



AUSTRALIAN GOVERNMENT RESPONSE

CALL FOR SUBMISSIONS: REPORT ON ADVOCACY OF HATRED BASED ON RELIGION OR BELIEF: TRANSFORMATIVE RESPONSES.

Australia thanks the Special Rapporteur for her invitation to provide a submission to inform the Report on Advocacy of Hatred Based on Religion or Belief: Transformative Responses.

How, if at all, is advocacy of hatred defined in legal and policy frameworks, and how does it relate to intolerance, discrimination, and violence based on religion or belief?

Australia recognises that freedom of religion or belief is a fundamental human right belonging to all individuals. As a party to the International Covenant on Civil and Political Rights, Australia has obligations to protect the right to freedom of thought, conscience and religion under Article 18.

The Australian Constitution, under section 116, prohibits the Australian Government from making any law establishing any religion, imposing any religious observance, or prohibiting the free exercise of any religion.

Anti-discrimination law

The Australian Government believes that every Australian should be able to live free from discrimination. Just as nobody should be treated unfairly because of their gender, disability, sexuality, age, or race, the Government does not believe anyone should experience discrimination because of their religious beliefs.

The anti-discrimination laws of most Australian states and territories prohibit discrimination on the basis of religion. However, there are currently no protections against discrimination on the basis of religious belief or activity in federal anti-discrimination law. Additionally, the civil protections against vilification provided by federal anti-discrimination law are limited to 'ethno-religious groups', leaving gaps in the protections afforded to other faith groups.

That is why the Government has announced that it will introduce legislative amendments to prevent faith-based discrimination and vilification during this term of Parliament. The Government is committed to introducing legislation to:

- prevent discrimination against people of faith, including anti-vilification protections
- protect all students from discrimination on any grounds, and
- protect teachers from discrimination at work, while maintaining the right of religious schools to preference people of their faith in the selection of staff.

On 4 November 2022, the Attorney-General asked the Australian Law Reform Commission (ALRC) to review exemptions for religious educational institutions in federal anti-discrimination law. The ALRC has been asked to consider what changes should be made to federal anti-discrimination laws to reflect the Government's commitments in a way that is consistent with Australia's international human rights obligations.



Australian Government

Department of Foreign Affairs and Trade

On 27 January 2023, the ALRC released a Consultation Paper outlining a number of draft proposals. The ALRC accepted submissions on the proposals, as well as confidential survey responses, until 24 February 2023.

This ALRC inquiry is a crucial first step towards implementing the Government's commitment to extending anti-discrimination protections to more Australians, including to people of faith and to staff and students in religious schools, while maintaining the right of religious schools to preference people of their faith in the selection of staff.

The Government will carefully consider the ALRC's final report when it is released before the end of 2023.

Countering cyber-abuse

The *Online Safety Act 2021* established a world-first cyber abuse take-down scheme for Australian adults which provides a pathway for those experiencing the most serious harmful online abuse to have this material removed from the internet. The eSafety Commissioner can consider hateful or dehumanising commentary and symbolism where it meets the Act's definition of 'adult cyber abuse'. Services that fail to remove abusive content following an eSafety removal notice can be met with significant financial penalty. The Australian government is considering what more can be done to address hate speech targeting groups of people online, while also protecting free speech

The Online Safety Act 2021 also establishes the Basic Online Safety Expectations (BOSE). These signal to industry what actions we expect them to take to keep Australians safe. These include our expectation that platforms enforce their own terms of service, which in most cases prohibit the posting of hate speech.

Criminal law

At the federal level, the Commonwealth Criminal Code contains a range of offences that prohibit violence based on religion or belief. These include offences for urging violence on the basis of race, religion, nationality, national or ethnic origin, or political opinion, and offences for advocating terrorism or genocide. The Criminal Code also contains offences that prohibit online conduct intended to menace, harass or cause offence. At the state and territory level, there are also offences prohibiting violence, including violence based on religion or belief.

To strengthen the Commonwealth's criminal law framework, the Government has introduced the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023 (the Prohibited Hate Symbols Bill). If passed, the Prohibited Hate Symbols Bill would introduce new criminal offences for publicly displaying prohibited Nazi hakenkreuz, Nazi double sig rune or Islamic State flag, and trading in items bearing these symbols. These symbols are used to promote hatred, incite violence and vilify members of the Australian community. The Prohibited Hate Symbols Bill would also create offences for using a carriage service to deal with violent extremist material, and strengthen the existing advocating terrorism offence to target the promotion and idealisation of extremist views which can inspire acts of terrorism and violent extremism.

How are hatred, intolerance and discrimination based on religion or belief monitored – including with data – and how is this evidence base used to counter the negative effects that result? To what extent is this data used as a basis for policy design and implementation?



Australian Government

Department of Foreign Affairs and Trade

In 2021 the Australian Government established a research partnership with the Scanlon Foundation Research Institute to produce the biennial Australian Cohesion Index (ACI). The ACI informs policy formation, program design and implementation, through stronger qualitative and quantitative analysis of social cohesion challenges and trends, and includes data on attitudes towards different religious groups and experiences of discrimination, including on the basis of religion.

Provide details of legislative initiatives and case law, public programmes and projects aimed at countering hate, intolerance and discrimination – including through positive initiatives towards managing religious and belief diversity – to ensure social inclusion and respect for the rights of all, Examples may include education, media, mediation, and interfaith dialogues, and civil society initiatives.

The Australian Government's Department of Home Affairs includes a Community Liaison Officer Network (CLO Network). The CLO Network engages with multicultural communities to provide information, listen to concerns and support a two-way information flow between communities and the Australian Government.

CLO's have an essential role in supporting the Government's policies, programs and priorities by building and maintaining relationships with a wide range of cultural, religious and ethnic communities. This includes disseminating information to Culturally and Linguistically Diverse (CALD) communities, reinforcing critical messaging, and understanding the impact of the messaging on CALD communities