

Christianity on trial – the case so far...

By Jenny Stokes, Research Director, Salt Shakers 6 February 2004

Introduction

Two pastors, Daniel Scot and Danny Nalliah, are currently involved in a tribunal hearing in Melbourne, following a complaint made by the Islamic Council of Victoria (ICV) and three complainants, under Victoria's Racial and Religious Tolerance Act, which came into effect in January 2002.

The hearing of the complaint by the Victorian Civil and Administrative Tribunal (VCAT) is held at the VCAT building at 55 King Street, Melbourne from 10 am to 4 pm.

The hearing began on 15 October, and has already gone for more than 20 days. It will resume again on Thursday 12 February.

At this point, the witnesses for the Islamic Council have all been cross-examined and the witnesses for Catch the Fire will be cross-examined when the hearing resumes.

Background of the Law

The original Bill, launched by the Labor Government in December 2000, threatened to make it an offence to "offend, insult or humiliate" someone on racial or religious grounds. Motive was to be irrelevant.

Sadly, some Christians thought we should not be alarmed about this proposal and others actually supported it.

After much lobbying, including some 5,000 submissions against the legislation, mainly from individuals, the final bill was watered down and passed in mid 2001. The Act does not define what 'vilification' actually is, but says that one cannot incite hatred, severe contempt or severe ridicule against someone on the basis of their race or religion. There is an exemption for religious discussion 'done reasonably and in good faith'.

The law is in two parts – the first is under the Equal Opportunity Commission and then, if conciliation is unsuccessful, a hearing at the Victorian Civil and Administrative Tribunal. The complaint is being heard under this section of the Act. Section 8 of the Act (Part 2, Division 1).

There is a second section in the Act that is for *criminal activities* – this applies when there is **intent** to incite hatred etc or when physical violence is involved. It is this section of the Act that carries prescribed fines of \$6000 for individuals and \$30,000 for corporations. **Serious Religious Vilification** in Section 24 (Part 4).

[The Racial and Religious Tolerance Act 2001 is at http://www.dms.dpc.vic.gov.au/l2d/R/ACT02531/0_1.html]

Such a divisive piece of legislation directly attacks free speech, on matters of personal belief, in a way that had never happened before in this country.

The Basis of the complaint

Consequently, as was predicted by the two organisations, which led the fight against this legislation, Salt Shakers and Catch the Fire Ministries (CTFM) (through Rise up Australia), it was not long before a case was lodged with the Equal Opportunity Commission.

Just two months after the enactment of the legislation, Catch the Fire Ministries, headed by Danny Nalliah, ran a seminar to help Christians understand Islam and the events of September 11, and assist them to minister and reach out, in love, to the growing Muslim community in Melbourne. Pastor Daniel Scot was the speaker at the seminar.

Three Australian Muslim converts attended the seminar and, with the Islamic Council of Victoria (ICV) backing them, lodged the complaint about statements made at the seminar, comments made in a Catch the Fire newsletter and an article about Islam on their website.

Nearly 18 months later, the case is still continuing. Conciliation at the Equal Opportunity Commission and mediation at the Victorian Civil & Administrative Appeals Tribunal (VCAT) failed to resolve the matter, so it is now being heard by a judge (Judge Michael Higgins) at VCAT in Melbourne. It has taken a great deal of time, effort and money to defend the pastors against this complaint.

On the first day of this hearing, representatives from the Uniting Church and Catholic Church asked to be allowed to intervene in the case. The Uniting Church wanted to intervene on behalf of the Muslims and the Catholics applied to intervene independently on the basis of promoting religious harmony. The 'interfaith' movement has risen up to oppose anyone who speaks out and states that Jesus is the only way to God or that the god of Islam is not the God of the Bible.

The judge reserved his decision on whether these people can intervene until December. [See below]

The hearing

The hearing started on October 15, 2003. CTFM barrister David Perkins raised a point of law, suggesting that since the federal constitution gives an implied right to free speech, and federal law overrides state law, the Tribunal did not have the power to hear the case and that it should be sent to the Victorian Supreme Court for a decision – but the judge ruled to continue hearing the case. This issue also raises serious questions about the legality of the Racial and Religious Tolerance Act!!!

The Islamic Council also successfully asked to have the whole seminar considered in the complaint, not just the parts specified in their original complaint.

The hearing was originally scheduled for three days, but it has already gone for more than 20 days.

The three complainants – Jan Jackson, Malcolm Thomas and Domenyk Eades – and the President of the Islamic Council were all cross examined.

The three Muslim converts, who attended the seminar and complained, acknowledged that their attendance at the seminar had been organised by contacts within the Islamic Council. Questioning revealed they had a limited knowledge of the Qur'an.

Cross examination of Jan Jackson revealed that her friend May Helou, who organised for her to attend the seminar, was at the time employed by the Equal Opportunity Commission to facilitate the introduction of the legislation, as well as being involved with the Islamic Council.

Yasser Soliman, President of the Islamic Council, was questioned as to whether the Islamic Council was representative of all Muslims.

Expert witnesses for the ICV

The Islamic Council put up several 'expert witnesses –

Catholic priest **Fr Patrick McInerney**, from the Columban Centre for Christian-Muslim Relations in Sydney, who is involved in interfaith relationships.

Gary Bouma, a Professor of Sociology at Monash University. Cross-examination found that he is an Anglican priest who is also involved in interfaith relationships. He told the Islamic Council he would assist them before reading the transcript of the seminar. Further questioning revealed he disliked "Charismatic Christianity".

Dr A K Kazi, a Muslim scholar who had been an Associate Professor at the University of Melbourne.

The hearing of the complaint was adjourned for several weeks due to commitments of the ICV QC and the judge. It resumed on Thursday 11 December before breaking for the Christmas holiday period on Friday 19 December.

On Monday 15 Dec the judge heard the applications for intervention. He decided to refuse the applications to intervene that had been made by the Uniting Church, the Catholic Church and the Board of Imams.

By the 19 December, the cross examination of the ICV witnesses had been completed.

When the case resumes on 12 February, the witnesses for Catch the Fire Ministries will be cross-examined. These will include Pastor Danny Nalliah and Pastor Daniel Scot. The other witnesses for CTFM include people who attended the seminar and people who have expertise in various areas of Islam.

We ask you to pray for the two pastors involved, Daniel Scot and Danny Nalliah, and their families. Please pray for wisdom for the legal advisors and other specialists who are assisting in this case.

Please also pray for a united Christian front.

Daily Updates about the tribunal hearing are sent on Salt Shakers E-News:

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Adapted from articles written for New Life in Nov/Dec 2003 and Daily Updates on the case.