



9 March 2021

The Director, Portfolio Committee No. 3,  
Parliament House, Macquarie Street,  
Sydney NSW 2000

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## ANIC Submission on the Education Legislation Amendment (Parental Rights) Bill 2020

### Introduction

The Australian National Imams Council (ANIC) is pleased to make the following submission and is also grateful for the extension provided to it to make its submission.

ANIC is an umbrella organisation consisting of Muslim imams, clerics and Islamic scholars representing each Australian State and Territory. ANIC represents the wider interests of the Australian Muslim community and is recognised by the Federal and State Governments, media and various other community and religious groups as being the central representative body of the Australian Muslim community. It also regularly facilitates collaborative initiatives with other community based organisations.

ANIC also plays a significant role in engaging with the community across Australia at a grassroots level. In particular, through its member imams and clerics, ANIC is able to engage with their respective congregations which attend at the places of worship, including for religious, community, prayer and personal purposes.

ANIC hopes to be able to provide the Committee with the benefit of its feedback and observations

relating to the issues being considered by the Committee. ANIC welcomes the opportunity to



make this submission on the *Education Legislation Amendment (Parental Rights) Bill 2020* (NSW) (“**the Bill**”) and gives consent for this submission to be published.

## Terms of Reference

The *Education Legislation Amendment (Parental Rights) Bill 2020*, is described as <sup>1</sup> –  
“An Act to amend the *Education Act 1990*, the *Education Standards Authority Act 2013* and the *Teacher Accreditation Act 2004* to provide that schools must recognise that parents are primarily responsible for the development and formation of moral and ethical standards and social and political values in their children, including an understanding of personal identity and questions of gender and sexuality and to prohibit schools, teachers, and training courses from teaching gender fluidity, and for other purposes”.

1. The primary objects of the Bill are primarily to amend the *Education Act 1990* as follows –
  - a) to clarify that parents and not schools are primarily responsible for the development and formation of their children in relation to core values such as ethical and moral standards, social and political values and an understanding of personal identity, including in relation to gender and sexuality;
  - b) to prohibit the teaching of the ideology of gender fluidity to children in schools;
  - c) to provide that schools should not usurp the role of parents – that teaching in relation to core values is to be strictly non-ideological and should not advocate or promote dogmatic or polemical ideology that is inconsistent with the values held by parents of students;
  - d) to ensure that curriculum, syllabuses, and courses of instruction at all levels of schooling do not include the teaching of gender fluidity and recognise parental primacy in relation to core values;
  - e) to ensure that all school staff – including non-teaching staff, counsellors, advisors and consultants – do not teach gender fluidity and that such staff undertake their duties and engage with students in schools in a way that recognises parental primacy in relation to core values;
  - f) to require schools at the beginning of each academic year to consult with parents about courses of study that will include teaching on core values;

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<sup>1</sup> <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3776>

- g) to allow parents to withdraw students from instruction on core values where parents object to the particular teaching on these matters of parental primacy;
- h) to require the NSW Education Standards Authority to monitor the compliance by government schools with the requirements to not teach gender fluidity and to recognise parental primacy in relation to core values;
- i) to provide for a review after two years of the compliance of schools with these requirements and for that review to be tabled in both Houses of the NSW Parliament.<sup>2</sup>

## Background

ANIC welcomes the general subject matters raised in the Bill as it offers a timely opportunity to address the absence of laws protecting parents to educate their children based on their own moral and religious convictions in relation to matters pertaining to sexual practices outside of marriage, sexual inclinations and gender identity.

Australia is a pluralistic society with people from many ethno-religious and cultural backgrounds. In order to accommodate and protect the freedoms of all (including freedom of expression as well as the right to freedom of thought or and religion<sup>3</sup>), the education system must remain non-partisan to any one particular ideology. An education that is free from indoctrination (whether that be religious or non-religious indoctrination) is in alignment with the international law principles. The promotion of a singular ideology within public and/or private schools would be detrimental to the social cohesion and welfare of society at large.

As it currently stands, public schools in New South Wales lack the necessary protections to ensure that due consideration is given to the religious values and moral persuasions of parents and children, as required by international instruments to which Australia is a signatory to. Article 26(3) of the *Universal Declaration of Human Rights* ('UDHR'), grants parents the right to choose the type of education provided to their children. This is also consistent with various other international law treaties to which Australia is also a signatory of<sup>4</sup>.

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<sup>2</sup>[https://www.parliament.nsw.gov.au/bill/files/3776/XN%20Education%20Legislation%20Amendment%20\(Parental%20Rights\).pdf](https://www.parliament.nsw.gov.au/bill/files/3776/XN%20Education%20Legislation%20Amendment%20(Parental%20Rights).pdf)

<sup>3</sup> Article 18 of the Universal Declaration of Human Rights

<sup>4</sup> Article 18(d) of the International Covenant on Civil and Political Rights



Further to this, Islam's position on matters concerning sexuality and gender identity has always been clear and perspicuous from the time of the revelation of the Quran 1,400 years ago. The Islamic perspective is also consistent with Judaic and Biblical perspectives as stipulated in the holy scriptures. ANIC has addressed these issues through various media statements released to the community.<sup>5</sup>

## Submissions

Based on the Explanatory Notes accompanying the Bill, the primary matters being addressed in the Bill are<sup>6</sup>:

- a) *Issues concerning parental rights*- thereby granting parents the right to be entirely aware of what is being taught to their child at school. This is an affirmation to parents that they are in fact the primary educators of their children and not the school<sup>7</sup>; and
- b) *Extending a parent's wish to request an exemption for their child to be taught certain content based on religious grounds, to also include moral convictions* – that teaching in relation to core values is to be strictly non-ideological and should not advocate or promote dogmatic or polemical ideology that is inconsistent with the values held by parents of students<sup>8</sup>.

In principle, ANIC supports any legislative change which seeks to protect and uphold the rights of parents as the *primary* educators of their children, especially within the context of parental primacy, gender and sexuality issues. This is also in line with Islamic principles in relation to matters concerning parenthood and guardianship.<sup>9</sup>

Providing schools with unrestricted influence to teach matters that are of an ethical and religious nature can be problematic and may extend to topics other than gender fluidity. The long-term consequences could include the gradual introduction of other issues that are of an ideological nature which may undermine the fabric of a pluralistic community and hinder religious freedoms. Whilst adopting an entirely non-partisan education that is objective can be a difficult concept to implement in practice, providing parents the right to contribute to the ethical standards to uphold with their children would strike an important balance.

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<sup>5</sup> <http://www.anic.org.au/wp-content/uploads/2018/03/Islands-Clear-Position-on-Homosexuality.pdf>

<sup>6</sup> Education Legislation Amendment (Parental Rights) Bill 2020 Explanatory note

<sup>7</sup> Referred to as parental primacy within the Bill.

<sup>8</sup> Paragraph (c) Education Legislation Amendment (Parental Rights) Bill 2020 Explanatory notes

<sup>9</sup> <https://www.anic.org.au/wp-content/uploads/2021/02/Islamic-Position-On-Foster-Care-Adoption-Guardianship.pdf>



The Bill seeks to ensure that parents may not only object to the notion of gender fluidity based on religious grounds *but also* moral grounds, which is a positive move in expanding the scope of parental primacy in matters concerning a child's education.

This is also consistent with International instruments in which Australia is signatory to.

It has been widely accepted from an international human rights law perspective that parents have the right to express their views as a parent with regards to the school curriculum in a public school context. This includes sex education and any content centred around this theme.<sup>10</sup> Various case law highlighted the fact that parental rights were not limited to matters concerning religious education, but also extended to sex education. This is an important finding seeing that sex education in today's climate may pose some issues of serious conflict with the religious and moral convictions of parents. A failure to uphold parental rights within this context could place parents and children in difficult situations causing contradictions and conflict, seeing that some teachings within the context of sex education may in fact be a condoned or prohibited practice on religious or even moral grounds for some parents. Accordingly, in order for parents to uphold their right to express their views on the content being taught to their child, they must be afforded the opportunity to be well informed and consulted prior to the delivery of lessons. Whether a parent wishes to have their child partake or avoid attending a specific lesson based on religious or moral grounds, should be a matter of choice for all parents.

## **Conclusion**

Seeing there are currently no protective mechanisms in New South Wales public schools afforded to parents when considering the delivery of certain content within the school curriculum on religious or moral grounds, ANIC submits that consideration be taken with regards to the matters raised in the Bill. ANIC notes that this is a positive step towards ensuring parental rights are safeguarded whereby proper regard is given to the religious and moral convictions of parents.

ANIC thanks the Committee for the opportunity to make this submission.

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<sup>10</sup> Kjeldsen [51]; Jiménez Alonso and Jiménez Merino v. Spain (dec.), no. 51188/99, ECHR 2000-VI (Alonso); Dojan and Others v. Germany (dec.), nos. 319/08 and 4 others, 13 September 2011 (Dojan); Appel-Irrgang and Others v. Germany (dec.), no. 45216/07, ECHR 2009 (Appel-Irrgang).



**Should the Committee require further information or has any questions, it may contact Ramia Abdo Sultan, Community Relations Advisor.**

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