

I further respond to the question on notice as below.

***I am happy, given the short time frame, for that to be taken on notice, but it would be helpful to get a sense from all of your organisations, if this bill were not to succeed, whether you would be supportive of the New South Wales Government to act to simply insert or to take action while this inquiry is going on—nothing stops them doing that—to insert a protection around religious discrimination as per the other attributes in the bill.***

As to ANIC's position on the above proposal, we hold concerns about the complete rejection of the Bill and an attempt to instead insert "***a protection around religious discrimination as per the other attributes in the bill***". In particular:

As stated during the panel interview, there is a glaring and serious deficiency in the laws of NSW and the Commonwealth in terms of protections relating to discrimination against a person based on their religious belief or identity. In summary, there is presently no protection. Section 93Z of the *Crimes Act 1900* has, to our knowledge, never been utilised since its enactment. In any event, it is cumbersome and complex. At the Commonwealth level, by way of example, at the workplace the *Fair Work Act* applies. Section 551 provides protection against discrimination on the ground of, *inter alia*, religion. However, it operates subject to s.351(2)(a) which has the effect that any discrimination on the ground of religion would be precluded if it is not unlawful in a relevant State. Such discrimination is not unlawful in NSW.

In the above context, it would be of concern if the primary protection which is provided by the Bill against religious discrimination is wholly rejected. To the extent that there are concerns as to secondary or other provisions, these can be addressed by separately reviewing and amending those provisions to take into account relevant issues. Such concerns are not a reason to reject the Bill.

Neither does ANIC have confidence that the proposal would readily be pursued and implemented in circumstances where there has been no such initiative in over 30 years, despite the need for such a legislative protection.

Finally, the insertion of "religion" alone would arguably not provide protection in relation to religious activity. It would also not take into account the religious identity of institutions and organisations which operate in accordance with religious principles and ethos in serving religious communities. The existing provisions are designed to operate in relation to individuals who manifest certain attributes. The religious attribute will need to encompass religious belief, religious activity and religious organisations. Such an accommodation is not readily achieved by simply applying the existing provisions to religious discrimination. This again reinforces the concern that the proposal would become wieldy and unlikely to be achieved, at least in the foreseeable future. As a consequence, the most vulnerable of people from among the minority faith communities, particularly women and children, will be left exposed with no legal remedy in NSW.

Please let me know if you have any further questions.

Kind regards

**Bilal Rauf**  
**Spokesperson and Advisor**  
**Australian National Imams Council**