



A. F. U. W.

THE AUSTRALIAN FEDERATION OF UNIVERSITY WOMEN INC

SUBMISSION TO THE NATIONAL HUMAN RIGHTS CONSULTATION

Submitted on behalf of AFUW Inc by Dr Jennifer Strauss AM
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The Organization making the Submission

The Australian Federation of University Women Inc. is an organization of graduate women with associations and branches in all Australian States and Territories. Membership is open to any woman residing in Australia who holds a degree from a recognised university or college worldwide.

Established in 1922, AFUW has as its aim the advancement of women and girls through access to affordable quality education, so that they can fulfill their personal potential, achieve economic independence and make informed contributions to civil society, especially in matters of peace and human security. While AFUW works primarily on issues concerning women and girls it believes that universal human rights are a prerequisite to their welfare. Submissions made in the past on Indigenous and refugee issues, for instance, have stressed the general human rights of these groups, while noting some issues particularly affecting women.

AFUW is one of more than seventy national federations and associations affiliated to the International Federation of University Women, which is one of five women's NGOs with representation at the United Nations ECOSOC and UNESCO and the ILO.

We thank the Commission for the opportunity to participate in its community consultations and to make a submission in an area that is of particular interest to AFUW.

The Submission

Existing Protections of Human Rights in Australia

AFUW believes that considerable protection of the human rights of Australian citizens is afforded through the various means listed in the Background Paper, namely:

- Australia's ratification of the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* and its signing of a number of specific UN Conventions and Declarations such as the *Convention on the Elimination of Discrimination against Women* (including, recently, its Optional Protocol); the *Convention on the Rights of the Child*; the *Declaration on the Rights of the Disabled*; and – very recently – the *Declaration on the Rights of Indigenous People*;
- Legislation that, where necessary, incorporates the provisions of these international treaties into domestic law, making them enforceable, particularly the anti-discrimination laws relating to race, sex, age and disability. Legislation via the Constitution or Acts of Parliament that covers a range of issues from the right to a fair trial to Freedom of Information;
- Common law rights that extend the legal right to a trial by jury provided under the Constitution to the right to be presumed innocent, to be silent and to have evidence obtained by force excluded at a trial;
- The existence, from 1986, of the Human Rights Commission as an independent statutory body that can monitor human rights issues, conciliate complaints and disputes and advise the Government on human rights;

A Need for a Single Defining Document

AFUW submits that the dispersal of human rights over a variety of instruments means that there may be gaps in coverage and also that public understanding of human rights as a coherent body of principles is limited, something that works against the cultural acceptance of human rights that is one of the best ways of ensuring their universal existence in everyday life. **We believe that it is now time for an instrument to give coherent expression to the full range of human rights that already prevail and should be brought to prevail in Australia.**

We support the view expressed in the Consultations that this should not be part of the Constitution, if only for the complexity involved in effecting Constitutional change and the desirability that such a document be sufficiently flexible to react to developing situations.

We note the existence of the *ACT Human Rights Act 2004* and the *Victorian Charter of Human Rights and Responsibilities Act 2006* and are aware that a major difference between the two is that the ACT legislation allows individuals who believe that their rights have been breached to take direct action to the courts for remedy. We believe that the requirement in the Victorian Charter for all legislation to be scrutinized in the light of the Charter is a valuable process.

We do not at this stage wish to recommend either model, but do recommend that a close study should be made of the working of these two groundbreaking developments as a basis of proceeding with a national agency.

We also recommend that detailed analysis be made of those areas and instances where there have been failures to protect human rights generally or in specific cases, so that preventative measures can be built into any new system. We would like to draw attention to the following:

- The need to prevent Government interference in the independence of the Human Rights Commission when it expresses opinions displeasing to the Government, as evidenced in the decision of the past Government to reduce the number of Commissioners at a time when the Commission was critical of Government policies on immigration;
- Failure to protect the rights of non-citizens, notably asylum seekers and women trafficked into Australia for the purposes of sexual servitude;
- Failure to provide many Indigenous Australians with adequate access to a range of rights expected by others, such as services in education, housing, and health – so that the paradoxical situation was reached in the Northern Territory Intervention that the racial discrimination legislation had to be suspended in order to try to remedy discrimination in the cited areas;
- The risk that a proper balance will not be maintained between the needs of national security, the rights of individuals and the right of the community in general to freedom of information;
- Poverty as a factor that denies or diminishes access to a range of rights: to equality before the law, health services, shelter and education. It's the matter of education that we wish to deal with in particular in this submission.

Education is a Human Rights Issue

The *UN Convention on the Rights of the Child* specifies the right of all children to education, and the importance of this is underlined by its inclusion (at least to primary level) in the Millennium Development Goals.

In Australia, access to education has been construed more in terms of obligations than rights. Education is 'compulsory' for all children, whether in the public or private system; parents are obliged to ensure their children's attendance; Federal and State governments are obliged to ensure its provision. These obligations certainly imply a right to education, which is probably assumed to exist by most members of the public.

AFUW would argue, however, that in a developed country like Australia, the right to education should go well beyond the modest ambitions of the Millennium Development Goals. It should entail the right to affordable quality education that is appropriate to the needs of the child.

We believe that many Australian children are being deprived of this right by a serious under-funding of public education. The most notably affected are children from low socio-economic status families, Indigenous children and those with disabilities. This is a serious equity issue.

The OECD *Education at a Glance 2007* Report shows that Australia's public expenditure on education as a proportion of total public expenditure declined by nearly 6% from 1995, and as a proportion of GDP it compares unfavourably with OECD averages in all sectors from early childhood education onwards, although most notably in the areas of early childhood and tertiary education. Australians spend a greater proportion of the family income on education than in comparable OECD countries, and the distribution of these contributions through private expenditure rather than through taxpayer funds is creating a widening gap in resources between schools, mostly – but not exclusively – between public and private schools, with consequent inequitable distribution of the benefits of education.

The current Federal Government has recently expressed concern at the poor participation rates of low SES students in tertiary education. The reasons for this are complex, but if it is to be redressed there is abundant evidence to suggest that the place to begin is in early childhood education, where there is a chance to address educational disadvantages inherent in children's personal and home situations before they become a permanent feature of their educational experience at all levels. Yet early childhood education is one of the areas in which Australia's public performance is weakest.

At both primary and secondary public schools, affordability is an issue, with under-funding obliging public schools to depart from the principle of 'free' education by imposing general levies, as well as specific charges for books and activities such as excursions. The inability to pay leads to exclusion from some educational activities, and to social humiliation that must have a negative effect on attitudes to schooling.

All Australian children should be able to participate in quality education as of right.

Should there be a right to some entitlements to Life-long Learning?

Education at tertiary level or through mature-age study provides great benefits. The case for arguing that access to it is a right would appear to be less obvious than the case for arguing for education as a right for the child, but AFUW believes that attention should be paid to the equity problems that have arisen as the increasing costs of education restrict capacity to progress to post-secondary education.

Apart from the acknowledged access difficulties of certain groups – those with low SES, Indigenous, rural and remote, refugee and some migrant backgrounds – there is some evidence that increasing costs are beginning to have a discriminatory effect on women, to the extent that women as a group generally have lower incomes than men, and hence less capacity to pay. Mature age women wanting to re-skill are particularly likely to be adversely effected by the recent rises in the fees for TAFE courses. The right of access for girls to 'blue collar' trade certificate courses where there are current skill shortages is also a concern that needs to be addressed, as it seems to be linked to career advice that is gender discriminatory.

The Importance of Human Rights Education

AFUW submits that education in human rights is essential if we are to have a culture in which they are widely understood and respected.

This would be greatly facilitated by a document setting out a coherent framework of reference, such as a Charter or Bill of Rights. The education of legislators through the

Victorian Charter is a case in point. NGOs that advocate on human rights are often obliged to rely on the authority of UN documents: it would be telling to have an Australian authority to cite.

Human rights should form a part of the formal curriculum of schooling, not just as a separate entity, but as a continuing aspect of subject disciplines. Its teaching should not be restricted to specialist teachers or, as is more likely, something added to the task of a teacher trained in a different area. **All** teacher-training should include education in awareness of human rights.

The study of human rights at university level has obvious relevance to disciplines such as Law, Politics, Education, Health (especially Medicine), Environmental Sciences, Philosophy, and should be encouraged there and indeed in all disciplines insofar as it can be relevantly introduced.

Apart from formal education programs, the Human Rights Commission should continue its role of making public statements on human rights issues, and of holding community consultations as a two-way dialogue in which it stimulates public awareness of human rights issues and obtains public input into policy. Federal and State Governments should be encouraged to use the media to publicise specific human rights as it has done in its campaign against domestic violence, but these should be placed always within the general context of support for human rights across the board.

Thank you again for the opportunity to participate in this important Consultation.