



Refugee Council
of Australia

JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

SUBMISSION ON THE STATUS OF THE HUMAN RIGHT TO FREEDOM OF RELIGION OR BELIEF

The Refugee Council of Australia (RCOA) is the national peak body for refugees, people seeking asylum and the organisations and individuals who work with them, representing over 190 organisations. RCOA promotes the adoption of humane, lawful and constructive policies by governments and communities in Australia and internationally towards refugees, people seeking asylum and humanitarian entrants. RCOA consults regularly with its members, community leaders and people from refugee backgrounds and this submission is informed by their views.

RCOA welcomes the opportunity to provide feedback on the status of the human right to freedom of religion or belief in Australia and around the world. Our focus is on the status of that right in relation to refugee communities and people seeking asylum, both overseas and in Australia. We highlight the importance of that right for refugee communities, and examine in particular two cases of the persecution of religious minorities: the Muslim Rohingya in our region and religious minorities in Pakistan based on the country's blasphemy law.

Our submission also discusses the experience of freedom of religion or belief for refugee communities within Australia, including in detention facilities and in relation to wider public and policy debates.

1. Freedom of religion or belief as a driver of displacement

1.1 The persecution of people because of their religion or belief

1.1.1 The human right to freedom of religion or belief is particularly important for refugee communities, many of whom fled their countries of origin because of religious persecution and sectarian conflicts. Christians, Shia Muslims, Sunni Muslims, Yazidis, Baha'is, and followers of other religions are being targeted in different countries and forced to flee.

1.1.2 Since January 2000, Iraq, Afghanistan, Sudan, Iran and Burma have been the five top countries of birth for refugees and humanitarian entrants resettled in Australia.¹ It is no coincidence that these countries all have some of the worst records of freedom of religion in the world.

1.1.3 Table 1 provides a more detailed overview of the status of freedom of religion or belief in the top nine countries of origin for refugees resettled in Australia.² The information in the table is based on International Religious Freedom report 2015,³ the annual report to the United States of America's Congress on the status of religious freedom in the world and on Religious Freedom in the World report (2016),⁴ a bi-annual report released by Aid to Church in Need, an international Catholic Charity.

¹ According to the settlement data generated using the Settlement Reporting Facility tool available in the Department of Social Services website. All settlement data referred to in this submission uses this data.

² The table does not include the tenth country, the former Yugoslavia, as this no longer exists.

³ United States Department of States (2016), *International Religious Freedom Report for 2015*, <https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>.

⁴ Aid to Church in Need (2016), *Religious Freedom in the World*, <http://religious-freedom-report.org/>.

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Table 1: Status of freedom of religion in top nine countries of birth of Australia's refugee population

Country	US Department International Religious Freedom Report (2015)	Aid to the Church in Need (2016)
Iraq	<p>The practice of the Baha'i faith and the Wahhabi branch of Sunni Islam is against the law.</p> <p>In Iraq, the Islamic State of Iraq and the Levant (ISIS) is pursuing a campaign of violence against members of all faiths, and in particular against non-Sunnis. In 2015, in areas under its control, ISIS continued to kill (including through mass executions), rape, abduct and enslave people from minority religious communities. While the government fought many battles to regain control of the areas lost to ISIS, it generally failed to protect its citizens from acts of violence perpetrated by this group.</p>	<p>Significant level of religious persecution; situation unchanged since 2014</p>
Afghanistan	<p>Conversion from Islam to another religion is apostasy, punishable by death. According to the Supreme Court, the Baha'i faith is distinct from Islam and is a form of blasphemy, which is also punishable by death.</p> <p>According to media reports, the Taliban, the Islamic State in Khorasan Province (ISKP), and other insurgent groups attacked and killed leaders of religious minority communities.</p>	<p>Significant level of religious persecution; situation unchanged since 2014</p>
Sudan	<p>The criminal code criminalises apostasy, blasphemy, and conversion from Islam to another religion.</p>	<p>Significant level of religious persecution; situation deteriorated since 2014</p>
Burma	<p>The Burmese Government, through various policies and practices, subjected Rohingya Muslims to physical abuse, arbitrary arrest and detention. The Rohingya minority face restrictions on religious practice and travel, and discrimination in employment, social services, and access to citizenship (as discussed below).</p>	<p>Significant level of religious persecution; situation unchanged since 2014</p>
Iran	<p>The constitution declares the country to be an Islamic Republic and states all laws must be based on 'Islamic criteria'.</p> <p>Attempts by non-Muslims to convert Muslims is punishable by death. Zoroastrians, Jews, and Christians are the only recognized religious minorities permitted to worship freely. The constitution does not address the right of Muslim citizens to change their religious beliefs. The penal code does not include provisions addressing apostasy, although apostasy is a crime punishable by death under sharia law. The Government continued to subject Baha'is to discrimination and harassment. They are unable to access higher education, are banned from government employment, cannot receive compensation for injury or crimes committed against them, and their marriages and divorces are not recognised.</p>	<p>Significant level of religious discrimination; situation unchanged since 2014</p>
Syria	<p>As the insurgency in Syria became increasingly associated with the Sunni population, the government and its Shia militia targeted towns and neighbourhoods for siege, shelling, and aerial bombardment on the basis of the religious affiliation of residents.</p> <p>Non-state actors, including ISIS and al-Nusra Front targeted Shia, Alawites, Christians, and other religious minorities, as well as other Sunnis, with killings, kidnappings, torture, and arrests in the areas of the country under their control.</p> <p>In Raqqa, ISIS enslaved thousands of Yazidi women and girls who were kidnapped in Iraq and trafficked to Syria. They were to be sold or distributed to ISIS fighters because of their religious beliefs. ISIS required Christians to convert, flee, pay a special tax, or face execution.</p>	<p>Significant level of religious persecution; situation unchanged since 2014</p>

Country	US Department International Religious Freedom Report (2015)	Aid to the Church in Need (2016)
Pakistan	The constitution establishes Islam as the state religion, and requires all provisions of the law be consistent with Islam. The government continued to enforce blasphemy laws, with punishment ranging from life in prison to death sentence (as discussed below). Ahmadiyya (Ahmadi) Muslim community leaders reported the government's continued targeting of Ahmadis for blasphemy. They also continue to be denied basic rights. Armed sectarian groups staged attacks on Christians and Shia Muslims, including the predominantly Shia Hazara community. Hundreds of individuals were killed and injured during those attacks.	Significant level of religious persecution; situation deteriorated since 2014
Thailand*	In response to attacks by Malay Muslim insurgents in southern provinces, the government used martial law provisions to conduct arrests, detentions, and warrantless searches. Human rights groups stated the arrests and detentions were arbitrary, excessive, and accused the Army of torturing Malay Muslim militants at detention facilities.	Of concern; situation unchanged since 2014
Ethiopia**	The government used Anti-Terrorism Proclamation (ATP) and other measures to restrict anti-government protests, including through the detention and prosecution of Muslims protesting against alleged continued government interference in religious affairs.	Medium; situation deteriorated since 2014

1.2 Religion and the Australian Refugee and Humanitarian Program

1.2.1 People who came to Australia as refugees or humanitarian entrants are mainly Christian or Muslim. Settlement data indicate that 51.5% of the refugees and humanitarian entrants who arrived in Australia since January 2000 are from various Christian denominations, and about 34% are Muslim. In the past two years, despite the continued persecution of Muslims indicated in the above table, these percentages are 64% and 27% respectively.

1.2.2 While the protection needs of refugees from all religious groups are compelling, including people being currently resettled to Australia, this increase raises doubts in the minds of some observers about whether there is a level of religious discrimination within Australia's Refugee and Humanitarian Program (as discussed below). The Refugee Council of Australia has consistently supported a non-discriminatory policy that prioritises the most vulnerable, a position that is supported by most Australians.⁵

1.2.3 A welcome aspect of the increased intake from the conflict in Syria and Iraq has been the protection of religious minorities. Almost 90% of the 313 Yazidis granted permanent protection in Australia since 2000 have been granted visas in the past two years. Since January 2000, Australia has granted 6,045 permanent protection visas to Sabean Mandeans, 2,895 visas to Baha'is, 1,162 visas to Ahmadis, and 58 visas to the followers of the Druze faith.

1.2.4 These figures demonstrate Australia's commitment to protect people's right to freedom of religion or belief. However, RCOA believes we can and need to increase these efforts. The extent of the atrocities perpetrated against religious communities have forced millions to leave their countries. As one of the main resettlement countries in the world, Australia can and should do more. This is

* Most of the refugee and humanitarian entrants in Australia who were born in Thailand are children of Burmese refugees born in refugee camps in Thailand.

** Most of the refugee and humanitarian entrants in Australia who were born in Ethiopia were born in refugee camps in Ethiopia to parents who fled South Sudan, Somalia, Eritrea, Sudan and Yemen, all countries with poor track records of religious freedom.

⁵ Andrew Markus, *Mapping Social Cohesion* (2016), <http://scanlonfoundation.org.au/wp-content/uploads/2016/11/2016-Mapping-Social-Cohesion-Report-FINAL-with-covers.pdf>, 44.

especially so in light of the significant proposed reduction of the US resettlement program, which is likely to disproportionately affect Muslim communities.

Recommendation 1

The Australian Government should publicly affirm its commitment to using Refugee and Humanitarian Program to resettle the most vulnerable, without discrimination on the basis of religion.

Recommendation 2

The Australian Government should increase the number of places available under the Refugee and Humanitarian Program to provide protection to more people fleeing religious persecution.

1.3 The situation of the Rohingya and Australia's response

1.3.1 RCOA also encourages the Government to pay particular attention to other persecuted religious minorities, including most urgently the Rohingya.

1.3.2 Four percent of the population of Myanmar (Burma) are Muslim and the Rohingya represent the largest percentage of the Muslim population. Most Rohingya live in Rakhine state, one of the poorest states in Myanmar with limited access to basic services.

1.3.3 As a Muslim minority, the Rohingya have suffered brutal oppression and official discrimination since the country's current rulers took power in 1962. There are longstanding conflicts between the majority Buddhist and minority Rohingya Muslim population. In 1982, Burma's Citizenship Law excluded the Rohingya from Burmese citizenship, making them stateless.

1.3.4 The Government forbids the use of the term 'Rohingya' and promotes the view that they have no right to be in Burma, despite historical evidence linking the Rohingya with the Arakan region as far back as the 8th century. UNHCR estimates the number of stateless Rohingya within Myanmar at over 900,000,⁶ but in 2013 Burma's Minister for Immigration and Population said there were 1.33 million Rohingya in the country, 1.08 million of them in Rakhine state and only 40,000 with citizenship.⁷

1.3.5 On several occasions, the tensions between these communities have erupted in violence. Communal violence in June and October 2012 and March 2014 resulted in many casualties, with thousands of homes and businesses destroyed. Around 120,000 Rohingya now live in temporary camps in Rakhine state where humanitarian access is severely restricted. In October 2016, three border posts along Myanmar border with Bangladesh were attacked and 10 Burmese police officers were killed. Police held the Rohingya responsible for the attacks. This resulted in violence perpetrated by the armed forces and Rakhine Buddhist villagers against the entire Rohingya population in what the United Nations called "a calculated policy of terror".⁸

1.3.6 In June 2016, the United Nations High Commissioner for Human Rights stated:

Since the 1990s, extremist or ultra-nationalist Buddhist organizations have actively promoted messages of hatred and intolerance against Muslims and other religious minorities. Groups including the Organization for the Protection of Race and Religion (known as MaBaTha) spread messages based on fear and hatred, compare Muslims to animals, use derogatory language and present Muslims as a threat to the "Buddhist State". During a public rally in Yangon in May 2015, a politician encouraged the crowd to "kill and bury" all Rohingya; the crowd cheered

⁶ UNHCR, 2017 country operations profile – Myanmar, http://reporting.unhcr.org/node/2541#_ga=1.58334312.399197478.1490589907.

⁷ Jason Szep and Andrew Marshall, 'Myanmar minister backs two-child policy for Rohingya minority', *Reuters*, 11 June 2013 <http://www.reuters.com/article/2013/06/11/us-myanmar-rohingya-idUSBRE95A04B20130611>.

⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR) (2017), *Report of OHCHR mission to Bangladesh: Interviews with Rohingyas fleeing from Myanmar since 9 October 2016*, 3 February 2017, <http://www.ohchr.org/Documents/Countries/MM/FlashReport3Feb2017.pdf>, 41.

*and repeated his statements (A/HRC/31/79, p. 37). Such rhetoric fuels enmity and discord.*⁹

1.3.7 The systemic discrimination against the Rohingya have been well-documented in recent years by various UN agencies and independent human rights organisations. In particular, the denial of citizenship renders the Rohingya more vulnerable to other human rights violations, such as a lack of freedom of movement. This affects their ability to eat, house and educate themselves. They cannot marry, have more than two children, or even repair damaged homes without official permission. According to the United Nations Human Rights Council, in towns surrounding Sittwe (capital of Rakhine state) Rohingya Muslims do not have free access to hospitals; emergency cases must be referred to Sittwe General Hospital through a time-consuming referral process, which entails boat travel and police escorts. Muslim patients are confined to a segregated ward, where there are ongoing allegations and rumours of discriminatory treatment.¹⁰

1.3.8 The systemic discrimination and human rights violations have forced many of the Rohingya to leave Myanmar, largely for Thailand, Malaysia and Bangladesh, where few have legal status. More than half of all Rohingya people now live outside the country. UNHCR says there are over 30,000 registered Rohingya refugees in Bangladesh but another 300,000 to 500,000 living there without documents or status.¹¹

1.3.9 Many international organisations have long described the living conditions for the Rohingya in Bangladesh as appalling and among the worst for refugees anywhere in the world.¹² In May 2015, the crackdown of Thailand and Malaysia on international people smuggling networks led to 5,000 people, many of them Rohingya, being abandoned at Andaman sea. Malaysia and Indonesia ultimately offered temporary shelter to those stranded provided that the international community grant resettlement and repatriation within a year. More than a year on, many of those rescued remain detained in shelters, camps or immigration detention facilities.

1.3.10 The situation for the Rohingya has deteriorated considerably since the three attacks on Burmese security forces in October 2016. A recent report from the Office of the United Nations High Commissioner for Human Rights (OHCHR) highlights an unprecedented level of violence.¹³ The report documents killings (including of children and even newborns), beatings, disappearances, rapes and sexual violence (including gang rapes of children as young as 11), burning of houses, the deliberate destruction of sources of food, and death because of lack of emergency healthcare.

1.3.11 The testimonies make it clear that on most occasions people were targeted because they were Muslim. Many acts targeted their religion. OHCHR reported incidents of imams and religious leaders being shot and summarily executed, women and girls being raped in mosques, and religious buildings and Qurans being burnt. There were many accounts of restrictions of religious practices and rituals:

*Family members of deceased recounted that they were unable to offer proper burial and prayer, because doing so would prompt a strong reaction from the army. Some were detained or beaten for having mourned next to the dead body of a relative.*¹⁴

1.3.12 The OHCHR report called the atrocities “a calculated policy of terror” to force the Rohingya population out of Myanmar. It concluded that the Rohingya were specifically targeted because of their ethnicity and religion. Given the systemic and widespread nature of human rights violations, those violations likely amount to crimes against humanity and ethnic cleansing, and possibly even

⁹ United Nations Human Rights Council (2016), *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*, 29 June 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/G1613541.pdf>, 7

¹⁰ Ibid 10.

¹¹ UNHCR (2016), *Bangladesh Factsheet*, March 2016, <http://reporting.unhcr.org/sites/default/files/UNHCR%20Bangladesh%20Factsheet%20-%20MAR16.pdf>; UN Office for the Coordination of Humanitarian Affairs (2017), *Bangladesh Country Profile*, 25 January 2017, http://reliefweb.int/sites/reliefweb.int/files/resources/CP_Bangladesh_250117.pdf

¹² See, for example, <http://www.doctorswithoutborders.org/news-stories/field-news/bangladesh-rohingya-moved-one-deplorable-situation-another>.

¹³ OHCHR (2017), *Report of OHCHR mission to Bangladesh*.

¹⁴ Ibid 36.

genocide. Since October 2016, 66,000 Rohingya have fled to Bangladesh, “either by boat (for those who can afford the exorbitant fees charged by smugglers and boatmen) or by trying to float across by holding onto a plastic container or barrel (for those who cannot)”¹⁵.

1.3.13 The persecution of the Rohingya is a flagrant example of religious persecution within our near region. Yet far from protecting them, Australia has so far largely ignored the Rohingya. Australia failed to offer any assistance to them or to our neighbours during the Andaman Sea crisis in 2015.

1.3.14 Although RCOA has repeatedly pointed out the inadequacy of our response,¹⁶ Australia has resettled only 37 Rohingya since 2013.¹⁷ This is despite pleas from UNHCR to resettle Rohingya refugees with serious protection needs and without other viable options.

Recommendation 3

The Australian Government should urgently address the persecution of the Rohingya, including by:

- (a) using diplomacy, its aid program and its role in regional forums to pressure the Burmese government to act to end the persecution of the Rohingya and to improve human rights protection within Burma, including through independent human rights monitoring*
- (b) engage constructively in dialogue with our neighbours and with UNHCR to improve the conditions of Rohingya forced to flee, and*
- (c) significantly increase the resettlement places offered to the Rohingya people in its 2017-2018 Refugee and Humanitarian Program.*

1.4 Blasphemy laws in Pakistan

1.4.1 As outlined in table 1, blasphemy laws exist in many countries of origin for refugees resettled in Australia. We chose to examine the case of Pakistan, as an increasing number of people are being arrested under these laws.

1.4.2 Pakistan’s blasphemy laws are often used against religious minorities. They can be arrested without warrants, can be refused bail, and need to endure long and unfair trials which often last years. The mere fact of being charged for blasphemy is enough for many in the community to assume these people’s guilt and take the law into their own hands, often without facing any consequences.

1.4.3 During the military government of General Zia-ul-Haq, from 1977 to 1988, a number of blasphemy laws were introduced that were specific to Islam. They included sections 298-B and 298-C of the Penal Code, which made it an offence for members of the minority Ahmadi Muslim community to identify as Muslims and preach their faith. Section 295-C of the Penal Code made death penalty effectively mandatory¹⁸ for “whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad”.¹⁹

1.4.4 According to various reports by media and human rights organisations, although no executions have been carried out, at least 17 people are on the death row for blasphemy, 19 people are serving life sentences and since the 1980s, at least 53 people have been killed in violent incidents because of accusations of blasphemy. While a large number of victims have been Muslim, a disproportionate number were from religious minorities, including Ahmadis, Christians and Hindus.²⁰

1.4.5 In late 2016, Amnesty International published a comprehensive report about the impact of blasphemy laws in Pakistan. The report documents many blasphemy cases with a disproportionate number against religious minorities, children, and people with mental disability. That includes the

¹⁵ Ibid 6.

¹⁶ See, for example, our annual submissions on Australia’s Refugee and Humanitarian Program, available at <http://www.refugeecouncil.org.au/our-work/annual-consultations/>.

¹⁷ Statistics calculated using Department of Social Services’ settlement data.

¹⁸ Amnesty International (2016), “As Good as Dead”: *The Impact of the Blasphemy Laws in Pakistan*, December 2016, <http://www.refworld.org/pdfid/585a41704.pdf>, 10,17.

¹⁹ Pakistan Penal Code (6 October 1860), available at: <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf>

²⁰ ‘Living in fear under Pakistan’s blasphemy law’, *Aljazeera News* (17 May 2014) <http://www.aljazeera.com/indepth/features/2014/05/living-fear-under-pakistan-blasphemy-law-20145179369144891.html>; ‘Facing the Death Penalty for Blasphemy in Pakistan’, *Human Rights Watch* (12 October 2016) <https://www.hrw.org/news/2016/10/12/facing-death-penalty-blasphemy-pakistan>

case of a 14-year old Christian girl with learning disability who was arrested as a result of allegations that she burned pages of Quran. While she was eventually cleared of charges, she and her family had to seek asylum in Canada because of the ongoing threats they faced. The report also details the assassinations of the politicians who called for changes to the blasphemy laws and the threats made against the lawyers who defended the victims (some of which have been carried out). The report outlines how this law violates human rights, whether it is by the State or non-state actors who take the law in their own hands. It argues that the law lacks safeguards to minimise risk of additional violence and abuse and that the existing safeguards are disregarded.²¹

Pakistan's blasphemy laws violate its international legal obligations to respect and protect the rights to life; freedom of thought, conscience, and religion or belief; freedom of opinion and expression; equality before the law; and the prohibition on discrimination. The laws are vaguely formulated, and enforced by the police, prosecutors, and judiciary in proceedings that often violate the right to fair trial, including the fundamental principle of presumption of innocence. The laws have been used to bring criminal charges against people without the intention to commit an offence, including people with mental disabilities, and children.²²

1.4.6 As mentioned, even when people are cleared of blasphemy charges, they are vulnerable to community violence. Accusations of blasphemy have led to displacement of many who either relocated internally and lived in isolation or left the country. There are countless examples of large scale violence, often against the entire community living in an area because of blasphemy charges against one member of that community. Police, who at times witnessed the violence, rarely offers any protection to the victims. According to experts, the prescription of death penalty for blasphemy against the Prophet Muhammad has created an environment in which some people feel entitled to take the law in their own hands, even if the person has been cleared of the charges by the courts.

1.4.7 As mentioned, members of Ahmadi Muslim community have been severely impacted by Pakistan's blasphemy laws and their human right to freedom of religion denied. Over the years, our member organisation, Ahmadiyya Muslim Association Australia, has regularly informed us of the religious persecution of Ahmadis in Pakistan and around the world.

1.4.8 The 2016 Amnesty International report provides many case studies of the persecution of and violence against the members of Ahmadi community in Pakistan. It includes the July 2014 attacks against Ahmadi community in Gujranwala (in the province of Punjab) which resulted in the death of four people, including three children (one of them unborn). The violence sparked by the accusations of blasphemy against an Ahmadi man from the area and culminated in setting fire to the houses where Ahmadi residents had gathered for refuge. The videos and eyewitness accounts of the attacks pointed out to the lack of action by the police officers present at the scene.

1.4.9 Furthermore, the annual reports compiled by the Ahmadiyya Muslim Community provide comprehensive lists of human rights violations perpetrated against this religious minority. The 2016 report paints a very dire picture of the year that passed, especially in Punjab province of Pakistan. Throughout the year six Ahmadis were murdered, 20 were charged based on faith-based allegations (14 of who remained in prison by the end of 2016), Ahmadi children were expelled from schools and Ahmadis were banned from publishing periodicals and writings of the founder of the Ahmadiyyat. In 2016 Ahmadis central offices in Rabwah were raided and a 1000 strong mob attack carried out on the Ahmadi mosque in Dulmail (Rabwah and Dulmail are both in Punjab province).²³

Recommendation 4

The Australian Government should:

²¹ Amnesty International (2016), *As Good as Dead*, <http://www.refworld.org/pdfid/585a41704.pdf>

²² Ibid 14.

²³ The Persecution of Ahmadis (2016), *A Report on Persecution of Ahmadis in Pakistan during the Year 2016 [summary]*, December 2016, <https://www.persecutionofahmadis.org/wp-content/uploads/2017/02/Persecution-of-Ahmadis-in-Pakistan-2016.pdf>

- a) *use diplomacy to urge the Pakistan government to repeal the blasphemy laws and release those who are deprived of freedom because of exercising their faith*
- b) *increase the resettlement places offered to the Ahmadi people and religious minorities from Pakistan in its 2017-2018 Refugee and Humanitarian Program.*

2. Freedom of religion and belief in Australia's immigration detention facilities

2.1 The practice of religions in detention

2.1.1 People in detention, like any other people, have the right to practise their religions freely. According to the latest statistics provided by the Department of Immigration and Border Protection (DIBP), as of 31 January 2017, at least 35% of the detention population were people seeking asylum.²⁴ Many of those seeking asylum in Australia are fleeing religious persecution and discrimination, for whom the right to practise their religion freely and without fear is obviously very significant. RCOA has heard, however, that this freedom to practise their religions has become increasingly restricted.

2.1.2 Historically, people in detention were offered various opportunities to practise their religions. In some detention facilities, they could access rooms where they could pray. People could be escorted to nearby places of worship, and religious service providers were allowed to visit and provide religious services in immigration detention facilities.

2.1.3 The availability of spaces for religious observance varies across the detention network. In some facilities, there is a dedicated prayer room. In most facilities, people need to use multipurpose rooms, competing with different groups for a space that can be used for a variety of purposes. This can increase tensions in an already tense environment.

2.1.4 In many religions, collective acts of praying and worship are important. The security requirements of held detention often force people to pray alone without the opportunity to observe the religious practices with others.

2.2 Restrictions on religious practice

2.2.1 In the past two years, the opportunities to leave a detention facility have been increasingly restricted. In some facilities, there is no opportunity to visit a place of worship outside. In others, people may be offered the opportunity if they have lower risk ratings (although it is unclear how these risk ratings are determined). In practice, this means very few people in detention can visit places of worship outside of detention facilities.

2.2.2 Even for those who can, their visits are highly monitored. People report that a large number of security personnel escort them to places of worship and observe the religious proceedings, creating discomfort for other worshippers and embarrassment for those visiting. Some reported that they had been asked to no longer attend the ceremony for this reason.

2.2.3 Further, in the past year RCOA has heard of increasing challenges faced by visitors to detention, including religious service providers. This is the subject of current research by RCOA, key findings of which we reported on in December 2016, and which we will publish soon in full.

2.2.4 Most of the visitors we interviewed were concerned about highly regulated and monitored visits. Long-term visitors reported that their visits had noticeably shifted away from a time for socialising and a respite from the stress of prolonged detention, and had become a source of stress in themselves. Many of the visitors who spoke to us were religious service providers, some of whom have been visiting immigration detention facilities in Australia for 20 years.

2.2.5 Religious service providers spoke about the difficulties in the reception process. Examples included: regular visitors being turned away because of misspellings in a single visitor form, and the refusal of entry to elderly nuns on the basis of highly unreliable drug tests. We heard disturbing

²⁴ Department of Immigration and Border Protection, *Immigration Detention and Community Statistics Summary 31 January 2017*, <http://www.border.gov.au/ReportsandPublications/Documents/statistics/immigration-detention-statistics-31-jan-2017.pdf>.

accounts of religious services being interrupted and abruptly ended, because of going slightly overtime, and security staff treating items used in a Catholic mass as contraband.

2.2.6 Such incidents demonstrated a profound disregard for the religious needs of people in detention. The documented eyewitness account of a group of religious service providers who attended Melbourne Immigration Transit Accommodation to offer mass on Christmas Day is yet another example of this disrespect for the religious needs of people in detention.²⁵ The religious service providers who offered services both in prisons and in immigration detention facilities, frequently commented that they found working in prisons was much easier, as the rules and regulations were defined and less discretionary.

2.2.7 While most of the reports related to Christian services, similar incidents were reported by service providers from other religions. RCOA has also heard of successful and appropriate religious ceremonies and celebrations inside immigration detention facilities. They included celebrating Islamic Eids, observing Ramadan and providing religiously appropriate food.

Recommendation 5

The Australian Government should ensure the free practice of religion in immigration detention, including through the provision of dedicated prayer rooms, appropriate arrangements for religious excursions, and through facilitating and supporting visits by religious service providers.

3. Protecting the freedom of religion and belief by refugee communities in Australia

3.1 Public debate about religion, refuge and racism

3.1.1 In the past few years, public debate about refugee communities and people seeking asylum has increasingly been linked to Islam, including extremist Islamic views and terrorism. This link has been repeatedly made in the media and increasingly by politicians, including most prominently by One Nation and members of the Australian government. Increasingly, religion, refuge and racism are intertwined issues for refugee communities in Australia.

3.1.2 For example, the Minister for Immigration has singled out Malcolm Fraser's government as having made a mistake by resettling Lebanese refugees, because a number of their children and grandchildren had travelled overseas as foreign fighters.²⁶ Another example of the link made between seeking refuge and Islam is the widespread media commentary suggesting that the Australian government is preferencing Christians for resettlement over Muslims.²⁷ More recently, the Australian Government has refused to condemn Donald Trump's policies to suspend resettlement of refugees and to ban the entry of people from several Muslim majority countries.²⁸

3.1.3 These comments are made in the context of rising anti-Muslim sentiment within Australia and globally. The ninth survey by the Scanlon Foundation, *Mapping Social Cohesion*, released in November 2016, reports that 22-25% of people consistently report a personal negative opinion of Muslims.²⁹ An earlier report in August 2016 found that 51% of Muslims born in Australia reported discrimination, while 46% of those born in Iraq and 27% of those born in Iran also reported experiencing discrimination.³⁰ Another report found that Muslims in Sydney experienced hate talk

²⁵ Father Peter Carrucan, *Celebrating Mass among the Unwelcome*, 19 January 2017, <http://www.pray.com.au/celebrating-mass-among-the-unwelcome/>.

²⁶ 'What Mr Dutton said was racist': Outrage over Immigration Minister's comments', *SBS News* (23 November 2016) <http://www.sbs.com.au/news/article/2016/11/22/lebanese-muslims-outraged-over-dutton-comments>.

²⁷ See, eg, Paul Maley, 'Refugee intake will minimise single Sunni men, favour Christians', *The Australian* (26 March 2016) <http://www.theaustralian.com.au/national-affairs/immigration/refugee-intake-will-minimise-single-sunni-men-favour-christians/news-story/81c18d53915dbc89a7c80ce00d2d6dd0>.

²⁸ 'Turnbull's "no Comment" on Trump's Muslim Ban Fury', *The West Australian*, 30 January 2017 <https://thewest.com.au/news/world/turnbulls-no-comment-on-trumps-muslim-ban-fury-ng-b88370622z>.

²⁹ Andrew Markus, *Mapping Social Cohesion* (Scanlon Foundation, 2016), 25-26, 43.

³⁰ Andrew Markus, *Australians Today* (Scanlon Foundation, 2016), 60-63, 67, 82.

and discrimination at three times the rate of other Australians on average.³¹ These rising tensions are also confirmed in international reports reviewing religious tensions globally.³²

3.2 Reaffirming our commitment to freedom of religion

3.2.1 These developments occur within a wider policy context and public debate that is undermining the ability of refugee communities to settle in Australia. We have repeatedly highlighted the counterproductive impact of increasingly hostile policies and language targeting refugees and people seeking asylum, on communities within Australia. The recent protracted debate about changes to the Racial Discrimination Act, as well as proposed changes to citizenship and settlement policies, reinforce concerns among refugee communities about the strength of Australia's commitment to freedom of religion within Australia.

3.2.2 This inquiry therefore provides an important opportunity to affirm and reinforce that commitment. In particular, we endorse the Australian Human Rights Commission's longstanding position that the Australian Government should consider expanding the circumstances in which anti-discrimination law protects against discrimination and vilification on the basis of religion, whether through amending the Racial Discrimination Act or through separate legislation. In this political climate, such protection is more necessary than ever.

3.2.3 We would also endorse similar and other recommendations made to this inquiry by the Federation of Ethnic Communities' Councils of Australia, including in relation to resisting restrictions on freedom of religion, and in recommending that the Australian Government should take a more active role in providing accurate information to the public, including by building open inter-faith dialogue.

3.2.4 In addition, we continue to recommend strongly that the Australian Government should reject the political discourse that demonises refugees and people seeking asylum, including because of their religion.

Recommendation 6

The Australian Government should consider expanding legislative protections against discrimination and vilification on the basis of religion.

Recommendation 7

This inquiry should adopt the recommendations of the Federation of Ethnic Communities' Councils of Australia to ensure the protection and promotion of freedom of religion within Australia.

Recommendation 8

The Australian Government should publicly reject the political discourse that demonises refugees and people seeking asylum, including because of their religion.

³¹ Kevin Dunn, Rosalie Atie, Virginia Mapedzahama, Mehmet Ozalp, Adem F Aydogan, *The resilience and ordinariness of Australian Muslims Attitudes and experiences of Muslim Report* (November 2015).

³² See, eg, United States Department of States (2016), *International Religious Freedom Report for 2015*, r Pew Research Center, *Trends in Global Restrictions on Religion* (23 June 2016) 48, <https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>.