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# Women's Equality and Religious Freedom

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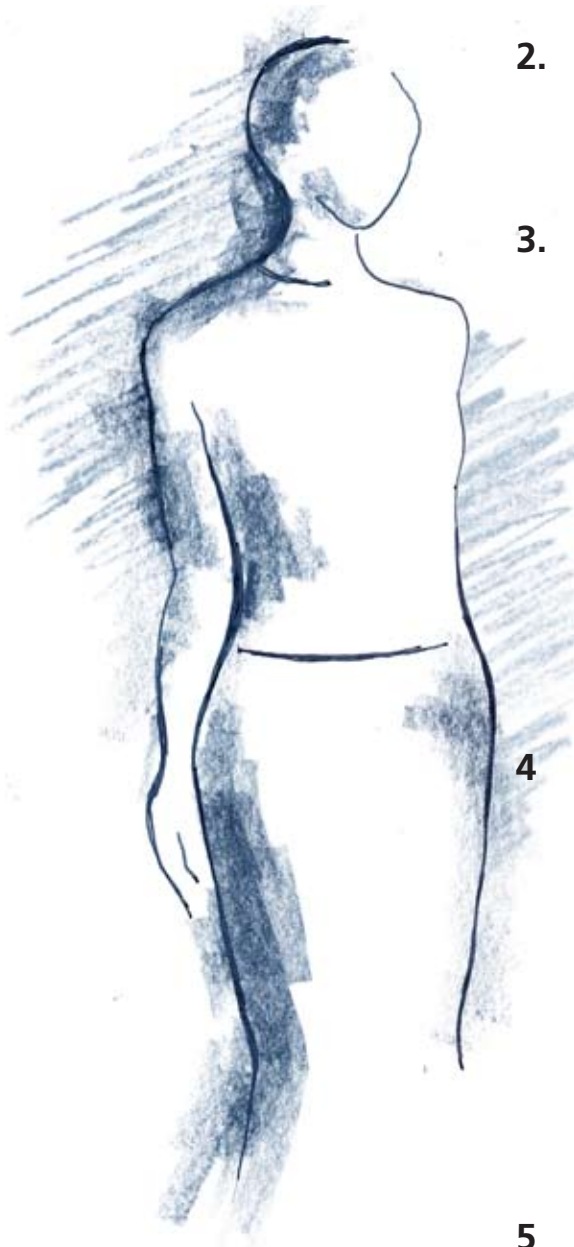
Report on Phase 3 Consultations  
**Vancouver Area Faith  
Based Communities**

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The author wishes to acknowledge the contributions to this project from the Staff and Board of West Coast LEAF, and the volunteers of the Law and Government Liaison Committee. In particular, thank you to Alison Brewin, Kelly Roulette and Setareh Khalid-Amiri.

## WEST COAST LEAF

The West Coast Legal Education and Action Fund (LEAF) formed in 1985 when the equality guarantees of the *Canadian Charter of Rights and Freedoms* came into force. Our goal is to achieve equality by changing historical patterns of discrimination against women through BC-based litigation, law reform and public legal education.

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Devising legal strategies to protect women's equality rights in the context of freedom of religion requires an analysis of how religious practices affect women in their daily lives. This report is intended to provide a picture of that by listening to some of the voices and experiences of women of faith from various religious groups. In addition, given the impact religious officials have on women's daily lives, we interviewed some officials to explore their opinions, practices and perspectives on women's equality. By adopting this approach, the author aimed to encourage and promote an open, sensitive and healthy dialogue with religious institutions and women members of each faith in their own environment. These women's views are not intended to represent the views of the author, West Coast LEAF or all women of faith; rather, their stories, thoughts and opinions are their own expressions of their own faith. By listening to the voices of women of faith, this report aims at recognizing the ways in which a woman's gender and faith may both be essential and interconnected aspects of her identity, which in turn may influence any legal analysis of the relationship between women's equality and religious freedom. The results of the discussions contained in this report - aligned with the National Consultation report (2005) and Multi Faith Advisory Committee report (2006) - will guide West Coast LEAF in any future litigation, law reform, family law and public legal education in the area of religion and women's equality. The author's recommendations at the end of this report pull together the findings and recommendations of all three documents.

## **National Consultation 2004**

The first phase of the Women's Equality and Religious Freedom (WERF) project started when two topics became a part of public dialogue in Canada: a rise in media attention on the polygamous community known as Bountiful

and concerns raised in Ontario about the proposal to include the application of *Sharia law* in family law arbitration in that province's *Arbitration Act*. Reflecting on this, West Coast LEAF organized a National Consultation meeting, attended by members of the Muslim community, former members of Bountiful, lawyers, academics and community activists in December 2004. The consultation focused on the two emerging issues: the consideration of including Muslim personal law in the *Family Arbitration Act* in Ontario and the practice of polygamy in Bountiful<sup>1</sup>, BC. The outcomes of the consultation<sup>2</sup> directed West Coast LEAF:

- a) in crafting the important question "How should the principles of substantive equality that West Coast LEAF has been instrumental in developing be applied when considering the complexities of the rights of individuals, particularly women, within religious and cultural minorities given our commitment to religious freedom, anti-racism, and genuine multiculturalism?"<sup>3</sup>
- b) to reach out to more faith groups than were represented at the consultation with this question, and
- c) to engage women of multiple faiths in a discussion of this question, and to give women of faith a forum for sharing their personal experiences within their religious institutions.

## Multi-Faith Advisory Group

West Coast LEAF began following up on these directions in 2005 by forming the Multi-Faith Advisory Group to discuss the overall question of freedom of religion versus women's equality and several broad issues including the nature of religious discrimination experienced by women of faith, the experience of racism against communities of a particular faith, social boundaries

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1 Bountiful is a self named and closed community in BC's interior in the Creston Valley and is part of the Mormon Church entitled the Fundamentalist Church of Jesus Christ of Latter-Day Saints

2 The report of the consultation meeting, prepared by Alison Brewin, is available on the West Coast LEAF website : <http://www.westcoastleaf.org/index.php?pageID=44&parentid=29>

3 West Coast LEAF, Women's Equality and Religious Freedom Project : Consultation Report and Multi Faith Advisory Committee Report (2005-2006)

between culture and religion, gender discrimination within religious communities, gender oppression of women within dominant so-called Western secular culture and strategies in which women balance and navigate the experience of oppression or discrimination in their daily lives. We sought out women who both identified as women of faith, but also worked or studied in the area of women's equality. We sought direction from those women as our starting point because they were women who were committed to the values of women's equality and have experienced the intersection between women's equality and religious identity.

The discussions and research of the Multi-Faith Advisory Committee was produced in a guiding document, providing explicit attention to the criminalization of polygamy, interaction of family law and religious institutions, use of religious arbitration in family law, immigration law and the concept of theology and interpretation. The Report of the Multi-Faith Advisory Committee, prepared by Harsha Walia, is available on the West Coast LEAF website<sup>4</sup>.

## **Religion and Institutional**

The third and final part of the WERF project (2007-2008) was designed to complete the direction of the National Consultation by combining the recommendations and thoughts of the Multi Faith Advisory Committee with the direction to explore the discussion with religious institutions. Its aims were to:

- a) continue an open dialogue with women of faith from various religious groups within their own environment, and
- b) explore the questions with the religious officials and seek their perspectives on the possible limitations of freedom of religion.

Both discussions explored the complex relation between freedom of religion and women's equality rights, and the report brings together discussions within faith groups such as Hinduism, Sikhism, Islam, Buddhism, Judaism and Christianity. Questions that were raised covered a number of issues including

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<sup>4</sup> <http://www.westcoastleaf.org/index.php?pageID=44&parentid=29>

gender equality, gender roles, responsibilities and obligations between men and women, marriage, polygamy, divorce and inheritance, limits of secular law and religious practices, religion and identity, religious institutions' support services for women and the practice of polygamy in Bountiful in BC.

This report outlines the outcome of those discussions, both the focus group discussions with women of a variety of faiths, and the interviews with the religious officials. It is important to note that the views expressed in this report are those of the participants' and the author alone and are not meant to represent the views of West Coast LEAF. It is hoped that the report will assist West Coast LEAF in any of its future litigation strategies, law reform, family law work and public legal education.

*"My question is do we have enough support services in place, if these women decided to leave Bountiful? I am sure the answer is no? How these women are supposed to be adapted socially and economically? I believe yes the government must intervene but at the same time have a clear policy in how to support these women."*

*Participant - Women of Jewish faith*



This study is a compilation of both field work and a desk review. The desk review consisted of a brief study on religions including Hinduism, Sikhism, Islam (Shi'a<sup>5</sup> & Sunni<sup>6</sup>), Buddhism, Judaism (Reconstructionists<sup>7</sup> & Conserva-

*"I left the church, feeling discrimination against women never will end. I left the church but then I came back; I have decided to work from within to bring changes and bring the examples for youth not to leave".*

*Participant - Women of Mennonite faith*

5 Shi'a is the second largest denomination of Islam, after Sunni. Shi'a is divided into three branches. The largest and best known forms a majority of the population in Iran, Azerbaijan, Bahrain and Iraq. The Shi'a attribute themselves to the Qur'an and teachings of the final Prophet of Islam, prophet Muhammad. The Shi'a believe that prophet Muhammad divinely ordained his cousin and son-in-law Ali in accordance with the command of God to be the next Caliph, making Ali and his direct descendants Muhammad's successors.

6 Sunni is the largest denomination of Islam (85% of Muslims from all around the world). The Sunnis hold that Abu Bakr was Muhammad's rightful successor and that the method of choosing or electing leaders (Shura) endorsed by the Qur'an is the consensus of the Muslim community. Today there are differences between Shi'a and Sunni also in religious practice, traditions, and customs as well as religious belief.

7 Reconstructionist Judaism is a modern Jewish movement that views Judaism as a progressively evolving civilization. It originated as the radical left branch of Conservative Judaism from the late 1920s to 1940s. There is substantial theological diversity within the movement. The movement emphasizes positive views towards modernism, and considers religious custom to be subservient to personal autonomy. Halakha (Jewish religious law) is not considered binding, but is treated as a valuable cultural remnant that should be upheld unless there is reason for the contrary.

tives<sup>8</sup>) and Christianity (Anglican<sup>9</sup>, Catholic<sup>10</sup> & Mennonite<sup>11</sup>). The review in particular looked at gender perspectives and related approaches within each of the selected religions and their branches. The selection criteria for the listed religions and branches were based on factors such as diversity and demographic population in BC.

The desk review was complemented with the development of a questionnaire and a mapping exercise. The mapping exercise was planned in order to:

- a) identify the prominent religious officials in the lower mainland,
- b) obtain their contact details,
- c) start and maintain a direct communication,
- d) retain contacts with and connect to women of faith in the religious institutions.

Through this exercise 12 religious officials were identified, 8 of whom participated in this study. The participants included 2 male Imams (Islam), 1 female priest and 1 male minister (Christianity), 2 male rabbis (Judaism), 1 female master (Buddhist) and 1 male (Hindu) religious official.

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8 Conservative Judaism is a modern stream of Judaism that arose out of intellectual currents in Germany in the mid-19<sup>th</sup> century. The principles of Conservative Judaism include: a dedication to Halakha (Jewish religious law) as a guide for one's life; a deliberately non-fundamentalist teaching of Jewish principles of faith; a positive attitude toward modern culture; and, an acceptance of both traditional rabbinic modes of study and modern scholarship and critical text study when considering Jewish religious texts.

9 The Anglican church began in England when Henry the VIII broke from the Catholic Church, naming the monarch of England as the head of the church in England rather than the Pope. It ranges in theology from conservative (Catholic traditions) to more liberal. In the US it is known as Episcopalian.

10 The Catholic Church began as the main and only church based on a belief in Jesus Christ as the actual son of God and therefore divine, as opposed to Jewish tradition that holds Jesus may have been a prophet, but not divine. It is also distinct from Protestant religions – Christian as well – who broke from the Catholic Church in Europe in the 15 and 1600s.

11 The Mennonite Church of Canada is a Christian sect whose roots come from the Anabaptist religion formed in the 1600s in Europe as a part of the Protestant break from the Catholic Church. One of their central distinctions from Anglican or Catholic is their belief in baptizing adults who voluntarily join the church, rather than babies being baptized into their parent's religion.

In correspondence with the mapping exercise and the desk review, an outreach plan was designed to reach the women of faith from the faith groups selected. First we defined the term “women of faith” as being women who practice their faith and are in close contact with their religious institutions. Adopting this definition, the outreach plan included:

- a) identifying and listing the women’s council or group of the selected religious institutions,
- b) contacting the focal points or links that have been provided by the religious officials,
- c) visiting the religious institutions for all selected religions and their branches,
- d) sending out electronic flyers to lawyers, community activists, community organizations, academics and religious institutions.

Through this exercise a total of 41 women of faith kindly participated in this study. The participants comprised of Sikh, Buddhist, Muslim (Sunni), Christian (Anglican & Mennonites) and Jewish followers.

Methods applied to the field work were :

- a) Semi-Structured interviews<sup>12</sup> used for interviewing the religious officials and
- b) Focus Group Discussions<sup>13</sup> (FGD) for facilitating the discussions with women of faith.

Each meeting was attended by two representatives from West Coast LEAF, either as a facilitator or a note taker. Of the 8 interviews with religious officials, six were conducted in the religious institutions and two were con-

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12 A semi-structured interview is a method used in the social sciences. While a structured interview has formalized, limited set questions, a semi-structured interview is flexible and allows new questions to be brought up during the interview as a result of what the interviewee says. The interviewer in a semi-structured interview generally has a framework of themes to be explored.

13 A focus group is a form of qualitative research in which a group of people is asked about their opinion about a concept. Questions are raised in an interactive group setting where participants are free to talk with other group members.

ducted via telephone conference. Focus group discussions with the women of faith were generally carried out either at the facility of their religious institution or a venue that was identified by the women themselves. Child care and translation services were offered or provided by West Coast LEAF.

To respect the wishes of the women who graciously participated in our focus group discussions, we agreed to keep their names anonymous.

## ***2.1 Limitations***

Limitations existed that need to be acknowledged and addressed regarding the compilation of this report. One main limitation concerned the complex nature of arranging focus groups with women of faith, particularly those who are in close contact with their religious institutions as was our goal in this project. We were not successful in involving any women from Catholic and Shi'ite Muslim communities. The support of the Vancouver & Lower Mainland Multicultural Family Support Services brought together a focus group of Sikh women that allowed us to explore our questions with representatives from that faith-community. Unfortunately our requests to the Masters of two Buddhist temples and an Imam from a Shi'a Muslim Mosque to organize meetings with the women members of those religious institutions were refused.

During our visits to various religious institutions, most women were not comfortable agreeing to participate in any discussion if it had not first been approved by the hierarchy of their religious institution. We deeply respect the decision of those women and assured them of our understanding.

We also lost the opportunity to have the contribution of religious officials from the Sikh and Catholic<sup>14</sup> communities despite several attempts made by West Coast LEAF staff and volunteers. We contacted them by email, phone and made office visits. The office of Archbishop of the Catholic Church of

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14 According to Canada Census 2001, Roman Catholics were still the largest religious group across the country, drawing the faith of just under 12.8 million people, or 43% of the population, down from 45% in 1991. British Columbia had the lowest proportion of Roman Catholics among the provinces in 2001.

Archdiocese of Vancouver, did not meet with us because “they are not able to meet any external group due to scheduling issues and work load”. Instead, they provided us with two letters addressed to Catholic women in 1988 and 1995 by the late pope John Paul II, outlining the positive role of women within Christianity.

*“you don’t see women in key roles and positions in temples, or as board members of temples. We mostly see women in charge of food preparation or the organization of festive activities.”*

*Participant - Women of Sikh faith*

For those religious officials who did not participate, we accepted that it was not due to lack of interest but truly “scheduling” concerns. We are positive however, that the report would have benefited greatly from their input. Unfortunately a scheduling issue was the same concern for all three Sikh temples and the three Catholic churches we contacted, despite our efforts to provide alternative dates. The number of religions included in the study is also limited by the scope and resources of the project itself.

This study is based on qualitative methods; therefore it does not make any claim to be representative of the broad range of faith groups and the spectrum within those faiths of theological debate. This is particularly true of the interviews with religious officials. However, it does provide an overview of the perspectives, reflects surprising similarities between faith-groups, and, in particular, gives voice to the experience of women for whom their faith community is and has been very central to their life experience.

This report also does not provide any legal analysis or advice. The application of the law is, to a large extent, dependent on the facts in an individual case and the unique legal remedies that exist. This report is intended to be used, with the other two reports, as reference guide for any future legal actions, but also raises possible law reform and legal education opportunities for ad-

vancing principles of women's equality in the context of religious freedom. And finally, religions' and women's role within and defined by that religion – whichever one it is – is often based on or defended by theological interpretation. Every faith-based group we communicated with has complex internal debates about theology versus culture, modern practices versus historical tradition. The depth of some of these discussions was explored by the Multi-faith Advisory Committee because it included women who had studied the subject of theology in their faiths and had expertise on the subject. This report does not attempt to explore the depth of those internal debates and in not making that attempt, does not intend to suggest any disrespect. What this report does is record the thoughts and experiences of the participants as a snapshot of religious institutions in the Lower Mainland and the women of those institutions.

## ***2.2 Report Structure***

The report has been divided into five parts starting with the introduction and methodology. Part Three covers the perspectives and opinions of the religious officials in a collective manner, referencing each individual and religion. Answers have been organized in a thematic structure, following various topics. Part Four focuses on the conversations with the women of faith and the result of each of the group discussions has been illustrated one by one. The last part of this report includes a list of recommendations.

It is very important in reading the following section to highlight the fact that the thoughts expressed here are those of the individual interviewed, and not intended to represent the entire religious group they are a part of. However, they are leaders in their faith groups, and their comments influence their actions in providing support, advice and leadership to their various congregations.

### ***3.1 Concept of equality between men and women***

All participants expressed the belief that their religion inherently perceives men and women as equal.

Dr. Ellen Clark-King, Priest Associate of the Anglican Christ Church Cathedral asserted that men and women were created in the image of god and that is the basic ground for equality.

Fellow Protestant Christian, Reverend Gary Paterson of the United Church of Canada, stated that everyone is made in the image of God. There is no difference between men and women. The United Church acknowledges that women were first to witness the resurrection of Jesus. The influence of patriarchal culture, however, reconstructed the role of women in both society and the establishment of some churches. He added that the United Church of Canada ordained the first woman minister in the 20<sup>th</sup> century.

Master Casey Cheong from Guan Yin Temple explained that in Buddhism everyone is equal. Human forms make us different but we are all “sentient beings.” When we leave this world, the body decays and we are all soul. We are all the same. “There is no woman or man; we are like the earth that is polluted, therefore we need to clear it to see the real you”.

Imam Javad Jafari from Al-Zahra mosque of the Shia order emphasized that Islam does not discriminate based on gender. It is not discrimination in Islam when women cannot lead a prayer or a service. The psychological and physical nature of a woman can naturally stir up emotions in men and this can distract from the prayer or service. He stated that this does not suggest men and women are not equal, it simply means women and men are not the same and have different roles and duties.

There are different perspectives within Judaism. Rabbi Jonathan Infield representing the Beth Israel Synagogue and the conservative movement of Judaism explained that equality between men and women is one of the definitive elements of the conservative movement.

Rabbi David Mivasair of Ahvat Olam congregation stressed that it is important to distinguish between different branches of Judaism: Orthodox Judaism, reform, conservative, and reconstructionist movements. His congregation represents the reconstructionist movement. In his view of reform, reconstructionist and conservative movements, women and men are mainly perceived as equal. He clarified that in Orthodox Judaism women are exempted from the study of Torah, are not allowed to lead a prayer or a service, and divorce cannot be initiated by a woman.

Mr. Chadar Sen of the Ram Krishnam and Vedic Cultural Society of BC told us that the nature of culture and religion are two different things. For instance in Hindu religion, a woman is perceived as a goddess. "If we witness any discrimination against women in today's society, such is based on cultural interpretations and not the Hindu religion," he stated.

### ***3.2 The role of men and women and their responsibilities and obligations***

All participants shared a brief overview on the topic of the role of men and women and their responsibilities and obligations. Some emphasized that such views only represent the reality in Canada today. Participants tended to agree that there is a need to distinguish between religion and culture when discussing the intersection between religion and women's equality. Having



said that, however, one key question remained unanswered: how should women and men separate religion and culture in their daily lives?

Imam Rashid explained that men and women are equally responsible for adhering to the Five Pillars of Islam<sup>15</sup>. The Qur'an describes the relationship between men and women as one of "love and mercy", that men and women are to serve as "members of one another" and as "protectors of one another". They are to be like each other's garment. According to Imam Rashid, Islam supports the traditional division of labour whereby women assume the main responsibility for taking care of the home while men are responsible for financially supporting their wives and family. Also, motherhood is viewed as one of the most important roles in society. Muslim women may work outside the home or volunteer their services to benefit the community as long as their primary responsibilities are attended to, they have the consent of their husbands to do so, and the type of work would not be perceived as compromising their faith. He also emphasized that Islam stresses the importance of taking counsel and mutual agreement between men and women in making family decisions. However Imam Rashid stated that culture sometimes takes precedence over religion because some people misinterpret the religion to justify actions that otherwise would be frowned upon by Islam. He explained for instance some Muslim cultures may define a woman as secondary to men but that would not be the correct interpretation of Quran or the spirit of Islam.

In Islam, Imam Jafari told us, a woman is the queen of the house and it is her responsibility to raise the children. However, he wanted to be clear that in today's time Muslim men and women are expected to share these responsibilities together. Islam emphasizes that the household financial needs are the sole responsibility of men and not the women. In return, women are responsible to undertake the "productive roles" such as cooking, cleaning and child rearing inside the home. This is viewed as the greatest happiness for women to work inside the home with their children. Imam Jafari said that it is agreed if a woman starts working outside the house all sorts of prob-

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15 This is the term given to the five duties incumbent on every Muslim. These duties are Shahadah (profession of faith), Salah (ritual prayer), Zakah (tax), Sawm (fasting during Ramadan), and Hajj (pilgrimage to Mecca).

lems may arise and this may threaten the family unit. However he explained there is an exemption for women to work outside of the house in the case of economic hardship. He added that a woman who works outside the home would still have to observe Muslim beliefs and dress and behave modestly.

*"I believe there must be a limit in applying religion. The government must take action and protect the most vulnerable if it is needed. I am aware of cases of domestic violence in our community where the government protected the children and took them away from their parents. I applaud them for this, but what I am not happy with is when the government takes the children out of our community and places them in a completely different environment. This is where I want the government to respect my religion and allow the child to live with a Muslim family and not a non-Muslim one."*

*Participant - Women of Muslim faith*

In describing Orthodox Judaism, Rabbi Mivasair explained that it states that women's obligations and responsibilities are different from men's, but no less important. Orthodox Judaism also states that men and women have different but complementary roles, and thus different obligations. Women are discouraged from pursuing education and religious pursuits as it is believed that the primary role of a woman is as a wife, mother and keeper of the household. Women are not obliged to attend formal religious services and are separated from men if they attend a service. Rabbi Mivasair said that in the reconstructionist movement that he represents, roles and responsibilities for women and men are the same based on the belief that women and men have equal rights. He clarified that today's practice of Orthodox Judaism has also transformed a lot with some Orthodox women even pursuing roles in the rabbinate.

Rabbi Infeld said he considers gender biases in the religious text with an understanding of the social and historical contexts of when they were written.

There are many things in the text that have changed over time. He said, "If I find a particular text that is 2000 years old and obviously misogynistic, then I understand it is 2000 years old". Rabbi Infeld went on to say that in Judaism there are obligations for women regarding their purity which do not apply to men, but that most people in a conservative synagogue would not necessarily follow that ritual.

In the Anglican religion, men and women are to honour and respect each other in marriage and their main obligation is toward each other. Today in Canada many women participate at all levels in the church with some in the position of bishops and others as priests. The Anglican Church ordained its first woman in the ministry 30 years ago. Dr. Clark-King stated that "I can say in the hierarchy of my church there are only a few that still think women should not be priests". She is positive, though, that even this will soon shift. Most of her negative experience with regard to the concept of women's equality in the Anglican Church comes from England where she immigrated from, but still she has no problem speaking out about things that she does not agree with.

Reverend Paterson of the United Church explained that, for United Church Protestants, there is no difference between men and women and mutual respect is promoted. In the past, many congregations were uncomfortable with the idea of ordaining women but today things have changed. At present when the United Church of Canada hires a new minister, it can no longer ask about gender, marital status or even the sexual orientation of its applicants; otherwise there could be disciplinary actions.

It is widely accepted that the Buddha created an order of nuns (bhikkhuni). While the tradition of ordaining women has died out in some Buddhist traditions, it has remained strong in others such as in Chinese Buddhism. Master Cheong expressed that in Buddhism the highest and real aim of humankind - the ideal of life - consists in the attainment of absolute freedom where one reaches a state where he/she is no longer controlled and conditioned by the urges of nature. This salvation can be gained in the same manner by men and by women. There are no slight differences in this spiritual connection, neither in the method nor in the quality of attainment. The Buddha discovered that gender is of no importance for the aim of freedom. Man and

woman are equal in the rights and duties of their partnership, as the Buddha described it.

According to Mr. Sen, in Hindu's faith, it is about loving, respecting, caring and compromising when it comes to gender roles and responsibilities. Mr. Sen said in the old days there might have been more defined "roles" and "responsibilities" to be followed by women. For instance, in some Hindu cultures, the husband is supposed to be seen as a god to his wife. Even now, some Hindu women preserve such forms of worship in ritual interaction with their husbands by touching their feet, washing their feet, feeding them by hand when obtaining their husbands' blessings. For example, in the "Karva Chot" ceremony a married woman is expected to fast and pray for the long life of her husband beginning the ritual early in the morning and continuing throughout the day until the moon comes out. Mr. Sen clarified that the position of women in Hinduism widely depends on the specific text they follow and where they live, whether that is Canada or abroad.

### ***3.3 Marriage and Divorce***

Here discussion centered around spousal relationships such as the concept of marriage, the recognition of common-law and same-sex marriages and the recent public attention regarding the prohibition or suppression of polygamy. The discussion also covered the topic of divorce, illustrating various religious perspectives on the subject. During the interviews most participants tended to highlight concerns regarding the application of some religious rules that tend to undermine women's equality, most of which are no longer applicable in today's society. The participants emphasized that such rules are questioned with an understanding of their social and historical context.

Hinduism defines marriage as a union between a man and a woman. Mr. Sen explained that, while common-law relationships are often accepted, this may vary among different communities and contexts. Same-sex marriage is not accepted. Polygamy was practiced in ancient times when kings routinely took on multiple wives, but Mr. Sen confirmed that the practice is currently banned in Hinduism. He explained that divorce is not encouraged in Hinduism and considered as a last option, even in a case where a man is accused of beating his wife.

For the Anglican Church, marriage is a union of a man and a woman forming a community of life for the children born of this bond. At present, acceptance of common-law and same-sex marriage is still open for debate. Dr. Clark-King stated that although common law relationships are not widely accepted, the church does welcome couples who are in a common-law relationship. She further expressed her opinion that the practice of polygamy is not acceptable, although she is concerned about the situation of families immigrating to Canada while in a polygamous relationship. She felt that current immigration laws may create more hardship for a woman with children from a polygamous union because a wife not legally married may not be given entry into the country. However, Dr. Clark-King found the subject of polygamy unacceptable when it occurs in the North American context, specifically the Fundamentalist Mormon communities found in Canada and the United States.

*“there was a case where the husband refused to agree with the divorce and the religious leaders intervened to solve the problem and convince him to sign.”*

*Participant - Women of Muslim faith*

Reverend Paterson described marriage as between two equal parties with the expectation of life long fidelity. He added that the United Church of Canada is still cautious about common law relationships, but if that is the only appropriate way to express sexual fulfillment such might be accepted if the intention of the couple is life long commitment. He concluded that marriage is a bond only between two individuals and that polygamy is not affirmed in his tradition. He stated that the church does recognize divorce.

Like the Anglican Church, same-sex marriage is still being debated in the Jewish conservative movement. Rabbi Infeld reported that there is scriptural evidence indicating that the practice of polygamy among ancient Hebrews, although not extremely common, was certainly not prohibited or discouraged. At present, however, Rabbinic Judaism has essentially outlawed po-

lygamy. Rabbi Infeld clarified also that a common-law relationship would not carry the same negative connotations as in some religions and that the congregation would respect the rights of individuals who lived common-law. Same-sex marriage and a divorce initiated by a woman are accepted within the reconstructionist movement, stated Rabbi Mivasair. But in the conservative movement that continues to require men to provide a “get”, Rabbi Infeld explained that certain changes can be made to the wedding document (Ketubah) to prevent any possibility a husband may refuse to give his wife the “get”. “Get” is the Hebrew word for a divorce document, which is presented by a husband to his wife on the occasion of their divorce. The essential text of the get is quite short: “You are hereby permitted to all men and no longer a married woman”. Both Rabbis expressed their concerns regarding the challenges many Orthodox Jewish women face when trying to obtain a “religious divorce” when their husbands refuse the ‘get’.

According to both Muslim Imams, Islam is a strong advocate of marriage. The Arabic term for marriage is Nikah and it means “contract” or an agreement which makes a relationship between a man and a woman lawful. Imam Rashid affirmed Islam’s prohibition and non-acceptance of common-law relationships or same-sex marriages but added that there is a somewhat passive acceptance of polygamy. He clarified that polygamy is neither encouraged nor mandatory in Islam, but merely permitted. He explained that the Quran states that “if one is not sure of being able to deal justly and fairly with all wives then (marry) only one.”

Imam Jafari also commented on a verse in Quran which permits polygamy due to the historical battle of Uhud, where “many Muslims were killed, leaving widows and orphans”. He said that polygamy must be understood in the social and historical context of Islam and asked the following rhetorical questions to explain why polygamy may be accepted: “what about widows in Iraq? What if a woman cannot get pregnant? Is it better for her to be divorced or be with her husband in a polygamous relationship?”

Imam Jafari also argued that Shiia Islam recognizes “Mutah” which has similarities to a common-law relationship. He specified that “Mutah” is a marriage with a fixed termination contract which can be subject to renewal. A “Mutah” differs from a permanent marriage as it does not require divorce

proceedings for its termination because the contractual parties have agreed on its period, which can be as short as an evening or as long as a lifetime. By making the “Mutah”, a couple places the sexual act within the context of Sharia, making it acceptable. This means the act is not considered adulterous and any offspring born of the relationship are considered legitimate heirs of the man.

Imam Jafari and Imam Rashid both stated that divorce is allowed in Islam, but it is not encouraged and it should not be readily sought. Muslims, they explained, believe that a divorce can cause deep emotional scars within the couple’s relationship, and also reduce the possibility that their children will have an optimal upbringing. Hence it weakens the fabric of society. Imam Jafari stated that Muslim men and women must obtain a religious divorce to terminate their marriage. Also, a divorce cannot be initiated by a woman unless under specific circumstances. He added that divorced women are not welcomed or fully accepted by most communities. A divorce for a man does not have the same negative cultural connotations.

In Buddhism marriage is apparently considered a secular affair. Same-sex marriages and common-law relationships are western concepts that are not culturally accepted, said Master Cheong. She also confirmed that while Buddhism discourages polygamy it does not outright prohibit it. She noted that the practice of polygamy was not uncommon in ancient China. Divorce is also not prohibited, although it would be uncommon for most within Buddhist culture. Furthermore, if a couple enters into a marriage and adheres to the Buddhist’s ethical prescriptions for marital and family life, the idea of a divorce becomes a non-issue. Buddhists also deem extramarital affairs as sinful.

### ***3.4 Religious law and Secular law***

The interviews with religious leaders focused on three questions in the area of secular and religious law.

- a) How does secular law help or hinder their faith and/or practice of religious law?
- b) Were there some aspects of their religion that secular law should not

interfere with? And,

- c) How do women and men feel about the role of secular Canadian law as it intersects with the practicing of their chosen faith?

Mr. Sen indicated that people from his Hindu Center who live in Canada generally follow this country's laws but, when asked, he did not recall any occurrence where state law and any Hindu ritual have clashed.

Reverend Paterson of the United Church said there are occasions where secular law helped the church's evolution, particularly in the case of same-sex marriage. He could recall situations where secular law interfered with some religious practices, but could not think of anything current. He concluded that it is appropriate for the state to interfere within the religious arena if such actions could harm an individual; for instance, in the case of necessary blood transfusions or in the practice of female genital mutilation. Dr. Clark-King also remarked that same sex marriage was an issue that prompted the Anglican Church to move forward and rethink its position on what qualifies as a legal marriage.

There is a rule in the Jewish faith that states "the law of the land is the law to follow" said Rabbi Mivasair, but added this rule only applies to laws considered rational. "For instance," he said, "in Judaism there is a practice to bury our dead with no coffin, however, we had to adapt to BC regulations making coffins mandatory for health purposes, so now we choose the simplest coffin possible." He concluded that he would prefer his religion to guide him on what he can and cannot do instead of the government, but felt that this only applies to adults, and only in instances where mutual consent was possible. Rabbi Infeld believed that the most prominent conflict between Orthodox Judaism and state law at present regards the issue of religious divorce, which has the ability to undermine women's equality rights. He explained that a secular civil divorce is not sufficient to dissolve a Jewish religious marriage. As far as Jewish Law is concerned, a couple remains married until the woman receives the "get". This is a significant problem for women as some may not obtain a religiously valid divorce without the permission of a husband. If a woman remarries only after a civil divorce, a second marriage would be considered an adulterous one by some synagogues.



Imam Jafari said there are instances where some Muslim women may prefer secular law to resolve certain disputes, particularly regarding the inheritance issues. He clarified that divorce can only be resolved under religious law and not any secular one. Regarding the issue of mobility and freedom of movement, he said a woman can only leave or work outside the home with her husband's approval. It was his belief that secular law can only intervene in these cases where there is an economic hardship or health risk present and there is a potential for physical harm.

Imam Rashid said if there is a mutual consent between an adult male and female to apply religion to their life's demeanor then there is no place for government to interfere in that relationship. He explained that Islam (Sunni) only encourages religious divorce but would still recognize a civil one. In most cases the law of the land is respected. Imam Rashid reported that in Canada actions such as adultery or drinking alcohol by Muslims would not be punished where they may perhaps in Islamic countries. He said such breaches of Islam would be dealt with in the Hereafter.

Buddhism is reportedly based on the foundation of harmony and peace. Buddhism does not have a 'divine' law, which is superior or can override any secular law. Master Cheong said her religion directs all its energy on achieving spiritual breakthroughs to discover universal truth.

### ***3.5 Polygamy in Bountiful in BC***

The participant's views varied on the practice of polygamy, including arguments concerning the right to freedom of religion and the individual's civil right to personal choice. Most participants however tended to be in agreement that the current situation in the B.C. community of Bountiful should be addressed according to state law, and that the enforcement of such law should not be overlooked or suspended by government. Some participants raised concerns regarding the potential harm associated with the practice such as possible spousal or child abuse, or minors being forced into marriage with older men. None of the participants made direct comments on how the principle of women's equality should be applied in relation to freedom of religion.

The idea of making teen girls, some as young as 14, marry men more than twice their age is a situation where many suggested that the government must intervene. Dr. Clark-King proposed that a way to solve this problem would be to introduce a policy or regulation that would ban the practice of polygamy but allow some exceptions based on a review of individual cases. She felt this may control the risk of a violating a woman's equality rights while at the same time protecting her right to freedom of religion.

Reverend Paterson firmly believes that marriage should only be between two people. He felt a great deal of concern for the potential of abuse in polygamous relationships, specifically regarding the abuse of children and spouses. He suggested that the government should first, closely monitor the practice to determine if it should be legally prohibited and then, if polygamy is to remain outlawed, the government should step in to assist those who may be vulnerable and become victims of criminal behavior.

*"We should not be judgmental. We need to think how we can help and intervene. It would be an easy solution only to think of applying the secular law."*

*Participant - Women of Jewish faith*

It is important to note that there is a significant difference between religious law and secular state law. Rabbi Infeld affirmed from a Jewish religious perspective, polygamy is socially not permitted and also prohibited. However from a legal perspective, he thought practicing polygamy might not just be a matter of personal choice but a legal right assuming both individuals are adults who can exercise a right to "consent and choice". He further clarified that the government is not in a position to impose social values on gay or lesbian relationships so equally it should not define what is or is not acceptable for adults who chose freely to participate in a multiple relationship.

Rabbi Mivasair expressed his view on Bountiful by explaining that there are laws in place to protect citizens and residents against exploitation or actions that may be harmful to individuals or society as a whole. He stated that if a small religious community allows an older man to marry many young girls then it is the obligation of the dominant culture to protect any vulnerable group in that community. However, he clarified he would not object to the practice of polygamy if such was based on mutual consent among adults. He added that different forms of marriage including polygamy can be acceptable as long as there was no exploitation involved. Regarding the current situation in B.C., he concluded that if the law categorized polygamy as a crime then the law must be enforced: "I would say that the government is mishandling the issue of Bountiful, that they are ignoring the law. Can we ignore any other acts stated in the Criminal Code? Besides if I was the Bountiful leader, I would have made a test case and I would have challenged the law."

Master Cheong confirmed she would not make any position with regard to the practice of polygamy in Bountiful in BC. However she affirmed if the law in Canada prohibited polygamy, then it should not be practiced.

"As a religious person I would like firstly to put myself in the position of people of Bountiful to understand their views," stated Imam Rashid. He was of the opinion that the government should not impose social values on individuals but he does discourage people in his Muslim community from violating any Canadian laws, such as polygamy. He argued that laws can be debated but should not be violated. He would encourage the government to work with the people of Bountiful to try and solve any problems arising from that community, but emphasizes the importance of not showing any favoritism toward anyone or any one group. Imam Rashid added that it is the government's obligation to work with people and protect those who are the weakest in society. He concluded that underage marriages are out of the question and would not be tolerated in any circumstances.

## 4 The Thoughts of Women of Faith

### *4.1 Women and the Jewish faith*

The Jewish women who contributed to our focus discussion were comprised of different age groups as well as varying social, educational and economic backgrounds. The group represented members of the reconstructionist and conservative movements as well as modern Orthodox Judaism.

#### **The concept of equality between men and women**

In answering this question, the group considered a wide spectrum of Judaism. Participants explained that the Torah and rabbinic literature view men and women as equal but do tend to treat women differently in various circumstances. As one participant shared “I feel uncomfortable reading some part of the religious text, mainly those parts that undermine women’s position in society.”

Participants shared that relatively few women are mentioned in the Torah by name and by role, but there are a number of exceptions to this rule, for instance in the text about Ruth the prophetess and Deborah the Judge. The group further indicated that in Judaism, God is not viewed as exclusively male or masculine. Judaism has always maintained that God has both masculine and feminine qualities.

#### **The role of men and women and their responsibilities and obligations**

Participants explained that the Torah sometimes prescribes different roles and religious obligations for men and women. Regarding education, the group said that women were historically exempt from any study beyond an

understanding of the practical aspects of the Torah, but were still obliged to support men in becoming further schooled. The group concluded that things have changed tremendously in the last few decades and Jewish women are now seen in all positions and capacities throughout society, even as rabbis. One participant shared “We owe this most to the liberal Jewish women’s movement”.

Participants discussed how modesty plays a role in Judaism explaining how the importance of modesty in dress and conduct is particularly stressed among girls and women in Orthodox society.

With regard to the roles and obligations within a marital relationship, the group said that in Judaism women have the right to be consulted by their husbands. Marital sex is regarded as the woman’s right and forced sexual relations within the context of marriage are not permitted. Men also do not have any right to beat or mistreat their wives. In accordance with Jewish Law, Jewish women must refrain from contact with their husbands while they are menstruating, however, this does not appear to be the practice today among most Jewish couples.

## **Marriage and Divorce**

Participants defined marriage as a union between a man and a woman. The group explained that in Judaism a sexual relationship is prohibited when the man and woman are not married to each other. A common-law marriage would not be accepted in an Orthodox Jewish community or in their modern society in general. However, at least one participant said that it is not that strict anymore and that no one is really checking to see if people are living together unmarried. The group did share a stereotype saying “A good Jewish girl does not live with her boyfriend”.

Participants discussed that historically divorce has been the right of the husband only, although religious law has established several circumstances under which a husband could be compelled to divorce his wife: if the marriage was childless after ten years; if the husband refused to have sex with his wife; if the husband beat his wife. Traditionally and still to this day, a Jewish di-

orce can only be granted by a rabbinical court, in addition to a secular civil court.

The group further explained that if a man refuses to grant his wife a religious divorce (the 'get') she is unable to remarry according to the faith until it is granted, despite the existence of a civil divorce. A child born of a woman's remarriage after a non-religious divorce is also considered illegitimate. The group all agreed that the matter of a religious divorce and its complexity with regard to husband's refusal is still a matter of great deal of concern for some Jewish women in Canada today.

One participant shared with the group that the conservative movement allows certain changes to be made in the Ketubah (wedding document) which makes it more egalitarian. Modern Orthodox Judaism, however, suggests that a separate prenuptial agreement be made external to the Ketubah (wedding document). This agreement often states that if the husband refuses to grant the "get", he will be required to pay an enormous ongoing fee until he grants it. This means if the husband refuses to pay the money or grant his former spouse the "get" and the rabbinical court is unable to enforce the agreement, it can then be determined in a civil court action.

*"I am so tolerant that I tolerate your intolerance. But this is beyond my tolerance as a woman. It is different when children are involved, here should be a limit to religious freedom."*

*Participant - Women of Jewish faith*

It must be noted that the recent case of the Supreme Court of Canada *Bruker v. Marcovitz*, (2007) is a confirmation to the latter statement. In this case, during their divorce, the parties negotiated to obtain a "get" immediately upon the granting of the divorce. However, despite the wife's repeated requests, the husband consistently refused to provide it for 15 years, by which time the wife was almost 47. The wife sought damages for breach of the agreement. The husband argued that his agreement to give a "get" was not valid under Quebec law and that he was protected by his right to freedom of religion from having to pay damages for its breach. The trial judge found that the

agreement was valid and binding, and that a claim for damages based on a breach of this contract was within the domain of the civil courts. The Court of Appeal allowed the husband's appeal. It found that because the substance of the obligation was religious in nature, the obligation was a moral one and was therefore unenforceable by the courts. The Supreme Court of Canada disagreed with the Court of Appeal and dismissed the Appeal<sup>16</sup>.

## **Religious law and secular law**

Participants could not recall any situation where there was a clash between Jewish religious law and Canadian secular law other than with the issue of religious divorce. Participants concluded that most actions carried out by the BC Jewish community are done so in accordance with Canadian secular law. There was a group consensus that most religious leaders in BC tend to support women in getting a divorce in situations where a husband may refuse to grant a former spouse the "get". They were of the view that religious leaders would be also proactive in cases of known domestic violence and, if the situation was serious enough, women would be encouraged to report their cases to police. It was noted that the BC Jewish community also provides support services for women including access to an emergency shelter and counseling for those trying to escape an abusive relationship.

## **Polygamy in Bountiful in BC**

The group viewed the importance of women's equality rights as being equivalent to freedom of religion rights. Participants agreed that the government would be failing Canadian women if women's equality rights were being compromised in any given circumstance, including in a religious context. All participants felt there was a need for government action to try solving the Bountiful issue where women and children may be being abused, but raised concerns that further harm might be caused to the women if the polygamy law were enforced. Participants recommended an adaptation of a comprehensive approach which would include increasing the educational aware-

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16 *Braker v. Marcovitz*, 2007 SCC 54, December 14, 2007 <http://scc.lexum.umontreal.ca/en/2007/2007scc54/2007scc54.html>

ness of women and children while taking legal action. Some of participants' quotes on the issue included:

"I am so tolerant that I tolerate your intolerance. But this is beyond my tolerance as a woman. It is different when children are involved, here should be a limit to religious freedom."

"Our government failed to protect the girls of Bountiful in providing them with a standard school and education system."

"It has to be voluntary and each wife be treated equally. The women in Utah seem happy with their choices."

"We should not be judgmental. We need to think how we can help and intervene. It would be an easy solution only to think of applying the secular law."

"Educating is the key. Maybe with the help of those women who left the community a better strategy than a legal one can be identified."

"If we accept the concept of gay marriage we should also accept polygamy only if there is mutual consent between partners."

"My question is do we have enough support services in place, if these women decided to leave Bountiful? I am sure the answer is no? How these women are supposed to be adapted socially and economically? I believe yes the government must intervene but at the same time have a clear policy in how to support these women."

"This is an institutionalized pedophilia. We need to take action. These men have hundreds of children and dozens of wives. How we can close our eyes and say these women had choice. These girls leave schools at grade seven and had never been out of their community. What choice or mutual consent are we talking about?"

"These women need education and not prosecution. The prosecution of husbands would be a better approach."



“It is about harm to women and children. I am not sure it is any more about freedom of religion. We need to act responsibly and we should not fail protecting their rights.”

## ***4.2 Women and the Mennonite faith***

The women who participated in this focus group represented different age groups, and included married, single and divorced women. Their professional backgrounds also differed as one was a minister of a church, another a university professor, a doctor, a teacher, a librarian, a social worker as well as various business women. This dynamic and the extreme openness of the participants lead into a very successful discussion which represented a variety of point of views. We found this discussion particularly important as Mennonite women have historically had some experience living in closed communities.

### **Concept of equality between men and women**

The discussion started with participants reflecting on their own experiences of equality rather than on review of the religious text in the Bible. Most participants commented on how at some stage in their life they have experienced gender discrimination. One participant stated she was not allowed to go to college on the basis that she was a woman. Regardless, she went on to the university at the age of 38 and is currently a professor at UBC.

Another woman told the group she has never experienced discrimination in her job as a teacher but always felt such in the church.

One participant said she grew up in a home where her parents were a part of a closed Mennonite community. She explained:

“We lived in a form of a very close community. They under-valued education for girls and there was lots of power struggle at home. I enjoyed school, education but I had no real purpose for it because of the way I have been raised so when we speak of women of Bountiful my heart goes out for them. How can you have freedom when you have not been given all the information to make choices? When I look at wom-

en's issues, I think I look at those differently because I saw my mother, who suffered greatly, when she died I said, 'she is now in the hands of the only Man who will never hurt her, Jesus Christ.' In what we see in our society in Canada we see women from all over the world who may experience unimaginable issues where we need to respond to those with great deal of sensitivity. It was really my faith that took me out of that [home] situation into a wonderful life. I think women's issues are so prevalent and we need to give very close attention to it, especially in the church, because there is so much abuse in the name of church and religion and that is the issue."

Another participant said to the group, "I left the church, feeling discrimination against women never will end. I left the church but then I came back; I have decided to work from within to bring changes and bring the examples for youth not to leave".

One younger participant stated she had not experienced any gender discrimination in the church. She found that elders were quite supportive and often encouraged women to take on leadership positions. She was even a board member at her church.

Participants said that in spirit of Christianity, men and women are equal in the eyes of God. Some participants stated that the image of God is often perceived in the form of a man. There was some discussion however that this perception has changed and that there is a growing trend, as well as acceptance in the church, of the idea that the image of God is also female. One participant said that imagining God's spirit in feminine terms has caused extreme tension and reaction from members of the church including women. She said that this happened 13 years ago but added that "today there is a book that envisions God as an African-American woman and it is being accepted, so things are changing and it is great."

The group reported that in the late 1950's, the Mennonite church stopped ordaining women after about 30 years of doing so. Female ordination in Canada was accepted after a church visit to the Congo in 2003.

The participants concluded that it is still a work in progress and that it may

be some time before we see more women in leadership positions in the church.

## **The role of men and women and their responsibilities and obligations**

Participants explained that the roles of men and women and expectations toward one another are defined, not only by religious law, but also by the culture of their community. The group said that within the spirit of the religion, the roles and responsibilities of men and women are about harmony, love, mutual respect, caring and loyalty. But participants agreed that women have specific cultural expectations not imposed on men including being a good cook, taking care of the children, and making their husband look good. However, today such women are also encouraged to work and be educated in addition to fulfilling their reproductive roles. Traditionally Mennonite men are viewed as the head of the household and as the breadwinner.

One participant stated that the Mennonite community would look down

*“there is also this belief that there is no abuse to begin with in the church families.”*

*Participant - Women of Mennonite faith*

on a woman and marginalize her if she didn't follow cultural expectations. Another participant added that “Women want to be part of the community and the network so sometimes there is no choice.”

The participants concluded that within today's modern Mennonite society, things seem to be changing for women but there was still a long road ahead.

## Divorce and Marriage

Within the Mennonite community, marriage is based on unity and can only be between a woman and a man. Any sexual relationship before or outside of marriage is not accepted. One participant shared with the group that people looked down at her after her daughter decided to live with her boy friend.

*“We were renovating our house and we were thinking of new tiles for the kitchen. One day my husband came home and showed me five different tiles to pick one out of. I just looked at him and I asked: when you were at the shop did they have only these five? The answer was no, there were hundreds. But now you choose and it will be your decision. I explained what sort of choice is that? You have already limited my choice and that I should accept these five are the best to pick from. My point here is that how we can talk about choice and freedom of religion when these women are born in this situation and have not had access to the information and education?”*

*Participant - Women of Mennonite faith*

The group reported that a homosexual relationship is also not accepted or talked about in the community. The practice of polygamy is prohibited and would not be accepted.

There was a consensus among participants that divorce is not something that is supported or promoted either by the church or people in the community. They explained that divorce is only acceptable in the case of adultery or violence. One participant reported that “usually the couples who divorce change their church as they can not come to the same church as before.”

Participants were in consensus that divorce is not something to be promoted and supported either by the church or the community. However, as they explained, divorce is increasingly acceptable in case of adultery or violence and is not viewed any more as an unforgivable sin.

## **Religious law and secular law**

According to the group, the Mennonite church is a strong advocate for peace so as tax payers, some members of the Church are exercising their freedom of religion not to support government expenditures on war. They reported that some members of the Mennonite community are also not happy with sex education being taught in public schools and consider it against their religion, where children are taught about homosexuality and alternative sexual lifestyles. One participant said some community members feel uncomfortable in the instance where secular law may have an overriding control on the rearing of their children, particularly when it comes to sex education in the schools, as some might want to parent their children in accordance with the Mennonite faith.

The group also talked briefly about abortion explaining that the Mennonite community would support a woman to have her baby and help with raising that child. One of the participants argued "I am sure there is lots of support but I still remember the girl who was pregnant and had to go to the church to apologize for it."

The group agreed that if a woman of Mennonite faith is in an abusive relationship and goes to the church for help, she likely would be told that calling police is a last resort and that it is better to go back home and pray. One participant said that "there is also this belief that there is no abuse to begin with in the church families."

The group revealed that recently some work was being done with religious leaders to learn how to respond to cases of domestic violence. Participants agreed however, that there are not enough support services in place for women either by the church or the Mennonite community.

## Polygamy in Bountiful in BC

There was a consensus among participants that there should be a boundary between religious freedom and women's equality. They questioned how we can talk about choice when there is no opportunity to make an informed choice in the first place.

"Women often need to have permission from their parents, if not married, or from their husbands in case they are married, to either go out or to work outside. But things are changing and couples are often consulting with each other."

*Participant - Women of Sikh faith*

One participant shared with the group an example to clarify her position "We were renovating our house and we were thinking of new tiles for the kitchen. One day my husband came home and showed me five different tiles to pick one out of. I just looked at him and I asked: when you were at the shop did they have only these five? The answer was no, there were hundreds. But now you choose and it will be your decision. I explained what sort of choice is that? You have already limited my choice and that I should accept these five are the best to pick from. My point here is that how we can talk about choice and freedom of religion when these women are born in this situation and have not had access to the information and education?"

Participants commented that we must be careful in what position we take with regard to Bountiful because what if tomorrow it is our turn? Would we accept a state law being imposed on our religious views? Another participant responded "so because we don't want to stir this pot as we may be the next in line we should close our eyes, I do not agree - this is a different story."

Participants concluded that a woman's rights should be protected and actions should be taken to address the issue of polygamy within Bountiful. They agreed that such action may include prosecution of men, the protection of children and the introduction of education programs for women.

### ***4.3 Women and the Sikh faith***

Women who attended this focus group represented a variety of age ranges as well as socio-economic backgrounds. The discussion was conducted in the Sikh language with the support of a professional translator. It must be noted that participants who attended this discussion had all experienced abusive relationships and most were divorced.

#### **Concept of equality between men and women**

The participants explained that, within Sikhism, women are considered to have the same souls as men and have an equal right to grow spiritually. They are allowed to lead religious congregations, perform Kirtan (congregational singing of hymns), work as Granthi (priest) and participate in religious, cultural and social activities. The group expressed, however, that this is not always practiced.

In fact, the group revealed that they never heard of a woman working as a Granthi (priest) either in Canada or in India. One participant added “you don’t see women in key roles and positions in temples, or as board members of temples. We mostly see women in charge of food preparation or the organization of festive activities.”

According to participants, the discriminatory actions against women in a Sikh context has more to do with culture and community rather than religion. One woman shared with the group one such episode: “I have been in a temple with my daughter and I heard one of the male staff say she has not brought any food but she is here to eat. He would never say such thing to a drunken man but he can do it to me and call me down as I am a woman.”

The group discussed the clothing rules for women and men and explained that both are obliged to dress modestly and cover their heads while in the temple. Some participants felt that some temples only put pressure on women to comply with this rule and not men.

Some in the group offered their own personal experiences when asked about the issues of mobility and inheritance. One participant stated “I know that often women, especially here in Canada, are allowed freely to go out or work outside the home but I think it really depends to your family. I recall a time that my husband did not come home for 3 days and I wanted to go temple to pray but my family did not allow me to go out till he came back.”

Another participant added “Women often need to have permission from their parents, if not married, or from their husbands in case they are married, to either go out or to work outside. But things are changing and couples are often consulting with each other.”

Regarding the issue of inheritance, one participant stated that the rule of inheritance is “agnatic” which means that property is only awarded to male descendants to the exclusion of any female. Participants agreed that this is still the practice in Canada but that much of it depends on the number of years you have immigrated to the country. For instance, one participant explained: “if you have moved 30 years ago it is rare that you would follow this practice but new immigrants still follow the rule of the country of origin, India.”

## **The role of men and women and their responsibilities and obligations**

The group shared their feeling that the ideal situation is to have mutual love and respect between women, men and their children. However, the women stated that there is a drastic distinction between the roles and obligations of men and women in real life, but that women often have grown to accept those roles without resentment. Women have to maintain the home, be subservient and take care of the children and elders. One participant said their society expects women to sacrifice and comply with all duties and expectations but explained that it “is a cultural issue and not a religious matter.”

One participant shared that some religious scripts state clearly that once a woman gets married there are a lot of responsibilities that fall on her shoulders and she can no longer act like a single woman. The scripture apparently only refers to women and not to men.



## Marriage and Divorce

Participants said that Sikh marriage is not merely a physical and legal contract, but a holy union between two souls. Common-law and homosexual relationships are not approved or accepted, and ones that become public can expect harsh consequences. It was also suggested that being gay or lesbian is an unforgivable sin and that as such it is not tolerated in Sikh communities.

*“people can justify honor killing in the name of freedom of religion. In BC recently, when a girl was killed by her father, some people were saying this is a good lesson for other girls in the community. Imagine the situation where the government would have allowed it or not enforced the law.”*

*Participant - Women of Sikh faith*

A younger participant shared her opinion on the common-law issue and stated that “It will be hard if you live in a small community or city, but if you are in a big city in Canada or in India, no one will find out and young people are doing it.”

Historically men were allowed to have polygamous relationships in the Sikh religion and some women reported that it is still being practiced today. Although polygamy is prohibited by law in India as it is in Canada, participants revealed knowing of some polygamous families in BC.

Polygamy aside, the group explained that a Sikh marriage is a monogamous one. In the case of a broken marriage, divorce is not possible under Sikh religious tradition but a couple can still obtain a divorce under state civil law. The group agreed that in the event of divorce, women are often the ones who are judged or blamed for the breakdown of the marriage. One participant said that “no one is willing to listen to your story, and as a divorced woman, the community has less respect for you.”

Another participant added “in our society, sometimes we are very hypocriti-

cal. If a man is abusive, and a woman endures that, she is a good wife. But if a woman speaks out or questions the situation, she is seen as trouble for the community or a bad wife.”

## **Religious law and Secular law**

There was a consensus among participants that women have more protection under secular law in comparison with religious laws. They raised concerns about the insensitivity of religious institutions toward women’s rights and issues.

One participant explained that “if a woman, in an abusive relationship, seeks help from her temple or discusses the matter with the Granthi (priest), she will be asked to tolerate it and not make the Sikh community look bad in the eyes of the outsiders.” Another woman said “my own experience is that men often tend to seek support from the temple to put pressure on women to reconcile and not report the case to the authorities.”

The group emphasized that the temples are not women-friendly enough and do not provide any support services for women. The temple building and facilities are modern and huge but are not always accessible for women. One participant reported “you are allowed to use the facility of the temple but I doubt you can book a room for having a workshop on domestic violence.” The group ended asking the question “how come Canadian government funding can be spent on a lavish interior design of a religious institution but not in protecting the rights of women who are willing to use those facilities?”

## **Polygamy in Bountiful in BC**

The issue of Bountiful was news to all participants except one. The facilitators described the situation in detail prior to the start of our discussion with the women. The group’s initial reaction to the news was how come there is not broad media coverage on the subject? One participant felt that “if it happened in our community, it would have been all over the newspapers and TV channels.”

Participants were all disappointed that there has been no action taken by the government so far to protect the women of Bountiful. One participant stated:

“I am a woman of faith and I get comfort by practicing my religion. I won’t like it if someone would stop me to practice my religion. However, I am also a woman and I know by experience how a community can let women down. I urge the government to protect those women.”

The group concluded that women from different communities and cultures have grown up to follow certain rules and expectations. This is learned from childhood and women often believe it is the only true way to follow. Participants all agreed that it is the job of the government to intervene and ensure the rights of our girls and women are being protected. One participant stated that some “people can justify honor killing in the name of freedom of religion. In BC recently, when a girl was killed by her father, some people were saying this is a good lesson for other girls in the community. Imagine the situation where the government would have allowed it or not enforced the law.”

#### ***4.4 Women and the Muslim faith (Sunni)***

This group was comprised of a small number of women mainly in middle age. All participants were educated and active in senior positions within their mosque. Participants were open in answering the questions we asked but at the same time were a bit hesitant to be detailed in any particular subject.

#### **Concept of equality between men and women**

Participants stated that while Islam recognizes that men and women have some physical differences, spiritually they enjoy absolute equality before God. Therefore, Islam openly declares that men and women have an equal status and value before God. With regard to legal and practical aspects of the religion, the general rules are the same for both men and women. They have to perform the same acts of worship, maintain the same Islamic etiquette and manners, and are subject to the same penalties.

## **The role of men and women and their responsibilities and obligations**

Friday prayers are said to be obligatory for men but optional for women. A man must spend his money to support his family but a woman's money is entirely her own to spend as she chooses. There are different clothing requirements between men and women as well, since the physical appearance of each is dissimilar. Traditional interpretations of Islam support the division of labour whereby women assume the main responsibility for the home while men are responsible for supporting their wives.

Participants said that while it is expected that women are to be home-makers and caregivers to their children, it is highly valued if women are educated. Nonetheless, in Islam, the primary role of women is to be mothers. One participant provided a saying by the Prophet Mohammed where he states that "his mother has the greatest right over men."

One participant explained that Islam gives women the "right to own", which entitles them to have personal possessions. In Islam a woman's share of inheritance is less than a man's share with the justification that women are not responsible for providing for the family financially. Participants added that in today's society in Canada, men and women share family responsibilities and consult each other in family decisions.

## **Marriage and Divorce**

The group defined marriage as a union between a man and a woman. Participants clarified that polygamy is not prohibited but is not promoted. Common-law and homosexual relationships, and adultery, are not allowed under religious law. One participant stated that in Canada if a woman or a man is committing any of above, they will be accountable to God in the afterlife.

Participants could recall that some Muslim women are in polygamous relationships in BC. The group was in consensus that the practice is generally not accepted by the community or talked about.

The group viewed divorce as the last option but stated that it is an option accepted under religious law. One participant said that in a case of domestic violence, if a couple is not able to fix the problem, then divorce would be a solution. Participants added that a woman is required to obtain a religious divorce if she follows the religious path. Another woman said that “there was a case where the husband refused to agree with the divorce and the religious leaders intervened to solve the problem and convince him to sign.” This is a similar situation to the Jewish ‘get’ with regard to religious divorce where religious leaders may play a role in convincing a man to provide the religious divorce.

Although polygamy is allowed in their religion, the group was against the decriminalization of polygamy. Participants raised concerns about the use of freedom of religion to justify any abuse of women’s rights. They were particularly concerned that the women of Bountiful have not been given the freedom to choose how to live their lives.

*Participants - Women of Muslim faith*

## **Religious law and Secular law**

A participant stated that “I believe there must a limit in applying religion. The government must take action and protect the most vulnerable if it is needed. I am aware of cases of domestic violence in our community where the government protected the children and took them away from their parents. I applaud them for this, but what I am not happy with is when the government takes the children out of our community and places them in a completely different environment. This is where I want the government to respect my religion and allow the child to live with a Muslim family and not a non-Muslim one.”

Participants reported that in their mosque there are support services dedicated to women including legal education and counseling. They clarified that the women's group of the mosque organizes monthly meetings and workshops for women in the community. Lawyers and experts are often invited to talk on various topics.

## **Polygamy in Bountiful in BC**

Participants were aware of the issue of Bountiful and strongly suggest that the government intervene to protect women's rights. Although polygamy is allowed in their religion, the group was against the decriminalization of polygamy. Participants raised concerns about the use of freedom of religion to justify any abuse of women's rights. They were particularly concerned that the women of Bountiful have not been given the freedom to choose how to live their lives.

*"divorce is now more accepted than it used to be in that no one would be shunned anymore. I remember in the past, the church kind of ignored these women but now things have started to change. Our society changed a lot."*

*Participant - Women of Anglican faith*

### ***4.5 Women and the Anglican faith***

The women who contributed to this focus group discussion represented a variety of ages and professional backgrounds. The diversity and large number of participants helped to develop a detailed and focused conversation in the discussion of some of the questions.

#### **Concept of equality between men and women**

The group stated that Bible in general views men and women as equal. They added that the Bible also includes passages that are not in support of equality but that these need to be interpreted in their historical context.

## **The role of men and women and their responsibilities and obligations**

Participants briefly discussed that some passages of the Bible prescribe different roles and responsibilities for women and men but emphasized that those are no longer applicable in modern life. By way of example, one participant said that these days both men and women take care of children during church services while in the past, it was considered women's role.

## **Marriage and Divorce**

The group agreed that, in their congregation, people do not care about definitions relating to relationship status. Common-law and homosexual relationships are accepted and those in such relationships are welcomed to attend any Church service. The group was in consensus that this may not be true in other Anglican congregations but this is the way things work in this parish. The church also has a female priest.

One participant commented that "divorce is now more accepted than it used to be in that no one would be shunned anymore. I remember in the past, the church kind of ignored these women but now things have started to change. Our society changed a lot."

Another participant added that "I have attended different churches and basically started with a Catholic church. In the Catholic Church in 1990 in BC, we as divorced women could not legitimately meet as a group in the church property or use the church facility. Basically the church hierarchy had an issue with it. We could not even use the kitchen."

## **Religious law and Secular law**

Participants could not recall any particular issues regarding the clash of religious and secular law except a recent regulation that was imposed on the church to not provide any food for public distribution to the homeless unless it is prepared in a licensed kitchen. They felt this bylaw undermined their community value system and have objected to the city about the regulation.

## Polygamy in Bountiful

The group felt the subject of religious freedom versus women's equality rights is an important issue which needs to be dealt in a very careful manner. Participants clarified that they would not be comfortable if they were told not to practice some aspect their religion. However, they added that they are not satisfied with the government's lack of action on the important issue of polygamy.

Some participants suggested that a regulation should be adapted to exempt prosecution of women from Bountiful involved in polygamous relationships. The group added, however, that actions need to be taken against leaders of the community and men.

"We all are aware how women's rights may be ignored in the walls of a religious institution and in the name of religion. I strongly believe government is obliged to take all necessary action to support the women of Bountiful,"

*Participant - Woman of Anglican faith*

One participant stated:

"We are not talking of an equal field; we have the law and these girls need to be protected. Minors are involved. We can not close our eyes and accept these inequalities because it is part of their religion or culture. We pay taxes for these girls to go to school not to be forced into marriages. I am puzzled with the question that which one is more important protecting women and children or a particular tribe? I think this is the message the government is sending out."

The group further argued that a society can believe what they believe but laws are laws, and that it is failure of the government when they do not enforce a law. Participants stated that the culture of tolerance is one of the



most important values of Canadian society, but that it will not be anymore if the price is equal to undermining women's equality. "We all are aware how women's rights may be ignored in the walls of a religious institution and in the name of religion. I strongly believe government is obliged to take all necessary action to support the women of Bountiful," said one participant.

The group concluded that strategic action is required to avoid any further harm of the women of Bountiful. They added that services need to be in place to support educational awareness as well as to help with adaptation to outside life in the event women decide to leave Bountiful.

#### ***4.6 Women and the Buddhist faith***

Unfortunately only two women contributed to this discussion because a number of women scheduled to join the group were unable to attend at the last minute. The group who contributed to the discussion represented women who chose to follow their faith and who were also brought up in Canada.

#### **Concept of equality between men and women**

Participants explained in brief that they are not aware of any particular area where men and women are not equal except that female ordination is not practiced in some Buddhist temples.

#### **The role of men and women and their responsibilities and obligations**

Both participants said they could not recall any specific guidelines or rules they have to follow as women. They stated that the practice of Buddhism in their community is much more a reflection of their culture and it may be different in other communities. They clarified that almost all legal affairs are dealt with in accordance to secular law.

#### **Marriage and Divorce**

One participant explained that they are part of a liberal Buddhist community which accepts both homosexual and common-law relationships. She added

they are also not obliged to perform a religious ceremony for a marriage. This is same as for divorce.

## **Religious law and Secular law**

Both participants felt that it was hard to answer the question regarding any conflict with Buddhism and secular law as Buddhism does not contemplate laws or positions. They stated that the major disconnect may be that Canadian law is based on individual rights, whereas Buddhism is more holistic and community based. One participant said that “she does not want Buddhism to rule the world and that the whole point of the religion is that you are not attached to anything - including religion.”

They further stated that as women of faith they like to be able to resolve conflicts within their own community and would be uncomfortable to try to access secular law to resolve issues. “It is nice to be part of a community and have their support,” concluded one participant.

Women of faith in general want to be a part of the faith and the community, but concerns are valid where culture and marginalization make women dependent on the faith, in a situation that where they have less power within it.

## **Polygamy in Bountiful**

Both participant felt that it is important that the rights of women and children be protected. One participant stated “I am saddened by the racism in enforcing of our secular law. We need to support women of Bountiful - to provide options in order for them to make choices that they feel comfortable with.”

They agreed that consultation should be carried out with the women of Bountiful to identify any entry points before taking any action. They believed that the men and religious leaders should be prosecuted if any abuse is found.

Talking with religious leaders, and listening to the conversations of women of faith confirmed that any policy recommendations with regards to women's equality and freedom of religion - in particular the practice of polygamy in Bountiful - should be based on direct communication with and the involvement of women of faith and those women in polygamous relationships.

The recommendations listed below are in consideration of all three phases of the WERF project and their reports. They are the author's recommendations to West Coast LEAF as a result of all three phases and it remains with West Coast LEAF to adopt any suggested actions or policies. In view of the previous WERF reports' recommendations, literature review and the conclusion of the discussions with the participants who contributed into this report, the following specific recommendations are made:

**Recommendation 1:**

Prosecution for polygamy must take place with sensitivity to the effect of the law on the women and children. Such criminalization further marginalizes and stigmatizes women who may wish to leave a polygamous relationship and limits their capacity to access social services and benefits.

**Recommendation 2:**

Prosecutions are most appropriate against male community leaders who live in polygamous relationships and have arranged for women and children to enter into polygamous marriages with other men in the community.

**Recommendation 3:**

Where allegations of physical, emotional and sexual abuse of women and children have been made, those must be investigated and relevant charges should be brought and prosecuted.

**Recommendation 4:**

Social supports and legal aid should be made available for women, children and young men who want to leave polygamous communities.

**Recommendation 5:**

Education laws should be effectively enforced in regard to all religious schools including those in polygamous communities.

**Recommendation 6:**

Recognition of valid foreign polygamous marriages in the case of new immigrants and particularly refugees ensures that women and children of such marriages are not deprived of legal, economic and social benefits necessary to be independent of those marriages and in society. Women are most likely to be in need and most likely to benefit from such recognition.

**Recommendation 7:**

Addressing these issues must be done in collaboration with individuals, organizations and women and men who have left Bountiful and the FDLS church more broadly in order to provide legal analysis and frame a legal action within the mandate and organizational capacity of West Coast LEAF.

**Recommendation 8:**

West Coast LEAF should develop (or advocate for the development of) educational materials on the legal rights of women for the women of Bountiful.

**Recommendation 9:**

West Coast LEAF should, alone or in collaboration with other legal educators, develop public legal education programs on women's secular rights such as inheritance laws, divorce and criminal laws in cases of violence for specific religious communities including Muslim, Hindu, Mennonite, Buddhist and Sikh.

**Recommendation 10:**

West Coast LEAF should use this report as a platform for having further discussions with faith-based communities in BC and women of faith to ensure an ongoing dialogue on the issues of women's equality and religious freedom. This relationship-building will ensure that West Coast LEAF, if considering a litigation strategy on the issue, is grounded in the experience of women of faith, especially racialized women of faith, should an intervention in a case before the courts be considered.

**Recommendation 11:**

The recommendations and learning from the three reports should be shared with elected officials, women's organizations and non-faith based groups.