

# HYDER'S CASE OF INTEREST:

**Hyder Gulam\***  
CT legal editor

Recently the Victorian Civil and Administrative Tribunal (VCAT) heard a matter in its Anti-Discrimination List.\*\* This matter was an application for exemption against anti-discrimination for the opening of swimming pool facility out of ordinary opening hours for women only and to be staffed by women only at those times. VCAT was satisfied that it was appropriate to grant an exemption from the relevant law to engage in the exempt conduct.

The purpose of this article is to outline some key steps that community groups can undertake to achieve the same result:

1. Advertise the application at the relevant facility and allow a time for the public to make submissions on the application.
2. Have letters of support for the women-only sessions to be provided to reinforce the application - have as many other community and religious groups endorse your applications. Work your neighbourhood.
3. Consider whether there is some less restrictive way in which the purpose of the exemption might be achieved.
4. Make sure you are able to clearly argue on the salient legal issue: which is whether the interests served by the exemption are sufficient to justify exempting the conduct from the prohibitions of the relevant anti-discrimination law.

When you are collating your argument for the application for exemption, consider:

- Previous exemptions (if any) and other exemptions granted elsewhere;
- Letters and other materials in support of the exemption application is signed letter of support from other community groups;
- Arguments on how the facility serves the community and also surrounding suburbs;
- If your municipality is culturally and linguistically diverse, say so;
- Including the support of any Muslim organisations, such as the peak Muslim body in

your state, ie the Islamic Council of Victoria; • Stating the health benefits and opportunities for women to meet and socialise. One very strong point is to state the benefit that the women can meet others from different backgrounds. This provides opportunities for social connection, friendship and increased understanding of and tolerance for others from different cultural or religious backgrounds.

In this case, the exemption sought did not attempt to change the current operation of the facility. It continued to be open to all during normal public opening hours. Those who used the facility during women-only sessions paid the same fees as the public who attend during normal hours.

The women only swimming nights were held each Friday from 8pm to 9pm, those hours being outside the facility's usual operating hours. The evidence provided was that during summer up to 50 women have attended and during winter the nights are also well attended. Muslim women from the Horn of Africa attended when they otherwise would not participate in swimming sessions. In addition, women from a range of other backgrounds also attended. VCAT was informed that a local community health centre referred women patients who have had surgery or who have other health conditions which make them self conscious to the facility and those women who attended also preferred to be amongst women only.

While the exemption involved the possibility of prohibited discrimination against men, the exemption provided an opportunity for sport and recreation (swimming) for women who, for cultural, religious or health related reasons, could not take advantage of those opportunities in mixed gender company. To put it another way, the exemption gave these women the same opportunities for programs of this kind as were available to men and women who do not have these personal circumstances and who therefore are able to access programs during the facility's public opening hours. In this sense, the exemption promoted equality of opportunity for the women to whom it is directed.

The purpose of this article is to show that a clearly planned and well thought out application for exemption against discrimination for a public facility, such as a swimming pool, can not only benefit Muslim women, but also comply with local laws. The key is to get community support and to engage the wider neighbourhood.

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\*\* Kensington Community Recreation Centre (Anti-Discrimination) [2010] VCAT 2058

# Saudi Arabia: women in the workforce

**Yousef Alnamlah\*\***

I want to shed some light on the terms and conditions of employing women in Saudi; there have been a number of changes recently to the law in this area. There are a number of nationwide provisions including:

-When implementing the provisions of Saudi labour law, the employer and the worker must adhere to the provisions of sharia.

-Arabic must be the language used for data, records, files, work contracts and the like, as well as the instructions issued by the employer to his workers. If the employer uses a foreign language, the Arabic text shall prevail.

-All periods and schedules are stated according to the Hijri calendar unless otherwise stated in the work contract or the work organisation regulations.

On 26 September 2005, the government of Saudi Arabia approved a set of new labour laws and as a result was granted full membership of the WTO in November 2005. The stated objectives of the new legal framework were to replace foreign workers with competent Saudis, create more jobs for Saudis in the private sector, regulate the management of both local and foreign workers, and improve the welfare of all those employed in the private sector through provision of basic legal rights such as the right to annual leave, health and safety.

Islamic theory does not prevent women from working but it recognises that men and women are suited to different roles as a result of their different natures. Therefore, every person has his or her natural role in the workplace, however men carry more responsibility. In addition to this, according to Islamic theory men are expected to be maintainers and protectors of women. Islamic theory also prohibits women from working at jobs that may be hazardous. To clarify these points, examples from the labour laws in Saudi Arabia state:

-Women shall work in all fields suitable to their nature. It is prohibited to employ women in hazardous jobs or industries.

-Women may not work during a period of night the

duration of which is not less than eleven consecutive hours, except in cases determined pursuant to a decision by the Minister.

Saudi culture and legislation are Islamic and Islamic rules encourage equality as much as possible. So, salaries and wages in Saudi labour law are the same for men and women. Moreover, because women have special conditions, such as giving birth, Saudi law gives women more facilities. An illustration of this is:

-A female worker shall be entitled to maternity leave for the four weeks immediately preceding the expected date of delivery and the subsequent six weeks. The probable date of delivery shall be determined by the physician of the firm or pursuant to a medical report certified by a health authority.

-A woman may not work during the six weeks immediately following delivery

-During the maternity leave, an employer must pay the female worker half her wage if she has been in his service for one year or more, and a full wage if she has served for three years or more as of the date of commencement of such leave.

-Babysitters are provided in a workplace to look after children under the age of six years. An employer who employs fifty female workers or more must provide them with a suitable place for child care with an adequate number of babysitters to look after children under the age of six years if the number of children reaches ten or more

-When a female worker returns to work following maternity leave, she is entitled to, in addition to the rest periods granted to all workers, a rest period or periods not exceeding in aggregate one hour a day for nursing her infant. Such period or periods is calculated as part of the actual working hours and must not entail any reduction in wages.

-The female worker in Saudi Arabia whose husband has passed away is entitled to fully paid leave for a minimum period of fifteen days as of the date of death

\*References available to request

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# IHRC: the wave of popular demonstrations across the Arab World

The Islamic Human Rights Commission, IHRC condemns the hypocrisy of Western governments who for decades have propped up, financed and supported the oppression and human rights abuses of the tyrannical regimes of Mubarak, Ben Ali, Saleh and others in the Muslim world.

IHRC Chair Massoud Shadjareh stated:

"Token statements of criticism now from Obama and others is a matter of too little, too late, and will not fool the Arab people who are finally breaking free from the life

sentence they received over 30 years ago.

"We urge the West to end their promotion and sponsorship of tyrants whose crimes against humanity have bred intolerable resentment and anger throughout the Muslim world."

The Islamic Human Rights Commission can be contacted on: +442089044222 or +447958522196.

Right: protestors injured in recent uprising in Tunisia



Prayer Schedule February 2011						
Perth, Western Australia						
Date	Fajr	Sunrise	Dhuhr	Asr	Maghrib	Isha
1	4:11	5:41	12:31	4:11	7:19	8:45
2	4:12	5:42	12:31	4:11	7:19	8:44
3	4:14	5:43	12:31	4:11	7:18	8:43
4	4:15	5:44	12:31	4:11	7:17	8:42
5	4:16	5:44	12:31	4:11	7:16	8:41
6	4:17	5:45	12:31	4:11	7:16	8:40
7	4:18	5:46	12:31	4:11	7:15	8:39
8	4:20	5:47	12:31	4:11	7:14	8:37
9	4:21	5:48	12:31	4:11	7:13	8:36
10	4:22	5:49	12:31	4:11	7:12	8:35
11	4:23	5:50	12:31	4:11	7:11	8:34
12	4:24	5:51	12:31	4:10	7:11	8:33
13	4:26	5:52	12:31	4:10	7:10	8:32
14	4:27	5:53	12:31	4:10	7:09	8:31
15	4:28	5:53	12:31	4:10	7:08	8:29
16	4:29	5:54	12:31	4:10	7:07	8:28
17	4:30	5:55	12:31	4:09	7:06	8:27
18	4:31	5:56	12:31	4:09	7:05	8:26
19	4:32	5:57	12:31	4:09	7:04	8:25
20	4:33	5:58	12:31	4:08	7:03	8:23
21	4:35	5:59	12:31	4:08	7:02	8:22
22	4:36	5:59	12:31	4:08	7:01	8:21
23	4:37	6:00	12:31	4:07	6:59	8:19
24	4:38	6:01	12:30	4:07	6:58	8:18
25	4:39	6:02	12:30	4:07	6:57	8:17
26	4:40	6:03	12:30	4:06	6:56	8:15
27	4:41	6:03	12:30	4:06	6:55	8:14
28	4:42	6:04	12:30	4:05	6:54	8:13

Prayer Schedule February 2011						
Sydney, New South Wales						
Date	Fajr	Sunrise	Dhuhr	Asr	Maghrib	Isha
1	4:43	6:15	1:09	4:53	8:01	9:30
2	4:44	6:16	1:09	4:53	8:01	9:29
3	4:45	6:17	1:09	4:53	8:00	9:27
4	4:47	6:18	1:09	4:52	7:59	9:26
5	4:48	6:19	1:10	4:52	7:58	9:25
6	4:49	6:20	1:10	4:52	7:57	9:24
7	4:51	6:21	1:10	4:52	7:57	9:23
8	4:52	6:22	1:10	4:52	7:56	9:22
9	4:53	6:23	1:10	4:52	7:55	9:21
10	4:55	6:24	1:10	4:52	7:54	9:19
11	4:56	6:25	1:10	4:52	7:53	9:18
12	4:57	6:26	1:10	4:52	7:52	9:17
13	4:59	6:27	1:10	4:51	7:51	9:16
14	5:00	6:28	1:10	4:51	7:50	9:14
15	5:01	6:29	1:10	4:51	7:49	9:13
16	5:02	6:30	1:10	4:50	7:48	9:12
17	5:04	6:31	1:10	4:50	7:47	9:10
18	5:05	6:32	1:10	4:50	7:46	9:09
19	5:06	6:33	1:10	4:49	7:45	9:08
20	5:07	6:34	1:09	4:49	7:44	9:06
21	5:08	6:35	1:09	4:48	7:42	9:05
22	5:09	6:36	1:09	4:48	7:41	9:04
23	5:11	6:37	1:09	4:48	7:40	9:02
24	5:12	6:37	1:09	4:47	7:39	9:01
25	5:13	6:38	1:09	4:47	7:38	8:59
26	5:14	6:39	1:09	4:46	7:37	8:58
27	5:15	6:40	1:08	4:46	7:35	8:57
28	5:16	6:41	1:08	4:45	7:34	8:55

Prayer Schedule February 2011						
Melbourne, Victoria						
Date	Fajr	Sunrise	Dhuhr	Asr	Maghrib	Isha
1	4:53	6:33	1:34	5:24	8:34	10:09
2	4:54	6:34	1:34	5:24	8:33	10:08
3	4:56	6:35	1:34	5:23	8:32	10:07
4	4:57	6:36	1:34	5:23	8:31	10:05
5	4:59	6:37	1:35	5:23	8:30	10:04
6	5:00	6:38	1:35	5:23	8:29	10:03
7	5:02	6:39	1:35	5:23	8:28	10:01
8	5:04	6:41	1:35	5:22	8:27	10:00
9	5:05	6:42	1:35	5:22	8:26	9:58
10	5:07	6:43	1:35	5:22	8:25	9:57
11	5:08	6:44	1:35	5:21	8:24	9:55
12	5:10	6:45	1:35	5:21	8:23	9:54
13	5:11	6:46	1:35	5:21	8:22	9:52
14	5:13	6:47	1:35	5:20	8:21	9:51
15	5:14	6:48	1:35	5:20	8:20	9:49
16	5:16	6:49	1:35	5:19	8:18	9:48
17	5:17	6:51	1:35	5:19	8:17	9:46
18	5:19	6:52	1:35	5:18	8:16	9:45
19	5:20	6:53	1:35	5:18	8:15	9:43
20	5:21	6:54	1:34	5:17	8:13	9:42
21	5:23	6:55	1:34	5:17	8:12	9:40
22	5:24	6:56	1:34	5:16	8:11	9:38
23	5:26	6:57	1:34	5:16	8:09	9:37
24	5:27	6:58	1:34	5:15	8:08	9:35
25	5:28	6:59	1:34	5:14	8:07	9:34
26	5:30	7:00	1:34	5:14	8:05	9:32
27	5:31	7:01	1:33	5:13	8:04	9:30
28	5:32	7:02	1:33	5:12	8:03	9:29

Prayer Schedule February 2011						
Brisbane, Queensland						
Date	Fajr	Sunrise	Dhuhr	Asr	Maghrib	Isha
1	3:55	5:20	12:02	3:34	6:43	8:03
2	3:56	5:20	12:02	3:34	6:42	8:02
3	3:56	5:20	12:02	3:34	6:42	8:02
4	3:58	5:22	12:02	3:35	6:41	8:01
5	4:00	5:23	12:02	3:35	6:41	8:00
6	4:01	5:24	12:02	3:35	6:40	7:59
7	4:02	5:24	12:03	3:35	6:39	7:58
8	4:03	5:25	12:03	3:35	6:39	7:57
9	4:04	5:26	12:03	3:35	6:38	7:57
10	4:04	5:26	12:03	3:35	6:38	7:57
11	4:05	5:27	12:03	3:35	6:37	7:56
12	4:07	5:28	12:03	3:35	6:36	7:54
13	4:07	5:29	12:03	3:35	6:35	7:53
14	4:08	5:30	12:03	3:35	6:34	7:52
15	4:09	5:30	12:03	3:35	6:34	7:51
16	4:10	5:31	12:03	3:35	6:33	7:50
17	4:11	5:32	12:02	3:35	6:32	7:49
18	4:11	5:32	12:02	3:35	6:32	7:49
19	4:13	5:33	12:02	3:35	6:30	7:47
20	4:14	5:34	12:02	3:35	6:29	7:46
21	4:15	5:34	12:02	3:34	6:28	7:45
22	4:16	5:35	12:02	3:34	6:27	7:43
23	4:17	5:36	12:02	3:34	6:27	7:42
24	4:17	5:36	12:02	3:34	6:26	7:41
25	4:17	5:36	12:02	3:34	6:26	7:41
26	4:19	5:38	12:01	3:33	6:24	7:39
27	4:20	5:38	12:01	3:33	6:23	7:38
28	4:21	5:39	12:01	3:33	6:22	7:37