

N.Z. ASSOCIATION OF RATIONALISTS & HUMANISTS (Inc.)

EST. 1927

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Joris de Bres
Race Relations Commissioner
PO Box 12411, Thorndon
WELLINGTON 6144

NZARH Submission on Freedom of Religion and Belief Draft

Dear Joris,

Thank you for your invitation to comment on the draft *Freedom of religion and belief* section for the Human Rights Commission's status report - *Human Rights in New Zealand Today*.

I am writing on behalf of the New Zealand Association of Rationalists & Humanists (Inc.). The NZARH is a not-for-profit organisation founded in 1927 to serve the interests of non-religious people in New Zealand.

While we are pleased to see discussion of these issues in the public forum, we are concerned that some parts of the draft HRC document discriminate against the non-religious. The document also contains some information that we think is misleading.

What is the right to freedom of religion and belief?

1. Of great concern to the NZARH are the narrow definitions of the activities listed under the right to express a belief. The draft HRC document states:

“The right to express a belief encompasses a range of activities² including:

- assembling for worship and the establishment of places of worship
- establishing humanitarian institutions
- using articles and materials or customs related to the belief
- writing and disseminating religious material
- teaching religion or belief at suitable places
- soliciting and receiving voluntary financial contributions
- training, appointing, electing or designating religious leaders
- observing religious holidays and ceremonies
- establishing and maintaining religious networks.

² Office of the High Commissioner for Human Rights. (1981, November). Article 6, Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief. Proclaimed by General Assembly resolution 36/55. from http://www.unhchr.ch/html/menu3/b/d_intole.htm”

Honorary Associates: Gianni Bartocci, H James Birx, Raymond Bradley, Richard Dawkins, Warwick Don, Denis Dutton, Sanal Edamaruku, Brian Edwards, Levi Fragell, Ida Gaskin, Annie Laurie Gaylor, Maurice Gee, Dame Barbara Goodman, Finngéir Hiorth, Paul Kurtz, Lavanam, Richard Leakey, Tim Madigan, Michael Martin, Taslima Nasrin, Jean-Claude Pecker, Ian Plimer, Younas Shaikh, Barbara Smoker, Dame Catherine Tizard, David Tribe, Ibn Warraq, Lewis Wolpert

2. Five of the nine activities are worded so they apply only to “religious” beliefs despite the activities being relevant to other forms of belief. The NZARH is a non-religious belief organisation that has a building for meetings, publishes material, elects members to run the Association, and has a network of local groups. One would expect the statements above to encompass the NZARH, but the use of the word religious precludes this.
3. A reference indicates that the list of activities has been taken from another document: article six of the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* proclaimed by General Assembly resolution 36/55 of 25 November 1981. This document states:

“In accordance with article 1 of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia , the following freedoms:

- (a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (d) To write, issue and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.”

4. Because of the way these nine items are worded, they include both religious and other beliefs, and are therefore non-discriminatory. By rewording them for use in the report, the HRC has actually made them discriminatory. We believe this has been done unintentionally, as this is clearly the reverse of what you are trying to achieve – it would serve to erode human rights rather than reinforce them.
5. The NZARH strongly recommends that the HRC draft be changed so that all of the activities listed accommodate both religious and non-religious beliefs. A practical way to achieve this would be to use the text directly from the UN Declaration.
6. We also note some errors in the reference footnote:
 - United Nations is missing from the Office of the United Nations High Commissioner for Human Rights
 - Intolerance is misspelt as “Itolerance”
 - The link should be <http://www2.ohchr.org/english/law/religion.htm>

Statement on religious diversity

7. The *Statement on Religious Diversity* is not a publication of the Human Rights Commission, but this is not clear from the current draft of the report - this is potentially misleading¹. A preferable approach is to use the description from the 2009 version “The Statement on Religious Diversity is a product of the New Zealand Diversity Action Programme.”
8. The text “provides a framework for the recognition of New Zealand’s diverse faith communities and their harmonious interaction with each other, with government and with other groups in society” is a direct quote from the Statement. This should be indicated as a quote, especially as this is an unfulfilled aspiration rather than a fact.
9. The assertion that the Statement “... has been endorsed by a wide range of organisations...” is misleading. Only faith groups are listed in those that have endorsed the Statement, and there are no endorsements from media, education, and government organisations – despite clauses in the Statement that clearly involve them. We recommend changing the assertion so that it matches the description in the Prime Minister’s foreword of the 2009 version: “It has been endorsed by a wide range of faith communities...”
10. The draft HRC document does not mention the controversy surrounding the Statement. Despite submissions by the NZARH and members in 2006 when feedback on the Statement was being sought, a complaint to the HRC in 2007, and a submission in 2009 when the Statement was being reviewed, the *Statement on Religious Diversity* still clearly discriminates against the non-religious. Especially of concern is clause three, which states “Faith communities and their members have a right to safety and security”, as this doesn’t express their corresponding duties or responsibilities to others.
11. When the Statement was being revised in 2009 the NZARH offered to assist in developing a more inclusive Statement. This offer wasn’t taken up and the purpose of the Statement continues to be limited to interfaith dialogue. We would like to take this opportunity to reiterate that offer.
12. The HRC took a very different approach to the development of the *Statement on Race Relations*. This seems to indicate that the HRC privately recognises the problems surrounding the *Statement on Religious Diversity*. The NZARH’s view is that it is inappropriate to reprint the *Statement on Religious Diversity* in the HRC’s status report without including commentary on the objections to that Statement.

¹ I note that as a result of a complaint over the *Statement on Religious Diversity*, representatives of the NZARH met with the HRC. During this discussion the HRC distanced itself from the Statement saying it was a product of the New Zealand Diversity Action Programme which the HRC facilitates but has no direct control over. The HRC told us that their feedback and concerns had also not been acted on.

Medical treatment

13. The New Zealand Bill of Rights Act states that “Everyone has the right to refuse to undergo any medical treatment.” The draft HRC document states this right with regard only to religious belief: “The BoRA allows adults, in line with their religious belief, to refuse health care...” We recommend that the word “religious” be removed from the HRC document to make the statement more inclusive and non-discriminatory.

Summary

The NZARH is extremely disappointed by the draft Freedom of religion and belief section for the Human Rights Commission’s status report - *Human Rights in New Zealand Today*. We do not believe that the Commission intends to erode human rights in this area, but publishing this section – as it stands – would result in exactly that. Too often, this document states rights and freedoms in a narrow way that only applies to religious beliefs, rather than in a broad way that applies to all beliefs. This is discrimination, and so contrary to what the HRC is trying to achieve. We also strongly recommend that critical commentary on the *Statement on Religious Diversity* be included.

I trust the Human Rights Commission will take appropriate action to rectify these issues for its status report, to ensure the equal enjoyment of rights and obligations by all.

Yours sincerely,



Andrew Geard
President
NZ Association of Rationalists & Humanists