



Australian Bahá'í Community

SUBMISSION TO THE SENATE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE INQUIRY INTO THE EFFECTIVENESS OF THE *COMMONWEALTH SEX DISCRIMINATION ACT 1984* IN ELIMINATING DISCRIMINATION AND PROMOTING GENDER EQUALITY

The Australian Bahá'í Community welcomes the inquiry by the Senate Legal and Constitutional Affairs Committee into the effectiveness of the Commonwealth Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality. The inquiry is a befitting way to mark the 25th anniversary of Australia's ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Since its inception over 160 years ago, one of the fundamental aims of the Bahá'í Faith has been to promulgate and implement the principle of the equality of men and women. The Bahá'í Community believes that gender equality is essential to human progress and is a prerequisite to peace. Bahá'í communities worldwide are striving to put this principle into practice – in their marriages, families, educational programs and in their communities. The work of the Australian Bahá'í Community to promote gender equality focuses on the elimination of domestic violence, gender equality in development, the role of men and boys in achieving gender equality, and the status of the girl-child. We support and encourage the full participation of women in all aspects of our community life, including leadership and decision-making, with women and men serving alongside each other on our national, state and local administrative bodies. Our educational programs for children incorporate a commitment to gender equality, peace and universal human rights.

Achieving Gender Equality

The 2007 Social Watch Gender Equity Index (GEI) makes clear that “gender-based inequity is a phenomenon that transcends borders, cultures, religions, nations and income levels. The achievement of gender equity is a challenge for the entire modern world because although its manifestations are diverse, the gap between women and men persists in all countries. In most societies inequalities manifest in the division of responsibilities between men and women, in access to and control of resources and in decision making processes.”¹

The GEI clearly demonstrates that a country's level of development does not automatically determine its degree of gender equity and a number of high-income countries rank far down on the list. Australia is ranked 13th and is outranked by Rwanda, one of the world's least developed countries, which ranked second only to

¹ Social Watch Report 2007 in dignity and rights , Gender Equity Index 2007, <http://www.socialwatch.org/en/informelpreso/tablaDeContenidos2007.htm>

Finland and Sweden². The evolution of the GEI between 2004 and 2007 reveals a few global advances, but the general trend seen throughout the world is either very slow progress or no progress at all.

Reforming laws and legal systems is one vital avenue in achieving gender equality. In the Beijing Platform for Action, strategies for each of the critical areas of concern depend at least in part on enacting and enforcing laws at the national level and on reorienting institutions of government. Such changes can only be effective, however, if they occur in tandem with the evolution of personal and social values and attitudes.

(A) The Scope of the Act, and the Manner in Which Key Terms and Concepts Are Defined

The significance of the Commonwealth Sex Discrimination ACT 1984 in giving force to many of Australia's obligations under CEDAW should not be underestimated. While the Act plays a useful role for the individual complainant, however, particularly in redressing complaints of discrimination in employment and of sexual harassment, it is not without its limitations. With its focus on identified acts of discrimination within specified spheres of activity, the Act addresses discrimination as an isolated incident rather than as a systemic problem.

Achieving the goal of gender equality requires the adoption of a human rights-based approach, applied across the life cycle of women. CEDAW emphasises the importance of addressing all forms of discrimination and requires that effective protection should be established against any act of discrimination.

As argued by the Australian Law Reform Commission, "equality in law, as required by CEDAW, needs to be understood in a different and more substantial sense than merely equality before the law. Any understanding of equality must take account of the social and historical disadvantages of women and how that has affected the law. This contextualised theory of equality requires a different legal response than can be encompassed by the SDA".³

In considering the scope of the Act, it should also be noted that most advances in equal opportunity have proceeded on the assumption that equality means freedom to be treated without regard to gender. Although this may be an effective implementing principle in a majority of cases, it falls short of exhaustively defining equality and can be positively damaging to the interests of women, for example, in issues related to motherhood. Feminist scholars have revealed convincingly the gender bias in seemingly neutral systems of rules and economics. They have shown that sexism is

² According to the report this was the result of Rwanda's intensive affirmative action efforts and the key to gender equity lies not in a country's economic power but in its government's political will.

³ *Equality before the Law: Women's Equality, 1994*, Part 1, Chapter 3:
<http://www.austlii.edu.au/au/other/alrc/publications/reports/69part1/>

pervasive structural problem and that inequality is perpetuated by a host of unspoken assumptions.⁴

(C) The Powers and Capacity of the Human Rights and Equal Opportunity Commission and the Sex Discrimination Commissioner, Particularly In Initiating Inquiries into Systemic Discrimination and to Monitor Progress Towards Equality

Integral to any long-term approach to establishing gender equality is the measurement of progress towards stated goals and the use of monitoring tools and systems to gauge the impact of policies on women. As such, the development of gender indicators is essential to determine the effectiveness of initiatives to end discrimination.

Without regular monitoring and reporting against key indicators, Australian governments are not held accountable to their obligations to achieve gender equality in key areas of public and private life, such as workforce participation and promotion, pay equity, leadership, sexual harassment and other forms of gender-based violence. Such reporting can also play an important role in public education and awareness-raising.

It is recommended that HREOC and the Sex Discrimination Commissioner be given a statutory responsibility to independently monitor and report to Parliament on progress towards gender equality in Australia.

(G) Preventing Discrimination, Including By Educative Means

Pervasive gender inequality is stubbornly surviving legal reforms. Preventing discrimination on the basis of sex not only requires deliberate attempts to change the legal, political and economic structures of society, but, equally importantly, the transformation of individuals—men and women—whose values, in different ways, sustain gender inequalities.

Human Rights Education

The general lack of awareness of human rights among men and women is an obstacle to the full protection of those rights. To produce a more profound effect on gender equality in Australia, the discussion of human rights needs to be moved beyond the arena of legal and political policy making to the grass roots, where the lives of individuals will be touched and lasting changes can be made.

Human rights education, it should be noted, is not limited solely to the provision of information. The Plan of Action prepared by the UN High Commissioner for Human

⁴ See Martha L. Schweitz, "The Greatness Which Might Be Theirs: Bahá'í Law and Principle: Creating Legal and Institutional Structures for Gender Equality", Beijing, China, August - September 1995

Rights for the United Nations Decade for Human Rights Education (1995-2004) defines human rights education as "training, dissemination and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes". As defined by the United Nations, it consists of three dimensions:

- (a) Knowledge: provision of information about human rights and mechanisms for their protection;
- (b) Values, beliefs and attitudes: promotion of a human rights culture through the development of values, beliefs and attitudes which uphold human rights; and
- (c) Action: encouragement to take action to defend human rights and prevent human rights abuses.

Education that instils in hearts and minds an awareness of and sensitivity to the human rights of all persons constitutes an essential tool for the promotion and implementation of international human rights standards, including those which support gender equality. In the final analysis, the human rights of an individual are respected and protected - or violated - by other individuals, even if they are acting in an official capacity. Accordingly, it is essential to touch the hearts, and elevate the behaviour, of all human beings, so that, in the words of the Plan of Action, human rights are transformed "from the expression of abstract norms" to the "reality" of the "social, economic, cultural and political conditions" experienced by people in their daily lives.

We recommend that Australia build upon its efforts in human rights education, with a particular focus on the rights enshrined in the Convention on the Elimination of All Forms of Discrimination Against Women.

Educating Men and Boys

Effective efforts to end discrimination against women require the active support of men and boys and a partnership between the sexes. The 1995 Beijing Platform of Action underlined the indispensability of the contribution of men and boys to achieving gender equality. The problem of sexual discrimination cannot be resolved unless men and boys are educated to value women and girls as equal partners.

At the United Nations Commission on the Status of Women 48th Session, 1-12 March 2004, the Australian Government itself stated that the role of men and boys in gender equality "is an important issue for Australia ...It is important that men be encouraged to be involved in tackling gender equality – not only as political leaders, employers, teachers, lawyers and journalists – but also as fathers, brothers, partners, carers, colleagues and peers. More work is needed through education and socialisation to tackle entrenched attitudes and behaviours towards women and girls and strategies need to be evaluated and best practices shared more widely"⁵.

5

http://ofw.facs.gov.au/international/womens_human_rights/un_csw/csw_48_country_statement.htm

Without special programs to educate men and boys in the equality of the sexes, leading them to acceptance of and commitment to gender equality, our efforts to promote gender equality will ultimately fail. Without such education, some men will continue to harbor harmful attitudes and habits that they carry from the family to the work place, to political life and ultimately to international relations.

The attitude of superiority, fostered in some men by erroneous beliefs, is often unconscious, so educational programs are needed to sensitize men to the ways in which they may unknowingly discourage women and girls and block their progress. Such education is necessary so that men are encouraged to modify their attitudes and behaviours, to prepare them to work as genuine partners with women and girls. A particular emphasis should be directed to the education of boys, so that they are raised with an understanding of the equality of women and men and prepared for an adulthood in which they work together with women as equal partners in all fields of human endeavour.

Developing Moral Capabilities

From the Bahá'í Community's perspective, the essence of any successful program of social change, including those programs which aim to end discrimination on the basis of sex, is the understanding that the individual has a spiritual or moral dimension which shapes their understanding of their life's purpose and their responsibilities towards their family, their community and the world. Alongside critical changes in the legal, political and economic architecture, the development of individuals' moral and spiritual capabilities is an essential element in the quest to establish gender equality.

We appreciate that the idea of promoting specific morals or values may be a controversial one; too often in the past such efforts have been associated with repressive religious practices, oppressive political ideologies and narrowly defined visions of the common good. Moral capabilities, however, when articulated in a manner consistent with the ideals of the Universal Declaration of Human Rights and aimed at fostering the spiritual, social and intellectual development of all persons, represent a key element of the kind of transformation required for a society in which there is true gender equality to take shape. Moreover, such capabilities must be anchored in the central social and spiritual principle of our time - namely the interdependence and interconnectedness of humanity as a whole. The goal of moral development, then, is shifted from individualistic notions of 'salvation' to embrace the collective progress of the entire human race. As our understanding of the world's social and physical systems has evolved to embrace this paradigm, so too must we develop the moral capabilities required to function ethically in the age in which we live.

For its part, the Australian Bahá'í Community is engaged in the development and implementation of a moral empowerment program for junior youth (12–15 years of age). The program looks at personal transformation as a powerful factor in achieving social transformation. For example, raising awareness of world citizenship is considered a preparation for achieving unity in a world free from religious, racial or gender prejudices. By focusing on higher ideals, such as service to humanity, it is expected that the junior youth will transcend personal concerns to reach out to

others, as opposed to excessive self-indulgence. Through various community service projects that the junior youth devise themselves, they learn to build a community spirit of service and giving. The program is designed to enable junior youth, both boys and girls, to develop a strong sense of purpose and become empowered to reach their potential, while contributing to the advancement of society.

The Role of Religion

No attempt to address gender equality can ignore religion and the role of religious leaders. The Beijing Platform for Action (paragraph 24) noted, "Religion, spirituality and belief play a central role in the lives of millions of women and men, in the way they live and in the aspirations they have for the future. Religion, thought, conscience and belief may, and can, contribute to fulfilling women's and men's moral, ethical and spiritual needs and to realizing their full potential in society".

Too often, policy makers have been resistant to addressing the cultural and religious dimensions of attitudes governing the treatment of women – fearing the potentially divisive nature of such an undertaking or lacking knowledge about whom to address and how to proceed. Yet the achievement of gender equality has been painstakingly slow because questions about the roles and responsibilities of women and girls challenge some of the most deeply entrenched human attitudes. Given the defining role of religions in cultivating the values of a community, the support of religious leaders and people of faith needs to be harnessed in ending discrimination against women and girls. Religious leaders and people of faith have a special responsibility to reaffirm those spiritual and ethical principles capable of transforming human relationships in a way that allows positive social change.

In considering the role of religion, it must be acknowledged that some voices raised in its name constitute the most formidable obstacle to eradicating violent and exploitative behaviours perpetrated against women and girls. To counter this negative influence, religious practices and doctrines in flagrant violation of international human rights standards must be subject to deeper examination and scrutiny.

Conclusion

In the Bahá'í Community's view, ending discrimination against women is part of a broader exercise. Full gender equality requires a new understanding of who we are, our purpose in life, and how we relate to one another – an understanding that will compel us to reshape our lives and thereby our society. The Australian Bahá'í Community looks forward to the outcomes of this inquiry by the Senate Legal and Constitutional Affairs Committee, which it trusts will contribute to fostering an ordered society in which relationships between men and women, parents and children, employees and employers, the governors and the governed adhere to principles of justice and emulate the highest aspirations of humankind.

August 2008