
From: Nathan C Wright
Sent: Monday, 1 July 2024 1:16 PM
To: NSW_LRC
Subject: URGENT REVIEW REQUIRED: Review of section 93Z of the Crimes Act

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Subject: Submission on the Review of Section 93Z of the Crimes Act 1900 (NSW)
Dear NSW Law Reform Commission,

I appreciate the opportunity to provide input on the review of section 93Z of the Crimes Act 1900 (NSW). This review is critical for addressing serious racial and religious vilification within our community.

My submission focuses on expanding the scope of section 93Z to include psychological violence and improving its effectiveness in protecting vulnerable individuals.

Expansion of the Definition of Violence >>>

1. Psychological Violence:

The current definition of violence in section 93Z is limited and does not adequately cover psychological violence. Psychological violence can have severe and long-lasting impacts on victims, often exceeding those of physical violence. It includes acts that inflict mental trauma, emotional abuse, and coercive control. These acts are perpetrated by individuals who exploit their power to inflict harm without leaving physical marks. I strongly advocate for the expansion of the definition of violence in section 93Z to explicitly include psychological violence. This will provide a more comprehensive framework for protecting individuals from all forms of violence.

Addressing Key Concerns >>>

2. Definition of "Public Act":

The current definition of "public act" should be broadened to capture acts that, although not widely publicized, still have significant impacts on targeted individuals or groups. This includes communications within restricted or semi-private forums that are accessible to a limited audience but have the potential to incite violence or hatred.

3. Mental Element of Recklessness:

The mental element of recklessness should be retained within section 93Z.

Recklessness involves a person foreseeing the possibility of their actions resulting in harm and proceeding regardless of that risk. Removing this element could undermine the law's ability to hold individuals accountable for actions that, while not intentional, still result in significant harm.

4. Incitement to Violence:

The term "incite" should be clearly defined within the legislation to encompass various forms of encouragement to violence, including subtle and indirect forms. Additionally, incorporating terms like "promote," "advocate," and "urge" can help capture a broader range of harmful behaviors.

Proposed Reforms >>>

5. An Offence of Inciting Hatred:

There is a need for an offence that captures vilification and hate speech that falls short of inciting physical violence but still causes significant harm. Introducing an offence of inciting hatred on the grounds of protected attributes would align with community expectations and provide better legal recourse for victims of hate speech.

6. Increasing Maximum Penalties:

To ensure the law's deterrent effect, the maximum penalties for offences under section 93Z should be increased. Aligning these penalties with those of other serious offences would reflect the gravity of the harm caused by vilification and incitement to violence.

7. Aggravated Offences:

Introducing aggravated versions of offences motivated by hatred, with higher penalties, would hold offenders accountable for the additional harm caused by their hate-motivated actions. This approach has been effective in other jurisdictions and would strengthen the legal framework in NSW.

Harm-Based Test >>>

8. Objective Harm-Based Test:

Incorporating an objective harm-based test into section 93Z, alongside the current incitement-based test, would provide a more holistic approach to addressing vilification. This test would focus on the adverse effects on targeted individuals and communities, ensuring that all forms of harm are adequately recognized and addressed.

Conclusion >>>

Expanding the scope of section 93Z to include psychological violence and implementing the proposed reforms will significantly enhance the protection of individuals from all forms of vilification and violence.

These changes are essential for promoting community cohesion, equality before the law, and the overall well-being of all members of society.

Thank you for considering my submission. I look forward to the Commission's recommendations and the subsequent improvements to the legislative framework.

Best

Nathan C Wright

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