



Australian Bahá'í Community

SUBMISSION TO NATIONAL HUMAN RIGHTS CONSULTATION

The Australian Bahá'í Community warmly welcomes the National Human Rights Consultation. The Consultation is in itself a significant human rights education measure, increasing awareness of human rights and generating discussion about them. We applaud the commitment of the Australian Government to promotion and protection of human rights through this Consultation and its outcomes.

AUSTRALIAN BAHÁ'Í COMMUNITY

The Australian Bahá'í Community was established in 1920 and its membership reflects the diversity of modern Australia. As members of the Bahá'í Faith - a worldwide religion, founded over 160 years ago, with more than five million members around the globe - we seek to promote and apply principles derived from Bahá'í teachings which contribute to the solution of current challenges facing humanity and the development of a united, peaceful, just and sustainable civilisation.

We undertake a range of activities to promote and protect human rights at international, national, state and local levels. Our work is in line with the Bahá'í belief that an equal standard of human rights must be recognised and adopted for all humanity. We support the goals of the United Nations Charter and have a wide-ranging interest in the human rights machinery of the UN. We have published statements and submissions on a range of human rights issues. We participate in the Department of Foreign Affairs and Trade and Attorney-General's NGO consultations on human rights and currently convene the Australian Forum of Human Rights Organisations.

The Australian Bahá'í Community is affiliated with the Bahá'í International Community (BIC), which represents the worldwide Bahá'í community at the United Nations. The BIC holds consultative status with the UN Economic and Social Council and UNICEF. It co-chaired the UN Millennium Forum in 2000.

1. WHICH HUMAN RIGHTS AND RESPONSIBILITIES SHOULD BE PROTECTED AND PROMOTED?

Universal Human Rights

Bahá'í believe that the source of human rights is “the endowment of qualities, virtues and powers which God has bestowed upon mankind without discrimination of sex, race, creed or nation. To fulfil the possibilities of this divine endowment is the

purpose of human existence.”¹ Bahá'u'lláh, the Founder of the Bahá'í Faith, not only anticipated the rise of the human rights movement, but also provided an underlying moral and spiritual framework upon which to view human rights in the modern age. His vision of a unified global community gives central consideration to the safeguarding and enhancement of the rights of all human beings.

It is a central tenet of the Bahá'í Faith that the concept of human rights should be anchored in the principle of the oneness of humanity, for this requires abandonment of prejudice of every kind, including race, class, colour, creed, nation, sex, or degree of material civilisation. Recognition of the oneness of humanity gives rise to an elevated concept of human rights, one that includes the assurance of dignity for each person and the realisation of each individual's innate potential. This view differs markedly from an approach to human rights that is limited to preventing interference with the individual's freedom of action.

The Australian Bahá'í Community thus unequivocally affirms the universality of the rights articulated in the Universal Declaration of Human Rights, which, building on the United Nations Charter itself, underpins the United Nations Human Rights system. As the United Nations has repeatedly asserted, all human rights are universal, indivisible, interrelated and interdependent. Any consideration of the protection and promotion of human rights in Australia, therefore, needs to be undertaken within the context of the framework and standards established by the Declaration.

The community of nations has come a long way since the adoption of the Universal Declaration of Human Rights in 1948 as a common standard for all people and nations. In the sixty years since its adoption, the Declaration has been the basis for ongoing standard-setting in human rights, inspiring over sixty international treaties and conventions which in turn have acquired increasing authority through incorporation into national legal systems and through customary law. Australia has a duty to promote and protect all the rights and responsibilities articulated in the Declaration.

Freedom of Religion or Belief

Article 18 of the Universal Declaration of Human Rights articulates the right to freedom of religion or belief, a right which is under threat in many countries:

Everyone has the right to freedom of thought, conscience and religion; this right includes the freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in teaching, practice, worship and observance.

The Australian Bahá'í Community affirms that the freedom to hold beliefs of one's choosing, to practise them and to change them is central to human development. In its statement “Freedom to Believe”, the Bahá'í Community urged the United Nations to give serious consideration to four critical yet neglected issues related to the right to freedom of religion or belief: (1) the right to change one's religion or beliefs; (2) the

¹ “A Baha'i Declaration of Human Obligations and Rights”, Presented to the first session of the United Nations Commission on Human Rights, Lake Success, NY, USA, February 1947, <http://bic.org/statements-and-reports/bic-statements/47-0201.htm>

right to share one's beliefs with others; (3) the responsibilities of the international community and national governments vis-à-vis marginalised and peacefully organised religious communities; and (4) the responsibilities of religious leaders vis-à-vis the promotion and protection of the right to freedom of religion or belief.² In considering the promotion and protection of human rights in Australia, a nation of religious diversity, we encourage the committee to pay particular attention to the right to freedom of religion or belief.

There is a tendency to treat the right to freedom of religion or belief as less important than certain other civil and political rights and this right is often treated as a 'second class citizen' in the sphere of human rights. People do not wish to be involved in religious dialogues as the definition of religion itself is contested. Problems also arise when focusing on the major world's religions as this can leave out smaller, less established faith communities. Given the interdependence of human rights, violations of this right have compromised many other rights.

The then Human Rights and Equal Opportunity Commission's 1998 paper, *Article 18*, thoroughly reviewed the protection of the right to freedom of religion and belief under Australian law, including protection against discrimination based on religion or belief. The paper examined the Australia Constitution and relevant Federal, State and Territory laws. It found that:

Most Australians may not experience discrimination on the basis of religion and belief but many do. Some Australians are protected from discrimination on the basis of religion and belief by State and Territory laws but many others are not. Laws providing protection from discrimination on the basis of religion and belief are patchwork across Australia.

Despite the changes in some State and Territory legislation that have occurred in the past decade, we believe that this finding remains true.

While members of our own community report only occasional and isolated incidents of religious discrimination in Australia, we recognise that for some other communities, such discrimination has become more frequent and widespread in the past ten years. Accordingly we support the Commission's conclusion in 1998 that "to comply with international human rights commitments Australia should enact federal legislation to make unlawful in Australia discrimination on the basis of religion and belief." This legislation could be part of the *Religious Freedom Act* the Commission recommended to be enacted by the Commonwealth Parliament, or part of a broader Human Rights Act. Further prohibition of discrimination should be coupled with explicit recognition of the rights set out in article 18 of the Declaration³.

² "Freedom to Believe: Upholding the Standard of the Universal Declaration of Human Rights", Bahá'í International Community's Statement on the Freedom of Religion or Belief, October 2005, <http://bic.org/statements-and-reports/bic-statements/05-1001.htm>

³ This topic is explored in more detail in our submission to the Australian Human Rights Commission consultation on Freedom of Religion and Belief in the 21st Century, copy available on request.

Gender

We believe it is essential that awareness of the human rights of women forms an integral part of any effort to address human rights in Australia and acknowledge the detailed submission made to the National Human Rights Consultation by the WomenSpeak Alliance to this end. The persistently disproportionate number of women among the disadvantaged, the relentless epidemic of domestic violence affecting so many women and girls, and the under-representation of women in leadership and decision-making at all levels across our nation, demand that special consideration be given to gender. The full and confident participation of women in legal, political, economic, academic, social and artistic arenas is a prerequisite for a more just and peaceful society in which the human rights of all are protected.

Rights and Responsibilities

The Australian Bahá'í Community believes that rights and responsibilities are inextricably linked and are interdependent among all actors in society. If the realisation of human rights involves promoting human dignity, then it becomes apparent that governments alone cannot implement human rights. Legal protections for human rights are unquestionably essential to human dignity but dignity is fostered fundamentally by the way one treats and is treated by others.

The effective implementation of existing human rights standards requires vigilance on the part of all members of society, the freedom to speak out against abuses and the willingness to do so. The responsibility to help others, to defend the sanctity of their persons, and to promote their fundamental dignity as members of a global community is essential to the effective implementation of all universally recognised human rights.

Some links between human rights and responsibilities are already generally accepted. The Universal Declaration of Human Rights itself affirms in article 29 that "everyone has duties to the community in which alone the free and full development of his personality is possible." Legal rights guaranteed by the existing human rights instruments are implicitly balanced by responsibilities, and states are obligated to respect human rights under international law. Likewise, the notion of responsibility is widely acknowledged in its narrow criminal and tort law sense. Yet in the Bahá'í perspective, the concept of "responsibility" in the context of human rights encompasses the responsibility devolving upon every person, as a divinely-created being, to recognise the essential oneness of the human race and to promote the human rights of others with this motivation.

Thus, it seems to us essential to broaden the conceptual framework for addressing human rights problems from an adversarial paradigm - pitting the government against the individual citizen - to a cooperative one, where we consider relations among all human beings as members of one community. In this context, everyone has an essential role to play in implementing fundamental human rights.

It is our view that recognition of the responsibility of every Australian to promote the human rights of others would represent a major advance in the cause of human rights. A recognition of responsibilities in this context would encourage and empower all

Australians, not just the Government, to become active participants in implementing established human rights⁴.

2. ARE HUMAN RIGHTS SUFFICIENTLY PROTECTED AND PROMOTED?

Australia is a nation which aspires to embrace the diversity of its citizens and provide its people with opportunities to develop themselves and realise their potential. The protection and promotion of human rights is an essential factor in this process, underpinning peace and harmony and helping society to progress. Whatever the current methods and degrees of protection afforded to human rights in Australia, the constant strengthening of efforts to protect and promote human rights is valuable and important for the sake of both the individual and the wider community.

3. HOW COULD AUSTRALIA BETTER PROTECT AND PROMOTE HUMAN RIGHTS?

A National Human Rights Mechanism

As a matter of principle, the Australian Baha'i Community supports mechanisms which assist society to focus on the needs of humanity as a whole in addressing the challenges before it. With the understanding that any such mechanism would have as its mandate universal human rights standards, we see merit in a national human rights mechanism for Australia.

The concept of a national mechanism for protecting and promoting human rights appears to be a sensible corollary to the notion that fundamental human rights are inherent in an individual and important to his or her development and the development of society as a whole, and therefore warrant special protection at all levels. A national mechanism would provide an assurance for protecting and promoting human rights into the future. Further, such an approach would both strengthen existing rights while at the same time providing the opportunity to fill in any gaps that currently exist in and across jurisdictions.

As stated previously, the basis for a commitment to human rights is, in our view, recognition of the oneness of humanity. In this context, any national instrument for the recognition of fundamental rights should proceed from a basis that recognises that human rights are inherent in the human person, and require no jurisdictional or other status for their existence, or protection. One facet of this approach raises the consideration that while Australia possesses commendable laws to hinder discrimination, current provisions for the protection of human rights do not allow an individual to pursue the protection of their rights simply on the basis of their inherent

⁴ See "Rights & Responsibility to Promote Human Rights", *Written comment on the Draft Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms submitted to the 50th session of the Commission on Human Rights*, 3 December 1993, <http://bic.org/statements-and-reports/bic-statements/93-1203.htm>

application to all human beings. Another facet suggests the need to avoid the introduction of any unwarranted limitations that might institute distinctions between individuals on jurisdictional grounds.

It is our view that human rights mechanisms are generally most effective if clear benchmarks are established against which their effectiveness can be measured. Benchmarks which set forth practical objectives and include specific detail, rather than providing only theoretical or general statements of intent, can assist in ongoing measurement and evaluation of the progress Australia makes in promoting and protecting human rights domestically.

Legal protections for human rights and freedom from government oppression are unquestionably essential to human dignity. There are other processes, however, that should accompany the establishment of any national mechanism seeking to protect and promote human rights in Australia.

Human Rights Education

In order to protect and promote human rights, a framework of values within which diversity is seen not as a threat but as an aspect of our common humanity will be required. All organs of society must be educated to work together to create a culture of human rights at the local, state and national levels that emphasises the moral and legal foundation of human rights. Laying this foundation for what some have referred to as "a universal culture of human rights" is one of the most important aspects of human rights education.

Systematic programs of human rights education are indispensable to the realisation of human rights in Australia and we acknowledge the efforts of the Australian Human Rights Commission over many years in this field. All Australians need not only to learn about their own rights but to develop respect for the rights of humanity in general. 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 national human rights standards.

Human rights education, it should be noted, is not limited solely to the provision of information. It has been defined by the United Nations General Assembly as training and information aimed at building a universal culture of human rights through the sharing of knowledge, imparting of skills and moulding of attitudes directed to:

- a. The strengthening of respect for human rights and fundamental freedoms;
- b. The full development of the human personality and the sense of its dignity;
- c. The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;
- d. The enabling of all persons to participate effectively in a free and democratic society governed by the rule of law;
- e. The building and maintenance of peace; and

- f. The promotion of people-centred sustainable development and social justice.

It is seen to encompass:

- 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.
- c. Action: encouragement to take action to defend human rights and prevent human rights abuses.⁵

We suggest that a key component of any systematic program of human rights education is a strategy rooted in the education and training of children. Such education should enable children to develop morally as well as intellectually, cultivating in them a sense of dignity as well as a responsibility for the wellbeing of their family, their community and the world. Over many years, we have been providing Bahá'í education classes to children, which seek to inspire in children a love of humanity in all its diversity and to assist them to develop moral capacities fundamental to not only their happiness, but for authentic human cooperation and the advancement of our material and spiritual civilisation. Based on our experience, we believe that quite young children can understand and benefit from human rights education, provided it is presented in a manner appropriate to their stage of development. We recommend that human rights education begin from the earliest years.

A new component of the Australian Bahá'í Community's efforts to help establish a universal culture of human rights is the development of a spiritual empowerment program for junior youth (12–15 years of age). Although in its early stages of development and implementation, the program is designed to enable junior youth to develop a strong sense of purpose and become empowered to reach their potential, while contributing to the advancement of society. Although it would be premature to describe the program as successful, the initial results make us optimistic about its potential. We hope to build up our resources to make junior youth groups more widely available over time. Our experience to date leads us to recommend that special emphasis be placed in human rights education programs on the crucial formative period between the ages of 12 and 15, when young people are moving from childhood through adolescence.

Accountability

We believe that in human rights matters in general, transparency and accountability are desirable. It is not only governments but also corporations, non-governmental organisations, other agencies of civil society and even individuals who should be held accountable for their human rights practices. Accountability measures do not

⁵ [United Nations General Assembly, Proposed Plan of Action for the First Phase \(2005 - 2007\) of the World Programme for Human Rights Education, A/59/525](#), para. 3.

necessarily have to be sanction-based but can include, for example, education-oriented measures that correct the behaviours or actions that result in the transgression of human rights.

The Committee may wish to consider the role of parliamentary participation and oversight as another means for achieving greater transparency and accountability. Parliaments can draw on a wide range of sources including reports of UN Special Procedures, NGO reports, media reports, and reports from independent sources. To this end, the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade could play a greater role in the prevention and redress of domestic human rights violations if its mandate was expanded to include independent monitoring and reporting on the implementation within Australia of the Concluding Observations and Views on Individual Communications of the United Nations Treaty Bodies.

United Nations System of Human Rights Protection

We applaud the Australia Government's renewed commitment to engagement with the United Nations and the evidence of its willingness to cooperate fully with United Nations human rights mechanisms, such as the Treaty Bodies. Australia's engagement and cooperation puts it in a strong position to use UN mechanisms to promote and protect human rights in Australia. While the limitations and inadequacies of the United Nations human rights system are well known, the experience of the Bahá'í Community has shown that the system can nevertheless play an important role in addressing human rights violations. For example, we remain convinced that international monitoring through various components of the United Nations human rights system has provided the beleaguered Bahá'ís in Iran with some measure of protection against the most grievous violations of their human rights.

Role of Non-Governmental Organisations (NGOs)

NGO capacity is an important consideration in the protection and promotion of human rights in Australia. The Australian Bahá'í Community is encouraged by the acknowledgement of the positive role of NGOs in advancing human rights in the Department of Foreign Affairs and Trade Human Rights Manual, which states:

Concern for human rights and fundamental freedoms is not the reserved domain of States. Given their independence, commitment and diversity, NGOs play a legitimate, well-established and respected role both domestically and internationally in the promotion and protection of human rights. The work of the Australian Government in the human rights field is reinforced by the ongoing relationship which exists between the government and human rights NGOs. While the views and methodologies of NGOs do not always coincide with those of Government, the input which NGOs bring to the domestic and international human rights debate is both legitimate and an important source of positive dialogue.⁶

⁶ Department of Foreign Affairs and Trade Human Rights Manual 1998, Chapter 6, http://www.dfat.gov.au/hr/hr_manual/chp6.html

Measures which strengthen and encourage NGOs in this role, such as support for NGO capacity building, should not be overlooked by the Committee in considering the promotion and protection of human rights in Australia.

Role of Religious Leaders

Religions have traditionally played a defining role in cultivating the values of a community, and the support of religious leaders and people of faith needs to be harnessed in the protection and promotion of human rights in Australia⁷. The moral and ethical teachings of religions - which underpinned international law at its historical formation - give a moral foundation to human rights by declaring that they are God-given rights. For example, the admonition that we should treat others as we ourselves would wish to be treated can be found in the teachings of every religion.

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.” Religious leaders have a special responsibility to reaffirm those spiritual principles that bring unity and to take a stronger role in opposing those aspects of religious fundamentalism that have contributed to the violation of human rights and the subordination of others.

CONCLUSION

The Australian Baha’i Community thanks the Australian Government for the opportunity to make this submission to the National Human Rights Consultation. We look forward to the outcomes of the Consultation and the ongoing development of human rights policy in Australia. We trust that the outcomes of the Consultation will lead to the further protection and promotion of human rights in Australia.

June 2009

⁷ A recent example of the harnessing of the support of religious leaders for the promotion and protection of human rights is the Faith in Human Rights statement, see http://www.onecountry.org/e201/e20101as_Hague_Interfaith_Conference_story.html