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To: NSW_LRC
Cc:
Subject: A submission

NSW Law Reform

Commission

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thank you for the opportunity to make a submission.

A submission to the Commission review of in section 93Z of the *Crimes Act*

1900 (NSW)

1 - My understanding is that the definition of the term “**violence**” as used in section 93Z of the *Crimes Act 1900* (NSW) is taken from elsewhere in the Act to mean -

“violence includes violent conduct and violence towards a person or a group of persons includes violence towards property of the person or a member of the group, respectively.”

2 - In accord with Terms of reference 7. “any other matter that the Commission considers relevant.” I put to the NSW Law Reform Commission that the meaning of the term “**violence**” in section 93Z should be widened in accord with modern acknowledgement, that is to include intentional conduct that seriously impairs another person’s physiological integrity through coercion and threats. Hatred should also be properly defined for the purpose of s93Z as it is one manifestation of physiological harm resulting in coercion, bullying, defamation, verbal insult and harassment, all from the subtle or the strong and *all the tools of cults against members and past members.*

“**Cure Violence**” an American organization having some success which I suggest could be studied by the Commission under 7.

[2020.03.05-US-Handout.pdf \(cvg.org\)](https://www.cvg.org/2020.03.05-US-Handout.pdf)

“**Cure Violence**” “*approaches violence with the understanding that violence is an epidemic process that can be stopped using the same health strategies employed to fight all other epidemics. This theory of change utilizes carefully selected and trained workers — trusted members of the community — to stop the contagion using a four-prong approach.*”

3 - In accord with Terms of reference 7. I put to the Commission that root

deficiencies in other NSW Acts that do nothing to limit violence must be

examined.

A) Law Reform

and Legal Services in correspondence

have recognised

that the Stewards Foundation of Christian Brethren Act 1989 contains “*no specific provision for past members*” in 2021 and despite trusts supposedly being for all original beneficiaries, takes no account of “all the tools of cults against members and past members” mentioned above in 2 to remove them from such benefit. This is a terrible situation of psychological violence at work and a thing that a revised s93Z could remedy should the Stewards Foundation Act not itself be reviewed.

B) Where “the tools of cults against members and past members” mentioned above in 2 are used by a third party tortious interferer as in a cult leader for the purpose of causing one intimate partner to coercively control the other for cult dogma and servitude control reasons, this type of coercive control by the third party is psychological violence at its worst manifestation and a deficiency of the NSW Coercive Control Act that, if not reviewed for this deficiency could be dealt with under a revised s93Z. Psychological violence of the third party tortious interference type as used by the Plymouth Brethren Church extends to dire consequences by combining the noted deficiency of the Stewards Foundation Act simultaneously with outlandish scriptural interpretation church doctrine of bullying in the form of

shunning etc , culminating in excommunication at the whim of the church hierarchy at the time of choosing when dealing with trusts for financial advantage of the chosen partner in an intimate relationship with the other as well as a business relationship with the other. This type of psychological violence is the bane of past members of the Assemblies of the Plymouth Brethren Church which is well dealt with in the media. This a form of behaviour that can be properly criminalised at s93Z should the Stewards Foundation Act and the Coercive Control Act not be updated to remedy these deficiencies, either option being the plea of this submission.

Regards

Ray Carter

Serious racial and religious vilification

Terms of reference

Pursuant to section 10 of the *Law Reform Commission Act 1967* (NSW), the NSW Law Reform Commission is asked to expeditiously review and report on the effectiveness of section 93Z of the *Crimes Act 1900* (NSW) in addressing serious racial and religious vilification in NSW.

In undertaking this review, the Commission should have regard to:

1. the impact of racial and religious vilification on all parts of the NSW community;
2. criminal vilification offences in other Australian and international jurisdictions, and the desirability of harmonisation and consistency between New South Wales, the Commonwealth and other Australian States or Territories;
3. the availability of civil vilification provisions in the *Anti-Discrimination Act 1977* (NSW);
4. the impacts on freedoms, including freedom of speech, association and religion;
5. the need to promote community cohesion and inclusion;
6. the views of relevant stakeholders as determined by the Commission; and
7. **any other matter that the Commission considers relevant.**

[Options paper - serious racial and religious vilification \(nsw.gov.au\)](https://www.nsw.gov.au/law-reform-commission/serious-racial-and-religious-vilification)

1.2 Section 93Z makes it an offence for a person, by public act, to intentionally or recklessly threaten or incite **violence** towards another person or a group of persons on any of the following grounds: (a) race (b) religious belief or affiliation, (c) sexual orientation (d) gender identity (e) intersex status (f) HIV or AIDS status

Option 1: Definition of “public act” Should the definition of “public act” be changed in s 93Z? If so, should it incorporate the approach of the definitions of “public place” in the Summary Offences Act 1988 (NSW) and the Criminal Code (Cth) to capture communications made to limited numbers of people? Are there any other changes that should be made?

7. Aggravated offences

7.1 This section asks whether there should be aggravated versions of particular offences where these are motivated by hatred, that have higher maximum penalties.

7.2 NSW courts are required to take into account as an aggravating factor on sentence, that an offence is motivated by hatred for or prejudice against a group of people to which the offender believed the victim belonged.

13 7.3 In consultations, some groups indicated they were dissatisfied with this aggravating factor as a way of dealing with hate-related crime. They said that the aggravating factor is rarely raised in court by prosecutors and that it does not fully hold the offender accountable for their behaviour.

7.4 One option is to adopt Queensland's approach of creating aggravated versions of offences like assault and intimidation, with an additional element of being motivated by hatred based on a protected attribute. 14 Where an offence is proved and a further aggravating element of hatred is also proved, the defendant will be guilty of an aggravated offence with a higher maximum penalty. Some groups argued this would hold offenders accountable for hate-related crimes.

7.5 A potential issue with this option is that offenders may not be willing to plead guilty to an aggravated offence because of the public stigma of committing a hate offence and the higher penalty. It may lead to more contested cases, which take longer to resolve and put resource pressures on courts, prosecutors and Legal Aid.

7.6 Another risk may be that prosecutors accept guilty pleas to standard offences because the maximum penalty for that offence is appropriate for the conduct, and because of the public interest in saving court time and resources. Victims could be disappointed in cases where a guilty plea is accepted to the basic offence.

7.7 There is also a risk of adverse impacts on young people and Aboriginal people, similar to the risks we discuss above. Option 6: Introduce aggravated offences
Should there be aggravated versions of offences where the offence is motivated by hatred, which attract a higher penalty?

Division 8 Public threats or incitement of violence on grounds of race, religion, sexual orientation, gender identity or intersex or HIV/AIDS status

93Z Offence of publicly threatening or inciting violence on grounds of race, religion, sexual orientation, gender identity or intersex or HIV/AIDS status

(1) A person who, by a public act, intentionally or recklessly threatens or incites violence towards another person or a group of persons on any of the following grounds is guilty of an offence— (a) the race of the other person or one or more of the members of the group, (b) that the other person has, or one or more of the members of the group have, a specific religious belief or affiliation, (c) the sexual orientation of the other person or one or more of the members of the group, (d) the gender identity of the other person or one or more of the members of the group, (e) that the other person is, or one or more of the members of the group are, of intersex status, (f) that the other person has, or one or more of the members of the group have, HIV or AIDS. Maximum penalty— (a) in the case of an individual—100

penalty units or imprisonment for 3 years (or both), or (b) in the case of a corporation—500 penalty units.

(2) In determining whether an alleged offender has committed an offence against this section, it is irrelevant whether the alleged offender's assumptions or beliefs about an attribute of another person or a member of a group of persons referred to in Crimes Act 1900 No 40 [NSW] Historical version for 1 January 2024 to 2 April 2024 (accessed 27 June 2024 at 10:02) Page 165 of 320 subsection (1) (a)–(f) were correct or incorrect at the time that the offence is alleged to have been committed.

(3) In determining whether an alleged offender has committed an offence against this section of intentionally or recklessly inciting violence, it is irrelevant whether or not, in response to the alleged offender's public act, any person formed a state of mind or carried out any act of violence.

(4) A prosecution for an offence against this section may be commenced only by— (a) the Director of Public Prosecutions, or (b) a police officer.

(5) In this section— gender identity means the gender related identity, appearance or mannerisms or other gender related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person's designated sex at birth. intersex status means the status of having physical, hormonal or genetic features that are— (a) neither wholly female nor wholly male, or (b) a combination of female and male, or (c) neither female nor male. public act includes— (a) any form of communication (including speaking, writing, displaying notices, playing of recorded material, broadcasting and communicating through social media and other electronic methods) to the public, and (b) any conduct (including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia) observable by the public, and (c) the distribution or dissemination of any matter to the public. For the avoidance of doubt, an act may be a public act even if it occurs on private land. race includes colour, nationality, descent and ethnic, ethno-religious or national origin. religious belief or affiliation means holding or not holding a religious belief or view. sexual orientation means a person's sexual orientation towards—

Crimes Act 1900 No 40 [NSW] Historical version for 1 January 2024 to 2 April 2024 (accessed 27 June 2024 at 10:02) Page 166 of 320 (a) persons of the same sex, or (b) persons of a different sex, or (c) persons of the same sex and persons of a different sex. violence includes violent conduct and violence towards a person or a group of persons includes violence towards property of the person or a member of the group, respectively.