

SUBMISSION
to
The National Human Rights Consultation Committee
from
The Institute of Sisters of Mercy of Australia

1. INSTITUTE OF SISTERS OF MERCY OF AUSTRALIA

The Institute of Sisters of Mercy of Australia (the Institute) represents seventeen autonomous congregations of Sisters of Mercy located throughout Australia and one autonomous community in Papua New Guinea. Collective membership is approximately 1470 women, 1450 of whom are Australian citizens. As Catholic women religious, Sisters of Mercy are dedicated to serving people who suffer from injustices related to such situations as poverty, lack of adequate health care, education, and meaningful employment, and the need to seek refuge from their countries of origin.

The Institute's fundamental motivation derives from the Christian Gospel and from the life and work of Catherine McAuley, who founded the Sisters of Mercy in Ireland in 1831. In her time, Catherine was concerned for the plight of the Irish poor who were denied decent housing, educational opportunities and access to health care services. She was also passionately concerned for the rights and dignity of women, especially young women in domestic service, whose powerlessness often left them prey to sexual and economic exploitation.

While Catherine herself had been spared the sundry deprivations of abject poverty, she had first hand experience of its demeaning effects and the human suffering it entails. Through her tireless advocacy and practical care, she demonstrated a personal commitment to uplifting women, men and children from oppressive and dehumanizing circumstances.

In their ministries today, the Sisters of Mercy recognize parallels with 19th Century Ireland. Consistent with Catherine's founding inspiration, together with associates and colleagues, they work with and on behalf of many who are socially vulnerable, endure poverty and experience social exclusion. Among those for whom they have a special care in Australia are:

- homeless people
- refugees and asylum seekers
- frail aged people
- prisoners
- people with a disability
- people living with mental illness.

In many parts of the country too, Sisters of Mercy work closely with Indigenous people. They support their rights to land and culture and are committed to closing the gap in morbidity and mortality rates compared to general Australian population.

Support for the rights of women and children is another key commitment of the Institute.

The Sisters of Mercy are frequently engaged in social advocacy and over the decades, have been at the forefront of national and international social justice initiatives, including the international campaign to ban landmines. They also continue to participate in the global campaign to end human trafficking.

2. THE INSTITUTE AFFIRMS THE NEED FOR HUMAN RIGHTS LEGISLATION IN AUSTRALIA

In light of the origin and purpose of the Sisters of Mercy as outlined above, the Institute affirms the desirability of human rights legislation and wishes to contribute to the current consultation on the subject. It basis its submission on a number of factors:

(1) Catholic Faith Tradition

The Institute's identity within the Catholic faith tradition motivates its support for the protection of human rights in Australia, thus:

- The prophetic tradition of the Christian scriptures highlights God's concern for the poor and oppressed and for upholding the dignity of the human person. In particular, the Gospels reveal Jesus of Nazareth as a person who reached out to the poor and socially excluded and condemned the social and political conditions that exploited and oppressed them. His ministry was inclusive.
- The Church's tradition of Catholic Social Teaching (CST) encompasses the protection of human rights and the promotion of accompanying responsibilities. This aspect of the Church's teaching is grounded in the dignity of the human person and the sanctity of life from its beginning to its end.

In Catholic tradition, human rights include the right to life as well as a suite of civil, social, political and economic rights some of which are identified as: the right to work and to a just wage; the right to participate in public life and to form and gather in associations; the right of religious freedom; the right to marry and to establish a family; the right to private property.

The Institute believes that human rights legislation based on the dignity of the human person and enshrining an inclusive community is compatible with the Catholic faith that inspires and directs its life and ministries.

(ii) Support for Ministries of the Institute

In fact, the Institute believes that national human rights legislation would enhance many of the ministries in which it is involved by providing a national benchmark and powers for upholding the rights of the most vulnerable and socially excluded and not to leave this to chance. For

example, if such legislation was enacted, Federal public authorities would be bound by the terms of the Act and have to ensure compatibility with it when drafting new legislation and implementing policy. This would make public officials more accountable and, hopefully, prevent imbalances in power that can arise when powerless and vulnerable people are caught up in some systems and institutions, such as immigration, corrections, health and law enforcement.

(iii) Improving the Current Situation in Australia

Currently Australia has few legal protections for human rights. Where they do exist, they are part of a patchwork spread across federal and state jurisdictions that leaves many gaps. Individuals and groups ‘fall through the cracks’ of the current arrangements. Consequently, there is need to redress the situation and to bring the Commonwealth of Australia into line with other democracies where human rights legislation is in place. Arguably, this is consistent with the founding values of our Australian social democratic tradition, highlighted, for example by the fact that Australia was among the first countries in the world to allow women to vote and to provide a basic, just wage for workers.

In the absence of a coherent, enforceable, national human rights framework, the Institute notes the risk this poses when the protection of human rights is left to the vagaries of government policies and public opinion. Of concern has been the suspension of the *Racial Discrimination Act 1975* at the time of the 2007 Northern Territory intervention; the incarceration of an Australian citizen for years in Guantanamo Bay, Cuba, without access to legal redress; the vulnerability of homeless people, many with mental illness, within various legal jurisdictions and their high representation in prisons; the lengthy detention of asylum seekers, including young children, in detention centres – the proportionality of punishment far exceeding the “crime” of illegal entry into Australia.

Recent events demonstrate how easily human rights protections can be abandoned and how difficult it can be for powerless people, citizens of Australia included, to seek redress when their rights are denied.

A further benefit which would accrue to Australian society from national human rights legislation would be to make Australia’s laws conform better to our obligations under various United Nations Conventions which set international standards for the promotion and protection of human rights.

3. OPTIONS

In supporting this initiative the Institute proposes that:

- the legislation be modeled on best international practice and encompass, as a minimum, those rights that are included in United Nations Conventions specifically: the rights of women, refugees, the child, persons with a disability and civil, political, economic, social and cultural rights. In particular, it is imperative that the rights of Indigenous people be defined and included.

- the legislation be reviewed by the Attorney-General with the report presented to Parliament within a set time after the commencement of the Act.
- the legislation allow for further amendment so that emerging human rights such as “collective rights” can be taken up in the future.
- the introduction of the legislation be accompanied by an education program that assists the Australian people to understand what it is about and how it will enhance the civil society and bring the country into line with other democracies. This education should be inclusive of the cultural and linguistic diversity of the nation.

4. CONCLUSION

In concluding this submission, the Institute notes the public debate that the National Human Rights Consultation has prompted among Australians. Likewise, it is conscious of the contestability and conflict that some rights generate. In that regard, while coming primarily from a faith-based perspective, it respects, and does not seek to compromise, the principle of the separation of Church and State. However, in the end, the Institute of the Sisters of Mercy of Australia upholds Catholic ethical principles around the sanctity and dignity of life and views this as the cornerstone of any human rights regime.

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