

# Human rights and

# *Faith-based communities*



Australian  
Human Rights  
Commission

everyone, everywhere, everyday

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This information sheet talks about some of the human rights issues faced by members of different faith-based communities in Australia. It also highlights how a federal Human Rights Act could help deal with these issues.

## Which human rights are we talking about?

Human rights are about everyone, and they are important for people of all faiths in Australia. We all have the right to enjoy all human rights without discrimination of any kind, including on the basis of our religion or beliefs.

Human rights and freedoms particularly relevant to members of faith-based communities in Australia include the right to:

- freedom of thought, conscience and religion – including the freedom to have or adopt a religion of your choice, and to manifest your religion or belief in worship, observance, practice and teaching
- freedom of expression
- be safe and free from physical violence or verbal or written vilification based upon religion or belief
- be free from discrimination and racism (while traditionally racism has been understood as discrimination based on physical appearance, it can also take the form of ethno-religious racism).

Human rights belong to us all. To make sure we can enjoy them, we all have a responsibility not to violate the rights of others. For example, freedom of expression is not an absolute right. It carries with it special duties and responsibilities to make sure that what one person says does not violate the rights of someone else. Most importantly, freedom of expression cannot justify incitement to religious hatred or violence.

## What are some of the human rights problems faced by people who belong to a faith-based community?

‘I’m a qualified dental technician and it was really hard for me to get employment with my scarf. I applied for a position at a dental laboratory and the boss, well we talked on the phone and everything was ok. When he saw me for the first time he was shocked. But I had all the qualifications and experience, and I got employment for two weeks. Then he told me I was a really good and hard worker but that I could not continue being employed there unless I take off that scarf ...I asked him “Are there any other reasons why you wouldn’t give me this job?” He said “No. You’re a really nice person and a hard worker but I don’t want to bring religion into my laboratory”.’

Human Rights and Equal Opportunity Commission, *Ismaξ – Listen*, National Consultations on Eliminating Prejudice against Arab and Muslim Australians (2005) Chapter 2.

Some people belonging to faith-based communities in Australia face discrimination or vilification because of their religion or beliefs. For example, the Jewish community have reported increasing anti-Semitism, especially via race hate websites (cyber racism). And, since September 11, many members of Islamic

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communities in Australia increasingly feel harassed or vilified because of their religion. The discrimination felt by Muslim communities includes:

- discrimination within the workplace
- vilification of Muslim people in public places
- media reports that stereotype people or groups based on their religion.

Other groups, such as Sikhs, have said that sometimes they are confused with Muslims and have experienced similar racism and discrimination.

'I was picking up my children from the local Islamic school at Broadmeadows and on the way home a lady tried to run me off the road. She followed me home and then when I was in my driveway, I was getting the kids out of the car and the lady threw a can at my daughter who is 12 years old. She then came up the driveway and physically assaulted my daughter and grabbed her very hard and continued to shout at her. She kept yelling abuses and swear words at us. My daughter was badly hurt. The woman yelled things like "We'll fix you, you nappy heads" and "Get the f... out of our country you f...ing terrorists". The whole time the neighbour was watching. She called my daughter a "slut" many times also. Now I don't leave the house ... I am afraid that she will come back because she threatened us and knows where we live.'

Human Rights and Equal Opportunity Commission, *Ismae – Listen*, National Consultations on Eliminating Prejudice against Arab and Muslim Australians (2005) p 48.

## What are the limitations of existing human rights protections for people from faith-based communities?

There are limited human rights protections for people from faith-based communities at the moment.

There is limited protection of freedom of religion in Australia's Constitution - but it only applies to the federal government and not to the states.

There are no federal laws prohibiting religious discrimination or vilification. Apart from discrimination on the grounds of 'ethnic origin' (for example, discrimination against Jewish people), federal law does not make religious discrimination unlawful. Laws about religious vilification and discrimination are inconsistent across Australia's states and territories.

If you feel like you have been discriminated against because of your religion, then you can only make a complaint to the Australian Human Rights Commission if:

- the discrimination is by the federal government, a federal government authority or someone acting on their behalf
- the problem happened in an employment context.

Even if the Commission finds that you have been discriminated against on the basis of religion there are limited options to resolve the situation. The Commission can only

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*recommend* a remedy. These recommendations are not enforceable, and you cannot apply to have your complaint heard in court.

For issues relating to media or advertising, you can make a complaint to the Australian Press Council, the Australian Broadcasting Authority or the Australian Advertising Standards Council.

## How could we improve human rights protections for members of faith-based communities?

The Australian Human Rights Commission supports a Human Rights Act for Australia.

A Human Rights Act could help prevent the human rights problems faced by some faith-based communities and provide remedies for those human rights breaches that were not prevented.

A Human Rights Act could make a difference in protecting and promoting the rights of members of faith-based communities by requiring our government to carefully consider how decisions impact on human rights.

If Australia had a Human Rights Act, it could:

- make **the federal Parliament consider how laws impact on human rights** – for example, the Parliament would need to consider whether any new laws unreasonably restricted religious freedom
- make the **federal government respect human rights when developing policy** – for example, by supporting programs promoting cultural and religious diversity
- make **public servants respect human rights when making decisions and delivering services** – for example, staff in government agencies (such as Centrelink) would need to respect religious practices, holidays and events when scheduling appointments or enforcing compliance with procedures and regulations
- provide a range of **enforceable remedies** if a government department breached human rights.

Over the longer term, a Human Rights Act would be a powerful tool for fostering a stronger human rights culture in Australia by promoting greater understanding and respect among all people in Australia.

In addition to a Human Rights Act, there is a range of other ways in which the human rights of members of faith-based communities could be better promoted and protected in Australia. For example:

- enhanced protection of human rights in the Australian Constitution
- federal legislation making it unlawful to discriminate against a person on the basis of their religion (with reasonable exemptions, for example, to allow faith-based organisations to specify that certain employment roles can only be undertaken by a person of a specific faith)
- a National Human Rights Action plan, including activities focused on protecting freedom of religion and belief
- a national public education program about human rights, aimed at reducing discrimination and vilification on the basis of religion or belief

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- extreme incitements to hatred or violence on the basis of a person or group's religion could include criminal penalties.

These and other measures could make a positive difference to human rights protection for members of different faith-based communities.

## **Where can I find more information about the human rights of members of faith-based communities in Australia?**

Australian Human Rights Commission:  
[www.humanrights.gov.au/human\\_rights/religion](http://www.humanrights.gov.au/human_rights/religion)