

SUBMISSION: SECULAR ASSOCIATION OF NSW

19 APRIL 2024

LAW REFORM COMMISSION SYDNEY

RE: section 93Z of the Crimes Act 1900 (NSW) in addressing serious racial and religious vilification.

The need for an inquiry into the above section of the Crimes ACT 1900 (NSW) has been proven by the recent stabbing of Bishop Mari Mari Emmanuel of the Assyrian Orthodox Church in Sydney. The subsequent riot of his followers which led to the injury of some police officers, the damage to police cars, the hindering and intimidation of ambulance officers meant that several crimes were committed.

The cause of all this was allegedly that the offender who stabbed Bishop Emmanuel committed that crime because of a different religious motivation and was in fact a terrorist act.

Our association recognises that instances like the 2005 Cronulla riots can equally be motivated by non-religious motivation against those of a religious persuasion without coming under the legal category of terrorism.

An astute observation of the likely cause of the event at the Assyrian Orthodox Church came from a letter to the Sydney Morning Herald, 17 April 2024. Peter MacLeod-Miller of the Anglican Church, Albury, said:

It could be that this [the riot] was a reaction to hate speech delivered from the safety of religious privilege and fired into the community.

We saw that phenomenon in 2005, as noted, when a notorious radio announcer in Sydney helped provoke an attack against Islamic young people at Cronulla beach. Equally, some Islamic youth had made clear their religiously motivated conduct against female bathers at the beach which helped cause the riot.

So, hate speech can be motivated by both religious or secular motivations but more often than not, it is sectarian religious differences that drive the offending.

Given that is so, where does one draw the line between free speech and speech that has the effect of causing violence while not itself advocating that violence?

This raises the question of vilification and hate speech. If these are to be considered crimes, then it has to be proven beyond reasonable doubt that the speech had the effect of causing criminal activity.

In the case of Bishop Emmanuel, it has been reported that he held strong homophobic and other views concerning vaccinations and the Covid virus.

This leads to the point where one asks what is the difference between speech that encourages citizens to detest other citizens with who identify as having different sexualities or opinions concerning matters?

Does one's 'religious freedom' give a citizen the right to express views within the context of a church/mosque/temple without any considerations of the consequences of that speech?

It is suggested here that legal authorities take each case on its merits and where a complaint is made against *very virulent* speech that could have the effect of causing hatred or violence,

that the citizen expressing those views be charged with an offence. The citizen then has the opportunity to defend those views in court.

It should be noted that racial and religious categories are not synonymous and should be distinguished. One is born into a race. In a free society a citizen has a right to choose a religion or choose not to have a religion.

It should also be noted that speech from a citizen that openly does not identify with a religion, for example, an atheist or rationalist, is identified in legislation as being a category of 'religious' which is an old inherent bias in legislation that should be corrected.

According to the latest Census, approximately 40 per cent of Australian citizens do not identify as religious.

Max Wallace

Secretary

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