



Submission to the NSW Law Reform Commission on the Anti-Discrimination Act Review

From the Australian Baha'i Community
August 2025

The Australian Baha'i Community welcomes the opportunity to contribute to the NSW Law Reform Commission's review of the *Anti-Discrimination Act 1977 (NSW)* (ADA). As a religious community committed to principles of unity, equality, and the elimination of all forms of prejudice, we strongly support legal frameworks that uphold the dignity and equal rights of all people and believe the fundamental guiding principle that can inform consultations in this regard is the principle of the oneness of humanity.

The Australian Baha'i Community was established in 1920, and its current membership reflects the ethnic and cultural diversity of modern Australia.

The Baha'i Faith is a worldwide religion, founded 180 years ago, with more than five million members around the globe. Baha'is work together with others for the development of a peaceful, just and sustainable world civilisation. This work is based on the teachings of Baha'u'llah (1817-1892), the Prophet-Founder of our religion.

This submission makes **recommendations which draw on insights gained by the Australian Baha'i Community in its efforts to build vibrant communities** in localities across the country, as well as from the practical experience drawn from the protection of the rights of the Baha'is in Iran, whose freedom of religion or belief has been consistently violated.

In Australia the lived experience of our community, a large portion of which reside in New South Wales (NSW), highlights the need for robust legislative mechanisms to protect individuals and minority groups from discrimination on the basis of religion or religious belief, and it is the view of the Australian Baha'i Community that legislative mechanisms, when complemented by community education and the promotion of appropriate public spaces for consultative dialogue between civic, community and faith leaders, can play a significant role in contributing to the achievement of greater degrees of equity, unity and justice and help to reduce discrimination.

Legislative Mechanisms that Aim to Address Discrimination based on Religion or Religious Belief

Legislation that aims to address discrimination specifically based on religion are an important element of the protections afforded by the law in Australia for religious and minority groups, and as such the Australian Baha'i Community wishes to express its general support for this

type of legislative reform. The current climate of increasing division and fragmentation, on ideological, cultural, ethnic and religious grounds, manifesting in growing reports of incidents of discrimination, highlights the urgent need to address such issues to foster greater unity and cohesion.

The freedom to hold religious beliefs of one's choosing and to practice them in safety without fear of discrimination is central to human development. Freedom of religion is about far more than the right to wear a certain item of clothing, or to walk into a given building to gather and pray. At its heart, it is ultimately an expression of the freedom to investigate truth and reality: to be able to explore – without prejudice, harassment, fear, or violence – the deepest questions of self and society, to live in accordance with the truths of which we become persuaded, and to accord full respect to the efforts of others to do the same. Freedom of religion therefore speaks to the most fundamental aspects of what it means to be a human being. To deny individuals freedom of religion or belief is to deny individuals their opportunity to express their humanity to its fullest.

Members of our international community, especially in Iran, have long suffered such a denial, and have been subjected to discrimination, particularly in the areas of education, employment and the provision of services, resulting from repeated and documented instances of state sanctioned persecution, hate speech and incitement to violence against them. This discrimination has been explicitly carried out in response to their religious beliefs. As part of a worldwide religious community, which regards the human conscience as sacred and upholds the individual's independent search for truth, Baha'is believe freedom of religion has a special place in safeguarding the dignity of the human being. As such, and in light of the experience of Baha'is in Iran, the vital importance of legislative mechanisms that directly or indirectly protect freedom of religion becomes apparent.

The Australian Baha'i Community has consistently supported enhanced legislative mechanisms at the State and Commonwealth level that aim to ensure protection for freedom of religion in Australian law. We have also encouraged the enactment and enhancement of robust anti-discrimination legislation that promotes freedom of religion or belief, as well as expressing support for legislative mechanisms such as those discussed in paragraphs 5.68-5.82 of the consultation paper.

In this submission, we respond to key areas in the Consultation Paper, particularly those that pertain to the inclusion of religious belief as a protected attribute and the scope of exceptions for religious bodies, as well as suggest additional considerations and complementary measures to legislative reform.

Modernising and expanding the ADA: Recognising Religious Belief (Sections 5.68–5.82)

Question 5.1: Guiding Principles

We support the inclusion of *religious belief* and *religious activity* as protected attributes. The guiding principles for adding new attributes should include:

- Equality before the law and protection of *freedom of religion and belief*, consistent with international human rights norms (e.g., ICCPR Article 18)
- Addressing gaps in legal protection, such as the absence of explicit religious discrimination protections under NSW law
- Ensuring that protection does not privilege one group over another, but rather fosters inclusivity, harmony, and the peaceful coexistence of diverse identities
- The mechanism of positive rights to describe religious expression and association rather than the language of exception or exclusions, which brings freedom of religion and belief as expressed in legislation in line with accepted international understanding as a primary, fundamental and non-derogable human right.

Question 5.2: Protected Attributes

1. **Religious belief and activity should be protected attributes.** As a religion embracing a wide diversity of members from numerous national, cultural and ethnic backgrounds it is important that our members are protected by the Act against mistreatment based on their religion.
2. **Definition and Expression:**
 - *Religious belief* should include holding, not holding, or rejecting a religious belief.
 - *Religious activity* should include acts of worship, community participation, teaching, expression, or religious observance.
3. **Exceptions:**
 - New exceptions must be clearly justified, narrowly framed, and proportionate. Any exceptions should not erode the core right to non-discrimination on the grounds of religion in public life, especially in employment, education, and service access. To be consistent with international norms (e.g., ICCPR Article 18), this should only be done where it is *necessary* to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Question 5.3: Open-Ended List

An open-ended list could provide flexibility for future inclusion of emerging attributes. However, we recommend any expansion be subject to legislative oversight and clear principles, to ensure consistency, fairness, and clarity.

Religious Bodies and Exceptions (Sections 7.5–7.66)

The Baha’i Faith does not have a clergy or religious hierarchy. Instead, all members can be elected, appointed or volunteer to fulfil various institutional, pastoral, educational and administrative roles required for the healthy functioning and growth of the community. Carrying out these roles does not constitute a profession, and individuals usually do so for limited periods of time. This affects how our community relates to the exemptions traditionally granted to religious bodies.

Question 7.1: Religious Personnel Exceptions

We recommend the ADA provide further language that is defined to include religious groups who do not have professional clergy or a professional class of administrators. Such language can allow for all religious traditions to receive the benefits of those provisions.

It would also be important for religious institutions (including religious educational institutions) to maintain their distinct religious identity, be able to select or hire an individual, or allocate to them duties and responsibilities with due consideration of their:

- adherence to the religious beliefs and practices of the institution
- conduct being consistent with the religious beliefs and practices of the institution.

Question 7.2: Acts and Practices of Religious Bodies

Exemptions for religious bodies should respect religious autonomy and apply where necessary to protect religious freedom, consistent with international human rights standards.

Protections Against Vilification (Section 8)

The Baha’i community supports robust protections against religious vilification. Religious vilification undermines social cohesion, causes deep harm to individuals and communities, and deters the exercise of religious freedom. We recommend the exercise of caution on harm-based tests that can engender positive obligations that limit freedom of religious belief.

Harassment and Positive Obligations

We note concerns that expanding harassment protections too broadly may affect freedom of religious expression. We recommend any positive obligations should be proportionate and clearly defined, to avoid unintended chilling effects on legitimate religious expression.

Accessibility, Premises and Information Access

We support:

- Including religious belief in the list of attributes that must not be a basis for *denying access to premises* or *withholding public information or communication*.
- Ensuring the ADA supports equal participation by smaller and emerging faith communities.

8. Interaction with Commonwealth Law

We recommend the NSW Act be harmonised, where appropriate, with the Commonwealth *Fair Work Act (2009)* and *Racial Discrimination Act (1975)*, to provide coherent and consistent protections.

Particularly, the inclusion of religious belief as a protected attribute would help bridge the current protection gap in NSW law.

Addressing Systemic Discrimination

To ensure the effective implementation of the provisions of the ADA, relevant governmental bodies could be supported to have:

- Enhanced investigative and proactive powers
- Authority to address *systemic religious discrimination*, including in education, employment, and government service delivery
- Resourcing to conduct public education campaigns on the value of religious diversity and pluralism.

Complementary Measures Addressing Discrimination and Promoting Equity, Oneness and Justice

Community education

Although legislative measures are important, any long-term preventive strategy to address discrimination based on prejudice must ultimately be rooted in efforts in community education, equipping children and adults alike with skills and opportunities to learn about other systems of belief. Education is not only the shortest route out of poverty; it is also the shortest route out of prejudice. Within a culture of education, people who can read the writings of their own religion as well as those of others, who are free to question and discuss, and who are able to participate in the generation and application of knowledge pertinent to the many questions facing society, will be better prepared to counter the forces of ignorance and fanaticism, and ultimately to uphold freedom of religion for all.

The goal of educational programs should be not only be the acquisition of knowledge, but social transformation through the fostering of spiritual and moral qualities such as compassion, trustworthiness, service, justice, and respect for all. Education that instils in hearts and minds an awareness of, and sensitivity to, the rights and equality of all persons constitutes an essential tool for preventing and reducing all forms of discrimination. After all, individuals are respected or discriminated against by other individuals, whether they are acting in an official capacity or not. Therefore, it is essential to look at adequate resourcing for educative programs that touch the hearts and elevate the behaviour of all members of the community.

Such educational programs should, in the first instance, emphasise the oneness of humanity and equality of all people regardless of colour or belief, as well as the importance of fostering

unity in diversity. They should enable Australians at the individual level to develop a mutual regard for the essential humanity and dignity of each other and recognise that we are all part of one human family. In the Baha'i view, respect for different religions and cultures can only be achieved if we are able to perceive, underlying our many variations, our essential unity as one human race. Mutual respect will not come about through separatism or antagonism, but by recognition of our essential oneness and an appreciation of our unity in diversity.

Accepting that our primary identity consists in belonging to a single human family enhances our religious and cultural identities by placing them in their proper perspective. It dissociates them from the destructive implications that arises when taken to extremes — such as racism and prejudice, defining oneself in opposition to “others” and other forms of overt and subtle discrimination.

Similarly, unity in diversity — when used as more than an empty slogan — presents a fundamental challenge to the way most of us see ourselves and others. In contrast to assimilation, which asks for homogeneity, and certain ideologies that can lead to the essentialisation of difference, the ideal of unity in diversity protects distinctive expressions of culture and faith while calling for the enthusiastic embrace of others. It moves beyond mere tolerance and counts cultural and religious diversity as an asset. By drawing on a wider array of talents and capacities, it entails the weaving together of many different strands into a wholly new pattern of community life — a pattern which is more beautiful by the variety of its elements.

Religion and its role in fostering social cohesion

Interaction with people of different faiths is particularly important to strengthen appreciation of diverse belief traditions, as well as helping individuals to recognise the shared humanity of all people. Accordingly, we would welcome all government support for interfaith initiatives at local, state and national levels as a proactive strategy for promoting freedom of religion and reducing the appeal of religious extremism.

However, while religion is, in essence, a force for love and unity, it has also been used to divide, to pit people against one another and to promote and justify ostracising segments of society. Over recent decades, interfaith efforts in Australia have grown and have focused on fostering harmony between different religions. These have proven to be markedly successful. Yet current realities make it clear that greater advancement is required in this area. Interfaith efforts will need to be widened and extended. They will need to allow for a deeper exploration of religion and its role in strengthening social cohesion and harmony. Some questions that will need to be addressed include: How can energies be directed into religious culture and break down the conditions that foster division between insiders and outsiders? How can every individual, including those who consider themselves a member of a religious community, be assisted to understand the true purpose of religion as being one of love and friendship, tolerance and compassion – a force that affirms and defends the honour and dignity of every fellow human being?

The Australian Baha'i Community, with its long experience in interfaith activity, stands ready to assist such processes.

Role of religious and community leaders

Religious communities, particularly religious leaders, have historically played a significant and ongoing role in promoting human rights, including teaching the fundamental moral equality of all human beings. Many have also been actively engaged in strengthening social cohesion and harmony and advancing conversations to address discrimination by drawing on religion as a force of love and unity, as noted above. The efforts of these communities and leaders should be acknowledged.

The engagement of religious communities and their leaders in such conversations needs to grow. Those religious leaders who have, for whatever reason been reticent to engage in this area, need to be encouraged and supported to participate whole-heartedly in such efforts to build a peaceful and harmonious society. It is particularly important that all people of faith and their religious communities actively engage in such conversations at all levels.

Religious and community leaders have a particular obligation to uphold the principles of freedom of religion and belief. In a climate of increasing division and tribalism, much carried out in the name of religion, the religious and community leaders influencing faith communities bear tremendous responsibility to guide adherents towards peaceful co-existence and understanding of those who think and believe differently.

Words and language have the power to affect and influence thought and action in society. It is important for religious and community leaders to consider how language is used so that it is inclusive, acts as a unifying force, promotes our common humanity, upholds human dignity, and accords every individual the freedom to search for truth.

Religious and community leaders should actively encourage the followers of that religion to pursue knowledge in all its forms and engage in peaceful dialogue with others, rather than discourage such exploration. Limiting the exercise of those intellectual faculties that distinguish humankind can leave believing masses exposed and vulnerable to misinformation about their own faiths and the faiths of others. Pursing knowledge about reality and engaging in peaceful and meaningful dialogue with others, particularly around shared aspirations to build a better world for all, can be a strong counter to fanaticism, ignorance and intolerance, and help to counter discrimination in its many forms.

Summary and recommendations

By acknowledging the oneness of humanity and unity in diversity as the fundamental guiding principles underlying efforts to eliminate discrimination, the latent causes of discrimination and intolerance can be addressed. The Australian Baha'i Community pays special attention to this in its educational programs for children, youth and adults – carried out in the context of building vibrant local communities and contributing to social transformation, as well as in its close association with other faiths and communities in interfaith and intercultural activities, and in its publications and public statements such as this one.

The lived experience of the Australian Baha'i Community highlights the need for robust legislative mechanisms that address discrimination. The Australian Baha'i Community **recommends** that the NSW Law Reform Commission:

- include religion, religious belief and religious activity as protected attributes in the ADA;
- maintain a fair approach to exceptions for religious bodies, including those without clergy or a professional class of administrators.
- the NSW Act be harmonised, where appropriate, with the Commonwealth *Fair Work Act (2009)* and *Racial Discrimination Act (1975)*, to provide coherent and consistent protections.

It is our view that these legislative mechanisms, when complemented by community education and the promotion of appropriate public spaces for dialogue between leaders of religion and society, can play a significant role in contributing to the achievement of greater degrees of unity and social cohesion in Australian society.

The Australian Baha'i Community, with its long experience in interfaith activity, community education programs that promote unity in diversity and the establishment and promotion of spaces for dialogue and consultation, stands ready to assist in furthering this process.

We thank the New South Wales Law Reform Commission for the opportunity to provide this submission, and we look forward to learning of the outcomes of the review.

Office of External Affairs
Australian Baha'i Community