

# Muslim Women, Islam and Family Violence

A guide for changing the way  
we work with Muslim women  
experiencing family violence



An Australian Government Initiative



THE AUSTRALIAN MUSLIM WOMEN'S CENTRE FOR HUMAN RIGHTS  
*Equality without Exception*

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# Foreword

It is crucial when presenting information about Muslim women and family violence that we do not become susceptible to religious, cultural and political stereotyping, thereby perpetrating one form of violence in the attempt to contend with another. It is important to note that every culture has beliefs and customs that perpetuate violence against women; and that every religion has been used to legitimise violence against women. In every country around the world, women continue to experience violence in the domestic sphere.

Muslim women in violent relationships do not remain in those relationships because of a religious calling or because they are from “backward” cultures. Like all women who experience violence in intimate and family relationships, Muslim women face significant obstacles to achieving safety. Such obstacles can be financial, legal and social. The psychological impact of violence and parental responsibilities can also prevent women from responding to family violence. Some Muslim women must also contend with the associated difficulties of immigration status, language barriers, and how communities interweave cultural taboos and religious doctrine to create internal and external barriers that prevent them from escaping violent relationships.

This guide has been specifically developed for Muslim and non-Muslim professionals, working in the community welfare sector, government and the legal system. It seeks to inform as well as shift the prevailing understanding of Muslim women and family violence. We believe that a great deal of good work already exists on family violence and the Australian system of support. What is missing, however, is how Muslim women themselves understand family violence and the complex social, religious and political battles that limit their options and obstruct their own understanding. This is a battle over the very status of Muslim women, both in relationships and in society as a whole; it is a battle that often has far more influence on women than policy development or law in Australia. It is, therefore, crucial that those entrusted by society to support and protect women understand the pressures they face.

Much has already been said and done in the name of protecting Muslim women from violence, though for the most part Muslim women’s contributions to this work have been invisible in the eyes of Australian society and its community welfare and legal sectors. In part, this guide is an attempt to document the learning of Muslim women activists and scholars. Unlike any other cultural or religious community, work towards the eradication of violence against Muslim women by Muslims has necessitated both an analysis and the utilisation of Islam. A long history of work on these issues has repeatedly demonstrated that it is simply not possible to work on these issues without some account of Islam. This has seen the development of long-standing alliances between Muslim women activists and Muslim scholars, both male and female. Our research in Australia suggests that the same approach is necessary here, in addition to working with and utilising existing services, laws and policies.

We are yet to arrive at a definitive account of Islam and its position on women and violence and this task may prove to be unattainable. What is possible, however, is to arrive at an account of Islam that is expansive, coherent, and that helps the growth of our basic humanity, as we strive to meet the questions and challenges of our milieu — and violence against women is the most urgent question of all. We have adopted a social justice account of Islam one (among many) perspectives for this guide. For many Muslim women scholars and activists, and perhaps for Australian Muslim women dealing with family violence, separating faith from cultural mores that preach violence is an attempt to reclaim a religion that has for too long been exploited for the benefit of a small group of men.

*Joumanah El Matrah*

## Introduction

The Australian Muslim Women's Centre for Human Rights is an organisation of Muslim women working to advance the rights and status of Muslim women in Australia.

We are a non-religious organisation because we understand that the diversity of the Muslim community in Australia means that there is not sufficient consensus on critical issues related to the status of women in Islam. This recognition of diversity ensures our accessibility and relevance to all sects, schools and groups within the Muslim community.

As an organisation committed to human rights, we will not remain silent when Islam is used to undermine the status of Muslim women, but will intervene in these instances with facts and informed analysis.

Our intent is to challenge cultural hierarchies or any system of monopolisation or exclusion that result in reducing the rights and status of Muslim women.

Our framework of understanding is the international Muslim women's movement for equality and dignity, but our action and concern is focused on the local communities in Australia where Muslim women live.

We work for the rights of Muslim women by:

- empowering women's self-determination;
- bringing a human rights approach to bear on issues of inequality and disadvantage;
- working with individuals, the community, and government to advocate for equality within the Australian context.

We aim to inspire positive action by others and aspire to continuously enhance the quality, impact and effectiveness of our work.

## Our Foundational Principle

The one foundational principle that informs our approach to our work is that Muslim women's equality is:

- without exception;
- without qualification;
- without threat.

## Who are we?

In 1991, the Islamic Women's Welfare Council of Victoria (The Council) was established by Muslim women for Muslim women. The Council was founded on the belief that meaningful change to the status of Muslim women could be achieved through the improved situation of Muslim women individually and by building their collective capacity.

In 2011, the Council's name was changed to the Australian Muslim Women's Centre for Human Rights (the Centre) to better reflect the Council's significant role as a human rights defender. This change recognises the singularity of our voice and work on Muslim women's human rights across Australia.

As advocates of Muslim women's rights, we are in chorus with a multitude of Muslims all over the world supporting a vision of Islam at its most progressive, immediate and pertinent to the challenges that Muslim women face. Our work in Australia contributes to the already substantial work on Muslim women's human rights taking place across the world in Muslim and non-Muslim majority countries.

## How do we see the world?

For the most part, Muslim women who migrated to Australia did so as heirs of a rich, pluralistic tradition; but also as bearers of significant disadvantage, discrimination and, at times, violence. In the context of our history, Islam has been both a liberating and the oppressive force in the lives of women, influenced by the vision and limitations of patriarchal society. Historicising how Islam was understood and brought to bear on the status of women testifies to the diversity and plurality of tradition and practice: there has been not one Islam in which all Muslims have participated, but a multiplicity of Islamic interpretations in which many people have lived.

The pursuit of justice and equality for Muslim women has been present to varying degrees in all historical periods and across all cultures and societies. While this pursuit has not always resulted in structural and institutional change, it has nonetheless featured as part of Muslim women's history. Today, all over the world, Muslim women are working and mobilising for change.

This global movement for parity is relevant to Australian Muslim women, whether immigrants or daughters of immigrants, because it brings us closer to the challenge of equality in the Australian context, not just equality with Muslim men but equality with all Australian citizens.

## How does our world view influence our work?

We take a non-religious, non-sectarian approach to our work and adopt a social justice lens to Islam when it is used to justify any infringement against women. This allows us to work with all Muslim women. We believe that there is not one view of Islam that represents all Muslims in Australia and, further, that this diversity is a strength.

We believe that Muslim women must be the impetus for change in their status as citizens.

## What are the core areas of work we undertake?

We prioritise very practical work for women that improve their lives in tangible and measurable ways. We work with individuals, groups and service providers in the following areas:

- case work, referrals, secondary consultation and outreach;
- advocacy;
- community based program and service delivery;
- capacity building;
- leadership development;
- policy development;
- partnership projects.

We have recently established the Australian Institute for Minority Women (the Institute) to operate as the research and consultancy arm of the Centre. The experience of Muslim women as a minority group has much in common with women's experiences from other minority groups. Therefore, the Institute was created because of our belief that the expertise we formed working with Muslim women could be useful to all minority women. As well as providing an insight into the conditions and situations of minorities in Australia generally, the Institute seeks to build an alliance with other minority women in Australia as a gesture of solidarity. The Institute undertakes the following activities:

- research;
- training development and delivery;
- publications;
- consultancy services.



## The Violence in the Home is a Crime for All Australians Project

The current guide is part of an overall project called *Violence in the Home is a Crime for all Australians*. This project is a multi-faceted community education initiative to improve understanding of family violence in Muslim communities by shifting prevailing attitudes within the Muslim community and among community welfare practitioners.

The *Violence in the Home is a Crime for all Australians* project consists of two publications. One is a booklet for Muslim women and their respective communities called *Islam and Muslims oppose violence against women, A Guide for Muslim Women*. This booklet has been translated into three community languages, Dari, Arabic and Turkish, and is also available on audio CD. The current guide, *Muslim Women, Islam and Family Violence*, is for community welfare practitioners. In addition to this, we have also developed an anti family violence poster.

The *Violence in the Home is a Crime for all Australians* project is a redevelopment of the Centre's original *Islam Opposes Violence Against Women* (1995) guide, which proved enormously successful upon its publication. We have redeveloped the original guide to reflect the changing needs of Muslim women and the evolution of our own understanding of family violence, community education and the role of Islam. The original guide did, however, receive some criticism for failing to address the more controversial and misogynistic statements made in the name of Islam, which the current guide has attempted to rectify.

## About this guide

The current guide has been developed primarily for Muslim and non-Muslim professionals and community leaders in the community welfare, government and legal sectors. It is not designed specifically for use by Muslim women seeking assistance in cases of family violence, and they should be referred to *Islam and Muslims oppose violence against women: A guide for Muslim women*. We believe, however, that some Muslim women will find the sections on Islam, Muslim women and violence important and useful.

This guide presents a framework in support of change: in how we think about and respond to Muslim women as service users. This entails a shift in how we approach multiculturalism as a practice and deal with perceived collisions between respecting cultural/religious norms and protecting women. We have taken this unusual approach because we feel that the current understanding and methods of work neither recognise the needs of Muslim women nor the battle to ensure Muslim women's safety and integrity within Muslim communities.

We believe meaningful work with Muslim women necessitates the local application of the ethics, values, insights, ideas and strategies of the international Muslim women's movement for safety and equity. We cannot do this unless we change how we understand our work with minority ethnic/cultural groups. In this respect, the guide does enter into some theoretical territory, particularly as it applies to Islam and violence against women. We feel, however, that change needs to occur at this level if we are to better respond to Muslim women; and that it is at this level which the Centre is best able to contribute to Australian service standards.

Australian workers already have a wealth of information at their fingertips on family violence and basic strategies for working with cultural and ethnic minorities; any further work of this nature would simply be duplicating existing information. Therefore, this guide assumes that the reader has this preliminary knowledge and understanding. While there has been a great deal of sound policy development and positive change in work practices, there is still a long way to go: without ongoing development, we risk allowing systemic discrimination to lock Muslim women out of the very services they desperately need.

## The need for this guide

Violence against women is about the control, domination, subjugation and denigration of women, both as individuals and as a social group. Societies as a whole can perpetuate violence against women or they may provide silent/tacit approval for violence, through having values and practices that privilege the sanctity of men's power over women.

Often societies inadvertently collude with perpetrators of violence through neglect and a failure to appropriately contend with perpetrators; or they may fail to provide policies or laws that adequately protect women. However, in whatever form it takes, the ongoing perpetration of violence against women is a social and cultural phenomenon, either because societies provide the context for values in which such domination and degradation is possible or because societies fail to act.

It is this connection, between individual acts of violence and society as a whole, that makes putting violence against women on the public agenda so challenging: socially, culturally, politically, and for Muslim women, religiously.

It is important, however, that family violence is understood in the context of the system of violence that continues to affect women across the world.

Just as Muslim women who work against family violence must take into consideration the Australian context in which they live, so too professionals working with Muslim women must take into consideration the global context in which the cultural, political and religious interpretive battles over Muslim women's safety, integrity and status are being fought.

## The structure of this guide

The guide is structured into three sections. The first section looks at Muslim women, their communities and what we know about family violence and Muslim women in Australia.

The second section explores multiculturalism and issues of practice, particularly as they relate to minority women's rights. This section also outlines some of the developments in thinking on multiculturalism that we think enable better access for women to essential services and that facilitate a clearer pathway to an understanding of collective community cultural rights and the rights of women.

The third and final section looks at how Islamic texts have been interpreted in relation to the treatment of women, as well as Muslim women's interpretation of Islamic texts. This includes a fairly in-depth look at religious literature that has proven important to Muslim women's work on preventing violence.

This is a complex guide, designed to support and inform workers at a number of levels. In many instances, we would support further reading and training. Also, the Centre will be providing regular training on these issues.

## A final Note

On a final note, it is critical to understand that the Centre is not a religious organisation; we do nonetheless explore and represent “already existing” religious scholarship on issues that affect women, particularly issues that relate to the well-being of women. This is because as Muslim women we do not ascribe to the view that our religion views us as less human or as deserving less human dignity than our male counterparts. Nor is this guide intended to promote Islam or suggest that Muslim women enjoy equal status to men within the faith. The reality is, of course, far more complex and dynamic.

This guide is intended to inform only, and will, of course, not represent the views of all Muslims. Some of the material in this guide will prove controversial, particularly as it privileges women’s rather than men’s account of Islam, and also because it privileges a social justice account of Islam, as opposed to a hierarchical model that suggests only male jurists preaching from exclusively male institutions have a right to interpret Islamic text and practice.

Finally, it will prove controversial because it privileges scholars who accept that Islam is a living religion that is constantly adapting to modern issues and challenges, as opposed to a religion that established a set of religious norms in the 11<sup>th</sup> century AD that cannot be changed, irrespective of how much humanity, human spiritual consciousness or the world may have changed.

Section I

# Muslim Women and Family Violence in Australia

*“Violence against women and girls makes its hideous imprint on every continent, country and culture. It is time to focus on concrete actions that all of us can and must take to prevent and eliminate this scourge – Member States, the United Nations family, civil society and individuals – women and men. It is time to break through the walls of silence, and make legal norms a reality in women’s lives.”*

United Nations Secretary General Ban Ki-moon, Commission on the Status of Women in New York, 25th February 2008

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*“At least one out of every three women around the world has been beaten, coerced into sex, or otherwise abused in her lifetime.”*

General Assembly. In-Depth Study on All Forms of Violence against Women: Report of the Secretary General, 2006. A/61/122/Add.1. 6 July 2006.

## Muslims in Australia

Indonesian Muslims were trading with indigenous coastal communities prior to Australia's settlement by the British Empire. The first Muslims to migrate to Australia were Muslim sailors and convicts who lived under the rule of the British Empire in the 1700s. In the 1800s, Afghan cameleers began to immigrate to Australia. However, significant Muslim migration to Australia commenced after WWII, with large numbers of Turkish and other European Muslims arriving to start a new life. In the 1970s, Lebanese and other Muslims started to arrive, seeking protection from war and other forms of civil unrest. Since then there has been a steady stream of Muslim migration to Australia

The precise number of Muslims in Australia is unknown. This is because many Muslims do not register their religion for fear of persecution or lack an understanding of the Australian Bureau of Statistics' data collection procedure, while others do not identify with mainstream Islam. The number of Muslims registered by the ABS is 340,392 Australia-wide.<sup>1</sup> Australian Muslims make up about 2% of the Australian population, with 40% of Australian Muslims born in Australia.

Australian Muslims are culturally, linguistically and ethnically diverse. Around 60% were born overseas in countries such as Lebanon, Turkey, Afghanistan, Bosnia-Herzegovina, Pakistan, Indonesia, Iraq, Bangladesh, Iran, Fiji, Cyprus, Somalia, Egypt and Malaysia. Less than 20% of Australian Muslims were born in Middle Eastern or Arab countries. Muslims belong to a diverse range of language groups, including Arabic, Turkish, Farsi, Bosnian, Bahasa Indonesia, Bengali, Malay, Dari, Albanian, Hindi, Kurdish and Pashtu.

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<sup>1</sup> Australian Bureau of Statistics, *Muslim Community Profile*, Australian Muslim Women's Centre for Human Rights, 2006.

## Prevalence of Family Violence in the Muslim Community

Despite the fact that Muslim women comprise a significant minority in Australia and that they are the topic of much public and media discussion, no empirical research exists in Australia about their health and well-being, nor about their safety needs, particularly as it relates to family violence. Frequently, written accounts of Muslim women are over-generalised and based on the experiences of only a small number of women.

The situation of Muslim women internationally is too variable and complex to provide an accurate account of the prevalence of violence against them in the home. However, we know it is a significant issue, because Muslim women are undertaking a great deal of work on family violence internationally, which we discuss later (see Section 3). Despite the lack of Australian statistics on the prevalence of family violence, Australian Muslim women's organisations, like their international counterparts, are placing family violence, increasingly, on the agenda. Most have recently commenced data collection in the course of their work. While this information is important, it should be noted that, with exception of the Muslim Women's Support Centre in NSW, no Muslim women's organisation is specifically funded to support or assist Muslim women experiencing family violence. It is unlikely, therefore, that such data adequately reflects the true victimisation rates of Muslim women:

- Between 2005 and 2008, on average 42% of the Australian Muslim Women's Centre for Human Rights clients were women seeking assistance for family violence. In 2009–2010 that average rose to 80%.
- In 2005–2006, the Muslim Women's Support Centre, a refuge for women escaping family violence run by the United Muslim Women's Association (NSW), provided support to 437 clients; 26% of these clients were children accompanying mothers fleeing violent homes. In 2009–2010 that rose to 821 clients, with 239 women seeking assistance turned away because of unavailable housing/ services.<sup>2</sup>

Given the dearth of information available on Muslim women's usage of domestic violence services, the Centre often utilises the data below to map service access for Muslim women. Obviously there are many issues associated with using such data, but in the absence of more meaningful data, it provides a provisional account of Muslim women's needs:

- Women from Muslim-majority countries comprised 11.6% of clients accessing support from the Women's Domestic Violence Crisis Services of Victoria between 2007–2008, In 2009–2010 that percentage increased to 12.4%.<sup>3</sup>
- In 2005–2006, 40.8% of women accessing the Immigrant Women's Domestic Violence Service (IWDVS) came from countries in which Muslims form the overwhelming majority. Furthermore, its three highest groups of service users were: Middle Eastern and/or Arabic speakers; from the African community; or Turkish women. In 2006–2007, the proportion of women from Muslim majority countries accessing IWDVS remained stable at 39.3%. In 2008–2009 that average was 27.3%.<sup>4</sup>

<sup>2</sup> Muslim Women's Centre, *Annual Report 2006–2007 2009–2010*.

<sup>3</sup> This data was kindly provided by Women's Domestic Violence Crisis Service Victoria to the Council.

<sup>4</sup> *Immigrant Women's Domestic Violence Service, Annual Reports, 2005–2006, 2006–2007 and 2008–2009*.



In Victoria, we know that 37.5% of clients accessing Women’s Domestic Violence Service of Victoria were born overseas in non-English speaking countries. The total population of Victorians born overseas (in English and non-English speaking countries) is 25.1%<sup>5</sup>, suggesting that women from culturally and linguistically diverse backgrounds are over represented as clients of the Women’s Domestic Violence Service of Victoria.<sup>6</sup>

Research suggests that some communities of women experience greater difficulty leaving and are less likely to report violent relationships, because of factors such as ethnicity and limited English language proficiency<sup>7</sup>. Very little research has been undertaken on the prevalence and experience of family violence within immigrant and migrant communities. Existing research is contradictory as to the type and extent of violence experienced by immigrant women<sup>8</sup>. Like Muslim women, we know very little about the true victimisation rates for immigrant and migrant women, substantially limiting our capacity to draw conclusions.

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<sup>5</sup> This 2006–2007 data was kindly provided by Women’s Domestic Violence Crisis Service Victoria to the Council.

<sup>6</sup> Victorian Community Council Against Violence, *Five year report 1999–2004*, Victorian Family Violence Database, Vol 2, Victorian Government Department of Justice, 2006

<sup>7</sup> KPMG Management Consulting. *The Cost of Violence Against Women and Children*, Australian Government, Canberra, 2009, retrieved 29 March 2011, [http://fahcsia.gov.au/sa/women/pubs/violence/np\\_time\\_for\\_action/economic\\_costs/Pages/default.aspx](http://fahcsia.gov.au/sa/women/pubs/violence/np_time_for_action/economic_costs/Pages/default.aspx)

<sup>8</sup> A Morgan & HK Chadwick, *Research in Practice, Summary Paper. Key Issues in Domestic Violence*, Australian Government, Australian Institute of Criminology No 7, December 2009.

## Defining Family Violence

In Victoria, there is a new working definition of family violence in the Family Violence Act that was passed by parliament in May 2008.

**Family violence is behaviour by a person towards a family member of that person that:**

- is violent;
- is emotionally, psychologically or economically abusive;
- is threatening;
- is coercive;
- in any other way controls or dominates the family member and causes that family member to feel fear.

**Examples cited of family violence include:**

- assault or personal injury to a family member;
- sexual assault and other forms of sexually coercive behaviour;
- damage to a family member's property;
- kidnapping or depriving a family member of her or his liberty;
- forced social isolation;
- causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the behaviour is directed.

The Act provides examples of sexual, social, emotional and economic abuse. We have extended this list to include examples that are relevant to Muslim women as religious/spiritual beings and also as immigrants to Australia. We have expanded the definition of family violence to facilitate a reading of this guide.

## Sexual abuse

### For women with insecure migration status:

- informing her that she is required to have sex with him whenever he wants because her eligibility for citizenship or residency depends on him;
- alleging on legal papers that she has a history of prostitution;
- informing the partner that she will be condemned by God if she does not have sex with him whenever he wants.

## Emotional abuse

### For immigrant women, especially those with insecure migration status:

- calling her racist names;
- accusing her of abandoning her culture;
- threatening to harm someone in her family in Australia or in her country of origin;
- hiding or destroying important legal papers, such as her passport or the children's passports or birth certificates;
- destroying her personal belongings from her country of origin;
- convincing her that family violence is not illegal in Australia;
- convincing her that if she seeks police, welfare or the courts' assistance, he will automatically receive legal custody of the children;
- accusing her of marrying him for migration purposes only and threatening to or actually reporting her to immigration authorities;
- blaming her for breaking up their family and community if she leaves him;
- threatening deportation: refusing to file or withdrawing immigration papers.

Frequently, abusers of immigrant women also use children to manipulate their victims by:

- threatening to or actually abducting the children, perhaps returning them to the country of origin where women may have no legal entitlement to custody;
- threatening to or actually harming the children;
- taking money that she intended to support family members in her home country;
- raising the immigration status of a woman in custody cases, to undermine the woman's case for custody and divert the court's attention away from family violence.

## Financial/economic abuse

**For immigrant women, especially those with insecure migration status:**

- forcing her to work illegally;
- harassing her at work so that she is fired from the only job at which she can legally work;
- preventing her from working;
- stealing money she is sending to her home country to support her family;
- preventing her from learning English and attaining other skills that she needs to secure a job which pays a living wage.

## Social abuse

**For immigrant women, especially those with insecure migration status, the following manipulation of cultural taboos and mores might be used:**

- writing or telling the victim's family lies about her;
- embarrassing her in front of family and friends;
- divulging family secrets;
- causing her or her family to lose face in the community;
- preventing her from meeting with people from her country who speak her native language;
- cancelling her subscriptions to newspapers and magazines in her language;
- isolating her from family and other supportive individuals within her cultural community;
- preventing, restricting and controlling her interactions with the English-speaking community;
- forcing her to sign papers in English that she does not understand.

Perhaps fundamental to every other type of abuse directed at Muslim and other believing women is abuse that mobilises religion.

**Spiritual and religious abuse includes:**

- using religion to normalise abuse and violence;
- using religion to dominate, exercise authority and claim superiority in the relationship; for example, for a man to use parts of the Qur'an selectively to promote his own interests;
- threatening or joking to marry a second wife;
- giving the partner incorrect religious information to promote a person's own interests and needs;
- using the partner's religious or spiritual beliefs to manipulate them;
- preventing the partner from practising their religious or spiritual beliefs;
- ridiculing the other person's religious or spiritual beliefs;
- forcing the children to be reared in a faith that the partner has not agreed to;
- polygyny in a country where it is illegal;
- early marriage.

## **Barriers to change and assistance**

Research continues to verify that immigrant women face additional barriers beyond the already substantial barriers women in general face when leaving a violent relationship. One of the major impediments for immigrant and Muslim women seeking to leave violent relationships is the lack of viable alternatives to family and close community networks whose support they might lose upon leaving a violent relationship<sup>9</sup>. Other barriers to change and assistance follow.

## **Ongoing violence or threat of violence from ex-partner/husband**

Well after the separation, many women, despite being issued a protection order, continue to experience violence and harassment from their ex-partners. For Muslim women who might be part of a small community, it is extremely difficult to ensure a safe distance from a violent ex-partner. It may also be equally difficult to keep her whereabouts confidential.

## **Language barriers**

The foremost barrier to seeking assistance for immigrant women is language. Language can act as a barrier in multiple ways, to the point of even preventing women from realising that family violence is a crime in Australia. Many immigrant women struggle to access services and negotiate the legal system, even with the assistance of interpreters.

## **Staying for the sake of the children**

Many women continue to believe that it is better for children to remain in an intact but violent relationship rather than denying children their father. This is especially the case if violence is directed solely at women and not their children.

## **Housing barriers**

Increasingly in Australia, housing for women who are sole parents has become more difficult to locate, and, as a result, there are increasing cases of women becoming homeless with their children when escaping a violent relationship.

## **Economic barriers**

As is the case with many women, the economic obstacles for Muslim and/or immigrant women leaving relationships are significant.

For immigrant women without citizenship or permanent residency but who have visas permitting them to work, finding sufficient support to allow time for job-hunting is extremely difficult. Language barriers, plus limited access to employment agencies, training and childcare support, all act to lock women out of successful job seeking.

A lack of independent financial resources resulting in financial dependency is one of the main reasons immigrant women remain in domestic violence situations.

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<sup>9</sup> *Partnerships Against Domestic Violence, Cultural Perspectives, Attitudes to Domestic and Family Violence in the Diverse Australian Community, 2000. This is also born out in the experience of the Centre in its own support of women.*

## **Fear of deportation**

The threat of deportation for newly arrived Muslim women, even those who have citizenship, continues to be a potentially powerful strategy available to abusers in a family violence situation. Having assisted women to come to Australia via a spousal visa or through other means, many women are led to believe that their partners have the power to have them deported from Australia at will.

## **Kidnapping children**

For women married to men with overseas connections, abduction of children is a very real fear; and is a strategy that men have utilised to maintain control over their partners. Sometimes this threat has been carried out because women do not know the legal safeguards that protect children from being taken out of the country without their mother's consent. Some women believe that compliance with their ex-partner's wishes may stop his violence and ensure that he returns the children to Australia.

## **Accessing services**

Many Muslim and/or immigrant women feel apprehensive about accessing mainstream support services, which they identify as culturally inaccessible and even alienating. Many women have felt that general services do not understand the particular cultural and religious context of their situation, may be racist toward them (especially if they disclose they are Muslim), and are too encouraging of separation and family breakdown. Some women also fear accessing community organisations because of concerns regarding confidentiality.

## **Perception of law enforcement and the legal system**

Immigrant women are often apprehensive when it comes to police and the legal system in Australia. There are many factors contributing to this fear: some are related to women's country of origin, some are related to the migration process, and others are related to their experience of policing and the court system in Australia.

Some women come from countries in which women are locked out of the system generally, or where the system provides no protection for women experiencing domestic violence. In other countries, the legal system's officials or the community itself seldom utilise laws that have been developed for the protection of women.

In many other countries, the testimony of a man has more value in law than the testimony of a woman, and women are discouraged from approaching the legal system. In countries affected by civil strife, legal systems break down and are prone to irregular practices or a complete failure of due process. This can lead to law enforcement and the judicial system being feared rather than seen as a source of remedy and justice.

## Section 2

# Using Multiculturalism to address Family Violence in Muslim communities



*While anyone can be a victim or perpetrator of family violence, family violence is predominantly committed by men against women, children and other vulnerable persons.*

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*Family violence occurs in all areas of society, regardless of location, socio-economic and health status, age, culture, gender, sexual identity, ability, ethnicity or religion.*

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*Family violence extends beyond physical and sexual violence and may involve the exploitation of power imbalances and patterns of abuse over a period of time.*

*Victorian Family Violence Act (2008).*

## How have we thought about our work with Muslim women and family violence?

Across Australia, there is a range of whole-of-government approaches to respond to family violence and, in particular, violence against women. The policy frameworks of these approaches describe the direction governments seek to take to reduce the incidence and impact of family violence. At the Federal level, the Office for the Status of Women has implemented its National Plan to reduce violence against women and their children (2010–2022), including a first three-year action plan.

A similar policy and legal context exists for working with culturally and linguistically diverse communities across the country. Victoria, for example, now has two pieces of legislation that compel organisations to respond to migrant minority communities in an appropriate and non-discriminatory manner. The Multicultural Victoria Act (2004) and the Victorian Charter of Human Rights and Responsibilities Act (2006), the latter citing cultural rights, freedom of expression and freedom of thought, conscience, religion and belief as human rights.

At the national level, *The Charter of Public Service in a Culturally Diverse Society*<sup>10</sup> outlines a set of service planning and delivery principles for mainstream service providers working with cultural minorities. In 2010, the Australian Multicultural Advisory Council reviewed the position of immigrant/migrant communities in Australian society and provided a set of recommendations to government<sup>11</sup> to ensure their inclusion in Australian society and to increase life opportunities. The national Human Rights Framework stipulates a commitment to achieving greater respect for human rights principles within the community as one of its key principles.

While our policy and legal context requires organisations to take into account individual characteristics of our service users and how this might impact on service provision, there are no current policies that provide guidance or direction in relation to working with immigrant and migrant women, much less anything on working with Muslim women. This oversight has led to pertinent questions about how to balance culturally appropriate practice considerations with the status and safety of women when these objectives clash.

Despite Muslim women's unmitigated over-representation in media and public discourse, government policy and community welfare sector practice defines them as one group among the many culturally and linguistically diverse (CALD) communities residing in Australia. Hence, our response to Muslim women and family violence can for the most part be understood in the policy context of cultural diversity within the framework of multiculturalism.

<sup>10</sup> Department of Immigration and Citizenship, *The Charter of Public Service in a Culturally Diverse Society*, The Commonwealth Government of Australia, 1998. This is the only such document released by the Commonwealth since 1998.

<sup>11</sup> Australian Multicultural Advisory Council, *People of Australia*, 2010.

## Multiculturalism to tackle discrimination and disadvantage

Although multiculturalism has provided the foundation from which our work with CALD minorities has flourished, there has always been significant confusion as to its meaning. Jayasuriya<sup>12</sup> has suggested that this is because there are two strands of multiculturalism operating in Australia: firstly, a philosophy and set of public policies to promote the immigration, settlement and integration of people; and secondly, the multiculturalism which is “as a constitutive principle of the Australian nation, one which is central to how we regard ourselves as being Australian in a multicultural nation, i.e., as Australian citizens in a diverse and plural society<sup>13</sup>”. This guide occasionally makes reference to the latter strand of multiculturalism, but is primarily concerned with the form of multiculturalism associated with the migration, settlement and welfare of migrants.

As a set of public policies, multiculturalism has its roots in the Whitlam government (1972–75); however, Australia’s migration program long preceded this and has always sought to attract immigrants for permanent settlement<sup>14</sup>. As originally formulated, multiculturalism was based on an accord in which migrants’ cultural identities (based on their racial, ethnic, or national origin) were recognised and supported if migrants accepted the Australian rule of law and other cultural principles considered definitive of the Australian identity<sup>15</sup>, the meaning of which has altered over time.

Since its inception, multiculturalism has undergone many redevelopments, but has always oscillated in its focus between providing migrant communities with cultural recognition and support to maintain cultural identity and a concern for social justice imperatives such as those increasing life chances and opportunities for migrants. However, engagement with immigrant communities has always been based on their culture and the representation of a group’s culture by a representative/community leader, not on their status as a minority: often they were conflated as meaning the same thing. Multiculturalism, as articulated in various policy frameworks, sees communities through the prism of race, ethnicity and cultural identity. And as such, multiculturalism attempts to contend with issues of justice by focusing on the way in which race, ethnicity or culture disadvantages people within Australian society.

The notion that people have cultures and organise and aggregate around cultural values is very old. A great deal of scholarship has been generated on the topic of what cultural and human diversity signifies. Generally, culture has been linked with norms, values and traditions associated with the history of the community/society through generations. With growing numbers of diaspora communities in Western countries, culture has been increasingly spoken about as explaining differences between communities that require awareness and consideration in service provision, but also has been spoken about as explaining traditions and practices that were outside the Australian “norm”. This has led to the development of cultural profiles, describing core characteristics of cultural and ethnic groups.

This approach has been adopted by women’s and family violence services when working with CALD communities. Women’s services have looked at minority cultures as embodying different ideas about women’s status, gender relations and the family. In this context, service providers have engaged

<sup>12</sup> L Jayasuriya, *Australian Multiculturalism Past, Present and Future*, School of Social and Cultural Studies, University of Western Sydney, 2003.

<sup>13</sup> *Ibid.*

<sup>14</sup> M Woden et al, *Australian Immigration: A Survey of the Issues*, Australian Government Publishing Services, Canberra, 1990.

<sup>15</sup> L Jayasuriya, *Australian Multiculturalism Past, Present and Future*, School of Social and Cultural Studies, University of Western Sydney, 2003.

with questions as to how cultures shape individuals, families and communities. In taking a culturally appropriate approach to working with CALD women, we have tried to understand how culture shapes:

- how communities understand and respond to violence in the home, including how victims understand violence and whether perpetrators accept responsibility for violence;
- whether services are accessible and equitable;
- our own responses within the social and organisational cultures from which we come.

In many ways, we have come to terms with the notion that the cultural and religious heritage of people must be given recognition and respect. This is a basic human right and essential for the health and well-being of minority communities. Minority cultures that are treated as inferior, discriminated against, and marginalised will eventually disengage and disinvest from society, leaving them vulnerable to further abuse and disadvantage<sup>16</sup>. At its most progressive, multiculturalism allows various levels of society to build mechanisms by which minority communities and their members can live free from prejudice and discrimination, have access to equality of opportunity, and participate fully in society.

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<sup>16</sup> B Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory*, Macmillan Press/Palgrave, Basingstoke, 2000.

## A note on racism and religious vilification of Muslims

Despite the work done to date on policies and protections aimed at eradicating victimisation of minority communities, systematic discrimination continues to be a global reality. Australia has accomplished significant reform in the last three decades on issues of discrimination and race, and these changes have gone some way to improving life chances for migrants, preventing ill-treatment, and ensuring more equitable outcomes. However, it would be naïve to assume that institutional discrimination and barriers to justice do not continue to characterise minority and Muslim women's experiences. As a result, Muslim women continue to report estrangement from the very systems designed to protect them.

It is crucial that we remain cognisant of these forms of racism. However, for Muslims the experience of racism, discrimination and vilification has acquired new dimensions since the September 11th terrorist attack in the United States. This has not only resulted in a spate of racial attacks against Muslims, but has also seen the resurrection of a plethora of theories, arguments and comments made about an organic, deeply rooted and inexorable relationship between Islam and violence.

In Australia, the argument has often been made that the increase in discrimination against and intolerance of Muslims has been in response to September 11th and the growing awareness of Muslims as a new immigrant group in Australia. Both these realities have generated a level of fear among ordinary citizens about who is in their midst. But this is not how Muslims themselves have understood their experiences of racism and vilification. Muslim scholarship and community views take a much longer historical perspective on these matters, arguing that while a majority of Muslims in Australia are not from the Middle East, they are, nonetheless, viewed from the prism of the west's relationship with the Middle East.

Principally, this relationship has been one where the West colonises or tries to take possession of the Middle East. To make this process culturally and politically possible in the west, much of what has been written about the Middle East fictionalises Arabs and Muslims, setting them up as antithetical to western societies: the east was stagnant and uncivilised while the West was progressive and enlightened; eastern women were oppressed and invisible while western women were empowered and liberated; eastern men were brutish and violent while western men were rational and free thinking<sup>17</sup>. For Muslims there is a powerful connection between this terrible history of conflict and modern day racism and bigotry.

We no longer perceive 'East' and 'West' as useful concepts to define peoples or cultures because of the enormous diversity evident in each concept. We may think that the provision of welfare and eradication of family violence has little relationship to historical international affairs; however, Muslim women as victims and Muslim men as violent perpetrators are two stereotypes that play powerfully into how the community perceives the intervention of non-Muslims into issues of family violence. Improving the lives of Muslim women has been a very powerful method of 'dominating, restructuring, and having authority over' Muslim and Arab communities<sup>18</sup>. Since September 11th, it has become increasingly difficult to work on issues of family violence without communities feeling that they are the target of a collective racial assault.

<sup>17</sup> E Said, *Islam Through Western Eyes*, *The Nation*, April 26, 1980.

<sup>18</sup> E Said, *Orientalism*, *Vintage*, New York, 1979, p 12.

The stereotypes that surround Muslim men and women and their relationships, has meant that, perhaps more than any other area of violence against women, issues of contextual racism must be addressed if we are to work on gender violence.

Resisting the ongoing vilification of their faith, many Muslims feel the need to protect their communities from further denigration, therefore, limiting trust in the Australian system. This apprehension has been used by more conservative elements within the community to limit women's options and curtail community discussion of women's safety. In many ways, minority Muslim communities in Australia and overseas feel under siege, and vulnerable groups within communities under siege often experience a decline in status.

*In Britain in 2003, a young child from a newly arrived community and refugee parents died from ongoing health issues associated with being forced to sleep in a small suitcase and other forms of physical abuse. The country's protective services were monitoring the family at the time; upon the child's death an investigation was launched. The worker assigned to the family stated that she was aware the child was sleeping in the suitcase but did not make a notification because she was under the impression that it was a cultural practice.*

*Trevor Phillips, Chairman of the Commission for Racial Equality (UK), Paper 2004, Multicultural Conference Prato, Italy.*

*In Germany in 2006, a Muslim woman requiring the earlier dissolution of her marriage applied to the German courts requesting exemption from the twelve-month separation period required prior to the courts granting a legal divorce. Her request was denied because the judge stated that the Qur'an (holy book of Islam) explicitly bestowed on Muslim men the right to physically punish their wives, therefore; "The exercise of the right to castigate does not fulfil the hardship criteria as defined by paragraph 1565 (of German federal law)", further that "In these cultural circles it is not uncommon for the husband to make use of his right of corporal punishment against his wife", she wrote. "The German-born applicant must have realized this when she married the Moroccan-born" man.*

*The Age, 2006.*

*A Turkish woman was denied her application for an intervention order on the basis that she should be familiar with the "extreme patriarchy of her culture", and as such the violence was held to be a natural and "expected" outcome of such cultural values. The magistrate, in expressing his paternalistic concern, suggested the woman seek out assistance from her own community. In this way, she would be ensured of a culturally appropriate remedy.*

*Assafiri & Dimopoulos, The Legal System's treatment of NESB (Non English Speaking Background) women victims of male violence. Criminology Australia, 1995.*

*In 2004, a cross-cultural training session entitled “Health Needs for Muslims in Australia” informed medical practitioners, nurses and other staff that Muslim women should not be offered the option of termination of pregnancy because terminations were forbidden in Islam and providing the option would only further increase women’s distress.*

*Australian Muslim Women’s Centre for Human Rights, Training Needs Assessment Records, 2004.*

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*In Australia in 2005, the Australian Federal Police produced the Religious Diversity Guide in an effort to improve the cultural competence of its members. The guide was developed with the assistance of community religious leaders. In the case of the Muslim community, the AFP received endorsement for its guide from a leading Victorian mosque and other peak Muslim organisations. In 2006, the AFP’s manual attracted significant controversy and criticism because of a series of recommendations it made regarding respecting and including people’s religious traditions in the process of standard police procedures. In relation to Muslims, the guide recommended that “in incidents such as domestic violence, police need to have an understanding of the traditions, ways of life and habits of Muslims”. In domestic violence incidents, imams would like to be contacted so that they could work against “fragmenting the family unit”. Ultimately the Australasian Multicultural Advisory Bureau withdrew the guide. In its consultation process, the AFP failed to consult Muslim women.*

*The Herald Sun, 2006.*



## Multiculturalism as Discrimination and Disadvantage

Before proceeding, it is important to bear in mind that multiculturalism is often a scapegoat for an array of political and social ills: anything from increases in property prices, unemployment, ghettoisation of cultural groups, to violence, gangs, and terrorism. It is the view of this Centre that multiculturalism is a successful and important public policy. All public policies, however, have aspects to them that require further refinement; and multiculturalism is no different in this regard.

The most significant criticism levelled at multiculturalism is its failure to address “racial inequality because it does not question how institutional power is wielded within society against particular groups, and distracts the state from taking responsibility for racism<sup>19</sup>”. This is particularly relevant when we misunderstand or over-emphasise what cultural recognition means in our service and policy responses.

Multiculturalism has been accused of reinforcing the very stereotypes it seeks to eradicate, reflecting the idea of cultures and communities as fixed, homogenous and uncontested among its members. In addition to this, as the above examples highlight, we perceive minority community members as passive receptacles of all aspects of their cultures; they do not contest or dissent with any practice that is deemed to be “part of their culture”. Women particularly are defined in this way. In these instances, the use of culture denies human agency: migrants “act out” their culture, while Westerners make rational, autonomous decisions.

Multiculturalism has also been criticised because it allows the acceptance of practices otherwise deemed unacceptable. These criticisms have contributed to the emergent view that women’s rights are in direct opposition to the multicultural rights of minority communities, particularly religious minority communities. In Australia and internationally, politicians and media commentators in the public space have argued over the destructiveness of multiculturalism and questioned whether minority communities should be allowed to maintain their traditions when this involves “the subjection of women (as) a strong part of that tradition<sup>20</sup>”.

A legitimate criticism has been made of governments and service providers who seek out “authentic<sup>21</sup>” interpretations of culture, religion and tradition through community leaders. “Authentic” interpretations and representations of minority cultures and needs have become synonymous with religiously orthodox and culturally conservative representations and interpretations of practice. In addition to this, “authentic” representation has also become synonymous, at least in Australia, with “not like us”; the greater the difference in practice and view, the more it is about authentic cultural expression.

However, seeking out such “authentic” or “different from us” readings of a community’s culture does inevitably leave us susceptible to risky practices, such as allowing ourselves to believe that forcing a child to sleep in a suitcase is simply “a cultural practice”, as it applies a different level of humanity to particular groups because of culture, and this represents possibly the ultimate denigration of a community.

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<sup>19</sup> A Phillips, *Multiculturalism without Culture*, Princeton University Press, New Jersey, 2007.

<sup>20</sup> S Okin, ‘Is Multiculturalism Bad for Women?’, in J. Cohen, M. Howard and M. Nussbaum (eds), *Is Multiculturalism Bad for Women?*, Princeton University Press, New Jersey, 1999.

<sup>21</sup> S Warrior, *Culture Handbook*, Family Violence Prevention Fund, San Francisco, CA 2005.

Minority and Muslim women in Britain and Canada have convincingly argued that women, as a minority within a minority living in liberal western societies, do not have the same access to equality and liberty as other citizens. Further, they attribute their exclusion from these rights to the impact of the practices and policies of multiculturalism<sup>22</sup>. In part, this refers to a growing movement in some communities of religiously conservative and orthodox elements that have utilised the discourse of multiculturalism (i.e. the right to group rights), to argue for either the recognition of certain practices as cultural and/or religious and therefore acceptable, or for the right to develop and govern parallel social institutions.

For Muslims, examples include the establishment of *shar'iah* tribunals for Muslims to complement family courts in the United Kingdom (the attempt to do this in Canada and Australia has been unsuccessful), or the establishment of Islamic secondary private schools in Australia. Such groups have, indeed, used multiculturalism to support the need for these parallel institutions by arguing that the state would otherwise be racist in denying these group rights. Hence, multiculturalism has sometimes been the crucible in which already powerful groups in the community have mobilised further power and resources, with the state having tendered out its responsibilities to ensure the rights of its young and female citizens. In addition to this, many states have simply failed to support women's organisations when they have had to contend with the resurgence of practices aimed at disempowering women in very culturally specific ways.

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<sup>22</sup> For example, *Women Living Under Muslim Law*, Southall Black Sisters and Canadian Council for Women

## Multiculturalism to challenge gender inequality and violence against women

In attempting to understand other people, our own understanding of culture has in many ways become impoverished. Principally, this has occurred in the process of adapting our ideas of culture to the provision of welfare and support, and contending with issues of justice. In dealing with the array of human diversity and complexity, we have narrowed our understanding of culture and difference.

Many of our notions about culture are centuries old and need to be revisited, but we have maintained them because they make it easier for us to speak in a shorthand way about issues that are extraordinarily difficult to define. But speaking about culture as a static set of norms and values of a particular community misrepresents how communities live and navigate their cultures. Notions of culture are also more than the process by which norms and values of particular communities are expressed through gender, sexual orientation, class, political persuasion, immigration status or any other axes of identity. Culture influences and affects people profoundly, but it does not determine solely who they are or how they behave. Culture structures our understanding of ourselves and the world and it is the way by which groups give meaning and structure to their societies.

A critical definition of culture recognises that within the fluid borders of each culture is internal plurality and exchange between different traditions, ideologies and other forms of thought<sup>23</sup>. Largely this is based on a common history, but not a common reading of history (as we have seen in debates about Australian history and Australian values). This is an organic process that all societies and cultures go through. As Parekh points out, this does not mean that there is not an internal coherence, self-determination or inner impulse in every culture; but culture and identity are always characterised by the capacity to be fluid and open to change<sup>24</sup>. Given the complexity of cultures and the fact that they are in a constant process of growth and change, when communities migrate we cannot expect the process of change to simply stop. Further permutations take place: some due to the process of migration; some due to changes in the country of origin; some due to the new environment; while other changes will be due to the existing plurality within the community itself.

There are many aspects of multicultural practice that work exceptionally well; but as demonstrated in the previous section, when questions of violence, abuse and power come to the fore, our ideas of what culturally appropriate practice entails leaves us at risk of a gross failure in our professional duty of care.

There are three important factors to consider here in matters of family violence and women in minority communities:

- 1 When we suggest it is unclear whether a minority culture condones violence because of differences in views among community leaders, we are ignoring ambiguities and contradictions which exist in every culture, and the reality that many people in the Australian community continue to be violent towards women or have views that support violence<sup>25</sup>. Views about violence only change when programs have been developed to shift attitudes: it is about education not culture.

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<sup>23</sup> S Warrior, *Culture Handbook, Family Violence Prevention Fund, San Francisco, CA 2005*

<sup>24</sup> B Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory, Macmillan Press/Palgrave, Basingstoke, 2000*

<sup>25</sup> Vichealth, *Two Steps Forward, One Step Back: Community Attitudes to Violence Against Women Progress and challenges in creating safe and healthy environments for Victorian women- A summary of findings, Victorian Health Promotion Foundation, Australia 2007*

- 2 When we suggest that it is unclear whether a minority culture condones violence we are proposing that the safety of women and children is a uniquely western value or concern. Quite simply, the dignity and safety of persons is not a value unique to western societies. Violence against the vulnerable is a universal practice and the struggle to prevent violence against women and children has been the target of international work for at least sixty years. It has seen countries from every part of the globe become signatories to various conventions seeking to protect women and children. The practice of violence varies across cultures; but it is essentially about the application and enforcement of power, not the practice of tradition or religion. In every society, there is a longstanding history of resistance against violence, particularly violence against women. Do not mistake the absence of an institutional prohibition against violence in a society for absence of cultural prohibition, or at the very least a history of resistance against it.
- 3 Trying to understand a woman's culture should not obscure the power stratification within minority communities between people of different gender and age. The violent victimisation of women and children is the expression of the application of power by one group against another.

The scholarship of Muslim women and other migrant women has repeatedly demonstrated that diaspora communities' preservation of cultural and religious practices have often focused on traditions and practices related to the personal, sexual and familial life of its members, while other traditions and practices that may be equally important to the preservation of cultural identity have been allowed to waste away. The vast majority of cultures hold women as receptacles of community values and traditions, with primary responsibility for preserving, transmitting and maintaining its morals and practices. It is, therefore, women who face the greatest resistance and reaction if they refuse or fail to comply with community standards.

Hence, we need to move beyond multiculturalism as simply accepting any practice as 'cultural' as long as it doesn't contravene the rule of law or harm group rights. This approach denies the complexity of communities, fails to protect the vulnerable within communities and inevitably leads us to the quandary of what defines "harm, discrimination and oppression" in another culture. Instead, we need to adopt a more critical understanding of other cultures, and a judicious understanding of the politics, ideology and struggles that every culture and religion is currently engaged with, on matters of gender, equality and violence. Alliances and understanding need to be brokered across groups who are working to eliminate violence. It is from this position that a women's experience of her situation and her options as a survivor of family violence should be approached. Multiculturalism does not exclude this form of analysis: on the contrary, it demands it.

Finally, it is worth revisiting the purpose of multiculturalism as it relates to the welfare of migrants. Multiculturalism in its original manifestation was the policy framework by which various levels of government and other institutions of state sought to ensure for immigrants the basic rights and privileges of citizenship. While cultural recognition and respect is an important aspect of multiculturalism, it is essential to remain cognisant that multiculturalism should ultimately be concerned with material rights and life chances, which are the basic rights of citizenship. Despite the growing conflation in recent years between citizenship and national culture, reformulations of multiculturalism have suggested that citizenship is membership to a political community, not a cultural community<sup>26</sup>. Returning to this more rights-based/citizenship-based approach to multiculturalism can be demonstrated by the Western Australian Charter of Multiculturalism

<sup>26</sup> L Jayasuriya, *Australian Multiculturalism Past, Present and Future*, School of Social and Cultural Studies, University of Western Sydney, 2003

*In a democracy such as ours, citizenship refers to a practice as well as a status. Unfortunately, there are still many barriers that restrict the practice of citizenship such as those relating to socio-economic and cultural factors. This Charter moves beyond a universalist model of citizenship which confers upon all citizens, irrespective of difference, equal rights and status within a political community by giving little importance to people's particular circumstances such as gender, ethnicity, religion etc. To enable a person's particular circumstances to be considered, the Charter is underpinned by a democratic citizenship which reflects sensitivity to different needs, claims and interests within the accepted principles and practices of the broader Western Australian community.*

*WA Charter of Multiculturalism, 2004*

This policy and recent theoretical reformulations propose moving away from a “culturalist” multiculturalism in which primary emphasis is placed on cultural recognition and moving towards a multiculturalism concerned primarily with prejudice and discrimination, participating in Australian society and of equality of opportunity<sup>27</sup>. The move to a citizenship-based multiculturalism recognises “that Australians are of different linguistic, religious, racial and ethnic backgrounds, and promotes their participation in democratic governance within an inclusive society”<sup>28</sup>. This is a crucial reformulation, because it forces us to take on the task of recognising people as they are: citizens with civic rights and entitlements under the state. It forces us to recognise that society continues to allocate people unequal positions — that culture is still socially and politically significant; social hierarchies and material inequality continue to correlate profoundly to markers such as gender, ethnicity, race, and disability<sup>29</sup>.

<sup>27</sup> L Jayasuriya, 2003

<sup>28</sup> Government of Western Australia, WA Charter of Multiculturalism, 2004 p. 3

<sup>29</sup> A Phillips, *Multiculturalism without Culture*, Princeton University Press, New Jersey, 2007.

Section 3

# Islam and Violence against Women

# Islam

Islam was revealed to the Prophet Muhammad (whose name will be followed by the initials PBUH, standing for “Peace Be Upon Him”, a common blessing given to him by Muslims) just outside the city of Mecca (or Makkah), which is part of the modern kingdom of Saudi Arabia, around AD 610.

Muslims believe that the message given to Muhammad (PBUH) is not a new revelation but one that has been revealed progressively over time, commencing with the Jews, continuing with the Christians, and then passed on to the Muslims. Jews and Christians are described as “People of the Book” in the Qur’an because they are considered recipients of revelations from the same God who revealed Islam to the Prophet (PBUH).

The Qur’an is the holy scripture of Islam. It comprises the complete collection of revelations by God to the Prophet Muhammad (PBUH), beginning around AD 610 and ending with the Prophet’s (PBUH) death in AD 632.

Despite the perception of Muslim’s homogeneity, there is, in fact, a great deal of diversity among Muslims. The major division in Islam is between the Sunni and Shi’ah sects. Sunnis constitute approximately 85% of the global Muslim population, while the Shi’ah make up most of the remaining 15%.

Over the years, further sub-sects have developed within these two overarching sects, such as the Ismailis within the Shi’ah sect. It is difficult to do justice to the breadth of sectarian differences within Islam and their individual practices. The majority of Muslims in Australia are Sunni, but there are also significant populations belonging to the Shi’ah, Alawi, Alevi, Ismaili, Druze, Bohra and Ahmedi sects. This diversity in theology also extends to social, political and cultural differences.

In addition to the Qur’an, Muslims seek guidance to varying degrees from the hadith and sunna. The sunna is said to be the normative behaviour of the Prophet (PBUH), and the hadith is the documentation of the sunna. Although there is a distinct difference between sunna and hadith, many Muslims treat them as synonymous.

The important hadiths are considered to be those that reinforce Qur’anic doctrines and principles. Reliable hadiths form a body of regulations, directives and guidance for Muslims. For many Muslims, they are second only to the Qur’an in religious matters.

The *hadiths* were first transmitted orally and, like the Qur’anic revelations, were written down over time. They were assembled from the recollections of the companions of the Prophet (PBUH), and were recorded in writing a considerable time after his death.

According to Sunni Islam, there are six canonical collections of hadith literature. These were first compiled in the second and third Islamic centuries (the 7th and 8th centuries AD). Two of the most famous of the six collections are by scholars known as al-Bukhari and Muslim. Shi’ah Islam incorporates these six canons alongside its own collection of *hadiths*.

## How Islam defines Women

*The manipulation of sacred text has always been a structural characteristic of the practice of power in Muslim societies<sup>30</sup>.*

*Fatima Mernissi.*

It is not possible to address the question of whether Islam permits violence against women without first discussing Islam's view on the nature of women and the nature of gender and gender relations, particularly as they relate to power. A reading of Islam that insists on men's superiority over women has been used to assert that Islam permits violence against women (in whatever form and to whatever degree). Men's violence against his family is then seen as a legitimate part of his role as the head of the family. In this context, how women experience that violence and the impact it has on them is considered irrelevant.

The status and nature of women has been one of the most controversial issues in the interpretative battles that have taken place over the meaning of Islam and its sacred text, the holy Qur'an. Mernissi correctly identifies that the practice of power by Muslim men over Muslim women has, generally, involved the manipulation of Islam. All religions have been used to dominate and discriminate against women; Islam, in this respect, is no different to any other religion.

Muslims have experienced considerable difficulty arriving at any sort of consensus as to what meaning and status is imbued by God to women. This evolves from the multiplicity of views on how Islam and its historical texts are to be understood, and how this understanding is to be translated into practice in the context of modern societies and human needs. Firstly, much of this diversity arises from the fact that the process of revelation in Islam reflected the society, culture and politics of 7th century Arabia. Secondly, a superficial reading of Islamic texts provides profoundly contradictory statements about the status of women. And thirdly, the rapid growth of Islam over its 1400 year lifespan has resulted in an immense diversity in Islamic culture, practice, opinion and scholarship. Currently there are 1.4 billion Muslims in the world, speaking more than 200 languages/dialects and living in 83 countries; embodying vast differences as to what is perceived as authentically Islamic.

The Australian Muslim Women's Centre for Human Rights, alongside other Muslims, understands Islam as a series of interpretative propositions and battles regarding the most compelling representation of divine intent articulated in the Qur'an; the hadith may also be understood in this way. The Qur'an and the hadiths are considered the source of normative Islam by most, but not all, Muslims. The hadiths are complementary sources that help to support and elaborate on verses of the Qur'an that may not have been explained in detail. Shar'iah may be translated as "path" or "road"; it is not strictly a code, but a combination of a number of sources of Islamic learning, the foremost source being the Qur'an. Muslims have developed many interpretative tools over time to facilitate their understanding of the Qur'an and hadiths, and this has further complicated and diversified understanding of Islam by Muslims.

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<sup>30</sup> F Mernissi *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*, trans. M.J. Lakeland, Basic Books, New York 1991.



Fiqh, broadly understood as Islamic jurisprudence, is one of the traditions that Muslims developed which is especially relevant when trying to understand the lack of consensus on the status of women in Islam. Fiqh commenced soon after the death of the Prophet (PBUH), and is extremely complex both in terms of its content and in the process by which it is developed. It focuses predominately on areas where the Qur'an and hadiths are silent or where insufficient direction has been provided to guide Muslims in their beliefs and practice. Essentially it establishes, like Shar'iah, what is acceptable and unacceptable behaviour for Muslims, as well as penalties for proscribed behaviours. Unlike Shar'iah, fiqh is not considered divinely sanctioned, and is greater in range and volume. A strict definition of Shar'iah would encompass 30 Qur'anic verses and, approximately 70 hadiths. Hence, there is simply not enough Shar'iah to guide Muslims — making fiqh extremely important.

A significant difficulty for reformers today, particularly as it relates to women, is that many Muslims confuse Shar'iah and fiqh, treating fiqh as sacred and, therefore, unalterable and unquestionable.

During his lifetime, the Prophet Muhammad (PBUH) was the uncontested spiritual and political leader of the Muslim community. Muslims generally sought his advice on issues of faith and practice as they arose. Upon his death, Muslims continued to discuss newly emerging issues with the immediate followers of the Prophet (PBUH) and then with the group of scholars known as the ulama ("learned ones"). Islamic scholars and jurists emerged to further develop an understanding of Islam. However, Muslim scholarship has remained unregulated by any central authority in almost every part of the world, with many scholars unaware of developments made by scholars elsewhere.

## A word on sources of Islam

The sunna, as stated earlier, is said to be the normative behaviour of the Prophet (PBUH), while the hadith is the documentation of the sunna. Hadiths may include recommendations on the reconciliation of disputes, prescriptions for prayer and charity, and recommendations on business, gender relations, education and hospitality, among other things. The important hadiths are considered to be those that reinforce Qur’anic doctrines and principles and reliable hadiths form a body of regulations, directives and guidance for Muslims.

The hadiths were assembled from the recollections of the companions of the Prophet (PBUH), and a considerable time after his death they were recorded in writing. Some authors believe they were compiled one or two centuries later. In the Prophet’s (PBUH) lifetime it had been necessary to validate one’s repetition of a hadith by naming those who first heard it directly from the Prophet (PBUH), who they narrated the hadith to, and who in turn that person narrated it to. After the Prophet’s (PBUH) death, acceptable hadiths underwent this type of verification by identifying the “chain of narrators”.

Over the course of time, thousands of hadiths appeared that were not authentic or that could not be reliably attributed to the Prophet (PBUH). In the 9th century AD, this “science” of verification was formalised to establish the authenticity of hadiths and to record them reliably. Authoritative hadiths are manifested by an unbroken chain of truthful and reliable narrators, while hadiths with less authority are indicated by a broken chain of narrators and/or unreliable narrators.

There are a number of hadith collections, two of the most famous are by al-Bukhari and Muslim; together they examined 600,000 hadiths and found that only 7225 were authentic. But even with this distillation and standardisation, it is commonly believed that many of the hadiths that were antagonistic and derogatory to women and were unable to be appropriately verified were, nevertheless, maintained as the Prophet’s (PBUH) observations and behaviour towards women, demonstrating the influence of cultural bias in the development of Islam

## A word on the process of interpretation

Islam's early history was characterised by the process of independent reasoned interpretation of the various sources of law, namely the Qur'an and hadiths. The process is defined as *ijtihad* and was a conceptual development of the *ulama*. The opposite of *ijtihad* is *taqlid* or imitation. Until quite recently, it was commonly believed by many Muslims that during the 11th century AD, an influential group of jurists and leaders in the Islamic world halted the practice of *ijtihad*, believing that all the interpretative work that needed to be undertaken on the Qur'an and sunna had in fact been completed. We now understand that *ijtihad* continued throughout this period but its prominence declined and, therefore, its importance to Muslims lessened from that time onwards.

Historically, parallel to the literalist movement and imitation advocates, many Muslim scholars and thinkers have undertaken interpretative work and continued to argue for the need to resume the process of *ijtihad*, because they believe modern issues cannot be understood and resolved based on interpretations and laws developed by scholars centuries ago. Members of the Muslim community do not always accept these arguments, because many continue to believe in the totality and perfection of doctrine as it stands. The debate can also be understood as one between advocates of a conservative, literal approach to religion in which the practice of religion should never change versus a progressive approach in which the evolving nature of religion comes from ongoing interpretation of the sacred text and other works. In addition to this diversity, there are also divergent sects and schools of thought, and ideologically driven groups, deriving their faith from a highly politicised reading of sacred texts.

## Women’s contribution and participation

In addition to their activist work, (outlined in the final section of this guide), Muslim women have also entered the theological domain. Generally speaking, women scholars have sought to determine what meaning and status is attributed to women by God through Islam’s sacred texts. The scholarship in these areas has led Muslim women to an advocacy for their rights.

This project has involved a re-reading of original Islamic documents and source material. In relation to the Qur’an, women have undertaken a historical linguistic analysis and explored the historical context of revelations. In relation to the sunna, women have tested the reliability of hadiths with the knowledge that previous verification processes did not purge unreliable hadiths from the accepted canon. In relation to Shari’ah and fiqh, women have attempted to increase awareness of fiqh as man made and, therefore, not divinely sanctioned.

In re-reading Islamic sacred scripture, Muslim women have found that the needs, interests and perspectives of men have heavily influenced its interpretation. The basic premise of female Muslim scholars is that women have been unjustly and inaccurately presented as inferior and unequal to men in Islam; not because of Qur’anic and sunna teachings, but because of the cultural and social meanings men have projected onto the Qur’an and sunna. Through their own scholarship, Muslim women have explored how Islamic scholarship has constructed women, but also how it has excluded and marginalised them from normative Islam. Women scholars have also explored in great detail the real-life and social repercussions of obscuring women’s experiences and isolating their voices from the Islamic text.

The section below seeks to address the question of women’s equality and the legitimacy of violence through the scholarship of women and progressive Muslims. It is not possible to represent the full breadth of this scholarship, and the array of issues and arguments made in favour of or against women’s equality and the issue of violence within the current guide. Instead, we attempt to demonstrate the main issues and how women have addressed them, while presenting the most important and accessible issues and arguments for those working with Muslim women in our Australian context. There are other practices, such as polygyny, that are commonly perceived as being Qura’nically sanctioned that have also been targeted by women scholars and activist. The Centre will address these issues in future publications.

## Building the Case: Women as Equal

Scholars who assert that Islam does not condone violence against women do so because they believe the Qur'an instils women with the same spiritual value as men: for God women and men are equal. This argument is supported in many Qur'anic verses and hadiths. In women's analysis of Qur'anic references to women, they note that, first and foremost, women are referred to as human beings and Muslims, in terms that have no gender connotations<sup>31,32</sup>. The status of their gender is significant only in reference to their roles in the world and this is heavily contingent on the social reality of 7th century Arabia.

Many scholars have stated that the essence of the Qur'an is concerned with the vulnerable. In 7th century Arabia, the vulnerable included women, orphans and slaves, many of whom were treated discriminatorily. Men, however, exercised considerable power with few limitations; hence, all the verses in the Qur'an repeatedly compel men to fulfil their duties: particularly to those who are disadvantaged, such as women. The discourse on women is about rights and entitlements and protection of those entitlements, while the discourse on men is duty-based. It is commonly accepted that the Qur'an does not contain any chapter that is exclusively devoted to men. Although the Qur'an often uses the term He, this is purely a characteristic of the Arabic language, in which the Qur'an is understood to refer to Muslims generally.

In many verses of the Qur'an, God speaks equally to men and women, as equal human beings: in value, spirit, duty, and in the limitations God places upon them and in their basic rights<sup>33</sup>.

According to the Qur'an, God created woman and man simultaneously, of like substance, and in like manner. Several verses state that God created man and woman from a single life-cell or being. Both men and women together form the human species; women have not evolved from the male prototype.

## The Holy Qur'an<sup>34</sup>

*O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of Allah is (the one who is) the most righteous of you. And God has full knowledge and is well acquainted [with all things]. 49:13*

*It is He Who created you from a single person, and made his mate of like nature, in order that he might dwell with her [in love]. 7:189*

<sup>31</sup> A Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*, 2nd ed, University Press, Oxford 1999.

<sup>32</sup> R Hassan, *Members, One of Another: Gender Equality and Justice in Islam*, retrieved 21st March 2008, [www.religiousconsultation.org/hassan.htm#contents](http://www.religiousconsultation.org/hassan.htm#contents).

<sup>33</sup> *Sisters in Islam Are Women and Men Equal Before Allah?* Sisters in Islam, 2008.

<sup>34</sup> A Y Ali, *The Holy Qur'an*, Wordsworth Editions, Great Britai, 2000. Unless otherwise stated, this is the translation of the Qur'an that is being used throughout this publication.

*For Muslim men and women, for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in Charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in Allah’s praise – for them has Allah prepared forgiveness and great reward. 33: 35*

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*Whoever works righteousness, man or woman, and has Faith, Verily, to him will we give a new Life, a life that is good and pure, and We will bestow on such their reward according to the best of their actions. 16: 97*

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*The Believers, men and women, are protectors one of another. 9: 71*

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*Allah hath promised Believers–men and women–Gardens under which rivers flow 9:72*

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*If any do deeds of righteousness–be they male or female and have faith, they will enter Heaven 4:124*

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*To men is allotted what they earn, and to women what they earn 4:32*

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*Never will I suffer to be lost the work of any of you, be he male or female: ye are members, one of another 3:195*

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## Hadith

*For women are the twin halves of men*

*(Narrated by al-Tirmidhi, 113; Ahmad, 25663. Classed as saheeh by al-Albaani in Saheeh al-Tirmidhi, 98)*

## Building the Case: Freedom from Violence

Having presented the case for the equality of genders in Islam, scholars have also spent considerable time constructing an argument for the type of relationship between married men and women. The holy Qur'an contains many verses commending the appropriate treatment of women in the context of marriage. Several verses specifically encourage kindness to women; other verses make it clear that the relationship between men and women is to be one of kindness, mutual respect, and caring, and refer to the mandated atmosphere of mutual kindness and mercy in the marital home. There is also a category of verse that censures the ill-treatment of women by men, these include: condemning men who take women back after a separation in order to hurt them, prohibiting men intentionally causing their wives to live in insecurity, and forced marriages. One of the most compelling arguments for meaningful and respectful relationships between men and women is the conduct of the Prophet (PBUH) himself; he abhorred violence directed at women and never directed any form of violence towards women.

### The Holy Qur'an

*And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your [hearts]: verily in that are Signs for those who reflect. 30: 21*

*They are your garments and ye are their garments. 2:187*

*When ye divorce women, and they fulfil the term of their (iddah<sup>35</sup>), either take them back on equitable terms or set them free on equitable terms: but do not take them back to injure them, (or) take undue advantage: if anyone does that, he wrongs his own soul. 2:231*

*O ye who believe! Ye are forbidden to inherit women against their will. Nor should ye treat them with harshness, that ye may take away part of the dower ye have given them—except where they have been guilty of open [adultery]; on the contrary live with them on a footing of kindness and equity. If ye take a dislike to them it may be that ye dislike a thing, and Allah brings about through it a great deal of good. 4:19*

<sup>35</sup> Three month waiting period required in Islam before divorced can be finalised.

## Ahadiths

Anas ibn Malik reported that the Messenger of Allah said:

*“None of you should fall upon his wife like an animal; but let there first be a messenger between you.” “And what is that messenger?”*

His companions asked, and he replied:

*“Kisses and words.”*

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Narrated Aisha:

*Allah’s Messenger (PBUH) never beat anyone with his hand neither a woman nor a servant.*

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Ninth day of Dhul al Hijjah 10 A.H. in the ‘Uranah valley of Mount Arafat. It is reported that in his final sermon, the Prophet (PBUH) insisted.

*O People, it is true that you have certain rights over your women, but they also have rights over you. Treat your women well, and be kind to them, for they are your partners and committed helpers.*

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Not a hadith, but a noted companion of the Prophet (PBUH), *Ali ibn Abi Talib* said:

*If any one of you approaches his wife do not hurry her until she satisfies her needs as you like to satisfy your needs.*



## Women's right to equality and freedom from violence: Controversy and Discord

There is one verse in the Qur'an that is said to strongly contradict the argument that unequivocally endorses an ontological scheme in which men and women are equal and that no form of violence may be directed at women. This verse, in particular, seems to permit men to use some level of violence against their conjugal companions. A cursory reading of this verse has resulted in translations and interpretations that situate men as superior and violence as legitimate. No other Qur'anic verse has been used so widely to undermine women. It has, therefore, attracted significant attention from Muslim scholars, and the verse's interpretation and translation has generated considerable controversy. In fact, the verse has been labelled the "abuse verse" by scholars due to the intentional misinterpretation (abuse) of the verse to justify violence against women. A particularly patriarchal interpretation and translation of verse 4: 34 reads as follows:

*Men are in charge [qawwamun] of women, because Allah hath made the one of them to excel the other, and because they spend of their property (for the support of women). So good women are the obedient [qanitat], guarding in secret that which Allah hath guarded. As for those from whom ye fear rebellion [nushuz], admonish them and banish them to beds apart, and scourge them [idribuhunna]. Then if they obey you, seek not a way against them. Lo! Allah is ever High, Exalted, Great<sup>36</sup>.*

Following Pickthal, other translators have privileged a patriarchally traditionalist's interpretation of this verse and continued to translate qawwamun as being men's superiority to women, nushuz as women's disobedience to men and idribuhunna as men's right to "beat them (women)". Even in 2004, Abdel Haleem provided the following rendition of the verse:

*Husbands should take good care of their wives [qawwamun], with [the bounties] God has given some more than others and with what they spend out of their own money. Righteous wives are devout [qanitat], and guard what God would have them Guard in their husbands' absence. If you fear high-handedness from your wives [nushuz], remind them [of the teachings of God], then ignore them when you go to bed, then hit them [idribuhunna]. If they obey you, you have no right to act against them: God is most high and great<sup>37</sup>.*

<sup>36</sup> M Pickthal, *The Meaning of the Glorious Koran*, George Allan & Erwin, London, 1930.

<sup>37</sup> M Abdel-Haleem, *The Qur'an: a New Translation*, Oxford University Press, Oxford, UK, 2004.

However, an alternative interpretation/translation of this verse provides a very different rendition. Ahmed Ali's *Al-Qur'an: A Contemporary Translation*<sup>38</sup> is considered by many as a counter weight to more conservative readings. He interprets the same verse as:

*Men are the support [qawwamun] of women as God gives some more means than others, and because they spend of their wealth (to provide for them). So women who are virtuous are obedient to God [qanitat], and guard the hidden as God has guarded it. As for women you feel are averse [nushuz], talk to them persuasively; then leave them alone in bed (without molesting them) and go to bed with them (when they are willing) [idribuhunna]. If they open out to you, do not seek an excuse for blaming them. Surely God is sublime and great.*

There is a stark difference between traditionalist interpretations emphasising women's subservience to men and other translations focusing on the intent of the verse. It is worth outlining some of the arguments that have been made against a traditionalist reading. Many scholars argue that it is inconsistent with the Qur'anic portrayal of women in other verses as full human beings and partners in marriage. It is incontestable that according to the Qur'an, women are equal in spirit, as has been noted from the many verses above. It simply does not follow that they should be inferior as human beings in the material world and subject to men's power and abuse.

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<sup>38</sup> A Ali, *Al-Qur'an: A Contemporary Translation*, Princeton University Press, New Jersey, 2001.

Upon revelation of this verse, women questioned the inferior status the verse appeared to give them. In response to their questions, the Prophet (PBUH) received the following verse:

*For Muslim men and women—for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in Charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in Allah’s praise—for them has Allah prepared forgiveness and great reward. 33: 35*

This response to concerns highlighted by women firmly establishes the equality of women and men; human value is not gauged by gender, but rather by devotion and behaviour<sup>39,40</sup>. It is important to note here that when questioned by women as to whether Surah 4: 34 positioned women in an inferior status to men, the Prophet (PBUH) said he did not know. He did not read women’s inferiority into that verse and was not himself of that view.

The traditionalist translation suggests that in marriage men own women and women must serve them in obedience; this is inconsistent with how Islam perceives marriage: as a contract. It is not a sacrament but a civil agreement entered into by two individuals with legal rights and obligations<sup>41,42</sup>. The concept of marriage is not one of men contracting ownership of women, but of two legal entities equally and consensually forming a legal partnership. This is why in Islam women must consent to marriage, because it sees them as legal entities.

It is necessary to restrict the application of this verse based on the fact (as noted by many scholars) that there is potential for the verse to be interpreted in a diverse range of ways that profoundly contradict each other and on the fact that the Prophet (PBUH) never reprimanded or directed any form of violence towards woman. This means that at the very least, that a conservative reading which allows men to be violent towards women cannot be sustained.

The final issue to address is whether verse 4: 34 allows the use of symbolic violence, as has been argued regularly in Australia. This is often seen as an interpretative middle ground between a traditionalist reading of the verse and an acknowledgement of the Prophet’s (PBUH) aversion to violence against women. Simply, the use of symbolic violence means that the verse’s reference to ‘scourge/hit’ women, is interpreted to mean to tap/strike with a *mishwak* (equivalent to a toothbrush today). Therefore, the violence is a purely symbolic in nature. This communicates to women, men’s unhappiness about the situation without doing any physical harm. This interpretation is problematic in a number of ways, not least that it completely misunderstands and trivialises violence and its effects on women. In addition, it has the same problems as the traditionalists’ readings: it locates women as inferior to men and is

<sup>39</sup> *Sisters in Islam & Nik Badlishah, Are Muslim Men Allowed to Beat Their Wives? Sisters in Islam, Malaysia, 2009.*

<sup>40</sup> *Sisters in Islam, Malaysia, 2009. Sisters in Islam Are Women and Men Equal Before Allah? Sisters in Islam, 2008.*

<sup>41</sup> *J Badawi Polygamy in Islamic Law, retrieved 10 April 2009 www.islamfortoday.com/polygamy5.htm.*

<sup>42</sup> *A A Engineer The Muslim Ulama and the Status of Women, Secular Perspective, May 1-15, Centre for Study of Society and Secularism, 2007.*

therefore inconsistent with other verses of the Qur'an. This view is strengthened by a further number of hadiths utilised by Ahmed Ali to support his translation of verse 4:34:

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*“Could any of you beat your wife as he would a slave, and then lie with her in the evening?”*

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*“Never beat God’s handmaidens.”*

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*“The strong man is not the one who can use the force of physical strength, but the one who controls his anger”*

Engineer put it succinctly; “Chastisement was inferred by the medieval scholars under the influence of their patriarchal cultural milieu<sup>43</sup>”

While we have attempted to explain the controversy about the translation of verse 4: 34 and present arguments made by scholars against a traditionalist interpretation, it is important to note that among Muslims, it is unlikely that consensus will be reached as to the true meaning of this verse. This will always be the case because Muslims are an incredibly diverse religious group, and interpreting historical scripture is difficult, perhaps a process without end. However, there is consensus that, no matter how this verse is to be translated and/or interpreted, it should not be done in isolation from other scriptural material, and not without reference to the social and political context of those translations/interpretations.

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<sup>43</sup> A Engineer p4.

## Muslim Women's Work against Family Violence

There are three major strategies Muslim women have used to combat violence against women: to establish and develop women's non-government organisations, adopt a women's/human rights framework in working with their respective governments, and finally to reclaim and "de-patriarchalise" Islam. The first strategy has been used by Muslim women in every Muslim-majority country internationally and appears to be the strategy of choice for Muslim women in Australia. We will focus on the latter two strategies because they have most relevance for our understanding of Muslim women and family violence.

It is often assumed that in Muslim-majority countries there are no indigenous movements seeking to eradicate violence against women and, further, that Muslims are hostile towards the introduction of any new set of rights to protect women. The vast majority of women's rights have been introduced into Muslim-majority countries through human rights as a set of values and legally-binding conventions and laws. Muslims, primarily women, have been responsible for this achievement.

Resistance to human rights in Muslim countries arises from two fundamental concerns. Firstly, western colonial powers have used human rights concerns to further their own colonial interests in Muslim-majority countries; the human rights of Muslim women have been particularly exploited in this regard. Secondly, resistance evolves from conservative religious and nationalist groups who perceive human rights as embodying western values; their adoption by Muslim-majority countries would result in the erosion of native cultural and religious systems.

Although Muslim women cannot be seen as a culturally, politically or religiously homogeneous group, there is a very distinct and formidable movement of Muslim women working for the rights of Muslim women internationally. They do not all work in the same way: some use scholarship while others undertake community work, some use Islam and others use social justice frameworks. But they network, share information and usually work collaboratively across countries. Increasingly, Muslim women and other non-governmental organisations within Muslim-majority countries see human rights as a vehicle to assist in their own indigenous struggles for women's rights. There have been many instances in which Muslim women have successfully lobbied governments to become signatories to relevant human rights charters and conventions.

In the context of violence against women, many Muslim-majority countries, because of Muslim women's activism, have moved towards the criminalisation of family violence. A number of countries have enacted legislation making violence within the home a crime and violence against women a matter of public concern and government policy. Increasingly, governments in the Islamic world have responded and have, at times, provided leadership in changing community attitudes towards women.

In 1996, Malaysia became the first Muslim country among the 57 members of the Organisation of Islamic Conference (OIC) countries to enact a domestic violence law, which makes domestic violence a crime. Tunisia's penal code now defines domestic violence as aggravated assault, bringing heavier penalties than assaults between unrelated individuals. In 1998, the Turkish Parliament enacted Law No. 4320 on the Protection of Family, which enables a woman to obtain a protection order to remove the offender from the home or workplace. Egypt has now set up nationwide shelters for victims of domestic violence and centres to provide counselling for those affected by family violence.

In 2004, the Indonesian Parliament passed the Elimination of Domestic Violence Law. This is a progressive law that makes physical, psychological, and sexual violence, as well as economic abandonment, offences under the Act. The Act also covers violence against domestic workers. This is a major success for the women's movement in Indonesia, which drafted the law and lobbied effectively for the passage of the bill, against opposition from certain Islamic parties and the executive branch of government, especially regarding the section on sexual violence against a wife.

Women's groups in several other Muslim countries are also campaigning for domestic violence legislation. In Pakistan, domestic violence bills have been introduced in both the Punjab and Sindh Assembly by Members of the National Assembly and are currently being debated. In Lebanon, women's groups are lobbying the government for the enactment of a Domestic Violence Act.

The various campaigns to protect women in the Muslim world confront significant obstacles, particularly from ultra-conservative religious forces. The context of women's lives in Muslim-majority countries continues to be marred by deep-rooted systems of discrimination, marginalisation and exclusion. However, campaigns within different Muslim majority countries are increasingly connecting and networking with each other, developing alliances to learn from each other. The human rights system has assisted in this process.

More important than any country-specific initiative is the rise of international networks of Muslim women dedicated to the support and capacity building of Muslim women and international activism to further the casue of Muslim women. There is now an established and sophisticated international women's movement of Muslim women working for the rights of Muslim women.

## Musawah: For Equality in the Family

Evolved from Sister's in Islam – long standing history of activism. Essentially, to consolidate information, experiences and ideas that are used by NGOs and activists all over the world to advance equality in the family. Family is seen as a key site of the struggle for equality for women.

Individuals and NGOs from some fifty countries around the world are involved with Musawah and include activists, scholars, academics, legal practitioners and policy-makers.

Nation-based and international work on all matters related to inequality in the family: law reform lobbying to UN, research, conferences, policy development and interpretation.

## WISE: Women's Islamic Institute in Spirituality and Equality

Reclaiming Islam through a number of key initiatives, including a Shura Council, training of female Mufti's, and its jihad against violence campaign; communication through: media, newsletters, Muslim women's portal. Collaboration with other organisations; and through action and projects and conferences.

## Women Living under Muslim Laws

Women living under Muslim Laws Is an international solidarity network that provides information, support and a collective space for women whose lives are shaped, conditioned or governed by laws and customs said to derive from Islam. It connects women's struggles; shares information and analysis; and interrogates Islamic practices when they undermine women.

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