

30 July 2002

Ms Merrin Mason  
Executive Officer  
Victorian Parliament Law Reform Commission  
Level 8, 35 Spring St.  
MELBOURNE 3004

**Inquiry into Oaths and Affirmations with Reference to the Multicultural  
Community**

Dear Ms Mason

I refer to your letter of 14 June 2002 inviting the Islamic Council of Victoria to make a submission to the Committee's inquiry on the above subject.

Our submission is attached.

I also confirm that Mr Goolam Laher and I shall attend the Committee's public hearing on Thursday 1 August at 2 p.m.

Yours sincerely

(Philip Knight)  
Executive Officer

**Inquiry by Victorian Parliament Law Reform Commission into Oaths and  
Affirmations with Reference to the Multicultural Community**

**Submission by the Islamic Council of Victoria  
1 August 2002**

The Islamic Council of Victoria welcomes the initiative of the Legislative Assembly in initiating an inquiry into the system of oaths and oath taking and making of statutory declarations and affidavits, as these matters affect the multicultural community.

On the question of the rules for swearing under the *Evidence Act* the Council would favour the removal of swearing on The Bible as the primary form of oath and its replacement by provision for the swearing of an appropriate religious oath binding on the person's conscience. Such a provision would reflect the reality of multifaith, multicultural Australia and remove any perception that the Act and the administration of justice favoured one religion or culture over another. We believe it self evident that swearing on The Bible should no longer enjoy any formal status as the principal form of oath taking in our society.

In the case of Muslims such a change to an appropriate, binding religious oath would be in line with the Hadith (authenticated sayings) of Prophet Muhammad instructing Muslims that " a person who must take an oath, should swear by Allah, or keep quiet."

The swearing of such oaths by Muslims as an undertaking to give truthful testimony is an established tradition within Islam and all Muslims could be expected to regard the making of such a oath as a normal part of their giving evidence in an Australian court.

A Muslim would understand such a binding oath as one, which has been consciously made in the name of Allah (God). A Muslim would also be aware of the injunction in The Qur'an: "... do not break oaths once they have been sworn. You have set up God as a surety for yourself. God knows whatever you do." ( 16:91)

The Muslim's oath then is an act performed in the name of God. It is also an act of worship that means that the individual must approach the act with absolute integrity. The validity of the oath and the obligation it imposes flow directly from the invocation of the name of God.

Its force is not dependent on the association of the act of oath taking with the presence of a sacred text. A Muslim does not, and should not be asked to, "swear on the Qur'an". The use of the Qur'an in court for the purpose of administering the oath is therefore unnecessary.

There is a practical reason, too, why we would consider the use of the Qur'an in court as undesirable. Because we regard it as the inspired word of God, Muslims believe the text of the Qur'an should be handled with reverence and in accordance with certain rules and procedures. Primary among these is the requirement that in order to touch The Qur'an any person (Muslim or non-Muslim) should be in a state of ritual purity. This, obviously, is impossible in an everyday court situation.

As to the wording of the oath, we suggest something along the lines of "I swear by Almighty God/ Allah that the evidence I give this court will be the truth, the whole truth, so help me God. And God/Allah is my witness." The Council would be pleased to have the opportunity to consult on any new formulation of the oath, which might in due course be proposed.

We believe there should be provision for the making of the oath in any community language, and that appropriate provision of interpreters should be made for oath taking as for other parts of the court proceedings.