

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ANTI-DISCRIMINATION LIST

No. A392/2002

BETWEEN:

ISLAMIC COUNCIL OF VICTORIA INC

Complainant

-and-

CATCH THE FIRE MINISTRIES INC.

First

Respondent

-and-

DANIEL NALLIAH

Second Respondent

-and-

DANIEL SCOT

Third Respondent

PARTICULARS OF DEFENCE

Date of Document:

10 April 2003

Filed on behalf of:

The Respondents

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Adam Paszkowski

1. To paragraph 1 they say that the first respondent is a non profit religious organisation which promotes religious faith and facilitates bona fide religious activities. Save as aforesaid they do not admit paragraph 1.
2. They admit paragraph 2.
3. To paragraph 3 they admit that a seminar which concerned religious faith and which constituted a bona fide religious activity was held at the time and place referred to, but otherwise do not admit the allegations in paragraph 3.
4. Save that they admit that a seminar which concerned religious faith and which constituted a bona fide religious activity was addressed by the third respondent they do not admit the allegations in paragraph 4.
5. Save that the holding of the Seminar and the attendance of people at it constituted or was in pursuance of the promotion of religious faith and bona fide religious activity, and that the participation of attendees was a religious activity, they do not admit paragraph 5.
6. Save that they deny that the words in paragraphs 6(a) and 6(b) were statements, they admit that publicity in pursuance of the promotion of religious faith and bona fide religious activity included the true statements in paragraphs 6(c) and 6(d). To the extent that the said statements were or included matters of opinion they were opinions reasonably held and reasonably open to the respondents.
7. They do not know and cannot admit the facts alleged in paragraph 7.
8. They do not know and cannot admit the facts alleged in paragraph 8.
9. They do not know and cannot admit the facts alleged in paragraph 9.
10. Save that the entire seminar concerned religious faith and constituted a bona fide religious activity they do not admit the contents of paragraph 10. Further, to the extent, if any, that the allegations contained in paragraphs 10(a) to 10(j) may be correct and may constitute the

making of statements [which is not admitted], they were statements concerning religious faith and doctrine the making and discussion of which constituted a bona fide religious activity.

11. Further to the last preceding paragraph, it is in the public interest for all citizens [including the respondents and the attendees at the Seminar] to have knowledge and awareness of Islamic religious texts [from which the laws of jihad derive]. The study at the Seminar of Islamic religious texts constituted a bona fide religious activity carried out for legitimate religious purposes.
12. Further to the last two preceding paragraphs, they say -
- (a) the laws of jihad establish the legal framework in sharia for the treatment of non-Muslims;
 - (b) an understanding of the Qu'ranic texts and teachings on jihad is crucial to a proper understanding of the treatment of non-Muslim minorities in Islamic areas throughout the world;
 - (c) it is in the public interest for non-Muslims to inform themselves of these matters.
13. To the particular matters referred to in paragraph 10 of the Claim, the respondents deny that the seminar or any part of it constituted vilification or that the implication alleged arose. They say that the structure of the Seminar and of what was said by the third respondent was based fundamentally upon Qu'ranic and other religious texts and teachings, and that an exposition or consideration of those matters is not capable of constituting vilification.

Reference to paragraph 10(a). This point was made specifically in the context of how Muslim teachers handle `unpalatable topics about Islam. The respondents will say that this is an accurate statement in relation to this specific context. They will also say that, more broadly in Islam, telling lies or deception (Taqiyyah) is permissible under certain circumstances and the treatment of `unpalatable topics fits generally into these broader regulations for truth telling.

Reference to paragraph 10(b). The respondents will say that this is an accurate report. They will also say that the Qu'ran and the example of Mohammed endorse the practice of using money to encourage conversions. They will also say that this practice is well-attested by

non-Muslims living in Islamic nations today.

Reference to paragraph 10(c). The respondents will say that one of the possible outcomes of a careful study of the Qu'ran is radicalization of the student, producing a readiness to commit to jihad in the form of terrorism. They will say that Islamic terrorists justify their acts on the grounds of teachings concerning jihad found in the Qu'ran and the Hadith. They will also say that such teachings are presented in certain Islamic training centers. They will also say that certain Islamic training centers have been known to produce terrorists, and that certain leaders of Islamic training centers have also been linked to terrorist acts.

Reference to paragraph 10(d). The respondents will say that this was an accurate report of the article referred to.

Reference to paragraph 10(e). The respondents will say that this is an accurate report of the classical laws of jihad, based on the Qu'ran and the Hadith.

Reference to paragraph 10(f). The respondents will say that these are accurate reports of what the Qu'ran says. They will also say that these statements are reflected in precedents set by the life of Mohammed. They will also say that some Muslims today are aware both of these teachings, and the specific precedents in Mohammed's example. They will also give examples throughout history where Muslims have followed these principles in the way they have treated their neighbours, and of places in the world today where this aspect of the Qu'ran's teachings are currently being applied against non-Muslim communities.

Reference to paragraph 10(g). The respondents will say that this is an accurate report of the laws of jihad, based on the Qu'ran and Hadith, as well as on classical jurists. They will also say that treatment of non-Muslims in Muslim nations has been influenced by these laws of jihad down through history.

Reference to paragraph 10(h). The respondents will say that these statements are accurate reports of what the Qu'ran teaches. They will also say that when conflicts break out, Islamic scholars have the role of advising on the rules of engagement according to the shar'ie provisions for war (i.e. for jihad), but that in times of peace many Muslims are not informed about and do not know these rules of engagement.

Reference to paragraph 10(i). The respondents will say that this is a true report of the

Qu'ran's teaching.

Reference to paragraph 10(j). The respondents will say that according to the Qu'ran, a way to be sure of entering heaven is to die in jihad. They will say that this hope inspires many to enter jihad conflict. Muslim doctrine regards death in jihad as a praiseworthy religious act with religious or spiritual consequences.

13. To paragraph 11, the respondents say that the history of the life of Mohammed shows that when he was in a weak political position he was peaceful and tolerant, but when he gained political power, he became more violent and intolerant. Integral to this transition was the progressive revelation of the principles of jihad. The respondents will say that these views have been held by Muslim scholars. The respondents will say that the pattern of Mohammed's life can and does influence Muslims to adopt as a matter of doctrine more peaceful, tolerant strategies of co-existence when they are in a weaker political position, and more more violent and intolerant strategies when the Muslim community achieves greater political dominance.
14. Further to the preceding paragraph, the respondents say that it is in the public interest, and in accordance with a legitimate religious purpose, that these perspectives on Mohammed's life be studied.
15. Further to paragraph 11 they deny that the things said by the third respondent constitute vilification and say –
 - (a) Quotations 11(a) and 11(b) are reasonable things to say concerning the life of Mohammed.
 - (b) Quotation 11(c) - the third respondent meant and intended to say that Jihad is also on behalf of people who are weak, for example women and children. You have to defend them. He will also say that certain aspects of the example of Mohammed allow one to reasonably conclude that jihad is for defensive purposes. Other aspects of the life of Mohammed allow one reasonably to conclude that jihad is for aggressive expansionist purposes. The bona fide exploration and discussion of these matters was not capable of constituting vilification.
16. They deny each and every allegation made in each part of paragraph 12.

17. They do not admit the facts alleged in paragraph 13.
18. They do not admit the matters alleged in paragraph 14. Further they say that to the extent [if any] that the third respondent made use of any rhetorical forms of expression such use was open and did not constitute vilification. If, which is not admitted, Ms. Jackson formed the views or arrived at the conclusions referred to, the views or conclusions were her own.
19. To paragraph 15 save that they admit that the expression Silent Jihad Six M Approach was used by the third respondent, they otherwise do not admit the allegations.
20. To paragraph 16, save that they admit that the respective topics which the complaint places in inverted commas [that is, merchant, marriage, money, mosque, Hadassah, and mysticism] were referred to in the course of expository words concerning the Silent Jihad Six M Approach, they do not admit the allegations. They will say that these topics accurately identify some of the methods used in establishing Islam in a society through peaceful means.
21. Further to the preceding paragraph, they deny that the approaches described under the Silent Jihad Six M Approach are or are necessarily surreptitious, and further deny that the attribution of surreptitiousness constitutes vilification.
22. Further to the last two preceding paragraphs, in response to paragraph 16(e) the respondents say that the role of maracas in radicalizing Islamic youth, and encouraging them to enter the jihad stream of Islam, has been widely reported and commented on in the media, by Muslims and non-Muslims alike. They say that the topic is one of public interest. They say that one of the outcomes of the maracas role in forming Pakistanis youth has been the recent spate of attacks and massacres against the Christians in that nation [qua Christians], which has deeply traumatized the Pakistani Christian minority. Further they say that as a member or former member of the Pakistani Christian minority the third respondent has a right to discuss the history of that group and his personal experiences and heritage as a member of it.
23. To paragraph 17 they deny the allegation that in Ms. Jackson's presence or at all the third respondent ridiculed any of Allah, the Qu'ran, the prophet or the Hadith. Further, they say that the exposure of the nature or the true nature of a religious teaching or religious text constitutes neither an act of vilification nor an act of ridicule.

24. Further to the preceding paragraph they admit that [as they contend is his inalienable right to do] the third respondent engaged in robust and critical exposition of Islamic teachings and texts. Further or in the alternative they say that the exposition contained accurate statements of the content of Islamic teachings and texts. They say further that the Qu'ran and the Hadith include many passages which some might reasonably regard as offensive and even shocking.
25. Further to the preceding two paragraphs they say that both paragraph 17(a) and paragraph 17(b) of the Complaint accurately report or reflect the text and teachings of the Qu'ran and the Hadith.
26. To paragraph 18 and subject to the context imported by the entire seminar they say the third respondent said –
- (a) “...None has the right to be worshipped but Allah and that Mohammed is Allah's messenger and offers prayers perfectly and to give Zakat. So if they perform all that then they shall save their lives and properties from me, except for Islamic laws, and then their reckoning and accounts will be done by Allah.” So Allah is saying here that Muslim people they are commanded to fight unless everybody become Muslim. And Mohammed is saying if they become Muslim then their properties are safe from me, and their lives are safe from me. But if they don't become Muslim then of course you have to kill them to destroy them, you have to do those things, according the Qu'ran. So we read further, this is not isolated case. There are many, many verses in Qu'ran where Allah has commanded to do so. So we read in Chapter 61:9 it says there that Allah has sent the true religion, the Islamic religion, to conquer all the other religions, not one religion, not two religion, but all the other religions. Similar thing we read in Chapter 48:28 that Muslim have to conquer, Islam has to conquer all the other religions. We read in Qu'ran 9:56-57 (I'm conscious of time), it says there that Mohammed when he became powerful then people started becoming Muslim. Allah says in Qu'ran, they are becoming Muslim because they have no place to run away from you. If there was any place to run away from you they would have done so, but they cannot run away from you that's why they are becoming Muslim. So that's why within ten years when Mohammed picked up the sword whole Arabia was converted to Islam. And that is the practicality of the Jihad.
- (b) Then we read in Qu'ran Chapter 4:69 that martyrs they can intercede. So that is a big attraction for parents to give their children for martyrdom. Because if their teenage son will be

suicide bombing, he is killed there, then that son can intercede for his mum, for his dad, for his Aunties, for his uncles for brother, sister. So it is a big thing, its very attractive, so they are very proud of those, their sons who kill themselves in the suicide bombing. I think last month that there was a statement I received in email the Attorney General of America, Ashcroft - he said that God of Christianity sends his Son to save humanity. God of Islam demands the death of their sons, so that is the big difference. So God of Christianity saved you by the death of His Son, god of Islam demands death of Muslim sons to do something for them.

(c) I will go a bit further, lets move further. Now next is concerning man. Now we believe both Christian and Muslim that God created Adam and Eve. So that's Muslim people they believe Allah created Adam and Eve. And we know that Adam and Eve they were born in a beautiful place which we call Garden of Eden. So Muslim also believe that Adam and Eve they were in beautiful place but that Garden of Eden was not in Iraq somewhere in Middle East but it was in Paradise, in heaven. So that's a bit of difference there. And Muslim people they believe that all human beings they are descendants of the same race, so they are equal.

However, later as Mohammed became more powerful he came to know that first thing he said was in Qu'ran earlier that Jews are the best people in the world. If you want to see any good person, the best person they are Jewish people. But when Jewish people they didn't give money to Mohammed for the Holy War then Allah told that Jews are the worst people and they are your worst enemy. So it depends if you give money you are good, if you not of course you are bad. But I will not say you are bad if you don't give money to me but I'm telling from the holy Qu'ran. OK so that was a bit of change of heart and Mohammed tried to please those people. He was of the opinion that all people are good at some stage but when he grew stronger he had different opinion. As I told in those days he used to say that Christians they are very humble they are full of love and compassion and he said that they are the closest to the Muslim people and so on. But when Mohammed became powerful he told that Christians are infidels and Mohammed advised Muslim people that they should not befriend Christian and Jewish people. So Allah has commanded that in his holy book in Qu'ran, so it is not just in Hadith or in history but in Qu'ran. So Muslim people are not supposed to befriend any non-Muslim according to the holy book.

So mankind is divided into different levels. So best community now according to Qu'ran are Muslim people, they are the best ones. Among Muslim again Muslim man is the superior one and Allah has made [him] superior, we read that in Chapter 3 of the Qu'ran, Chapter 4:34 men are superior than woman. And that's why the right to beat them has. Ok that we will

discuss a bit later. So Muslim man is the superior one next is Muslim woman and then Muslim slave. So that is three categories among Muslim themselves. Then after Muslim come Jews and Christians. Jews and Christians are almost human beings because they can become Muslim. They are almost, almost human being because they can become Muslim. Then comes idol-worshippers of course according to Chapter 9:5 of Qu'ran, they have not much right to live if they don't become Muslim. So these are different levels of humanity according to the holy Qu'ran.

Save as aforesaid the respondents deny paragraph 18 and sub-paragraphs (a)(b) and (c), and they deny that the things which were said by the third respondent constituted vilification or were otherwise unlawful.

27. Further to the preceding paragraph the respondents say that the things said by the third respondent find their source in and are a proper account derived from Islamic teachings and texts [including the Qu'ran]; that according to the laws of jihad, surrender and acceptance of the dhimma pact is an option for people of the Book, and that it is the eschatological hope of Islam that eventually the whole world will be compelled to accept the Islamic faith.

28. Further to the last two preceding paragraphs -

The things said as set forth in paragraph 26(b) of this defence include a fair reasonable and accurate comparison of two faiths, expressed in a robust polemical style. They say that the points of contrast constitute a proper and reasonable apologetic teaching point.

The things said as set forth in paragraph 26(c) of this defence constitute a fair and reasonable setting out or statement of Islamic teachings and texts [including the teachings and texts of the Qu'ran and the Hadith] which require or allow –

Differentiation between distinct classes of people, muslims being characterised [by reason of their religion] as superior to non-Muslims, and men being characterised as superior to women. That among non-Muslims, Jews and Christians are superior to polytheists (idol worshippers). That it is the duty of Christians and Jews to convert to Islam. That polytheists are to be killed if they don't accept Islam.

29. To paragraph 19, save that they say it is open to an individual to expose or publish his personal beliefs fears or feelings about or in the context of the topics which the seminar covered, and that anxiety is an understandable response to a clear exposition of certain

teachings of the Qu'ran and the Hadith, the respondents and each of them deny that persons who attended were encouraged to be afraid. Further, they say that it was not their intention to encourage fear.

30. They deny the allegations in paragraph 20.

31. They do not admit the allegations contained in paragraph 21.

32. They do not admit the allegations contained in paragraph 22.

33. They do not admit the allegations contained in paragraph 23.

34. Further to the preceding paragraph, the third respondent at the Seminar said the following –

Then we need to not forget that there is a spiritual forces of darkness we need to pray against those forces of darkness. We will look into that in a while just let a few more things to see before. Almost 50% of Islamic population is under the age of 15. 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 now there is no opportunity there is no possibility for them to accept Jesus but then we know our God, for Him there is no impossible thing. He can do all things. Even in Australia Muslim children are not free to accept Jesus as their Lord and Saviour. As Pastor told you in northern suburbia one Muslim fellow became Christian and he was dragged 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 somehow will make a way for them.

Then even in Australia, in Islamic cultures violence is very common. Children are beaten but wives are beaten but wives have to tell in public, Oh their husbands they love them very much and there is no beating at all. Because they know that beating is not wrong according to Qu'ran as we have seen earlier. Chapter 4:34 Allah says that scourge your wife. Do you know what scourging means? Its like whipping of a slave. Now that is Pickthalls translation, this translation says, Beat them. Then in brackets he puts lightly so he is lying there. This is the noble Qu'ran he is not fair in his translation but this translation puts it, as it is in Arabic that beat them severely, scourge them. So that is very common happening even in Australia and overseas that's something we need to pray that God will break this cycle of violence. And as I mentioned that children have no choice to accept Jesus so we need to pray that

God will raise many people for children ministries so that children will have opportunity to receive Jesus as their Lord and Saviour.

35. Further to the last two preceding paragraphs they will say that both the Qu'ran and judgments of Islamic jurists legitimate domestic violence against women. They will say further that it is the public interest to discuss these matters.

Further, the respondents will say that according to Islamic teachings Muslim people are not free to change their religion: the respondents say that the risk of violence against those who change their religion is a real one. They will say that discussion of this matter is the public interest and serves a legitimate religious purpose.

36. Save that none of the respondents is involved in trade or commerce, and that no tapes have been made available for sale, they do not admit the allegations in paragraph 24.

37. They do not admit the allegations in paragraph 25.

38. They deny the allegations contained in paragraph 26.

39. They do not admit any of the allegations contained in paragraph 27.

40. They do not admit the allegations contained in paragraph 28.

41. They do not admit the allegations contained in paragraph 29.

42. They do not admit the allegations contained in paragraph 30.

43. They do not admit the allegations contained in paragraph 31.

44. Further to the preceding paragraph, Islamic doctrine provides a foundation for those Muslims [some of whom proclaim, again upon a foundation provided by Islamic doctrine, that establishing a sharia state is the duty of all Muslims] who plan or hope to impose Islam on Australia. They say that some of these Muslims also argue that liberal democracy is a system of government which is alien to Islam, and which should be opposed as a principle of religious obedience to Allah. The first two respondents deny that the holding of these positions was attributed either to all Muslims, or to Australian Muslims in general. They say

that a robust discussion of such religious teachings is in the public interest.

45. Further to the last two preceding paragraphs –

To paragraph 31(a). The first two respondents say that the “enemy” refers to Satan and would be commonly so understood. The comparison is between the weak state of the Christian church, with the growing influence of Islam in the West.

To paragraph 31(b). The first two respondents say that liberal secular democracy is alien to specific doctrinal principles of Islam, in such respects as the lack of a distinction between “church” and “state”. They say that this inconsistency has been recognized by influential Muslim scholars, as well as by authoritative non-Muslim critics. They say that some Muslims in Australia want to replace liberal democracy with sharia law. They say that Islam has been successful throughout history in achieving this goal so it is not a fanciful goal. They say that even if it is a fanciful goal, it is seriously held, and deserves to be the subject of criticism.

To paragraph 31(c). The first two respondents say that demographic increase of Muslims in Western nations is a serious potential challenge to secular democracies. They say that certain principles of Islamic law facilitate the demographic increase of Muslims within a population. They say that significant numbers of people are converting to Islam in Western nations. They say that in the case of some Western nations it is foreseeable that within the next 100 years they may become majority Muslim states. They say that this future is, for some Muslim groups in the West, a desired and even intended outcome towards which they are working. They say that this is one possible future for Australia as well.

To paragraph 31(d). The respondents say that Australian Muslims regard it as their divinely sanctioned role to exert influence upon Australian public political life to make it more in conformity with the standards which Allah has revealed to humanity through Islam. They say that one of the effects of Muslim influence in the public sphere is restriction of Christian witness.

To paragraph 31(e). The first two respondents say that this comment was made in connection with a report of a Melbourne Imam’s comments on the subject of jihad. It is a fair inference to draw from the Imam’s comment. The first two respondents say that some Muslims in Australia, and some Islamic literature sold and available in Australia have advocated the use of violent jihad to compel nations to submit to Islam.

To paragraph 31(f). The first two respondents say that a number of identifiable Islamic countries, including the nation which has been the primary external donor for establishing Islam in Australia, practice or endorse the deliberate slaughter and torture of Christians on religious grounds.

To paragraph 31(g). The first two respondents say that in some circumstances this has been a true statement.

To paragraph 31(h). The first two respondents deny this allegation. They say that since human rights abuses against Christians occur in accordance with a pattern which corresponds to sharia principles, if Islam gained power in Australia, similar abuses could reasonably be expected to occur in Australia as well.

46. They deny the allegations contained in paragraph 32.

47. They do not admit the allegations contained in paragraph 33.

48. They do not admit the allegations contained in paragraph 34.

49. To the allegations in paragraph 35 they say –

35(a) The first two respondents say that these are reasonable conclusions to draw from a careful study of the Qu'ran, the Hadith and the sira.

35(b) The first two respondents do not admit the claim about lying. They will say that a form of Islam is an inalienable part of Islamist terrorism, and that such groups claim themselves to be true Muslims. It is not vilification of Muslims to take their profession of faith seriously.

35(c) The first two respondents will say that Islam does endorse killing and enslavement of whole groups of people who refuse to submit to Islamic rule. They will say that the reference to 'tribes' is an error for 'tribe'. They will say that the genocide of a tribe of Jews by Mohammed is attested by all the canonical Hadith collections, the sira traditions, and by virtually all scholars of Islam, Muslim and non Muslim alike.

35(d) The first two respondents say that Mohammed married his wife Aisha when she was a

girl of six or seven, consummating the union when she was nine and Mohammed was in his fifties. They say that the desire to marry a girl of this age would, in our culture, be regarded as pedophilia. They also say that this aspect of Mohammed's example forms the basis in sharia law for marriages of pre-pubescent girls, and that this forms part of sharia law in some nations of the world today.

35(e) The first two respondents admit paragraph 35(e). They say that the Qu'ran calls for the destruction of peoples who oppose Islam.

35(f) The first two respondents admit paragraph 35(f). They say that incitement to commit acts of terror in jihad is intrinsic to the Qu'ran and the example of Mohammed.

35(g) The first two respondents admit paragraph 35(g).

35(h) The first two respondents say that paragraph 35(h) refers to calls in the Qu'ran to wage warfare against non-Muslims, and especially against polytheists.

35(i) The first two respondents admit paragraph 35 (i) and (ii). They say that the Qu'ran teaches that Allah loves Muslims, and Muslims must do the same. They say the Qu'ran teaches that Allah hates non-Muslims, and that it incites Muslims to do the same.

The first two respondents say in relation to paragraph 35(i) that the Qu'ran teaches that killing of non-Muslims to establish Islam is an acceptable, and even a meritorious act, under certain circumstances.

35(j) The respondents admit paragraph 35(j). They say that the terrorists included devout Muslims who acted in accordance with their understanding of the teaching of Islam. They say that the aims and methods of terrorist are intimately tied to Islamic teachings, both in the self-understanding of the terrorists, and in truth.

50. They deny the allegations contained in paragraph 36.

51. Further to the preceding paragraph, the Article was written in the public interest, and that it is also exempt under the provision of legitimate religious purposes.

52. They do not admit the allegations contained in paragraph 37.

53. They do not admit the allegations contained in paragraph 38.

54. They do not admit the allegations contained in paragraph 39.

55. They do not admit the allegations contained in paragraph 40.

56. They do not admit the allegations contained in paragraph 41.

57. They do not admit the allegations contained in paragraph 42.

58. They do not admit the allegations contained in paragraph 43.

59. They say that the remedies sought by paragraph 44 are inappropriate and should not be ordered, and they say more specifically to each sub-paragraph -

(a) (i) the facts contained in the claim do not provide any foundation for this claim or the premise on which this claim is based.

The complaint does not plead inaccurate statements.

The complaint does not plead misleading statements.

The respondents deny that the seminar included inaccurate statements or misleading statements.

The respondents will contend that in the respects identified above in this defence and in the seminar, the Islamic faith does not constitute lawful religious activity.

(a) (ii) The facts contained in the claim do not provide any foundation for this claim or the premise on which this claim is based.

The respondents deny that there is any basis in fact for the remedy sought.

The respondents will contend that in the respects identified above in this defence and in the seminar, the Islamic faith does not constitute lawful religious activity.

(a) (iii) The facts contained in the claim do not provide any foundation for this claim or the premise on which this claim is based.

The respondents say that any decision to apologise is a matter for individual conscience and that in matters of conscience the state or alternatively the state in right of Victoria has no power to regulate conscience

(b) The facts contained in the claim do not provide any foundation for this claim or the premise on which this claim is based.

The respondents deny that there is any basis in fact for the remedy sought.

The respondents claim an entitlement to publish and distribute information concerning the matters which are the subject of this complaint.

The respondents claim an entitlement to publish and distribute information views conclusions perspectives and opinions on matters of religious belief and upon matters of conscience.

(c) the facts contained in the claim do not provide any foundation for this claim or the premise on which this claim is based.

The respondents deny that there is any basis in fact for the remedy sought.

The respondents refer to the response set out above to paragraphs 24 and 25.

(d) the facts contained in the claim do not provide any foundation for this claim or the premise on which this claim is based.

The respondents deny that there is any basis in fact for the remedy sought.

The respondents do not admit that if there was distress humiliation or offence, the same was caused by them.

(e) the facts contained in the claim do not provide any foundation for this claim.

The respondents say that the institution of proceedings without any letter before action was unnecessary and unreasonable.

All of the matters complained about were and are matters of conscience.

All of the matters complained about concern matters which involve the ambit of the proper interpretation of traditional religious texts, a matter not appropriate for the secular courts or tribunals of the State of Victoria.

60. The respondents say that all their religious activities which are the subject of the complaint are dealt with by Article 18 of the Universal Declaration of Civil and Political Rights, and that the respondents have –

1. the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. the right not to be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

61. The respondents say that their religious activities which are the subject of the complaint are dealt with by Article 19 of the Universal Declaration of Civil and Political Rights, and that the respondents have –

1. the right to hold opinions without interference.
2. the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

62. Further, or in the alternative to the last two preceding paragraphs, the respondents say that the Constitution of the Commonwealth affirmatively recognises and protects their right to express themselves freely according to their own consciences in respect of political and religious matters.

63. The matters of which complaint is made are political and or religious matters.

64. Further, the provisions of the Racial and Religious Tolerance Act of the State of Victoria impinge upon and fetter the operation of the Human Rights & Equal Opportunity Act of the Commonwealth, and are accordingly wholly or partly invalid.

65. Further, the respondents say –

Their conduct was reasonable and engaged in reasonably.

Their conduct was in good faith and was engaged in good faith.

Their conduct was exempt conduct by reason of the provisions of s.11 of the Racial and Religious Tolerance Act.

Their conduct occurred in the performance, exhibition or distribution of an artistic work.

Their conduct occurred in the course of conduct engaged in for genuine academic, artistic, religious or scientific purposes or alternatively for the service of the public interest.

Their conduct occurred in the course of conduct engaged in for the purpose of making or publishing a fair and accurate report of an event or matter of public interest.

Dated: 10 April 2003

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KHOR & BURR

Solicitors for the Respondents