



CENTREPIECE

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International Human Rights and Violence Against Women (Part 2)

by Samantha Chrysanthou

Editor's Note: Due to its length, this article is printed in two parts. Part one was produced in Vol. 10 No. 2.

The Absence of Women's Voices

From the moment Rodi Adalí Alvorada Peña married a Guatemalan army officer at the age of 16, she was subjected to intensive abuse, and all her efforts to get help were unsuccessful. Her husband raped her repeatedly, attempted to abort their second child by kicking her in the spine, dislocated her jaw, tried to cut off her hands with a machete, kicked her in the vagina and used her head to break windows. He terrified her by bragging about his power to kill innocent civilians with impunity. Even though many of the attacks took place in public, police failed to help her in any way. After she made out a complaint, her husband ignored three citations without consequence (Broken Bodies).

The impact on women's ability to make themselves heard as a result of the gendered public/private dichotomy is great. Because they are precluded from shaping the agenda, women's concerns are not discussed, or, when they are discussed, there is little change in the patriarchal structures that reinforce women's silence. The traditional view that state responsibility extends only as far as the public sphere is a key factor behind state inaction. But the unwillingness of states to address violence against women can be taken for implicit acceptance of the practice. In this way, the argument can be made that the private really is public and that the state is at the least complicit in the endemic violence women experience worldwide. This serves to collapse the public/private distinction into one category and forces violence to be visible

Feature Article

as a social issue. One particular striking example that has been used to achieve this is to compare violence against women as a 'private' act to torture, which is a 'public' concern.

Violence Against Women as Torture

Torture of women is rooted in a global culture which denies women equal rights with men, and which legitimizes the violent appropriation of women's bodies for individual gratification or political ends (Broken Bodies).

The prohibition of torture has been recognized as part of the family of peremptory norms that make up *jus cogens* in international law. Thus, if a state condones or engages in torture, the harmed individual is able to appeal to international human rights law for protection and redress. The idea of torture shows "what renders violence exceptional and heinous" (R. Copeland, "Intimate Terror: Understanding Domestic Violence as Torture" in *Human Rights of Women*, at 117). The Convention on Torture defines torture in Article 1 as:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other

person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

The aim of the definition is revealed by its scope: apart from the obvious male pronoun, torture must be connected to an act of the state and thus by definition takes place within the public sphere. There is room within this definition for women, however. First, torture can be driven by discrimination of any kind. Violence against women is discrimination that is on a massive scale and so deeply embedded within the social, political and economic framework of society that it is viewed as natural or even the exercise of a man's right. The subjugation of a woman because of her gender is discriminatory and a legitimate basis for the application of the definition.

Second, although the torture must be linked to an act of the state, there is room for argument that the state is complicit when it does not prevent the violence.

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February is Black History Month

Staff and Volunteers

We have been busy these past few months. We have a new research Associate, **Brian Seaman**. Brian received his LL.B. from the University of New Brunswick in 1992 and then practiced law for seven years in Halifax, Nova Scotia before moving to Calgary in the fall of 2000. He has done contract work in the past for the Research Centre. In his spare time, Brian enjoys cooking, singing and creative writing. We continue to work on our joint CLERC family law for youth project and our joint project with the **Canadian Institute of Resources Law** on human rights and resource development.

We are fortunate to be working with excellent volunteers for the last few months—including **Susan Blackman, Vanessa Griffith, Heather Mieske, Kate Asbell, Eman Safadi, Tam Nguyen, Lena Derie-Gillespie, Kamal Zaidi, Shamsher Kothari, Jeff Schmidt, Tekisha Rayne, Kiran Birdi, Ariela Calin** and others. We had two masters of education students with us for a few weeks: **Pamela Wilkinson** and **Tess Bercan**. A new semester recently started and we have had many inquiries, so I am sure there will be even more volunteers to thank next newsletter! Thanks!!

- Linda McKay-Panos

Letter to the Editor

Dear Editor:

While I understand that the Roman Catholic church opposes gay marriage and also the Canadian Government's resolve to pass legislation, I believe Bishop Henry's opinion is extreme when he attempts to link homosexuality, adultery, prostitution, and pornography together as a justification for using the coercive power of the State against homosexuals. Such repressive views stigmatized and resulted in historical persecution of gays under civil and criminal sanctions.

With the advent of the Canadian Charter of Rights and a more enlightened social view, most Canadians and our courts recognize that the proposed gay marriage legislation does not compel any religious official to perform a marriage they are opposed to on theological grounds. Gay marriages will be performed across Canada by civil marriage officials and only by religious persons from whose church denominations that choose to marry same sex couples - for example, some United and Unitarian Churches. I would oppose the legislation if churches, temples, etc., were being coerced to perform any marriages. This is not the case.

While the Roman Catholic Church remains opposed to civil divorce and civil gay marriage, our society can respect this very particular religious opinion, while maintaining our broader Canadian commitment to values of equality and fairness. These values recognize the civil laws of divorce and gay marriage

Yours truly,
Brian Edy, Calgary

We would like to hear from readers!

Submit Letters to the Editor to:

Centrepiece, Letters to the Editor
Alberta Civil Liberties Research Centre
c/o University of Calgary, Faculty of Law
Calgary, Alberta T2N 1N4

March 21 is the International Day for the Elimination of Racial Discrimination

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R.C.M.P. PUBLIC COMPLAINTS COMMISSIONER 1989-90 ANNUAL REPORT

Guest Opinion

by
Brian Edy

The Police are one of the few institutions in our society especially permitted to use force and violence, and therefore the Police are in a position to commit intrusions on the freedom and dignity of Canadians. Thus far the City of Calgary has provided highly inadequate procedures for dealing with citizens allegations of misconduct by the Police. New accommodations are needed at the Provincial legislative level to deal with the present system which does not meet the public's need.

In order to have a fair citizen complaints system, a very crucial need is independent investigation. As long as the investigations are handled by officials who have Police departmental or even general Police interest to protect the system will be flawed. Many aggrieved people simply will not confide their complaints about the Police to other Police officers. There is a public perception that Police disciplinary action will be ineffective respecting their own officers.

Since so much depends upon the willingness of citizens to take the initiative, failure to provide for full independent investigation stifles many complaints at the very time they should be started. There is a further fear that making a complaint to Police officers about their fellow officers may result in retaliatory action against the complainant. It is not possible to measure the numbers of people who will not make complaints because of dissatisfaction with the present lack of proper investigative machinery.

Internal investigation does not appear fair. From the standpoint of many, the investigating persons are vulnerable to the real suspicion that they are “covering up” for their colleagues or fellow Police officers. When no reprimand results, a “whitewash” is suspected. Such sentiments are based upon the perception that internal politics and public relations may prevail over the interests of scrupulous fact finding.

Outside fact finders have been quite successful in penetrating Police bureaucracy. Notable examples are the Mc Donald Commission, Marshal inquiry in Nova Scotia, Morand Commission on Metro Toronto Police Practices, and most recently

the David Milgaard Public Inquiry started in Saskatchewan. Aside from the perception of bias there is an apparent conflict of interest in having the Police investigate and discipline themselves. The interests of maintaining a good public image, concern for officer morale and reluctance to criticize their fellow officers come into direct conflict with the duty to fairly determine whether a citizen has been wronged.

It is suggested that an independent Police complaints board be established under Provincial legislation to investigate and resolve complaints against the Police. Such a board should be the primary investigator of all civilian complaints against the Police for both disciplinary and criminal law enforcement purposes. There should also be the power of an independent audit. The office of the independent Police complaints board must be empowered and equipped on its own initiative to examine files. Records and witnesses in order to uncover systemic problems in Police policies and practices.

There is a widespread perception in significant sectors of the community that the Police are quick to harass and slow to assist non-white citizens of this province. Such perceptions are also felt in other provinces.

We know little about who and what determines the matters the police investigate, how they conduct their investigations, which parties they decide to charge and with what offences. Every day judgements of this kind are being made in various Police departments across the province. The public is entitled to know a lot more than it does, and to say a lot more than it has about how this awesome discretion is being exercised.

While independent audit might be novel in Canadian law enforcement, it is not new to Canadian government operations. The securities Intelligence Review Committee exercises such a function regarding the Canadian Security Intelligence /Service (CSIS) as do some Ombudsmen on most governments department within their jurisdiction.

Canadians were shocked by the revelations at the Mt. Cashel inquiry in Newfoundland, the Marshal inquiry and the aboriginal inquiry in Manitoba. When systemic issues were finally examined double standards and improprieties quickly came to light.

In Nova Scotia we learned that blacks and native people were being treated to a different kind of justice than affluent whites. Indications of similar patterns emerged in Manitoba.

There is no reason to believe that Alberta is significantly more immune to such problems than are these other regions of the country. We must not ignore the deeply felt expressions and local grievance, some of which have become public.

It may very well be that most Alberta Police Officers are dedicated to the public interest. Some of these issues rise above the actions of individual officers. To whatever extent policies are defective the behavior of individuals will inevitably follow suit.

Demands of citizens oversight of the Police has resulted in progressive changes to the Provincial Legislation in Manitoba and Ontario. It is time that the Alberta government took serious action to address systemic issues. The independent Police complaints board with audit function must be established by the Government of Alberta.

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He is a director of the Canadian Civil Liberties Association, and a recipient of the Suzanne Mah award in Human Rights. Mr. Edy is a joint author with the Alberta Civil Liberties Research Centre's Privacy Handbook for Canadians: Your Rights and Remedies.

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[W]omen have had to contend not only with violent physical abuses, but also with official silence or indifference... [T]he state [has] failed to take the basic steps needed to protect women from physical and sexual abuse. The state therefore shares responsibility for the suffering these women have endured, whether the perpetrator was a soldier, a police officer or a violent husband (Broken Bodies). This argument reflects the points made above regarding state responsibility in international human rights law. Because a state has the power to prevent human rights abuses, by not acting it gives its tacit assent to such violations.

Copeland (at 122) argues that the definition involves four critical elements: severe physical and/or mental pain and suffering; intentionally inflicted; for specified purposes; with some form of state involvement. The classic understanding of torture is of extreme physical pain but this minimizes the effects on mental integrity and human dignity. Torture uses the body as a route to the mind and spirit, says Copeland (at 122), and the physical and psychological effects on a tortured individual are intertwined and difficult to separate.

Violence against women is about control and dominance. By causing physical pain and suffering to the woman, an abuser uses her body as a tool to break her spirit. Copeland draws a comparison between the commonality of most instruments used in torture: things such as canes, knives, cigarettes, hands and feet are all used to inflict torture. These are also the methods and tools used most frequently in domestic violence. On one level then, extreme violence can occur with the most readily available tools regardless of location of the violence or the actors involved.

A significant aspect of violence against women is the psychological harm that occurs. The question is often asked why did she not leave if she was being harmed? Putting aside the very relevant fact that women often do not have a safe place to go, especially when they are not protected by the state, this question reveals ignorance of the real and substantial effects on the mind of any person who is violently abused. Sometimes, the gravest violation of the body, such as rape, leaves no physical marks. Fear of further violence, either at the woman or at family or children, is used to take away her security

and make her continually circumscribed in her actions and attitudes. Frequently, women are isolated from other social contact. In some societies, the family is complicit in preventing the woman from escaping the situation:

Humaira Khokar from Okara, Punjab province, married the man of her choice instead of the man her father had chosen. She was locked up in her parents' house, and when she escaped to join her husband, was hunted down and abducted from Karachi airport as the couple tried to leave Pakistan. She was repeatedly threatened with death and probably owes her life to the timely intervention of local women activists. Her husband reported that at Karachi airport his wife's relatives "ripped off my wife's veil and dragged her by the hair through the hall, they beat all of us. There were many people witnessing our ordeal but everyone was scared and did not dare help" (Broken Bodies)

Often when women do seek help, they experience the most violent attack of the relationship in repercussion (M. Mahoney, quoted in Copeland). Even in countries like Canada where there are programs and awareness of violence against women within the home, women are often killed or seriously injured by a partner from whom they were supposedly being protected by the state. A piece of paper is ineffective when the values of respect for human dignity and life behind the court order are undermined or ignored. It is also important to realize that even when women do fight back or kill their partners, this act does not mean that the violence they experienced within the relationship was somehow not torture. As with the Convention definition of torture, state responsibility engages when a person suffers severe harm whether she breaks or retaliates.

Copeland notes that there may be some difficulties in that some forms of abuse will not be captured within the terminology of the definition of torture (Copeland, at 127). For example, slaps or verbal abuse will not be within the scope of torture. However, the tendency to minimize violence against women must be avoided, and, while it may not be appropriate to classify these sorts of behaviour as torture, they are still forms of inhuman treatment that require state address. Also, Copeland notes at 127 that "what qualifies as torture lies not in the quality of the experience, but in the relative degree to which society recognizes both physical and psychological brutality and suffering..." (Copeland at

128).

Another aspect of the definition of torture is intentionality: there must be more than an accidental or separate cause of the harm. This said, however, because of the egregious nature of torture as an insult to the whole person, only general intent is required to meet the threshold; it need only be reasonably foreseeable that the act would cause suffering (Copeland at 128). The definition thus reflects an understanding of the rationalizations torturers sometimes use to distance their actions from their intent. It also incorporates instances where the torturer is acting out of control in the progress of the abuse.

A common reason given to excuse men who abuse their female partners is that he was out of control or acting impulsively (usually because of some act by the woman). In the circle of abuse in domestic violence models, for example, the abuser is often contrite and apologetic after the first few instances of violence and attempts to rationalize and compartmentalize his behaviour. Anger is often used as a convenient biological-based excuse for violent behaviour, arguing the assumption that men are more prone to violence or angry feelings. However, these arguments are hollow and unsupported by conclusive scientific evidence and should be exposed as the expressions of patriarchy that they are. Copeland discusses the battering of women as a very controlled behaviour that is specifically targeted at the female partner. Men who abuse their partners do not exhibit difficulty in controlling their behaviour in other social contexts. Copeland (at 128) also gives short shrift to the argument that alcohol is a reason for violence by socially constructed, biologically driven rationalizations.

The Convention definition thus is capable of extension to the experiences of women continually abused by their partners. Only general intent to commit the act is required. This avoids the tendency to focus on the motivations of the torturer which would in turn obscure the real and severe violence that is suffered by the woman. It also prevents violence against women from receding

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back behind closed doors where it can be ignored as a private, family problem (Copeland, at 129).

Copeland also discusses the purposes behind the use of torture. The goals of obtaining information or punishment are not justified excuses to violate another human being (Copeland, at 130). Violence against women is also used to elicit information or to punish the woman for some perceived offence. Although the torture of an individual is used to obtain some information, the interrogatory procedure is as much about breaking the will of the victim as it is the pursuit of data. As Copeland notes, “[t]he confession-true or false-demonstrates the supremacy of the torturer.... The interrogation is thus primarily a means, not an end” (Copeland, at 131). Violence against women is also not about the pursuit of truth but control, humiliation and dominance. Similarly, when such widespread and global violence against women is carried out every day with little or no comment by the state, women are systemically punished for being female.

Other purposes for torture include punishment and intimidation. Just as torture is an unacceptable way of punishing perpetrators in domestic law, violence against women as a form of social domination of one group over another is also impermissible under *jus cogens*. Copeland (at 133) identifies three levels on which torture seeks to intimidate: the individual victim, the group with which the victim is identified, and society in general. Torture generates fear that ripples out into segments of society and settles into the consciousness of society itself. Violence against women is also not an isolated act separate from community and society. A woman’s experience of fear of violence “creates in the woman an ubiquitous anxiety and dread, a complex game of placation, endurance, and survival” (Copeland, at 133). Women as a social group or class are all subjugated by the attitudes that allow violence to grow and spread. Lack of condemnation of violence permits the spread of violence outside the home as well to other women who may be in a vulnerable position. When there are no mechanisms to protect women, the insecurity and precariousness of women’s place is felt across society.

Arguments Against the Violence-Tor-

ture Nexus

For various reasons, ranging from ignorantly benign to intentionally discriminatory, the comparison of violence against women to torture has been resisted. Dealing with the fourth aspect of state involvement in the Convention definition of torture, Copeland has identified three main arguments used to distinguish torture from violence against women. First, it is argued that torture is distinct because by very definition the state is involved and hence the individual is unable to seek state redress for harm. However, “the fact that gender violence is the consequence of as well as the constitutive of an informal parallel state likewise leaves women without redress” (Copeland at 135). Domestic violence is ignored by the state: enforcement of punishment for violence is sporadic, non-existent or ineffective. This point is exemplified when a woman does seek legal protection and is turned away, further abused or killed in retaliation by her partner.

The second argument commonly made is that torture involves the victim being detained in custody while a woman is not in custody in her home (Copeland at 136). This argument is rather simplistic in that it limits analysis to a superficial physical dynamic and does not probe into the psychological factors in play. There are several responses that support the parallel drawn between violence and torture despite this argument. The first is that, on a practical scale, an abused woman may not have anywhere to turn or a safe place to go. She is, essentially, imprisoned by lack of viable alternatives. Family, as a cultured entity, is involved in the violence in many instances. For example, young daughters are sold into marriage in some countries by their fathers and the transfer is complete and the ‘goods’ unreturnable. In some cultures, it would be shameful for the family to receive a daughter back regardless of the conditions under which she lives (Broken Bodies).

Related to the lack of safe havens is the fact that dependency may be encouraged using isolation and control of the woman’s life (Copeland at 137). As well, cultural values may teach the woman to feel that she is to blame for violence against her and that she must bear with her ‘punishment’. In both torture and violence against women, the

interplay between torturer and victim are complex and changing.

Finally, a third argument asserts that state brutality is somehow worse than abuse by an intimate partner (Copeland at 138). This perspective assumes the Western liberal stance of the need for protection from state interference as the paramount concern of the individual and autonomous (hu)man. It is also a reflection of the paramount position afforded to civil and political rights in the public sphere. The betraying effects of intimate violence should not be marginalized. Between strangers, there is little trust or common ground. As soon as conversation leads to connections and understanding, a stranger becomes more knowable. In contrast, an intimate partner has personal knowledge of the woman. This knowledge and intimacy makes the violence intensely personal. Often, the woman does not know that she is heading into an abusive situation and the betrayal of trust is even greater in that situation.

Copeland (at 139) also addresses the argument that to include violence against women under torture would somehow dilute the meaning of the term torture, but this stance only reveals ignorance of the extent and severity of the violence women experience in their homes every day, in every country. In summary, the case for violence against women as torture is compelling, and objections raised to this analogy reveal their patriarchal origins easily enough.

Ending the Violence

As argued above, it is practical to work within existing human rights frameworks to effect change. To properly and effectively end the pervasive problem of violence against women first requires consciousness-raising of the issue. Violence can not longer hide behind private doors. When it is revealed and accepted by repeated studies the extent and breadth of the violence women suffer, it will be very difficult for societies to ignore the issue. This may require better coordination on the part of human rights groups as well as an understanding by these groups of the complex interplay of violence with

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the political, social and economic structures of a state. With conscience-raising will follow recognition of violence against women as torture, and thus the state's responsibilities to address the problem will be engaged.

The next step would involve examining current human rights law. One stream of thought advocates directly incorporating women's concerns into human rights treaties which would in turn exert pressure on states to adopt these principles into domestic law: International human rights treaties not only regulate the conduct of states and set limits on the exercise of state power, they also require states to take action to prevent abuses of human rights. States have a duty under international law to take positive measures to prohibit and prevent torture and to respond to instances of torture, regardless of where the torture takes place and whether the perpetrator is an agent of the state or a private individual (Broken Bodies). This perspective would work within current conventions, such as the Convention Against Torture, to interpret the state's silence as acquiescence to the violence, thus engaging state responsibility for human rights violations under international law. Women would also be able to apply directly to the international community for relief, perhaps through modified human rights treaties giving women a mechanism to access state protection in other countries when they are the victims of torture by an intimate partner in their own state.

Another example is found with article 7 in the ICCPR, quoted above, which outlines the right not to be subjected to torture or cruel, inhuman or degrading treatment (Copeland at 140). Moreover, article 2 calls on states to respect the rights outlined in the Convention regardless of sex. If these provisions can be infused with meaning then it may be possible to end the violence women face within their homes from intimate partners. One positive example of a court recognizing state obligation is found in the *Velásquez-Rodríguez* case where the court stated:

The state is obligated to investigate every situation involving a violation of the rights protected by the Convention. If the state apparatus acts in such a way that the violation goes unpunished, and the victim's full enjoyment of such rights is not restored as soon as possible, the state has failed to comply with

its duty to ensure the free and full exercise of those rights to the persons within its jurisdiction. The same is true when the state allows private persons or groups to act freely and with impunity to the detriment of rights recognized by the Convention (*Velásquez-Rodríguez*, 28 I.L.M. 294 (1989)).

As seen from reviewing these human rights documents, it is possible to use the language of human rights to recognize women's right to an end to violence.

However, there are some difficulties with this approach. The first is that it is often controversial to put women's rights on the agenda let alone put any teeth into protective provisions. The best example of this problem is found with the extensive reservations to CEDAW discussed above. Given the fact that the existing social structures are the reasons why violence against women is condoned, the effectiveness of CEDAW in protecting women is seriously undermined to the point of being rendered meaningless. Women's concerns are not seriously being considered by states. Another related difficulty is that even when violence

against women is on the international agenda, there is nothing done in the world community to end the violence. There are extensive reports by the UN documenting the violence that women face as well as studies done by states themselves for violations within their own borders. Either this data is not distributed widely enough or it is ignored because change has not resulted from the figures alone. Thus, while some superficial gains may be won, the patriarchal nature of the human rights system is not altered. This calls into question how much progress could be made within such a framework.

One solution to this may be to re-characterize violence as a social issue instead of a concern relating to only women. This would bring attention to violence whenever other rights are discussed because civil, political and economic rights are empty without the assurance of some physical and mental security and control. Re-characterization will also have the effect of making violence against women a practice clearly in violation of *jus cogens*. It will be very difficult for states

to continue to ignore the issue because of moral persuasion in the international arena to remedy the problem. A complication with this process is that, until enough states see the issue as *jus cogens*, it will continue to be ignored. Re-characterizing the issue may speed up this process.

A final point is that, while international norms are excellent guidelines, change must begin at home. Change must be initiated on all levels with a focus on re-training violent men and educating the public about violence against women. As well, women must be empowered to realize violence is unacceptable. The state can fulfill its obligations in offering safe places for victims of abuse and also in addressing the punishment of offenders. This requires more awareness of the nature of violence against women and the inadequacies of the law. A useful starting point would be to alter law school curriculum to rid education of outdated patriarchal models. In conclusion, it is important to remember that the state is an abstract concept applied to international law; on some level, 'state responsibility' must begin within society at the individual and group level.

Conclusion

International human rights law is a patriarchal system that has been used to silence women's voices and perpetuate violence against women. States have not lived up to their obligations to protect women's rights to life, dignity and self-development by not addressing the violence that women experience across the world everyday. The state is thus complicit in this violence, and the public/private model is often relied on to justify this violation. Violence against women is comparable to the state-recognized concept of torture as a violation of human rights, yet international law has failed to address the seriousness of the violence women face. It is pragmatic to work within the existing human rights structure to effect change; however, until the existing patriarchal social, political and economic structures are attacked at their roots, international human rights will continue to apply to only half of the world's population.

Samantha Chrysanthou is a lawyer practicing family law in Calgary. She wrote this paper while studying law at the University of Calgary. She was a summer research assistant at ACLRC.

Right to Vote Reprinted from LawNow Vol. 29 No.

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Two thousand and four has been the year of elections. A federal election was held in June. In Alberta, there are rumblings a provincial election will be held in the fall. There will also be municipal elections. These events recall a very important right—the right to vote.

The *Canadian Charter of Rights and Freedoms* states: “Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.” Further, the *Canadian Elections Act* states: “Every person who is a Canadian citizen and is 18 years of age or older on polling day is qualified as an elector.”

In the last two federal elections, voter turnout in Canada has been at a record low. The turnout in 2004 was only 60.5% (Elections Canada, on-line: www.elections.ca/). Many Canadians are not exercising a precious right.

This is unfortunate, as history indicates that this cornerstone of democracy—the vote or “franchise”—has not always widely been available. Some form of voting has been around for a long time. For example, in 508 B.C., Cleisthenes introduced an ostracism system of voting. Each year, voters were asked to vote for the politician they most wished to exile for 10 years. If a politician received more than 6,000 votes, he was exiled (J.J. O’Connor and E.F. Robertson, “The History of Voting” (on-line: www-gap.dcs.st-and.ac.uk/~history). Although voting has a long history, in general, only a very small portion of the population was actually able to vote until fairly recently. For example, in England, by the end of the 18th century, only two percent of the population could vote (Electoral Services, History of the Right to Vote (on-line: www.hart.gov.uk/elections/voting.history.htm).

Canada’s voting history clearly indicates that the current right to vote was hard won for many groups. Secret ballots and voting booths were introduced in 1874.

Women could not vote in federal elections until 1918, and could not be candidates until 1919. Inuit people did not obtain the right to vote or run as candidates in federal elections until 1950. Until 1960, First Nations people living on reserves could not vote or run in federal elections without giving up their status under the *Indian Act*. Further, in 1993, federally appointed judges, persons with mental disabilities and persons serving prison terms of less than two years were granted the right to vote (Elections Canada On-Line: www.elections.ca/content_youth.asp?).

Finally, in 2002, a majority of Supreme Court of Canada (5 to 4) ruled in the *Sauvé* case (2002 SCC 68) that all federal inmates had the right to vote. All of the parties agreed that the right to vote under the *Charter* was infringed when prisoners were disenfranchised, but they disagreed about whether the infringement was nevertheless justified under *Charter* section 1. The federal government argued that the court should defer to social and political philosophy on the right to vote. In rejecting this argument, the majority held that the right to vote is fundamental to our democracy and the rule of law, and cannot easily be set aside. The argument that political theory explains the government’s ability to disenfranchise a segment of population flew in the face of democracy. The majority also held that denying the right to vote on the basis of attributed moral unworthiness did not respect human dignity. Also, a disproportionate number of Aboriginal prisoners would suffer the impact of disenfranchisement. In the end, the court ruled that disenfranchisement of these prisoners was unconstitutional.

Thus, the right to vote is considered to be part of respecting basic human dignity. Yet, voter turnout is declining, especially among our youth. In a survey conducted in 2002 of Canadians who did not vote, the researchers found that non-voters have negative attitudes towards politicians and the political system. They lack interest, feel they have no influence over government actions, or feel the

election is not competitive enough to make their votes matter (J. Pammett and L. LeDuc, *Explaining the Turnout Decline in Canadian Federal Elections* Ottawa: Elections Canada, 2003, Executive Summary). The researchers go on to suggest several solutions for the problem including enhanced political education and using the Internet for voting.

Others have suggested implementing a system of proportional representation, or making voting mandatory, as it is in some countries. Mandatory voting laws seem to be antithetical to freedom and democracy. Proportional representation may be worth examining. There are several different kinds of proportional representation methods in use around the world. They do have some common elements. The basic underlying principle is all voters deserve representation and all political groups in society should be represented in our legislatures in proportion to their strength in the electorate. For example, if a certain percentage of the vote is won by a particular party, that party would then receive a proportional number of seats in Parliament. This would address the concern that individual votes do not matter. (D. Amy, “How Proportional Representation Elections Work”, 2001, on-line: www.mtholyoke.edu/acac/polit/damy/BeginningReading/howprwor.htm).

Whatever happens, it is hoped that this decline in voter turnout changes, because the right to vote is a precious right that was hard won. It is a cornerstone of democracy and it represents an important aspect of the fundamental respect for human dignity, which is the basis of all human rights.

With thanks to Shaun Ramdin for his assistance.

Video Review

by Eman Safadi

The hijab, or headscarf, worn by Muslim women is the subject of great debate throughout the world. Women who wear the hijab in North America are stereotypically viewed as oppressed, closed minded and inferior.

Under One Sky (NFB 1999, 43 minutes) is an excellent documentary by Jennifer Kawaaja, which addresses the stereotypes and prejudices experienced by Muslim women who choose to wear the Hijab. Women who observe this custom have been the target of discrimination, especially since September 11, 2001, to which people have responded with negative stigmatization of the Muslim and Arab culture, traditions and customs. Due to the media representation of Muslims post 9/11, Muslim women have experienced racial profiling, abuse, taunts, and physical attacks.

Under One Sky presents different viewpoints and opinions from women who do and do not wear the hijab. This documentary allows viewers to see how Westerners, Arabs and Muslims portray the hijab. This documentary is focused on three foreign-born women, who currently reside in Montreal. These women, contrary to stereotypical beliefs, are shown to hold "liberal" western views about social issues, such as abortion, education and feminism. Each one opposes the violence and prejudice geared to women who wear the hijab in North America, as well as the laws forbidding women from wearing the hijab in countries such as Algeria, France and Tunisia. While each individual woman has her reasons for wearing the hijab, Muslims generally see wearing the

hijab as an expression of fidelity to Arab culture, to Islam, and as a statement against imperialism and colonialism, which plagued Arab and Muslim culture for decades.

Along with veiled women, non-veiled Arab women discuss their views and observe that, in order to act against racism and discrimination, it becomes necessary to defend the right of women to wear something that is stereotypically viewed as oppressive. By showing women who do and do not wear the hijab, Kawaaja attempts to illustrate the changing opinions of Arab women throughout the world as well as the diversity of individuals in the Arab and Muslim world. This counters the homogenous view of Muslims and Arabs, which is constantly portrayed by mainstream western media.

As a Canadian-born Arab (who has worn the hijab since the age of eight), I believe this documentary effectively addresses the issue of the hijab and its perception in North American society. I was especially impressed by how Kawaaja portrayed both sides of the subject by showing opinions about the hijab of Arab and non-Arab, veiled and non-veiled individuals. It was fascinating to see how veiled women are generally viewed among Arabs and non-Arabs alike. Although I am generally aware of how I and other veiled women are seen, it always shocks me that this type of narrow opinion still exists globally. It should be noted that many Arab women view the Hijab as a matter of choice and refuse to be perceived as a "certain type of person". This documentary also

shows the bravery of each woman who wears the hijab. Religions purposes aside, the hijab symbolizes an internal struggle and obstacle in a Muslim woman's life. Many women, myself included, feel the pressure from wearing the hijab in North American and Muslim societies alike. The answer to this pressure is not simply "taking it off", but educating and changing stereotypical views of the hijab, so a greater sense of understanding is achieved. I believe that this documentary is a catalyst for this understanding.

This video can be borrowed from the Research Centre, or to order your own copy, call the National Film Board, at 1-800-267-7710.

Eman Safadi is a University of Calgary student who is studying psychology.

Join Eman and some colleagues at a screening of *Under one Sky*, followed by a panel discussion.

Wednesday, March 23, 2005

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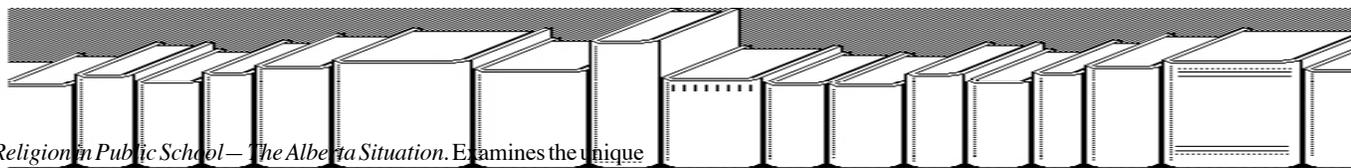
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The Rights Angle: Human Rights Education Using the Newspaper—Teacher and student materials. Provides background information for teachers, and student activities on human rights, the newspaper, the Charter, hate crimes, war crimes and applicable laws, suitable for secondary school students. Includes reproducible handouts and overheads. 150+ pages. 1999. ISBN# 1-896225-24-1 (\$35 + \$5 s/h).

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Vilma Dawson Wins the ACLRC's Civil Liberties Award

At a ceremony on December 1, 2004, Vilma Dawson was awarded the 3rd annual Alberta Civil Liberties Research Centre Award. The award was presented by board chair Dr. Ed Webking. Below is the speech delivered by Dr. Webking.

As Chair of the board of directors of the ACLRC, it is my pleasure to award our third annual Civil Liberties Award to Calgarian Vilma Dawson for her outstanding leadership in promoting civil liberties and human rights through education and advocacy.

Vilma Dawson arrived in Canada in 1989 with her husband and three teenage children. She born and raised in Agra (the City of the Taj Mahal), India, where she enjoyed being part of a very large and extended family of ten siblings, of which she was the eldest. Prior to settling in Calgary, she emigrated to London, England in 1972 with her husband Richard. Her professional background is as diverse as the issues she continues to take on. In India and England she had the opportunity to work with four diplomatic missions, the British, New Zealand, Australian and Canadian High Commissions. She also pursued a career in banking and finance but was eventually drawn to the not-for-profit sector in 1990. This is the field she has devoted almost all of her

16 years in Canada to. She has worked with Calgary Catholic Immigration Society and Calgary Immigrant Women's Association, the United Way and for an extremely brief period, with Alberta Community Development. In 1992, Vilma helped develop the Committee on Race Relations and Cross Cultural Understanding and has been coordinating the Committee's work in the community since then. Vilma is very proud to state that many of the original members and organizations still sit at the table.

Vilma has been recognized by the community for the many different roles she plays there. She has received the Community and Volunteer Achievement Immigrant of Distinction Award, the Bahai Community Harmony Award, and on behalf of the Committee, she received the YMCA Peace Medal. She co-chaired Diversity Calgary for two and a half years with Alderman Joe Ceci after helping develop it with the Committee and other community members. Vilma has initiated and has supported many community fundraisers and initiatives like Richard's Ride For Asthma Awareness which she established in 1995 in memory of her 19 year old son Richard; Compassionate Friends at the Alberta Children's Hospital; WINS (Women in Non-Profit Societies); Youth

Reach Out Against Racism; Diversity Calgary; the annual Rock Against Racism, etc. She has actively participated on the United Way Strategic Directions, United Way Citizens Review Panel, the City of Calgary Social Inclusion Project, Safer Calgary, Leadership Calgary, the Canadian Indigenous Women's Resource Institute, the Diversity Education Research Project, NAPO (National Anti-Poverty Organization), CASHRA, Native Awareness Week, Alberta Human Rights Commission Review (Equal in Dignity and Rights) and others.

Vilma firmly believes that youth are not just our future, but our present and that there can be no better or greater investment than working and listening to what our youth have to say.

Vilma is very committed to social justice and human rights issues and says she plans to be around doing what she loves, for many more years to come. In particular, Vilma was selected to receive ACLRC's award for her courageous, untiring yet diplomatic challenges to the media and the public to address issues of racism as they exist in Calgary, in Canada and around the world.

It is our great pleasure to recognize Vilma for all of her work in the area of civil liberties and human rights.

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