

# **SUBMISSION:**

## ***Federal Inquiry Consultation Paper – Future Foundations for Giving Draft Report of November 2023***

### **AUSTRALIAN CHRISTIAN LOBBY**

#### **About Australian Christian Lobby**

Australian Christian Lobby's vision is to see Christian principles and ethics influencing the way we are governed, do business, and relate to each other as a community. ACL seeks to see a compassionate, just and moral society through having the public contributions of the Christian faith reflected in the political life of the nation.

With around 250,000 supporters, ACL facilitates professional engagement and dialogue between the Christian constituency and government, allowing the voice of Christians to be heard in the public square. ACL is neither party-partisan nor denominationally aligned. ACL representatives bring a Christian perspective to policy makers in Federal, State and Territory Parliaments.

[acl.org.au](http://acl.org.au)



Australian Government Productivity Commission  
4 National Circuit  
Barton ACT 2600, Australia  
By email: philanthropy@pc.gov.au

2 January 2024

Dear Commissioners,

On behalf of the Australian Christian Lobby (**ACL**), I welcome the opportunity to make this submission in response to the ***Federal Inquiry Consultation Paper – Future Foundations for Giving Draft Report of November 2023***

The ACL would be very willing to meet with the Australian Government Productivity Commission to discuss this submission.

Yours Sincerely,

**Christopher Brohier**  
**Director of Public Policy**

## **INTRODUCTION**

1. The Australian Christian Lobby (ACL) provides this response concerning the ***Future Foundations for Giving Draft Report of November 2023***.
2. The ACL is a registered charity but does not have DGR status.

## RECOMMENDATION 6.1 IS ESSENTIALLY BIASED AND SHOULD BE REJECTED.

3. The reasoning of the Report, insofar as it recommends the removal of the advancement of religion as a sub-type, is wrong. On page 18 of the Overview, the Commission says: “However, the Commission does not see a case for additional government support for the practice of religion through the DGR system, based on the first principle above.”
4. This Commission has failed to consider the mass of evidence as to the benefits of religion. Not the least of which is the fact that the very concept of charitable giving is a Judeo-Christian religious concept. “Almost all modern social services can be traced back to roots in religious organizations”.<sup>1</sup>
5. The benefits of religion to society are well documented. In her 2019 CLAANZ Annual Lecture “Faith, Hope, and Charity - Religion as a Public Benefit in Modern Australia”, Justice Sarah Derrington discussed the public benefit of religion:

### - *The Continued Public Benefits of Religion.*

- The more fundamental normative question that arises, is whether the law should presume that religion has a public benefit? Is such a presumption justifiable in a society where 30% of the population identifies as having 'no religion' and in which a significant number of people hold the view that religion is basically a private matter and best kept out of the public zone – a view expressed forcefully by the Hon Michael Kirby AC CMG in a recent letter to the Editor of the *Australian Law Journal* protesting the lack of balance in the special issue dealing with religious rights and discrimination law.
- Professor Ridge has argued that the 'public benefit requirement permeates charity law precisely because the function of charity law is, broadly speaking, to facilitate activities that are beneficial to society'. This mirrors the comments of Professor Jones in the context of the *Statute of Elizabeth I*, which, as I have described, was the foundation of contemporary charity law, that 'public benefit was the key to the statute'. Ridge argues that the public benefit requirement is a '*quid pro quo* for the fiscal benefits of charitable status'.
- Several reasons are advanced for retention of the presumption that religion has a public benefit, namely that religion:
  - promotes moral and community values.
  - confers broad social and economic benefits.

### - *The Promotion of Moral and Community Values*

- A common argument is that religion is for the public benefit as it promotes moral and community values.
- Professor Dan Ariely, the James D. Duke Professor of Psychology and Behavioral Economics at Duke University, discusses the power of religion in shaping morality in his book, *Predictably Irrational*.

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<sup>1</sup> Garland, B. (1992). Church social work: An introduction. In Garland, B (Ed.). Church social work .(p1-17) Botsford, CT: NACSW; see also A HISTORY OF CHARITY AND THE CHURCH By: Nicholas Placido Presented at: NACSW Convention 2015 November, 2015 Grand Rapids, Michigan <https://www.nacsw.org/Convention/PlacidoNAHistoryFINAL.pdf>

- In an experiment conducted at Harvard University, MIT, UCLA, and Yale University, Professor Ariely and his colleagues asked several undergraduate and MBA students to take a 50-multiple choice question general knowledge test. Each correct answer would earn a student 10 cents.
- The students were divided into several groups. Each group was given 15 minutes to complete the test, after which time they were asked to transfer their answers to a scoring sheet. However, each group was subject to different conditions:
  - The first group received a blank scoring sheet and then handed both their answer and scoring sheets to the proctor, who calculated the number of correct answers
  - The second group received a scoring sheet on which the answers were already marked. Accordingly, this group could decide whether to mark their original answers or to lie and change their answers when filling out the scoring sheet. This group was asked to write the number of questions they had answered correctly at the top of the scoring sheet and hand both sheets to the proctor, who paid them in accordance with the number written at the top of the scoring sheet.
  - The third group also received a pre-marked scoring sheet. However, this group was instructed to shred their original answer sheet before handing the scoring sheet to the proctor, who paid them for their correct answers.
  - The final group also received a pre-marked scoring sheet; however, they were instructed to shred both their answer and scoring sheets before withdrawing their earnings for correct answers from a jar at the front of the room.
- Perhaps unsurprisingly, depending on the extent of your faith in mankind (or at least students at the world's leading universities), the students in the first group, who did not have the opportunity to cheat, scored noticeably lower than the reported scores of the students in any other groups. In his book, Ariely suggests that this is consistent with the propensity of individuals to take advantage of an opportunity to cheat in circumstances where the risks and consequences of getting caught are low.
- What is noteworthy for present purposes, however, is the results of a later, though similar, study in which those students who were to be given the opportunity to cheat were asked before the test to recall either the names of 10 books they read in high school or as many of the Ten Commandments as they could remember. The students who had been asked to recall books they read in high school were found to cheat to the same extent as the students who had been given the opportunity to cheat in previous studies. However, those students who were asked to recall the Ten Commandments did not cheat at all, even if they could not remember all of the Ten Commandments. Thus, the mere thought of the Ten Commandments, or likely any other religious teaching or doctrine that broadly relates to honesty and moral behaviour, appears sufficient to influence social behaviour positively.
- At first blush, the results of this and other studies that have yielded similar results seem to support the view that religion is for the public benefit as it promotes moral and community values. However, even if this is so, the utility of using religion to promote moral and community values is questionable. For example, in 2012, a professor at Middle Tennessee State University sought to have MBA students sign a pledge to comply with the Ten Commandments that stated that if they cheated on their exam, they would 'be sorry for the rest of [their] life and go to Hell.' Unfortunately for that professor, the students whose behaviour he was trying to influence revolted, and media scrutiny ensued. We

know, I think, from recent posts by certain sportsmen (I was hoping to avoid mentioning that particular matter at all...) that similar reactions might be expected if religious teachings were used in this manner to discourage immoral conduct in broader society. Indeed, even those giving testimony in the courts are no longer required to provide an oath in accordance with any particular religious text.

- Practicality aside, Professor Ariely's study is not, in fact, as supportive of the notion that religion provides a public benefit as it may at first seem. This is because, as a further study of Ariely's demonstrated, 'it was not the [Ten] Commandments themselves that encouraged honesty, but the mere contemplation of a moral benchmark of some kind.' In that further study, which followed the same structure as those previously described, one group of students who were given the opportunity to cheat were asked to sign a declaration acknowledging that the test fell within their university's honour system. As you may have surmised, like those students who were asked to recall the Ten Commandments, those students did not cheat at all, even though the university did not, in fact, have an honour system.
- So, whilst we might be able to conclude that religion has the potential to promote moral behaviour, there is no evidence that it is necessary, in which case its public benefit in this regard may be questioned. This, however, leads to a deeper question – one that I am not at all equipped to answer: is religion necessary for morality? That is, is it possible for individuals and society to develop morals and moral codes in the absence of any religious beliefs? (emphasis added)
- On the one hand, some argue that there can be no morals without religion, as it is the existence of a higher or superior being that compels moral behaviour. This has been suggested as 'one of the key reasons why believers would rather trust people who believe in the "wrong god" (that is, someone of another religion), than they would trust people of their own culture who believe in no God'. If this is indeed so, we might conclude that religion is necessary to conceptions of morality, but by no means sufficient – scandalous and disgraceful conduct within churches and church institutions provides an overwhelming basis for such a conclusion.
- On the other hand, it is suggested, predominantly by psychologists, that 'core human moral instincts, such as empathy, compassion, and shame are much more ancient than religiously motivated prosociality, and are deeply rooted in the primate heritage. 'The capacity for emotional contagion, consolation, and grief found in chimpanzees and elephants, together with the moral intuitions of babies as young as 6-months, is said to support this view.
- Proponents of the view that religion is not necessary for morality also argue that the requirement for a higher or superior being to monitor immoral behaviour is superfluous, particularly in communities with a strong rule of law. This is because it is argued that morality, including cheating and fair competition, can be monitored and enforced by strong public institutions. Public scandals resulting from systemic and embedded immoral behaviour within large organisations, such as the collapse of Enron, and the findings of the recent Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, suggest that the monitoring and enforcement of seemingly 'strong' public institutions is inefficient and ineffective. Whilst additional legislation and regulation has, and will no doubt continue to, follow from those and other similar scandals, the utility of such an approach to curbing immoral behaviour has been doubted. It is arguably difficult to suggest that a strong rule of law and strong public institutions act as monitors of immoral behaviour.

- The theologians, philosophers and ethicists must be left to grapple with the task of determining whether religion is, in fact, a necessary basis for morality. What can be said, however, is that if religion is neither necessary nor sufficient for moral conduct, then the argument that religion is for the public benefit (in that it promotes moral and community values) is weakened. Conversely, suppose religion is necessary for morality and the development of moral principles and standards. In that case, religion's social benefit will likely provide a legitimate basis for retaining the presumption of public benefit. (emphasis added).
- Let me turn now to two further interrelated reasons why the presumption of the public benefit of religion in charity law might continue to be justified, namely, because of its social and economic benefits.
- The Australian Bureau of Statistics reports that in 2018, 61% of Australians reported being affiliated with a religion or spiritual belief. However, it is suggested that it is not just this 61% of Australians who enjoy the social and economic benefits of religion; rather, by their very nature, those benefits are spread throughout broader society.

#### ***-The Social Benefits of Religion.***

- The main societal benefits of religion can be broadly categorised as relating to social capital, social cohesion, and community health and well-being, and it is through its contribution to these social facets that religion is said to affect the economy positively.
- Social capital and social cohesion are related concepts. Whilst the OECD defines social capital as 'networks together with shared norms, values and understandings that facilitate co-operation within or among groups', a cohesive society is defined as one which 'works towards the well-being of all members, minimising disparities and trying to avoid marginalisation within and between groups. The positive effects of religion on these concepts have been well documented, albeit predominantly in the context of the United States. For example, religious participation and increased religiosity have been linked to lower levels of criminal behaviour at both an individual and societal level, increased civic involvement and volunteering, and increased levels of education. In the context of volunteering and wider social benefits, research suggesting that religious individuals are more likely to volunteer at both religious and secular organisations than the non-religious or atheists is particularly noteworthy. Several studies also indicate a link between the practice of religion and marital satisfaction, lower divorce rates, and a decreased likelihood of domestic violence.
- More recently, evidence has emerged of the significant role played by religion in shaping post-industrial cities and communities and, more concerningly, that the shutting down of religious congregations in inner city areas 'precedes and contributes to the socio-economic collapse of the community in which the congregation was located.' This effect is attributed to the connection of heterogeneous social groups brought about through religious congregations. Given broad community concern for the need for societal connectedness and integration between all social groups, the social value of religion ought not be understated.
- In relation to community health and well-being, research also suggests a positive relationship between the practice of religion and increased mental health, increased physical health, for example, through lower rates of heart disease and lower blood pressure, increased life expectancy, and increased subjective well-being. Whilst the reason for such positive relationships are yet to be established, Professors Mochon, Norton, and

Airely, of the Yale School of Management, Harvard Business School, and Duke University respectively, posit that 'a number of factors underlie the link between religiosity and well-being, from the social support and prosocial behaviours that religion encourages, to the coherent framework that religion provides, [and] the coping mechanisms that alleviate stress and assuage loss. Whatever the reason, the broad public benefits of increased health and well-being, even if only enjoyed by those who identify as religious, are relatively uncontroversial

### **- The Economic Benefits of Religion**

- These and other social benefits of religion have been shown to translate into economic benefits, which, in turn, benefit the broader community. Although it is difficult to quantify the benefits of religion, particularly those relating to subjective feelings of well-being and community cohesion, the available data is telling. (emphasis added)
- A 2015 study conducted by researchers at Georgetown University and the Newseum Institute in Washington DC, considered the annual revenue from the goods and services of religious organisations and the impact of religion on American businesses and concluded, conservatively, that religion contributed approximately \$1.2 trillion to the US economy each year. This equates to around 7% of American GDP. The organisations and revenue streams examined in that study included churches themselves and congregational activities as well as church-run educational institutions, hospitals, other healthcare providers, and charities. Two years earlier, in his book *America's Blessings*, sociologist Rodney Stark estimated the contribution of religion to the US economy to be approximately \$2.6 trillion annually. Professor Stark's estimate accounts for, among other things, the long-term unemployment benefits brought about by increased levels of education and money saved on healthcare and law enforcement as a result of religion's effect on the physical and mental health and criminal behaviour. Of course, as with all economic benefits, the benefits of religion have some corresponding costs. These include, among others, the purely economic costs of religious donations, the costs of the favourable tax treatment of religious organisations, and the social costs felt by some individuals, such as those with waning beliefs and those who feel excluded or discriminated against because a religious organisation rejects their personal circumstances, whatever they may be. Nevertheless, the research suggests that the overall economic benefits of religion far outweigh those costs. Despite the disparity between the two estimates, religion's economic contribution to the US economy is clearly significant.
- Less research has been undertaken in this country into the economic value of religion. Some insights can be gleaned, however, from a study published by Deloitte Access Economics in 2018 into the impact of religiosity on giving and volunteering behaviour in Australia. The study estimated that religiosity, defined by reference to those who attend places of worship or devotion regularly, is associated with 194 320 additional volunteers in Australia each year who collectively contribute 30.5million hours in volunteering time (2.4% of total volunteering hours), the monetary value of which was estimated at \$339 million. The study also estimated that religiosity positively affects an individual's likelihood to donate, bringing about an additional \$142 million in donations each year (or 1.7% of total donations). The total

annual value to society of volunteering and giving associated with religiosity was \$481 million. (emphasis added).

### -Conclusion

- The various studies I have discussed this evening suggest that strong arguments exist for retaining the presumption of the public benefit of religion, even within the increasingly secular nature of 21st-century Australian society. From a purely economic perspective, a public benefit will remain until the overall cost of religion exceeds its benefits. Given the apparent magnitude of the contribution of religion to the economy at large, even extrapolating from the US studies, some fundamental change would appear necessary for those benefits to be outweighed by the economic costs of religion. From a societal perspective, even if a relatively smaller proportion of society enjoys the direct social benefits of religion, the remainder of society will continue to enjoy indirect benefits to varying degrees. The social costs of religion are generally carried only by a small number of individuals and are, therefore, unlikely to exceed its social benefits. (emphasis added: footnotes omitted).
6. We have quoted at length from this paper because of its thoroughly researched nature and the death of any evidence or discussion in the Report about the social benefit of religion.
  7. The paper is not alone in this conclusion. The Federal Government's Expert Panel on Religious Freedom found that "Faith-based organisations have played, and continue to play, a vital role in civic life in Australia. They assist those in need, provide hospitals and aged-care facilities, provide home care and company to the elderly, run schools and institutions for higher learning, and provide humanitarian assistance in times of natural disaster. Many of these institutions operate outside Australia as well."<sup>2</sup>
  8. It is therefore clear that religion is a benefit to society (and we interpose that the evidence of increasing lawlessness and family breakdown in an increasingly secularised Australia,<sup>3</sup> shows that religion and morality are inextricably linked. It is not an open question, as Justice Derrington suggests. There is no rational basis for the removal of the advancement of religion from DGR status.
  9. Indeed, expanding DGR status to include dubious causes like animal welfare activist groups seems to be a triumph of ideology over reason.
  10. Similarly, the suggestion that the advancement of education and school building funds have DGR status removed is devoid of reasoning. The recommendation suggests removing DGR status from "primary, secondary, religious and other informal educational activities". This will achieve the Report's aim that "school building funds will no longer be eligible for DGR status".<sup>4</sup>
  11. This approach ignores that the advancement of education (along with religion) has been one of the historical divisions for charitable status for taxation purposes. The argument that a tax-deductible donation to a school may create a private benefit is an

<sup>2</sup> <https://www.ag.gov.au/sites/default/files/2020-03/religious-freedom-review-expert-panel-report-2018.pdf> at [137].

<sup>3</sup> <https://www.adelaidenow.com.au/news/breaking-news/hundreds-rally-for-tougher-action-on-qlds-youth-crime-wave/news-story/c2c9b727222bff760810f1e8fef37294>

<sup>4</sup> *Commissioners for Special Purposes of Income Tax v Pemsel* [1891] AC 531.



argument for which no evidence is proffered.<sup>5</sup> That donors may derive some benefit from a gift to a school is an argument that needs the barest of testing to be rejected. For example, if a person gives \$10,000 to a school building fund if their child is in the school, is it seriously contended that the fact that in a year or two that child may use the building which has been part funded by the gift is a disintitling benefit? The gift benefits all children in the school, including many who receive bursaries and fee help from the school.

12. It is apparent, or at least the suspicion is raised, that there is a motivation based on envy and atheistic hostility to faith, which lies at the root of this recommendation. This ignores the fact that private education is cheaper for taxpayers than public education.
13. There is no proper basis for this recommendation.

## REMOVAL OF BASIC RELIGIOUS CHARITY STATUS

14. **Draft recommendation 7.1** proposes amending the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) to remove the "basic religious charity" status for religious charities.
15. However, it is important to note that implementing these reforms will result in increased administrative burdens and reporting requirements, particularly affecting small religious charities many of whom play a vital role in supporting schools and religious education.
16. Such schools are supported by ordinary Australians who work hard to do the best for their children. Consequently, such measures will place an additional financial strain on families already grappling with rising living costs.
17. While the report asserts that these changes aim to make the DGR system fairer, simpler, and more transparent, the Productivity Commission has not provided any evidence of the abuse by "basic religious charity" under the current non-reporting system.
18. **In submission [276 to](#)** Draft Report, Dr. Alex Deagon and Dr. Mark Fowler correctly submit that this change would grant the ACNC Commissioner the authority to suspend, appoint, and remove leaders of religious institutions.
19. Providing the state with the power to intervene in the governance of religious organisations and enabling actions such as suspension, appointment, and removal of leaders represents a significant and fundamental violation of religious freedom. It is likely to be contrary to section 116 of the Constitution.
20. Moreover, attempting to so control unincorporated associations, which many basic religious charities may well be, is clearly beyond the constitutional power of the Federal Parliament.

## Conclusion

21. The ACL is ready to provide further information including oral submissions if required.

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<sup>5</sup> Report p 18.

