

**Submission to the NSW Law Reform Commission  
Review of the Anti-Discrimination Act 1977 (NSW)  
*(NSW Law Reform Commission Review – ADA  
Reference 15)***

**Submitted by:**

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## 1. About Muslim Votes Matter

Muslim Votes Matter (MVM) is a national grassroots initiative established to strengthen political participation, representation, and advocacy within Australia's Muslim communities. Emerging in response to longstanding marginalisation and the increasing political disenfranchisement of Muslims in Australia, MVM is non-partisan but unapologetically political in its mission: to ensure that Muslim communities are not only heard but recognised as a legitimate and influential political constituency.

Founded in early 2024, MVM has rapidly mobilised thousands of volunteers across the country. Its election-focused activities included voter education, polling booth outreach, candidate forums, and policy scorecards. At the same time, MVM facilitated sustained community engagement on broader political issues, including anti-discrimination reform, foreign policy, civil liberties, and religious freedoms.

MVM operates at the intersection of community mobilisation, political strategy, and advocacy. It engages with diverse Muslim communities across ethnic, sectarian, generational, and linguistic lines, and works collaboratively with other civil society and grassroots organisations. It also supports emerging Muslim leaders and advocates to engage with the political process, build civic literacy, and challenge the marginalisation of their communities.

Importantly, MVM's work is shaped by lived experience. Its leadership and membership are comprised of individuals who have experienced first-hand the impacts of racial and religious discrimination, vilification, and institutional exclusion. This positionality informs both the urgency and the substance of its advocacy.

This submission to the NSW Law Reform Commission is a continuation of that mission. It reflects the collective concerns of Muslim communities across the state who seek not preferential treatment, but equal protection under the law, and the right to participate in public life without fear, discrimination, or suppression.



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## 2. Executive Summary

Muslim Votes Matter (MVM) welcomes the opportunity to contribute to the review of the NSW Anti-Discrimination Act. As a grassroots, non-partisan initiative working to empower political participation within Australia's Muslim communities, MVM brings to this review the insights of communities that have been persistently under-protected, misrepresented, and disproportionately impacted by racial and religious discrimination.

The current legislative framework in New South Wales fails to protect Muslims and other faith-based communities from discrimination on the basis of religion. NSW remains the only jurisdiction in Australia without explicit protections for religious belief. At the same time, Muslim communities are increasingly subject to vilification, harassment, and suppression, particularly when they express political or moral views informed by faith. This dual vulnerability, being unprotected from harm while also being at risk of censorship, underscores the urgent need for reform.

This submission sets out MVM's position on key areas of the review, informed by community experience and supported by independent research and reporting. We make the following overarching points:

- The inclusion of religion and belief as protected attributes is critical to ensuring Muslims and other religious minorities are afforded the same legal protections as their counterparts in other states and territories.
- Discrimination experienced by Muslims is frequently intersectional, occurring at the nexus of religion, race, ethnicity, gender, and national origin. The Act must be capable of recognising and responding to these compounded harms.
- The definition of public life should be expanded to include civic and political participation but must include safeguards to protect political and religious expression, particularly where such expression involves critique of powerful institutions, ideologies, or state actions.



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- Religious exceptions for faith-based organisations, particularly minority religious institutions, should be retained, with appropriate boundaries to prevent misuse by dominant religious actors.
- Religious vilification provisions should be introduced but narrowly framed to avoid conflating legitimate dissent with hate speech.
- The Act should explicitly prohibit harassment on the basis of religion, particularly given the prevalence of gendered Islamophobia in both public and private spaces.
- A positive duty should be introduced to shift responsibility for preventing discrimination onto institutions, enabling proactive inclusion and improving institutional accountability.

MVM strongly urges the Law Reform Commission to ensure that legislative reform does not merely extend protections, but addresses the underlying power dynamics that allow discrimination, vilification, and exclusion to persist. The law must become a tool of empowerment for marginalised communities not an instrument for reinforcing silence or compliance.

Our submission reflects the voices of communities that have for too long been treated as objects of policy rather than agents of change. We call on the Commission to take this opportunity to create a legal framework that recognises, respects, and protects the rights of all people in New South Wales regardless of their faith, background, or political conscience.



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### **3. Key Principles and Framing**

Muslim Votes Matter (MVM) welcomes the opportunity to provide this submission to the review of the NSW Anti-Discrimination Act. As a grassroots, non-partisan initiative dedicated to fostering political participation and representation within Australia’s Muslim communities, MVM offers a perspective grounded in lived experience, civic engagement, and systemic analysis. Our submission is informed not only by the documented prevalence of religious and racial discrimination faced by Muslims in New South Wales, but also by the increasing limitations imposed on their capacity to participate fully in public and political life without fear of reprisal.

It is widely acknowledged that Muslims in Australia are among the most frequently targeted groups for both religious and racialised discrimination. Despite this reality, NSW remains one of the only jurisdictions in Australia without explicit legislative protections against religious discrimination. This absence has allowed discriminatory practices to proliferate across workplaces, service provision, political institutions, and public discourse, often without consequence. The lack of a clear legal standard undermines community trust, distorts institutional accountability, and leaves Muslim communities vulnerable to both overt and structural forms of exclusion.

At the same time, Muslim communities are uniquely exposed to a form of legal double jeopardy. On one hand, they remain unprotected from widespread vilification, harassment, and exclusion based on their religion and cultural background. On the other, they increasingly face the risk of legal and institutional frameworks being used against them, particularly when engaging in political or faith-based advocacy. In recent years, Muslims who speak out on matters of international justice, such as Palestine, or who publicly articulate values grounded in their religious beliefs, have been subject to suppression, delegitimization and even surveillance. The consequence is not simply under-protection but inverted enforcement, whereby the law operates more readily to discipline Muslim expression than to safeguard Muslim dignity.



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This submission is therefore guided by a central concern: that while anti-discrimination reform is both necessary and urgent, it must not entrench new mechanisms for suppressing dissent, political expression, or religious conscience, especially where these are expressed from a minority perspective. A genuine commitment to inclusion cannot mean the enforcement of silence or conformity.

The right to express political and moral views, particularly those grounded in faith, is fundamental to democratic participation. A legal framework that seeks to prohibit harm must be carefully drafted to ensure it does not also prohibit critique, advocacy, or ethical resistance, particularly when directed at powerful actors, institutions, ideologies nor nation-states.

MVM also urges the Commission to adopt a framework that recognises the intersectional nature of discrimination as it affects Muslim communities. Discrimination based on religion rarely occurs in isolation. It is frequently compounded by racialisation, gender, ethnicity, class, and national origin. A visibly Muslim woman, for instance, may experience layered forms of exclusion based on both her faith and her gendered appearance. Young men of Arab or South Asian background may face profiling not only in public spaces, but also in education, employment, and political activism. These experiences are not hypothetical; they are reflected in community testimony, research, and the lived realities of our engagement work across NSW. Any effective reform must reflect the ways in which discrimination is experienced systemically, structurally, and in compounded ways.

Finally, we submit that the purpose of reform must not simply be to fill legislative gaps or bring NSW into alignment with other jurisdictions. The goal must be to reorient the law toward empowerment, placing obligations on institutions, not just burdens on individuals. Reform should lower the barriers to justice, particularly for communities with low levels of institutional trust or limited access to legal recourse. It should establish a positive duty on employers, government agencies, and service providers to prevent discrimination and foster inclusion, rather than relying solely on individuals to lodge complaints after harm has occurred.



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For Muslim communities in NSW, anti-discrimination law must become a tool for redress and participation not a further mechanism for exclusion. MVM calls on the Commission to ensure that the revised legislation not only protects the most vulnerable from harm but also enables their full and free participation in the public and political life of the state.

In preparing this submission, MVM has also had the benefit of reviewing the submission provided by the Australian Muslim Advocacy Network (AMAN) to this review. We acknowledge and support AMAN's submission, noting that our positions are complementary and grounded in the shared objective of strengthening protections for Muslim communities and other religious minorities in New South Wales.

The following section outlines Muslim Votes Matter's responses to the key questions posed by the NSW Law Reform Commission. These responses are grounded in the lived experience of Muslim communities across New South Wales, particularly in relation to exclusion from public institutions, civic spaces, and legal protection. At the same time, they are informed by recognised legal principles drawn from Australian and international human rights frameworks, including the International Covenant on Civil and Political Rights (ICCPR) and statutory models adopted in other Australian jurisdictions. In presenting this submission, MVM seeks to ensure that legal reform delivers both substantive protection from discrimination and safeguards for democratic participation, religious freedom, and political expression.

### **5. Response to Selected Review Questions**

#### **5.1. Section 3 – Scope of Discrimination**

Muslim Votes Matter strongly supports the inclusion of religion and belief as protected attributes within the NSW Anti-Discrimination Act. This reform is both overdue and necessary to address the significant and growing levels of discrimination experienced by Muslims in this state.



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The absence of legal protection against religious discrimination in NSW has left Muslim communities especially vulnerable. Data from the *Islamophobia Register Australia 2023 Report*<sup>1</sup> shows that 70% of verified Islamophobic incidents reported nationally occurred in public settings, and over 80% of visible Muslim women (those wearing hijab or niqab) were the primary targets of abuse. While these are national figures, the report notes that NSW remains a significant contributor to reported incidents, particularly in urban areas such as Sydney.

Discrimination manifests across a range of domains: employment, housing, service provision, education, and political participation. In the absence of legal recourse, Muslim individuals and organisations must navigate a system in which their rights are inconsistently recognised, and the harms they experience are often dismissed or minimised. This legal vacuum has a chilling effect on community trust, civic engagement, and participation in public life.

The case for including religion as a protected attribute is further strengthened by the precedents in every other Australian state and territory, where such protections are already in place. NSW should not remain an outlier, particularly when the evidence of harm is so clear.

### 5.2. Sections 4–5 – Protected Attributes

Muslim Votes Matter supports the recognition of intersectional discrimination within the Act. Religious discrimination rarely occurs in isolation; rather, it is frequently compounded by race, gender, ethnicity, and national origin. This is especially true for visibly Muslim women, who bear the brunt of gendered Islamophobia in both public and private settings.

The 2023 Islamophobia Register report indicates that over 85% of offline incidents targeted women, many of whom reported experiencing simultaneous abuse based on both their religious attire and perceived ethnic identity. Such experiences cannot be properly addressed through single-attribute complaints. An intersectional approach is essential to accurately reflect the nature of the harm and to provide effective legal remedies.<sup>2</sup>

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<sup>1</sup> <https://islamophobia.com.au/wp-content/uploads/2025/03/Islamophobia-in-Australia-Report-5.pdf>

<sup>2</sup> The concept of intersectionality is increasingly recognised in Australian discrimination law reform. For example, the *Australian Human Rights Commission's National Anti-Racism Framework* (2022) explicitly calls for intersectional approaches to policy, law, and institutional practice. The Equal Opportunity Act 2010 (Vic) also



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Moreover, younger Muslims, particularly those of Arab or South Asian backgrounds, report systemic discrimination that spans school environments, policing, and job markets. This is often underpinned by a racialised perception of Islam as inherently foreign, threatening, or incompatible with dominant Australian norms, a perception that is both false and deeply harmful.

Recognition of intersectionality is therefore not merely a matter of legal coherence but of justice. The law must be capable of naming and addressing the layered and mutually reinforcing forms of discrimination that Muslim communities face in their daily lives.

### 5.3. Section 6 – Public Life

MVM supports a careful and principled expansion of the definition of public life to include spaces of civic engagement, political advocacy, and public discourse. However, this must be done with clear safeguards to ensure that anti-discrimination provisions are not used to suppress legitimate political or religious expression particularly where that expression challenges dominant ideologies or state-aligned interests.

In recent years, there has been an increasing pattern of Muslim individuals and organisations being targeted for voicing dissent on issues such as Palestine, foreign policy, or domestic law enforcement practices.<sup>3</sup> Public expressions of solidarity with Palestinians, for example, have been routinely met with accusations of antisemitism, even when clearly directed at state policy or political movements rather than religion or ethnicity. This conflation is not only intellectually disingenuous but strategically dangerous, as it enables powerful actors to silence legitimate critique under the guise of anti-discrimination or social cohesion.

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enables claims to be made on multiple grounds (s8). These developments acknowledge that single-attribute frameworks often fail to reflect the lived realities of compounded discrimination.

<sup>3</sup> Recent examples in Australia illustrate this pattern. In February 2025, the Australian Research Council suspended an \$870,000 Future Fellowship awarded to Dr Randa Abdel-Fattah following political and media attacks linked to her public commentary on Palestine (see *The Guardian*, 28 February 2025; Australian Palestine Advocacy Network, 28 February 2025). In March 2025, artist Khaled Sabsabi was removed by Creative Australia from representing Australia at the 2026 Venice Biennale, reportedly under political pressure related to his past works engaging with political themes (see *Jacobin*, March 2025). In December 2023, journalist Antoinette Lattouf was taken off air mid-shift by the ABC after posting content from Human Rights Watch on Instagram about the Israel–Gaza conflict, leading to an unlawful termination case currently before the Federal Court (see *ABC News*, 6 February 2024).



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The risk of weaponising anti-discrimination law to silence minority advocacy is real. Therefore, any expansion of public life must be accompanied by clear and enforceable protections for freedom of expression, religious conscience, and political engagement. Critique of political or nationalist movements that utilise religious identity as part of their ideological or state framework must not be framed as religious vilification simply because it causes discomfort to dominant groups.

The role of anti-discrimination law must be to protect individuals from harm, not ideas from scrutiny. The inclusion of civic and political participation within the scope of public life is welcome but only if it is coupled with strong protections for dissent and critique.

### 5.4. Section 7 – Religious Exceptions

Retention of carefully structured religious exception provisions is indispensable for safeguarding the institutional integrity and religious freedoms of minority faith bodies. Muslim Votes Matter emphasises that Muslim schools, charities, and faith-based organisations in New South Wales frequently operate under governance and employment structures informed by Islamic values. Restricting or revoking their ability to make faith-based employment or operational decisions would disproportionately impair the autonomy of Muslim institutions.

Evidence from the NSW Muslim Legal Network and related submissions to prior government inquiries underscores that these exceptions are both limited in scope and justified by international human rights frameworks.<sup>4</sup> They ensure that faith-based bodies may continue religious instruction, apply faith-based criteria in specific employment settings, or uphold doctrinal principles without breaching discrimination norms.<sup>5</sup> While recognising concerns that dominant religious institutions may exploit these exceptions to discriminate (for example, against LGBTQ+ individuals), the prevailing risk of removing them lies in harming

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<sup>4</sup> Article 18 of the *International Covenant on Civil and Political Rights (ICCPR)* affirms the right to freedom of thought, conscience and religion, including the freedom to manifest religion or belief in worship, observance, practice and teaching. This right extends to institutions and communities as well as individuals. Limitations on this right are permitted only where they are prescribed by law and necessary to protect public safety, order, health, morals, or the fundamental rights and freedoms of others. See: United Nations, *ICCPR*, Article 18.

<sup>5</sup> <https://lawreform.nsw.gov.au/documents/Current-projects/s93z/prelim-subs/SV25 - Muslim Legal Network.pdf>



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minority religious communities who rely on doctrinal consistency to deliver culturally sensitive community services.

In particular, expert legal commentary warns that absent such limited exceptions, Muslim schools may be compelled to compromise religious standards or be subject to litigation for exercising doctrinally valid employment or admission criteria, thus undermining religious pluralism rather than protecting it as required under international covenants.<sup>6</sup> Therefore, MVM advocates for a calibrated approach: maintaining religious exemptions only where they are necessary to preserve minority religious rights, balanced with safeguards to prevent discrimination by dominant religious bodies.

### 5.5. Section 8 – Vilification

Muslim Votes Matter supports the formal inclusion of religious vilification within NSW anti-discrimination law. Empirical findings point to a marked escalation in Islamophobic rhetoric and threats, particularly following October 7, 2023, manifested in spitting attacks, coordinated online harassment, threats against mosques, and gendered verbal abuse, especially against visibly Muslim women.<sup>7</sup> One recent investigation reported 309 confirmed in-person and 366 online instances of Islamophobia between January 2023 and November 2024; women accounted for roughly 75% of victims.<sup>8</sup>

These patterns convey the severity and gendered nature of religious hostility in Australia, especially in New South Wales, which accounts for nearly half of such incidents.<sup>9</sup> Inclusion of religious vilification within the Anti-Discrimination Act would provide much-needed legal avenues for redress and prevention.

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<sup>6</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

<sup>7</sup> <https://islamophobia.com.au/wp-content/uploads/2025/03/Islamophobia-in-Australia-Report-5.pdf>

<sup>8</sup> <https://www.abc.net.au/news/2025-03-13/report-finds-rise-in-islamophobic-assaults-abuse-and-threats/105042290>

<sup>9</sup> <https://www.theguardian.com/news/2025/mar/13/islamophobic-incidents-in-australia-have-doubled-over-the-past-two-years-research-suggests-ntwnfb>



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Nonetheless, MVM insists that any such provision must clearly distinguish between prohibited hate speech directed at protected groups and protected speech that critiques ideologies, policies, or state actions.<sup>10</sup> Constitutional and statutory jurisprudence affirms that critique, even if controversial, must not be conflated with targeted harassment. Hence, vilification protections must be narrowly tailored to respond to conduct that incites hatred based on protected identity, not dissenting religious or political discourse.

### 5.6. Section 9 – Harassment

Muslim Votes Matter unequivocally supports the statutory recognition of harassment protections based on religion and other protected attributes. The prevalence and intensity of harassment, particularly directed at Muslim women, youth, and visible community workers, demonstrate the urgent need for clear legal coverage in public, workplace, and educational contexts. The combination of religious and gendered hostility further emphasises how standard single-attribute frameworks are insufficient to capture lived harm.

Furthermore, the absence of harassment coverage in the current NSW Act emboldens perpetrators and contributes to systemic under-reporting. Inclusion would affirm the state's commitment to protecting community safety, freedom of worship, and civic equality.

### 5.7. Section 11 – Positive Duty

The introduction of a positive duty on employers, educational institutions, public agencies, and service providers to proactively eliminate discrimination is essential for structural reform. Empirical research, such as the AHRC's *Sharing the Stories of Australian Muslims* survey<sup>11</sup>, demonstrates that approximately 23% of respondents who experienced prejudice or discrimination reported feeling unable to speak up or take action when the harm occurred. This indicates not only fear and mistrust, but also systemic barriers within institutional complaint processes.

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<sup>10</sup> For example, under section 8 of the Racial and Religious Tolerance Act 2001 (Vic), vilification requires conduct that 'incites hatred against, serious contempt for, or revulsion or severe ridicule of' a person or group. This threshold ensures that legal protections target harmful conduct, not the mere expression of dissenting or controversial views.

<sup>11</sup>[https://humanrights.gov.au/sites/default/files/document/publication/ahrc\\_sharing\\_stories\\_australian\\_muslims\\_2021.pdf](https://humanrights.gov.au/sites/default/files/document/publication/ahrc_sharing_stories_australian_muslims_2021.pdf)



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A duty-based approach shifts responsibility from individuals to institutions<sup>12</sup>, compelling entities to take preventative measures, such as cultural competency training, inclusive policy design, harassment prevention frameworks, and formal anti-discrimination monitoring. It also signals a normative shift, reframing inclusion as a shared organisational responsibility rather than an individual burden.

Recent submissions by legal advocates have argued that without such duties, discrimination remains reactive, piecemeal, and heavily reliant on individual capacity to pursue legal recourse conditions which disproportionately disadvantage marginalised communities like Muslims.<sup>13</sup>

### 6. Recommendations

Muslim Votes Matter submits the following recommendations for consideration by the NSW Law Reform Commission. These recommendations reflect the lived experience of Muslim communities across New South Wales and are grounded in principles of legal equity, democratic participation, and institutional accountability.

#### 6.1. Introduce Religion and Belief as Protected Attributes

The Act should be amended to explicitly prohibit discrimination on the basis of religion and belief, aligning NSW with other Australian jurisdiction. This protection must apply across employment, education, public services, accommodation, and access to public spaces. The absence of such protections has left Muslim communities in NSW exposed to systemic and unremedied harm.

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<sup>12</sup> The *Equal Opportunity Act 2010 (Vic)* includes a positive duty requiring organisations to take reasonable and proportionate measures to eliminate discrimination, sexual harassment, and victimisation as far as possible (s15). This model demonstrates how a legislative duty can be implemented in practice and has been used as a framework for proactive inclusion strategies across Victorian public and private sectors.

<sup>13</sup> <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>



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### **6.2. Enable Claims of Intersectional Discrimination**

The legislation should recognise that discrimination often occurs on the basis of more than one protected attribute. Individuals who experience harm based on religion in combination with race, ethnicity, gender, or national origin must be able to bring claims that reflect the compounding nature of the discrimination. This is particularly relevant for Muslim women and young people from racialised backgrounds.

### **6.3. Expand the Definition of Public Life, with Safeguards**

The Act should clarify that public life includes participation in political and civic engagement, including advocacy, campaigning, and public discourse. However, this expansion must be accompanied by statutory safeguards that protect political and religious expression, particularly for minority communities. The legislation must not permit vilification or discrimination provisions to be misused as instruments of censorship.

### **6.4. Retain Religious Exceptions for Minority Faith Communities**

Existing religious exemptions should be preserved for faith-based institutions, particularly where those institutions are operated by or for minority communities. These exemptions allow organisations to operate in accordance with religious doctrine, including in relation to employment, service provision, and governance. However, their scope should be clearly defined to ensure they are not applied in contexts where they may facilitate unjustifiable discrimination by dominant religious bodies.

### **6.5. Include Religious Vilification Protections, Narrowly Drafted**

The Act should prohibit vilification on the grounds of religion, providing a remedy for the escalating incidence of Islamophobic abuse and hate speech. However, these provisions must be narrowly drafted to ensure that they do not encroach upon legitimate religious, political, or ideological critique. The law must distinguish between incitement to hatred and the expression of dissenting views, especially by minority groups.



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### **6.6. Extend Harassment Protections to Include Religion**

The Act should explicitly prohibit harassment on the grounds of religion, recognising that religious harassment, particularly when experienced alongside gender or racial abuse, is a significant and under-addressed harm. Legal protection must apply to both public and private settings, including workplaces, educational institutions, and service contexts.

### **6.7. Introduce a Positive Duty on Duty-Bearers**

The Act should impose a positive duty on employers, public agencies, and service providers to take reasonable and proportionate steps to eliminate discrimination, promote inclusion, and prevent harm. This shift from a reactive to a proactive model is critical for ensuring systemic accountability and building trust with communities that are otherwise reluctant to engage with formal complaints mechanisms.

These recommendations are not only informed by the lived experiences of Muslim communities in New South Wales but are also aligned with evolving legal standards across Australia and internationally. Jurisdictions such as Victoria have already implemented positive duties and multi-ground discrimination protections, while instruments such as the International Covenant on Civil and Political Rights affirm the right to manifest religion and conscience without undue interference. Reforming the NSW Anti-Discrimination Act in this direction would ensure both consistency with national and international human rights principles and responsiveness to the real and layered nature of discrimination as it is experienced in public life. This is an opportunity not simply to extend coverage, but to embed equity, proportionality, and protection into the legal foundation of our shared civic landscape.