



# Australian National Imams Council

## *Submission to the NSW Law Reform Commission*

### *Review of the Anti-Discrimination Act 1977*

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#### **Executive Summary**

The Australian National Imams Council (**ANIC**) welcomes the opportunity to make this submission to the NSW Law Reform Commission's review of the *Anti-Discrimination Act 1977* (**ADA**). The views shared in this submission reflect the lived experience and pressing concerns of the Australian Muslim community, while also recognising robust legislative protections must apply equally to all faith communities and those of no faith.

In 2025, NSW remains the only Australian state without specific protections against discrimination on the grounds of religious belief or activity. This legal gap disproportionately impacts Muslims, who are highly visible in public life through religious dress, names, and community participation, and who face sustained levels of Islamophobia, vilification and discrimination.

ANIC broadly supports the extensive submission made by the Anglican Church Diocese of Sydney and Freedom for Faith, and in addition makes the following submissions.

#### **Our core recommendations are:**

1. Add "religious belief and activity" as a protected attribute in the ADA, covering both individuals and organisations.
2. Move from an "exceptions" model to a positive rights model, recognising that religious communities acting in accordance with their doctrines and ethos are not engaging in unlawful discrimination.



3. Protect the associational and institutional dimensions of religious freedom, including the ability of religious schools, charities, and community organisations to employ staff and conduct activities in alignment with their religious ethos, regardless of public funding.
4. Acknowledge the disproportionate effects of religious discrimination on Muslim women and vulnerable community members, especially women and the elderly, and ensure anti-discrimination efforts address intersectional harms.

## **2. About the Australian National Imams Council**

ANIC is the peak representative body for Imams and scholars in Australia, with members from every State and Territory. ANIC represents the broader interests of the Australian Muslim community at the national and state levels, providing religious leadership, community advocacy, education, and interfaith engagement.

In NSW, ANIC supports local mosques, Islamic schools, welfare organisations, and community programs, and collaborates with other faith groups to protect and promote freedom of religion for all. ANIC has previously made submissions to federal and state inquiries, including the *Religious Discrimination Bill* processes and the *Religious Freedoms and Equality Bill 2020* (NSW).

ANIC has also played a leading role in relation to the *Anti-Discrimination Amendment (Religious Vilification) Bill 2023*, which amended the ADA to make it unlawful to vilify a person or group of persons on the ground of religious belief or affiliation or religious activity. In advocating for such a change, ANIC is familiar with the structure and operation of the ADA. Bilal Rauf (also a barrister who practices in discrimination law) of ANIC provided a direct assistance in relation to the drafting of the provision and approach to be adopted.

## **3. Current Legislative Gaps in NSW**

The existing legislative framework provided by the prohibits unlawful discrimination on various grounds, including race, colour, descent or national or ethnic origin, sex, gender identity, marital status, disability, carer responsibilities, homosexuality and age.



The definition of race in the ADA includes ethno-religious or national origin. The term 'ethno-religious origin' has previously been held to signify a strong association between a person's or a group's nationality or ethnicity, culture, history and his, her or its religious beliefs and practices. It has been found to include Jewish or Sikh people. However, it has been found not to include Australian Muslims.<sup>1</sup>

In *Ekeremawi*, the NSW Civil and Administrative Tribunal stated:

In our view, Ms Kruger could have expressed her comments in a more measured manner to avoid a finding of vilification. For example, she could have referred to the need for Australia to engage in greater security checking of people wishing to migrate to Australia who may happen to be Muslims and the need to prevent a drift towards radicalisation amongst Muslims currently in Australia, rather than simply stating that 500,000 Muslims represents an unacceptable safety risk which justifies stopping all Muslim migration.

Incidentally, while the conduct was found to be vilification, it was also found to be lawful. Religion is not a protected attribute in the ADA and, as noted above, Australian Muslims (and persons of other faith communities) are otherwise unable to avail of the protected category of an "ethno-religious" group.

Unlike Victoria, Queensland, Tasmania, the Australian Capital Territory, and Western Australia, New South Wales currently has no legislation which prohibits discrimination based on religious belief or activity. Hence, as it stands, in NSW, Australian Muslims do not have any legislative protections against religious discrimination. This means:

- A Muslim woman wearing a hijab can be refused service without recourse under state anti-discrimination law.
- A mosque or Islamic school can be publicly vilified with no civil protection available.
- A Muslim employee can face workplace disadvantage for observing daily prayers without the employer facing state-based legal consequences.

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<sup>1</sup> *Ekeremawi v Nine Network Australia Pty Limited* [2019] NSWCATAD 29 (15 February 2019) and *Khan v Commissioner, Department of Corrective Services and Anor* [2002] NSWADT 131



Section 93Z of the *Crimes Act 1900* (NSW) criminalises certain acts that threaten or incite violence on religious grounds, but this provision is rarely used, has a high evidentiary threshold, and does not address the broader spectrum of discriminatory conduct. To the extent that it has in recent times been amended to provide enhanced protection based on race, none of this operates to apply to Australian Muslims who may be exposed to conduct which incites violence based on their religious belief or activity. This is despite that ANIC and other faith communities made representations to the Government to ensure that, if there is any enhancement in the operation of section 93Z, it ought to apply in respect of all attributes included in that provision. This was not heeded.

In the above context, it is a fundamental deficiency in the discrimination legislative regime operating in NSW that there is no protection against discrimination on the grounds of a person's religious belief and practices. This puts it at odds with contemporary community standards such that it does not promote the equal enjoyment of rights. To the contrary it, at best, ignores, and at worst, makes permissible, discrimination on the grounds of a person's religious belief and practice. For instance, it has the effect of making inoperative the protection against religious discrimination provided by the *Fair Work Act 2009* (Cth) in an employment context.

#### **4. Rising Threat of Islamophobia, Anti-Muslim Hate and Religious Vilification**

Amending the ADA to protect against discrimination on the grounds of religious belief or activity is a critical step towards reducing Islamophobia and anti-Muslim prejudice in NSW. Such reform will enhance social cohesion and help Muslims in NSW feel safer and more secure in public life. Islamophobia is not hypothetical; it is a daily reality that significantly affects the lived experiences of Muslims, particularly women who are visibly identifiable by religious dress.

ANIC's own Action Against Islamophobia register, along with other recent Australian reports, documents clear and ongoing patterns of Islamophobia and anti-Muslim hate in NSW. These incidents highlight the urgent need for legislative reform to address this tangible and persistent problem. For instance:

- 349 incidents were recorded in the last reporting period, with a 600% increase in in-person incidents compared to the previous report.
- 75% of in-person abuse targets Muslim women, often in the presence of children.



- Verbal abuse — including threats of sexual violence — as well as physical assaults and harassment in public spaces, workplaces, schools, and online platforms, remains prevalent.
- Attacks and threats on mosques, Islamic schools, and community centres included vandalism, arson, and threatening messages, are also commonplace.

### **Some Examples from Recent Years in NSW**

These incidents demonstrate a persistent pattern of anti-Muslim sentiment, vilification, and violence in NSW. They span public spaces, educational institutions, religious sites, and online platforms, showing that the risk exists in everyday settings.

#### ***Violent and Physical Attacks***

- **Parramatta Café Assault on Pregnant Muslim Woman (2019)**  
A 31-year-old woman, visibly pregnant and wearing a hijab, was punched and stomped on by a stranger in front of other patrons. The offender later admitted to anti-Muslim motivation.<sup>2</sup>
- **Assault on Two Muslim Women in Shopping Centre (February 2025)**  
Two women wearing hijabs were verbally abused, and one was shoved to the ground in a suburban Sydney shopping centre by a man shouting slurs.<sup>3</sup>

#### ***Attacks on Mosques and Islamic Schools***

- **Australian Islamic College of Sydney Vandalism (May 2025)**  
Anti-Muslim graffiti, including derogatory slogans and threats, was spray-painted on the school's perimeter fence overnight.<sup>4</sup>

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<sup>2</sup> “Man Who Bashed Pregnant Muslim Woman in Sydney Cafe Jailed for at Least Two Years.” *The Guardian*. October 1, 2020.

<sup>3</sup> “Two Muslim women attacked at Melbourne shopping centre amid rise in Islamophobia.” *ABC*. February 17, 2025

<sup>4</sup> “NSW Police investigate ‘offensive graffiti’ sprayed on walls at mosque in Sydney’s west.” *ABC*. May 2, 2025.



- **Auburn Gallipoli Mosque Vandalism (2020)**

Offensive graffiti was scrawled on the mosque's walls days before a community open day. The incident drew condemnation from local leaders.<sup>5</sup>

- **Rooty Hill Mosque Arson Attempt While Worshippers Were Inside (2004)**

Fire was deliberately lit at the entrance of the mosque, while worshippers were inside, causing property damage and forcing temporary closure for repairs.<sup>6</sup>

### **Online Threats and Harassment**

- **Christchurch-Inspired Threats Against Edmondson Park Mosque (2025)**

A teenager was charged after posting a threat referencing the Christchurch shooting targeting Masjid Al-Bayt Al-Islami.<sup>7</sup>

- **TikTok Death Threat to Lakemba Mosque and UMA Centre (2025)**

Comment reading "Christchurch again please" posted on the mosque's official account, sparking a police investigation.<sup>8</sup>

- **Co-ordinated Online Abuse Following Public Eid Prayers (2022)**

Multiple NSW mosques reported waves of online abuse after sharing photos of Eid celebrations.

- Online comments that consistently degrade, vilify, insult, and humiliate Muslims in media articles where Muslims, or people who are perceived as Muslim are present.

- This includes racist and Islamophobic comments left under Australian news reporters who wear the *hijab*.

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<sup>5</sup> "Man in court accused of smashing windows and chandeliers in Sydney Mosque." *Sydney Morning Herald*. October 26, 2020.

<sup>6</sup> <https://www.smh.com.au/national/arsonists-lit-mosque-as-people-prayed-police-20041011-gdjwe1.html>

<sup>7</sup> "Teen arrested over alleged 'Christchurch 2.0' online threat against Sydney mosque." *SBS*. March 4, 2025.

<sup>8</sup> "Another terror threat against United Muslims of Australia mosque in Padstow." *The Australian*. March 20, 2025.



## **Harassment in Public Spaces**

- **Muslim Family Harassed on Sydney Train (2015)**

A man loudly abused a family in Arabic dress, accusing them of being “terrorists”, while other passengers filmed the incident but did not intervene.<sup>9</sup>

- **Hijab-Grab Incident at Sydney CBD Mall (2025)**

A woman’s hijab was forcibly pulled from her head by a passer-by, accompanied by racial and religious slurs.<sup>10</sup>

Such incidents create fear, social isolation and psychological harm, eroding trust in public institutions and undermining social cohesion. Without strong legal protections, perpetrators act with impunity.

## **5. International Human Rights Obligations**

Australia is a party to the International Covenant on Civil and Political Rights (ICCPR), which guarantees freedom of thought, conscience, and religion.<sup>11</sup> This includes:

- The right to manifest religion in teaching, practice, worship, and observance.
- Protection for both individual and collective expressions of faith.
- Limitations only where necessary to protect public safety, order, health, morals, or the fundamental rights and freedoms of others.

### **Any limitation on these rights must:**

- Respond to a pressing public or social need.
- Be proportionate to the aim.
- Use the least restrictive means available.
- Be applied without discrimination.

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<sup>9</sup> [https://www.9news.com.au/national/train-commuter-fined-after-racist-rant-against-muslim-couple/7c008877-17bd-4e01-9c49-29424e2f75dc?utm\\_source=chatgpt.com](https://www.9news.com.au/national/train-commuter-fined-after-racist-rant-against-muslim-couple/7c008877-17bd-4e01-9c49-29424e2f75dc?utm_source=chatgpt.com)

<sup>10</sup> <https://www.9news.com.au/national/melbourne-news-woman-charged-after-alleged-assaults-on-muslim-women-epping-shopping-centre/>

<sup>11</sup> International Covenant on Civil and Political Rights, Article 18.



These principles require that NSW law respect and uphold religious freedom as a fundamental human right, balancing it fairly with other rights without diminishing its status or application.

The ADA should embed these principles to ensure NSW complies with its international obligations.<sup>12</sup>

## **6. Rationale for Immediate Action Required by New South Wales**

NSW is the most religiously diverse state in Australia yet lags behind other jurisdictions in protecting religious freedom.

The Muslim community in NSW is expanding due to higher birth rates and ongoing migration from Muslim-majority and religiously observant countries. Many new arrivals and local families maintain visible religious practices, such as daily prayers, fasting, and wearing hijab or other religious dress. This demographic growth means more residents will be publicly expressing their faith in everyday life, increasing the urgency for strong legal protections against discrimination and vilification.

Federal reform has stalled, leaving state law reform as the most immediate avenue for protection.

Recent spikes in Islamophobia, anti-Muslim hate, anti-Palestinian sentiment, and anti-religious prejudice demonstrate the urgent need for a legal framework protecting all faiths equally.

## **7. Legislative Reform Priorities and Recommendations**

In the above context and in the light of the concerns highlighted above, ANIC responds to particular questions in the Consultation Paper dated May 2025 as below (with reference to the question as contained in the Consultation Paper).

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<sup>12</sup> Religious Freedom Review, paras 1.36-1.37, p.13.



#### ***Question 4.6: Racial discrimination***

As noted above, the “race” and “ethno-religious” attributes do not extend to religious identity. Consequently, Australian Muslims have not been able to rely on the ADA to pursue civil remedies against discrimination directed at them because of their religious belief or activity.

Unless a new attribute of religious belief or activity will be included, then these attributes should be defined so as to include religious identity. Otherwise, the ADA will continue to be irrelevant to faith communities and fail to provide a modernised and simplified legislative regime to better promote the equal enjoyment of rights and reflect contemporary community standards.

#### ***Question 4.9: Extending existing protections***

#### ***Question 5.2: Potential new attributes***

In modern day Australia, religious belief and practices are as important and inherent to the identity of people as their race, gender, culture and family and parental responsibilities. Accordingly, people should be free to manifest their religious belief not merely in thought or prayer but in practice and their day to day lives. Australian Muslims continue to be readily identifiable by their names, appearance, dress and attendance at places of worship. Yet, inexplicably, if Australian Muslims are discriminated against based on their religious identity, there is little to no legal recourse in NSW (or, for that matter, federally).

The discrimination which Australian Muslims have experienced threatens their freedom to express their religious identity, creates significant stress for their children and youth, and erodes their sense of security and belonging. The psychological impacts are lasting.

Reform is long overdue. In the March 2021 Report of the Joint Select Committee on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020, following a wide-ranging review comprising of 192 submissions, 19,502 responses to the online questionnaire and evidence from 57 witnesses across 47 organisations at the public hearings, the Committee formed the view that there was a strong need to protect people from discrimination on the grounds of religious beliefs and activities.



The Committee stated<sup>13</sup>:

The inquiry raised important and complex issues. Religious beliefs and activities go to the core of who we are and what we do as people and can provide a whole-of-life moral code. Religious organisations have provided longstanding and invaluable education, healthcare and welfare services across the State. Despite the significance of religious beliefs and activities in our community, the Anti-Discrimination Act 1977 (NSW) (the Act) does not currently protect against religious discrimination, as it does against discrimination on the basis of age, race and sex.

The Committee also expressed urgency about the need to amend the ADA to insert discrimination on the grounds of religious beliefs or activities as a protected attribute in the ADA by the end of 2021 and that there should not be any “further delay”.<sup>14</sup>

More generally, as noted by the Human Rights and Equal Opportunity Commission:<sup>15</sup>

Despite the legal protections that apply in different jurisdictions, many Australians suffer discrimination on the basis of religious belief or non-belief, including members of both mainstream and non-mainstream religions and those of no religious persuasion.

Fundamental to religious freedom is also the ability to manifest that faith and identify one’s religious identity and belief without fear of discrimination, harassment, vilification or violence to oneself or one’s family.

Following the tragic events of Christchurch on 15 March 2019 when 51 men, women and children were murdered while they were praying in two mosques, there has also been an increasing experience of anti-Muslim attacks directed at Australian Muslims based on their religious identity. The ADA should operate to confirm that their faith is valued and they should not need to hide their religious identity or practices, be it wearing a hijab or attending congregational prayers on a Friday.

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<sup>13</sup> Report of the Joint Select Committee on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 , March 2021, at iii.

<sup>14</sup> Report of the Joint Select Committee on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 , March 2021, at 1.10 and 1.14.

<sup>15</sup>[https://humanrights.gov.au/sites/default/files/content/pdf/human\\_rights/religion/article\\_18\\_religious\\_freedom.pdf](https://humanrights.gov.au/sites/default/files/content/pdf/human_rights/religion/article_18_religious_freedom.pdf).



Importantly, any review of the ADA should also take into account the incidence of increasing anti-Muslim sentiment or Islamophobia. In recent times, there has been an increasing experience in anti-Muslim sentiment in the Australian Muslim community.

A review of the ADA which urges that there be protection based on a person's religious belief and activity will bring it into line with contemporary community standards and ensure that the ADA promotes the equal enjoyment of rights. Presently, it does not.

***Question 7.2: Other acts and practices of religious bodies***

Consideration should be given to replacing the current “exceptions” model with a general limitations clause that affirms religious bodies that act in good faith according to their doctrines are *not* engaging in unlawful discrimination.

More generally, the ADA should operate to protect the right of religious institutions, schools, charities, and community organisations to:

- Employ staff who share their faith and values.
- Conduct activities consistent with their ethos.
- Maintain eligibility for government funding without being required to compromise religious character, values, or beliefs

***Question 8.5: Religious vilification***

This provision is both appropriate in its present form and necessary.



## 8. Conclusion

The review offers a critical opportunity to address an urgent and pressing concern held by Australian Muslims and persons of other faiths in a context where there is no legislative protection against discrimination directed at a person based on their religious belief, affiliation, or activity. The absence of explicit protections for religious belief and activity in the ADA leaves NSW's Muslims and other faith communities vulnerable to discrimination.

By adopting the recommendations in this submission, NSW can:

- Bring its laws into line with other jurisdictions.
- Adequately reflect contemporary community standards.
- Meet its international human rights obligations.
- Strengthen social cohesion by ensuring that people of all faiths can live, work, and worship free from discrimination and harassment.

ANIC urges the NSW Law Reform Commission to recommend comprehensive, faith-inclusive reform of the ADA that recognises religious freedom as a fundamental and indivisible human right.

ANIC thanks the NSW Law Reform Commission for the opportunity to make submissions on the ADA and will be pleased to address any of the matters raised in this submission if the Commission requires.