



# Diwan Al Dawla

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Hawkesbury City Council,

**Diwan Al Dawla** is a religious guild that advances a way of living based upon a unitarian epistemology and narrative. Members of **Diwan Al Dawla**, known as aşhāb al dawla, live as a spiritual guild separated from secular worldviews to pursue a religious mode of worship and lifestyle under an oath of self-sacrifice and dedication to the purposes of **Diwan Al Dawla**.

The Southern Chariot Religious Site at Colo is a religious site that is owned by the members of **Diwan Al Dawla** for the carrying out of religious activities of devotion, self-discipline, ritual baptism, inter-community prayers, contemplation and religious study. The site with its Colo River access serves as a reclusive place of worship. The name of the guild is based on the Arabic Semitic word al dawla, which promotes the binding of collaborative effort upon autonomous standards of religious self-governance that are independent of entities that represent secular socioeconomic structures and modes of living.

The members are locally known as Muhammadan Christians.

## 1. DIWAN AL DAWLA'S RELIGIOUS OATH

The separation between state and religion lies at the core of modern political liberalism. In fact, to early modern Europe, such a separation was considered to be a sacred formula. In

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a liberal society, a religious association has to make the conscious choice of crossing the line of separation and becoming part of the state machinery. Such a choice is fundamental. To remove this choice, the entire religio-political structure that Australia is based upon would break down. This could potentially throw the whole country into the dark abyss of a pre-Westphalian European society, where religious crusades were the diplomatic tool of choice to determine who lived and who was sent for crucifixion.

Political liberalism was born at the onset of the modern period, which historical accounts indicate was launched with the scientific revolution. The scientific revolution was itself steeped in discoveries that were adopted from Arabic astronomy and mathematics and from an Arabic political court that was a patron to scientific discovery.

As members of **Diwan Al Dawla**, we are religiously sanctioned in our interpretation of history and philosophy, and we are qualified to do so. We do not need a religious disputant to approve our understanding. If there was a secular institution whose rules we have subscribed to, then that would be a matter of fulfilling our oath and promise. A member of **Diwan Al Dawla** is bound by the oath he or she has taken in following the association's governing rules, and clause 2.7 states, "These rules are intended to be binding on the members". I would uphold my oath with religious conviction, but we have no such agreement with a religious disputant who upholds religious symbols that we detest and that my brethren in religion have been persecuted by.

## 2. NSW GOVERNMENT COAT OF ARMS AND ITS RELIGIOUS SYMBOLS

The NSW government upholds religious symbols in its Coat of Arms and its State Badge. According to the explanatory notes published by the designer of the NSW Coat of Arms, NSW Government Printer William Gullick, the oldest religious element in the design of the NSW Coat of Arms is the Red Cross of St. George on the shield. Gullick states that the Cross was used "in allusion to the old badge of the Colony, the Red Cross of St. George". He further states that "borne on the ordinary [i.e. Cross] are the four golden stars ... representative of the Southern Cross, with the central emblem of the Lion ... [which] was intended by the first designers to represent the "Lion in the South"". (William Gullick, *The New South Wales Coat of Arms With Notes on the Earlier Seals*, Government Printer: Sydney, 1907).

Gullick adds in an Appendix to his notes that "the legend of St. George came to us from the East. The Greek Church honors him as the Great Martyr Captain of the noble army of Martyrs. His cult in the East formed very early as Constantine the first Christian Roman Emperor built a church in his name about 323 AD only". He says, "There is also another legend of his appearing at the head of an army of the Seven Champions of Christendom – a celestial knight who won a great victory over a Moslem host". He adds "the cult of St. George was henceforward specially promoted in England by Richard Coeur de Lion who had invoked his name in the Crusade Wars in Palestine and since then at Coronations the plain white banner of St. George with its red cross is carried in the procession ... in token of Christian Knighthood". He ends the appendix on the Cross of St. George with the following lines, "With the memories entwined around in glorious history, may we ever keep the sentiment alive "*Under the Southern Cross*" [Gullick's italics]".

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The four stars on the St. George Cross illustrate what is called the Southern Cross (an allusion reinforced by being placed on each arm of the St George's cross). Gullick placed a white cross on a blue field, then voiding the white cross with the red cross of St George, and the golden Southern Cross and the Lion in the South (an allusion to the Lion of Judah).

All three signs are blatant religious symbols that are tied to deep religious narratives and histories whose use by representatives of NSW Government departments, agencies and leaders is described in section 4(4) of the *State Arms, Symbols and Emblems Act 2004*.

### **3. DIWAN AL DAWLA AND THE COMPLIANCE IN RELIGION WITH STATE LAWS**

In Australia, five conditions define the relationship between a religious association and a state government and its laws and determines whether the religious association has willingly entered into a social contract of compliance with the state in matters of religious practice. Such a decision by a religious association is often based upon social and cultural factors, as well as, financial influences such as being eligible as a religious association to receive public grants.

To remain in the original state of separation from the state in matters of religious practice, the religious association must satisfy the following five conditions:

1. The religious association is an unincorporated entity. This implies that the association is not incorporated under an Act, such as the Associations Incorporation Act 2009 or the Corporations Act 2001. To be incorporated is to enter into a legal agreement with the state government to act in compliance with its laws in matters of religious practice.
2. Charitable purposes being solely for the 'advancement of religion'. To have a purpose other than advancing religion automatically implies that the association is dealing with public policy issues that are considered to be exclusively under the jurisdiction of the state.
3. Not reporting as part of a group. Reporting part of a group indicates that the association is using the state to legally group two entities, and so it has willingly involved the state in relationships that are ancillary to its religious practice.
4. Not being a deductible gift recipient (DGR). To be a DGR means the religious association receives donations and funding from individuals or organisations that are not income tax exempt, and so it has involved the general public in matters that are ancillary to its religious practice.
5. Not receiving public grants. To receive public grants implies that the association has entered into an agreement to follow state governing standards in matters of religious practice.

The result is that a religious association which has accepted to live as a closed religious order with no interdependence upon the state in matters of religious practice remains in an original state of non-dependence. Such a religious association has not entered into a social contract of compliance with the state in matters of religious practice.

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Consequently, in Australia, a religious association can choose to not comply with state laws in matters of religious practice. The legal structure for that is called a basic religious charity.<sup>1</sup>

#### 4. DIWAN AL DAWLA AS A BASIC RELIGIOUS CHARITY

Having met all five conditions, **Diwan Al Dawla** is in the original state of separation from the state government, and hence it is in a state of non-compliance in matters of religious practice. It is a de facto basic religious charity.

Our position is not based on an assumed exemption from Australian law. Nowhere in our correspondence do we make such a claim despite some media coverage to the contrary, as we understand that that would be technically incorrect.<sup>2</sup> Rather, our assertion is based on the line of non-compliance with state laws in religious practice when the religious association is a basic religious charity.

**Diwan Al Dawla** chose to submit its governing rules to the ACNC in order to be recognised as such. Our governing rules are available on the ACNC website. This is our binding social contract in matters of religious practice.

**Diwan Al Dawla** is not governed through a committee or a board. No member occupies any representative position. Our association has a membership based on religious initiative in compliance with the governing rules.

For **Diwan Al Dawla's** members to uphold the laws of God in their religious practice without any interference or coercive intervention from another religion is non-negotiable and a matter of basic religious freedom.

Such religious practice includes, the use of our hippodrome (round horse track) on the southern side of the Colo religious site to ride the Arabian horse in a free-spirited environment that aids young members in carrying out the religious practice of self-discipline and religious contemplation, while they have access to spiritual counselling.

Our Southern Chariot Religious Site also serves as a reclusive place of worship that involves the practice of baptism in the free flowing Colo River as a ritual of purification for prayer. The practice of baptism involves individual river access for the process of ritual immersion and washing known as wuḍū' (purification by partial washing) and ghusul (purification by total washing).

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<sup>1</sup> A basic religious charity is not required to comply with the ACNC governance standards, which include standard number 3 'Compliance with Australian laws' (ACNC guidelines). The *Australian Charities and Not-for-profits Commission Act 2012* states that "the regulations must not require a registered entity to do, or not to do, a thing [in matters of religious practice] ... if the registered entity is a basic religious charity" (45-10 (5)).

<sup>2</sup> Are such media commentators indicating that there is no such thing as non-compliance with Australian laws for a basic religious charity and that the ACNC guidelines are irrelevant, or are they saying that Diwan Al Dawla does not qualify because it is religiously Semitic and not Romanised or Aryan orientated? The ACNC governance standards clearly includes standard number 3 (Compliance with Australian laws) and where a basic religious charity is not required to comply with the ACNC governance standard this would surely include standard number 3.

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Our members have also turned a natural rock shelter into a masjid, which they call the Rock Shelter Mosque or Masjid Al Ghār, such a place of worship cannot be conditional upon approval from an entity that upholds a cross symbol. It is religious subservience, otherwise, and one which we consider to be religiously abhorrent and a frightening thought.

## 5. DIWAN AL DAWLA AND RELIGIOUS SYMBOLISM

By adopting the NSW government coat of arm symbols in its halls of governance, the NSW courts are not independent of the NSW government, and by upholding crusader symbolism, the courts as a religious disputant are taking sides in an ancient religious dispute between two interpretations concerning the life of ʿĪsā (Aramaic/Proto-Arabic: ʿĪsā, Greek: Iēsoûs, English: Jesus).

ʿĪsā, whom the Greeks misspoke as Iēsoûs (Jesus), was a man who talked in Aramaic or proto-Arabic of his time. He was not Greek. He was not Latin. Our religious struggle is with Greek religious symbols that have been used to seize the name of the Semitic man ʿĪsā and to modify his true God-ordained religion of freedom, with a Romanised priesthood that upholds the crusader cross, which is known to locals in the Levant as a symbol of war, of massacre, and of barbarism in the name of God.

Furthermore, for a religious practitioner of **Diwan Al Dawla** to be forced to be present at an adjudicating court that upholds the religious symbols of the crusades is religiously unacceptable. **Diwan Al Dawla** considers that the use of religious symbols by the NSW court implies that it is not a secular adjudicator, and for it to use coercive force against **Diwan Al Dawla** and its members in matters of religious practice leads to religious persecution. Our members believe in this principle, and they have their intellectual and spiritual position to support it.

Consequently, for a religious practitioner of **Diwan Al Dawla** to be ordered to give a testimony in a NSW court in relation to a religious practice would defeat the purpose, as he or she would not be religiously free to bear witness and words that they speak would be done under the threat of using force against them.

## 6. HAWKESBURY CITY COUNCIL VS. MUSTAPHA KARA-ALI

To be ordered by Hawkesbury City Council or given directives or directions to do a thing or not to do a thing in a matter of religious practice is unacceptable to the members of **Diwan Al Dawla** and religiously repugnant and obscene. For the Hawkesbury City Council to introduce the NSW courts into the dispute in order to coerce us in such a matter is an outright violation of our religious freedom and one which we take very seriously.

Hawkesbury City Council, in its civil dispute with **Diwan Al Dawla** did not address or pursue the association, because as a basic religious association it is not subject to state laws in matters of religious practice. They alternatively chose to build their belligerent case against three private respondents.

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The difficulty, with such a pursual is that as a full-time religious practitioner of **Diwan Al Dawla**, Dr Kara-Ali, the so called first respondent, has not been in breach of **Diwan Al Dawla's** governing rules. To pursue him privately is unreasonable and unfounded, when the activities he carried out are clearly religious activities of **Diwan Al Dawla** and not private activities.

Under section 5A of the *A New Tax System (Australian Business Number) Act 1999* and the *GST Act 1999 (50-1)*<sup>3</sup>, the activities performed by a religious practitioner in pursuit of his or her vocation and as a member of a religious institution and not done as an employee or agent, are taken to be the activities of the religious institution (and not the activities of the religious practitioner). The acts state that while the activities done by the religious institution (including the activities by the practitioner) are an enterprise, the religious practitioner does not carry on an enterprise by performing these activities. Also, "the duties or activities may include secular activities if it can be shown that there is a direct link between those activities and the religious beliefs of the person concerned" (*ATO Taxation Ruling TR 92/17 (22)*). The ACNC adds that if a charity's activities are ancillary to (and part of) the purpose of advancing religion, it does not need to register a separate charitable purpose.

Dr Kara-Ali's activities, which are done as a religious practitioner in pursuit of his vocation as a member of **Diwan Al Dawla** are not done as an employee or an agent. His religious activities in that capacity are, therefore, the activities of **Diwan Al Dawla**, which as a basic religious charity is not required to comply with Australian laws in its religious practice.

Furthermore, Daa Kara-Ali, the so called second respondent, is not the person responsible for the works Hawkesbury City Council is referring to. In addition, the so called third respondent, Southern Chariot Stud Pty Ltd, is only a trust company that holds the title of the land on trust for the charitable purposes of **Diwan Al Dawla**.

On the other hand, all three respondents would be in breach of **Diwan Al Dawla's** governing rules and hence held accountable if they were to destroy facilities on **Diwan Al Dawla's** religious site as the Hawkesbury City Council demands. The site is not their private property and the facilities on it are not their private property, but they are rather held by the members for the purposes of their basic religious charity. It would not only be against the governing rules, but in fact religiously abhorrent to use assets to destroy facilities that have been prepared for the worship of God.

## 7. VIOLATION OF DIWAN AL DAWLA'S RELIGIOUS FREEDOM

For the NSW government to have religious symbols is a matter for its members to decide. **Diwan Al Dawla's** members do not vote in elections ordained under state laws, and it's legal not to do so, because they are members of a basic religious association. But for a court that carries itself as a secularised entity to uphold these symbols, this has further ramifications.

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<sup>3</sup> The GST Act 1999 states, "Activities of a religious practitioner done in pursuit of his or her vocation as a religious practitioner and as a member of a religious institution will be treated as activities done by the religious institution, unless the religious practitioner is acting as an employee or agent." (GST Act 1999 (50-1)).

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Religious associations who do not share the NSW court's religious symbols, which it upholds in its coat of arms and on its correspondence, therefore, are given a condition before they are to resort to it for secular protection. This condition is a religious narrative, which implies members of a religious association have to succumb to a war statement that extends back to the crusader period. By upholding these religious symbols, the NSW court is making a religious and a political affirmation about the crusades and enforcing the historical version of those who massacred over those who were violated.

The NSW court should be a secular entity that keeps out of making symbolic religious statements about history and of enforcing the worldview of the crusaders against those who were persecuted. A secular court should be neutral between religions, and it should stand at an arm's length from such an emotional and ancient religious dispute.

Members of **Diwan Al Dawla** are, therefore, faced with the problem that a state coercive force that is portrayed as a secularised entity is upholding blatant religious symbols, while attempts are being made to interfere with our religious practice and to impose upon us others' definition of what constitutes the good and the moral in relation to our religious life.

To use such symbols while monopolising the use of force, the NSW court is by default eliminating us and our religious assets from being protected unless we succumb to an acknowledgment of a religious narrative about the crusades that we wholeheartedly disagree with. How can it be that I'm expected to be loyal to the religious symbols of another religion, because such symbols are given coercive force?

Our members believe that this predicament encourages and incites religious violence against us by hit squads who share the desire to uphold their own religious symbols that they consider to be official over ours, which they consider to be outlawed. Such religious violence has already been unleashed against our site (please refer to Appendix A).<sup>4</sup>

I reject any attempt to violate the religious freedom of the members of **Diwan Al Dawla** and condemn strongly any action that has been taken against us in that regard. I accuse any involved state funded bureaucrat of showing contempt against our religious practice and of being dismissive of our elaborate requests in that regard.

It is of utmost religious importance that **Diwan Al Dawla's** religious site be taken, by the upholders of the religious symbols of another religion, as an autonomous space that remains free from outside intervention and free from the infringement of coercive measures that meddle with our mode of spiritual worship and the exercise of our religious freedom.

On behalf of members of **Diwan Al Dawla**, their families and their friends, I, therefore, make the plea that all aggressive action against our religious freedom be immediately terminated, and any coercive legal pursuit in that regard be dismissed.

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<sup>4</sup> On two occasions, the signs at our religious site have been viciously attacked and broken and a slayed pig head was left posted on the gate. The matter was raised in a community engagement session, which involved two chief inspectors from Hawkesbury Police.

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## 8. WAY FORWARD

**Diwan Al Dawla's** religious practice involves a sustainable benevolent enterprise that tackles the religious disadvantage of individuals who are members of its religious community. In particular, our mission involves tackling the structural religious disadvantage that has resulted from state governments upholding the religious symbols of one religion over another, and which has introduced imbedded biases that are played out with issues of religious discrimination, social disenfranchisement and financial disadvantage. The prevalence of a sense of disaffection in various community pockets and on social media has led to the formation of a sub-culture of religious disadvantage and marginalisation, which in turn has had a negative impact on the socioeconomic integration of individuals and their families.

**Diwan Al Dawla** empowers its members, particularly its young members, in overcoming structural religious disadvantage and provides them with the religious counselling and the missionary engagement that drives their autonomous spiritual life.

For **Diwan Al Dawla**, religious seclusion does not necessarily imply social seclusion. Hence, we see that it is fitting to use secular mediation in order to resolve a dispute between two parties who uphold different religious symbols. Mediation as an alternative dispute resolution method is, therefore, one way to deal with members who we religiously advise and mentor.

The concept of the secular implies that as a religious practitioner I could be invested in a process without being coerced, but such consent is not attained when forced to become subservient to another religion and its religious symbols. This is a non-negotiable religious matter.

Ultimately, NSW courts and police have to become symbolically secular as they deal with a public, which unlike the medieval period are not serf members of a local parish under the church of a king. In those times, to not uphold those religious symbols was tantamount to treason, but why in 2018 is this still the case? Isn't this, in modern standards, religious persecution of the highest degree?

Members of our basic religious charity are willing to enter into secular mediation to find an agreement with the Hawkesbury City Council that avoids public dispute and that handles matters within a laid out process.

Secular mediation can lead to the signing of a memorandum of understanding (MoU) that regulates the relationship between **Diwan Al Dawla** and Hawkesbury City Council in order to avoid a public dispute from arising. The MoU could involve **Diwan Al Dawla** passing an internal policy, which is enforced by our governing rules to make a donation to a land and environment conservation fund in the Hawkesbury area for every religious structure our members wish to develop for the carrying out of the religious purposes of the association.

We, therefore, invite the Hawkesbury City Council and any NSW government enforcement agency to a secular round table to resolve any dispute, and the Australian Disputes Centre could be such a platform.

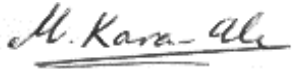


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The Australian Disputes Centre has been contacted in this regard and their service is available to provide a secular setting for mediation in order to resolve any outstanding dispute (please refer to Appendix B).

Our Semitic religious way is grounded in a unitarian epistemology, which entails that our religious practice be free. This is giving promise to a generation of religiously disadvantaged youth. Our way is one of civilisational building and hope, we do not want the barbaric hit squads to win.

Regards,



**Dr Mustapha Kara-Ali**  
**Imām, DIWAN AL DAWLA**