



Australian Islamic Mission Inc.

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Freedom of Religion and Belief in the 21st Century Submission
Race Discrimination Unit: Education and Partnerships Section
Human Rights and Equal Opportunity Commission
GPO Box 5218
Sydney NSW 2001
Email: frb@humanrights.gov.au

Dear Sir/Madam

RE: FREEDOM OF RELIGION AND BELIEF IN THE 21ST CENTURY

Thank you for the opportunity to make our submission to the Inquiry. Please find our submission below.

We would like to take this opportunity to commend the Australian Human Rights Commission for establishing this very important inquiry. We fully support the project's aim of finding solutions to building a more socially cohesive and harmonious society that protects and promotes the universal human rights of all Australia's citizens.

For all correspondence please contact the AIM Secretary, Mr Siddiq Buckley.

Yours sincerely

Dr Zachariah Matthews
President

Freedom of Religion and Belief in the 21st Century

SUBMISSION

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Mark here if this is a group submission:

Organisation Name: Australian Islamic Mission Inc
Organisation Address: 25-33 Matthews Street
Suburb or Town: Punchbowl NSW
Postcode: 2196
www.aim.org.au

If this is a group submission, briefly describe the objectives and activities or affiliation of your organisation.

The Australian Islamic Mission (AIM) is a religious, charitable, social, cultural, and educational, non-profit organisation. It currently has two chapters in Sydney and Melbourne with members in other parts of Australia.

Objectives:

- To present the message of Islam to Australians,
- To promote understanding between all faiths,
- To encourage the participation of Muslims in building a virtuous and moral society,
- To offer viable alternatives to our society's prevailing problems,
- To promote family values in accordance with Islamic teachings,
- To promote the human values that Islam emphasises: brotherhood, equality, justice, mercy, compassion, and peace, and
- To foster unity among Muslims and encourage cooperation and coordination amongst them and the wider Australian society.

Activities:

- Regular religious services (congregational prayer meetings, Friday sermons, etc).
- Educational programs (study circles, weekend language schools, etc).
- Social and recreational activities (camps, trips, etc).
- Outreach and Interfaith programs (Open Day, etc).

Approximately how many members are in your organisation?

100

Is your organisation affiliated with or associated with any religious or interfaith or civil or community organisations?

No.

Is your organisation an interfaith organisation?

No.

Have you participated in any interfaith service or activity during 2007/2008? If so, give details.

Yes.

- AIM HECTIC `08, 5 July 2008: About 25 young Australian men, from various backgrounds participated in AIM's inaugural workshop entitled "Australian Culture, Common Values" <http://www.aim.org.au/articles.asp?article=151>

Is there an interfaith body in your area, either locally or regionally? Please give the name and location.

Yes.

Affinity Intercultural Foundation, Auburn, NSW

Did you participate in any of the group consultations held in all states and territories for this report?

Yes.

Muslim Women's National Network of Australia (MWNNA) forum on Saturday 13 December 2008, Auburn Town Hall.

Evaluation of 1998 HREOC Report on Article 18: Freedom of Religion and Belief

1. Areas of concern regarding the freedom to practise and express Islamic faith and beliefs within our broader multi-faith community.

Muslims continue to face discrimination in regard to the establishment of mosques and schools. Although this does not necessarily stem from the strictures, regulations and requirements of Local Government, Councillors from those Local Government Areas (LGAs) are sensitive to pressure from vocal and influential lobby groups within their constituencies that express opposition to such projects within the community.

The rejection of the Quranic Society's Development Application to establish a Muslim school in Camden last year is one of the latest examples of such discrimination, despite Camden Mayor Chris Patterson's statement that a strict process was followed when assessing the development application for the school. "There is no way this school should be allowed to go ahead, it will bring tension to the area that is not needed", stated one local opposing the application, reinforcing the erroneous belief that Muslim institutions and/or Muslims themselves destabilize local communities and are therefore unwelcome.

Demonstrating unashamed double standards, the president of the Camden/Macarthur Residents' Group, Emil Sremchevich, welcomed a Catholic organisation's plans to build a school nearby. He claimed the plan "ticked all the right boxes", even though he confessed he had not even seen its development application.

"Catholics are part of our community so we should be supporting it on this basis alone. We have to welcome them," Mr Sremchevich told the *Sydney Morning Herald* (September 9, 2008). "To become part of a community, you need to live in the community. You can't just turn up." Obviously Muslims are not considered part of the broader Australian community.

The reaction has prompted Sydney's Catholic Archbishop, Cardinal George Pell, to call for tolerance. "Everybody in Australia has a right to a fair go. So do the Muslims," he said. Muslims appreciate such sentiments.

2. New issues relating to Islam and Muslims that have emerged since the 1998 HREOC Report on Article 18: Freedom of Religion and Belief.

There is a raft of issues that relate to the ongoing demonisation of Islam and Muslims here in Australia.

The Australian government's involvement in the 'Coalition of the Willing's' invasion of Iraq and to a lesser extent their continuing military presence in Afghanistan have impacted detrimentally on Australian Muslims through a

hardening of politically or racially-motivated attitudes. The massive deceptions that were invented and perpetrated in order to invade Iraq - the presence of WMD, chemical warfare capability, intercontinental ballistic missiles that could hit London within 45 minutes, the urgent need for democratic regime change, etc – have left a bad taste in the mouth of not only every Muslim Australian but also every Australian committed to our values of 'fair go', integrity and true democracy.

The Cronulla riot on December 11, 2005 and its aftermath impacted explosively on 'people of Middle Eastern appearance' (read: Muslims, towards whom much of the racist slogans and vitriol were directed) and on many other innocent and unfortunate 'non-white' Australians. We consider that the racist comments (particularly towards Asians and Muslims) made in the late 1990s by Pauline Hanson, the right-wing former One Nation leader, has contributed significantly to the rise in anti-multicultural and anti-immigration sentiment.

Subsequently, Queensland Senate candidate Pauline Hanson urged Federal Parliament to hold a moratorium on the number of Muslims entering Australia. "I want a moratorium put on the number of Muslims coming into Australia," Ms Hanson has stated. "People have a right to be very concerned about this because of the terrorist attacks that have happened throughout the world. I'm sick of these people coming out here and saying that our girls are like the meat market and the Bible that is urinated on ... am I supposed to be tolerant?" (SMH, August 16, 2007)

The SIEV4/'Children Overboard' fiasco reinforced the line that Muslims are inhuman and thoroughly un-Australian. Prof. Patrick Weller, in his book, *Don't Tell the Prime Minister* (2002), writes that Mr Howard bluntly stated, "I don't want in this country people who are prepared, *if those reports are true* (our italics), to throw their children overboard. And that kind of emotional blackmail is very distressing...but we cannot allow ourselves to be intimidated by this." Those reports were subsequently found to be absolutely untrue, but the government never apologised for this nor sought to undo its shocking and indefensible vilification of those miserable refugees and by inference, their Australian co-religionists.

This dehumanising helps explain how the shocking and inhumane treatment of refugees and Muslims has been created and allowed to continue in the form of detention centres in remote desert locations and those offshore – the so-called 'Pacific Solution'.

The Dr Mohamed Haneef affair has further exposed the inadequacy of the implementation of government policy in the just treatment of Muslims. DIAC (Department of Immigration and Citizenship) has told the Clarke inquiry it was confident the department had done nothing wrong in arresting him as a terrorism suspect and controversially deciding to cancel the Indian doctor's visa in 2007.

"In advising and supporting the former minister, Kevin Andrews, in exercising his powers under the Act and otherwise undertaking their duties, DIAC is

confident that its officers at all stages acted properly and in accordance with the requirements of the relevant legislation," the department wrote.

The Federal Court subsequently overturned Mr Andrews' decision to cancel Dr Haneef's visa on the basis that the former minister had incorrectly applied the character test. The Clarke report criticised senior bureaucrats and police for failing to pass on information pointing to the innocence of Dr Haneef, who was held in custody for nearly a month, and for viewing the most benign evidence as suspicious.

The report made 10 recommendations, accompanied by a suite of changes announced by Attorney-General Robert McClelland, including a new statutory authority to review terror laws, parliamentary oversight of the AFP and extending the remit of the Inspector General of Intelligence and Security to probe the AFP's conduct.

The report says Mr Ruddock, the then Attorney-General, failed to question the fundamental differences between the AFP's and ASIO's assessments of Dr Haneef, even though he had responsibility for both agencies - a shortcoming that "might be viewed as troubling". And it concludes the effort to oversee the affair by the Prime Minister's Department was "affected by misconceptions and miscommunication".

Mr McClelland said the arrest and detention of Dr Haneef for longer than allowed was "totally unacceptable" and followed failings that included "errors of judgment ... inadequate procedures ... inadequate testing and contesting of competing advice ... lack of attention identifying the role of different agencies ... and lack of appropriate training and direction from the leadership of several agencies". (*SMH*, December 24, 2008)

3. Is there adequate protection against discrimination based on religion or belief, and protection of ability to discriminate in particular contexts?

From our point of view, there is not adequate protection against discrimination towards Muslims. Since September 11, 2001, the Government has introduced many pieces of anti-terrorism legislation. Reactive laws or laws that respond to current crises may be necessary in certain circumstances, but they need to be balanced and proportionate to the crime/s they are supposed to prevent. Law-makers need be mindful of their human rights obligations and the significance of hard-won civil liberties of their society.

The proposed counter-terrorism laws are designed, in theory, to thwart terrorism, but in effect they may simply further discriminate against Muslims, perpetuate stereotypes and fuel ill-feeling towards an innocent community. The Government needs to assure the Muslim public that its rights are safeguarded and its concerns are fairly heard.

Muslim organisations, along with civil libertarians, fear that the laws may strip Australians of democratic freedoms and turn Australia into a police state.

Even the Australian Federal Police Commissioner, Mick Keelty, has said that a sunset clause in the legislation, ensuring it had to be reviewed and re-enacted, would be appropriate.

During his term of office, Mr Howard regularly assured us that Muslim Australians who do the right thing have nothing to fear, but several of his Parliamentary colleagues were promoting something completely different.

Dr Brendon Nelson, former Federal Education minister, proposed a 'new' set of values for Australia: honesty, respect, responsibility, integrity, a fair go, understanding, freedom, doing one's best, and care and compassion. However, Dr Nelson also stated that those who won't accept his Australian values should "clear off". Muslims felt this comment was aimed directly at them, as if we are not inclined to accept such values and are not prepared to integrate into a society that promotes such values. Muslims fully embrace such values.

Adding fuel to the fire were the inflammatory comments of Liberal MPs Sophie Panopoulos and Bronwyn Bishop on the hijab 'issue'.

Ms Bishop said that the hijab defies the equality between men and women that is basic to Australian values. She compared Muslim girls who insisted on wearing it to school to slaves claiming they feel free under slavery. "It is not just a headscarf, it is a challenge to our freedoms and way of life," she said. Ms Bishop said although in an ideal society you shouldn't ban anything "this has really been forced on us because what we're seeing is a clash of cultures".

To suggest that a young girl, a student or a woman wearing a hijab is some sort of terrorist is ridiculous and dangerous. It certainly does not foster a feeling of safety and security for Muslim women and girls when venturing abroad in public areas.

Ms Panopoulos stated there is no comparison between headscarves worn by Muslims and habits worn by nuns. "None of these other articles (like nuns' habits) represent the uncompromising retrograde curtailment of a woman's rights as does the hijab," she said.

Perhaps she could have been excused for such outrageous and vilifying views on the grounds that she didn't actually meet with and communicate with many Muslim women.

In December 2006, the Parliamentary Joint Committee on Intelligence and Security (PJCIS) unanimously recommended the appointment of an Independent Reviewer of terrorism law in Australia. The recently released Clarke Inquiry also recommends that consideration be given to the appointment of an independent reviewer of Commonwealth counter-terrorism laws. We are very pleased to note that the Government has agreed to this and the other nine report recommendations.

According to Dr William Jonas AM, the acting Race Discrimination Commissioner of the Human Rights and Equal Opportunity Commission, the PJCIS also found that 'one of the damaging consequences of the terrorist bombing attacks in the US, the UK, Europe and Indonesia has been a rise in prejudicial feelings towards Arab and Muslim Australia'. It also expressed concern about 'reports of increased alienation attributed to new anti-terrorist measures, which are seen as targeting Muslims and contributing to a climate of suspicion'. An Independent Reviewer could help restore public confidence in counter-terrorism laws and provide guidance to Parliament on how to ensure that counter-terrorism laws do not adversely impact on human rights.

4. How are federal and state and territory governments managing incitement to religious hatred, and the question of control and responsibility?

Political vilification of Arabs and Muslims plays a major part in the continuation of discrimination. Vilification occurs at all levels of Government in Australia. There appears to have been a distinct hardening of uncharitable attitudes towards Muslims, particularly by politicians, the leaders of our nation. Rather than manage or mitigate incitement to religious hatred, they have actively encouraged it in a 'top-down' fashion, much like dictatorial, fascist regimes in the 20th century.

Under the former Howard Liberal government there were many instances of vilification of Muslims. The 'Children Overboard' affair formed a dramatic (and completely untrue) backdrop to the 2001 federal election. Australians expect, cynically perhaps, that politicians will sometimes lie or fulfill only 'core promises', but we do not accept dereliction of accountability when it comes to correcting blatant untruths. Mr Howard's own much-touted ministerial code of conduct clearly stipulated that misleading statements be corrected when the truth is discovered. Regrettably, this did not happen and this sorry episode is a reminder that no system is perfect when its members chose to act in unethical and immoral ways simply to bolster their own political standing. Much has also been written by political analysts about the appropriation of the One Nation vote by Mr Howard and the Liberal Party.

Dire warnings about the 'threat' of Muslims have been propagated for years by politicians such as NSW Upper House MP, Fred Nile, who has voiced his opposition to Islam and Muslims in Parliament on many occasions. In relation to the proposed Camden Islamic school he said, "there will be ongoing tension and division in the community that will not help the Muslim religion but rather will generate a negative response to the Muslim religion from residents in the Camden area and other areas," and further, that "there have been allegations of an association between the Quranic Society and radical Islamic groups. I urge the Land and Environment Court to reject this application in the interest of maintaining harmony in the Camden rural area".

Who could forget the distribution of a fake pamphlet by members of the Liberal Party during the final week of the 2007 federal election campaign in

the electorate of Lindsay? In a crude and vulgar dying shot at the Labor Party it implied Labor supported Muslim terrorists. The pamphlet claimed to be from the non-existent "Islamic Australia Federation" which praised "Labor's support to forgive our Muslim brothers who have been unjustly sentenced to death for the Bali bombings".

Gary Clark - the husband of the retiring Liberal MP in Lindsay Jackie Kelly; Greg Chijoff - the husband of the Liberal candidate in Lindsay Karen Chijoff; and a member of the state Liberal executive - Jeff Egan - were stood down.

The Australian Electoral Commission investigated the distribution of the pamphlets, and forwarded the Labor Party's complaint to the Federal Police. Police charged five men over the distribution of the pamphlet. The Liberal party quickly expelled two members in connection with the matter.

Mr Howard had been asked politely by our own organization to refrain from using the term 'Islamic terrorism' in his public pronouncements about the abominable actions of some misguided Muslim individuals. Such an oxymoron firmly associates the idea of grossly unacceptable violent behavior with a religion which is based on the concept of peace. Tarnishing Islam and Muslims became a major plank in his (thankfully unsuccessful) re-election campaign. Similar sentiments were uttered by former ONA Senior Strategic Analyst, Andrew Wilkie in his book, *Axis of Deceit* (2004), claiming the Howard government ostracised Australian Muslims and instead of ameliorating the situation, betrayed the community by "driving wedges into the social fault-lines likely to return a political advantage."

5. How well have the recommendations of *Article 18: Freedom of Religion and Belief* been implemented by the various state and federal governments?

It would appear obvious from the above that we do not believe the recommendations have been properly implemented in relation to a significant sector of the Australian society - the Muslim community - if at all. Laws, regulations and recommendations are only effective when carried out with determination and the genuine resolve to improve the political climate in which we live. Australia's Muslims believe there is still a long way to go before reaching even the 'given a fair go' status.

The absence of consistent legal protection from religious discrimination and vilification across the country is of concern. The lack of protection under NSW anti-discrimination law is of particular concern to Muslims in NSW, where the majority of Australian Muslims live.

Current legal protections against discrimination on the ground of religion or belief, at federal, state and territory level, lack consistency and uniformity with the result that whether someone can seek redress under anti-discrimination laws for religious discrimination or vilification depends on where the conduct complained of occurred in Australia. A person who believes they have been

discriminated against solely because of their religion has no legally enforceable rights if the alleged discrimination happened in NSW or South Australia. A person who believes they have been vilified because of their religion has no legally enforceable rights if the alleged vilification happened in the ACT, NSW, South Australia, Western Australia or the Northern Territory.

We endorse the recommendations of the *National Consultations on Alienating Prejudice against Arab and Muslim Australians (Isma' – Listen Project, HREOC, 2004)* and request they be legislated, adopted and implemented, if not already done so:

That a federal law be introduced making unlawful:

- **discrimination on the ground of religion or belief:** Appropriate exemptions, such as those set out in the Article 18 report relating to the inherent requirements of the job and employment by religious institutions, should be considered and
- **vilification on the ground of religion or belief:** It is acknowledged that the proposed legislation must make allowances for fair speech and fair reporting to ensure a balance between the competing rights of freedom of expression and the right to be free from vilification on the basis of religion or belief. Appropriate exemptions, such as those set out in the Article 18 report, should be considered.

That the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) consider referring these issues to the relevant taskforce for advice on best practice in implementing anti-racist education policies in schools with a view to ensuring schooling is free from discrimination based on culture, ethnicity, religion or race, and for an action plan to implement that best practice.

That MCEETYA consider referring the issue of diversity training of teachers to the relevant taskforce for advice on an action plan for implementation, as part of its commitment to enhancing teacher quality.

That the relevant industry groups, the Australian Broadcasting Authority and the Australian Press Council consider undertaking information campaigns in relevant community languages and in a variety of formats to inform Arab and Muslim organisations and community members about their standards and complaint processes.

That government agencies responsible for promoting multiculturalism consider facilitating consultation between media organisations and ethnic and religious community organisations, including Arab and Muslim groups, to improve mutual understanding.

That in any development of national standards concerning the use of descriptors by police, consideration be given to a review of the use of the ethnic descriptor 'Middle Eastern' which takes into account perspectives of affected communities.

That the Australasian Police Minister's Council (APMAB), together with all state and territory police services, consider reviewing current systems for recording incidents motivated by racial or religious prejudice with a view to ensuring greater consistency in the collection of data across Australia.

That officers of all police services have the necessary information to enable appropriate referral of victims of racial or religious discrimination or vilification to appropriate community or anti-discrimination agencies in the event their complaints do not meet the threshold for investigation under criminal law.

That Muslim and Arab community leaders continue to promote harmony within their communities, build closer links to other religious and ethnic communities in Australia to foster mutual respect and tackle racism and work in partnership with government agencies and other non-government organisations to educate members of their communities about laws and complaint processes which provide access to services and protect against racial or religious discrimination.

That political and community leaders at a federal, state and territory and local level, encourage Australians to uphold the principles of multi-culturalism including respect for the right of all Australians to express their own culture and beliefs and responsibility to support the basic structures and principles of Australian society that guarantee freedom and equality for all.

End