



New Draft Preamble to the Constitution

*This submission was adopted by
UnitingCare NSW.ACT, Uniting Church in Australia,
at its meeting on 14 April 1999 and forwarded to the Prime Minister.*

NSW.ACT

The Prime Minister's draft preamble

The draft preamble proposed by the Prime Minister is as follows.

With hope in God, the Commonwealth of Australia is constituted by the equal sovereignty of all its citizens.

The Australian nation is woven together of people from many ancestries and arrivals.

Our vast island continent has helped to shape the destiny of our Commonwealth and the spirit of its people.

Since time immemorial our land has been inhabited by Aborigines and Torres Strait Islanders, who are honoured for their ancient and continuing cultures.

In every generation immigrants have brought great enrichment to our nation's life.

Australians are free to be proud of their country and heritage, free to realise themselves as individuals, and free to pursue their hopes and ideals. We value excellence as well as fairness, independence as clearly as mateship.

Australia's democratic and federal system of government exists under law to preserve and protect all Australians in an equal dignity which may never be infringed by prejudice or fashion or ideology nor invoked against achievement.

In this spirit we, the Australian people, commit ourselves to this constitution.

The Prime Minister has invited public comment on his draft preamble to the constitution. (Media release 23 March 1999).

There are a number of problems with the Prime Minister's proposed draft preamble. When it is assessed in terms of the policies of the Uniting Church in Australia, e.g. against the statements to the nation 1977 and 1988, and the invitation to the nation 1997, there are a number of problems with its values and ideology.

1. The most basic problem with the draft preamble is that it fails to fulfil the purpose of a new preamble. The draft preamble does not seem consistent with the recommendations of the Constitutional Convention 1998. It omits the recommended historical references, fails to acknowledge that Aboriginal people and Torres Strait Islanders were the original custodians of the land, and fails to affirm our respect for our unique land and the environment. Other matters that are clear in the recommendations are less than clear in the draft preamble. It also omits the suggested affirmation of equality of all people before the law, recognition of gender equality, and recognition that Aboriginal people and Torres Strait Islanders having continuing rights by virtue of their status as Australia's Indigenous peoples.

2. The draft preamble is badly written. It breaches several basic rules of good writing. For example, it uses the passive voice unnecessarily and inappropriately. It uses abstract nouns unnecessarily. These two problems combine to reduce Australians to passivity. A second problem with the use of abstract nouns and the passive voice is that it makes the document hard to understand. It not accessible to everyone. A good preamble might have rich undertones and overtones, but it would also have a plain meaning evident to everyone.
3. The draft preamble's passive language is contrary to the recommendation of the Constitutional Convention 1998 that the introductory language be in the form of "we the people of Australia", which would make Australians active in their national life, as the grammatical subject of active verbs. The use of this language in the last sentence alone does not satisfy this recommendation.
4. The reference to God seems tokenistic. Its meaning and relevance is unclear, because the rest of the sentence relies on abstract nouns and passive verbs. The Constitutional Convention recommended that there be a reference to "Almighty God". As one member of the Board put it: what is needed is a reference to the God who is above all constitutions and all parliaments, and to whom all people are accountable. Any reference to God should be in a form acceptable to other major theistic religions, as well as to Christianity.
5. The meaning of the first sentence is unclear. It contrasts sharply with the opening sentence of the present preamble: "Whereas the people ofhumbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth..". In the present preamble, the people actively create the Australian nation; in the draft preamble, this historical fact and action is replaced with the nonsensical notion of Australia having been formed by an abstract concept. The meaning of the term "equal sovereignty of all its citizens" is also unclear, since sovereignty is usually a concept applied to nations, not individuals.
6. The second sentence vaguely acknowledges ethnic diversity, in a round about fashion. "Ancestries" and "arrivals" seem to obscure rather than adequately describe that diversity. The sentence does not acknowledge any positive value of ethnic diversity. It is apparently an attempt to include Indigenous people as people who came here from elsewhere, i.e. to pretend that they do not have a different history and relationship to the land.
7. The sentence about the land ignores any sense of responsibility towards the land. Given the emphasis on individuals pursuing their personal hopes later in the draft preamble, this is a serious omission, because individualism is not balanced with responsibility.
8. While the draft preamble recognises immigrants as contributing to the nation, it does not acknowledge Indigenous people as doing so.
9. The sentence on Indigenous people is strange, and objectionable. It appropriates their term "from time immemorial" into a discourse which is alien and unsympathetic to them, failing to recognise their particular relationship to the land, their rights as indigenous people, or their contribution to Australian life. It reduces Aboriginal people to passivity - the land has been inhabited by them (why not: "From time immemorial Aborigines and Torres Strait Islanders have inhabited this land....".) It is not clear in what way, or by whom, their ancient and continuing cultures "are honoured". The sentence avoids committing all other Australians to respect for Indigenous culture. Gatjil Dejerkura, the Chairman of ATSIC, has issued statements making it clear that this preamble is unacceptable to Aborigines and Torres Strait Islanders.
10. The sentence beginning "Australians are free to be proud of their country and heritage.." is very strange. As some newspaper commentators have asked, why do we need to assert this? Is there any nation in the world where citizens are not free to be proud? This forces one to look at the subtext, which is more sinister. Australians are not free to be proud or to be ashamed - we are only free, in this preamble, to be

proud. That means we have no genuine freedom at all. We are allowed only one view of our nation.

11. The rest of the sentence on Australians being free is equally problematic. It shows an ideological bias, emphasising individual achievement and goals without balancing this with a sense of community and reciprocal obligation. (Apparently, the PM's idea of reciprocal obligation only relates to work for the dole, not to citizenship). The next sentence, in the same paragraph reinforces this bias, emphasising excellence (a buzzword of our particular historical period rather than a concept with a long pedigree in political philosophy) and independence. There is no mention of interdependence. This paragraph defines citizenship in an entirely self-centred way. There is no mention of responsibility for family, or children, or local community, or of the reciprocal obligations of city and rural people. Perhaps it is intended that all this is covered by the term "mateship". If so, it does not work. "Fairness" could mean almost anything. There is no sense in this paragraph that Australians have any responsibility to help one another pursue their hopes or ideals, or to achieve excellence. There is no sense of a social contract or of shared goals.
12. The sentence on freedom has a more profound problem than those already mentioned. It appears to define, and therefore to limit, the nature of the freedom that Australians enjoy. This is contrary to true freedom. Inclusion of this sentence in the draft preamble would endanger the freedom of both present and future generations of Australians.
13. "Mateship" is an inappropriate word. It is unacceptable to many women. For many Australians, both male and female, it is not a word that they use or find meaningful. While for some Australians it has a positive, perhaps even powerful, meaning about caring for others in adversity, for others it has a negative meaning: it is about cliques, blokey behaviour, booziness (i.e. drunken behaviour) and a refusal to deal admit one's feelings. Some people see it as setting loyalty above ethics (e.g. looking after one's corrupt mates in the police force).
14. The paragraph "Australia's democratic and federal system of government exists under law..." is obscure and clumsy. It gives the impression that law is somehow transcendent, rather than being historically created and conditioned. It is also unclear what is meant by "to preserve and protect all Australians in equal dignity". What is to preserve and protect, the system of government, or the law? The succession of abstract nouns avoids personal, human responsibility for what happens to citizens. Somehow, it is the responsibility of "the system". In international law, i.e. in the international human rights instruments, human dignity has implications, i.e. human rights. They give governments the clear responsibility of preserving and protecting human dignity by honouring and protecting human rights through appropriate public policy. The new preamble should clearly state that governments and courts have the responsibility to preserve and protect the human rights of all Australians. This is consistent with the stated policy of the current government that human rights are universal, inalienable and indivisible and would be supported by the other political parties.
15. The second part of the paragraph beginning "Australia's democratic system..." is extremely ideological. As with other parts of the draft preamble, abstract nouns and passive voice obscure human responsibility for human beings and the life of the nation. In this draft it is not human beings who harm human beings by prejudice. Instead it is their "equal dignity" that is "infringed" by disembodied prejudice, fashion or ideology. Whose prejudices, fashions and ideology may infringe equal dignity? The final clause is nonsensical. What is the subject of "nor invoked against achievement"? Presumably, the answer is "equal dignity". What does it mean? Who invokes equal dignity against achievement? How does this occur? Is not this an example of a particular ideological concern?
16. The whole preamble avoids giving people clear responsibility for their role in Australia. It avoids acknowledging that we have responsibilities towards one another.

It acknowledging the responsibility of government to respect the human rights of the Australian people. If that is the spirit referred to in the final sentence, then Australia would be in very big trouble if it adopted this preamble.

17. The draft preamble is clearly nonsense. It is problematic in each sentence, and as a whole. It is prosaic and uninspiring, with too many abstract nouns and too few human subjects. It exhibits a particular ideology. It obscures rather than clarifies what it means to be Australian, and our responsibility towards one another and to the land. It is not only partisan, when it needs to be acceptable across party lines, but also it is clearly the product of two Anglo males who alone simply cannot penetrate the depths of meaning of being Australian.
18. Finally, the draft preamble lacks credibility for its intended purpose because it serves the Prime Minister's personal agenda. According to Mike Secombe (SMH 25 March 1999), he stated at the press conference launching the draft preamble that he set out to have a shot at political correctness, and that the next day he claimed he was issue a warning. As Secombe says: "Can anyone out there find another preamble, anywhere in the democratic world, which 'warns' its citizens about what to think?" In the name of rejecting "political correctness", he has created a new political correctness that depends on his personal ideology. The views he has labeled political correctness at least could be justified as having their origins in human rights concerns. There is no way of justifying the political correctness he demands, and it is utterly inappropriate for a constitutional preamble to be based on a personal, adversarial agenda and personal values in this way. Constitutional preambles are not the place for point-scoring.

The Opposition's Proposed Preamble:

*Having come together in 1901 as a Federation under the Crown,
relying on the blessing of Almighty God, and
The Commonwealth of Australia being now a sovereign democracy,
our united people drawn from nations across the globe,
We the people of Australia
Proud of our diversity
Loving our unique and ancient land
Recognizing Indigenous Australians as the original occupants
and custodians of our land
Believing in freedom and equality, and
Embracing democracy and the rule of law
Commit ourselves to this our Constitution.*

The Opposition's proposed preamble avoids many of the problems of the Prime Minister's proposal. People are active agents. People have feelings and values. It confines itself to extremely basic values, and thereby avoids ideological or partisan bias. It is clear and dignified, and the phrases have meaning. In accordance with the recommendations of the Constitutional Convention, it recognises Indigenous people as original inhabitants and custodians. Apart perhaps from "our" in the second introductory paragraph, it has some elegance. Its main weaknesses are that it fails to mention human rights and that its reference to God is confined to past history.

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