

Muslims believe in one God, Allah being the Arabic word for God. Muslims also believe that Jesus, Moses, Abraham and Muhammad, peace be upon them all, among others, are the Prophets of God.

Although the presence of Muslims in Australia is often perceived to be recent, Muslims from Indonesia had been visiting Australia prior to colonial settlement. For several centuries these Muslims traded with the coastal Aboriginal peoples of Northern Australia.

The common misconception that Islam is new to Australia is due mostly to knowledge of Islam and Muslims being limited to the recent migratory waves from the Middle East, Europe, Africa and Asia. However, the history of Muslim interaction with postcolonial settlement commenced with the early early colonists as navigators on the first fleet, the (Af)Ghan camelers, as well as those who helped build the Snowy Mountain scheme.

Halal is an Arabic word meaning lawful or permitted. In reference to actions of Muslims, it is the standard of conduct that is permissible, as prescribed in the Qur'an (the Muslim scripture) and Sunnah (the authentic teachings of the Prophet Muhammad).

The opposite of halal is haram, which means unlawful or prohibited. It should be noted that halal is the norm, and haram is the exception.

Halal and haram are universal terms that apply to all facets of life. These terms are commonly used in relation to food products, meat products, cosmetics, personal care products, pharmaceuticals, food ingredients, and food contact materials. Alcohol is haram in Islam, as is pork or any produce derived from pigs. Halal food should be catered from an accredited halal supplier for any Muslim under your care or whom you are hosting. The ICV has a specific guide on what is halal and haram, which can assist you if you require further information. Vegetarian options are acceptable when halal is not available.

Islam forbids Muslims to bow or prostrate before any human being or object other than God.

However, it is important to understand that the custom of bowing in court is a sign of respect to the State, the laws of the land, the court and its judiciary, rather than the individual Magistrate or Judge.

A balanced solution would be for Muslims to nod their heads while entering court, or stand up when a judge enters the court, to acknowledge its jurisdiction while not contravening religious obligations.

Judeo-Christian custom has developed to the point where it is customary for a person to swear on the Bible when taking an oath. The consensus of Islamic scholars is that taking of an oath by a Muslim on the Bible makes the oath void and invalid. Given that the taking of an oath is to swear to the truth of one's statement by God, there is a difference of opinion among Islamic scholars as to whether swearing on the Qur'an is permissible.

As a general rule, a Muslim is permitted to take an oath where there is an actual need to do so. It is not necessary for a Muslim to have the physical presence of the Qur'an to swear an oath - simply saying words to the effect of "I swear by Allah" or "Wallahi" suffice.

Given the differences in opinion, some Muslims may wish to affirm the truth of their statement or evidence. There is no distinction made to the weight or treatment of evidence which is sworn or affirmed in Australian law. As with all things, it is best to ask, and explain what is involved.

WHAT IS SHARI'AH?

In Arabic, shari'ah means the clear, well-trodden path to water, which in the desert is of paramount importance.

Islamically, it refers to matters of religious direction ordained by God for Muslims. Each Muslim must follow these directions, somewhat similar to the requirement for Jews and Christians to follow the 10 commandments. It is thus often referred to as 'Islamic Law'.

Shari'ah seeks to promote social welfare and empower individuals, rich or poor, with their rights and prevent harm to individuals and societies collectively. Essentially, it does this by fostering God-consciousness. An example is the requirement to pay regular charity.

Shari'ah touches on all aspects of life: personal, communal, family, legal, ethical, moral, financial, commercial and political. Of course, most of these aspects of shari'ah are practised in the daily lives of Australian Muslims, where they can freely pray, fast, observe the hijab, build mosques, teach Islam, eat halal food and engage in Islamic banking and finance.

In a nutshell, shari'ah relies on the authority of the Qur'an, the Sunnah and the unanimous consensus (or 'ijma') of the Muslim scholars.

Throughout the centuries, shari'ah has been able to work with different cultures, local customs, and the varying demands of different times. This means that while there is one Islam (with one shari'ah), there are different Islamic or Muslim cultures. In fact, for centuries, Islamic civilisation harmonised indigenous cultures with the universal norms of its shari'ah.

SHARI'AH LAW IN AUSTRALIA

Almost without exception, shari'ah does not conflict with Australian law and custom. Shari'ah requires Muslims living in non-Muslim countries to obey the law of the land unless it clearly and unambiguously conflicts with Islam. For example, a hypothetical law compelling everyone to drink beer on Friday could not be followed because alcohol is forbidden in Islam.

The fears propounded about Muslims practising shari'ah law in Australia are unfounded. As many Jews and Christians practise their faiths in accordance with their religious codes and teachings, so do many Muslims. Requests for law reform to better accommodate Muslim religious obligations in the areas of family law, inheritance law and Islamic banking and finance are unfortunately misrepresented as a call for all Australians to live under an Islamic state.

Muslims do not want to impose shari'ah on non-Muslims, as stated in the Qur'an "there is no compulsion in religion". Like Australian law, shari'ah prohibits theft, fraud, and cheating by any person against any other person or the State.

Shari'ah also demands of Muslims to be good citizens because an excellent Muslim is also an excellent citizen of the society that they live in.

TIPS WHEN DEALING WITH MUSLIM CLIENTS

Given the centrality of the family, consider informing family of legal information, and to be involved in the decision-making process - subject to privacy and confidentiality considerations and your client's

When visiting Muslims, give the family time after you have knocked on the door, so that females can get changed into the appropriate attire (ie hijab) in the presence of strangers.

Treat religious items, such as the Qur'an and other Islamic books with the utmost respect. The Qur'an should be covered with protective cloth and should not be touched without it.

Good communication - develops and maintains trust.

Pointing the soles of the feet to a Muslim client may be considered disrespectful. Shoes are not worn in the home generally.

Muslims who are fasting during Ramadan may be more effective in the early afternoon or morning. Keep this in mind when scheduling meetings.

Prayers are generally performed pre-dawn, around midday, mid-afternoon, after sunset and at night and generally only take five to ten minutes each to complete. Where possible set aside a clean, private room to permit a person to perform their five, daily prayers if an appointment or engagement is set around these times.

Direct eye contact in certain Muslim cultures may be seen as impolite, and disrespectful for elders and persons of authority.

Consider utilising the respect and authority afforded to elderly members of the community in dispute resolution.

If offered refreshments or a meal by a Muslim, and you cannot accept, please explain your reason as the offering of hospitality is considered one of the highest etiquettes of faith.

It is a common misconception that the male is always the decision maker, and there is nothing to prevent women, or older teens being involved in decision-making.

If appropriate, ask families to seek assistance from their local Imam or the ICV.

Try to accommodate same sex interaction where reasonably possible. Unnecessary touching between non-related people of the opposite sex (including the shaking of hands) should be avoided.

For female clients, there may be an overriding need for modesty and privacy. In some cases, a close family member may assist.

SOME FINAL POINTS

There are many mosques around Victoria, so consider locating the closest one to you if you cannot provide your client with a place to pray. The ICV can also assist in locating a mosque.

Friday is a particularly important day for Muslims, and all Muslim men are required to attend the Friday prayer (or jumu'ah) unless they are obstructed by a necessity. Consider making appointments after the Friday prayer which occurs around midday.

Don't assume every Muslim's behaviour is due to their religion; it may be their culture, upbringing, or simply their personality type.

Muslims are not a homogenous group; they are extremely diverse. There may be cultural practices that do not conform to Islamic teachings. When in doubt, ask.

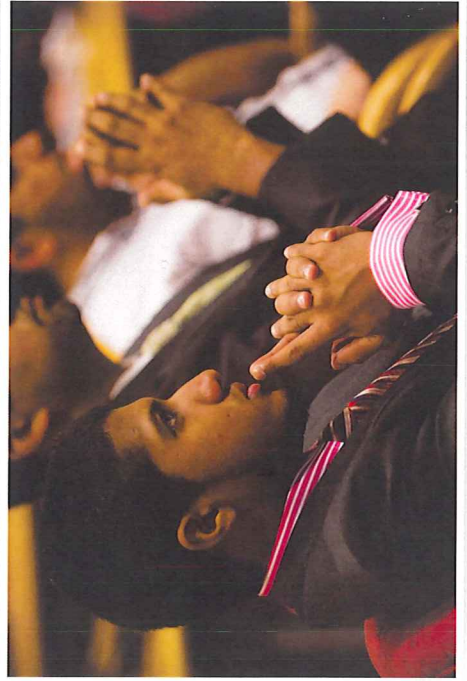
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FOR MORE INFORMATION

This brochure only hints at the complexities within Islam. Please contact the Muslim Legal Network or the Islamic Council of Victoria for further, more detailed information on the matters summarised within this brochure:

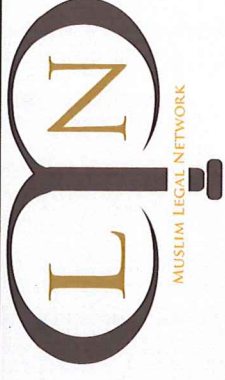
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INFORMATION ABOUT THE MUSLIM LEGAL NETWORK

The Muslim Legal Network aims to empower Muslims to become productive, respected and law abiding members within the wider Australian community. The MLN is a gateway for all Australian Muslim lawyers and law students to engage with a wider community. It grants an avenue for legal professionals to engage with the minds of Australian Muslim Law Students and provides students with insight, mentoring and advice regarding their future profession. The network also provides for the sharing of community concerns that may require action from the network as a representative body.

The MLN ethically strives towards protecting the civil liberties and human rights of Muslims living in Australia and works diligently towards building a better understanding of the Islamic faith within the wider Australian community through the development of various projects and dialogues and providing assistance to other Islamic organisations.



A GUIDE TO

Legal Professionals & Law Enforcement

