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NSW Law Reform Commission
Department of Communities and Justice

Dear NSW Law Reform Commissioners,



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Submission to the NSW Law Reform Commission: Review of the Anti-Discrimination Act 1977 (NSW)

About the LMA

The Lebanese Muslim Association (LMA), established in 1961, is one of Australia's oldest and most active Muslim organisations. Based in Lakemba, NSW, LMA provides religious, educational, health, youth, and social support services to thousands of families. The LMA has a long history of promoting community resilience, social cohesion, and interfaith engagement. As a trusted voice within the Australian Muslim community, we are uniquely positioned to comment on the Anti-Discrimination Act 1977 (NSW) and its impact on culturally and religiously diverse communities.

1. Religion as a Standalone Protected Attribute

Issue:

While the ADA currently protects against discrimination based on race and ethno-religious origin, the lack of a standalone protection for religious belief or practice leaves significant gaps. Muslims in NSW frequently experience discrimination and vilification on the basis of religion, particularly in public discourse, employment, and education.

Lived Experience:

- A Muslim job applicant wearing a hijab was asked in a Sydney job interview whether she would "fit in" with the male team.
- A teacher publicly questioned a Muslim student's allegiance to Australia during a classroom discussion on terrorism.
- LMA received reports during the October 2023 Gaza conflict of Muslim children being bullied and accused of supporting terrorism.

Recommendation:

- Include "religious belief and activity" as a standalone protected attribute in both discrimination and vilification provisions.
- Ensure protections apply regardless of the perceived religiosity or denomination of the individual.
- Modernise language in the ADA to reflect inclusive, contemporary religious practices.

Our Community, Our Future

2. Intersectional Discrimination Must Be Recognised

Issue:

Muslim Australians often face overlapping forms of discrimination – based on race, gender, dress, and religion. The current ADA does not adequately capture this compounded experience.

Lived Experience:

- A young Lebanese-Muslim woman was denied entry to a private venue because her long dress and headscarf were deemed "non-compliant" with the dress code.
- A mother of four was treated dismissively by housing providers when presenting with her children and wearing visibly Islamic clothing.

Recommendation:

- Explicitly allow claims based on intersectional discrimination.
- Provide guidance and case law examples that reflect multiple attributes contributing to discriminatory outcomes.

3. Expand Protected Areas to Reflect Real-World Harm

Issue:

Many instances of discrimination occur outside the limited "protected areas" listed in the ADA. This excludes public life situations such as online abuse, sporting environments, and volunteer roles.

Lived Experience:

- During community consultations, young Muslims reported frequent abuse on public transport or online forums, which are not clearly covered under current law.
- A Muslim volunteer was excluded from a board due to perceived conflicts of interest based solely on their religion.

Recommendation:

- Expand protected areas to include online spaces, sporting bodies, community organisations, and public-facing roles.
- Include volunteer and unpaid roles in employment-related protections.

4. Narrow the Broad Exceptions for Religious Institutions

Issue:

Current ADA exceptions allow religious institutions to discriminate in hiring and service delivery based on religious doctrine. This is particularly problematic when organisations are publicly funded.

Lived Experience:

- A Muslim applicant was rejected from a counselling internship at a Christian organisation, despite having the necessary qualifications and being willing to uphold organisational policies.
- Faith-based schools have discouraged Muslim parents from enrolling children due to perceived "cultural clashes."

Recommendation:

- Require that religious exceptions only apply where religion is a genuine occupational requirement.
- Prohibit discrimination in service delivery where public funding is involved.
- Limit exceptions to religious belief and activity, not to other protected attributes such as gender or disability.

5. Strengthen Vilification Protections Including Online Abuse

Issue:

Muslims are one of the most vilified communities in NSW. Online hate, public incitement, and Islamophobic tropes have escalated in recent years.

Lived Experience:

- During international crises, LMA monitors spikes in hate speech such as "ban Islam," "deport Muslims," and calls to vandalise mosques.
- A community centre received anonymous letters accusing Muslims of being "invaders" and "terror sympathisers."

Recommendation:

- Retain the incitement test but include a harm-based test to recognise community impact.
- Ensure public acts explicitly include social media, forums, and digital media.
- Clarify that religious vilification includes targeted dehumanisation and systemic abuse.

6. Positive Duties and Burden of Proof Reform

Issue:

The burden of proof on complainants is high and discouraging. Many affected individuals lack resources, legal understanding, or the confidence to pursue a complaint.

Recommendation:

- Introduce a positive duty on employers and institutions to take reasonable steps to prevent discrimination and harassment.
- Shift the burden of proof to respondents in cases of indirect discrimination once a prima facie case is established.
- Mandate anti-discrimination training for all public-funded organisations.

7. Protecting the Religious Integrity of Faith-Based Educational Institutions

Issue:

Islamic schools operate to provide not only academic excellence but to instil Islamic values as part of a holistic education. Parents choose these institutions with the expectation that their children will be taught in an environment consistent with their religious worldview. However, the broad removal or narrowing of current ADA exceptions for religious institutions — especially in employment and curriculum — risks undermining the religious integrity of Islamic schools.

Community Concern:

Many Islamic schools are increasingly facing pressure from external educators, relief staff, or contracted personnel (e.g. cleaners, bus drivers, casual teachers) who express views — either in class or in the presence of students — that directly contradict Islamic teachings, particularly around sexual ethics, gender identity, atheism, or cultural relativism.

Lived Experience Examples:

- A relief teacher in a Year 7 English class introduced a novel promoting sexual identity narratives without consulting the school’s curriculum gatekeepers. Parents were not informed, and students were confused about conflicting messages.
- A cleaner reportedly made disparaging remarks about prayer during recess, mocking students for their beliefs.
- A casual driver told students that “God doesn’t exist” when asked about his beliefs — prompting distress in younger children.

These are not isolated incidents but part of a broader concern that anti-discrimination law reforms may inadvertently limit the ability of faith-based institutions to maintain environments aligned with their values.

Recommendation:

- Maintain a narrow exception for religious schools to preference staff (in all roles) who are either adherents of the faith or who commit to upholding the school’s religious ethos in the course of their duties.
- Protect faith-based curriculum decision-making, allowing schools to exclude material or external programs that conflict with religious teachings, especially in moral or ideological content areas (e.g. sexuality, gender identity, atheism).
- Establish safeguards that ensure contractors, volunteers, and relief staff respect the religious character of the school, particularly in front of students.
- Include provisions in the ADA recognising the right of parents to choose religious education without being undermined by external ideological imposition.

Legal Framing:

This request aligns with:

- Article 18 of the ICCPR, which protects the right of parents to ensure the religious and moral education of their children in conformity with their convictions.
- The principle of religious institutional autonomy, acknowledged in international and Australian law.
- The legitimate aim of faith-based schooling: to offer education consistent with a community's deeply held beliefs.

8. Distinguishing Political Criticism from Religious Vilification

Issue:

There is increasing concern within the Muslim and Arab-Australian communities that criticism of a foreign government or its policies — particularly those of the State of Israel — is being conflated with antisemitism. This mischaracterisation risks stifling legitimate political expression and undermining public confidence in anti-discrimination protections.

The Jerusalem Declaration on Antisemitism, which states:

“It is not antisemitic to criticise Israel as a state, or its institutions and policies, or to hold it to standards no different than those applied to any other country.”

Community Impact:

Many Muslim Australians, particularly of Palestinian, Lebanese, or Arab background, feel unable to express solidarity with the Palestinian people or criticise Israeli government actions — including illegal settlements, military occupation, or breaches of international law — without being labelled as antisemitic or extremist.

This has:

- Chilled public speech, especially among Muslim professionals, students, and organisations;
- Triggered disproportionate backlash against Islamic centres, imams, and community leaders who speak on human rights or justice;
- Fuelled Islamophobia, with Muslims being portrayed as threats to national cohesion for voicing principled objections.

Lived Experience Examples:

- A school principal was reported to the Department for reposting a statement condemning civilian deaths in Gaza.
- A university student was told their comments in support of Palestinian human rights “bordered on hate speech”.
- LMA has received inquiries from parents whose children were cautioned by school staff after asking questions about Palestine in class.

Recommendation:

- Include in any vilification provisions a clear exception for legitimate political discourse, particularly:
 - Criticism of any state actor or government;
 - Advocacy for human rights, international law, and accountability;
 - Expressions of solidarity with oppressed peoples or civilian populations.
- Adopt language consistent with international human rights norms that distinguishes antisemitism from anti-Zionism or criticism of Israel as a state.
- Recognise that conflating political critique with religious hate erodes the integrity of anti-discrimination law and disproportionately harms Muslim and Arab-Australian communities.

Conclusion

The Anti-Discrimination Act must evolve to reflect a multicultural, multi-faith society and protect all communities equitably. The Lebanese Muslim community continues to experience discrimination—not just from isolated individuals, but from systemic structures that fail to recognise religious identity as equal to other protected attributes.

The eight reforms set out above will ensure that Muslim Australians can live, learn, and worship free from discrimination, while safeguarding the right to political expression. The LMA stands ready to assist the Commission with community consultations and further evidence.

Yours sincerely

Hafez Alameddine
President
LMA

