



**Strike up the ban:  
Censor joins the war on terrorism**

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In July 2006 the Australian Government took the unusual step of banning two radical Islamic books on security grounds – the only western nation to have done so. Interestingly, the Australian Federal Police and the Commonwealth Director of Public Prosecutions had both ruled that neither book came within the purview of the tough sedition laws passed in 2005 as part of new anti-terrorism laws.<sup>1</sup>

The two books banned – *Defence of the Muslim Lands* and *Join the Caravan* – are both by the late Sheikh Abdullah Azzam, a Palestinian-born Islamic radical who was assassinated in Pakistan in 1989.

They are the first books banned in Australia for many years. The decision to ban the two books, taken by the Classification Review Board, followed an application from the Attorney-General, Phillip Ruddock, to review the classification of eight Islamic books and a film.

The *Classifications (Publications, Film and Computer Games) Act 1995* governs the classification of publications, computer games and films as well as the review of classification decisions. Section 9 of the Act provides that classification is to be made in accordance with the National Classification Code and the classification guidelines. A fundamental principle of the Code is that ‘adults should be able to read, hear and see what they want’.<sup>2</sup> The two books refused classification (that is, banned) were dealt with under 1(c) of the Code which pertains to publications that ‘provoke, incite or corrupt in matters of crime or violence’.

According to the decision and reasons for decision published by the Classification Review Board, the Board convened on 19 and 20 June 2006 in response to an application from the Attorney-General who in turn was responding to the original application for classification from the Australian Federal Police on 15 December 2005.

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<sup>1</sup> Simon Kearney, 2006, ‘Crackdown on extremist books’, *The Australian*, 12 July.

<sup>2</sup> <http://www.oflc.gov.au>

The two books reclassified by the board from Unrestricted to Refused Classification (RC) means that the books are immediately banned throughout Australia, and ‘cannot be sold within or imported into the country’.<sup>3</sup> A cursory check of the Internet revealed that lengthy excerpts from both books are available online, and a number of mail order bookstores around the world stock them. The other six books on the Attorney-General’s reference retain the Unrestricted classification with the Classification Board declining to impose a ban. They are: *The Ideological Attack*; *The Criminal West*; *Jihad in the Qur’an and Sunnah*; *The Absent Obligation*; *Islam and Modern Man: The Call to Islam to Modern Man Vol.II*; and, *The Qur’anic Concept of War*.

All decisions were unanimous with the exception of the Unrestricted decision for *The Absent Obligation*, which was a majority 5 to 2 decision. The film, *Jihad or Terrorism*, was classified PG with the consumer advice ‘mild themes’.

### **The process**

In its consideration of the book *Defence of the Muslim Lands*, the Board noted that it had been written in 1984, as was the preface by Osama Bin Laden, and constituted a *fatwa* (Islamic legal ruling) and a call to arms against the Soviet invasion of Afghanistan which was condemned at the time by much of the western world, including Australia, the UK and the US. The book was reprinted twice in English, in 1996 and 2002, and the later edition carried a dedication to Sheikh Azzam, hailing him as the man who ‘ignited the flame of Jihad in the 20<sup>th</sup> Century’.

The Board reported: ‘The book is 114-pages and aims to clarify through the use of classical sources of Islam, the concept and manner in which “Jihad” should be prosecuted. It justifies the concept of “Jihad” in the context of fighting the USSR as per the author’s words and with the addition of the publisher’s comments “to all similar situations facing the Muslims” today (as at September 2002)’.<sup>4</sup>

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<sup>3</sup> Classification Review Board, 2006, ‘Classification Review Board determines 2 Islamic books are Refused Classification’, media release, 10 July 2006.

<sup>4</sup> Classification Review Board, 2006, ‘Decision and reason for decision: *Defence of the Muslim Lands*’, 19, 20 & 23 June and 3 & 5 July, 2006, p. 3.

The summary of findings notes that Azzam is often known as the ‘Godfather of Jihad’ and is known as a mentor to Osama Bin Laden. It notes that early on in the book mention is made of Azzam’s realisation that only by means of an organised force would the *Ummah* (Muslim believers) ever be able to gain victory, and that Jihad and the gun became his pre-occupation and recreation. The Board observes: ‘The publication promotes and incites in matters of crime or violence, specifically terrorist acts and martyrdom operations’. There is also ‘some level of instruction on how to go about martyrdom operations and their benefit...’<sup>5</sup>

### **Jihad ‘an obligation of Muslims’**

In determining that the work promoted, incited or instructed in matters of crime and violence, the Board ruled that the book:

- was specific and explicit in its support for and encouragement of suicide bombing;
- contained details about how to undertake suicide bombing, explained techniques for undertaking such crimes and outlined the political and psychological benefits and distress caused to the enemy by such attacks;
- was written in an emotively and passionate manner with the purpose of being a real and genuine call to specific action by Muslims. The book was written as an impassioned plea to Muslims to fight for Allah and engage in acts of violence;
- was republished in 2002 to specifically refer to ‘all situations confronting Muslims around the world’ which gave the book a contemporary relevance and context;
- was written by a well-known Jihadi who had engaged in acts of terrorism and who had ties to the Taliban, Osama Bin Laden and associates; and

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<sup>5</sup> Classification Review Board, 2006, ‘Decision and reason for decision’, p. 4.

- had the objective purpose of promoting and inciting acts of terrorism against disbelievers, and suicide bombings, either in non-Muslim lands or in occupied Muslim lands.<sup>6</sup>

Regarding the book, *Join the Caravan*, the Board notes that the 65-page publication ‘examines the Islamic concept of “Jihad” largely as it relates to the conflict in Afghanistan in 1987. However, it was reprinted in 1996 and August 2001 with the addition of the publisher’s foreword, details on Abdullah Azzam and (possibly) Part Three: Clarification about the issue of Jihad today (although this is unclear)’.<sup>7</sup>

The Board determined that the book promoted, incited or instructed in matters of crime or violence in that it was ‘specific and explicit in its support for and encouragement of fighting against non-believers, specifically in Afghanistan’, and that it had the ‘objective purpose of promoting acts of terrorism against “disbelievers”, and in particular in Afghanistan’.<sup>8</sup> In summary, the Board concluded:

The cumulative impact of the book draws the reader to the conclusion that Jihad is an obligation of Muslims. It takes the reader down a narrow path with the conclusion being that it is obligatory to go out and commit the crime of terrorism, particularly suicide bombing and other operations where death to the perpetrator is the likely outcome. On this basis, the publication is refused classification.<sup>9</sup>

Despite a brief acknowledgement in passing by the Board, there is a serious issue of context being overlooked, or at least downplayed, here: The ‘foreign invader’ so reviled in these texts is not the United States nor is it Australia, nor is it Britain; it is the Soviet Union, an enemy whose revulsion among Muslims was not only encouraged by, but financed by, the United States. The texts on which both these works draw heavily were mostly written many centuries before, dealing with events such as the Mongol sacking of Baghdad in 1258.

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<sup>6</sup> Classification Review Board, 2006, ‘Decision and reason for decision’, p 6.

<sup>7</sup> Classification Review Board, 2006, ‘Decision and reason for decision: *Join the Caravan*’, 19, 20 & 23 June and 3 July, 2006, p. 3.

<sup>8</sup> Classification Review Board, 2006, ‘Decision and reason for decision: *Join the Caravan*’, pp. 5-6.

<sup>9</sup> Classification Review Board, 2006, ‘Decision and reason for decision: *Join the Caravan*’. p. 7.

### **Underlying themes: ‘contemptible and extreme’**

Of the six other books referred by the Attorney-General on behalf of the Federal Police, the Board declined to impose restrictions or bans, citing a variety of reasons. The only publication not determined by unanimous opinion was *The Absent Obligation: And Expel the Jews and Christians from the Arabian Peninsula*.

In its consideration of this work by an Egyptian Islamist, Muhammad Abdus Salam Faraj, the Board noted that its 110 pages examined ‘the Islamic concept of Jihad and establishing the Law of Allah upon the earth – specifically the Arabian peninsula’. While the Board considered that the ‘underlying themes of the publication would undoubtedly be rejected by most Australians and would be considered extreme’, their impact was not high owing to the ‘turgid academic style...and lack of real detail’.<sup>10</sup> It considered that most Australians would find the attitudes expressed ‘to be contemptible and extreme’, but having said that it was prepared to ‘take a conservative approach to the interpretation of the Code’.<sup>11</sup> The majority of the review board found that the publication’s objective purpose was to provide broad support for the broad notion of fighting against ‘disbelievers’, but that it stopped short of ‘advocating any particular crime or violence’.<sup>12</sup> The minority view was that the book did promote, incite violence and/or crime, and that its sale in Australia was to ‘encourage and incite Muslims – who may not be so encouraged – to undertake Jihad’.<sup>13</sup>

### **Too much censorship?**

The Attorney-General, in welcoming the decision, acknowledged that freedom of expression was one of the underlying principles of Australian society, ‘but it should not protect circulation of material that urges or advocates acts of terrorism against that society’. He referred to ‘community concerns about the dissemination of material which

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<sup>10</sup> Classification Review Board, 2006, ‘Decision and reason for decision: *The Absent Obligation*’, 19, 20 & 23 June and 3 & 5 July, 2006 p. 3.

<sup>11</sup> Classification Review Board, 2006, ‘Decision and reason for decision: *The Absent Obligation*’, p. 4.

<sup>12</sup> Classification Review Board, 2006, ‘Decision and reason for decision: *The Absent Obligation*’, p. 5.

<sup>13</sup> Classification Review Board, 2006, ‘Decision and reason for decision: *The Absent Obligation*’, p. 8.

promotes or advocates terrorism',<sup>14</sup> presumably a reference to an 'exposé' in the *Daily Telegraph* (Sydney) under the headline 'SECRET BOOKS OF HATE' on July 18 2005 and accompanied by an editorial headed 'BOOKS WITH THE POWER TO KILL'.<sup>15</sup>

In the wake of all the publicity, the Mufti of Australia, Sheikh Taj Din al Hilali, instigated his own investigation of the books. The founder of the Islamic Friendship Association of Australia, Keysar Trad, who undertook the investigation, said the decisions to ban the books were 'McCarthyism all over again', and that Muslims could ask for the Salman Rushdie book, *Satanic Verses*, to be banned on the same grounds.<sup>16</sup>

The Attorney-General also foreshadowed a review of censorship laws to ascertain whether they dealt adequately 'with material which urges or advocates terrorist acts'.<sup>17</sup>

The Media, Entertainment and Arts Alliance, which represents journalists, has written to Commonwealth, State and Territory attorneys-general to express its concerns over plans to introduce additional censorship laws, believing that there 'are already too many harsh laws that curb freedom of expression in Australia'.<sup>18</sup> An outspoken critic of the Commonwealth's sedition laws, Professor George Williams, commented that Australia is 'plagued with undue censorship', and that recent developments 'demonstrate how fragile freedom of speech is in Australia'.<sup>19</sup>

The Attorney-General, although the applicant, was not represented at the meetings of the Classification Review Board. The only 'interested party' was the NSW Council for Civil Liberties which lodged a submission opposing any bans as being counter to freedom of political communication and warning that they would serve only to further marginalise the Islamic community in Australia. The submission said the Board should avoid

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<sup>14</sup> Phillip Ruddock, 2006, 'Attorney Welcomes "Books of Hate" Decision', media release 128/2006, 11 July 2006.

<sup>15</sup> *Daily Telegraph*, , 2005,18 July.

<sup>16</sup> Kearney, 'Crackdown on extremist books'.

<sup>17</sup> Kearney, 'Crackdown on extremist books'.

<sup>18</sup> MEAA, 2006, 'More Censorship Laws Not Needed', Alliance Online, <http://www.alliance.org.au/content/view/207/76/> 27 July 2006.

<sup>19</sup> George Williams, 2006, 'Fragile freedom', *The Age*, 8 July.

censoring material which related to international political themes where that material had not been censored in other democratic countries. It continued:

It is not obvious that the material poses any significantly greater threat in Australia compared to any of the other countries in the world where it is freely available. To do so would have the tendency to undermine Australia's international reputation. While the material may be politically and socially controversial, as it does not represent a threat to Australian society, it ultimately serves an educational purpose. The material provides people in Australia with insight into the views that underlie the current political climate and the motivations that oppose the liberal western tradition. Censoring such material, in addition to being realistically impossible, only increases the significance of the material and underlines the values that ultimately will best protect Australian society.<sup>20</sup>

The Council has since lodged an application in the Federal Court for an order of review of the Classification Review Board's decision on the basis of an error in law under the *Administrative Decisions (Judicial Review) Act 1977* and also an improper exercise of power under the Act.

### **Conclusion**

In the 1990s, the High Court found and developed the implied constitutional freedom of political communication. In its findings on two landmark cases,<sup>21</sup> the court held that such a right was essential to representative government and that while it was not all encompassing it did protect free and public political discussion.<sup>22</sup>

Yet freedom of speech in Australia remains an uncertain legal principle, especially so in light of the absence of a Bill of Rights that codifies and defines the freedom, as does the United States in its 1791 constitutional Bill of Rights and Great Britain in its *Human Rights Act 1998* (which in itself has not prevented new laws criminalising 'glorification' of terrorism under the *Terrorism Act 2006*). What we have in Australia is a 'residual

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<sup>20</sup> NSW Council for Civil Liberties, 2006, Submission to Classification Review Board, 19 June 2006.

<sup>21</sup> *Australian Capital Television v Commonwealth* [(1992) 177 CLR 106] and *Nationwide News v Wills* [(1992) 177 CLR 1].

<sup>22</sup> See Michael Kirby, 1993, 'Freedom of Expression: Some Recent Developments', *Commonwealth Law Bulletin*, Vol. 19, No. 4, October: 1779-9.



freedom',<sup>23</sup> and even that is currently being challenged when seen against the background of the sedition laws passed in 2005 which have the potential to criminalise people for what they say. The blurring of security considerations and political communication in a pluralist and democratic society is inherently dangerous, and when censorship is resorted to for political reasons, however much they might be dressed up and presented as security reasons, the freedom of political communication, albeit an *implied* freedom in Australia, is diminished.

The danger in the decision to ban the books is that it greatly over-states their importance and exaggerates their potential influence, a point made by an Australian Muslim community leader, Amir Butler, co-convenor of the Australian Muslim Civil Rights Advocacy Network.

If we are to properly defeat what is essentially a perverted understanding of Islam, it is not enough to simply argue that these ideas are bad because the Government says so. These ideas must be comprehensively debunked and refuted. And Muslim leaders, scholars and intellectuals have been doing just this for more than 1000 years. This is the only means by which people will be dissuaded from adopting these ideas. Yet by banning these books the Government is now denying the community the opportunity to do so. Without access to this material, it is impossible for us to understand the ideas, articles and justifications being used by the terrorists. If we, as a community, cannot understand the religious arguments being offered for suicide bombings, it is impossible for us to refute them.<sup>24</sup>

It may well be that these measures will be counter-productive, needlessly drawing attention to two deservedly obscure works. It might usefully be asked why other western nations, with larger and potentially more radical Muslim populations, have not sought to venture down a similar path. What it does suggest in Australia, however, is a shift in direction for censorship, reflecting a tighter political control over what people say, read and think with little regard for constitutional or civil liberties arguments to the contrary. The first Attorney-General in the Howard Government, Daryl Williams, noted with pride in 1997 that 'Australia is a tolerant society, free from religious and political oppression.

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<sup>23</sup> Katherine Gelber, 2002, 'The scope of the implied freedom of political communication in Australia', Refereed paper presented to the Jubilee conference of the Australasian Political Studies Association, ANU, Canberra, October, 2002, p. 2.

<sup>24</sup> Amir Butler, 2006, 'Banning books won't protect us', *Herald Sun*, 11 August.

Fortunately in Australia today we do not have a system of political censorship'. Yet his words less than a decade later take on a certain irony.

Since the 1970s there have been profound changes in the approach to the classification of films and publications in Australia. In many respects these changes have reflected changes in society generally and the way we view individual rights and freedoms.<sup>25</sup>

It is difficult to see just what such drastic measures as banning these two books are aimed at achieving, apart from being seen to respond to a populist and intemperate clamour for action out of all proportion to the perceived threat.

While the Classification Review Board rejected proposals to consign six other publications to the banned list, the whole episode raises pertinent questions about the use of the classification process to achieve what are essentially political outcomes.

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<sup>25</sup> Daryl Williams, 1997, 'From censorship to classification', address to Murdoch University, Perth, 31 October.