



# The Long Road to Change

Daniel Haile-Michael speaks to the press after the settlement of the case.

*Photo credit: Charandev Singh.*

By Michael Green

Eight years have passed. Daniel Haile-Michael no longer remembers the night as a moving image, only in snapshots: he is on the oval; then at the petrol station; he's slumped on the ground, kneed by a police officer; he's alone in the back of the police car. He is at the police station. He is crying.

Paperwork typed long ago – complaints, affidavits, outlines of evidence – reveal the scenes that once fixated his mind, but Haile-Michael doesn't care to look at them anymore. He gives interviews to journalists often, and speaks at forums and conferences about his legal case. He is committed, yes, but he is weary.

His engineering assignments are waiting. As a reflex from those years, his academic confidence is low. After that night, and the hostile months that followed, he fell behind in class. Eight years later, he still postpones uni homework, listening to the small voice that insists: "I won't be good at this."

## BACK THEN

It was October, muck up day, late at night. It was Ramadan and Haile-Michael was with two of his mates, Magdi and Ahmed, Muslims who had broken the day's fast. The weather had been warm and humid, so the Year 10 boys stayed downstairs, beneath the Flemington high-rise where they lived. On the oval, between the flats and their school, they felt a breath of cool wind and exhaled.

Haile-Michael lived with his aunt, sharing a room with his younger cousin. He'd arrived in Australia, aged five, with his great uncle. The extended family was from northern Ethiopia; they spoke Tigrinya at home. But his great uncle had recently remarried. "You are going to live with your aunty," he'd said, two months earlier.

His aunty did not have a choice and she was not happy. So Haile-Michael avoided going home – he studied late at school, then lingered downstairs at the flats with friends. Cramped homes, teen boredom and solidarity snared the lot of them in a web anchored at five points: school, Maccas, KFC, the basketball court and the oval. There was nowhere else to go.

This night, they crossed the oval and walked up the main road towards school to see if the older kids were up to trouble, but before they got there Haile-Michael felt apprehensive, watched. Under a yellow streetlight, they saw two security guards. The boys turned back, walking at first, then running to get away from the school.

Near the service station, they stopped. A divvy van pulled in and two police officers approached them.

What happened next is contested. It was slated for court so many years later, the belated consequence of an official complaint, then a human rights grievance and finally, unprecedented racial discrimination litigation in the Federal Court. Along the way, unpredictably, what happened that night became unimportant.

Maki Issa was one of Haile-Michael's friends from the flats, and the next day, what had happened was very important to him. Issa lived with his mother and three brothers and sisters. Slight, but fast, he was signed to the Yarraville Glory soccer club, where he trained three times a week. He was only 15, but had developed an abiding attachment to the mixed-up community at the Flemington Estate flats. There were more than 4,000 people living in the four 20-storey towers and dozen walk-ups, which were built over the site of an old colonial farm and tannery. Half the residents were under 25 years old, and four in 10 spoke an African language at home. Issa's family, who had arrived from Djibouti, often exchanged food with their next-door neighbours, from Turkey.

Issa was already a volunteer. The year before, he had helped start a local soccer team, the North Lions, where he coached younger kids from the flats. His mother took to chiding him, affectionately: "Maki, you're never going to be rich."

The landscape changed when he heard Haile-Michael's story. Among his friends, Daniel was the most reserved and considered – the one who spent the most time in the library. And another friend, too, told Issa he'd been hit by police the same day. There'd been trouble with the cops before, but not like this. In recent months, his friends had grown used to being stopped and sworn at, but they were mouthy too: they'd give it straight back. He knew there had been some robberies,



Maki Issa outside the Federal Court.  
Photo credit: Charandev Singh.

but mostly it was people from Braybrook and Carlton, coming in and giving his friends a bad name. Mainly he'd blamed those guys for the crackdown, not the police. But this violence was different, he thought, and it freaked him out.

There was a social worker Issa knew, Simone Perkin, from the Mooney Valley council. With her encouragement, he and the other boys began to visit the Flemington and Kensington Community Legal Centre.

### A SPATE OF ROBBERIES

In October and November 2005, police in the Mooney Valley area – comprising Flemington and surrounding suburbs in Melbourne's inner north-west – noticed a trend. The region's new inspector described it as a "spate of robberies, armed robberies and assaults". He reported that a number of victims said "the offenders were groups of 'dark skinned' or African youths", but local police couldn't identify any suspects.

By December that year, senior police resolved to target the problem. The Flemington station would stage "Operation Molto" for a month, from early February to March 2006, coordinated by Acting Sergeant Nick Konstantinidis, who prepared the orders. "The as yet unidentified suspects for these serious offences are primarily young African males who either live at or from time to time attend the Flemington Public Housing Estate," he wrote.

Konstantinidis noted that police were already speaking to boys around there, and that they didn't like it. "The young African males stopped and spoken to

by police on and around the Flemington area view this police activity towards them as racially motivated harassment and retaliatory incidents have occurred."

Nevertheless, he determined that part of the mission of the operation was to "engage the African youth" and build "positive relationships where possible".

### SCORES OF COMPLAINTS

Tamar Hopkins had started working at the Flemington and Kensington Community Legal Centre a couple of months earlier, in August 2005. She arrived from Canberra, via the Tenants Union, with dreadlocks and a preoccupation with renters' rights and social security issues.

Immediately, she noticed that young men were coming into her office with questions about police: "Can they take photos of you?" they asked. "Can they confiscate your phone?"

She held an information session at the local high school, then another at the community centre, where people told her they'd been assaulted by police, stopped several times in one day by the same officer, or that police had refused to give their names when requested. It was clear that something was going wrong.

Hopkins felt disoriented, paranoid. Could this really be happening in Melbourne? And there was nowhere to turn. In the past, she'd worked on domestic violence, which was troubling, but a remedy – of sorts – was clear: report the matters to the police and seek restraining orders through the courts. Now some clients asked if they could get a restraining order on Konstantinidis.

Hopkins started going to the police station whenever anyone was arrested. She and Perkin distributed their mobile numbers and ran informal 24-hour support hotlines. With volunteers, she collected stories. She woke in the night to the ring of her phone, and also, to the fear and powerlessness she had absorbed from her clients' statements.

Once Operation Molto commenced, Perkin was bringing young people to the legal centre almost daily. For the few who were willing, Hopkins filed complaints to the Office of Police Integrity.

On 6 April 2006, she wrote to the OPI detailing an incident that included an alleged assault, racist taunts and confiscation of a phone. It was the twelfth complaint she had mailed in the past six weeks, and she was worried. "We ask that you investigate this matter urgently and with sensitivity," she concluded. "We are very concerned by the continuing nature of these assaults on young people in the area."

Nearly three years later, the OPI wrote back. It was a brief letter stating that the investigator had deemed the each of complainant's allegations either "Not substantiated" or "Unfounded".

In 2006, the legal centre lodged 17 complaints. One was withdrawn, but in every other instance, the OPI returned the same verdict: "Not substantiated". In three of those matters, the complainants themselves had been charged with resisting, hindering or assaulting police, but they were each found not guilty before the courts.

When Hopkins saw that magistrates didn't accept the police version of events, she began to guard a flimsy hope that the bench could help. But the incidents continued. By the end of 2008 she was exhausted. With her phone always on call, she judged that she'd been in emergency mode for two years. When the young men first arrived at her new office, she was shocked. When their visits became a pattern, she resolved that it was her responsibility not to walk away.

Above all, Hopkins was fed up with the force's complaints system. Every letter returned with the same finding: "Not substantiated". The OPI delegated its investigations to the force's Ethical Standards Department, who weighted their fellow officers' version of events above that of the complainants. Their conclusions were inevitable. She received a grant from the Victoria Law Foundation to examine complaints systems elsewhere around the world: six months to stop and sleep, study, and then start again with a different mobile number. She packed her bags and carried her guilt about those left behind.

## AN ETHICAL HEALTH CHECK

In 2006, Ken Lay – now the chief of Victoria Police – was the assistant commissioner responsible for a region that stretched from the CBD to the outer edges of the city's sprawl in the north and west.

Concerned by the number of formal complaints the OPI had received from the legal centre, Lay commissioned an investigation into the Flemington police station. One officer would review the specific allegations, and a second would review the operation of the station itself. This latter part, conducted by Inspector Mark Doney, was referred to as an "ethical health check".

By mid-year, Doney reported back. His diagnosis was troubling – he was critical of the behaviour of both Konstantinidis and the officer-in-charge of Flemington police station, Mick Maloney. Quietly, both were moved elsewhere. (Maloney was aggrieved however, and eventually his agitation prompted another internal inquiry – this time, into Doney's report. Victoria Police refuses to release either document.)

Despite internal tension, the force felt it was making progress. The September 2006 issue of the Police Association Journal carried **an article** about the Flemington community and refugees from the Horn of Africa. "Cultural differences and a mistrust of police because of experiences in their homelands have made policing in the area a challenge – a challenge the members at Flemington have tackled head on, with success," it began.

Senior Sergeant Langdon, the new officer-in-charge, said he was proud of his team. "Our members are very professional and thorough. They are fantastic coppers and they are tireless. They are good,

honest people and they do a good job. There is no bigotry. There is no racism and there is no unprofessional behaviour."

Late that year, his station received the "Premier's Award for Community Harmony", one of the annual awards bestowed by the state's multicultural commission for "outstanding achievements" by organisations that have "actively supported cultural diversity".

Unfortunately, after only six months' respite, complaints began to arrive again in early 2007. At the time, and throughout the years to come, police officers

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stationed at Flemington regarded the flats and the shops nearby on Racecourse Road as crime hotspots. The perpetrators of robberies were usually described as groups of "young African males". It was a necessary part of their duties, they argued, to stop people in these areas, especially late at night.

In November 2007, the station conducted Operation Square, targeting "anti-social behaviour". The order stated that local police had identified about 30 youths responsible, most of whom "identify themselves as the 'Flem Boyz'", but it did not name anyone specifically, stating instead: "Members are to use common sense when it comes to the type of people who are spoken to."

A few weeks later, Chief Commissioner Christine Nixon received a **long letter** from Hopkins and others, complaining about chronic overpolicing and harassment of young African men. They suggested a policy of providing a receipt whenever officers stop someone – it would explain why they'd been stopped and create a statistical record that could be analysed. Police in London had implemented a receipting policy following

an inquiry into the botched investigation of the murder of a young black man, Stephen Lawrence.

Delegated to respond on Nixon's behalf, Superintendent Brett Guerin replied acerbically: "Unlike many of its critics who are conspicuously absent when the 'heavy lifting' has to be done with local initiatives, Victoria Police is committing human, physical and financial resources into improving a problematic environment," he wrote.

He dismissed the receipting policy as impractical, and maintained that Flemington police had worked hard to improve their relationship with young African people in the area, listing a number of community policing initiatives, such as sporting programs and a joint expedition to the Kokoda Track.

"I encourage you and your staff to become involved in some of these programs... so that you may gain a more balanced perspective of the relationship between police and the local community, especially as it relates to some young people who have benefited from their interaction with police."

The station had a multicultural liaison officer and a youth officer, who organised the activities with the local community.

One day, the whole station was required to attend a training session about people from the Horn of Africa. Subsequently, one officer explained that the session had helped him understand "why African youths could be overrepresented in the justice system". He recalled being told that "a number of the local African youths may have grown up in refugee camps and therefore may find it difficult to identify with a particular race or culture".

The **particular training session**, a seminar called "African/Sudanese Community Cross Cultural Advice", was delivered to over a thousand members of the force between 2007 and 2010. One slide, titled "Working with African/Sudanese Young Men" stated that they "are typically inducted into a rebel army or warrior tribe as part of their teen years and consequently, develop a strong 'warrior' ethic". They "will openly challenge anyone who threatens them regardless of



potential consequence". Among its "Final Words of Advice" was this: "despite not even knowing you, they may hate you".

The training was shelved after a complaint from Kot Monoah, an unsworn liaison officer who was born in Southern Sudan. He had attended a session, and left with his blood boiling – he couldn't sleep properly for days afterwards. In a statement sent to senior police, Monoah described the seminar as "gross professional negligence" and "not cultural awareness, but... misinformation and ridicule", which only depicted stereotypical images. Monoah quit his job with Victoria Police shortly afterwards.

## THE COURTS

Frustrated with all the dead-end complaints, Hopkins had met with Peter Seidel and his team at the Collins Street law firm Arnold Bloch Leibler. Seidel was the partner responsible for the practice's public interest and native title work – he had represented the Yorta Yorta people in their protracted native title claim over land near the junction of the Murray and Goulburn Rivers.

The legal centre had received advice from Debbie Mortimer SC – now a Federal Court judge – suggesting the young men had a racial discrimination case worth pursuing. At first, as Hopkins told Seidel her story, she felt overawed by the firm's luxurious office, but by the end of the meeting her nervousness was supplanted by giddiness: Seidel offered to work on the case pro bono.

Progress was slow, due both to the lawyers' busy schedules and the boys' relaxed attitudes towards appointments. The boys were under pressure at home too – many elders counseled against

complaining. "You're new in this country," they would tell Haile-Michael. "The police are untouchables, so why are you being silly?"

But the young men, who had grown up in Australia, viewed the situation otherwise. On the street, their aggressive response to questioning had welled up from a sense of injustice. "It's our home," they thought. "Why should we be treated any differently?"

Finally, in December 2008 – already more than three years after Haile-Michael's bad night, and just before Hopkins went on study leave – the matter was lodged with the Australian Human Rights Commission. The lawyers, and Mortimer, had collated the stories of 16 young men who said they were repeatedly stopped, harassed and abused by members of the Victoria Police. They detailed about 140 incidents, and alleged that they comprised a systemic pattern of racial profiling, constituting a breach of the **Racial Discrimination Act 1975**.

Nearly two full years passed in delays and fruitless conciliation. The commission had no power to decide whether or not discrimination occurred. It could only help parties reach agreement, and these parties could not agree.

In November 2010, 17 young men – including Haile-Michael and Issa – lodged their case in the Federal Court. The application named several individual police officers, together with the chief commissioner and the State of Victoria.

Over the course of nearly 50 pages, the statement of claim documented scores of incidents: assaults, abuse and misuse of power. As they had in the Human Rights Commission, the young men

alleged that, cumulatively, these incidents revealed a pattern of racial profiling. Members of the African community were suspected of committing crimes, and singled out for rough treatment, by reason of their race.

The team's new pro-bono barristers, Rachel Doyle SC, Emrys Nekvapil and Phoebe Knowles, had helped shift the focus of the complaint before it had transferred from the commission to the court. Previously, they'd been preoccupied with the violent confrontations. But although it would be satisfying to prove that police had used excessive force in various encounters, even if they could pull it off, it wouldn't say anything about systemic racism. To make a case about racism, the lawyers needed to show that Africans were being disproportionately targeted.

For the young men, being stopped by police was unremarkable, like seeing a beggar on a city street. Haile-Michael guessed it happened to him every week or two. Issa estimated that in the two years from 2006, he was asked for his name and had his bag checked at least 100 times. One day, he was asked five times. It happened so often, one officer would greet him by name – and then insist on asking for his ID. "Is this guy sick?" Issa wondered. "Or is it me?"

When someone came into the legal centre's office to detail an altercation, Hopkins would ask how often they'd been stopped. Invariably, they replied: "All the time." The lawyers had anecdotes, but they needed statistics.

**In New York**, four men were suing the police department in a similar case, arguing that it racially profiled people and undertook "suspicion-less stop-and-frisks".

The applicants and their legal team leave the Federal Court.  
Photo credit: Charandev Singh.



Crucial **evidence** had come from Dr Jeffrey Fagan, professor of law and public health at Columbia University, who analysed six years of data from the police. He found that “unconstitutional stops” by the NYPD were “more likely to affect Black and Latino citizens”. The pattern was evident, even after adjusting for factors such as crime rates, social conditions and the allocation of police. In 2009, half a million New Yorkers were stopped; nine-out-of-ten were “Black” or “Latino”.

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## PULLING OUT

By 2010, Haile-Michael was living in a public housing flat in Clifton Hill, and was enrolled in civil engineering at Victoria University. His aunt had kicked him out long ago – she was suspicious of his trouble with the police, and to make things worse, he’d fought badly with her son. During his final years at school, and afterwards, he lived off-and-on with friends and other family members and then in temporary accommodation in West Footscray.

When the police trouble had first blown up, Haile-Michael’s first instinct was to make himself scarce – he was never the kind to talk back – but there was nowhere to hide. All the public spaces near his home were targeted by police. He channeled his worry somewhere productive, and began doing community work.

He and Issa were both involved in a drama collective, the **Flemington Theatre Group**. Their first play, **Black Face White Mask**, wove fictional stories of several young African-Australian people, including some who’d clashed with police. In the play, one of the characters argued with his girlfriend about racism: “The police, the politics won’t accept us,” he said.

After school, Issa began a diploma in liberal arts, and then switched into community development. He was still getting stopped from time to time, but the worst seemed to pass after he walked the Kokoda Track with some officers. Before long, however, most of those police had moved elsewhere. Overall, he judged it another failed attempt. Things might have been different if they’d stayed.

Issa wasn’t going anywhere. Sometimes his mother talked about leaving Flemington, but he refused to budge; living there, he felt part of something bigger. He was less certain about the legal case.

The lawyers had applied for a protective

costs order to guard against financial ruin if they lost. Without it, none of the guys would have stuck around – they’d be in debt for years if it turned out badly. But with the order, they couldn’t receive compensation if they won. Several decided to pull out. The case was a grind, costing time off work or uni, and for what?

Whenever someone left, Seidel would invite them for lunch. A couple of times, he shouted them at Strozzi, an upmarket Italian restaurant favoured by Collins Street corporates. If he could not persuade them to hang in, then at least he would dignify their effort in style.

Then, their morale worsened. Chief among the remedies the young men sought was a receipting system to record stops and searches, as well as an independent complaints system and training for police about racial profiling. But these claims had to be dropped, because the judge did not have the power to make those kinds of orders. When the lawyers informed him, Issa walked out of the meeting. Hopkins followed him out and he told her he couldn’t understand how they didn’t know earlier. “That was our fight,” he said. “Our fight was for the receipting policy – there’s nothing left.”

Afterwards, more of the young men left the case. Those remaining wavered, wanting to forget about it and move on with their lives.

Finally only six remained. Haile-Michael and Issa stayed in. Partly their decision was one of inertia – they’d been in for so long already – but it also encompassed a change in mindset. Haile-Michael now knew that the justice system could not give them justice. But he thought it could provide the media coverage to spark a public campaign. This case, as well as his community work, had taught him something: if you put a spotlight on something shadowy, people of goodwill are drawn to you.

## EXPERT REPORTS

In August 2012 Seidel wrote to Professor Ian Gordon, a statistician at the University of Melbourne, asking him to analyse a number of files from the police database. The data comprised interactions between police and young men who had lived in North Melbourne or Flemington from 2005 until 2008.

Two weeks later, Gordon wrote back: he’d found that young men of African ethnicity were two-and-a-half times more likely to be stopped, relative to their population in the neighbourhood. But compared to young men of other ethnicities, they had committed fewer crimes, on average.

Quickly, Seidel forwarded the material to Professor Chris Cunneen, a criminologist from James Cook University who specialised in the policing of Aboriginal people.

In his report, Cunneen drew on international case law, and his own research on Aboriginal people and



The People’s Hearing into Racism & Policing held in Melbourne in August 2013

policing, which had shown that racial profiling was already occurring elsewhere in Australia. One study found that search powers were used more frequently in the parts of NSW with large Aboriginal populations, and a higher proportion of them were unsuccessful. In Bourke and Brewarrina nine out of every 10 searches were unsuccessful.

He wrote that racial profiling involved “police making decisions to initiate contact with individuals on the basis of their race or ethnicity”. Typically, that meant stopping, searching, questioning or asking people to move on because of their race, rather than any reasonable suspicion. After analysing Gordon’s statistics, Cunneen concluded that racial profiling was happening in Flemington.

By now, Seidel and his team were feeling cautiously optimistic. One of his colleagues had secured an expert report from Associate Professor Yin Paradies, a Deakin University academic who had reviewed international research about the health effects of racism and racial profiling. At a **public presentation** months later, Paradies summarised what he’d found: the research showed a strong connection between racism



Daniel Haile-Michael (right)  
outside the Federal Court.  
Photo credit: Charandev Singh.

and depression, anxiety and behavioural problems. “Importantly, this association was causative,” he said. “The longitudinal studies showed that racism came first and these effects came afterwards.” One New Zealand study showed that young people who’d experienced police racism reported worse general health, smoked and drank more, and had more symptoms of depression.

Taken together, Seidel thought the experts’ evidence was damning. There was no doubt in his mind that there was a culture of institutional racism in the force. But going to court was a lottery – racism is notoriously difficult to prove, especially while picking over the specifics of an incident.

Much would come down to credibility. Haile-Michael and Issa were cleanskins with extraordinary resumes of community service. Even so, they would be cross-examined on the minutia of events long since passed, and any inconsistencies would be exploited. Some of the other applicants had chequered records – in the intervening years, two had spent time in jail. But Seidel had been working on the case for several years, and not once had their stories deviated. He trusted that.

The police’s expert statistician largely accepted Gordon’s report, although he differed on the statistical significance of **some findings**. Their criminologist, however, had criticised Cunneen’s conclusions, arguing that while the evidence indicated the “possibility that racial profiling has taken place”, it could not be demonstrated for sure – other factors, such as the officers’ state of mind and what they knew about each situation needed to be considered too. Correlation is not causation, they would argue.

Victoria Police maintained it had taken all reasonable steps to prevent discrimination, by means of its training, supervision, and community and multicultural initiatives. And, even if it had occurred, there was no detriment. Its lawyers had assembled more than 100 officers to take the stand – they would say they were just doing their jobs, as usual: investigating crimes, apprehending offenders or responding to public requests for assistance.

But as Seidel and his team trawled through the officers’ evidence, they realised that the police had inadvertently made a case for the applicants.

Professor Gordon had found that when police recorded the stops of African youths in their database, they were more likely to use words like “gang” or “negative attitude”, or to state they had “no reason” or “nil reason” for being where they were.

Now, the lawyers saw those phrases connected with their clients.

During Operation Molto, Haile-Michael was stopped one Friday afternoon on the housing estate, while he was with four friends. The police record of the incident stated: “all part of gang activity in the area... targeted as part of Operation ‘Molto’”. A few hours later he and his friends were stopped again, at the housing estate on Racecourse Road, by the same officers. This time the record read: “In area of recent robberies and crim activity. 2 part of larger gang.”

Neither record made mention of any suspicious behaviour. It was Friday night, and all the places Haile-Michael would usually hang out had become regarded as areas of high crime.

One of the boys was stopped with a friend late one night in the car park at the flats. The policeman wrote that they were “known criminals loitering in the area”. Then, in his statement for the case, the officer had tried to explain: “the term ‘known criminals’... did not necessarily mean that the people concerned had been convicted of criminal offences. It was a shorthand term that may have meant that the people concerned had been charged with minimal offences or had otherwise come to the attention of police as being potentially involved in criminal offences.”

Another boy was checked with two friends at 8:30 pm one evening, just downstairs from his home in the high-rise. He was 16 at the time. The police record read: “Checked loitering around park bench near basketball court. High criminal area of robberies and assaults. All wearing ‘home boy/gangstar’ clothing.”

At a minimum, the officers’ notes indicated they were influenced by implicit or unconscious racial biases. Despite long years of difficult work on the details of legal cases, Seidel had not lost his habit of enthusiasm. Whenever he explained what they’d come across in the police records, he became effusive: “That’s racial profiling from central casting!”

## THE SUBPOENA

In February 2013, two weeks before the case was scheduled to begin, the applicants’ lawyers subpoenaed Ken Lay. The police chief would be the first witness in the case. He would be cross-examined by Jeremy Rapke QC, the former director of public prosecutions, who was now acting for the young men.

At a preliminary hearing, Rapke indicated his line of questioning: he would press Lay on the inquiry he had ordered into the Flemington police. Those documents had not been made public – indeed, it appeared that parts of the inquiry had never been completed. Why? What had Doney recommended? And what had Lay done, and not done, in response?

Suddenly, Victoria Police was eager to settle the case. It was more than four years since the complaint was first lodged with the Human Rights Commission. Seidel estimated that his firm's forgone fees would have accrued to about \$2 million, and the various barristers fees, more than \$1 million. The police acknowledged its defence had cost more than \$3 million. Within a fortnight, the two sides agreed.

*“So what we’re striving for is a political movement, for people to become aware of these issues.”*

Daniel Haile-Michael

## A MONUMENTAL EVENT

The seats in the Federal Court room were full, and two dozen people stood awkwardly along the side. It mattered little, because the session was brief.

“The police commissioner is off the hook,” Justice Shane Marshall noted, dryly. He congratulated the parties for settling the matter before the trial, which had been scheduled to last two months, and then read the **agreed statement**.

Victoria police still denied the allegations, but agreed to hold twin inquiries, reporting by the end of the year, into its cross-cultural training and the way officers deal with people they stop in the street.

There was another unprecedented element: there would be no gag order. The young men were free to talk to the media – although only Haile-Michael and Issa were willing – and most of the **documents** from the case would be made public, including the experts' statistics.

After such a long build up, the rapid conclusion was vertiginous. One of Haile-Michael's friends approached him for an explanation. He was incredulous when he learned the case was over within 10 minutes. “What?” he exclaimed. “I took the day off for that?”

It was a warm, windy morning and Haile-Michael and Issa joined Hopkins and Seidel for a press conference in the shade. Before the cameras, Seidel lauded the courage of the young men, including those who had dropped out along the way. “It's an incredible gift they've given to the public,” he said.

Haile-Michael hadn't prepared, but as he began, he found himself asserting something unforeseen – this case, brought by teenagers, represented a coming of age. “I share the same opinion

that this is a monumental event,” he said. “For our community, it's finally time.”

But the courts alone were not sufficient to end racial profiling, he said. It was up to the people. “So what we're striving for is a political movement, for people to become aware of these issues. I'm sure the public will get behind this great cause.”

An ABC journalist wearing a Panama hat pressed him on how he could justify settling the case, if police had assaulted him. “I myself have been beaten up,” he replied, “but it's not a personal thing. We understand it's a systemic issue and that's why we're trying to address it in a systemic way. It's not about one police officer, it's about changing a whole system.”

## POSTSCRIPT

In mid-September, Ken Lay met the incoming Victorian Equal Opportunity and Human Rights commissioner, Kate Jenkins, at the commission's office on Lygon Street, just north of the city. Lay wore the force's new, darker uniform – ‘Salute’ blue – which only the top brass had received so far. They discussed the race discrimination case.

In its submission to the police inquiries, the commission had recommended, among other things, that the force conduct a six-month trial of a receipting policy, review its complaints-handling procedures, and “deliver targeted anti-racism and unconscious bias training that educates staff at all levels”.

Already, the commission had begun working with the police on its complaints system and its human rights and race discrimination training.

Afterwards, Lay told me that for Victoria Police, the case had been the kind of “crisis of confidence” that occasionally jolts an organisation into radical change. He said the force would become more open to outside scrutiny; its training would change; and, most likely, the way officers interact with people on the street would change too.

“It's like a waypoint,” he said. “We were going along and we hit this point, and now we're going in a different direction.”

Six months earlier, immediately on settling the case, Lay had struck a different note. At his **press conference**, he denied any possibility of systemic racial bias: “I do not believe our members would identify people and harass or continually check them simply because of their ethnicity,” he said.

But in the meantime, the public conversation seemed to shift. Lay had been embarrassed by revelations that officers in three stations had printed **stubby holders** with racist slurs mocking the Sudanese, Aboriginal and Vietnamese communities.

The force had received 68 submissions to its inquiries. IMARA Advocacy, a youth-led lobby group on racial and religious profiling, had coordinated a **“People's Hearing on Police and Racism”** to

gather the stories of young people who would not otherwise contribute.

Also, an **instance of crowd abuse** during the AFL's annual “Indigenous Round” had sparked a news storm about racism in society. Collingwood player Harry O'Brien **criticised** his club's president Eddie McGuire, for what he dubbed “casual racism”. Much of the response was unpleasant. But Jenkins, on starting her new role, interpreted the furor as progress: while the conversation didn't play out as she would have liked, at least the complexities of unconscious and institutional racism were being debated beyond the small realm of human rights advocates.

“This particular case is a very practical outcome,” she told me. “If a group of 16 youths and a very passionate and committed community legal service can bring about very serious cultural change to the whole of Victoria Police – then that's an amazing achievement. We will see how much change occurs, but my sense is that this doesn't only affect African youths. These changes will also assist Aboriginal people and a whole range of other people.”



Associate Professor  
Yin Paradies



Tamar Hopkins speaking  
at the Africa Day Forum 2013

# Somali youth to sue police over 'unprovoked' attack

LIZ PORTER  
LEGAL AFFAIRS

A SOMALI-born youth leader at the centre of race allegations against Victoria Police has

together against division

together against division

## Racial profiling probe 'will help'

BY BENJAMIN MILLAR

AN inquiry into racial profiling is an opportunity to address over-policing of targeted communities. The focus on the issue has heard. After the Race Discrimination Case' held last Tuesday by the Flemington Community Legal Centre discussed the impacts by discriminatory policing and the land- settlement between Victoria Police and of the Flemington area's African- as comments. is, young men who brought the case they were harassed and racially abused by five officers between 2005 and 2009. re of the race settlement, Victoria Police



Settled: Daniel Haile-Michael and Maki Issa are two of the six men w

able searches, misuse of power and incidents involving physical assaults, all with a race bias." Speaking after the settlement announcement, Chief Commissioner Kim Lay denied racial profiling was taking place but admitted relations between some police and young African men in and around the Flemington area had been "quite problematic". But Mr Seidel said he was troubled to hear these comments before the inquiry even began. "He was honest enough to say some of his members had 'leaves down'." "It's patently obvious to those involved in the case that the targeting of these young men involved a degree of racial profiling. Then there are other people who feel

### Case settled



### Young Africans more likely to be stopped by police

Young Africans more likely to be stopped by police

Herald Sun  
**Cool off on race issues**

RACIAL tensions are likely to have been defused by a settlement in a long-running discrimination case. As reported in today's Herald Sun, a settlement between Victoria Police and six young African-Australian men promises a public inquiry into race-related issues and a review of police procedures. Four police officers named in the case deny allegations of discrimination and, while the settlement avoids Chief Commissioner Kim Lay being questioned, there is now a sense that tempers will cool. Victoria Police argues that the young men who Melbourne areas have been at a low ebb following several violent incidents, but there is now a chance at reconciliation. Determined policing to stop street violence and crime is necessary, but if police are harassing young men on the basis of what is known as "racial profiling", a reevaluation of police methods is necessary. People need to feel safe on the streets and in their homes, but a line must be drawn against possible racial discrimination. The findings and possible recommendations of a review will be made public later this year. The rights of ethnic minorities must be protected.



### Call for police search receipts to curb racism

Call for police search receipts to curb racism

That is exactly what Issa was hoping for. At the lowest point in the case, after Hopkins had trailed him out of the meeting, he made her promise that the legal centre would not stop fighting until it had achieved systemic change. To do so, the centre started a specialist "Police Accountability Project", beyond its normal legal services. Hopkins delayed having a baby, not wanting to break her word. At last, with the case over and the inquiries pending, she was on maternity leave when she heard she'd been named a finalist in the 2013 Australian Human Rights Law Award. In July, Issa and Haile-Michael had flown to Cairns to accompany Hopkins at the annual conference of community legal centres, along with the cofounders of IMARA Advocacy. The group spoke to people from Aboriginal communities in Redfern and Darwin, who were interested in running "People's Hearings" of their own. During their session, entitled "The national implications of Victoria's race discrimination claim against the police",

*"If a group of 16 youths and a very passionate and committed community legal service can bring about very serious cultural change to the whole of Victoria Police - then that's an amazing achievement."*

Kate Jenkins

they stressed that the legal challenge would not have been possible without the support of youth workers initially, and, as time went on, a community campaign. In September this year, not long after Lay met with Jenkins, Haile-Michael and Issa spent a day shooting a documentary about the case. It was the mid-semester

break, and Haile-Michael should have been catching up on his assignments. Issa, too, should have been elsewhere. The Flemington Theatre Group's latest play, called *Fate*, was scheduled to open in two months, and he was still writing the script. But they'd decided to promote their cause however they could, fielding requests from interstate and even overseas. Today's shoot, surprisingly, was for an Iranian English-language television channel, called Press TV. The journalist asked if they believed genuine change would take place. "We're optimistic," Issa replied. "Because it has created dialogue in public. It's given people with the same issues the opportunity to stand up and talk. That's how all movements start." Filming dragged on much longer than they expected, and afterwards, Haile-Michael was tired. He was more cautious than Issa, wary of an empty response to the inquiries, which are due before new year. But he was hopeful. "You can't be in this line of work and not be an optimist," he said.

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