

IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

No A392/2002

ISLAMIC COUNCIL OF VICTORIA INC

Complainant

and

**CATCH THE FIRE MINISTRIES INC,
DANIEL NALLIAH and
DANIEL SCOT**

First Respondent
Second Respondent
Third Respondent

PARTICULARS OF COMPLAINT

1. Catch The Fire Ministries Inc (the "First Respondent") is a registered, non-trading incorporated association (Registration Number: A0037253Y).
2. The Current Public Officer of the First Respondent is Daniel Nalliah, of 5 Matthew Court, Hampton Park, Victoria 3976 (the "Second Respondent").

The Seminar

3. The Complaint arises in part from a seminar held on 9 March 2002, between 10am and 5pm, at Full Gospel Assembly (YWAM Base) in Middlesex Rd, Surrey Hills, presented by the First Respondent (the "Seminar").
4. The speaker at the Seminar was a person named Pastor Daniel Scot (the "Third Respondent").
5. There were approximately 200 to 250 people in attendance at the Seminar. Attendees were invited to register their interest in forthcoming events at the door.
6. Advertising on the website, and posters displayed at the seminar publicising the presentation stated:
 - (a) what is holy jihad;
 - (b) rise up Australia;
 - (c) this seminar will give you tremendous insight into Islam and the future of Australia;
 - (d) hear a man of God saved from Islamic Sharia Law – torture and death.
7. The Seminar was attended by Yusuf Eades, Jan Jackson and Malcolm Thomas ("the attendees") who are all associated with the Complainant.
8. Each of the attendees adheres to the Islamic faith.
9. Mr Eades attended the Seminar, between 11.00am and 12.30pm.

10. While Mr Eades was present, the Third Respondent discussed “silent jihad” and implied that through the practice of “silent jihad” Muslims plan to impose Islam on Australians. The Third Respondent made the following statements at the Seminar:

- (a) “Now bible tells us you know the truth the truth will set you free but Muslim people when they come to some teaching they don’t like, people you know they will not tell the truth. They will not tell the truth they will hide the truth. They will tell lies”;
- (b) “Even in Australia I was told by a Coptic Church, their secretary told me that their members have been approached if they become Muslim they will be given \$10,000 here. So they’re offering money here, it’s not only happening in 7th century Arabia or in Pakistan or some other countries, right here, under our nose. OK. so that’s a valid way of converting, it’s a silent Jihad”;
- (c) “There are many things in the Qur’an are not completely clear, not very clear, so then you read Hadith, you read the explanation. OK. So when people read that, study that for six years, they become true Muslim and we call them terrorists. But actually they are true Muslims because they read the Qur’an they understood it and know they’re practicing it”;
- (d) [after describing an article about an interview between a Rabbi and a chief Mufti] “So Chief Mufti, when he was interviewed Rabbi asked him that what is your plan for Australia and that Chief Mufti said our plan for Australia is that we will declare Islamic nation when they’ll be 51% Australian. He said OK, so what will be your plan for other 49% who are not Muslim at that stage? So the other 49% will have choice to become Muslim or leave Australia. That was declaration not in Pakistan, not in Saudi Arabia, not in Iran, here in our own city called Sydney”;
- (e) “[i]f you don’t become Muslim then your head should be chopped off, if you don’t pay the poll tax, you have option to leave the country, if you don’t do that, then your head should be chopped off. So that’s Islam. OK. So this is, we need to be aware that Muslim have not forgotten the definition. They know what it means, but they will not tell you what it means, unless appropriate time”;
- (f) “So when we think of good things or bad things, what Allah says, good need not be good as we understand, so Allah says of fighting, war is ordained for you. It’s good for you that you loot people, you kill people, you destroy people. You may not like it but Allah says it is good for Muslim people. So we read in the Holy Qur’an chapter 9, verse 23, that the prophet said all you who believe fight those disbelievers who are in your neighborhood, then Muslim they will act on this verse, chapter 9 verse 23, and people in the neighborhood, that’s where this trouble will start first and that’s according to the Holy Qur’an”;
- (g) “Conquered country has option to become Muslim, people they become...can become Muslim [...] Otherwise they should pay jizya. Jizya means protection money. You know there’s some nice people that ask you give me \$10,000 otherwise you will be a dead man, dead woman. Jizya protection money, so a Muslim if you living in Islamic country you have to pay jizya protection money [sic]. OK. And if you refuse to do this is the third option, that be sword to those who will not pay jizya. [sic]”;
- (h) “And then we read in chapter 48 verse 16, 17 and many verse reference in chapter 9, that if people will not take part in Jihad in the holy war then they will go to hell. They will have pain for doom. So when need arises Muslim scholar, Muslim cleric hear them read these verses from Qur’an and help Muslim people to see how important it is to kill, to destroy, to loot non-Muslim. And they’re not told these things unless the need arises, so Muslims scholars they don’t release this information to general Islamic public, because this would be only released when the time will be right. Then they’ll say look you are true Muslim and Allah say this is the definition of true Muslim. Otherwise you’re all going to hell. You want to go to hell or you want to go to heaven.

Of course Muslim want to go to heaven so they have to take part in the holy war, otherwise they will be in hell”;

- (i) “Then Mohammed received a new revelation, so we read in Qur’an, chapter 49 verse 15, chapter 9 verse 44, that true Muslims they are true Muslims who take part in holy war. That means if you are not true Muslim then you will not go far with the holy war but if you are true Muslim then you will go far with the holy war”;
- (j) “So if you want to be sure, of your paradise, you should be surely dead man. To be dead sure you have to be dead. In Islam for salvation. And that’s why there are hundreds of thousands of Muslim people waiting in queue for suicide bombing. Then they can be dead sure, because they will be definitely dead, and then they will be dead sure of their salvation”.

11. While Mr Eades was present, the Third Respondent implied that Muslims are motivated by the Qur’an to become violent and intolerant when they are powerful. The implication appears in the following statements:

- (a) “So when we read the Qur’an carefully we find out there are many verses in Qur’an which speak non-violence, and there are many many more verses in Qur’an which speak nothing but violence. Why is it so, because when Muhammad the prophet of Allah, the founder of Islam, when he was poor, when he was needy, why he has no manpower, that time he was teaching gentle things, no violence, don’t do this, don’t do that, but when he became powerful he has army then he was receiving new revelation”;
- (b) “So it [the Qur’an] states there’s no compulsion in religion so Muslims can show you, look Qur’an sees wonderful things and there’s no room for violence, and it’s true Qur’an does teach. Why? Because at that time Muhammad was not a very powerful man he is not a big army so it was a different type of teaching that time”;
- (c) “Then Jihad also is against people who are weak against women and children, you have to defend them so if somebody attacks your wife you defend your wife and children, so that’s defensive Jihad. So Jihad is a wonderful thing, it’s just for defensive purpose. Why? Because so far Muhammad is not in position to attack people. But then he got into position.”

12. By the statements referred to in paragraphs 10 to 11 above and throughout the Seminar, the Third Respondent:

- (a) incited scorn, fear and hatred of Muslims;
- (b) mocked what Muslims believe;
- (c) repeatedly invoked laughter from the audience when describing apparent Muslim beliefs;
- (d) misrepresented the Islamic faith;
- (e) misrepresented the religious and non-religious practices, behaviour and conduct of Muslims in Australia.

13. Ms Jackson attended the Seminar between 11.00 am and 2.00pm.

14. The statements she heard the third respondent make were delivered in a sarcastic, sneering tone, calculated to provoke laughter and derision from the audience.

15. While Ms Jackson was present, the Third Respondent described and discussed the “silent Jihad six time approach”. This approach was said to involve six ways in which Muslims sought surreptitiously to convert non-Muslims to Islam.

16. The third respondent described the “silent Jihad six time approach” as involving:

- (a) the “merchant”, in other words, the use of a Muslim’s business connections;
- (b) “marriage”, that is, marrying non Muslims and converting them;
- (c) “money”, bribing people to convert to Islam;
- (d) “mosque” that is, the building of a mosque from which help is offered to persons whom Muslims then try to convert;
- (e) “Madrassah” that is, a school or training institute where Muslims are taught what they need to know to go out and convert others. The third respondent suggested that there were “millions of people right now under training in Madrassahs, in Pakistan and they are true Muslims”, implying that this fact was a cause for concern or fear in non-Muslims;
- (f) “mysticism” that is, through the use of mysticism, attracting westerners to convert to Islam.

17. In Ms Jackson’s presence, the Third Respondent ridiculed Allah, the Qur’an, the Prophet and the Hadith. The third respondent stated:

- (a) “Then Allah told us that if you become Muslim, Allah tells in chapter 48 verse 18, to 20, that Allah will give you plenty of booty, you will loot people, you will destroy their houses, you will kill men, you will take women and children and you will become very rich. Allah has promised a great booty not little bit of booty but great booty if you take part in the holy war. So that’s the Holy Qur’an and then we read further [...] the best thing any Muslim can do is take part in the holy war”;
- (b) “So Muhammad trained the entire nation and he took literally part in the holy war and he showed them how pleasant it is and he told many of this, that I desire that I should be killed in the holy war, and then I should be brought back to life, and then I should start fighting and kill people and be killed in the holy war and then brought back to life, because dying as a martyr is such a wonderful thing. And Muhammad explained in Hadith that pain of a martyr is like an ant, little tiny bit is biting you [sic], that’s the pain of a Martyr, so there’s no pain, when you’re a Martyr. So it’s a wonderful thing”.

18. In Ms Jackson’s presence, the third respondent made the following statements:

- (a) “So Allah is saying that Muslim people they have to fight unless everybody becomes Muslim, unless they accept true religion”;
- (b) “God of Christianity save you by the death of his son, God of Islam demands death of Muslim sons to do something for them”;
- (c) “Okay so mankind is divided into different levels. So best community now according to Qur’an are Muslim people, they are best ones. Among Muslims again Muslim man is the superior and Allah has made it superior, we read that in chapter 3 of the Qur’an, or chapter 4 of the Qur’an verse 34, men are superior than woman and that’s why they have the right to beat them. That we will discuss a bit later. So Muslim man is the superior one, next is Muslim woman and then Muslim slaves. So there are three categories among Muslims themselves and then after Muslim comes Jews and Christians. Jews and Christian are almost human being because they can become Muslim, they are almost human beings because they can become Muslim. Then comes idol worshippers of course according to chapter 9 of Qur’an verse 5 they have not much right to live if they don’t become Muslim. So these are different levels of humanity according to the Holy Qur’an”.

19. Persons who attended the Seminar were encouraged to be afraid as a consequence of the third respondent’s statements.

Particulars

After the seminar paused for a lunch break, a person whose identity is currently unknown to the attendees introduced the second session and stated: "Did you enjoy the first session?! It was a bit heavy though. A bit scary, hey? Anyone scared? I am!".

20. The overall atmosphere of the Seminar was one of denigration and ridicule.

21. Mr Thomas attended the Seminar between 3.30pm and 5.00pm.

22. In Mr Thomas' presence, the third respondent spoke of his experience in Egypt where he was residing at a university. The Third Respondent related that some of the students thought that he was apostate, as his father had a Muslim name. The Third Respondent asked the audience: "Now what is the responsibility of fundamentalists in that respect?" The audience answered, "Kill" and the Third Respondent said, "Kill";

23. In Mr Thomas' presence, the third respondent made the following statement: "Almost 50% of Islamic population are women and they have no choice to accept Jesus as their Lord and Saviour. So we need to pray that though there's no opportunity, there's no possibility for them to accept Jesus, but then we know our God, for him there is no impossible things, he can do all things. Even in Australia, Muslim children are not free to accept Jesus as their Lord and Saviour. As the Pastor told you, that in northern suburbia one Muslim fellow became Christian and he was dragged out of church. He was badly brutally beaten and he was bleeding in street because their culture doesn't allow young men, women to decide for Jesus. So we need to pray that God will somehow make a way for that. And then even in Australia, in Islamic culture violence is very common. Not only children are beaten but wives are beaten. But wives have to tell in public they love their husbands, they love them very much and there is no beating at all because they know that beating is not wrong according to Qur'an as we have seen earlier Chapter 4 of the Qur'an, verse 34 Allah says that scourge your wife. You know what scourging mean? It is like whipping of a slave".

24. Posters displayed at the Seminar stated that audio tapes of the seminar were available for purchase from the First Respondent's website (<http://www.skywebco.com/josh3/ctfm/>).

25. Mr Thomas attempted to purchase an audio tape via the website, but his purchase order was not fulfilled.

26. Each of the statements referred to in paragraphs 10, 11, 15, 16, 17, 18, 19, 22 and 23 constitutes unlawful vilification contrary to s 8 of the *Racial and Religious Tolerance Act 2001* (Vic).

27. Each of the attendees was:

- (a) hurt, embarrassed and distressed by what each of them heard at the Seminar;
- (b) intimidated and frightened by what each of them heard at the Seminar; and
- (c) apprehensive for their personal and physical safety during and after the Seminar, had the fact that they were Muslims been discovered or disclosed.

The Newsletter

28. During a period currently unknown to the Complainant but covering at least part of the year 2001 the First Respondent operated and maintained an internet site.

29. The First Respondent produced and distributed via its website a newsletter, purporting to be for the period of "Summer 2001" ("the Newsletter").

30. The Newsletter was available for downloading from the address:
<http://www.skywebco.com/josh3/sitebuildercontent/sitebuilderfiles/summer2001.pdf>.

31. The Newsletter:

- (a) Described the "plans of the enemy to take the land (Australia) & stop it from coming into God's full will and purpose in this hour" and implied the "enemy" specifically included or referred to the "faith of Islam";
- (b) Foreshadowed that Australian Christians would "lose your homeland to a foreign religion and it's [sic] people", and implied the foreign religion was Islam and the people Muslims;
- (c) Predicted that Muslims, by their marriage and birthing practices will rapidly increase as a percentage of the Australian population and overtake "Aussies";
- (d) Predicted that Muslims will "infiltrate" all aspects of Australian public and religious life with the specific purposes of stopping "the name of Jesus being mentioned" and spying on western governments;
- (e) Stated that "the motto of the Muslim is to convert the whole world to Islam. By peace or violence" and suggested that Muslims will engage in the same kind of violence in Australia as engaged upon by those responsible for the attacks on the Pentagon and the World Trade Centre on September 11 2001;
- (f) Accused unidentified Islamic countries of the deliberate slaughter and torture of Christians;
- (g) Suggested that Muslims were gaining entry to Australia ahead of, and in preference to, Christians from Islamic countries who were the subject of rape, torture and threatened slaughter;
- (h) Suggested that the Muslims who gained entry to Australia were capable of, and would engage in, the same kind of violent conduct against Christians in Australia.

32. Each of the statements, suggestions and implications referred to in paragraph 31 constitutes unlawful vilification contrary to s 8 of the *Racial and Religious Tolerance Act 2001* (Vic).

The Article

33. During a period currently unknown to the Complainant but covering at least part of the year 2001 the First Respondent published an article on its website entitled "An insight into Islam by Richard" ("the Article").

34. The Article was available for downloading from the website.

35. The Article:

- (a) Suggested Islam was an inherently violent religion and that claims by Muslims that Islam was a religion which encompassed values of love and peace were false;
- (b) Suggested that it was not possible to separate Islam from "terrorist" groups and that Muslims who claimed such groups were "rogue" or separate were lying;
- (c) Implied that Islam, and Muslims, endorsed the killing and enslavement of whole groups of people, based on their religion, giving an alleged example from the Koran about the killing of tribes of Jews;
- (d) Characterised the Prophet as a paedophile;
- (e) Described the Qur'an as calling for "atrocities on civilisation";

- (f) Characterised terrorism as “the very nature of Islam itself”;
- (g) Described “millions” of Muslims who adhere to Islam today as being like “nominal’ Christians”, without a proper foundation for their beliefs in Islam and adhering to Islam without critical evaluation of their reasons for doing so;
- (h) Stated “[a]s you can see above, Islam clearly calls for the destruction of people wherever they may be found”;
- (i) Characterised the “Qur’an, as a text which teaches that the killing of the innocent in order to further a cause is “absolutely OK”;
- (ii) teaches hate not love;
- (j) Implied that those responsible for the events of September 11 engaged in that conduct in pursuance of the teachings of the Qur’an and that terrorism is “intimately tied to Islamic ideals”.

36. Each of the statements, suggestions and implications referred to in paragraph 35 constitutes unlawful vilification contrary to s 8 of the *Racial and Religious Tolerance Act 2001* (Vic).

Representative Complaint of Religious Vilification

37. The Islamic Council of Victoria (the **Complainant**) has made this complaint of religious vilification on its own behalf and on behalf of Mr Eades, Ms Jackson and Mr Thomas.

38. Each of Mr Eades, Ms Jackson and Mr Thomas is a person who is entitled to claim that another person has contravened a provision in Part 2 of the *Racial and Religious Tolerance Act 2001* (Vic) in relation to them.

39. Each of Mr Eades, Mrs Jackson and Mr Thomas consents to the complaint being made by the Complainant on their behalf.

40. The Complainant has sufficient interest in the complaint for the purposes of s 19(4) of the Act.

Particulars

The Complainant is an incorporated association. It is the umbrella organisation for Muslims and Islamic societies in Victoria, and is the sole representative body for this community to the Australian government and Australian community at large. The Complainant is the Victorian constituent member of the Australian Federation of Islamic Councils (“AFIC”), the umbrella organisation of all Islamic Councils in Australia.

Liability of each respondent

41. The first respondent:

- (a) is a body corporate for the purposes of s 27 of the Act;
- (b) was responsible for the organisation, conduct and promotion of the Seminar;
- (c) was responsible for the publication and maintenance of the Newsletter;
- (d) was responsible for the publication and maintenance of the website on which the Newsletter and the Article appeared;
- (e) authorised the publication of the Article on its website.

42. The second respondent:

- (a) Is the public officer of the first respondent and in that capacity is responsible in law for the activities of the first respondent, including statements published by it or made on its behalf or authorised by it whether expressly by implication;
 - (b) was responsible, in whole or alternatively in part, for the organisation, conduct and promotion of the Seminar;
 - (c) was responsible, wholly or alternatively in part, for the publication and maintenance of the Newsletter;
 - (d) was responsible, wholly or alternatively in part, for the publication and maintenance of the website on which the Newsletter and the Article appeared;
 - (e) authorised, caused or contributed to the publication of the Article on the first respondent's website.
43. The third respondent made the statements identified in this complaint at the Seminar and thereby incurred liability under the Act for them.

Remedies

44. The Complainant seeks the following remedies:

- (a) an order that the First Respondent, the Second Respondent and the Third Respondent be required to publish a statement on the First Respondent's website that:
 - (i) acknowledges that certain inaccurate and misleading statements made at the Seminar and published on the First Respondent's website had the effect of arousing suspicion and hatred of Muslims on the basis of their purported beliefs, activities and intentions;
 - (ii) wholly and without qualification retracts the statements made at the Seminar and published on the First Respondent's website; and
 - (iii) Sincerely apologises for the offence and hurt that was occasioned;
- (b) an order restraining each of the respondents from further publication or distribution, directly or indirectly of any material containing statements, suggestions and implications to the same or similar effect as those which are the subject of this complaint;
- (c) an order requiring that the First Respondent, the Second Respondent and the Third Respondent retrieve any such material, including any copies of the tape of the seminar which have been distributed to third parties.
- (d) an order requiring each of the respondents to pay to the Complainant such compensation as the Tribunal sees fit in respect of the offence, humiliation and distress caused by the respondent's conduct.
- (e) an order that the respondents pay the complainant's costs of and incidental to this proceeding.
- (f) such other orders as the Tribunal sees fit.

Dated this 13th day of March 2003

W. Brind Zichy-Woinarski QC
Debbie Mortimer
Counsel for the Complainant

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Allens Arthur Robinson
Solicitors for the Complainant.