



**ISLAMOPHOBIA
REGISTER**
AUSTRALIA

**Islamophobia Register Australia Submission
to the New South Wales Law Reform
Commission**

Anti-Discrimination Act 1977 (NSW) Review

August 2025

About the Islamophobia Register Australia ('the Register')

Established in 2014 in response to anecdotal evidence of Islamophobia in Australia, the Register today is the leading organisation tracking and tackling Islamophobia across Australia. The Register does this by:

1. Collecting data on Islamophobic incidents and Islamophobic content
2. Delivering individual support services, including advocacy and referrals for pro bono legal advice and culturally appropriate mental health support
3. Publishing national research reports on Islamophobia in Australia
4. Providing education and training on Islamophobia
5. Engaging in policy and law reform work
6. Engaging in advocacy

The Register has published 5 national reports on Islamophobia in Australia, with a highly developed methodology for analysing patterns and trends in both online and offline hate. In response to Israel's war on Gaza, the Register also published a separate report constituting a preliminary analysis of Australian media coverage of Israel's war on Gaza from October 7 2023 to November 7 2023. The Register's reports have informed the media and the general public about Islamophobia both in Australia and abroad.

1. Introduction

Islamophobia Register Australia ('the Register') welcomes the opportunity to make a submission to the NSW Law Reform Commission ('the Commission') on its review of the Anti-Discrimination Act 1977 (NSW) ('ADA').

The Register addresses the following issues in its submission:

- Broadening the list of protected attributes to include religion
- Broadening the list of protected attributes to include political belief and/or activity

These brief submissions explore these key issues, which need to be addressed to ensure that the rights of Muslims in NSW to live free from discrimination are adequately protected by the law.

2. Broadening the list of protected attributes to include religion

The ADA offers individuals protection from discrimination in certain aspects of public life on specific grounds. Those specified grounds are currently limited to age, carer's responsibilities, disability, homosexuality, marital or domestic status, race, sex, and transgender grounds.

Currently, religion is not stipulated as a stand-alone protected attribute in the ADA. The race discrimination provisions in the ADA offers some limited protections for some religious groups due to their classification as an ‘ethno-religious’ group, however, this protection is inadequate for the reasons provided below at section 2.2.

Almost all other Australian jurisdictions protect religious belief and/or activity (or similarly phrased protection on religious grounds) from discrimination. The omission of religion from the raft of protected attributes in the ADA puts NSW at odds with almost all other Australian jurisdictions. This is particularly concerning given that NSW, along with Victoria, is one of the most religiously diverse states in Australia, with 12.1% of its residents affiliating with a non-Christian religion in the 2021 census.¹ The most common of these non-Christian religious affiliations was Islam at 4.3%.²

2.1 The problem of Islamophobia

In its 5th Islamophobia in Australia report, the Register highlighted the significant and increased prevalence of Islamophobia in Australia:

“Between the 1st of January 2023 and the 31st of November 2024 there were 309 confirmed in-person (or “offline”) incidents of Islamophobia reported to the Register. This is more than 2.5 times the number of off-line/in-person incidents identified for the same time period in all previous Islamophobia Register Australia reports. During the study period, the Register also received 366 verified online incidents. This is a far higher rate than previous study periods by the Register; between 2014-2021, a total of 415 online incidents were recorded for the entire eight year period, which averages to 52 per year. Thus, this report includes more than three times the number of online incidents compared to any other reporting period.

.....

This means that there was a 250% increase of reported online incidents, and a 150% increase in offline or in person incidents. That averages nearly one in-person or online incident every day of the 700 days for the report period.”³

Significantly, following verbal intimidation and harassment, cases classified as discrimination constituted the second highest form of in-person incidents at 9.4%.⁴

¹ Australian Bureau of Statistics 2022, *Snapshot of New South Wales (2022)* ABS, accessed 15 August 2025, available at: <https://www.abs.gov.au/articles/snapshot-nsw-2021>

² Ibid.

³ Carland, S. Alziyadat, N., Vergani, M. & O’Brien, K. (2025) *Islamophobia in Australia Report V*, Sydney: Islamophobia Register Australia, available at: [Islamophobia-in-Australia-Report-5.pdf](https://www.islamophobia-register.org.au/Reports/2025-Report-V).

⁴ Ibid, p22.

Notably, New South Wales was the state with by far the highest number of in-person or offline incidents of Islamophobia at 44.9%, followed by Victoria at 25.6%.⁵

The high prevalence of Islamophobia in Australia and in NSW in particular, which alone makes up almost half of all verified instances of in-person Islamophobia across all states in Australia, coupled with the fact that discrimination features prominently as a form of Islamophobia experienced by Muslims, makes it clear that religious discrimination against Muslims is a real problem that needs to be addressed.

At the same time, it is well documented that Islamophobia is significantly underreported. Additionally, research from the Scanlon Foundation has consistently shown a high prevalence of negative attitudes towards Muslims in Australia. According to their 2024 report, intolerance towards Muslims remains far higher than any other faith group with 34 per cent indicating a "negative view" towards people who follow Islam.⁶

The high population of Muslims in NSW (at 4.3%) coupled with the high rates of people in Australia who hold a "negative view" towards Muslims lends some credence to the contention that discrimination against Muslims is likely to be significantly more widespread than has been documented, and makes the need for legislative reform protecting the Muslim community from discrimination all the more pressing.

The reporting period for the 5th Islamophobia in Australia report covered January 2023 to November 2024, but the high prevalence of Islamophobia cases has not abated in 2025. From January 2025 to 13 August 2025, there were 44 incidents of alleged Islamophobia in the form of discrimination in public life reported to the Register, including in areas such as employment and education, with 14 of these incidents taking place in NSW. One can speculate that if the ADA had included protection from religious discrimination, it is possible that some of these incidents may not have occurred due to the potential deterrent effect of making discrimination unlawful and offering legal recourse for religious discrimination, and/or it is at least possible that some of these individuals may have been able to access legal remedies for their experiences.

The Register submits that the above data supports the importance of addressing the gap of failing to provide protection from religious discrimination in the ADA.

2.2 Inconsistent application of the term 'ethno-religious'

Race is defined as including colour, nationality, descent and ethnic, ethno-religious or national origin under the ADA. These terms are not defined in the Act.

⁵ Ibid, p32.

⁶ Scanlon Foundation Research Institute, *Mapping Social Cohesion Report 2024*, November 2024, available at: [Mapping-Social-Cohesion-2024-Report.pdf](#), p8-9.

By way of background, the ADA was amended in 1994 to add a reference to "ethno-religious." Then NSW Attorney-General, John Hannaford, had stated that the effect of the amendment is "to clarify that ethno-religious groups, such as Jewish people, Muslims and Sikhs, have access to the racial vilification and discrimination provisions of the Act."⁷ However, while the government's intention at the time may have been to afford protection from discrimination to Muslims, this has not always eventuated.

The NSW Administrative Decisions Tribunal and the NSW Civil and Administrative Tribunal (NCAT) have grappled with the question of whether Muslims constitute an ethno-religious group under the ADA. The result has been an inconsistent application of the law with no definitive resolve to the question of whether Muslims constitute a protected group under the ADA as an 'ethno-religious' group. In the case of *Ekeremawi v Nine Network Australia Pty Limited* [2019] NSWCATAD 29, the NCAT found that the evidence in that case did "not support a finding that Muslims living in Australia are a 'race' by reason of a common ethnic or ethno-religious origin"⁸. The NCAT dismissed the case, however, NCAT also stated that different or additional evidence may have yielded a different outcome on this issue. This suggests that whether or not Muslims share an 'ethno-religious origin' for the purposes of the ADA will be a question of fact to be determined by the NCAT on a case by case basis, subject to the evidence.

This lack of clarity within the law about whether Muslims constitute an ethno-religious group, and the resultant inconsistent approach taken by the courts needs to be remedied. While one option could be to clarify that the term ethno-religious origin covers Muslims (and Sikhs and Jewish people, as expressed by the former NSW attorney-general), the preferable legislative route would be to introduce religion as a separate protected attribute. This would ensure that not only Muslims, Sikhs and Jewish people are afforded protection from discrimination, but also members of other religions that may not be specifically mentioned. As a matter of principle, the law ought to prohibit discrimination on the grounds of religion, irrespective of what religion somebody adheres to and irrespective of whether members of that religion can also be characterised to share an ethno-religious origin. This also ensures that the law does not inadvertently favour any particular religions over others by stipulating protection for some but not others. The Register therefore submits that religion should be introduced as a protected attribute in its own right under the discrimination provisions of the ADA.

⁷ NSW Legislative Assembly Hansard Anti-Discrimination Amendment (Miscellaneous Provisions) Bill Second Reading Speech, 16 September 2004, available at:

<http://bulletin/prod/parlment/hansart.nsf/V3Key/LA20040916009> at p10.

⁸ *Ekeremawi v Nine Network Australia Pty Limited* [2019] NSWCATAD 29.

3. Broadening the list of protected attributes to include Political Belief and/or Activity

Apart from NSW and South Australia, all Australian jurisdictions protect against discrimination based on political belief or activity (or similarly expressed).

Being supportive of Palestinian human rights and engaging in actions to advance Palestinian human rights (such as protesting the blockage of humanitarian aid or for an end to the ongoing genocide) could potentially be construed as a ‘political belief’ or ‘activity’. Israel’s human rights violations in its current campaign of what the International Court of Justice ruled is a ‘plausible genocide’⁹ (and a number of human rights organisations and genocide scholars expressing that it is indeed a genocide)¹⁰, are well documented by numerous human rights organisations. Thus on the one hand, it could be argued that supporting Palestinian human rights does not constitute a ‘political’ belief because it is not supporting any political party or policy or government, but simply supporting human rights that are meant to be universal and inalienable to all people. On the other hand, many organisations and institutions have taken the view that supporting Palestine is political. For example, tech giant Apple was recently accused of discrimination for telling an employee to stop wearing jewellery supporting Gaza, and Apple argued that "current societal reality is that the issue is incredibly sensitive, and displaying a political message in support of either position may lead to escalations within our store".¹¹ Whether or not supporting Palestinian human rights does or doesn’t constitute a political position, may depend on the legal definition of political belief or activity that is adopted. Nevertheless, to the extent that it does or could constitute a political position, it ought to be protected from discrimination.

3.1 Discrimination on the basis of being pro-Palestinian

The Australian Muslim community overwhelmingly supports Palestinian human rights and opposes Israel’s current genocide in Palestine. Discrimination on the basis of a Pro-Palestinian or Anti-Israel belief or activity, would therefore disproportionately affect the Muslim community. Without the inclusion of political belief and/or activity as a

⁹ United Nations Human Rights Office of the High Commissioner, *Gaza: ICJ ruling offers hope for protection of civilians enduring apocalyptic conditions, say UN experts* (31 January 2024) available at: [Gaza: ICJ ruling offers hope for protection of civilians enduring apocalyptic conditions, say UN experts | OHCHR](#)

¹⁰ The Conversation, *Is Israel committing genocide in Gaza? We asked 5 legal and genocide experts how to interpret the violence*, 7 August 2025, available at: [Is Israel committing genocide in Gaza? We asked 5 legal and genocide experts how to interpret the violence](#); See also for example, *Amnesty International, Human Rights in Israel and the Occupied Palestinian Territories*, 2024, available at: [Human rights in Israel and the Occupied Palestinian Territory Amnesty International](#)

¹¹ ABC News, *Apple Accused of Discrimination for telling Employee to Stop Wearing Jewellery Supporting Gaza*, 13 March 2025, available at: [Apple accused of discrimination for telling employee to stop wearing jewellery supporting Gaza - ABC News](#)

protected attribute under the ADA, Muslims who voice their pro-Palestinian opinions or engage in pro-Palestinian activity may be subject to lawful discrimination in various contexts in public life.

Since October 7 2023, there have been numerous news reports of pro-Palestinian people being effectively silenced or having action taken against them in various contexts, including in the employment and education contexts. Perhaps the most high-profile example is the Antoinette Lattouf case whereby the Federal Court found that she was unlawfully sacked by the ABC for sharing a Human Rights Watch post about Israel using starvation as a tool of war against the Palestinians.¹² Numerous university staff and students faced disciplinary action across various universities in New South Wales for protesting in support of Palestine.¹³ Recently, a restaurant in Merivale 'Jimmy's Felafels' was accused of turning away several people wearing pro-Palestinian scarves in the hours after the infamous pro-Palestinian Harbour Bridge March.¹⁴

There is often a strong alignment between anti-Palestinian sentiment and activity and Islamophobia. In the Jimmy's Felafel case, it was reported that one lady said that security asked her to remove her keffiyeh-printed hijab. A *Keffiyeh* is a scarf with a distinct pattern that has come to symbolise the pro-Palestine movement, while the *hijab* is the head covering that many Muslim women wear as an observance of their faith.¹⁵

3.2 Reports of Anti-Palestinian hate reported to the Register

In its latest Islamophobia in Australia report, the Register dedicated a specific section of the report to anti-Palestinian hate as there is a clear intersection between Islamophobia and anti-Palestinian sentiment. The report explains it best:

The intersectional relationship between Islamophobia and anti-Palestinian hate is complex and contested. There is a documented overlap and relationship between anti Palestinian hate and Islamophobia, their roots, and their manifestations. This phenomenon may have demographic roots, as Palestinian Muslims constitute approximately 98% of the population in Gaza and the West Bank, with Christians making up about 2%, and some political

¹² ABC News, *Antoinette Lattouf wins unlawful termination case against the ABC, awarded \$70,000 compensation*, 25 June 2025, available at: [Antoinette Lattouf wins unlawful termination case against the ABC, awarded \\$70,000 compensation - ABC News](#)

¹³ For example, Sydney Morning Herald, *Sydney pro-Palestinian students suspended after classes 'significantly disrupted'*, 23 May 2024, available at: [Israel war: Pro-Palestine protest participants suspended after classes 'significantly disrupted'](#)

¹⁴ Sydney Morning Herald, *Middle Eastern restaurant turned away people wearing Palestinian scarves*, 13 August 2025, available at: [Merivale restaurant Jimmy's Falafel accused of turning away diners wearing keffiyehs after Harbour Bridge march for Gaza](#)

¹⁵ Ibid.

rhetoric used in Gaza employs religious symbolism. Palestine holds religious significance in Islam; Jerusalem holds the Al-Aqsa mosque, which is Islam's third holiest site, while also serving as a centre of Islamic scholarship during key historical periods. Furthermore, the media often demonises or reduces the Palestinians' activism against the Israeli occupation, framing Palestinian nationalism and global support only as an Islamic struggle. This framing has contributed to the Islamisation of the Palestinian cause. Reports to the Register indicate that Australian media have perpetuated these narratives, underscoring the impact of media representation on public perception. It is worth noting that conflating Islamophobia and anti-Palestinian hate ignores the distinct experiences of Christian and Druze Palestinians, risks confusing political and racial bigotry with religious hate, and ignores the distinct aspects of anti-Palestinian hate that are not present in Islamophobia. Although these discussions and distinctions are very important, the Register does not take a position on these matters. Instead it collects and details the valid incidents reported to the Register (which included numerous reports of anti-Palestinian hate), and distinguishes elements of anti-Palestinian racism and vilification from Islamophobia when presented by reporters. We therefore include a separate section on anti-Palestinian hate and its connection to Islamophobia in this report for multiple reasons...."¹⁶

Our report found that reported incidents at pro-Palestinian protests constituted 8% of the total reported incidents in 2023, all occurring after October 7. In 2024, incidents at pro-Palestinian protests slightly exceeded 5% of the total, while those reported at pro-Palestinian university encampments made up 8%. Additionally, incidents involving victims displaying pro-Palestinian symbols accounted for 8% of total incidents in 2023 and rose to one quarter of all reported incidents (25%) in 2024.¹⁷

It is clear from our report and others, that individuals who have expressed support for Palestine have been discriminated against in various aspects of public life.

In addition to political belief and/or activity being protected in most other Australian jurisdictions, protecting against political belief or activity would also bring NSW's anti-discrimination laws into line with international human rights law, which prohibits discrimination based on political or other opinion.¹⁸ To this end, political belief and/or activity ought to be a protected attribute under the ADA.

¹⁶ Carland et al, above n 3, at p46.

¹⁷ Ibid, p47.

¹⁸ International Covenant on Civil and Political Rights, 999 UNTS 171 (entered into force 23 March 1976) art 2(1); International Covenant on Economic, Social and Cultural Rights, 993 UNTS 3 (entered into force 3 January 1976) art 2(2).

4. Conclusion

The Register's data on Islamophobia, taken together with other important data from the Australian census and the Scanlon Foundation, demonstrates a compelling need to afford protection from religious discrimination to Muslims in NSW. Religion should be expressly stipulated as a separate protected attribute under NSW anti-discrimination legislation. The courts' inconsistent application of the term 'ethno-religious' to Muslims further demonstrates the need for clear legislation. Through such legislative reform, effect can be given to the intent of the NSW government in affording protection to Muslims, as expressed by the former NSW attorney-general, while providing much needed protection to Muslims in NSW. Additionally, political belief and/or activity ought to be added as a protected attribute under discrimination provisions. Since October 7 2023, there have been many instances of people who express solidarity with the plight of Palestinians in Gaza being discriminated against or experiencing negative repercussions in various settings. To the extent that supporting Palestinian human rights can be considered a political belief and taking actions to support Palestinian human rights can be considered political activity, the law must ensure that discrimination against such individuals is not lawful.

The Register thanks the NSW Law Reform Commission for the opportunity to provide input into its review of the ADA.