

SUBMISSION RELATING TO THE REVIEW OF OPERATION OF THE SEX DISCRIMINATION ACT 1984 (Commonwealth)

Submission prepared by Jamila Hussain, on behalf of the Muslim Women's National Network of Australia, with input from Aziza Abdel Halim AM and Silma Ihram.

Islam has no priests or clergy and Sunni Islam has no 'church' structure. There are no sacraments which can be administered only by an ordained person and there is no ordination of religious functionaries. Imams of mosques are appointed from men who are known to be well educated in religious matters and personally pious. When necessary, any person who is accepted by his community as having sufficient knowledge and piety may act as imam. Most full time imams in Australia have been employed from overseas and are educationally well qualified. Some imams are self appointed but accepted by their congregations.

In Islam, there is no Pope or clerical hierarchy which has the power to make rules about women's participation in religious matters. However, by tradition, only a male imam (prayer leader) may lead prayers for a male or mixed congregation. A woman may act as imam if the congregation consists entirely of women, or her own household. In China there are mosques which are set up exclusively for women and where women imams preach to their female congregations. There does not appear to be any current demand by Muslim women in Australia for the right to act as imams of mixed congregations.

In Australia each mosque is governed by its own independent mosque committee, normally elected by members of the mosque association. Some mosque committees make membership freely open to women; others restrict or forbid female membership. For example in New South Wales the Lebanese Moslem Association which controls Lakemba mosque admits only men of Lebanese background as members and the association which controls Green Valley mosque admits only men of Fijian Indian ethnicity as members. Women are therefore excluded from participation in decision making relating to the activities of these organizations. The Act as it stands in providing exemption to religious bodies effectively disenfranchises women in this regard.

Mosque associations which do not admit women as members may set up notional 'women's wings' which are generally unfunded or poorly funded and despite the best efforts of the women who run them, are lacking in the ability to provide adequately for the needs of women in the congregation. They may also be restricted in their use of the mosque, for example by being obliged to enter by unsatisfactory back entrances, to occupy restricted spaces shut off from the main mosque and in one case by being allowed to attend the mosque only between the hours of 10 am & 12 pm on Sundays. Women at this latter mosque are also not permitted to attend for Eid (festival) prayers. Some mosque associations which admit women as members, nevertheless deny them the right to occupy leadership positions. This is sometimes justified on religious grounds.

There is little or no consultation with female members concerning the planning of infrastructure or implementation of projects engaged in by Muslim organisations. A

consequence of this is that many mosques have poor facilities for women, almost none have facilities for elderly or disabled women, childcare is seldom provided and the needs of women are seldom considered during the planning of important Festivals and events.

Women's organisations are not represented on AFIC, the Australian Federation of Islamic Councils which is supposed to be the peak representative body for Muslims in Australia, but women are represented on some state Islamic Councils e.g Victoria and the Northern Territory. So far requests for the independent representation of women on AFIC and some state councils have not been complied with.

Anecdotal evidence and a small survey conducted in 2005¹ indicate that almost all Muslim women agree that it is important for women to have access to the mosque for prayers & religious gatherings. A substantial majority sought greater participation for women on mosque committees. Many were quite dissatisfied with conditions for women in the mosques but there was some disagreement about what constitutes satisfactory accommodation.

In conclusion there is considerable discrimination against women in the operation of mosques and mosque associations, and many Muslim women seek changes and greater equality in these areas. However, the repealing of the exemptions provided to religious bodies under the Commonwealth Sex Discrimination Act would also remove various beneficial provisions for Muslim women.

There are two further points to consider in looking at the application of the Sex Discrimination act 1984 to Islamic societies and in Islamic practice:

1. Some areas of discrimination are largely a result of migrant communities importing their cultural beliefs into Australia and cannot be supported by religious doctrine. One, as mentioned above, is the refusal by some, but not all, mosque associations to allow women to be members or to sit on the executive of mosque associations. Many Muslim women would welcome removal of this form of discrimination. However, mechanisms already exist through the law and bodies such as HREOC for women to challenge patriarchal customs and in 2002 a group of women from one mosque, with the aid of HREOC and a member of the legal profession, successfully forced their local mosque association to reverse a decision barring women from membership.

2. The question which warrants much further consideration is the extent to which the secular law should be permitted to intervene in matters of religious belief. Although the Quran granted women spiritual equality and equality in many fields of life there are some areas where Islamic doctrine treats men and women differently. For example, it is compulsory for men, but not for women to attend Friday prayer. The obligation to support the family is placed on men but not on women. On the other hand women receive in most cases, only half the inheritance that men do. These are areas where any change to bring about equal treatment of men and women would be strongly contested, as matters essential to religious belief. However with appropriate educational

¹ Survey conducted by Jamila Hussain & Faikah Behadien of MWNNA

support women may be able to negotiate alternatives that maintain the spirit of the religious traditions without suffering disadvantage from literalist interpretations.

The law is a blunt instrument for changing behaviour. While changes in the law can have some educative value and can sometimes be used to bring about change, they may, in the short term at least, have adverse consequences for community harmony. Educational programs and incentives for organizations that include women in their consultative processes and adequately meet the needs of all their constituents may be more successful and less confrontational.

There may also be consequences for religious educational institutions if the exemptions for religious bodies were removed from the Sex Discrimination Act. Ideally Islamic schools would seek to educate boys and girls separately (although in practice this does not often happen in Australia due to financial constraints). The provision of single sex swimming classes is an example where Sex Discrimination increases the opportunity for girls and women to learn essential life saving skills. Schools would also expect staff to adhere to Islamic values, such as not living in de facto relationships.

In conclusion Muslim women are both at an advantage and a disadvantage under the current Commonwealth Sex Discrimination Act 1984 specifically in reference to term (n). The MWNNA would not support changes to the Act without further and considerable consultation. However it supports the necessity of change in the leadership opportunities and consultation processes of the Muslim community.

Note: This submission is made following consultation with the executive of one Muslim women's organization (MWNNA) and it is submitted that there should be much wider consultation before any far reaching changes in the law are put into place.

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