



Input to the Report on Anti-Muslim Hatred and Discrimination

BY THE UN SPECIAL RAPPORTEUR ON FREEDOM OF
RELIGION OR BELIEF

30 NOVEMBER 2020

1. The Australian Muslim Advocacy Network (AMAN) welcomes the opportunity to input to the UN Special Rapporteur on the Freedom of Religion or Belief as he prepares this report on *the Impact of Islamophobia/anti-Muslim hatred and discrimination on the right to freedom of thought, conscience religion or belief*.
2. We also welcome the opportunity to participate in your Asia-Pacific Consultation and hear from the experiences of a variety of other Muslims organisations.
3. AMAN is a national body that works through law, policy, research and media, to secure the physical and psychological welfare of Australian Muslims.
4. Our objective to create conditions for the safe exercise of our faith and preservation of faith-based identity, both of which are under persistent pressure from vilification, discrimination and disinformation.
5. We are engaged in policy development across hate crime & vilification laws, online safety, disinformation and democracy. Through using a combination of media, law, research, and direct engagement with decision making parties such as government and digital platforms, we are in a constant process of generating and testing constructive proposals. We also test existing civil and criminal laws to push back against the mainstreaming of hate, and examine whether those laws are fit for purpose. Most recently, we are finalising significant research into how anti-Muslim dehumanising discourse operates on Facebook and Twitter, and the assessment framework that could be used to competently and consistently assess hate actors.

A. Definitions

What is your working definition of anti-Muslim hatred and/or Islamophobia? What are the advantages and potential pitfalls of such definitions?

6. Islamophobia is synonymous with/ a form of racism: Seen in the Western context, Islamophobia is defined as ‘a powerful new form of racism’ that ‘amalgamate[s] all Muslims into one group and treat characteristics associated with Muslims (violence, misogyny, political allegiance/disloyalty, incompatibility with Western values, etc) as if they are innate’.¹ Similarly, the All Party Parliamentary Group on British Muslims’ definition of Islamophobia includes: “Islamophobia is rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness”.
7. Islamophobia can be subtle and manifest through systemic bias:
 - a. Mondon and Winter make a distinction between liberal and illiberal forms of Islamophobia, arguing politicians, media and researchers (as part of liberal democracy) are enablers to illiberal Islamophobia², including in the way that researchers may (even unconsciously) sanitise harms or diminish the moral worth and humanity of Muslims.³
 - b. Cheikh Husain’s found Muslim Community Organisations (MCOs) frame Islamophobia as: ‘... an institutional disruption to Australia’s egalitarian policy of

¹ Hilary Pilkington (2016), *Loud and Proud: Passion and Politics in the English Defence League*, Manchester University Press, 150.

² Aurelien Mondon and Aaron Winter, ‘Mapping and mainstreaming Islamophobia: between the illiberal and liberal’ in (2019) *Routledge International Handbook of Islamophobia*.

³ For example, counter terrorism experts in Australia have said that it is preferable to leave organised hate groups on Facebook and Twitter to prevent them from being pushed to less moderated platforms – arguments that have never been made in relation to QAnon networks or ISIL/Al-Qaeda propaganda.

multiculturalism; second, Islamophobia manifests through the positional practices imposed on MCOs which undermine and discipline their civic-political participation; and third, Islamophobia as systematic structural racism due to inherited white privilege.’⁴

8. Commonly it is argued that it is not irrational to fear Islam or Muslims, because of overseas terror groups, ‘home-grown terrorism’, and their belief in the stereotype that Islamic religiosity leads to barbarism and violence. However this logic relies on *guilt attribution* (blaming the crimes of a few on the whole group), *dehumanising* conceptions (that Muslims are mechanically inhuman or subhuman), and *threat construction* (portraying Muslims as an existential threat) – all features of dangerous speech that have been found historically to escalate the risk of atrocities against minorities.⁵ It may be beneficial in any definition of Islamophobia to detail these inherent processes at play.
9. While Islamophobia does operate as a form of racism, “this expression of hostility towards ‘Islam’, rather than ‘Muslims’ or any particular ethnic group, it is shown, is employed by activists to support claims that the movement is ‘not racist’”⁶. However, this ignores that racism can be built on cultural (rather than biological) conceptions of racial superiority.
10. The term “Islamophobia” also captures the way **that Islam is used a proxy to attack Muslims**, often through the attribution of human qualities and actions to Islam (murderous, violent, murders, takes over, dominates). A religion or set of ideas cannot carry out these actions, only humans can. This reveals the true target of this discourse: Muslims. While Islam is frequently personified in Islamophobic discourse, it is also dehumanised using explicitly dehumanising language (compared to disease, cancer, plague) – a dehumanisation that is ultimately aimed at Muslims.
11. The terms ‘Islamophobia’ and ‘anti-Muslim racism’ also incorporate the systemic and structural ways that racism operates: for example through media headlines or negative profiling by police. While the term ‘Anti-Muslim hatred’ may not capture structural forms of discrimination and prejudice so well, what it does isolate is extremely important and deserving of dedicated attention.

Anti-Muslim hatred

12. ‘Anti-Muslim hatred’ more precisely refers to the deliberate project of inciting hatred against Muslims, which our research shows, is frequently conducted through dehumanisation and

⁴ Sara Cheikh Husain, Muslim Community Organizations’ Perceptions of Islamophobia: Towards an Informed Countering Response. *Religions* 2020, 11, 485.

⁵ Jonathan Leader Maynard and Susan Benesch, ‘Dangerous Speech and Dangerous Ideology: An Integrated Model for Monitoring and Prevention’ (2016) 9(3) *Genocide Studies and Prevention: An International Journal* 70.

⁶ Pilkington, above n 1, 125.

conspiracy theory. This is a concerted, and active project. Canadian,⁷ Australian,⁸ US,⁹ and UK¹⁰ research has found Muslims to be a favoured ‘out-group’ around which radical right-wing discourse coalesces. A high degree of volatility in moving towards violence has been observed in the far right milieu¹¹, with slippage between offline ‘anti-Islamisation’ events and online white supremacy also recorded in Australia.¹²

13. ‘Anti-Muslim hatred’ can also more precisely describe the responses generated within online communities to dehumanising anti-Muslim reporting¹³. That hatred from social media users includes
 - a. expressions of disgust towards Muslims,
 - b. iteration of extreme right narratives about Muslims,
 - c. expressions of wanting to expunge Muslims,
 - d. expressions or wanting to kill or see Muslims dead,
 - e. as well as fantasies of violence against entire Muslim populations.¹⁴
14. All of the above categories include a dimension of explicitly dehumanising language and/or dehumanising discourse, that can be enacted without explicitly dehumanising language.
15. While interest in right terrorism has increased in recent years, anti-Islam conspiracy theory has been used to justify terrorist attacks long before the Christchurch massacre: for example, the 2011 Oslo attack where 77 people were murdered.¹⁵

⁷ Jacob Davey, Mackenzie Hart and Cécile Guerin, ‘An Online Environmental Scan of Right-Wing Extremism in Canada: An Interim Report’(Institute of Strategic Dialogue, June 2020). Anti-Muslim and anti-Trudeau rhetoric are the most salient topics of conversation among RWE actors in Canada. On Twitter we found that highly prolific extremist users were more likely to be engaged in anti-Muslim conversation, and spikes in activity often contained anti-Muslim conversation. Similarly, on Facebook we found that Muslims were the most widely discussed minority community, and the most common target of posts containing explicit hate speech (23%), with anti-Semitism being the second largest grouping of hate speech (16%).

⁸ Mario Peucker, Debra Smith and Muhammad Iqbal, ‘Mapping Networks and Narratives of Far-Right Movements in Victoria’ (Project Report, Institute for Sustainable Industries and Liveable Cities, Victoria University, November 2018), 7. A recent study found anti-Muslim narratives to be the second most popular topic of far right groups in the first half of 2020, second to Black Lives Matter: Cecile Guerin, Jacob Davey, Dr Mario Peucker and Thomas J. Fisher, ‘The Interplay between Australia’s political fringes on the Right and Left – Online Messaging on Facebook’, (Center for Resilient and Inclusive societies, November 2020). See also: Department of Security Studies and Criminology. (2020, October 9). Mapping Networks and Narratives of Online Right-Wing Extremists in New South Wales (Version 1.0.1). Sydney: Macquarie University.

⁹ The Institute for Strategic Dialogue conducted weekly analysis of online hate communities in the lead up to US 2020 election called ‘Lens on Hate’. From these records, they frequently identified anti-Muslim communities to be the top five most active hate communities.

¹⁰ William Allchorn and Andres Dafnos, ‘Far Right Mobilisations in Great Britain: 2009-2019’ (Center for the Analysis of the Radical Right, October 2020).

¹¹ Mario Peucker, “Should we stop referring to some extremists as right-wing?”, *ABC Religion and Ethics*, 20 October 2020.

¹² Peucker et al, above n 8, 11.

¹³ Far right blogs presenting as pseudo-news sites publish stories about heinous crimes committed by people who are purportedly Muslim, tying it to a narrative that dehumanises all Muslims as a subhuman, hostile and deceptive mass that is trying to conquer the West and subvert its values. These URLs are amplified by social media and seemingly circumvent platform moderation. Routinely, it is claimed by these actors that they are unveiling the truth, and that the mass media is ignoring this threat. See Benjamin Lee, “‘It’s not paranoia when they are really out to get you’: The Role of Conspiracy Theories in the Context of Heightened Security” (2016) *Behavioral Sciences of Terrorism and Political Aggression* 1; Benjamin Lee, ‘Why We Fight: Understanding the Counter-Jihad Movement’ 2016 (10) *Religion Compass* 257; Benjamin Lee, ‘A Day in the “Swamp”: Understanding Discourse in the Online Counter-Jihad Nebula’ (2015) 11(3) *Democracy and Security* 248.

¹⁴ This research is being submitted for publication at the time of this submission.

¹⁵ Toby Archer, ‘Breivik’s Mindset: The Counterjihad and the New Transatlantic Anti-Muslim Right’ in Max Taylor, Donald Holbrook and P M Currie, *Extreme right wing political violence and terrorism* (London, 2013) 169-185; Lars Erik Berntzen and Sveinung Sandberg, ‘The Collective Nature of Lone Wolf Terrorism: Anders Behring Breivik and the Anti-Islamic Social Movement’ (2014) 26(5) *Terrorism and Political Violence* 759-779; Andrew

Do you use anti-Muslim hatred or Islamophobia interchangeably or do you consider them to be usefully distinct concepts? Why?

16. It is suggested that Islamophobia and anti-Muslim hatred can be usefully distinct terms in certain contexts. For example, when referring to online actors that are engaged in propagating anti-Muslim hatred, this describes with greater precision the harm (advocacy of hatred), and degree of harm that is being enacted. Islamophobia, while rooted in prejudice and hatred, is not only enacted by expressions of hatred, but also discrimination and systemic bias.

Connection with other policy concepts

17. Through our policy engagement with governments, digital platforms and other NGOs, we have also come to understand that other terms are useful and ask that the Rapporteur help to draw connections between these terms in his report.
- a. ‘Counter jihad’ ideology, where Muslims are **‘essentialised into a homogenous and hostile mass’**¹⁶ is understood by many in the countering violent extremism field, as well as ‘anti-Islam conspiracy theory’.¹⁷ From our research, it appears that digital platforms are treating ‘counter jihad’ theories – including propagating that
 - i. personal religiosity in Islam leads to sub-humanity and extremism
 - ii. Muslims/Islam are invading the West to take over through immigration and high fertility rates.
 - iii. Islam/Muslims are waging violent war with the West/clash of civilisations

as a form of political or partisan discourse – whereas it is clear that these theories dehumanise Muslims, are inaccurate¹⁸ and mislead the public. Proponents of these theories build support for far right nationalist activism and violent extremism.
 - b. It follows that ‘disinformation’ is also a very useful and applicable term. Disinformation includes misleading or false information spread to distort public knowledge and disrupt democracies, and can include attaching false context to true events.
 - c. ‘Dehumanisation’ is one of the most enduring and effective concepts for explaining the harm intended and caused by hatred.¹⁹ Dehumanisation merits a far greater focus

Brown, ‘The myth of Eurabia: how a far right conspiracy theory went mainstream’, *The Guardian* [online newspaper], 16 August 2019.

¹⁶ Lee (2015), above n 13.

¹⁷ As we move into the extreme right, we see the emergence of conspiracy theories about Islam and its plot to takeover and dominate the world. The ‘counter jihad’ movement tends to mirror ISIL and Al-Qaeda justifications of violence as per a distorted interpretation of Islamic texts, as it suits their worldview about a race/religious war between Islam and the West. These conspiracy theories falsely argue that the majority of Muslims are peaceable either because they are not that religious, because they have rejected their ‘violent teachings’, or because they are running a wholesale deception. See Jacob Davey and Julie Ebner, ‘The Great Replacement: The Violent Consequences of Mainstreamed Extremism’, Institute of Strategic Dialogue, 2019; Donald Holbrook, ‘The Challenge of Conspiracy Theories for Strategic Communications’ (2020) 165(1) *The RUSI Journal* 26.

¹⁸ Johannes Beller and Christoph Kröger, ‘Religiosity, religious fundamentalism, and perceived threat as predictors of Muslim support for extremist violence’ (2018) 10(4) *Psychology of Religion and Spirituality* 345; Anne Aly & Jason-Leigh Striegher, ‘Examining the Role of Religion in Radicalization to Violent Islamist Extremism’ (2012) 35 *Studies in Conflict & Terrorism* 12; Anthony Cordesman, ‘Islam and the Patterns in Terrorism and Violent Extremism’ (Center for Strategic & International Studies, 17 October 2017).

¹⁹ Maynard and Benesch, above n 5.

as a policy standard and analytical tool by international law and security bodies, tech companies and nation states.²⁰

B. Experiences of Anti-Muslim Hatred

What types of discrimination, hostility and violence against Muslims, including negative profiling, derogatory stereotyping and stigmatization are unique to the (regional) context?

18. The chief investigator of the Islamophobia in Australia Report, Dr Derya Iner, indicated

‘Ordinary citizens occupied in their daily routines received death threats for no reason but being Muslim. Of the reported 202 offline cases 11% included death threats. This opens a wider debate about what being Muslim means to the abusers, how the backdrop of being Muslim is publicly crafted and takes form in the perpetrators’ psyche’²¹.

19. Key findings of this report include:

The *Islamophobia in Australia* report cites 349 incidents reported in 24 months (2016-17). This and previous reports indicate only the ‘tip of an iceberg’, as under-reporting of hate crimes and related incidents is an ongoing problem worldwide.

The report shows predominantly Muslim women and girls are being targeted with verbal abuse, profanities, physical intimidation and death threats in public places, most often while shopping, and most often by Anglo-Celtic male perpetrators. Insults targeting Muslims’ religious appearance and religion was the highest in both reports online and offline, with almost all women respondents (96 per cent) targeted while wearing hijab.

The most noteworthy difference between the first and second reports was the 30 per cent increase in harassment in places guarded by security officers and surveillance (60 per cent of incidents).

Perpetrators were not deterred by the public visibility of their attacks, or the vulnerability of their targets, with 57 per cent of female victims being unaccompanied at the time.

In at least 49 per cent of the 202 offline incidents, it was specifically mentioned that people were passing by but not offering help.

The report also showed the situation for Muslim children was particularly dire and underscores the need for prevention strategies in schools. The report shows that experiences of Islamophobic abuse start for children in pre-school years, when they were accompanied by their identifiably Muslim parents. This continues in school years through multiple

²⁰ I have argued this here: Rita Jabri-Markwell, ‘The online dehumanisation of Muslims made the Christchurch massacre possible’, *ABC Religion and Ethics*, 31 August 2020.

²¹ Iner, Derya (ed), ‘Islamophobia in Australia Report II 2017-2018’ (Sydney: Charles Sturt University and ISRA, 2019), 9.

perpetrators in the school environment, such as school peers, teachers, school administration, other students' parents or other adults targeting Muslim students on the way to school.²²

20. Discrimination in the workplace and schools can have debilitating and corrosive effects on mental and physical health.
21. Available hate crime data in Australia is rare, however what has been published has shown 70 percent of religiously motivated hate crimes targeting Muslim people.²³
22. Most of what we know about physical assaults and threats is from the Islamophobia Register Australia. These stories also reflect a historical experience of institutional betrayal by law enforcement.
 - a. A Sydney female student in Grade 9 was quite brutally, physically assaulted and verbally abused in front of her class, including having her hijab removed. The psychological trauma from her hate crime was exacerbated by the failure of the NSW police to record to hate elements of the crime and inaction by the school.
 - b. Another NSW family was attacked by a chef of a café who told them to leave because he didn't want Muslim patrons, and threw punches at the father. The chef was taken away by police, but there were no charges laid.
 - c. A Queensland family was on the train returning from a museum trip when a stranger began threatening to throw their small children off the train. When the father attempted to report to police, he was turned away.
 - d. Some cases have been investigated by police – such as the highly publicised physical assault of a 38 week pregnant woman in hijab as she sat in a café with friends in 2019. Her attacker was found to have mental health issues, which meant the hate crime element of the crime could not be recognised in the length of the sentence. There are no specific hate crime laws that he could have been sentenced under in NSW.
 - e. Reporting of hate crime remains very low due to the degree of humiliation and low awareness and confidence in the justice system.
23. Dr Iner is currently collecting data on Islamophobia experienced by Australian mosques. We are aware of anti-Muslim vandalism, firebombs and firebomb threats on multiple masjids over the past few years, as well as one car being set alight, vandalism and the placement of a bloody pig's head in a swastika bag at the entrance of an Islamic school.²⁴
24. Online dehumanisation, disgust, and wanting to harm is also reflected in offline verbal abuse and threats, demonstrating the manner in which social media platforms are directly contributing to real world violence in Australia,²⁵ and overseas.²⁶ We have specifically observed coordinated activity of anti-Muslim hate actors, with a majority of admins located in the US, followed substantially by Australia, Canada, India, UK, Israel and some European countries. The internationalisation of the far right movement as a collective western and white identity that is 'under threat' from Islam and Muslims has meant that the harms Muslims are facing are inherently transnational and require a transnational response.

²² News release from Charles Sturt University, <https://news.csu.edu.au/latest-news/islamophobia-continues-in-australia-2019-report>

²³ Gail Mason, 'A Picture of Bias Crime in New South Wales' (2019) 11 (1) *Cosmopolitan Civil Societies: an Interdisciplinary Journal* 47.

²⁴ Iner, above n 21.

²⁵ Iner, above n 21, 9.

²⁶ Muslim Advocates and the Global Project Against Hate and Extremism (GPAHE), *Complicit: The human cost for Facebook's disregard for human life*, 21 October 2020.

25. Discrimination by law enforcement and negative profiling of Muslims, particularly under counter terrorism laws has been raised as a serious concern over the past two decades²⁷, with an unknown number of Australian Muslims being subjected to extensive surveillance, detainment and coercive questioning powers. These powers were conferred by a record 85 pieces of counter terrorism legislation passed since 2001.²⁸
26. The mental health, belonging and wellbeing impacts of these laws as well as broader anti-Muslim rhetoric in the public sphere is considerable, particularly amongst converts and Muslim youth.
27. In the past five years in particular, we've seen an emergence of anti-Islam fringe political parties with platforms calling to ban mosques, ban any Islamic developments, ban Muslims from entering Parliament, banning the burqa, a national profiling program for all Muslim children aged 10-14, banning Khutbahs in Arabic, banning prayers in public, and banning halal certification. Although these policies affect all Muslims, a key NSW news service referred to one such party as an 'anti-Islamist' party in the lead up to an election.
28. In 2016, politician Pauline Hanson and her party experienced a resurgence to Australian politics, this time focused on Muslims as the targeted 'out-group', in line with right wing populist movements in Europe. Later, she also brought Fraser Anning to the Australian Parliament, who unashamedly socialised white replacement extremist theories, arguing all Muslims, "including so-called moderates" were attempting to conquer western countries through immigration and high fertility rates. Like Hanson, he relied on the extreme right assertion that Islam was a political ideology, but was even more explicit in arguing that Islam demands extreme violence and murder of non-Muslims from its adherents. After the Christchurch terror attack by an Australian white supremacist, he argued 'the real cause of the bloodshed' was the immigration program in New Zealand that allowed 'Muslim fanatics'. Anning was censured by a motion of the Australian parliament at the time, but Hanson and her colleagues abstained from voting. In 2019 election, Anning made a video outside a Brisbane mosque calling 'Islamification' a 'huge threat' to Australia. That very same mosque endured a vandalism incident within months of this video. 'Remove kebab' a term calling for the expulsion and murder of Muslims, along with St Tarrant, was graffitied across its front wall.
29. Systemic discrimination is also perceived within social media companies like Facebook and Twitter. In August 2020, we reported highly concerning examples of hate actors operating on their platforms. No observable action has been taken yet on those pages, groups or accounts. Facebook has recently moved to recognise harmful stereotypes (rather than only direct attacks) and we have requested to be consulted on the extension of that policy to harmful stereotypes targeting the Muslim community. Previous reported pages to Facebook were taken down by Facebook in March 2020 when we and Birchgrove Legal expended significant resources in identifying extensive violations by those pages and publicised it via national media.

Is there an intersection between anti-Muslim hatred/Islamophobia, racism and xenophobia? If so, please describe the nature of such relationship in the contexts you have observed.

30. 'Global war on terror' and 'illegal boat people' discourses have had a role in fomenting hatred towards Muslims generally, and also reduced resilience to anti-Muslim hate materials from extreme right networks by dehumanising Muslims. Whether they are living in Iraq or Afghanistan, or fleeing those countries because of wars our country has embarked upon, Muslims are portrayed as a threat. Muslims are often essentialised as negative mass in these discourses. In anti-Muslim hate communities online, Muslims are routinely referred to as parasites living off welfare, that come to Australia begging for help, but have bad intentions. With the mainstreaming of extreme right narratives, the intensity of the existential threat is

²⁷ See for example, Islamic Council of Victoria (2020) *Position Statement on Islamophobia*.

²⁸ Tom Switzer, 'Between the Lines: The Legacy of September 11, 2001', ABC Radio National, 26 November 2020.

elevated through ‘threat construction’ based on demographic invasion and white replacement theory. Facebook and Twitter users in these online communities commonly argue that Muslims are ‘invading’ and are ‘breeding like rats’ to ‘replace us’.

31. Offline, in physical hate incidents, Muslims are commonly told variations of ‘go back to where you come from’ or ‘we don’t want you here’, showing the inseparability of Islamophobia and xenophobia.

In your experience, does anti-Muslim hatred/Islamophobia manifest itself differently when viewed from a gender perspective (including those of differing sexual orientation or gender identity)? If so, how?

32. Women represent the overwhelming majority of victims of anti-Muslim hate incidents in Australia – almost all of those women were wearing hijab. The presence of children, pregnancy or other vulnerability (such as being alone) appear to be no deterrent.²⁹
33. Community studies have documented social withdrawal from public life, including public facing work, recreation, transport.³⁰
34. This extends to civic and media engagement, with high figure women in hijab being subjected to relentless trolling, negative media and threats to their person and family. The harrowing experiences of Yassmin Abdel-Magied and Mariam Veiszadeh were scarring not only for these women, but also for Muslim women generally, who felt ‘warned’ about what would happen to them if they dared to be high profile.
35. Muslim women anonymously interviewed as part of the *Resilient women project* in Victoria also cited the anxiety caused by media and anticipating hostility³¹:

“Islamophobia affects us on a daily basis; from the moment we wake up and read disturbing news and comments about Muslims from certain politicians and/or people with influence, to when we step out of the house and have to face the real world out there. It’s mentally and emotionally exhausting. For Muslim activists, especially Muslim women, and especially black Muslim women and Muslim women of colour, it is a daily battle because you’re constantly on the spot and you constantly have to prove your humanity..” (2019)

"I leave the house vigilant in case of reprisals, knowing I may well be the target of someone else's angst for atrocities unrelated to me" (2015)

36. Some Muslim women have stopped wearing the hijab out of safety concerns.³²

C. Discriminatory laws and policies

Are there examples of indirect discrimination against Muslims in your region? What are the impacts of such laws on Muslim individuals and communities? What is the relationship between state law and policy and hostility and intolerance of Muslims by non-state actors?

²⁹ Iner, above n 21.

³⁰ April Kailahi, Semisi Kailahi and Tatjana Bosevska, ‘Resilient Women’s Project: Muslim Women and their experiences of Prejudice’(Melbourne: Uniting Church in Australia, 2019); Asha Bedar, Nesreen Bottriel, Shahram Akbarzadeh, ‘Supporting Muslim Families and Children in Dealing with Islamophobia’ (Melbourne: Australian Muslim Women’s Centre for Human Rights & Alfred Deakin Institute, Deakin University, 2020).

³¹ Kailahi, above n 30.

³² Iner, above n 21.

37. The tragic events of 9/11 allowed for a ‘forged field of knowledge’ around Muslims where political actors were given the leverage to manipulate society into perceiving Muslims as a threat to Western secularism and values.³³
38. In addition, Australia’s counter terrorism legislation’s definition of terrorism includes ‘religious motivations’. Religiosity in Islam is still misunderstood as a cause of extremism, with this argument levelled by conservative opinion writers and editorial headlines and even reflected in judicial discourse.

5. Is access to justice a challenge for victims of anti-Muslim hatred?

39. There appear to be ongoing access to justice issues. Earlier in this submission, a number of specific examples were cited in relation to physical assault and threats cases (p 4). There is growing awareness within some police forces about the need to improve this record.
40. New South Wales, the state with Australia’s highest Muslim population, offers no legal protection to people of faith whether against discrimination or vilification. A recent case against a TV presenter was found to constitute vilification, but deemed lawful because Muslims could not be protected under the ‘race’-based provisions.

D. Current Responses and Best Practice

Are there gaps in the current state responses to anti-Muslim hatred/Islamophobia in your region? This may include gaps in legislation, or where sufficient legislation exists but judicial and law enforcement organizations are perceived as unresponsive or ineffective.

41. The Australian Government has failed to institute necessary reforms in the wake of the Christchurch massacre, which was carried out by an Australian white supremacist. An Australian taskforce was established following the massacre which include a range of authorities, and would have presented an excellent opportunity for engagement with Australian Muslim communities and civil society. That lack of engagement meant that the scope of the recommendations was limited to the weaponization of social media by terrorists, mainly through livestreaming acts of terror. The release of New Zealand’s impending Royal Commission Report into the Christchurch massacre may provide another opportunity for the Australian Government to reflect.
42. Hate crime data is not consistently collected or made publicly available.
43. Regrettably, so far online hatred (when directed at groups on the basis of a protected characteristic) has not been given any policy focus by the Australian government and very minimal focus by the e-Safety Commissioner.
44. We have tested the federal criminal law for using a carriage service to menace, harass or cause offence.³⁴ This law has been used to protect individuals who are the victims of online racist hatred when individually targeted, but not to protect communities who are the victims of an online actor who is targeting a community as a whole (for example, Muslims in general).

³³ Cheikh Husain, above n 4.

³⁴ Criminal Code 1995 (Cth) S474.17

45. The federal law for urging violence³⁵ against a racial or religious minority has never been used, and is widely regarded to be unfit for purpose. Despite this, government officials routinely point to this law as evidence that existing protections are sufficient.
46. People of faith have access to discrimination protection in every state and territory *except* New South Wales and at the federal level. The Australian Government has moved to legislate protection for religious groups from discrimination, however requests to include a civil remedy protection against vilification have been so far ignored. People of faith have no protection against vilification in almost half of Australian legal jurisdictions.

To what extent does the State gather data on experiences of anti-Muslim hatred?

47. Hate crime data is not consistently collected or made publicly available in Australia, although the Australian Hate Crime Network and the Australian Human Rights Commissioner have published reports calling for leadership in this space. This is compounded by the inadequacy of hate crime laws around the country.
48. Recent published reports from Victoria and Macquarie University on right wing extremism that include detail about mobilisation frames that are perpetuated about Muslims in far rights groups on social media, are extremely helpful. These reports have also confirmed that Muslims are among the most targeted ‘outgroups’ in this discourse.
49. The Race Discrimination Commissioner has embarked on a gathering of Muslim community stories since the Christchurch massacre.

What are some examples of good practice in addressing anti-Muslim hatred, undertaken by actors such as civil society organizations, religious communities and others?

50. As this report was prepared at very short notice, we are unable to fact-find from our partner organisations in response to this question, but below are some examples the author is aware of.
51. The Islamophobia Register Australia has been operating for more than five years to collect hate incident data and working in partnership with Charles Sturt University has published two national reports with a highly developed methodology for analysing patterns and trends in hate online and offline. These reports have garnered international attention. Due to funding constraints, it hasn’t been able to engage in promotion.
52. The Australian Muslim Women’s Centre for Human Rights recently reported on a program it has piloted to empower families to deal with Islamophobia in depth.³⁶
53. The Islamic Council of Victoria is working to develop a victim support service model for victims of Islamophobia. It also proactively defined Islamophobia and made recommendations in a position paper released this year.³⁷
54. Muslim community organisations, civil and religious, are actively engaged in a myriad of interfaith and cross-cultural initiatives to educate and connect with non-Muslims in order to counter negative narratives regarding Islam and Muslims (Cheikh Husain 2020). Sara Cheikh Husain’s PhD thesis exclusively examines the Victorian Muslim civil and religious community organisations are doing in response to Islamophobia. Her under-publication article shows that Victorian Muslim community Organisations uphold the three interlinked strategies of: building the capacity and resiliency of the Muslim communities, building

³⁵ Criminal Code 1995 (Cth) s80.2A

³⁶ Australian Muslim Women’s Centre for Human Rights, above n 30.

³⁷ ICV, above n 27.

bridges with the wider community and, to a lesser degree, conducting social, media and political advocacy on behalf of the Muslim Communities.³⁸

55. Researcher Susan Carland recently won an Australian Research Council grant to identify and document the initiatives being used by Muslim women to counter Islamophobia and build social cohesion in the community. It also examines how these initiatives are received by the community. The project expects to generate new knowledge on the role of gender in creating social cohesion and countering Islamophobia through interviews with Muslim women who lead such initiatives. Expected outcomes of this research include improved theoretically-informed approaches for addressing Islamophobia.
56. Stories that highlight the diversity of the Australian Muslim community would be impactful.
57. Victoria University has recently released some case study insights for action that can be undertaken at the local government level to foster more honest community dialogue, including on contentious issues, and thereby reduce vulnerabilities to far right ideologies.³⁹
58. Global Muslim Women is a recent initiative to facilitate authentic conversations between Muslim women living in different countries via virtual speaker panels.⁴⁰

Good practice through consensus and coalition building on hate crime

59. Although not specifically dealing with anti-Muslim hatred but all forms of hate crime, the Australian Hate Crime Network (AHCN) was initiated by Professor Gail Mason at Sydney University and now includes representatives from a range of affected communities, legal specialists, and researchers working in the field. Together we have been able to amass good practice examples of hate crime justice and bring that together with community direction for our submissions to parliament and government. It's also enabled community practitioners to gain insight into the experience of various communities and share practice.⁴¹
60. The Queensland Human Rights Commissioner also facilitated diverse religious and ethnic based organisations to come together in the wake of COVID to discuss racism and the state's existing vilification laws. From here the Cohesive Communities Coalition created an Options Paper, using legal expertise from various organisations including ours, and the Qld Human Rights Commissioner. It also drew from good practice ideas from the AHCN such as legislated community scrutiny panels (UK), substantive hate crime laws that recognise the hate element (Western Australia), civil hate crime injunctions to prevent perpetrators from harassing a victim or victim community for number of years (US), among other measures.⁴² Then we launched a campaign at election time. The returning government has committed to refer the Options Paper to a Parliamentary Inquiry.

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³⁸ Above n 4.

³⁹ Mario Peucker, Ramón Spaaij, Debra Smith, and Scott Patton, 'Dissenting citizenship? Understanding vulnerabilities to right-wing extremism on the local level: A multilevel analysis of far-right manifestations, risk and protective factors in three local municipalities in Victoria' (Melbourne: Victoria University, August 2020).

⁴⁰ <https://www.globalmuslimwomen.com>

⁴¹ <https://www.sydney.edu.au/law/our-research/research-centres-and-institutes/australian-hate-crime-network.html>

⁴² <https://betterlawsforsafeqld.com.au/our-call-for-change/>