



Australian Bahá'í Community

INQUIRY INTO INTERNATIONAL AND REGIONAL HUMAN RIGHTS MECHANISMS AND POSSIBLE MODELS FOR THE ASIA-PACIFIC REGION

The Australian Bahá'í Community welcomes the current inquiry into international and regional human rights mechanisms and possible models for the Asia-Pacific region by the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade.

THE 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 resolution of current challenges facing humanity and the development of a united, peaceful, just, and sustainable civilisation.

The Australian Bahá'í Community undertakes 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 UNITED NATIONS HUMAN RIGHTS SYSTEM

Universal Declaration of Human Rights

The Australian Bahá'í Community 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 prevention and redress of human rights violations in the Asia-Pacific region 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. The adoption of the Declaration marked one of the first collective expressions of a newly emerging international community. 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. All states in the Asia-Pacific region, regardless of their political, economic and cultural systems, have the duty to promote and protect all the rights and freedoms articulated in the Declaration.

As the world faces increasing challenges such as economic disparities, violence, prejudice and environmental degradation, attention is turning to the responsibilities of states vis-à-vis the protection and promotion of human rights. These crises are helping to forge a new awareness of international responsibility, and recasting the concept of sovereignty from inherent right to responsibility. While there is clearly a long way to go before the commitments inherent in the Declaration and related instruments are translated into universal respect for human rights, we share the optimism of the Bahá'í International Community that:

the maturing consciousness of a global community, the development of mechanisms for implementation and monitoring of human rights and the rise of a vibrant civil society in support of these rights, holds promise that a global order capable of upholding the dignity and nobility of the individual will be realised.¹

Support for the UN Human Rights System

Within a global context, the United Nations Human Rights system, including the General Assembly and its Third Committee, the Human Rights Council, the Treaty Based Mechanisms, the Special Procedures to address thematic and country issues, and the Office of the High Commissioner for Human Rights, are essential means for the promotion and protection of human rights. They should be fully utilised in preventing and redressing human rights violations in the Asia-Pacific region. 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 bringing international attention to human rights violations in particular states. For example, we remain convinced that international monitoring through various components of the United Nations human rights system has provided the beleaguered Bahá'í community in Iran with some measure of protection against the most grievous forms of persecution.

We applaud Australia's renewed commitment to engagement with the United Nations and the evidence of its willingness to cooperate fully with United Nations human

¹ "60th Anniversary of the Universal Declaration on Human Rights" Bahá'í International Community's Statement on the occasion of the 60th Anniversary of the Universal Declaration on Human Rights, New York, 6 February 2008 <http://bic.org/statements-and-reports/bic-statements/08-0206.htm>

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 within the Asia-Pacific region as well as to advocate with other States in the region to similarly support and cooperate with the UN human rights system.

We note also that the Government has made a significant budgetary allocation to fund Australia's engagement with the United Nations. Without sufficient resources the work of United Nations human rights mechanisms will continue to be hampered and we trust that Australia will play its part, as a responsible international citizen, in providing appropriate levels of financial support to the United Nations to enable it to prevent and redress human rights violations. We also suggest that Australia should be a vigorous advocate internationally for an increase in the resources allocated for the promotion and protection of human rights, to reflect their importance to the mandate of the United Nations.

Human Rights Council

The Bahá'í Community has fully supported the creation of the Human Rights Council, and will continue to work to support the success of the mechanisms and structures of the Council. The new mechanism of Universal Periodic Review (UPR) has had a good start and is encouraging constructive dialogue and evaluation of the fulfilment of human rights obligations of all member states in a transparent and impartial manner. UPR should prove of value in the prevention and redress of human rights violations in the Asia-Pacific region.

While it is envisaged that the Council will be the primary institution for addressing human rights violations, attention must continue to be focused on the most egregious human rights violators at the United Nations General Assembly, as it is the forum for all members of this august body to voice their concerns.

Office of the High Commissioner for Human Rights (OHCHR)

With more adequate resources, OHCHR would be better-equipped to respond effectively to the human rights challenges facing the international community, including the Asia-Pacific Region. The former Secretary General's report "In Larger Freedom: towards development, security and human rights for all" called for more resources to train country teams within the OHCHR.² We support this measure and suggest Australia might urge OHCHR to establish a strong field presence at the country level in the Asia Pacific region, providing leadership and coordination on matters of promotion and protection of human rights.

The ambitious mandate of OHCHR must be supported by appropriate budgetary resources for it to operate more effectively in the Asia-Pacific region and elsewhere. The core functions of the Office should be independent of voluntary contributions and governments should decrease the proportion of earmarked funds, according more latitude to OHCHR in determining its needs.

² "In Larger Freedom: towards development, security and human rights for all," Report of the Secretary General, Para. 142. UN Document A/59/2005

We also suggest that there should be strong support for the role for OHCHR in the Asia-Pacific region in engaging productively with non-government organisations (NGOs). Such engagement not only contributes positively to the work of the Office in preventing and redressing human rights violations but in turn contributes to the development of NGO capacity.

Special Procedures

It is evident that the Special Procedures themselves require more adequate budgetary and administrative support if they are to operate more effectively in the Asia-Pacific region. It is also clear that human rights violations would be more effectively prevented and redressed if Government cooperation with Special Procedures was not limited to access, but included full implementation of recommendations made. We suggest that OHCHR should be encouraged to take steps to bolster interactive dialogue with the Special Procedures and ensure that dialogues include Member States' reports on the status of implementation of the Special Procedures' recommendations.

REGIONAL MECHANISMS

As a matter of principle, we support mechanisms which assist states to cooperate with each other, to transcend considerations of national sovereignty and to focus on the needs of humanity as a whole in addressing the challenges before them. With the understanding that any such mechanism would have as its mandate universal human rights standards, we see merit in a regional inter-governmental human rights mechanism for the Asia-Pacific.

As a step towards the establishment of such a mechanism, the Sub-Committee might investigate the potential for using existing regional mechanisms, such as the Pacific Islands Forum or ASEAN, to prevent and redress human rights violations in the region. In this context, we note the work of the Regional Working Group for an ASEAN Human Rights Mechanism.

We also acknowledge the role of the Asia Pacific Forum of National Human Rights Institutions (APF) which, in the absence of any intergovernmental human rights mechanism, has effectively promoted and protected human rights in the Asia-Pacific region. As Australia's experience of the Australian Human Rights Commission demonstrates, national human rights institutions can play a crucial role in preventing and redressing human rights violations. APF has provided a framework for national human rights institutions to work together and cooperate across the Asia-Pacific region.

It should also be noted that with very limited resources, human rights NGOs, particularly those working on women's rights, have effectively operated at a regional level in the Asia-Pacific. Two prominent examples are Asia Pacific Women's Watch and the Asia-Pacific Forum on Women, Law and Development. Increased support for these regional networks of NGOs would enable them to play a greater role.

ROLES FOR PARLIAMENTS

We believe that in human rights matters in general, transparency and accountability are desirable. While not the only means for achieving greater transparency and accountability, parliamentary participation and oversight is an obvious way to realise this end.

Parliaments can be effective in measuring progress against human rights benchmarks. Human rights mechanisms are most effective if clear benchmarks are established against which their progress 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 parliaments in measuring progress in promoting and protecting human rights domestically and internationally. Parliaments can also draw on a wide range of sources including first-hand observations from Government delegations, reports of UN Special Procedures, NGO reports, media reports, and reports from independent sources.

This inquiry may also be an opportunity to consider the role of the Human Rights Sub-Committee itself, which could play a greater role in the prevention and redress of human rights violations if its mandate was expanded to include independent monitoring and reporting on the implementation of the Concluding Observations and Views on Individual Communications of the United Nations Treaty Bodies.

OTHER CONSIDERATIONS

Role of Non Government Organisations (NGOs)

NGO capacity is an important consideration in considering human rights mechanisms in the Asia Pacific region. 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.³

The positive contribution of NGOs applies equally at national, regional and international levels. Additional measures to assist NGOs throughout the Asia-Pacific

³ Department of Foreign Affairs and Trade Human Rights Manual 1998, Chapter 6, http://www.dfat.gov.au/hr/hr_manual/chp6.html

region to develop their strength and competence, such as training, funding and other forms of capacity building, should be considered in the context of this inquiry.

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 the Asia-Pacific region. The persistently disproportionate number of women among the poor in the Asia-Pacific region, the systemic violation of girls' and women's rights, and the gross under-representation of women in governance at all levels across our region, demand that special consideration be given to gender in the Sub-Committee's deliberations. The systems which have traditionally oppressed women in our region remain largely intact, and this injustice undermines the success of all other efforts in human rights and development. 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.

Freedom of Religion or Belief

One of the central and most challenging human rights issues shaping inter and intra-State relations today is the right to freedom of religion or belief. In "Freedom to Believe",⁴ 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 right to share one's beliefs with others; (3) the responsibilities of the international community and national governments vis-à-vis marginalized and peacefully organized 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. In considering potential models for preventing and redressing human rights violations in the Asia-Pacific, a region of great religious diversity, we encourage the Sub-Committee to take these issues into account.

Links with Other Policy Objectives

In focusing on the promotion of human rights in the Asia-Pacific region, the Australian Bahá'í Community believes that linkages between human rights and other policy areas, such as trade, should be considered. We suggest that in the negotiation of any regional or bilateral agreements, economic or otherwise, there lies a valuable opportunity for Australia to demonstrate its consistent commitment to advancing human rights. With the expansion of Australia's Official Development Assistance in the region, there is an excellent opportunity to more extensively integrate the process of development with the protection of human rights. We appreciate that the Australian Government faces a complex and often delicate task of managing bilateral relations with its neighbours, yet we believe that such carefully fostered relationships provide an opening to address human rights issues in an effective and measured manner.

⁴ "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>

Human Rights Education

We believe that systematic programs of human rights education are indispensable to the realisation of human rights in the Asia-Pacific region. All citizens need not only to learn about their own rights but to develop respect for the rights of humanity in general.

Human rights education, it should be noted, is not limited solely to the provision of information. 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
- (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.

CONCLUSION

The Bahá'í Community thanks the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade for the opportunity to make this submission to the inquiry into international and regional human rights mechanisms and possible models for the Asia-Pacific region. We look forward to outcomes of the Sub-Committee's deliberations and trust that this inquiry will lead to the further promotion and protection of human rights in the Asia-Pacific region.

“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”⁵

December 2008

⁵ “A Bahá'í 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>