian crosses in the Union Jack, two Anglican, one Catholic (St George, St Andrew, St Patrick), and the national anthems are 'God Save the Queen' and 'God Defend New Zealand.' It is clear that these anthems are referring to the Christian god.

Between 1985 and 1990 Sir Paul Reeves, then an Anglican bishop, served as Governor-General. Blind to the principle of separation of church and state in a later 1998 interview he said in his role as Governor-General he foresaw he would be able to 'fulfil his clerical vocation in the new position.'⁵

It is disingenuous to say 'New Zealand has no state religion' when Christianity is given such prominence in government symbolism and there is no constitutional separation of church and state. An accommodation of religion in this way makes New Zealand, to an extent, a clerical state. Clericalism is defined by a French author as 'prétention d'une Église à assumer des responsabilités d'ordre politique' ([the] pretension by a church that it has a place in the political order.'⁶ (My translation). Symbolically at least, the Anglican and Catholic churches appear to play this role in New Zealand.

As the Draft Statement recognises there now many new settlers in New Zealand from all over the world. By refusing to acknowledge the need for New Zealand to become a neutral, secular republic the government is saying to these new citizens with non-Christian beliefs, as it has implied to those with no faith, that their traditions and beliefs are less worthy than New Zealand's traditional Christian religions.

(3) Equal Treatment

Point 1 of the Draft Statement.

It is not true 'the State treats all faith communities and those who profess no religion equally before the law.'

Firstly, those communities who have no religion are not exempted from paying income tax, receive no fringe benefit tax advantages, receive no

property tax exemptions. These taxes are a very substantial benefit underwritten by all New Zealand taxpayers, whether they are religious or not, to all New Zealand religions, which are legally charities. A taxpayer should have a choice as to which charities he or she wishes to fund but that democratic option does not exist. The Tax Act and common law suit the purposes of these charities and their followers, but does not serve the purposes of democracy.

The Government is to be commended for its creation of a Charities Commission. But we await with interest just how much detail about the incomes and expenditures of faith based charities, including, churches, will be put on the public record.

Secondly, if a faith had a theology that does not involve a ‘supernatural’ element, then following an Australian precedent, it is likely the Tax Office would reject that kind of faith for tax exemption benefits.⁷

Thirdly, if it is the case there is no state religion in New Zealand, and all faiths/beliefs are treated equally, why is there still a law of blasphemy? Section 133 of the Criminal Code Bill of 1893 prohibited blasphemy. It is still the law of the land in section 123 of the Crimes Act 1961.⁸

Points 2-5 of the Draft Statement: no comment.

(4) Education.

Point 6 of the Draft Statement

It is desirable that ‘schools shall teach an understanding of the diversity of religious and spiritual traditions [sic] in an impartial manner.’

Again, this statement completely omits any mention of non-religious belief systems while simultaneously asserting the need for impartiality!

Also, ‘impartiality’ was structured out of the New Zealand system of education by the 1962 Nelson system of one half hour of religious education in state schools and by the Private Schools Conditional Integration Act of 1975. A recent report indicates the restriction on religious education under the Education Act 1964 is being openly flouted in state schools.⁹

It could be argued the laws allowing any religious instruction in schools and the funding of religious schools could be unconstitutional if New

Zealand had a formalised separation of church and state. These laws could only be considered to be constitutional because New Zealand does *not* have a separation of church and state.

It is instructive that separation of church and state is mentioned nowhere on the government's website.

Conclusion

Given there has been no serious attempt by any major political party in New Zealand to change the mode of government from a constitutional monarchy to a republic, it follows the major political parties have been lax in their willingness to keep church and state separate.

If this debate about republicanism and separation is not opened, debated and developed, the cause of 'religious [sic] diversity' in New Zealand the Draft Statement seeks to encourage will be undermined.

There is little value in talking about 'diversity' if New Zealand's government retains its nineteenth century British model. New Zealand's secular culture should be fully realised in practice by the creation of a New Zealand Republic with a formal separation of church and state where religion and belief are equally respected.

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24 November 2006

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The views expressed in this Submission are not necessarily those of the NZARH.

¹ S. Maitland, 'In place of Enlightenment', *Index on Censorship*, 4, 2004, p.14.

² B. Cooke, 'Beyond the Land of Oz: Secularism in New Zealand', *The Open Society*, Vol. 79, No.3, Spring, 2006.

³ Maitland, Op. Cit.

⁴ P. Rishworth, 'Church and state in New Zealand: the legal framework and recent developments', Unpublished Paper, Auckland, 2004. See also P. Rishworth Ch. 6, *Rights and Freedoms*, Brookers, Wellington, 1996.

⁵ Cited in N. S. B. Cox, 'The Evolution of the New Zealand Monarchy', PhD thesis, University of Auckland, 2001, p.286.

⁶ J-M. Ducomte, *La loi de 1905*, Les Essentiels Milan, Paris, 2005, p.62.

⁷ F. Cumming, 'No angels, no tax breaks', *Sun-Herald*, Sydney, 7 May 2000.

⁸ J. Dakin, unpublished manuscript, Wellington, 2004, Ch.3.

⁹ 'Religion in schools: one family's experience', *The Open Society*, Vo. 79, No.2, Winter 2006.