



Australian Government
Classification Review Board

19, 20, 23 June and 3 July 2006

23-33 MARY STREET
SURRY HILLS, NSW

MEMBERS: Ms Maureen Shelley (Convenor)
The Hon Trevor Griffin (Deputy Convenor)
Mr Rob Shilkin
Mrs Kathryn Smith
Mrs Gillian Groom
Ms Ann Stark
Mr Anthony Hetrih

APPLICANT: Commonwealth Attorney General, the Hon Philip Ruddock
MP, not represented.

INTERESTED PARTIES: NSW Council for Civil Liberties.

BUSINESS: To review the Classification Board's decision to classify the publication *Jihad in the Qur'an & Sunnah* 'Unrestricted'.

DECISION AND REASONS FOR DECISION

1. Decision

The Classification Review Board (the Review Board) in a unanimous decision classified the publication *Jihad in the Qur'an & Sunnah* 'Unrestricted'.

2. Legislative provisions

The *Classification (Publications, Film and Computer Games) Act 1995* (the Act) governs the classification of publications and the review of classification decisions. Section 9 of the Act provides that publications are to be classified in accordance with the National Classification Code (the Code) and the classification guidelines.

Section 11 of the Classification Act requires that the matters to be taken into account in making a decision on classification include:

- (a) the standards of morality, decency and propriety generally accepted by reasonable adults; and
- (b) the literary, artistic or educational merit (if any) of the publication or film; and
- (c) the general character of the publication or film, including whether it is of a medical, legal or scientific character; and
- (d) the persons or class of persons to or amongst whom it is published or is intended or likely to be published.

Three essential principles underlie the *2005 Guidelines for the Classification of Publications* (the Publication Guidelines), determined under s.12 of the Act:

1. The importance of context;
2. Assessing impact; and
3. Six classifiable elements – themes, violence, sex, language, drug use and nudity.

3. Procedure

The Review Board convened on 19 June 2006 in response an application dated 5 June 2006 from the Attorney General, the Hon Philip Ruddock MP (the Applicant).

The original application for classification of the publication was lodged by the Australian Federal Police on 15 December 2005 (application reference L05/1450). The Classification Board classified the publication as ‘Unrestricted’ on 22 December 2005.

At its meeting on 19 June 2006 seven members of the Review Board received oral and written submissions from Mr Drew Kovacs representing the New South Wales Council for Civil Liberties, and then adjourned to consider the substance of the application ‘in camera’. The Review Board continued to deliberate ‘in camera’ on 20 and 23 June 2006 but did not reach a decision.

The Review Board then reconvened on 3 July 2006 for a final time and, after careful consideration of all of the relevant issues, determined that the publication be classified ‘Unrestricted’.

4. Evidence and other material taken into account

In reaching its decision the Review Board had regard to the following:

- (i) The Attorney General’s application for review;
- (ii) The NSW Council of Civil Liberties’ written and oral submissions;
- (iii) The Publication *Jihad in the Qur’an & Sunnah* (L05/1450);
- (iv) The relevant provisions in the Act;
- (v) The relevant provisions in the Code, as amended in accordance with s.6 of the Act;

- (vi) The Classification Board's report; and
- (vii) The 2005 *Guidelines for the Classification of Publications*.

5. *Synopsis*

An historical 52-page publication, written some 20 years ago, that examines the concept of "Jihad" as presented in the Qur'an and Sunna. "Jihad" is examined in the context of defending the Muslim lands. The book is written in an academic style, is presented as an historical piece and explains how "Jihad" has benefits that are "far-reaching and wide-spreading as regard to Islam and the Muslims".

6. *Findings on material questions of fact*

Classifiable elements

There is no description or depiction of sex, nudity, coarse language or drug use. The description of violence is limited, and the themes - although undoubtedly rejected by most Australians - are not treated in an offensive manner and do not contain any real detail.

This a book in which Sheikh Abdullah Bin Muhammad Bin Humaid, ex Chief Justice of Saudi Arabia, has presented the concept of Jihad in light of the Koran and Sunnah. The book quotes from the Koran and explains the historical context to "fighting" against Pagans, Jews and Christians in the time of Mohammed.

Jihad is explained as being "with the heart (intentions or feelings), with the hands (weapons etc) and with the tongue (speeches etc) in the cause of Allah". The book notes that Allah has rewarded "the one who performs Jihad with lofty dwellings in the Gardens (of Paradise)". The book notes that those who are martyred in the cause of Jihad receive various heavenly rewards and that those who abandon Jihad are punished by Allah.

The Review Board noted that the book was ostensibly an educational/religious text with no political commentary, would be unlikely to have a wide audience in Australia, and was written in a turgid style that would not harm or disturb children.

Promotion, incitement or instruction in matters of crime or violence

The book is non-specific about what form "Jihad" should take. It does not specify which acts of violence should be committed, where they should be committed, who should commit them or what may justify particular acts of violence, apart from the rewards of Paradise.

Rather, the book provides direct Koranic quotations and support for the broad notion of Jihad. It is a dissertation on Jihad ("the holy fighting in Allah's cause" [page 11]). There is no instruction in matters of crime or violence.

There is a discussion about acts of worship which are obligatory upon Muslims and the blessings which flow from those acts of worship and a statement that : "There is one deed which is very great in comparison to all the acts of worship and all the good deeds---and that is *Jihad!*" (page 3).

The publication identifies that Allah has “ordained *Al-Jihad* (the holy fighting in Allah’s Cause):

1 With the heart (intentions or feelings)

2 With the hand (weapons, etc)

3 With the tongue (speeches, etc, in the cause of Allah)” (page 5).

Thus the publication is not just about physical fighting but the whole breadth of striving for Allah and Islam.

It details some of the battles waged by Muslims in the time of Mohammed. There is no reference to modern events or situations and the book does not attempt to encourage or incite readers to engage in any particular form of violence or criminal activity. It does note that those who are killed in pursuit of Jihad are rewarded in the afterlife.

7. *Reasons for the decision*

While the book does advocate the broad notion of fighting in the name of Islam, the Review Board formed the view that:

- there were no specific violent acts or threats of Jihad referred to;
- the book was historical and general;
- the book appeared to be a bona fide attempt to explain the author’s religious interpretation of the teachings of Islam, rather than an attempt to put a modern day “gloss” on the notion of Jihad, or to call for any particular type of action or conduct.

In interpreting the Code and Guidelines, the Review Board is required to take a conservative approach. The Review Board formed the view that the book did not promote, incite or instruct in matters of crime as those terms have been interpreted by the Courts.

Given its historical nature and the lack of specific detail of any kind, it was the determination of the Review Board that although supportive of “Jihad” the book did not promote, incite or instruct in matters of crime.

8. *Summary*

In light of the impact of the classifiable elements, the Review Board considered that the publication should be classified “Unrestricted”. The decision of the Review Board was unanimous.